

MARCH 5, 1986

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ISSUE 86-05



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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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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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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 – 1986

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		
<i>For Inclusion in—</i>	<i>File no later than—</i>			<i>Count 20 days from—</i>	<i>For hearing/adoption on or after</i>
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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
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86-24	Nov 5	Nov 19	Dec 3	Dec 17	Jan 6, 1987

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

²A filing of any length will be accepted on the closing dates of this column if it has been prepared by the order typing service (OTS) of the code reviser's office; see WAC 1-12-220 or 1-13-240. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.

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

WSR 86-05-001
NOTICE OF PUBLIC MEETINGS
BUILDING CODE COUNCIL
 [Memorandum—February 6, 1986]

Schedule and Location of 1986 Regular Council Meetings

Date	Time	Location
January 17	1:30 p.m.	Sea-Tac
February 21	1:30 p.m.	Olympia
March 21	1:30 p.m.	Sea-Tac
April 18	1:30 p.m.	Sea-Tac
May 16	1:30 p.m.	Spokane
June 20	1:30 p.m.	Bellingham
July 18	1:30 p.m.	Longview
August 15	1:30 p.m.	Sea-Tac
September 19	1:30 p.m.	Wenatchee
October 17	1:30 p.m.	Yakima
November 21	1:30 p.m.	Sea-Tac
December 19	1:30 p.m.	Sea-Tac

WSR 86-05-002
PROPOSED RULES
DEPARTMENT OF FISHERIES
 [Filed February 7, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning commercial fishing rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 25, 1986.

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 25, 1986.

Dated: February 5, 1986

By: Russell W. Cahill
 for William R. Wilkerson
 Director

STATEMENT OF PURPOSE

Title: WAC 220-52-069 Scallop fishery.

Description of Purpose: Change regulation to conform gear types with applicable fisheries.

Statutory Authority: RCW 75.08.080.

Summary of Rule and Reasons Supporting Proposed Action: The scallop fishery gear types would be changed to allow gear appropriate to other fisheries in the respective areas, or scallop dredge gear. Gear types allowed in the Puget Sound and coastal fisheries are regulated to minimize effect on nontarget species. Incidental catch of these species while fishing for scallops could result in unacceptable mortality.

Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, WA, 586-2429; Implementation: Ronald E. Westley, 115

General Administration Building, Olympia, WA, 753-6772; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, WA, 753-6585.

These rules are proposed by the Washington Department of Fisheries.

Comments: No public hearing is scheduled.

These proposals are not the result of federal law or court order.

Small Business Economic Impact Statement: No effect; this proposal regards the incidental catch of foodfish while fishing for scallops.

AMENDATORY SECTION (Amending Order 84-24, filed 3/27/84)

WAC 220-52-069 SCALLOP FISHERY. (1) It is lawful at any time to take or fish for scallops for commercial purposes in coastal waters with otter trawl or beam trawl or scallop dredge gear (~~except that~~). Minimum and maximum size for trawl gear are concurrent with sizes used in coastal shrimp fishing, see WAC 220-52-054. Scallop dredge gear may not exceed fifteen feet in width nor have a ring size of less than three inches inside diameter except as authorized under a permit issued by the director.

(2) It is lawful at any time to take or fish for scallops for commercial purposes in Puget Sound waters with scallop dredge gear not exceeding fifteen feet in width or having a ring size of not less than three inches inside diameter. It is lawful to take and possess scallops taken incidental to bottomfish trawl fishing as authorized under chapter 220-47 WAC. The taking of scallops with trawl gear at times other than those authorized under chapter 220-47 WAC or with scallop dredge gear of a size other than that provided for in this section is prohibited except as authorized under permit issued by the director.

(3) It is unlawful at any time to take or possess rock scallop unless a person has first obtained (~~an aquaculture license and~~) a rock scallop aquaculture permit issued by the department. The permit will specify location, time, and quantity of rock scallop that can be taken for brood stock or culture purposes.

~~((2) It is unlawful to take or fish for scallops for commercial purposes in any waters of the state of Washington or the Pacific Ocean with scallop dredges having a ring size less than three inches inside diameter.))~~

WSR 86-05-003
ADOPTED RULES
STATE TOXICOLOGIST
 [Order 85-03—Filed February 7, 1986]

I, Dr. Vidmantas A. Raisys, Washington State Toxicologist, do promulgate and adopt at the Medical Examiners Conference Room, Harborview Medical Center, Seattle, Washington, the annexed rules relating to administration of breath tests with the BAC verifier datamaster infrared breath test instrument, chapter 448-12 WAC.

This action is taken pursuant to Notice No. WSR 86-01-067 filed with the code reviser on December 17, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 46.61.506 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 28, 1986.

By Dr. Vidmantas A. Raisys
Washington State Toxicologist

AMENDATORY SECTION (Amending Order 85-01, filed 3/27/85)

✓WAC 448-12-210 BAC VERIFIER DATA MASTER, INFRARED BREATH TEST INSTRUMENT APPROVED. Pursuant to RCW 46.61.506 ((F)) the BAC Verifier ((Data Master)) DataMaster infrared breath test instrument is approved by the state toxicologist as a device for the measurement of a person's breath for blood alcohol concentration. A simulator will be attached to each instrument and will provide a known external standard ((for each test)) as defined in section 230. This simulator test will be run automatically between the two breath measurements. The simulator test will ensure the correct operation and calibration of the instrument. ((and thus will certify the instrument with each test)).

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 85-01, filed 3/27/85)

✓WAC 448-12-220 TEST DEFINED. The test of a person's breath for blood alcohol concentration by infrared test method shall consist of the person ((to insufflate)) insufflating deep lung (alveolar) air samples at least twice into the instrument ((no less than two separate times)) sufficient to allow two separate measurements. There will be sufficient time between the provision of each sample by the person to permit the instrument to measure ((evaluate)) each sample individually. The two breath samples supplied by the individual shall constitute one test. An accurate test will be presumed if the results of each measurement is within plus or minus ten percent (10%) of the average of the two measurements. ((This shall be effective March 1, 1985.))

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 85-01, filed 3/27/85)

✓WAC 448-12-230 ADMINISTRATION OF BREATH TEST ON BAC VERIFIER DATA MASTER INSTRUMENT. Pursuant to RCW 46.61.506, the state toxicologist approves the following method for performing the breath test on the BAC Verifier ((Data Master)) DataMaster infrared breath testing instrument. To obtain a valid breath test, it must be determined (a) that the subject has had nothing to eat or drink for at least fifteen (15) minutes prior to the administration of the test, and (b) that the subject does not have any foreign substances, not to include dental work, fixed or removable, in his/her mouth at the beginning of

the fifteen (15) minute observation period. Such determination shall be made by either an examination of the mouth or a denial by the subject that he/she has any foreign substances in his/her mouth. A test mouthpiece is not to be considered a foreign substance for purposes of this section.

In conducting the test, the operator ((must be sure the temperature of the solution in the simulator is 34 Centigrade, plus or minus .2 Centigrade, prior to the time the test is given.)) is to follow the instructions displayed by the instrument. The temperature of the solution in the simulator must be 34 Centigrade, plus or minus .2 Centigrade, prior to the time the test is given. The reading from the simulator test must be between .090 and .110 inclusive. ((The operator must follow the instructions displayed by the instrument or the instrument will not complete the test.)) The results of the procedure will be provided in the form of a printout. These results indicate the percent by weight of alcohol in the person's blood, which means the percent on a weight to volume basis.

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 85-01, filed 3/27/85)

✓WAC 448-12-240 INSTRUCTORS. The state toxicologist shall certify persons found by him to be competent and qualified as instructors and those persons are authorized to administer breath tests using the BAC Verifier ((Data Master)) DataMaster infrared breath testing instrument, and to train and certify as operators, on behalf of the toxicologist, those persons the instructor finds qualified to administer the breath test utilizing the BAC verifier ((Data Master)) DataMaster Breath test instrument.

AMENDATORY SECTION (Amending Order 85-01, filed 3/27/85)

✓WAC 448-12-250 OPERATORS. The State toxicologist or instructors on his behalf shall certify as "operators" persons found by them to be competent and qualified to administer breath tests for blood alcohol concentration, utilizing the BAC Verifier ((Data Master)) DataMaster infrared breath test instrument. A list of persons so certified shall be maintained in the office of the state toxicologist.

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 85-01, filed 3/27/85)

✓WAC 448-12-270 PERMIT CARDS. The state toxicologist shall authorize the issuance to persons deemed qualified for the respective designation "operator" or "instructor" of a wallet-sized card bearing his or her name and designation. Permit cards shall bear the signature or facsimile signature of the state toxicologist

and be dated and may bear the instructor's signature. Such permits shall expire three years after the date on the card (~~or June 30, 1986, whichever date is later in time~~) unless renewed for a like three-year period.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 85-01, filed 3/27/85)

✓ WAC 448-12-280 COURSE APPROVAL. Instructors prior to the conducting of a course for the training or retraining of operators for use of the infrared BAC Verifier (~~(Data Master)~~) DataMaster breath test instrument shall submit to the state toxicologist for his approval the curriculum to be used in the course. If the curriculum is approved, subsequent courses embodying the same curriculum may be conducted without individual approval of each course.

AMENDATORY SECTION (Amending Order 85-01, filed 3/27/85)

✓ WAC 448-12-300 INSTRUCTION. Individuals who have attended courses in the operation of the BAC Verifier (~~(Data Master)~~) DataMaster infrared breath testing instrument (~~(as an operator, provided that such courses were instructed)~~) taught by an instructor qualified by the state toxicologist, (~~(shall)~~), upon certification of attendance and qualification, shall be designated as "Operators." (~~(be deemed for the designation "operator.")~~)

AMENDATORY SECTION (Amending Order 85-01, filed 3/27/85)

✓ WAC 448-12-320 ADDRESS FOR CORRESPONDENCE. Individuals seeking certification in accordance with these rules or approval of equipment to administer the breath test for blood alcohol concentration shall direct their request to the State Toxicologist, Department of Laboratory Medicine, Harborview Medical Center ZA-88, 325 - 9th Avenue, Seattle, Washington 98104.

AMENDATORY SECTION (Amending Order 85-01, filed 3/27/85)

✓ WAC 448-12-330 NAMES OF INSTRUCTORS. Pursuant to WAC 448-12-250, the state toxicologist will maintain a list of persons certified as BAC Verifier (~~(Data Master)~~) DataMaster instructors. These names shall be made available to interested parties upon request to the state toxicologist at the address set forth in WAC 448-12-320.

AMENDATORY SECTION (Amending Order 85-01, filed 3/27/85)

✓ WAC 448-12-340 EFFECTIVE DATE. WAC's 448-12-210 through 448-12-330 shall become effective

as of May 1, 1985, and will remain in full force and effect until otherwise directed by the state toxicologist. The aforementioned WAC'S will be in effect concurrently with WAC's 448-12-010 through 448-12-100 until (~~January 1, 1987~~) further order of the state toxicologist. (~~On January 1, 1987, WAC's 448-12-010 through 448-12-100 shall be held to be replaced and of no force and effect after that date.~~)

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

REPEALER

The following sections of the Washington Administrative Code are each repealed:

✓ (1) WAC 448-12-310 OPERATORS AND INSTRUCTORS

WSR 86-05-004

ADOPTED RULES

BOARD FOR

COMMUNITY COLLEGE EDUCATION

[Order 106, Resolution No. 86-1—Filed February 7, 1986]

Be it resolved by the State Board for Community College Education, acting at Seattle, Washington, that it does adopt the annexed rules relating to state board 1986 regular meeting schedule.

This action is taken pursuant to Notice No. WSR 85-24-014 filed with the code reviser on November 25, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 28B.50.070 and 42.30.075 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, 1986.

By Gilbert J. Carbone
Assistant Director

NEW SECTION

✓ WAC 131-08-010 REGULAR MEETINGS OF THE STATE BOARD. The time and place of the regular meetings of the state board for calendar year 1986 are:

January 22-23	South Seattle Community College
February 26-27	South Puget Sound Community College
April 2-3	Green River Community College
May 14-15	Spokane Falls Community College
June 18-19	Shoreline Community College
September 10-11	South Puget Sound Community College
October 22-23	Walla Walla Community College
December 3-4	Fort Steilacoom Community College

WSR 86-05-005
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)

[Filed February 11, 1986]

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 Hospitals—Personnel, amending WAC 248-18-040;

that the agency will at 10:00 a.m., Wednesday, March 26, 1986, 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 April 2, 1986.

The authority under which these rules are proposed is RCW 70.41.030.

The specific statute these rules are intended to implement is RCW 70.41.030.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 26, 1986.

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

Lee D. Bomberger, Acting Director
 Division of Administration and Personnel
 Department of Social and Health Services
 Mailstop OB 14
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, at State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by March 12, 1986. The meeting site is in a location which is barrier free.

Dated: February 7, 1986

By: Lee D. Bomberger, Acting Director
 Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 248-18-040 Personnel.

Purpose of the Amendments: To eliminate unneeded and unproductive tuberculin skin testing.

Reason(s) These Rules are Necessary: To provide accurate base line data if hospital employees are exposed to tuberculosis; to eliminate costly unneeded tuberculin screening; and to provide for a method to do tuberculin skin testing in the appropriate situations.

Statutory Authority: RCW 70.41.030.

Summary of the Rule: New hospital employees will be required to be tuberculin skin tested. If initial test is negative a second skin test will be required 1-3 weeks later. Annual testing will be required only if the hospital is approved to care for tuberculous patients and such a patient has been admitted within the last year. Additional employee skin testing will be required as deemed necessary by contact investigation.

Person Responsible for Enforcement of the Rule: John Gerth, Section Head, Facility Licensing and Certification Section, OPHS, Division of Health, mailstop ET-31, phone 753-5851.

Rules proposed by DSHS.

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

No economic impact statement is required under the Regulatory Fairness Act, Laws of 1982.

AMENDATORY SECTION (Amending Order 250, filed 11/18/82)

WAC 248-18-040 PERSONNEL. (1) There shall be sufficient qualified personnel to properly operate each department of the hospital.

(2) The department of nursing shall be under the direction of a registered nurse. There shall be an adequate number of registered nurses on duty at all times.

(3) All nonprofessional employees performing nursing service functions shall be under the direct supervision of a registered nurse.

(4) Each employee shall have on employment (~~and annually thereafter~~) a tuberculin skin test by the Mantoux method. A ((positive)) nonsignificant (negative) skin test ((will consist of 10 mm)) is defined as less than ten millimeters of induration((- or greater;)) read at forty-eight to seventy-two hours. Employees with nonsignificant reactions to the first test who are thirty-five years of age or older shall have a second test one to three weeks after the first test. Significant (positive) reactors to either test shall have a chest x-ray within ((ninety)) thirty days. ((Records)) A record of test results, ((x-rays)) reports of x-ray findings, or exemptions to such ((with)) shall be kept in the facility. A copy of this record shall be supplied to the employee.

Exemptions:

(a) New employees who can document a ((positive)) significant Mantoux test in the past shall ((have an initial)) be excluded from screening ((in the form of a chest x-ray)).

(b) ((After entry, annual screening in the form of a skin test or chest x-ray shall not be required for reactors)) Facilities approved under WAC 248-18-245 to care for tuberculous patients and have had a confirmed tuberculous case within the last year shall annually tuberculin skin test employees who normally work in the approved area unless the employee has a documented significant reaction. Other facilities shall tuberculin skin test employees as deemed necessary for contact investigation by a local health officer.

(c) ((Positive reactors who have completed a recommended course of preventive or curative treatment, as determined by the local health officer, shall be exempted from testing:

(d)) An employee stating the tuberculin skin test by the Mantoux method would present a hazard to his or her health because of conditions peculiar to his or her own physiology may present supportive medical data to this effect to the tuberculosis control program, health services division, department of social and health services. The department will decide whether the waiver should be granted to the individual employee and will notify the employee accordingly. Any employee granted a waiver from the tuberculin skin test shall have a chest x-ray taken in lieu thereof.

(5) Employees with a communicable disease in an infectious stage shall not be on duty.

WSR 86-05-006
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed February 11, 1986]

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 Chore services—Payment, amending WAC 388-15-213;

that the agency will at 10:00 a.m., Wednesday, March 26, 1986, 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 April 2, 1986.

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

The specific statute these rules are intended to implement is RCW 74.08.530 through 74.08.570.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 26, 1986.

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

Lee D. Bomberger, Acting Director
 Division of Administration and Personnel
 Department of Social and Health Services
 Mailstop OB 14
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, at State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by March 12, 1986. The meeting site is in a location which is barrier free.

Dated: February 7, 1986

By: Lee D. Bomberger, Acting Director
 Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-15-213.

Purpose of the Rule Change: To increase vendor rates in the chore services program.

Statutory Authority: RCW 74.08.090.

Summary of the Rule Change: Vendor rates in the attendant care portion of the chore services program are increased.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Sam Koshi, Program Manager, Bureau of Aging and Adult Services, mailstop OB-43G, phone 753-1244.

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

AMENDATORY SECTION (Amending Order 2165, filed 10/31/84)

WAC 388-15-213 PAYMENT. (1) Payment may be made for services performed by a relative, but payment to a spouse, father, mother, son, or daughter can be made only when the person:

- (a) Has to give up paid employment (more than thirty hours per week) to give the service, or
- (b) Would otherwise need to take paid employment (more than thirty hours per week), or
- (c) Would otherwise be financially eligible to receive general assistance to meet his or her own need.

(2) Payment to the spouse providing chore services to an incapacitated, eligible client shall not exceed the amount of a one-person standard for a continuing general assistance grant. Refer to WAC 388-29-100.

(3) In the contracted program, payment is made to the contractor who directly pays the chore provider. (Refer to WAC 388-15-208.)

(4) In the individual provider program, payment is made to the client who pays the chore provider. (Refer to WAC 388-15-208.)

(a) An hourly wage is paid for the actual number of hours worked on all chore services tasks (maximum of one hundred sixteen hours per month per client), except for attendant care for adults and supervision of children when the client is temporarily absent.

(i) The hourly wage rate must at least comply with federal minimum wage guidelines.

(ii) The maximum hourly wage rate shall not exceed three dollars and ninety-five cents per hour.

(b) A daily or monthly rate is paid for attendant care for adults and supervision of children. The daily or monthly rate is determined by the service worker after discussion with the client and chore service provider, but the rate shall not exceed the lesser of the following, a maximum of five hundred (~~forty~~) fifty-five dollars per month or the amount determined by the table as follows:

MONTHLY RATE DETERMINATION

HOURS OF SERVICE PER DAY	PAYMENT PER DAY	BASE MONTHLY RATE (30 DAYS PER MONTH)
16 - 24	up to \$ (18.00) 18.50	up to \$ (540) 555
12 - 15	up to \$ (16.00) 16.50	up to \$ (480) 495
8 - 11	up to \$ (13.00) 13.50	up to \$ (390) 405
4 - 7	up to \$ (8.40) 9.00	up to \$ (252) 270
2 - 3	up to \$ (5.40) 6.00	up to \$ (162) 180
1	up to \$ 3.40	up to \$102

Up to (~~fifty~~) seventy-five dollars per month is added for each additional client authorized for service in the household.

(c) An individual provider program eligible client or applicant may request approval from the department to exceed the maximum daily or monthly rate set by the department. The department shall authorize a higher payment rate necessary to maintain the client or applicant in his or her own home when:

(i) The need for the higher payment is specific and clearly measurable; and

(ii) The client or applicant provides documentation that services are not available at the established maximum payment rate; and

(iii) The client or applicant has made a reasonable effort to find a qualified provider at the established maximum payment rate; and

(iv) The total cost for the chore services does not exceed the lesser of the following, a maximum of seven hundred (~~fifty~~) sixty-five dollars, or the amount determined by the table in subsection (4)(b) of this section as follows:

HOURS OF SERVICE PER DAY	ADDITIONAL PAYMENT PER DAY	ADDITIONAL MONTHLY PAYMENT (30 DAYS PER MONTH)
16 - 24	up to \$7	up to \$210
12 - 15	up to \$5	up to \$150
8 - 11	up to \$4	up to \$120
4 - 7	up to \$3	up to \$ 90

HOURS OF SERVICE PER DAY	ADDITIONAL PAYMENT PER DAY	ADDITIONAL MONTHLY PAYMENT
(30 DAYS PER MONTH)		
2 - 3	up to \$2	up to \$ 60
1	up to \$1	up to \$ 30

(d) All clients or applicants shall be informed in writing of the process as defined in subsection (4)(c) of this section and shall have the right to request approval from the department to exceed the maximum monthly, daily, or hourly rate.

(e) When the department denies a request to exceed the maximum payment rates or makes approval at a lesser rate than requested by the client or applicant, the client or applicant shall receive notice of his or her right to contest the decision pursuant to chapter 388-08 WAC. The department shall approve or deny requests within thirty days.

(f) When the client provides board and room or meals to the chore provider, the department may make a payment to partially reimburse the cost of this expense. Payment is not made for a spouse provider. The payment shall not exceed an allowance established by the department and shall be prorated by days of service.

(g) Payment is made only after service delivery has been verified.

WSR 86-05-007

WITHDRAWAL OF PROPOSED RULES

BOARD OF INDUSTRIAL INSURANCE APPEALS

[Filed February 11, 1986]

Pursuant to notice filed with the code reviser on January 9, 1986, under Notice No. WSR 86-03-023, the Board of Industrial Insurance Appeals met on February 4, 1986, to decide upon appropriate action regarding a proposed new rule, to wit: WAC 263-12-098 mediation conference.

After due consideration, a majority of the board members, Frank Fennerty dissenting, voted not to adopt the proposed rule.

Pursuant to the requirement of WAC 1-12-033, the board hereby notifies the code reviser's office that proposed rule designated as WAC 263-12-098 is withdrawn.

By Phillip T. Bork
Member

WSR 86-05-008

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed February 12, 1986]

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 Notification of suspension or termination or reduction of grant—Dispensation of advance notice, amending WAC 388-33-385;

that the agency will at 10:00 a.m., Wednesday, March 26, 1986, 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 April 2, 1986.

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 March 26, 1986.

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

Lee D. Bomberger, Acting Director
Division of Administration and Personnel
Department of Social and Health Services
Mailstop OB 14
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, at State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by March 12, 1986. The meeting site is in a location which is barrier free.

Dated: February 11, 1986

By: Lee D. Bomberger, Acting Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

Re: WAC 388-33-385.

Reason this Rule is Amended: To add language from the Code of Federal Regulations regarding dispensation of advance notice for action taken on mandatory monthly requirements.

Statutory Authority: RCW 74.08.090.

Summary of the Rule Change: Advance notice is not required when the local office takes action because of information reported on a monthly report or a receipt fails to submit a timely, completed monthly report.

Person Responsible for Drafting, Implementation and Enforcement of the Rule Change: Mary Rose M. Trepanier, Division of Income Assistance, mailstop OB-31J, phone 753-3177.

This rule amendment is necessary to show the state has elected to add mandatory monthly reporting as a category for dispensation of advance notice. The rule is in WAC 388-24-044 and is added here for clarity and ease of reference.

AMENDATORY SECTION (Amending Order 2093, filed 4/18/84)

WAC 388-33-385 NOTIFICATION OF SUSPENSION OR TERMINATION OR REDUCTION OF GRANT—DISPENSATION OF ADVANCE NOTICE. Advance notice of action to terminate, suspend, or reduce assistance is not required when:

- (1) The local office has factual information of the death of the recipient or of the AFDC or refugee assistance payee when there is no other relative available to serve as payee.
- (2) A recipient has been admitted or committed to an institution making the recipient ineligible.
- (3) A recipient has been placed in skilled nursing or intermediate care or long-term hospitalization.
- (4) The recipient's whereabouts are unknown and departmental mail directed to him or her has been returned by the post office indicating no known forwarding address.
- (5) A recipient has been accepted for assistance in another state.

(6) An AFDC child is removed from the home as a result of a judicial determination or voluntarily placed in foster care by his or her legal guardian.

(7) Eligibility for assistance or an additional requirement is determined to exist for a specific limited period of time and the recipient has been so advised.

(8) The local office receives a clear statement from the recipient that he or she no longer wishes assistance. The local office shall immediately send adequate notice to confirm the verbal or written request for termination.

(9) The local office receives a clear statement from the recipient giving information requiring termination, suspension, or reduction of assistance. The recipient must indicate in writing that he or she understands the consequence of supplying such information. Adequate notice is required stating the adverse action.

(10) For AFDC, when the local office takes action because of information the recipient reported on the monthly report or because the recipient failed to submit a complete or timely monthly report without good cause.

WSR 86-05-009
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2340—Filed February 12, 1986]

I, Lee D. Bomberger, acting director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to support enforcement, amending chapters 388-11, 388-13 and 388-14 WAC.

This action is taken pursuant to Notice No. WSR 86-02-033 filed with the code reviser on December 30, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

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

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

APPROVED AND ADOPTED February 12, 1986.

By Lee D. Bomberger, Acting Director
Division of Administration and Personnel

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

✓WAC 388-11-030 NOTICE AND FINDING OF FINANCIAL RESPONSIBILITY. (1) The notice and finding of financial responsibility shall set forth the office of support enforcement's finding of responsibility, the amount which the office of support enforcement alleges that the responsible parent owes as an accrued debt, and a statement of the demand for payment thereon. Where appropriate the notice and finding of financial responsibility shall also set forth the office of support enforcement's finding of responsibility as to the amount the responsible parent should pay in the future as periodic future support for such period of time as the child or children are in need. The notice may also include a

finding of responsibility for medical expenses including responsibility to provide medical insurance coverage if such coverage is available at a reasonable cost to the responsible parent.

(2) The notice and finding of financial responsibility shall also include:

(a) A statement of the name of the recipient or custodian;

(b) The name of the child or children on whose behalf need is alleged;

(c) A statement that, if the responsible parent objects to all or any part of the notice and finding of financial responsibility, ~~((s)he)~~ he or she shall have a right, for not more than twenty days from date of service, to request a hearing to show cause why said responsible parent should not be determined to be liable for any or all of the debt, past and future;

(d) A statement that said objection shall be communicated, in writing, and shall be served on the district field office of the office of support enforcement issuing the notice and finding of financial responsibility;

(e) A statement that, if the responsible parent fails to object in writing, in a timely manner, the support debt and/or payments stated in the notice and finding of financial responsibility shall be assessed and determined and ordered in accordance with the finding of responsibility of the department as set forth in the notice and finding of financial responsibility;

(f) A statement that the support debt, as assessed and determined and ordered is subject to collection action and that the property of the debtor, without further advance notice or hearing, is subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver to satisfy the debt.

(g) A statement that, after service of the notice, all payments made which are intended to satisfy a current and/or accrued child support obligation alleged in the notice must be made directly to the office of support enforcement. Payments made to any other party will not be credited against the debt. Whether or not such payment is in cash, check, money order, in-kind services, merchandise, or anything else of value.

AMENDATORY SECTION (Amending Order 2036, filed 10/6/83)

✓WAC 388-11-065 RESPONSIBLE PARENT TO SHOW CAUSE—AFFIRMATIVE DEFENSES—BURDEN OF PROOF. At the hearing held pursuant to WAC 388-11-060, the responsible parent shall show cause, if any there be, why the finding of financial responsibility and/or the amount prayed for therein is inaccurate, and why the hearing examiner should not enter an initial decision and order as prayed for in said notice and finding of financial responsibility but should either rescind or modify the same. In said show cause hearing, the responsible parent shall state affirmatively and shall have the burden of proving:

- (1) Estoppel;
- (2) Payment;
- (3) Release;
- (4) Superior court order;

(5) Lack of eligibility in the receipt of public assistance funds paid to or for the benefit of the responsible parent's minor child or children: PROVIDED, That lack of eligibility shall operate as a defense only as to debt accrued prior to September 1, 1979: PROVIDED FURTHER, That lack of eligibility shall operate as a defense to a responsible parent's liability to repay the department only to the extent the amount of ineligibility proven in any one month exceeds the difference between the total grant for that month and the amount of the support liability determined for that month;

(6) The ((applicant)) appellant is not a responsible parent;

(7) Inability to pay the amount determined;

(8) Lack of need and/or debt pursuant to RCW 26.16.205: PROVIDED, That the amount determined by reference to the schedule of suggested minimum contributions in WAC 388-11-190, based on the earnings, resources, and property of the responsible parent shall be a rebuttable presumption of the responsible parent's ability to pay and the need of the family on whose behalf action is being taken. If said presumption is rebutted, the office of support enforcement shall be afforded reasonable opportunity to present additional evidence of actual need with the right to a continuance on request to present said evidence: PROVIDED FURTHER, Said rebuttable presumption shall apply whether or not the child or children are recipients of or applicants for public assistance. The responsible parent shall be presumed to have no ability to pay from income received from AFDC, SSI, or continuing general assistance;

(9) Discharge in bankruptcy;

(10) The responsible parent, pursuant to chapter 74.20 RCW, should be excused from making support payments for the child or children, receiving or on whose behalf public assistance was provided under chapter 74.12 RCW, because the responsible parent is the legal custodian of the child or children and has been wrongfully deprived of physical custody of the child or children((-)): PROVIDED HOWEVER, That the responsible parent may only be excused from making support payments for the period or periods during which the responsible parent was wrongfully deprived of custody. In order to be excused from making support payments, the responsible parent must show:

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

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

(c) The child or children were taken or enticed from the physical custody of the responsible parent without his or her consent, and the responsible parent has not subsequently assented to being deprived of physical custody of the child or children; and

(d) The responsible parent, within a reasonable time of the date the responsible parent was wrongfully deprived of physical custody of the child or children, exerted and has continued to exert reasonable efforts to regain physical custody of the child or children; ((and))

(11) Medical insurance coverage is not available at a reasonable cost: PROVIDED, That if such coverage is available through the responsible parent's employer or other organization at a cost to the responsible parent of twenty-five dollars per month or less, there shall be a rebuttable presumption that coverage is available at a reasonable cost; and

(12) Any other matter constituting an avoidance or affirmative defense to the notice and finding of financial responsibility.

Except as provided for in chapter 388-08 WAC for discovery, the hearing examiner or review examiner shall not require the office of support enforcement to produce or obtain information, documents, or witnesses to assist the responsible parent in proof of defenses raised pursuant to WAC 388-11-065 except for that relevant, non-confidential information or documents which the office of support enforcement has in its possession.

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

✓ WAC 388-11-100 DUTY OF HEARING EXAMINER. Based on the notice and finding of financial responsibility and objections made thereto, the hearing examiner shall determine the liability and responsibility, if any, of the responsible parent under ((sections 17 and/or 22, chapter 171, Laws of 1979 ex. sess.)) RCW (([74.20.320] [74.20.330], 74.20A.030, 74.20A.250 and/or 26.16.205)) 74.20A.057. The hearing examiner shall also determine the amount of periodic payments to be made to satisfy past, present or future liability ((under sections 17 and/or 22, chapter 171, Laws of 1979 ex. sess. RCW [74.20.320] [74.20.330], 74.20A.250, 74.20.040, 74.20A.030 and/or 26.16.205, and shall provide in his order that failure to make periodic payments in a timely manner will make the entire arrearage collectable by the office of support enforcement.

In all cases in which the applicant-custodian has made assignment pursuant to RCW 74.20.040 for non-assistance support enforcement services, the hearing examiner shall determine the future, current and past support obligation not limited to the amount of any public assistance standards or grant but based upon need and ability to pay pursuant to RCW 26.16.205. Whenever there has been no assignment made pursuant to 42 U.S.C. 602 (a)(26)(A), or sections 17 and/or 22, chapter 171, Laws of 1979 ex. sess. RCW [74.20.320] [74.20.330] or 74.20.040, the hearing examiner shall determine the liability and the responsibility, if any, of the responsible parent as to past, future and current support obligation based upon RCW 74.20A.030 and 74.20A.250)) and the responsible parent's liability for medical expenses including responsibility to provide medical insurance coverage. The hearing examiner shall include in his or her consideration the standards in WAC 388-11-190 and the uniform child support guidelines adopted by the Washington state association of superior court judges. The hearing examiner is empowered, upon proper showing of unusual circumstances, to set an amount of support, as to the past, present, or future, at a greater or lesser amount than the amount stated or

computed in reference to the scale in WAC 388-11-190 and shall include in his or her consideration:

- (1) All earnings and income resources of the responsible parent, including real and personal property;
- (2) The earnings potential of the responsible parent;
- (3) The reasonable necessities of the responsible parent;
- (4) The ability of the responsible parent to borrow;
- (5) The needs of the child for whom the support is sought;
- (6) The amount of assistance which would be paid to the child under the full standard of need of the state's public assistance plan;
- (7) The existence of other dependents; and
- (8) That the child, for whom support is sought, benefits from the income and resources of the responsible parent on an equitable basis in comparison with any other minor children of the responsible parent.

~~((The hearing examiner shall also include in his consideration the standards in WAC 388-11-190 and any standards for determination of support payments used by the superior court of the county of residence of the responsible parent. The hearing examiner is empowered, upon proper showing of unusual circumstances, to set an amount of support, as to the past, present, or future, at a greater or lesser amount than the amount stated or computed in reference to the scale in WAC 388-11-190))~~ In determining the responsible parent's liability for medical expenses, including responsibility to provide medical insurance coverage, the hearing examiner shall consider:

- (a) The known or anticipated medical needs of the child or children;
- (b) The cost of medical coverage and whether or not such coverage is available through the responsible parent's employer or other organization at a reasonable cost to the responsible parent;
- (c) The earnings and resources of the responsible parent;
- (d) The reasonable necessities of the responsible parent; and
- (e) The amount of the responsible parent's child support obligation, which obligation shall have priority over the obligation to provide medical coverage unless the hearing examiner makes a finding of fact that the medical needs of a child are extraordinary, and the best interest of the child would be better served if medical coverage is provided.

The findings of fact as to unusual circumstances shall consist of a concise statement of each fact found upon each contested issue of fact and shall state the grounds for deviation from the standards in WAC 388-11-190. The hearing examiner shall make his or her initial decision and enter his or her findings of fact based on the notice and finding of financial responsibility and the evidence admitted at the hearing.

The office of support enforcement has a right to orally amend the notice and finding of financial responsibility, at the time of hearing, to conform to the evidence in which case the hearing examiner is empowered, when

deemed necessary, through continuance, to allow the responsible parent additional time to present rebutting evidence and/or argument as to the amendment.

After evidence has been presented at a hearing conducted by a hearing examiner, the hearing examiner shall enter an initial decision and order which shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the order based thereon. The decision and order shall include a notice that, if the responsible parent fails to make periodic payments as ordered, the entire arrearage shall be collectable by the office of support enforcement and that collection action, including but not limited to the issuance of an order to withhold and deliver against the earnings or property of the responsible parent, may be initiated without further notice.

The hearing examiner shall file the original of the initial decision and order signed by him or her with the secretary or his or her designee, and copies thereof shall be mailed by the hearing examiner to the office of support enforcement and to the appellant by certified mail to the last known address of the party.

AMENDATORY SECTION (Amending Order 1864, filed 8/18/82)

✓ WAC 388-11-150 CONSENT ORDER AND AGREED SETTLEMENT. In the absence of a superior court order, informal disposition of any contested case or petition or order to show cause for modification wherein a ~~((debt))~~ support obligation is claimed pursuant to RCW ~~((74.20.320, 74.20.330, 74.20.040, 74.20A.030, 26.16.205 and/or 74.20A.250))~~ 74.20A.057 is encouraged where feasible and not specifically precluded by law. Said cases may be disposed of by consent order or agreed settlement, "agreed settlement" being defined as a written agreement signed by each party, which is effective without approval of any hearing examiner. If a consent order is involved, the hearing examiner shall approve that consent order disposing of a contested case unless specifically contrary to law. Informal disposition on consent order shall be deemed to be a request for hearing granting jurisdiction to the hearing examiner to approve said consent order without the necessity of testimony or hearing, upon presentation by the office of support enforcement. If negotiations as to a consent order or agreed settlement are commenced within twenty days of service on the responsible parent of the notice and finding of financial responsibility, and such negotiations fail and the responsible parent serves an objection on OSE within twenty days of the negotiations failing, the objection shall be considered timely served. The obligation to pay support or repay the debt, unpaid when due, stated in the consent order or agreed settlement is subject to collection action. Consent orders or agreed settlements are not subject to review pursuant to WAC 388-11-105 but are subject to modification pursuant to WAC 388-11-140 and may be vacated for fraud pursuant to WAC 388-11-115. Consent orders and agreed settlements shall contain the following provisions:

- (1) That the responsible parent shall provide medical insurance coverage for his or her dependent child or

children if such coverage is available at a responsible cost; and

(2) That appropriate collection action, including but not limited to the issuance of an order to withhold and deliver against the debtor's earnings or property, may be initiated by the office of support enforcement without further notice to collect the entire arrearage if the responsible parent fails to make periodic payments as provided.

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

✓ WAC 388-13-020 NOTICE OF SUPPORT DEBT. The notice of support debt shall set forth:

(1) The amount of support moneys claimed by the department as property of the department by assignment, subrogation or by operation of law or legal process under chapter 74.20A RCW;

(2) The legal basis for the claim of ownership by the department;

(3) A description of the person, firm, corporation, association, or political subdivision who is or has been in possession of the support moneys together with sufficient detail to enable identification of the moneys in issue;

(4) A statement that, effective with the date of service of the notice, all moneys not yet disbursed or spent and all like moneys to be received in the future are deemed to be impounded and shall be held in trust pending answer to the notice and any hearing which is requested;

(5) A statement that the notice shall be answered, under oath and in writing, within twenty days of the date of service of the notice;

(6) A statement that the answer made under subsection (5) of this section shall include true answers to the matters inquired of and that said answer shall also acknowledge the department's right to the moneys or request an administrative hearing to determine ownership of the moneys in issue;

(7) A statement that the burden of proof in said hearing is on the department to establish ownership of the support moneys claimed;

(8) A statement that, if the person, firm, corporation, association, or political subdivision or officer or agent thereof fails to answer and/or make a request for hearing in a timely manner, the department's claim shall be assessed and determined and subject to collection action as a support debt pursuant to chapter 74.20A RCW; and

(9) A statement that a support debt, as assessed and determined, is subject to collection action and that the property of the debtor, without further advance notice or hearing, is subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver to satisfy the debt: **PROVIDED**, That no collection action may be taken against a recipient of public assistance during the period of time the recipient remains on assistance except as provided in RCW 74.20A.270 and WAC 388-14-200(4).

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

✓ WAC 388-13-070 HEARING—INITIAL DECISIONS. (1) If the hearing is granted, it shall be an administrative hearing limited to the determination of the ownership of the moneys claimed in the notice of support debt and/or the reasonableness of a repayment agreement presented to a public assistance recipient for the purpose of recovering child support under RCW 74.20A.270 and WAC 388-14-200(4) and (5). The right to the hearing is conditioned upon holding any funds not yet disbursed or expended or to be received in the future in trust pending the final order in these proceedings or during any appeal to the courts. The secretary or the secretary's designee shall enter an appropriate order providing for the terms of the trust.

(2) The hearing shall be a contested case as provided for in chapter 34.04 RCW and shall be held pursuant to this section, chapter 34.04 RCW, and the rules of the department.

(3) The hearing shall be promptly scheduled within thirty days from the date of receipt by the office of support enforcement of the answer/request for hearing by the department. The hearing shall be conducted by a duly qualified hearing examiner appointed for that purpose. Hearings may be held in the county of residence of the debtor or other place convenient to the debtor.

(4) The department shall have the burden of proof to establish ownership of the support moneys claimed, including but not limited to moneys not yet disbursed or spent.

(5) After evidence has been presented at a hearing conducted by a hearing examiner, the hearing examiner shall enter an initial decision and order which shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the order based thereon. The hearing examiner shall make ((his/her)) his or her decision and enter ((his/her)) his or her findings of fact based upon the evidence admitted at the hearing. The office of support enforcement shall have the right to orally amend the notice of support debt, at the time of hearing, to conform to the evidence in which case the hearing examiner is empowered to grant a continuance, when deemed necessary, to allow the debtor additional time to present rebutting evidence and/or argument as to the amendment.

(6) The hearing examiner shall file the original of the initial decision and order, signed by ((him/her)) him or her, with the secretary or the secretary's designee and copies thereof shall be mailed by the hearing examiner to the office of support enforcement and to the debtor by certified mail to the last address provided by each party.

(7) To the extent they do not conflict with these rules or ((section 18, chapter 171, Laws of 1979 ex. sess. [RCW 74.20A.270])) RCW 74.20A.270, the provisions of chapter 388-11 WAC and RCW 74.20A.055 shall apply to this process.

AMENDATORY SECTION (Amending Order 1054, filed 9/25/75)

✓WAC 388-14-010 OFFICE OF SUPPORT ENFORCEMENT AS THE TITLE IV-D AGENCY. (1) Pursuant to chapters 74.20 and 74.20A RCW, the department of social and health services of the state of Washington through the office of support enforcement establishes the following provisions as the state plan for child support pursuant to Title IV-D of the Social Security Act.

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

(3) The office of support enforcement is the operating agency referred to in federal rules and regulations as the Title IV-D agency. The office of support enforcement is authorized to assume any and all responsibilities assigned the Title IV-D agency (~~including but not limited to the following:~~).

(4) (~~Entering~~) The office of support enforcement is authorized to enter into agreements as required or authorized with other states and the secretary, Department of Health(~~, -education~~) and (~~welfare~~) Human Services.

(a) To contract with other states for the referral of cases under the Uniform Reciprocal Enforcement of Support Act and other cases where enforcement or collection of support location of absent parents or establishment of paternity are appropriate. Include in such agreements the procedures for making referrals, assigning debt, distributing incentive payments, and reporting actions and activities on the part of this state for another, or another state for this state and coordination of activities pursuant to and (~~insuring~~) ensuring compliance with the Uniform Reciprocal Enforcement of Support Act.

(b) To contract with the secretary, Department of Health(~~, -education~~) and (~~welfare~~) Human Services and maintain liaison for:

(i) Referral to parent locator service including amount and collection of fees.

(ii) Certification and referral of cases as appropriate for the collection of support delinquencies by the secretary of the treasury.

(iii) Certification and referral of cases as appropriate for utilization of the U.S. district courts.

(5) The office of support enforcement is responsible for administration of the Title IV-D plan including supervisory authority for any and all activities necessary to meet the standards for an efficient and effective program including formal evaluation of the quality, efficiency, effectiveness, and scope of services provided under the plan. The office will take necessary measures to meet federal and state requirements for accounting and fiscal control, (~~insuring that~~) ensuring location, establishment of paternity, and establishment, enforcement, and collection of support functions are carried out effectively and efficiently. The office of support enforcement is also

responsible to assure that referrals and other communications with the Title IV-A agency meet the requirements of the Title IV-D and Title IV-A state plans.

(6) The office of support enforcement is responsible for the state-wide administration of wage withholding pursuant to federal statutes and regulations.

AMENDATORY SECTION (Amending Order 2036, filed 10/6/83)

✓WAC 388-14-020 DEFINITIONS. (1) The terms "applicant/recipient," "applicant," or "recipient" include the caretaker relative, the children, and any other individual whose needs are considered in determining the amount of assistance. See also WAC 388-22-030.

(2) The term "applicant/custodian" shall designate the individual who is the physical (~~and legal~~) custodian of any (~~person or persons~~) dependent child or children on whose behalf (~~an application~~) a request for nonassistance support enforcement services has been made to the office of support enforcement pursuant to RCW 74.20.040 and (~~74~~) 42 U.S.C. 654(6) or 42 U.S.C. 657(C)(~~(+)(2)~~).

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

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

(b) Is a natural, or adoptive parent, or a stepparent owing a legal duty to support said child or children on whose behalf an application has been made for payment of public assistance or application has been made for nonassistance support enforcement services.

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

(5) "Aid" means aid to families with dependent children or AFDC foster care.

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

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

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

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

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

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

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

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

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

AMENDATORY SECTION (Amending Order 1400, filed 5/16/79)

✓WAC 388-14-205 RESPONSIBILITIES OF THE OFFICE OF SUPPORT ENFORCEMENT. (1) The office of support enforcement (~~(with)~~ shall undertake, when public assistance is paid (~~(or the)~~), nonassistance support enforcement services are requested, or support enforcement services are requested by a child support enforcement agency in another state to:

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

(b) Secure support for a child from any person legally liable for such support. Whenever possible and/or appropriate under the circumstances, the office of support enforcement shall initiate action under chapter 74.20A RCW to establish, enforce, and collect the child support obligation.

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

(a) The office of support enforcement will request that all activities under Title IV-D to establish paternity or secure child support involving activities of agencies acting under cooperative agreements are suspended when OSE receives notice from the CSO that an applicant or recipient has claimed good cause until notified of the final determination of the CSO.

Any agency acting under a cooperative agreement who fails or refuses to comply with the request to suspend activities shall not be entitled to financial participation under the Title IV-D cooperative agreement as to said case or cases upon which the request is made.

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

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

(c) The office of support enforcement will be a party to any hearing requested as a result of an applicant's or recipient's appeal of any agency action under WAC 388-24-111.

AMENDATORY SECTION (Amending Order 2174, filed 12/6/84)

✓WAC 388-14-270 DISTRIBUTION OF SUPPORT PAYMENTS—PUBLIC ASSISTANCE. All payments collected as support on behalf of persons receiving public assistance in the state of Washington for whom an assignment is made (~~(under WAC 388-24-108 and 388-14-200)~~) shall be distributed under the following conditions:

(1) The following provisions apply to this section:

(a) All payments will be reported in exact amounts without rounding.

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

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

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

(e) Any amounts distributed to the family will be reported to the community service office identifying whether or not the payment is available to meet the need. This requirement shall not relieve the recipient of the duty to report receipt of any support moneys.

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

~~((g) No distribution may be made under subsection (2)(b) of this section unless a new assignment has been made pursuant to WAC 388-24-108 and 388-14-200.))~~

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

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

the amount collected which represents the total required support obligation for the month in which the support was collected shall be paid to the family under this subsection. No payment shall be made to a family under this subsection for a month in which ~~((there is))~~ no child support collection is received. The requirements of this subsection shall be applicable commencing October 1, 1984.

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

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

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

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

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

(3) If an amount collected as child support represents payment on the required support obligation for future months, the amount shall be applied to such future months. However, no such amounts shall be applied to future months unless amounts have been collected which fully satisfy the support obligation assigned under WAC 388-24-108 and 388-14-200 for the current month and all past months.

(4) Any amount paid under subsection (2)(a), (c), or (e) of this section shall be identified as not being an assistance payment.

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

~~((a))~~ Payments to the family pursuant to this subsection may be made only during the ~~((four))~~ five months following the last month in which aid was paid and thereafter ~~((for months subsequent to the submission and acceptance of a nonassistance support enforcement application pursuant to WAC 388-14-300 through 388-14-315;~~

~~(b) Payments may not be made for months in which no collections have been made on the delinquent support assigned and payments may not be made for a person from collections on the delinquent support assigned by a different person;~~

~~(c) Payments may only be made to a person if the person is owed an unpaid current support obligation for the month in which the payment is made;~~

~~(d) The department has, upon making any such payment, an additional assignment by operation of law of the unpaid current support obligation owed to the person for whom the payment is made for the month in which the payment is made:)) if the former recipient authorizes the office of support enforcement ((shall take action to collect this assigned unpaid obligation to reimburse the department and/or the federal government for the payment made)) to continue to provide support enforcement services.~~

AMENDATORY SECTION (Amending Order 2174, filed 12/6/84)

✓ WAC 388-14-302 NONASSISTANCE SUPPORT ENFORCEMENT—PERSONS ELIGIBLE.

(1) Any resident of the state of Washington who is a physical ~~((and legal))~~ custodian ~~((or guardian))~~ of a ~~((person))~~ dependent child who is a resident of the state of Washington and who is not a recipient of public assistance ~~((for whom a support obligation is owed and who is not receiving adequate support (as defined by WAC 388-14-100) from persons owing a duty to pay support))~~ may ~~((apply for))~~ request nonassistance support enforcement services to establish ~~((or))~~ enforce, or collect an obligation for support including accrued arrears: PROVIDED, That the office of support enforcement may also act to establish paternity where it is a necessary part of establishing support obligations for nonassistance clients. ~~((When the person(s) owing the duty to pay support is deceased or is eligible for or receiving social security benefits, public assistance moneys, supplemental security income, or is participating in any other governmental, private charity or other rehabilitation program providing benefits at less than the standards in WAC 388-29-100, the application cannot be accepted))~~ If a person other than the applicant has legal custody of the dependent child by order of a court, the applicant shall affirm that the legal custodian has not been wrongfully deprived of custody by the applicant and would not be excused from making support payments in accordance with WAC 388-11-065(10), in order to be eligible for support enforcement services.

(2) If a request for nonassistance support enforcement services is denied, a written notice of the denial shall be sent by regular mail and shall include a statement of the reasons for the denial and a statement that the applicant may request an administrative hearing to contest the denial.

(3) Any person who has been provided support enforcement services as a result of an approved application for public assistance may also ~~((apply for))~~ request nonassistance support enforcement services effective with the date of termination of public assistance. ~~((An application))~~ A request made prior to termination shall not be effective until the first of the month following termination from assistance. Support enforcement services may be continued by the office of support enforcement for a period of time not to exceed ~~((four))~~ five months following the last month in which public assistance was paid as a continuation of actions maintained as a result of an assignment pursuant to WAC 388-24-108 and 388-14-200 or by operation of law under RCW 74.20A.030. If support enforcement services on behalf of a public assistance recipient have resulted in the collection of support payments, the office of support enforcement shall continue, if appropriate, to provide support enforcement services during this ~~((four-month))~~ five-month period, and thereafter, if authorized to do so by the former recipient. All support moneys collected, during the ~~((four-month))~~ five-month period, except those collected to satisfy arrears assigned to the department under ~~((sections 17 and 22, chapter 171, Laws of 1979~~

~~ex. sess.))~~ RCW 74.20.320, RCW 74.20.330, 42 U.S.C. 602 (a)(26)(A), RCW 74.20A.250, and/or 74.20A.030 shall be remitted to the children's custodian.

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

✓ WAC 388-14-305 NONASSISTANCE SUPPORT ENFORCEMENT—APPLICATION. (1) A person desiring nonassistance support enforcement services shall complete the appropriate forms ~~((applying for))~~ requesting the services ~~((and granting limited power of attorney to the office of support enforcement, department of social and health services))~~. The necessary forms must be completed in full, dated, signed, and forwarded to the district office of support enforcement. Copies of divorce or dissolution decrees, support orders and modifications thereof, and any allied or related documents which reflect the marital and support status, shall be supplied by the applicant.

(2) The applicant shall also include or attach a statement of the amount of accrued arrears and list by date and amount all support payments received during the period of time when the arrears accrued. The office of support enforcement may require this statement to be by affidavit ~~((and where controversy exists the office of support enforcement may require the applicant/custodian to obtain a judgment determining all accrued arrears owed under a continuing order of support before proceeding further with collection efforts))~~. ~~((Applications))~~ The applicant may also be required to submit a written statement affirming the legal custodian has not been wrongfully deprived of custody of the dependent child or children, or affirming the applicant is and will continue to be a resident of this state even though the applicant is or will be temporarily absent from the state. Requests on which statements are incomplete, unclear, or inconsistent will be ~~((returned to the applicant))~~ denied and no service will be provided until such time as the ~~((application))~~ request for services is presented in acceptable form.

(3) The appropriate forms will be available at any community service office of the department of social and health services~~((;))~~ or at any district office of the office of support enforcement. The forms may be requested by phone, mail, or obtained personally.

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

✓ WAC 388-14-310 NONASSISTANCE SUPPORT ENFORCEMENT—APPLICANT/CUSTODIAN'S ~~((ASSIGNMENT OF RIGHTS))~~ AUTHORIZATION. (1) The applicant~~((/custodian))~~ shall ~~((assign, for collection purposes only, the rights to support accruing pursuant to a superior court order))~~ submit a written request for support enforcement services and authorize the office of support enforcement to initiate appropriate action to establish, enforce, and collect the support obligation.

(2) The applicant/custodian shall ~~((also))~~ give consent to the office of support enforcement to take an assignment of earnings from the person owing a duty to

pay support; agree to remit within eight days of receipt to the office of support enforcement support moneys received directly from the person owing a duty to pay support during the period of time support enforcement services are maintained(~~(; and give the office of support enforcement power of attorney to endorse checks, drafts and money orders representing support payable to said applicant)~~).

(3) The applicant/custodian, during the time support enforcement services are in effect, must send or deliver all support income received from the person owing a duty to pay support to the office of support enforcement providing the service and direct any payor or forwarding agent of moneys to remit directly to office of support enforcement. ~~((In the event))~~ If the applicant/custodian fails to forward ((such payments)) and/or ((so)) fails to provide adequate documentation of such direct ((any payor or forwarding agent)) payment as requested, the office of support enforcement may discontinue providing support enforcement services.

AMENDATORY SECTION (Amending Order 2123, filed 7/18/84)

✓ WAC 388-14-320 NONASSISTANCE SUPPORT ENFORCEMENT—DISTRIBUTION. (1) Current support payments received on behalf of the applicant/custodian in the ~~((four-month))~~ five-month period following the last month in which public assistance was paid shall be forwarded to the applicant/custodian.

(2) Support payments received on behalf of the applicant/custodian are forwarded as received.

(3) Nothing herein shall be construed to obligate the office of support enforcement to remit to the applicant/custodian moneys paid in satisfaction of a debt owed to the department ~~((under sections 17 and 22, chapter 171, Laws of 1979 ex. sess. RCW 74.20.330, 42 USC 602 (a)(26)(A), RCW 74.20A.250, or 74.20A.030))~~ except as provided for in WAC 388-14-270(5). The total amount of any obligation that has accrued under the assignment made pursuant to WAC 388-24-108 ~~((and)),~~ 388-14-200, or by operation of law prior to termination of assistance is collectible by the office of support enforcement subsequent to termination of assistance to reimburse the department for public assistance paid prior to termination.

AMENDATORY SECTION (Amending Order 2123, filed 7/18/84)

✓ WAC 388-14-325 NONASSISTANCE SUPPORT ENFORCEMENT—TERMINATION OF SERVICES. (1) Support enforcement services may be terminated by the applicant/custodian:

(a) An applicant/custodian may terminate support enforcement ~~((service(s)))~~ service or services by written notice to the office of support enforcement. ~~((The office of support enforcement's rights and responsibilities toward the applicant/custodian shall continue in effect until written notification is received:))~~

(b) Upon receipt of the applicant/custodian's request for termination of support enforcement services, the office of support enforcement will discontinue ~~((such))~~

service. Any support moneys received which are owing to the applicant/custodian after the receipt of notice shall be returned to the payor with instructions to send all support moneys directly to the applicant/custodian or forwarding agent as appropriate.

(2) Support enforcement services may be terminated ~~((or reapplications may be denied))~~ by the office of support enforcement:

(a) In cases where further action to enforce payment of a support obligation is deemed inappropriate or inadvisable ~~((by the office of support enforcement)).~~

(b) If the department or a court of competent jurisdiction determines the applicant/custodian has wrongfully deprived the responsible parent of physical custody of the dependent child or children in accordance with the provision of WAC 388-11-065(10).

(c) Upon receipt of verification that the responsible parent is dead if there is no available estate.

(d) If no payments have been collected within the last three years despite reasonable collection efforts and further collections are not foreseeable in the future.

(e) If the responsible parent cannot be located and all local, state, and federal locate sources have been exhausted, the case may be terminated after three years unless new locate information is provided by the applicant/custodian.

(f) When the applicant/custodian moves to and becomes a resident of another state or country: PROVIDED HOWEVER, That the office of support enforcement may continue to provide services for a period not to exceed five months from the date the applicant/custodian moves if such continued services are appropriate under the circumstances.

(g) ((In the event)) If an applicant/custodian fails or refuses to provide supplementary information ((or)), fails or refuses to forward to the office of support enforcement support payments made direct or fails to provide adequate documentation of such payments, ((or)) fails or refuses to take necessary cooperative action as specifically requested by the office of support enforcement, or who employs and/or fails or refuses to discharge a private attorney, collection agency, or other agency engaged in collection of the support debt ((assigned for)): PROVIDED HOWEVER, That services by office of support enforcement may not be terminated but may be limited or deferred as appropriate if office of support enforcement is given notice of and agrees to employment of a private attorney or collection ((to)) agent and said actions of the ((department)) private attorney or collection agency do not conflict with, interfere with, or duplicate action taken by the office of support enforcement.

(3) When the office of support enforcement terminates services, the applicant/custodian ~~((must))~~ shall be notified in writing that the office of support enforcement will no longer provide support enforcement services. Notification may be by regular mail addressed to the applicant/custodian's last known address and must include the reason for discontinuation of services and a statement that the applicant/custodian may request an administrative hearing to contest termination, limitation, or deferral of services.

(4) Any support moneys received after a notice of decision by the office of support enforcement to discontinue support enforcement services has been mailed shall be returned to the payor with instructions to send all support moneys directly to the applicant/custodian, court, or other forwarding agent ~~(, court, as appropriate)~~.

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

✓ WAC 388-14-385 CONFERENCE BOARD. (1) A conference board is herewith established to make inquiry into, determine facts, and attempt to resolve matters in which a responsible parent, custodial parent, or other person feels aggrieved by actions taken by the office of support enforcement pursuant to chapters 74.20, 74.20A RCW, or Title IV-D of the Social Security Act (Title 42 U.S.C.).

(a) The intent and purpose of the conference board is to facilitate the informal speedy resolution of grievances by responsible parents, custodial parents, or other persons. An applicant for a conference board proceeding must have made a reasonable attempt and have failed to resolve the grievance or issue with the workers before a conference board may act to attempt to resolve the issue.

(b) The chief, office of support enforcement, or his or her designee may assemble a conference board on application of the aggrieved person or on his or her own motion to investigate, find facts, and state or apply policy or law to the end of resolving grievances.

(c) If the grievance or issue presented in an application for conference board does not involve a factual dispute, or if the disputed ~~((fact(s)))~~ fact or facts even if resolved in favor of the applicant would not provide a basis upon which relief could be granted to the applicant by a conference board acting in accordance with the standards provided for herein, the chief or his or her designee may take such action as ~~((he/she))~~ he or she deems appropriate and to that end ~~((he/she))~~ he or she may individually exercise any of the authority provided for in this regulation. If an apparent factual dispute exists, the conference board shall be composed of the chief or his or her designee, who shall serve as chairman, and two staff members, if deemed necessary, appointed by the chief or his or her designee. The conference board shall dissolve upon issuance of decisions on matters for which it was appointed.

(d) The chairman of the conference board is herewith authorized as a duly appointed officer empowered to issue subpoena of witnesses, books, records, etc., as provided for in RCW 74.04.290 and shall have power to subpoena witnesses, administer oaths, take testimony, and compel the production of such papers, books, records, and documents as he or she deems relevant to the resolution of the grievance under consideration. Additional evidence may be taken by affidavit or other written submission when necessary or practicable together with written or oral argument. Persons having specific familiarity with the matter at issue or technical expertise with the subject may be designated to advise the board as required.

(e) The conference board's jurisdiction shall include but shall not be limited to the following areas:

~~((+))~~ (i) Complaints as to the conduct of individual staff members while acting in the scope of their duties. The decision of the board shall be directed to the first line supervisor for action as appropriate;

~~((2))~~ (ii) Review of denial of application for or termination of nonassistance support enforcement services;

~~((3))~~ (iii) Review of allegations of error as to the distribution of support moneys;

~~((4))~~ (iv) Resolution of amounts of arrears claimed due and rate of repayments;

~~((5))~~ (v) Requests to release or refund moneys taken pursuant to RCW 74.20A.080 to provide for the reasonable necessities of responsible parent or parents and minor children in their home;

~~((6))~~ (vi) Requests for deferral of support enforcement action;

~~((7))~~ (vii) Requests for partial or total charge-off of support arrears pursuant to RCW 74.20A.220 or declination to collect support arrears pursuant to RCW 74.20.040 on nonassistance cases;

~~((8))~~ (viii) Requests to waive interest pursuant to RCW 74.20A.190;

~~((9))~~ (ix) Requests to waive or defer the nonassistance support enforcement fee pursuant to RCW 74.20.040;

~~((10))~~ (x) Any other matter requiring explanation of or application of policy or law to an issue in a specific case or clarification of facts in said case.

(xi) Requests for administrative review of cases submitted to the IRS for offset of a tax refund in accordance with federal statutes and regulations.

(2) The decision, including a decision to deny a request for a conference board, shall be in accordance with applicable statutes, case law, department of social and health services rules and regulations, published office of support enforcement manuals, support enforcement policy bulletins and the exercise of reasonable administrative discretion. The decision shall be in writing ~~((;))~~ and shall find the facts, applicable law, policies applied, and clearly state the decision. If the decision is the result of a conference board, that decision shall represent the decision of a majority of the board. Decisions inconsistent with the ~~((above))~~ standards in this section shall be vacated by the chief of the office of support enforcement and remanded for issuance of a new decision in compliance with the standards.

(3) A file of pertinent documents shall be established for each case and a copy of the decision, signed by the chairman, shall be distributed to the petitioning party, the appropriate office of support enforcement district field office for action consistent with the decision of the board, and the chief, office of support enforcement.

(4) Decisions to grant partial or total charge-off pursuant to RCW 74.20A.220 of arrears owed to the department of social and health services under RCW 74.20A.030, 74.20A.250, ~~((sections 17 and 22, chapter 171, Laws of 1979 ex. sess. RCW [74.20.320] [74.20.330]))~~ 74.20.320, 74.20.330, or 42 U.S.C. 602 (a)(26)(A) shall be based on the following considerations which shall be found and stated in the written decision of the conference board fully justifying the action taken:

~~((1))~~ (a) Error in law or bona fide legal defects which materially diminish chances of collection; or

~~((2))~~ (b) Substantial hardship to minor children in the household of the responsible parent or other minor children for whom the responsible parent actually provides support which hardship is to be measured against income standards for public assistance and consideration of all available income, property, and resources of the responsible parent and the necessity to apportion the income and resources of the responsible parent on an equitable basis with the children for whom the arrears accrued; or

~~((3))~~ (c) Costs of collection action in the future which are greater than the amount to be charged off; or

~~((4))~~ (d) Settlement from lump-sum cash payment which is beneficial to the state considering future costs of collection and likelihood of collection.

(5) The considerations and decision of the conference board shall not be a contested case subject to review by the superior court and shall not be a substitute for any constitutionally or statutorily permitted hearing. Aggrieved parties may be represented before the board by a person of their choice but the department will not be responsible for any costs incurred by the aggrieved person in connection with the conference.

NEW SECTION

✓ WAC 388-14-400 ORDER TO WITHHOLD AND DELIVER—ISSUANCE AND TERMINATION. (1) As provided under RCW 74.20A.040 or as otherwise appropriate under RCW 74.20A.055, the office of support enforcement may issue an order to withhold and deliver directed against the property, including but not limited to the earnings, of the debtor. If the debtor is delinquent in his or her support obligation as set forth in a superior court or administrative order for support in an amount equal to the support payable for one month, the office of support enforcement shall issue an order to withhold and deliver or take other wage withholding action as soon as the debtor's earnings have been identified. For purposes of this section, the debtor shall not be deemed to be delinquent in his or her support obligation if he or she is making periodic payments, pursuant to an administrative decision, a consent order, an agreed settlement, an assignment of earnings, or a support agreement, executed prior to October 1, 1985, in a timely manner and in an amount sufficient to satisfy current or future support and to make a reasonable periodic arrearage payment.

(2) The order to withhold and deliver shall remain in effect until the support debt has been paid in full or until it is released by the office of support enforcement and replaced by an assignment of earnings providing for payments in an amount sufficient to satisfy current or future support and make a reasonable arrearage payment.

(3) If the debtor wishes to contest or object to an order to withhold and deliver issued by the office of support enforcement, he or she may apply for relief to superior court.

NEW SECTION

✓ WAC 388-14-405 ORDER TO WITHHOLD AND DELIVER—RESPONSIBILITIES OF EMPLOYER. (1) Where money is due and owing to the debtor under any contract of employment, the order to withhold and deliver shall direct the employer to begin withholding the disposable earnings of the debtor immediately upon receipt of the order and to remit any such earnings withheld after the expiration of the twenty-day answer period. The order shall direct the employer to remit earnings that are withheld subsequently within ten days of the date the earnings are due and owing to the debtor. The order shall also provide the employer may deduct a processing fee from the remainder of the debtor's earnings, even if the remainder would otherwise be exempt under RCW 74.20A.090. The processing fee shall not exceed ten dollars for the first remittance to the office of support enforcement and one dollar for each subsequent remittance.

(2) If the employer is required to withhold and deliver the disposable earnings of two or more debtors, the employer may combine the amounts withheld and remit a single check to the office of support enforcement. The employer shall clearly and separately identify the portions of the check which is attributable to each debtor and is required to remit the check within the time frames set forth in subsection (1) of this section.

(3) The order to withhold and deliver shall direct the employer to notify the office of support enforcement promptly when the debtor terminates employment and to provide the debtor's last known address and the name of the debtor's new employer if known.

NEW SECTION

✓ WAC 388-14-410 RELEASE OF INFORMATION TO CONSUMER REPORTING AGENCY. When a consumer reporting agency, as defined by 45 C.F.R. 303.105(a), requests information regarding the amount of overdue support owed by a responsible parent, the office of support enforcement shall provide such information if the amount of the support debt exceeds one thousand dollars. Prior to releasing such information, however, a written notice concerning the proposed release of the information shall be sent to the responsible parent's last known address. The notice shall provide the responsible parent has ten days from the date of the notice to request a conference board to contest the accuracy of the information. If the responsible parent requests a conference board, the office of support enforcement shall not release the information until a conference board decision has been issued.

NEW SECTION

✓ WAC 388-14-415 NOTICE OF SUPPORT DEBT. The notice of support debt issued, pursuant to RCW 74.20A.040, shall contain a provision that appropriate collection action, including the issuance of an order to withhold and deliver against the earnings or property of the debtor, may be taken by the office of support enforcement without further notice after twenty days from the date of service of the notice if the debtor

is delinquent in his or her support obligation in an amount equal to the support payable for one month.

WSR 86-05-010
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Commission for Vocational Rehabilitation)
 [Order 2341—Filed February 12, 1986]

I, Lee D. Bomberger, acting director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Economic need—Standard for determining, amending WAC 490-500-190.

This action is taken pursuant to Notice No. WSR 86-02-030 filed with the code reviser on December 27, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.29.025 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 February 12, 1986.

By Lee D. Bomberger, Acting Director
 Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2149, filed 9/12/84)

✓ WAC 490-500-190 ECONOMIC NEED—STANDARDS FOR DETERMINING. (1) A client shall be eligible to receive vocational rehabilitation services or extended evaluation services from the division when total obligations, debts, and expenses equals or exceeds income and nonexempt assets and resources. When income and nonexempt assets are greater than the value of obligations, debts, and expenses, the excess is to be made available by the client to pay for rehabilitation services unless the service is exempted by law and/or WAC 490-500-180.

(2) Determination of a client's economic need involves an evaluation of the income, assets, debts, obligations, and expenses of his or her entire family unit, including his or her dependents or, if the client is an unemancipated minor, his or her parents.

(3) The following shall be considered income for the purpose of determining the economic need of a client:

(a) Wages paid to the client and to any dependent family members living in the home. For purposes of this section, wages shall be equal to gross wages less deductions for income taxes, Social Security taxes, retirement deductions, and other involuntary deductions.

(b) Contributions from relatives or others, in cash or in kind, on a regular and predictable basis((:));

(c) Net profit from roomers or boarders((:));
 (d) Net profit from property rentals((:));
 (e) Net profit from farm products((:));
 (f) Net profit from business enterprises((:));
 (g) Scholarship or fellowship funds((:));
 (h) Income from public or private welfare agencies((:)); or

(i) Any other income received on a regular and predictable basis, including but not limited to alimony, dividends from stocks, annuity payment, unemployment compensation, insurance, pensions, etc.

(4) The following types of property shall be considered exempt assets and may not be considered in determining the client's economic need:

(a) The home occupied by the client or his or her family, including any contiguous real property. A house trailer is an exempt asset when it is being regularly occupied by the client or his or her family as the principle place of residence or when it will be so occupied in the predictable future.

(b) Household furniture, clothing, life insurance, and other personal effects;

(c) An automobile when one or more of the following conditions is met:

(i) The client and his or her family have only one automobile, or

(ii) All automobiles used by the family are for the purpose of transportation to work or school, or

(iii) The automobile has been furnished in whole or in part to the client or to one of his or her dependents by the Veterans' Administration, or

(iv) The automobile is essential to the client's vocational rehabilitation objective.

(d) Vocational equipment and machinery owned by the client is an exempt asset if the equipment and/or machinery is being used to provide part or all of the living expenses of the client and his or her dependents or if the equipment and/or machinery may be so used after completion of the vocational rehabilitation plan;

(e) Livestock is an exempt asset to the extent the livestock produces income or otherwise helps the client to meet normal living requirements.

(5) All types of tangible and intangible property, including but not limited to real property, personal property, stocks, bonds, savings accounts, and checking accounts, which are not exempt under subsection (4) of this section shall constitute the client's nonexempt assets and shall be considered in determining the client's economic need. The value of a nonexempt asset shall be equal to the nonexempt assets fair market value less any unpaid encumbrances of record.

(6) The following obligations, debts, and expenses shall be deducted from the client's income and nonexempt assets in determining the client's economic need:

(a) The client's actual shelter and living expenses,

(b) Shelter and living expenses for the client's dependents,

(c) Payments which the client is required to make under court order,

(d) Outstanding taxes on earnings or personal or real property,

(e) Insurance premium payments,

(f) Contractual payments on real or personal property if such obligations were incurred prior to the client's application for vocational rehabilitation services.

(7) When maintenance is to be paid by the division of vocational rehabilitation to a client, the maintenance paid shall be in the amount the division has determined to be necessary to maintain the client up to a maximum of ~~((three hundred four dollars))~~ the current one-person payment standard as defined in WAC 388-29-100.

WSR 86-05-011
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF ECOLOGY
[Memorandum—February 12, 1986]

STATE/EPA AGREEMENT
NOTICE OF PUBLIC WORKSHOPS AND MEETING

The Washington Department of Ecology (Ecology), the Washington Department of Social and Health Services (DSHS), the Washington State Department of Agriculture (WSDA), and the United States Environmental Protection Agency, Region 10 (EPA) are requesting public review and comment on proposed environmental programs to be included in a formal agreement between these agencies for fiscal year 1987 (July 1, 1986 – June 30, 1987). The state/EPA agreement (SEA) contains priorities for water quality, drinking water, hazardous waste, air quality, and pesticide programs.

Two public workshops and a public meeting will be held to discuss the SEA and to receive public comments:

Workshops:

March 20, 1986
1:00 to 5:00 p.m. Spokane County Public Health Building
Room 140, West 1101 College
Spokane, Washington

March 25, 1986
1:00 to 5:00 p.m. U.S. Environmental Protection Agency
Freeway Park Building, 12th Floor
Conference Room 12-A
1200 Sixth Avenue
Seattle, Washington

Public Meeting

May 7, 1986
7:00 p.m. Washington Department of Ecology
Rowesix Hearings Room
4224 6th Avenue S.E., Building 4
Lacey, Washington

To prepare for either the workshops or the public meeting please contact Ecology to review draft SEA documents. The draft SEA consists of an executive document and individual program documents which outline in more detail the water quality, hazardous waste, drinking water, air quality, and pesticides programs. Copies of the draft executive document will be available March 10, 1986. All other SEA documents will be available to the public after April 10, 1986, at Ecology headquarters (Lacey), Ecology regional offices (Tumwater, Redmond, Yakima, and Spokane), DSHS headquarters (Tumwater), WSDA headquarters (Olympia), and EPA offices (Seattle and Lacey).

The draft SEA or other information about the SEA can be obtained by contacting Nina Carter, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504,

phone (206) 459-6690. All requests should specify which SEA documents should be sent to the same address. All public written or verbal comments must be received at Ecology by May 23, 1986.

WSR 86-05-012
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 86-03—Filed February 12, 1986]

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 a harvestable surplus of adult Pacific whiting are available.

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

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

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

APPROVED AND ADOPTED February 12, 1986.

By Gary C. Alexander
for William R. Wilkerson
Director

NEW SECTION

WAC 220-48-01500U PACIFIC WHITING TRAWL OPENING. *Notwithstanding the provisions of WAC 220-48-015, WAC 220-48-017 and WAC 220-48-019, effective immediately until further notice:*

(1) *It is unlawful to take, fish for or possess Pacific whiting taken with bottom trawl, beam trawl, pelgic trawl or roller trawl from Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 24C.*

(2) *It is unlawful to take or fish for Pacific whiting taken with bottom trawl, beam trawl, pelgic trawl or roller trawl from Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 24B or 26A except from 6:00 a.m. to 6:00 p.m. on February 13, 1986 and unlawful to possess Pacific whiting taken from Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 24B or 26A except when taken legally as provided for in this subsection.*

REPEALER

The following section of the Washington Administrative Code is repealed:

*WAC 220-48-01500T PACIFIC WHITING
TRAWL CLOSURE. (86-01)*

WSR 86-05-013
ADOPTED RULES
BOARD OF HEALTH

[Order 299—Filed February 12, 1986]

Be it resolved by the Washington State Board of Health, acting at Tacoma, Washington, that it does adopt the annexed rules relating to Tuberculosis testing—Certification, repealing WAC 248-100-175.

This action is taken pursuant to Notice No. WSR 86-01-070 filed with the code reviser on December 17, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the 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 February 12, 1986.

By John A. Beare, MD, MPH
Director, Division of Health

REPEALER

The following section of the Washington Administrative Code is repealed:

✓ WAC 248-100-175 TUBERCULOSIS TESTING—CERTIFICATION.

WSR 86-05-014
ADOPTED RULES
DEPARTMENT OF VETERANS AFFAIRS

[Order 86-01—Filed February 13, 1986]

I, Randy Fisher, director of the Department of Veterans Affairs, do promulgate and adopt at 505 East Union, Republic Building, Olympia, WA, the annexed rules relating to the Washington veterans home and Washington soldiers home and colony.

This action is taken pursuant to Notice No. WSR 85-23-039 filed with the code reviser on November 18, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Veterans Affairs as authorized in RCW 43.60A.070.

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

APPROVED AND ADOPTED February 7, 1986.

By Randy Fisher
Director

AMENDATORY SECTION (Amending Order 85-01, filed 10/1/85)

✓ WAC 484-20-068 DULY CONSTITUTED BODY. (1) Each home shall have a duly constituted body representative of the home members established to approve revolving fund disbursements and to communicate to the home's administration member needs and concerns.

(2) The duly constituted body shall be composed of representatives elected annually, to serve for the succeeding calendar year. At the option of the duly constituted body, representatives may be elected to serve terms as follows: A minimum of three representatives to be elected in even-numbered years and a minimum of four representatives to be elected in odd-numbered years.

(3) Representation of home members receiving domiciliary care, nursing care and soldiers home colony members shall make up the duly constituted body.

(4) Representatives will be elected from living units to be designated by the superintendent.

(5) Representatives from the living units shall be elected by members of that living unit or by the general membership.

(6) The members from each living unit receiving the largest number of votes shall be elected to the duly constituted body.

(7) In the event of a vacancy due to an insufficient number of members requesting to serve or the resignation, abandonment, medical disability (established by the medical director at the home), death or discharge from the home, the member representatives and the superintendent shall ((select a member representative)) submit names to fill such vacancy subject to confirmation by a majority of the elected representatives.

(8) The duly constituted body shall meet when called together on reasonable notice by the superintendent or his delegee. The presence of at least the majority of the representatives is necessary to constitute a quorum.

(9) When the duly constituted body ((shall meet when called together on reasonable notice by the superintendent or his delegee. The presence of at least two-thirds of the representatives is necessary to constitute a quorum. The superintendent or his delegee shall chair meetings of the duly constituted body and the homes' administration but shall have no vote)) meets with the administration, the superintendent or his designee shall have no vote but shall chair these meetings. The duly constituted body may meet on its own at any time without notice to the administration. When the duly constituted body meets with the administration, the chairman shall ensure that all agenda items are considered. Agenda items may be submitted by the duly constituted body, any home member, or the administration.

(10) On the written request of a majority of the duly constituted body the superintendent shall call a meeting to be held within fourteen days of the request for such meeting and shall provide notice to each representative.

AMENDATORY SECTION (Amending Order 85-01, filed 10/1/85)

✓WAC 484-20-075 AID AND ATTENDANCE ACCOUNT. (1) The superintendent shall establish an aid and attendance account within the home's revolving fund. Expenditures from this account may be made exclusively in connection with provision of direct care services to the members limited to nursing and other health related care services.

(2) The portion of each members income ((m)) which is derived from a veterans administration aid and attendance allowance shall be deposited to the aid and attendance account within the revolving fund.

(3) An amount, equivalent to the nursing care aid and attendance allowance payable to a veteran under Public Law 95-588, for nursing care members, shall be deposited to the aid and attendance account of the revolving fund.

(4) An amount, equivalent to housebound rates payable under Public Law 95-588, of income of domiciliary members receiving direct care services in addition to those services provided to all domiciliary members shall be deposited to the aid and attendance account of the revolving fund.

WSR 86-05-015

PROPOSED RULES STATE PATROL

[Filed February 13, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Patrol intends to adopt, amend, or repeal rules concerning Private carriers—Drivers qualification and hours of service standards;

that the agency will at 1:00 p.m., Wednesday, March 26, 1986, in the Conference Room, State Patrol Supply Building, 4242 Martin Way, Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 1, 1986.

The authority under which these rules are proposed is RCW 46.73.010 and 46.73.020.

The specific statute these rules are intended to implement is chapter 46.73 RCW.

Dated: February 13, 1986

By: David N. Boyd, Commander
Commercial Vehicle Enforcement Section, WSP

STATEMENT OF PURPOSE

Title: Private carriers—Driver qualifications and hours of service standards.

Authority: Chapter 333, Laws of 1985 codified as chapter 46.73 RCW, is intended to allow the Washington State Patrol to adopt rules establishing

standards for qualifications and hours of service of drivers for private carriers as defined by RCW 81.80.010(6). Such standards shall correlate with and, as far as reasonable, conform to the regulations contained in Title 49 CFR, Chapter 3, Subchapter B, Parts 391 and 395.

Summary: Adoption of Title 49 CFR, Chapter 3, Subchapter B, Parts 391 and 395 will establish standards for qualifications and hours of service of drivers for private carriers as defined by RCW 81.80.010(b) [81.80.010(6)]. This adoption was required by the Federal Highway Commission for the state of Washington to receive motor carrier safety assistance funds. Within 90 days of finding that federal funds or grants are withdrawn or not renewed, the Washington State Patrol and the Washington Utilities and Transportation Commission shall repeal any and all rules adopted.

Agency Personnel Responsible for Drafting: Trooper James F. Dickerman, General Administration Building, AX-12, Olympia, WA 98504, phone 753-4453; Implementation: Deputy Chief Larry R. Hart, General Administration Building, AX-12, Olympia, WA 98504; and Enforcement: Captain David N. Boyd, General Administration Building, AX-12, Olympia, WA 98504.

Agency Comments: Adoption of Title 49 CFR, Chapter 3, Subchapter B, Parts 391 and 395 will bring the state of Washington into conformity with federal laws pertaining to standards for qualifications and hours of service of drivers for private carriers as defined by RCW 81.80.010(6). Presently standards apply to drivers of commercial vehicles carriers, but not private carriers.

Government: House Bill SHB 660, chapter 333, Laws of 1985, enacted by the legislature of the state of Washington.

Small Business Economic Impact: Adoption of Title 49 CFR, Chapter 3, Subchapter B, Parts 391 and 395 will have an economic impact upon private carrier business proportionate to the number of drivers each employs. The total cost ranging from \$118 to \$135 per person.

There are a number of secretarial/clerical costs associated with the adoption of chapter 333, Laws of 1985. The establishment of standards for qualifications and hours of service of drivers for private carriers requires employers to administer written tests and road tests to their drivers; to keep records of drivers duty status and hours of drive time; and to keep on file copies of employees applications, employment history, driving record, medical examination forms, and test results.¹

The major cost of establishing standards in qualifications of drivers for private carriers is the cost of a medical/physical examination. Each employee/applicant is required to take a physical examination, which will certify the employee applicant physically qualified to drive a motor vehicle. The cost of such an examination ranges from \$89.10 to \$103.95 per person.² A benefit derived from complying to the standards of chapter 333, Laws of 1985, is the possibility of a reduction in insurance expenses. Although insurance rates are affected by the experience of the driver(s) – these rates may be lowered by the insurance company. Insurance companies are allowed to give a maximum of 25 percent safety credit of

safety standards and/or qualifications are met, regardless of fleet size.³

In conclusion, the adoption of Title 49 CFR, Chapter 3, Subchapter B, Parts 391 and 395 will not have an adverse economic impact on business. The cost of complying to the standards of qualifications of drivers and hours of service of drivers for private carriers is proportionate to the size of the company; furthermore, by complying to the standards, private carriers may see a reduction in insurance rates.

¹ Written test questions, road test standards, and physical examination standards, along with other pertinent forms all found within the contents of the chapter. The clerical/secretarial costs range from \$28.90 to \$31.40.

² These figures were obtained from the Thurston County Medical Bureau.

³ Information obtained from Aetna Insurance Company representative Cary McJohnston.

Chapter 446-55 WAC

PRIVATE CARRIER REGULATIONS—QUALIFICATIONS OF DRIVERS

WAC

446-55-010	Scope and interpretation of the rules in this chapter—Additional qualifications—Duties of private carrier—drivers.
446-55-020	General exemptions.
446-55-030	Definitions.
446-55-040	Familiarity with rules.
446-55-050	Aiding or abetting violations.
446-55-060	Qualifications of drivers.
446-55-070	Disqualification of drivers.
446-55-080	Application for employment.
446-55-090	Investigation and inquiries.
446-55-100	Annual review of driving record.
446-55-110	Record of violations.
446-55-120	Road test.
446-55-130	Equivalent of road test.
446-55-140	Written examination.
446-55-150	Examination format.
446-55-160	Equivalent of written examination.
446-55-165	Exemptions for single vehicle owner drivers.
446-55-170	Physical qualifications for drivers.
446-55-180	Medical examination—Certificate of physical examination.
446-55-190	Persons who must be medically examined and certified.
446-55-200	Resolution of conflicts of medical evaluation.
446-55-210	Waiver of certain physical defects.
446-55-220	Driver qualification files.
446-55-230	Drivers who were regularly employed for a continuous three-year period prior to the effective date of this rule.
446-55-240	Drivers of lightweight vehicles.
446-55-250	Intermittent, casual, or occasional drivers.
446-55-260	Drivers furnished by other motor carriers.
446-55-270	Drivers of articulated (combination) farm vehicles.
446-55-280	Intrastate drivers of vehicles transporting combustible liquids.

NEW SECTION

WAC 446-55-010 SCOPE AND INTERPRETATION OF THE RULES IN THIS CHAPTER—ADDITIONAL QUALIFICATIONS—DUTIES OF PRIVATE CARRIER—DRIVERS. (1) The rules in this chapter establish minimum qualifications for persons who drive motor vehicles as, for, or on behalf of private carriers. The rules in this chapter also establish minimum duties of private carriers with respect to the qualifications of their drivers. The rules in this chapter

shall be interpreted by the chief or designee, and when applicable shall be consistent with the federal interpretations of Part 391 of the Code of Federal Regulations as documented in the Federal Highway Administration, Department of Transportation, Federal Motor Carrier Safety Regulations, Interpretations.

(2) The rules in this chapter do not prevent a private carrier from imposing more stringent or additional qualifications, requirements, examinations, or certificates than are imposed by these rules.

(3) A private carrier who employs himself as a driver must comply with both the rules in this chapter that apply to private carriers and the rules in this chapter that apply to drivers except as provided in WAC 446-55-165.

NEW SECTION

WAC 446-55-020 GENERAL EXEMPTIONS. (1) Passenger car operations. The rules in this chapter do not apply to a driver who drives only a motor vehicle that:

(a) Is a passenger-carrying vehicle with a seating capacity of 10 or less persons, including the driver;

(b) Is not transporting passengers for hire; and

(c) Is not transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with part 177.823 of the Code of Federal Regulations.

(2) Certain farm vehicle drivers. The rules in this chapter do not apply to a farm vehicle driver operating equipment that meets the requirements of RCW 46.16.090, except a farm vehicle driver who drives an articulated (combination) motor vehicle that has a gross weight, including its load of more than 10,000 pounds. (For limited exemptions for farm vehicle drivers of heavier articulated vehicles see WAC 446-55-270.)

(3) Farm custom operations. The rules in this chapter do not apply to a driver who drives a motor vehicle that meets the requirements of RCW 46.16.090 controlled and operated by a person engaged in custom-harvesting operations, if the vehicle is used to:

(a) Transport farm machinery, supplies, or both, to or from a farm for custom-harvesting operations on a farm; or

(b) Transport custom-harvested crops to storage or market.

(4) Apiarian industries. The rules in this chapter do not apply to a driver who is operating a motor vehicle controlled and operated by a beekeeper engaged in the seasonal transportation of bees.

(5) Lightweight vehicle drivers. The rules in this chapter do not apply to a driver who drives only a lightweight vehicle as defined in WAC 446-55-030(5).

NEW SECTION

WAC 446-55-030 DEFINITIONS. (1) A "private carrier" is a person who transports by his own motor vehicle, with or without compensation therefor, property which is owned or is being bought or sold by such person, or property of which such person is the seller, purchaser, lessee, or bailee where such transportation is incidental to and in furtherance of some other primary business conducted by such person in good faith. The term "private carrier" includes a private carrier and the agents, officers, representatives, and employees of a private carrier who are responsible for the hiring, supervision, training, assignment, or dispatching of drivers.

(2) The term "chief" means the chief of the Washington state patrol.

(3) A private carrier "employs" a person as a driver within the meaning of this chapter whenever it requires or permits that person to drive a motor vehicle (whether or not the vehicle is owned by the private carrier) in furtherance of the business of the private carrier.

(4) The term "farm vehicle driver" means a person who drives only a motor vehicle that is:

(a) Controlled and operated by a farmer;

(b) Being used to transport either:

(i) Agricultural products; or

(ii) Farm machinery, farm supplies, or both, to or from a farm;

(c) Not being used in the operations of a common or contract carrier;

(d) Not carrying hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with part 177.823 of the Code of Federal Regulations; and

(e) Either:

(i) A vehicle having a gross weight, including its load, of 10,000 pounds or less; or

(ii) A vehicle being used within 150 miles of the farmer's farm.

(5) The term "lightweight vehicle" as used in this chapter or used in rules adopted by reference, shall mean a motor vehicle that:

(a) Was manufactured on or after January 1, 1972, and has a manufacturer's gross vehicle weight rating of ten thousand pounds or less, in the case of a single vehicle, or a manufacturer's gross combination weight rating of ten thousand pounds or less, in the case of an articulated vehicle; or

(b) Was manufactured before January 1, 1972, and has a gross weight, including its load and the gross weight of any vehicle being towed by the motor vehicle, of ten thousand pounds or less, except:

(c) The term "lightweight vehicle" does not include a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with WAC 480-12-195.

(6) "Common carrier" means any person who undertakes to transport property for the general public by motor vehicle for compensation, whether over regular or irregular routes, or regular or irregular schedules, including motor vehicle operations of other carriers by rail or water and of express or forwarding companies.

(7) "Contract carrier" shall include all motor vehicle operators not included under the terms "common carrier" and "private carrier" as herein defined in subsections (1) and (6) of this section, and further shall include any person who under special and individual contracts or agreements transports property by motor vehicle for compensation.

(8) "Exempt carrier" means any person operating a vehicle exempted from certain provisions of this chapter under RCW 81.80.040.

(9) "Motor carrier" means and includes "common carrier," "contract carrier," "private carrier," and "exempt carrier" as herein defined.

(10) "Motor vehicle" means any truck, trailer, semitrailer, tractor, dump truck which uses a hydraulic or mechanical device to dump or discharge its load or any self-propelled or motor driven vehicle used upon any public highway of this state for the purpose of transporting property, but not including baggage, mail and express transported on the vehicles of auto transportation companies carrying passengers.

NEW SECTION

WAC 446-55-040 FAMILIARITY WITH RULES. Each private carrier and each driver shall know, and be familiar with, the rules in this chapter.

NEW SECTION

WAC 446-55-050 AIDING OR ABETTING VIOLATIONS. No person shall aid, abet, encourage, or require a private carrier or a driver to violate the rules in this chapter.

NEW SECTION

WAC 446-55-060 QUALIFICATIONS OF DRIVERS. (1) A person shall not drive a motor vehicle unless he is qualified to drive a motor vehicle. Except as provided in chapter 46.20 RCW and WAC 446-55-250, a private carrier shall not require or permit a person to drive a motor vehicle unless that person is qualified to drive a motor vehicle.

(2) Except as provided in WAC 446-55-220 through 446-55-280, a person is qualified to drive a motor vehicle if he is qualified according to chapter 46.20 RCW and:

(a) Is at least 18 years old;

(b) Can read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records;

(c) Can, by reason of experience, training, or both, safely operate the type of motor vehicle he drives;

(d) Can, by reason of experience, training, or both, determine whether the cargo he transports has been properly located, distributed, and secured in or on the motor vehicle he drives;

(e) Is familiar with methods and procedures for securing cargo in or on the motor vehicle he drives;

(f) Is physically qualified to drive a motor vehicle in accordance with WAC 446-55-170 through 446-55-210;

(g) Has been issued a currently valid motor vehicle operator's license or permit;

(h) Has prepared and furnished the private carrier that employs him with the list of violations or the certificate as required by WAC 446-55-110;

(i) Is not disqualified to drive a motor vehicle under chapter 46.20 RCW and the rules in WAC 446-55-070;

(j) Has successfully completed a driver's road test and has been issued a certificate of driver's road test in accordance with WAC 446-55-120, or has presented an operator's license or a certificate of road test which the private carrier that employs him has accepted as equivalent to a road test in accordance with WAC 446-55-130;

(k) Has taken a written examination and has been issued a certificate of written examination in accordance with WAC 446-55-140, or has presented a certificate of written examination which the private carrier that employs him has accepted as equivalent to a written examination in accordance with WAC 446-55-160; and

(l) Has completed and furnished the private carrier that employs him with an application for employment in accordance with WAC 446-55-080.

NEW SECTION

WAC 446-55-070 DISQUALIFICATION OF DRIVERS. (1) General. A driver who is disqualified shall not drive a motor vehicle. A private carrier shall not require or permit a driver who is disqualified to drive a motor vehicle.

(2) Disqualification for loss of driving privileges. A driver is disqualified for the duration of his loss of his privilege to operate a motor vehicle on public highways, either temporarily or permanently, by reason of the revocation, suspension, withdrawal, or denial of an operator's license, permit, or privilege, until that operator's license, permit, or privilege is restored by the authority that revoked, suspended, withdrew, or denied it.

(3) Disqualification for criminal misconduct.

(a) General rule. A driver who is convicted of, or forfeits bond or collateral upon a charge of, a disqualifying offense specified in (b) of this subsection is disqualified for the period of time specified in (c) of this subsection if:

(i) The offense was committed after December 31, 1970; and

(ii) The offense was committed while the driver was driving a motor vehicle in the employ of a private carrier or in furtherance of a commercial enterprise in interstate, intrastate, or foreign commerce.

(b) Disqualifying offenses. The following offenses are disqualifying offenses:

(i) Operating a motor vehicle while under the influence of alcohol, an amphetamine, a narcotic drug, a formulation of an amphetamine, or a derivative of a narcotic drug;

(ii) A crime involving the knowing transportation, knowing possession, or unlawful use of amphetamines, narcotic drugs, formulations of an amphetamine, or derivatives of narcotic drugs;

(iii) Leaving the scene of an accident which resulted in personal injury or death;

(iv) A felony involving the use of a motor vehicle.

(c) Duration of disqualification for criminal misconduct.

(i) First offenders. A driver is disqualified for 1 year after the date of his conviction or forfeiture of bond or collateral if, during the 3 years preceding that date, he was not convicted of, and did not forfeit bond or collateral upon a charge of, an offense that would disqualify him under the rules of this section.

(ii) Subsequent offenders. A driver is disqualified for 3 years after the date of his conviction or forfeiture of bond or collateral if, during the 3 years preceding that date, he was convicted of, or forfeited bond or collateral upon a charge of, an offense that would disqualify him under the rules in this section.

NEW SECTION

WAC 446-55-080 APPLICATION FOR EMPLOYMENT. (1) Except as provided in WAC 446-55-165 and 446-55-230 through 446-55-280, a person shall not drive a motor vehicle unless he has completed and furnished the private carrier that employs him with an application for employment that meets the requirements of subsection (2) of this section.

(2) The application for employment shall be made on a form furnished by the private carrier. Each application form must be completed by the applicant, must be signed by him, and must contain the following information:

(a) The name and address of the employing private carrier;

(b) The applicant's name, address, date of birth, and social security number;

(c) The addresses at which the applicant has resided during the 3 years preceding the date on which the application is submitted;

- (d) The date on which the application is submitted;
- (e) The issuing state, number, and expiration date of each unexpired motor vehicle operator's license or permit that has been issued to the applicant;
- (f) The nature and extent of the applicant's experience in the operation of motor vehicles, including the type of equipment (such as busses, trucks, truck tractors, semitrailers, full trailers, and pole trailers) which he has operated;
- (g) A list of all motor vehicle accidents in which the applicant was involved during the 3 years preceding the date the application is submitted, specifying the date and nature of each accident and any fatalities or personal injuries it caused;
- (h) A list of all violations of motor vehicle laws or ordinances (other than violations involving only parking) of which the applicant was convicted or forfeited bond or collateral during the 3 years preceding the date the application is submitted;
- (i) A statement setting forth in detail the facts and circumstances of any denial, revocation, or suspension of any license, permit, or privilege to operate a motor vehicle that has been issued to the applicant, or a statement that no such denial, revocation, or suspension has occurred;
- (j) A list of the names and addresses of the applicant's employers during the 3 years preceding the date the application is submitted, together with the dates he was employed by, and his reason for leaving the employ of, each employer; and
- (k) The following certification and signature line, which must appear at the end of the application form and be signed by the applicant:

This certifies that this application was completed by me, and that all entries on it and information in it are true and complete to the best of my knowledge.

 (Date)

 (Applicant's signature)

(3) A private carrier may require an applicant to provide information in addition to the information required by subsection (2) of this section on the application form.

(4) Before an application is submitted, the private carrier shall inform the applicant that the information he provides in accordance with subsection (2)(j) of this section may be used, and the applicant's prior employers may be contacted, for the purpose of investigating the applicant's background as required by WAC 446-55-090.

NEW SECTION

WAC 446-55-090 INVESTIGATION AND INQUIRIES. (1) Except as provided in WAC 446-55-165 and 446-55-230 through 446-55-280, each private carrier shall make the following investigations and inquiries with respect to each driver it employs, other than a person who has been a regularly employed driver of the private carrier for a continuous three-year period prior to the effective date of this rule.

(a) An inquiry into the driver's driving record during the preceding 3 years to the appropriate agency of every state in which the driver held a motor vehicle operator's license or permit during those 3 years; and

(b) An investigation of the driver's employment record during the preceding 3 years.

(2) The inquiry to state agencies required by subsection (1)(a) of this section must be made within 30 days of the date the driver's employment begins and shall be made in the form and manner those agencies prescribe. A copy of the response by each state agency, showing the driver's driving record or certifying that no driving record exists for that driver, shall be retained in the carrier's files as part of the driver's qualification file.

(3) The investigation of the driver's employment record required by subsection (1)(b) of this section must be made within 30 days of the date his employment begins. The investigation may consist of personal interviews, telephone interviews, letters, or any other method of obtaining information that the carrier deems appropriate. Each private carrier must make a written record with respect to each past employer who was contacted. The record must include the past employer's name and address, the date he was contacted, and his comments with respect to the driver. The record shall be retained in the private carrier's files as part of the driver's qualification file.

NEW SECTION

WAC 446-55-100 ANNUAL REVIEW OF DRIVING RECORD. Except as provided in WAC 446-55-165 and 446-55-230 through 446-55-280, each private carrier shall, at least once every 12 months, review the driving record of each driver it employs to determine whether that driver meets minimum requirements for safe driving or is disqualified to drive a motor vehicle pursuant to WAC 446-55-070. In reviewing a driving record, the private carrier must consider any evidence that the driver has violated applicable provisions of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations. The private carrier must also consider the driver's accident record and any evidence that the driver has violated laws governing the operation of motor vehicles, and must give great weight to violations, such as speeding, reckless driving, and operating while under the influence of alcohol or drugs, that indicate that the driver has exhibited a disregard for the safety of the public. A note, setting forth the date upon which the review was performed and the name of the person who reviewed the driving record, shall be included in the driver's qualification file.

NEW SECTION

WAC 446-55-110 RECORD OF VIOLATIONS. (1) Except as provided in WAC 446-55-165 and 446-55-230 through 446-55-280, each private carrier shall, at least once every 12 months, require each driver it employs to prepare and furnish it with a list of all violations of motor vehicle traffic laws and ordinances (other than violations involving only parking) of which the driver has been convicted or on account of which he has forfeited bond or collateral during the preceding 12 months.

(2) Each driver shall furnish the list required in accordance with subsection (1) of this section. If the driver has not been convicted of, or forfeited bond or collateral on account of, any violation which must be listed, he shall so certify.

(3) The form of the driver's list or certification shall be prescribed by the private carrier. The following form may be used to comply with this section:

MOTOR VEHICLE DRIVER'S CERTIFICATION

(I certify that the following is a true and complete list of traffic violations (other than parking violations) for which I have been convicted or forfeited bond or collateral during the past 12 months)

Date of conviction	Offense	Location	Type of vehicle operated
.....			
.....			
.....			
.....			

If no violations are listed above, I certify that I have not been convicted or forfeited bond or collateral on account of any violation required to be listed during the past 12 months.

.....
 (Date of certification) (Driver's signature)

.....
 (Private carrier's name) (Private carrier's address)

.....
 (Reviewed by: Signature) (Title)

(4) The private carrier shall retain the list or certificate required by this section, or a copy of it, in its files as part of the driver's qualification file.

NEW SECTION

WAC 446-55-120 ROAD TEST. (1) Except as provided in WAC 446-55-130, 446-55-165, 446-55-230, and 446-55-270, a person shall not drive a motor vehicle unless he has first successfully completed a road test and has been issued a certificate of driver's road test in accordance with this section.

(2) The road test shall be given by the private carrier or a person designated by it. However, a driver who is a private carrier must be given the test by a person other than himself. The test shall be given by a person who is competent to evaluate and determine whether the

person who takes the test has demonstrated that he is capable of operating the vehicle and associated equipment, that the private carrier intends to assign him.

(3) The road test must be of sufficient duration to enable the person who gives it to evaluate the skill of the person who takes it at handling the motor vehicle, and associated equipment, that the private carrier intends to assign to him. As a minimum, the person who takes the test must be tested, while operating the type of motor vehicle the private carrier intends to assign him, on his skill at performing each of the following operations:

- (a) The pretrip inspection as outlined in the Code of Federal Regulations, part 392.7;
 - (b) Coupling and uncoupling of combination units, if the equipment he may drive includes combination units;
 - (c) Placing the vehicle in operation;
 - (d) Use of the vehicle's controls and emergency equipment;
 - (e) Operating the vehicle in traffic and while passing other vehicles;
 - (f) Turning the vehicle;
 - (g) Braking, and slowing the vehicle by means other than braking;
- and
- (h) Backing and parking the vehicle.

(4) The private carrier shall provide a road test form on which the person who gives the test shall rate the performance of the person who takes it at each operation or activity which is a part of the test. After he completes the form, the person who gave the test shall sign it.

(5) If the road test is successfully completed, the person who gave it shall complete a certificate of driver's road test in substantially the form prescribed in subsection (6) of this section.

(6) The form for the certificate of driver's road test is substantially as follows:

CERTIFICATION OF ROAD TEST

Driver's name _____
 Social Security No. _____
 Operator's or Chauffeur's License No. _____
 State _____
 Type of power unit _____ Type of trailer(s) _____
 If passenger carrier, type of bus _____

This is to certify that the above-named driver was given a road test under my supervision on _____, 19____, consisting of approximately _____ miles of driving.

It is my considered opinion that this driver possesses sufficient driving skill to operate safely the type of commercial motor vehicle listed above.

(Signature of examiner)

(Title)

(Organization and address of examiner)

(7) A copy of the certificate required by subsection (5) of this section shall be given to the person who was examined. The private carrier shall retain in the driver qualification file of the person who was examined:

- (a) The original of the signed road test form required by subsection (4) of this section; and
- (b) The original, or a copy of, the certificate required by subsection (5) of this section.

NEW SECTION

WAC 446-55-130 EQUIVALENT OF ROAD TEST. (1) Except as provided in WAC 446-55-165, in place of, and as equivalent to, the road test required by WAC 446-55-120, a person who seeks to drive a motor vehicle may present, and a private carrier may accept:

- (a) A valid operator's license which has been issued to him by a state that licenses drivers to operate specific categories of motor vehicles and which, under the laws of that state, licenses him after successful completion of a road test in a motor vehicle of the type the private carrier intends to assign to him; or
- (b) A copy of a valid certificate of driver's road test issued to him pursuant to WAC 446-55-120 within the preceding 3 years.
- (2) If a driver presents, and a private carrier accepts, a license or certificate as equivalent to the road test, the private carrier shall retain

a legible copy of the license or certificate in its files as part of the driver's qualification file.

(3) A private carrier may require any person who presents a license or certificate as equivalent to the road test to take a road test or any other test of his driving skill as a condition to his employment as a driver.

NEW SECTION

WAC 446-55-140 WRITTEN EXAMINATION. (1) Except as provided in WAC 446-55-160, 446-55-165, 446-55-230, and 446-55-270, a person shall not drive a motor vehicle unless he has first taken a written examination and has been issued a certificate of written examination in accordance with this section.

(2) The objective of the written examination is to instruct prospective drivers in the rules and regulations established by the Federal Highway Administration pertaining to commercial vehicle safety. It is an instructional tool only, and a person's qualifications to drive a motor vehicle under the rules in this chapter are not affected by his performance on the examination.

(3) The written examination shall be given by the private carrier or a person designated by it, on a form prescribed by the private carrier.

(4) Prior to, and during, the examination, the person who takes it shall be permitted to examine and consult a copy of the Federal Motor Carrier Safety Regulations, chapter III, subchapter B, parts 390 through 397, in addition to any other material explaining the provisions of those regulations that the private carrier may provide. There is no time limit for completing the examination, and persons taking it shall be so advised in advance.

(5) The examination shall consist of 66 questions, covering the examinee's knowledge of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations. However, a person who is being examined with a view to employment as the driver of a motor vehicle which will not transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with part number 177.823 of the Code of Federal Regulations need not answer questions 58 through 66, inclusive. The questions given during the examination must be the same questions as those in WAC 446-55-150.

(6) After the examinee completes the examination, the person who administered it shall advise him of the correct answers to any questions he failed to answer correctly. The private carrier may also provide the examinee with such additional instruction in the pertinent regulations as appears to be warranted on the basis of his performance on the examination.

(7) The private carrier, or the person who administered the examination on the private carrier's behalf, shall provide every person who completes the examination with a certificate in substantially the following form:

CERTIFICATE OF WRITTEN EXAMINATION

This is to certify that the person whose signature appears below has completed the written examination under my supervision in accordance with the provisions of WAC 446-55-140.

(Signature of person taking examination)

(Date of examination)

(Location of examination)

(Signature of examiner)

(Title)

(Organization and address of examiner)

(8) A copy of the certificate required by subsection (7) of this section shall be given to the person who was examined. The private carrier shall retain, in the driver qualification file of the person who was examined:

- (a) The original, or a copy of, the certificate required by subsection (7) of this section;
- (b) The questions asked on the examination; and
- (c) The person's answers to those questions.

NEW SECTION

WAC 446-55-150 EXAMINATION FORMAT. The following examination format and answer key shall be utilized for written testing as provided by WAC 446-55-140.

All of the questions contained herein are based on the United States Department of Transportation's Federal Motor Carrier Safety Regulations. Applicants for the position of private carrier driver are required to take the examination.

Each question has four answers but only one is right. Your job is to read all of the answers and then to pick the one answer you believe is right. Mark an "X" in the space next to the answer you choose. Do not pick more than one answer for each question.

Here is a sample question to show you what is to be done:

The Federal Motor Carrier Safety Regulations were written for:

1. () vehicle makers.
2. () drivers only.
3. () carriers only.
4. () drivers and carriers.

The right answer is number 4, "drivers and carriers," so you would mark an "X" in the space next to answer number 4.

Finally, be sure to answer every question and do not skip any pages. Keep in mind that most of the regulations covered here apply to commercial bus and truck drivers and are different from what is required of passenger car drivers. Again, pick only one answer for each question. There is no time limit on the examination, but try to work as fast as you can.

1. Section 390.32 A motor carrier who is also a driver (owner-operator):

1. () is not covered by the safety regulations.
2. () must obey only those parts of the regulations which cover drivers.
3. () must obey only those parts of the regulations which cover motor carriers.
4. () must obey both the parts covering drivers and the parts covering motor carriers.

2. Section 391.11(b)(1) With only a few exceptions, the Federal Motor Carrier Safety Regulations say a driver must be:

1. () at least 18 years old.
2. () at least 19 years old.
3. () at least 20 years old.
4. () at least 21 years old.

3. Section 391.15(c)(2)(3) A driver cannot drive a motor vehicle:

1. () for one year after a first offense conviction for a felony involving a commercial motor vehicle operated by the driver.
2. () for one year after a first offense conviction for driving a commercial vehicle under the influence of alcohol or narcotics.
3. () for one year after a first offense conviction for leaving the scene of an accident which resulted in personal injury or death.
4. () for one year after a first offense conviction for any of the above.

4. Section 391.21(b)(7)(8)(10) Every driver applicant must fill out an application form giving:

1. () a list of all vehicle accidents during the previous 3 years.
2. () a list of all motor vehicle violation convictions and bond forfeits (except for parking) during the previous 3 years.
3. () a list of names and addresses of all employers during the previous 3 years.
4. () all of the above.

5. Section 391.27(a)(b) At least once a year, a driver must fill out a form listing all motor vehicle violations (except parking) occurring during the previous 12 months. The driver must fill out the form:

1. () even if there were no violations.
2. () only if convicted.
3. () only if convicted or had forfeited bond or collateral.
4. () only if the carrier requires it.

6. Section 391.33(a)(2) If a driver applicant has a valid certificate showing successful completion of a driver's road test:

1. () the carrier must accept it.
2. () the carrier may still require the applicant to take a road test.
3. () the carrier cannot accept it.
4. () the carrier may request a road test waiver from the Bureau of Motor Carrier Safety.

7. Section 391.41(b)(5) A person with breathing problems which may affect safe driving:

1. () cannot drive.
2. () cannot drive unless the vehicle has an emergency oxygen supply.
3. () cannot drive unless another driver is along.
4. () cannot drive except on short runs.

8. Section 391.41(b)(7) Persons with arthritis, rheumatism, or any such condition which may affect safe driving:

1. () cannot drive unless they are checked by a doctor before each trip.
2. () cannot drive.
3. () cannot drive except when they are free of pain.
4. () cannot drive unless another driver is along.

9. Section 391.41(b)(8) Persons who have ever had epilepsy:

1. () cannot drive unless another driver is along.
2. () cannot drive.
3. () cannot drive on long runs.
4. () cannot drive without monthly medical examinations.

10. Section 391.41(b)(9)(12)(13) In order to be able to drive, a driver:

1. () must not have any mental, nervous or physical problem likely to affect safe driving.
2. () must not use an amphetamine, narcotic or any habit-forming drug.
3. () must not have a current alcoholism problem.
4. () must not have or use any of the above.

11. Section 391.45(c) If a driver gets an injury or illness serious enough to affect the ability to perform duties, the driver:

1. () must report it at the next scheduled physical.
2. () cannot drive again.
3. () must take another physical and be recertified before driving again.
4. () must wait at least 1 month after recovery before driving again.

12. Section 392.2 A driver may not drive faster than posted speed limits:

1. () unless the driver is sick and must complete the run quickly.
2. () at any time.
3. () unless the driver is passing another vehicle.
4. () unless the driver is late and must make a schedule arrival.

13. Section 392.3 When a driver's physical condition while on a trip requires the driver to stop driving, but stopping would not be safe, the driver:

1. () must stop anyway.
2. () may try to complete the trip, but as quickly as possible.
3. () may continue to drive to the home terminal.
4. () may continue to drive, but must stop at the nearest safe place.

14. Section 392.5(a)(1) A driver may not drink or be under the influence of any alcoholic beverage (regardless of alcoholic content):

1. () within 4 hours before going on duty or driving.
2. () within 6 hours before going on duty or driving.
3. () within 8 hours before going on duty or driving.
4. () within 12 hours before going on duty or driving.

15. Section 392.7 A driver must be satisfied that service and parking brakes, tires, lights and reflectors, mirrors, coupling and other devices are in good working order:

1. () at the end of each trip.
2. () before the vehicle may be driven.
3. () only when the driver considers it necessary.
4. () according to schedules set by the carrier.

16. Section 392.8 The following must be in place and ready for use before a vehicle can be driven:

1. () at least one spare fuse or other overload protector of each type used on the vehicle.
2. () a tool kit containing a specified list of hand tools.
3. () at least one spare tire for every four wheels.
4. () a set of spark plugs.

17. Section 392.9(a)(3) If any part of the cargo or anything else blocks a driver's front or side views, arm or leg movements, or the driver's access to emergency equipment, the driver:

1. () can drive the vehicle, but must report the problem at the end of the trip.

2. () cannot drive the vehicle.
3. () can drive the vehicle, but only at speeds under 40 miles per hour.
4. () can drive the vehicle, but only on secondary roads.
18. Section 392.9(a) Any driver who needs glasses to meet the minimum visual requirements:
1. () must drive only during daylight hours.
 2. () must always wear glasses when driving.
 3. () must always carry a spare pair of glasses.
 4. () must not drive a motor vehicle.
19. Section 392.9(b) A driver with a hearing aid:
1. () if the driver always has it turned on while driving.
 2. () if the driver always carries a spare power source for it.
 3. () if the driver can meet the hearing requirements when the hearing aid is turned on.
 4. () if all of the above requirements are met.
20. Section 392.10(a) A driver required to stop at a railroad crossing should bring the vehicle to a stop no closer to the tracks than:
1. () 5 feet.
 2. () 10 feet.
 3. () 15 feet.
 4. () 20 feet.
21. Section 392.10(a) Shifting gears is not permitted:
1. () when traveling faster than 35 miles per hour.
 2. () when moving across any bridge.
 3. () when crossing railroad tracks.
 4. () when traveling down a hill steeper than 10 degrees.
22. Section 392.13 A driver of a motor vehicle, not required to stop at drawbridges without signals, must:
1. () drive at a rate of speed which will permit a stop before reaching the lip of the draw.
 2. () sound the horn before crossing.
 3. () proceed across without reducing speed.
 4. () slow down only if directed by an attendant.
23. Section 392.15(a) When turning a vehicle a driver should begin flashing the turn signals:
1. () at least 50 feet before turning.
 2. () at least 60 feet before turning.
 3. () at least 75 feet before turning.
 4. () at least 100 feet before turning.
24. Section 392.16 Which of the following is true?
1. () if a seat belt is installed in the vehicle, a driver must have it fastened before beginning to drive.
 2. () a driver may or may not use the seat belt, depending on the driver's judgment.
 3. () seat belts are not necessary on heavier vehicles.
 4. () A driver must use the seat belt only if required by the carrier.
25. Section 392.21 When a motor vehicle cannot be stopped off the traveled part of the highway, the driver:
1. () must keep driving.
 2. () may stop, but shall get as far off the traveled part of the highway as possible.
 3. () may stop, but shall make sure that the vehicle can be seen as far as possible to its front and rear.
 4. () may stop if the driver has to, but should do both 2 and 3 above.
26. Section 392.22(b)(1) If a vehicle has a breakdown, the driver must place one emergency signal:
1. () 100 feet in front of the vehicle in the center of the lane it occupies.
 2. () 100 feet in back of the vehicle in the center of the lane it occupies.
 3. () 10 feet in front or back of the traffic side.
 4. () at all of the above locations.
27. Section 392.22(b)(1)(i) If a vehicle has a breakdown on a poorly-lit street or highway, the driver shall place on the traffic side:
1. () a reflective triangle.
 2. () a lighted red electric lantern.
 3. () a red reflector.
 4. () any one of the above.
28. Section 392.22(b)(2)(iii) No emergency signals are required for a vehicle with a breakdown if the street or highway lighting is bright enough so it can be seen at a distance of:
1. () 100 feet.
 2. () 200 feet.
 3. () 500 feet.
 4. () 750 feet.
29. Section 392.22(b)(2)(v) If a vehicle has a breakdown and stops on a poorly-lit divided or one way highway, the driver must place one emergency signal:
1. () 200 feet in back of the vehicle in the center of the lane it occupies.
 2. () 100 feet in back of the vehicle on the traffic side of the vehicle.
 3. () 10 feet in back of the vehicle on the traffic side of the vehicle.
 4. () at all of the above locations.
30. Section 392.25 Lighted flame-producing emergency signals, including fuses:
1. () may not be used with vehicles carrying Class A or B explosives.
 2. () may not be used with tank vehicles, loaded or empty, which are used to carry flammable liquids or gas.
 3. () may not be used with any vehicle using compressed gas as a fuel.
 4. () may not be used with any of the above.
31. Section 392.30(a) A driver is required to turn on vehicle lights:
1. () from one-half hour before sunset to one-half hour before sunrise.
 2. () from one-half hour before sunset to sunrise.
 3. () from one-half hour after sunset to one-half hour before sunrise.
 4. () from sunset to one-half hour before sunrise.
32. Section 392.32(a)(b) When lights are required on the highway, a driver shall use the high beam:
1. () except when within 500 feet of an on-coming vehicle or a vehicle the driver is following.
 2. () except when within 400 feet of an on-coming vehicle or a vehicle the driver is following.
 3. () except when within 200 feet of an on-coming vehicle or a vehicle the driver is following.
 4. () except when within 100 feet of an on-coming vehicle or a vehicle the driver is following.
33. Section 392.32(a) When lights are required, a driver may use lower beam lights:
1. () when fog, dust, or other such conditions exist.
 2. () when approaching tunnels or bridges.
 3. () when driving on one-way highways.
 4. () when within 1,000 feet of business areas or where people live.
34. Section 392.40 Every driver involved in an accident must follow the safety regulation procedures whenever an injury or death is involved or if:
1. () the accident is caused by the driver and property damage of over \$2,000.00 results.
 2. () property damage of over \$2,000.00 results, no matter who is at fault.
 3. () property damage of over \$100.00 results.
 4. () property damage of any kind results.
35. Section 392.41 If a driver strikes a parked vehicle, the driver should first:
1. () stop and call the local police.
 2. () stop and call the carrier.
 3. () stop and try to find the driver or owner of the parked vehicle.
 4. () stop and estimate the damage.
36. Section 392.42 When a driver receives notice of license or permit revocation, suspension or other withdrawal action, the driver must:
1. () notify the carrier within 72 hours.
 2. () notify the carrier within one week.
 3. () notify the carrier before the end of the next business day.
 4. () take no action since the carrier will get a notice.
37. Section 392.61 Except in emergencies, no driver shall allow a vehicle to be driven by any other person:
1. () except by those the driver knows are capable.
 2. () except on roads with little or no traffic.

- 3.() except by those allowed by the carrier to do it.
4.() unless the driver goes along with the person driving.
38. Section 392.64 A person may ride inside a vehicle's closed body or trailer:
1.() only on short runs.
2.() only if there is an easy way to get out from the inside.
3.() only if the inside of the body or trailer is lighted.
4.() only if there is no cargo in it.
39. Section 392.66 If carbon monoxide is inside a vehicle or if a mechanical problem may produce a carbon monoxide danger, the vehicle:
1.() may be sent out and driven so long as the windows are left open.
2.() may not be sent out or driven.
3.() may be sent out and driven only if the carrier decides the vehicle has to be used.
4.() may be sent out and driven on short runs.
40. Section 392.68 No motor vehicle shall be operated out of gear:
1.() except when fuel must be saved.
2.() except on hills which are less than 20 degrees.
3.() except when it is necessary for stopping or shifting gears.
4.() except when the vehicle's speed is under 25 miles per hour.
41. Section 393.1(a) Under the Federal Motor Carrier Safety Regulations, no vehicle may be driven:
1.() until a list of all missing or defective equipment has been prepared and given to the carrier.
2.() until all equipment has been inspected and replacements for defective parts have been ordered.
3.() unless all missing equipment is to be replaced no later than the end of the vehicle's next run.
4.() until it meets all of the equipment requirements of the regulations.
42. Section 393 Minimum requirements for lighting, reflecting and electrical equipment and devices on buses and trucks:
1.() are set by the vehicle makers.
2.() are set by the National Safety Council.
3.() are specified in the safety regulations.
4.() are set by the trucking associations.
43. Section 393.18(a)(b) Every motor vehicle which has a load sticking out over its sides must be specifically marked with flags and lamps. Additional flags and lamps must be added if the load or tailgate sticks out beyond the rear of the vehicle by more than:
1.() 2 feet.
2.() 4 feet.
3.() 6 feet.
4.() 8 feet.
44. Section 393.41(a) Every vehicle shall have a parking brake system which will hold it, no matter what its load:
1.() on any grade on which it is operated which is free from ice and snow.
2.() on all grades under 15 degrees which are free from ice and snow.
3.() on all grades under 20 degrees which are free from ice and snow.
4.() on all grades under 25 degrees which are free from ice and snow.
45. Section 393.77(b)(6) A portable heater may not be used in any vehicle cab:
1.() unless the heater is secured.
2.() unless the heater is of the electric filament type.
3.() at any time.
4.() without approval from the carrier.
46. Section 395.3(a) A driver is not generally allowed to drive for more than:
1.() 6 hours following 8 straight hours off duty.
2.() 8 hours following 8 straight hours off duty.
3.() 10 hours following 8 straight hours off duty.
4.() 12 hours following 8 straight hours off duty.
47. Section 395.3(a) Most drivers of large vehicles are not allowed to drive:
1.() after they have been on duty for 16 hours.
2.() after they have been on duty for 15 hours.
3.() after they have been on duty for 14 hours.
4.() after they have been on duty for 12 hours.
48. Section 395.3(b) Generally, a driver may not be "on-duty":
1.() for more than 40 hours in any 7 straight days.
2.() for more than 50 hours in any 7 straight days.
3.() for more than 60 hours in any 7 straight days.
4.() for more than 70 hours in any 7 straight days.
49. Section 395.7 When a driver is riding in a vehicle, but is not driving and has no other responsibility, such time shall be counted as:
1.() on-duty time.
2.() on-duty time unless the driver is allowed 8 straight hours off duty upon arrival at the destination.
3.() on-duty time unless the driver is allowed 6 straight hours off duty upon arrival at the destination.
4.() on-duty time unless the driver is allowed 4 straight hours off duty upon arrival at the destination.
50. Section 395.8(f)(1) Every driver must prepare an original and one copy of the driver's record of duty status which must be kept current by updating it:
1.() every time a change of duty status is made.
2.() every 24 hours.
3.() every 8 hours.
4.() at the end of each trip.
51. Section 395.8(f)(2) Except for the name and main address of the carrier, all entries relating to the driver's record of duty status:
1.() must be printed in ink or typed.
2.() must be made by the carrier dispatcher.
3.() must be made in front of a witness.
4.() must be in the driver's handwriting.
52. Section 395.8(f)(5) and (h)(2) Which of the following is required to be put in a driver's record of duty status?
1.() time spent in a sleeper berth.
2.() total hours in each duty status.
3.() origin and destination.
4.() the name and make of the vehicle.
53. Section 395.11 If any emergency delays a run which could normally have been completed within hours of service limits, the driver:
1.() must still stop driving when the hours of service limits is reached.
2.() may drive for 1 extra hour.
3.() may drive for 2 extra hours.
4.() may finish the run without being in violation.
54. Section 395.13 A driver declared "Out of Service":
1.() must take a road test before driving again.
2.() must wait 72 hours before driving again.
3.() must appeal to the Director of the Bureau of Motor Carrier Safety to drive again.
4.() can drive again only after hours of service requirements are met.
55. Section 396.7 If a vehicle on a trip is in a condition likely to cause an accident or breakdown:
1.() the driver should report it at the end of the run so repairs can be made.
2.() the driver should drive at lower speeds for the rest of the run.
3.() the driver should stop immediately unless going on to the nearest repair shop is safer than stopping.
4.() the driver should change the route so as to get away from heavily traveled roads.
56. Section 396.9(c) If authorized Federal inspectors find a vehicle which is likely to cause an accident or breakdown:
1.() it will be reported to the carrier for repair as soon as the vehicle is not scheduled.
2.() it will be reported to the carrier for repair at the end of the trip.
3.() it will be marked with an "Out of Service Vehicle" sticker and not driven until repairs are made.
4.() the driver will be held responsible and declared "Out of Service."
57. Section 396.9(c)(4) If the driver personally makes repairs on an "Out of Service" vehicle:
1.() the work must be approved by a mechanic.

SCORING KEY—WRITTEN EXAMINATION

- 2. () the driver must complete and sign a "Certification of Repairman" form.
- 3. () the work must be approved by a supervisor.
- 4. () the work must be approved by a Federal inspector.

58. Section 397.3 Department of Transportation regulations covering the driving and parking of vehicles containing hazardous materials:

- 1. () replace State and local laws.
- 2. () prevent States and cities from having their own laws.
- 3. () must be obeyed even if State or local laws are less strict or disagree.
- 4. () should not be obeyed if State or local laws disagree.

59. Section 397.5(c) A vehicle which contains hazardous materials other than Class A or B explosives must be attended at all times:

- 1. () by the driver.
- 2. () by the driver except when involved in other driver duties.
- 3. () by the driver or a person chosen by the driver.
- 4. () by the driver or a police officer.

60. Section 397.5(d)(1) A vehicle containing Class A or B explosives or other hazardous materials on a trip is "attended":

- 1. () when the person in charge is anywhere within 100 feet of the vehicle.
- 2. () as long as the driver can see the vehicle from 200 feet away.
- 3. () when the person in charge is within 100 feet and has a clear view of the vehicle.
- 4. () when the person in charge is resting in the berth.

61. Section 397.7(a)(3) Except for short periods when operations make it necessary, trucks carrying Class A or B explosives cannot be parked any closer to bridges, tunnels, buildings or crowds of people than:

- 1. () 50 feet.
- 2. () 100 feet.
- 3. () 200 feet.
- 4. () 300 feet.

62. Section 397.13(a) Smoking or carrying a lighted cigarette, cigar, or pipe near a vehicle which contains explosives, oxidizing or flammable materials is not allowed:

- 1. () except in the closed cab of the vehicle.
- 2. () except when the vehicle is moving.
- 3. () except at a distance of 25 feet or more from the vehicle.
- 4. () except when approved by the carrier.

63. Section 397.15(b) When a vehicle containing hazardous materials is being fueled:

- 1. () no person may remain in the cab.
- 2. () a person must be in control of the fueling process at the point where the fuel tank is filled.
- 3. () the area within 50 feet of the vehicle must be cleared.
- 4. () the person who controls the fueling process must wear special clothes.

64. Section 397.17(a) If a vehicle carrying hazardous materials is equipped with dual tires on any axle, the driver must examine the tires:

- 1. () at all fueling stops only.
- 2. () only at the end of each day or tour of duty.
- 3. () at the beginning of each trip and each time the vehicle is parked.
- 4. () at the beginning of each trip only.

65. Section 397.17(c) If a driver of a vehicle carrying hazardous materials finds a tire which is overheated, the driver must:

- 1. () wait for the overheated tire to cool before going on.
- 2. () remove and replace the overheated tire, store it on the vehicle and drive on.
- 3. () remove the tire, place it a safe distance from the vehicle and not drive the vehicle until the cause of the overheating is fixed.
- 4. () drive slowly to the nearest repair shop and have the cause of the overheating fixed.

66. Section 177.823(a) When required, specified hazardous materials markings or signs must be placed:

- 1. () wherever they can be seen clearly.
- 2. () on the sides and rear of the vehicle.
- 3. () on the front, rear, and sides of the vehicle.
- 4. () on the front and rear bumpers of the vehicle.

Section	Answer
(1) 390.32	4
(2) 391.11(b)(1)	4
(3) 391.15(c)(2)(3)	4
(4) 391.21(b)(7)(8)(10)	4
(5) 391.27(a)(b)	1
(6) 391.33(a)(2)	2
(7) 391.41(b)(5)	1
(8) 391.41(b)(7)	2
(9) 391.41(b)(8)	2
(10) 391.41(b)(9)(12)(13)	4
(11) 391.45(c)	3
(12) 392.2	2
(13) 392.2	4
(14) 392.5(a)(1)	1
(15) 392.7	2
(16) 392.8	1
(17) 392.9(a)(3)	2
(18) 392.9(a)	2
(19) 392.9(b)	4
(20) 392.10(a)	3
(21) 392.10(a)	3
(22) 392.13	1
(23) 392.15(a)	4
(24) 392.16	1
(25) 392.21	4
(26) 392.22(b)(1)	4
(27) 392.22(b)(1)(i)	4
(28) 392.22(b)(2)(iii)	3
(29) 392.22(b)(2)(v)	4
(30) 392.25	4
(31) 392.30(a)	3
(32) 392.32(a)(b)	1
(33) 392.32(a)	1
(34) 392.40	4
(35) 392.41	3
(36) 392.42	3
(37) 392.61	3
(38) 392.64	2
(39) 392.66	2
(40) 392.68	3
(41) 393.1(a)	4
(42) 393	3
(43) 393.18(a)(b)	2
(44) 393.41(a)	1
(45) 393.77(b)(6)	3
(46) 395.3(a)	3
(47) 395.3(a)	2
(48) 395.3(b)	3
(49) 395.7	2
(50) 395.8(f)(1)	1
(51) 395.8(f)(2)	4
(52) 395.8(f)(5) and (h)(2)	1
(53) 395.11	4
(54) 395.13	4
(55) 396.7(b)	3
(56) 396.9(c)	3
(57) 396.9(c)(4)	2
(58) 397.3	3
(59) 397.5(c)	2
(60) 397.5(d)(1)	3
(61) 397.7(a)(3)	4
(62) 397.13(a)	3
(63) 397.15(b)	2
(64) 397.17(a)	3
(65) 397.17(c)	3
(66) 177.823(a)	3

NEW SECTION

WAC 446-55-160 EQUIVALENT OF WRITTEN EXAMINATION. (1) Except as provided in WAC 446-55-165, in place of, and as equivalent to, the written examination required by WAC 446-55-

140, a person who seeks to drive a motor vehicle may present, and a private carrier may accept, a valid certificate of written examination issued pursuant to WAC 446-55-140(7) within the preceding 3 years.

(2) If a private carrier accepts a certificate as equivalent to the written examination, it shall retain a legible copy of the certificate in its files as part of the driver's qualification file.

(3) A private carrier may require any person who presents a certificate as equivalent to the written examination to take the written examination prescribed in WAC 446-55-140 or participate in any other instructional process designed to acquaint him with the Code of Federal Regulations, chapter III, subchapter B, parts 390 through 397.

NEW SECTION

WAC 446-55-165 EXEMPTIONS FOR SINGLE VEHICLE OWNER DRIVERS. WAC 446-55-080, 446-55-090, 446-55-100, 446-55-120, and 446-55-160 shall not apply to a single vehicle owner driver when operation as part of the owner's business.

NEW SECTION

WAC 446-55-170 PHYSICAL QUALIFICATIONS FOR DRIVERS. (1) A person shall not drive a motor vehicle unless he is physically qualified to do so and, except as provided in WAC 446-55-270, has on his person the original, or a photographic copy, of a medical examiner's certificate that he is physically qualified to drive a motor vehicle.

(2) A person is physically qualified to drive a motor vehicle if that person:

(a) Has no loss of a foot, a leg, a hand, or an arm, or has been granted a waiver pursuant to WAC 446-55-210;

(b) Has no impairment of:

(i) A hand or finger which interferes with prehension or power grasping; or

(ii) An arm, foot, or leg which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or any other significant limb defect or limitation which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or has been granted a waiver pursuant to WAC 446-55-210;

(c) Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control;

(d) Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure;

(e) Has no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with his ability to control and drive a motor vehicle safely;

(f) Has no current clinical diagnosis of high blood pressure likely to interfere with his ability to operate a motor vehicle safely;

(g) Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease which interferes with his ability to control and operate a motor vehicle safely;

(h) Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle;

(i) Has no mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with his ability to drive a motor vehicle safely;

(j) Has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal Meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber;

(k) First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5-1951;

(l) Does not use an amphetamine, narcotic, or any habit-forming drug; and

(m) Has no current clinical diagnosis of alcoholism.

NEW SECTION

WAC 446-55-180 MEDICAL EXAMINATION—CERTIFICATE OF PHYSICAL EXAMINATION. (1) Except as provided in subsection (2) of this section, the medical examination shall be performed by a licensed doctor of medicine or osteopathy.

(2) A licensed optometrist may perform so much of the medical examination as pertains to visual acuity, field of vision, and the ability to recognize colors as specified in WAC 446-55-170 (2)(j).

(3) The medical examination shall be performed, and its results shall be recorded, substantially in accordance with the following instructions and examination form:

INSTRUCTIONS FOR PERFORMING AND RECORDING PHYSICAL EXAMINATIONS

The examining physician should review these instructions before performing the physical examination. Answer each question yes or no where appropriate.

The examining physician should be aware of the rigorous physical demands and mental and emotional responsibilities placed on the driver of a private motor vehicle. In the interest of public safety the examining physician is required to certify that the driver does not have any physical, mental, or organic defect of such a nature as to affect the driver's ability to operate safely a private motor vehicle.

General information. The purpose of this history and physical examination is to detect the presence of physical, mental, or organic defects of such a character and extent as to affect the applicant's ability to operate a motor vehicle safely. The examination should be made carefully and at least as complete as indicated by the attached form. History of certain defects may be cause for rejection or indicate the need for making certain laboratory tests or a further, and more stringent, examination. Defects may be recorded which do not, because of their character or degree, indicate that certification of physical fitness should be denied. However, these defects should be discussed with the applicant and he should be advised to take the necessary steps to insure correction, particularly of those which, if neglected, might lead to a condition likely to affect his ability to drive safely.

General appearance and development. Note marked overweight. Note any posture defect, perceptible limp, tremor, or other defects that might be caused by alcoholism, thyroid intoxication, or other illnesses. WAC 446-55-070(2) provides that no driver shall use a narcotic or other habit-forming drugs.

Head-eyes. When other than the Snellen chart is used, the results of such test must be expressed in values comparable to the standard Snellen test. If the applicant wears corrective lenses, these should be worn while applicant's visual acuity is being tested. If appropriate, indicate on the Medical Examiner's Certificate by checking the box, "Qualified only when wearing corrective lenses." In recording distance vision use 20 feet as normal. Report all vision as a fraction with 20 as numerator and the smallest type read at 20 feet as denominator. Note ptosis, discharge, visual fields, ocular muscle imbalance, color blindness, corneal scar, exophthalmos, or strabismus, uncorrected by corrective lenses. Monocular drivers are not qualified to operate commercial motor vehicles under WAC 446-55-170 (2)(j). If the driver habitually wears contact lenses, or intends to do so while driving, there should be sufficient evidence to indicate that he has good tolerance and is well adapted to their use. The use of contact lenses should be noted on the record.

Ears. Note evidence of mastoid or middle ear disease, discharge, symptoms of aural vertigo, or Meniere's Syndrome. When recording hearing, record distance from patient at which a forced whispered voice can first be heard. If audiometer is used to test hearing, record decibel loss at 500 Hz, 1,000 Hz, and 2,000 Hz.

Throat. Note evidence of disease, irremediable deformities of the throat likely to interfere with eating or breathing, or any laryngeal condition which could interfere with the safe operation of a motor vehicle.

Thorax-heart. Stethoscopic examination is required. Note murmurs and arrhythmias, and any past or present history of cardiovascular disease, of a variety known to be accompanied by syncope, dyspnea, collapse, enlarged heart, or congestive heart failures. Electrocardiogram is required when findings so indicate.

Blood pressure. Record with either spring or mercury column type of sphygmomanometer. If the blood pressure is consistently above 160/90 mm. Hg., further tests may be necessary to determine whether the driver is qualified to operate a motor vehicle.

Lungs. If any lung disease is detected, state whether active or arrested; if arrested, your opinion as to how long it has been quiescent.

Gastrointestinal system. Note any diseases of the gastrointestinal system.

Abdomen. Note wounds, injuries, scars, or weakness of muscles of abdominal walls sufficient to interfere with normal function. Any hernia should be noted if present. State how long and if adequately contained by truss.

Abnormal masses. If present, note location, if tender, and whether or nor applicant knows how long they have been present. If the diagnosis suggests that the condition might interfere with the control and safe operation of a motor vehicle, more stringent tests must be made before the applicant can be certified.

Tenderness. When noted, state where most pronounced, and suspected cause. If the diagnosis suggests that the condition might interfere with the control and safe operation of a motor vehicle, more stringent tests must be made before the applicant can be certified.

Genito-urinary. Urinalysis is required. Acute infections of the genito-urinary tract, as defined by local and state public health laws, indications from urinalysis of uncontrolled diabetes, symptomatic albumin-urea in the urine, or other findings indicative of health conditions likely to interfere with the control and safe operation of a motor vehicle, will disqualify an applicant from operating a motor vehicle.

Neurological. If positive Romberg is reported, indicate degrees of impairment. Pupillary reflexes should be reported for both light and accommodation. Knee jerks are to be reported absent only when not obtainable upon reinforcement and as increased when foot is actually lifted from the floor following a light blow on the patella, sensory vibratory and positional abnormalities should be noted.

Extremities. Carefully examine upper and lower extremities. Record the loss of impairment of a leg, foot, toe, arm, hand, or fingers. Note any and all deformities, the presence of atrophy, semiparalysis or paralysis, or varicose veins. If a hand or finger deformity exists, determine whether sufficient grasp is present to enable the driver to secure and maintain a grip on the steering wheel. If a leg deformity exists, determine whether sufficient mobility and strength exist to enable the driver to operate pedals properly. Particular attention should be given to and a record should be made of, any impairment or structural defect which may interfere with the driver's ability to operate a motor vehicle safely.

Spine. Note deformities, limitation of motion, or any history of pain, injuries, or disease, past or presently experienced in the cervical or lumbar spine region. If findings so dictate, radiologic and other examinations should be used to diagnose congenital or acquired defects; or spondylolisthesis and scoliosis.

Recto-genital studies. Diseases or conditions causing discomfort should be evaluated carefully to determine the extent to which the condition might be handicapping while lifting, pulling, or during periods of prolonged driving that might be necessary as part of the driver's duties.

Laboratory and other special findings. Urinalysis is required, as well as such other tests as the medical history or findings upon physical examination may indicate are necessary. A serological test is required if the applicant has a history of luetic infection or present physical findings indicate the possibility of latent syphilis. Other studies deemed advisable may be ordered by the examining physician.

Diabetes. If insulin is necessary to control a diabetic condition, the driver is not qualified to operate a motor vehicle. If mild diabetes is noted at the time of examination and it is stabilized by use of a hypoglycemic drug and a diet that can be obtained while the driver is on duty, it should not be considered disqualifying. However, the driver must remain under adequate medical supervision.

The physician must date and sign his findings upon completion of the examination.

Yes	No	Health History
<input type="checkbox"/>	<input type="checkbox"/>	Head or spinal injuries.
<input type="checkbox"/>	<input type="checkbox"/>	Seizures, fits, convulsions, or fainting.
<input type="checkbox"/>	<input type="checkbox"/>	Extensive confinement by illness or injury.
<input type="checkbox"/>	<input type="checkbox"/>	Cardiovascular disease.
<input type="checkbox"/>	<input type="checkbox"/>	Tuberculosis.
<input type="checkbox"/>	<input type="checkbox"/>	Syphilis.
<input type="checkbox"/>	<input type="checkbox"/>	Gonorrhea.
<input type="checkbox"/>	<input type="checkbox"/>	Diabetes.
<input type="checkbox"/>	<input type="checkbox"/>	Gastrointestinal ulcer.
<input type="checkbox"/>	<input type="checkbox"/>	Nervous stomach.
<input type="checkbox"/>	<input type="checkbox"/>	Rheumatic fever.
<input type="checkbox"/>	<input type="checkbox"/>	Asthma.
<input type="checkbox"/>	<input type="checkbox"/>	Kidney disease.
<input type="checkbox"/>	<input type="checkbox"/>	Muscular disease.
<input type="checkbox"/>	<input type="checkbox"/>	Suffering from any other disease.
<input type="checkbox"/>	<input type="checkbox"/>	Permanent defect from illness, disease or injury.
<input type="checkbox"/>	<input type="checkbox"/>	Psychiatric disorder.
<input type="checkbox"/>	<input type="checkbox"/>	Any other nervous disorder.

If answer to any of the above is yes, explain:

PHYSICAL EXAMINATION

General appearance and development:

Good ___ Fair ___ Poor ___

Vision: For distance:

Right 20/ ___ Left 20/ ___

Without corrective lenses.

With corrective lenses if worn.

Evidence of disease or injury:

Right ___ Left ___

Color Test _____

Horizontal field of vision:

Right ___° Left ___°

Hearing:

Right ear ___ Left ear ___

Disease or injury _____

Audiometric Test (complete only if audiometer is used to test

hearing) decibel loss as 500 Hz ___, at 1,000 Hz ___,

at 2,000 Hz ___

Throat _____

Thorax:

Heart _____

If organic disease is present, is it fully compensated? _____

Blood pressure:

Systolic ___ Diastolic ___

Pulse: Before exercise _____

Immediately after exercise _____

Lungs _____

Abdomen:

Scars ___ Abnormal masses ___

Tenderness ___

Hernia: Yes ___ No ___

If so, where? _____

Is truss worn? _____

Gastrointestinal:

Ulceration or other disease:

Yes ___ No ___

Genito-Urinary:

Scars _____

Urethral discharge _____

EXAMINATION TO DETERMINE PHYSICAL CONDITION OF DRIVERS

Driver's name _____ New Certification

Address _____ Recertification

Social Security No. _____

Date of birth _____ Age ___

Reflexes:

Romberg _____
Pupillary ___ Light R ___ L ___
Accommodation Right ___ Left ___

Knee Jerks:

Right:
Normal ___ Increased ___ Absent ___
Left:
Normal ___ Increased ___ Absent ___

Remarks _____

Extremities:

Upper _____
Lower _____
Spine _____

Laboratory and other Special Findings:

Urine: Spec. Gr. ___ Alb. ___
Sugar ___
Other laboratory data (Serology, etc.) _____

Radiological data _____
Electrocardiograph _____

General comments _____

(Date of examination)

(Address of examining doctor)

(Name of examining doctor
(Print))

(Signature of examining doctor)

NOTE: This section to be completed only when visual test is conducted by a licensed ophthalmologist or optometrist.

(Date of examination)

(Address of ophthalmologist or
optometrist)

(Name of ophthalmologist or
optometrist (Print))

(Signature of ophthalmologist or
optometrist)

(4) If the medical examiner finds that the person he examined is physically qualified to drive a motor vehicle in accordance with WAC 446-55-170(2), he shall complete a certificate in the form prescribed in subsection (5) of this section and furnish one copy to the person who was examined and one copy to the private carrier that employs him.

(5) The medical examiner's certificate shall be in accordance with following form:

MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined _____ (driver's name (print)) in accordance with WAC 446-55-170 through 446-55-210 and with knowledge of his duties, I find him qualified under the regulations.

Qualified only when wearing corrective lenses.

A completed examination form for this person is on file in my office at _____ (Address)

(Date of examination)

(Name of examining doctor
(Print))

(Signature of examining doctor)

(Signature of driver)

(Address of driver)

If the driver is qualified only when wearing a hearing aid, the following statement must appear on the medical examiner's certificate: "Qualified only when wearing a hearing aid." If a medical examiner determines a waiver is necessary under WAC 446-55-210, the following statement shall appear on the medical examiner's certificate: "Medically unqualified unless accompanied by a waiver."

NEW SECTION

WAC 446-55-190 PERSONS WHO MUST BE MEDICALLY EXAMINED AND CERTIFIED. Except as provided in WAC 446-55-270, the following persons must be medically examined and certified in accordance with WAC 446-55-180 as physically qualified to drive a motor vehicle:

(1) Any person who has not been medically examined and certified as physically qualified to drive a motor vehicle;

(2) Any driver who has not been medically examined and certified as qualified to drive a motor vehicle during the preceding 24 months; and

(3) Any driver whose ability to perform his normal duties has been impaired by a physical or mental injury or disease.

NEW SECTION

WAC 446-55-200 RESOLUTION OF CONFLICTS OF MEDICAL EVALUATION. (1) Applications. Applications for determination of a driver's medical qualifications under standards in this chapter will only be accepted if they conform to the requirements of this section.

(2) Content. Applications will be accepted for consideration only if the following conditions are met:

(a) The application must contain the name and address of the driver, private carrier, and all physicians involved in the proceeding.

(b) The applicant must submit proof that there is a disagreement between the physician for the driver and the physician for the private carrier concerning the driver's qualifications.

(c) The applicant must submit a copy of an opinion and report including results of all tests of an impartial medical specialist in the field in which the medical conflict arose. The specialist should be one agreed to by the private carrier and the driver.

(i) In cases where the driver refuses to agree on a specialist and the applicant is the private carrier, the applicant must submit a statement of his agreement to submit the matter to an impartial medical specialist in the field, proof that he has requested the driver to submit to the medical specialist, and the response, if any, of the driver to his request.

(ii) In cases where the private carrier refuses to agree on a medical specialist, the driver must submit an opinion and test results of an impartial medical specialist, proof that he has requested the private carrier to agree to submit the matter to the medical specialist and the response, if any, of the private carrier to his request.

(d) The applicant must include a statement explaining in detail why the decision of the medical specialist identified in (c) of this subsection, is unacceptable.

(e) The applicant must submit proof that the medical specialist mentioned in (c) of this subsection was provided, prior to his determination, the medical history of the driver and an agreed-upon statement of the work the driver performs.

(f) The applicant must submit the medical history and statement of work provided to the medical specialist under (e) of this subsection.

(g) The applicant must submit all medical records and statements of the physicians who have given opinions on the driver's qualifications.

(h) The applicant must submit a description and a copy of all written and documentary evidence upon which the party making application relies in the form set out in 49 CFR 386.37.

(i) The applicant must submit three copies of the application and all records.

(3) Information. The chief of the Washington state patrol or his designee may request further information from the applicant if he determines that a decision cannot be made on the evidence submitted. If the applicant fails to submit the information requested, the chief or his designee may refuse to issue a determination.

(4)(a) Action. Upon receiving a satisfactory application the chief or his designee shall notify the parties (the driver, private carrier, or any other interested party) that the application has been accepted and that a determination will be made. A copy of all evidence received shall be attached to the notice.

(b) Reply. Any party may submit a reply to the notification within 15 days after service. Such reply must be accompanied by all evidence the party wants the chief or his designee to consider in making his determination. Evidence submitted should include all medical records and test results upon which the party relies.

(c) Parties. A party for the purposes of this section includes the private carrier and the driver, or anyone else submitting an application.

(5) Petitions to review, burden of proof. The driver or private carrier may petition to review the chief's or his designee's determination. Such petition must be submitted in accordance with 49 CFR Part 386.13(a). The burden of proof in such a proceeding is on the petitioner.

(6) Status of driver. Once an application is submitted to the chief or his designee, the driver shall be deemed disqualified until such time as the chief or his designee makes a determination, or until the chief or his designee orders otherwise.

NEW SECTION

WAC 446-55-210 WAIVER OF CERTAIN PHYSICAL DEFECTS. (1) A person who is not physically qualified to drive under WAC 446-55-170 (2)(a) or (b) and who is otherwise qualified to drive a motor vehicle, may drive a motor vehicle, if the chief or his designee has granted a waiver to that person.

(2) A letter of application for a waiver may be submitted jointly by the person who seeks a waiver of the physical disqualification (driver applicant) and by the private carrier that will employ the driver applicant if the application is granted. The application must be addressed to: Chief of the Washington State Patrol, State Patrol Headquarters, General Administration Building, Olympia, WA 98504. Exception. A letter of application for a waiver may be submitted unilaterally by a driver applicant. The application must also be addressed to: Chief of the Washington State Patrol, State Patrol Headquarters, General Administration Building, Olympia, WA 98504. The driver applicant must comply with all the requirements of subsection (3) of this section except subsection (3)(a)(i) of this section. The driver applicant shall respond to the requirements of subsection (3)(b)(i) through (v) of this section, if the information is known.

(3) A letter of application for a waiver shall contain:

(a) Identification of the applicant(s):

(i) Name and complete address of the private carrier coapplicant;

(ii) Name and complete address of the driver applicant; and

(iii) A description of the driver applicant's limb impairment for which waiver is requested.

(b) Description of the type of operation the driver will be employed to perform:

(i) State(s) in which the driver will operate for the private carrier coapplicant (if more than 10 states, designate general geographic area only);

(ii) Average period of time the driver will be driving and/or on duty, per day;

(iii) Type of commodities or cargo to be transported;

(iv) Type of driver operation (i.e., sleeper-team, relay, owner operator, etc.); and

(v) Number of years experience operating the type of vehicle(s) requested in the letter of application and total years of experience operating all types of motor vehicles.

(c) Description of the vehicle(s) the driver applicant intends to drive:

(i) Truck, truck-tractor, or bus make, model, and year (if known);

(ii) Drive train;

(A) Transmission type (automatic or manual—if manual, designate number of forward speeds);

(B) Auxiliary transmission (if any) and number of forward speeds; and

(C) Rear axle (designate single speed, 2 speed, or 3 speed);

(iii) Type of brake system;

(iv) Steering, manual or power assisted;

(v) Description of type of trailer(s) (i.e., van, flat bed, cargo tank, drop frame, lowboy, or pole);

(vi) Number of semitrailers or full trailers to be towed at one time;

(vii) For passenger-carrying vehicles, indicate seating capacity of vehicle; and

(viii) Description of any vehicle modification(s) made for the driver applicant; attach photograph(s) where applicable.

(d) Otherwise qualified:

(i) The coapplicant private carrier must certify that the driver applicant is otherwise qualified under the regulations of this chapter;

(ii) In the case of a unilateral application, the driver applicant must certify that he or she is otherwise qualified under the regulations of this chapter.

(e) Signature of applicant(s):

(i) Driver applicant's signature and date signed;

(ii) Private carrier official's signature (if application has a coapplicant), title, and date signed. Dependent upon the private carrier's organizational structure (corporation, partnership, or proprietorship), this signer of the application shall be an officer, partner, or the proprietor.

(4) The letter of application for a waiver shall be accompanied by:

(a) A copy of the results of the medical examination performed pursuant to WAC 446-55-180;

(b) A copy of the medical certificate completed pursuant to WAC 446-55-180(5);

(c) A medical evaluation summary completed by either a board-qualified or board-certified physiatrist (doctor of physical medicine) or orthopedic surgeon;

NOTE: The coapplicant private carrier or the driver applicant shall provide the physiatrist or orthopedic surgeon with a description of the job tasks the driver applicant will be required to perform.

(i) If the medical evaluation summary applies to a driver applicant disqualified under WAC 446-55-170 (2)(a), the summary shall include an assessment of the driver's functional capabilities as they relate to the driver's ability to perform normal tasks associated with operating a motor vehicle; or

(ii) If the medical evaluation summary applies to a driver applicant disqualified under WAC 446-55-170 (2)(b), the summary shall include an explanation as to how and why the impaired area interferes with the driver's ability to perform normal tasks associated with operating a motor vehicle. The summary shall also contain an assessment of whether the condition will likely remain medically stable over the driver applicant's lifetime;

(d) A description of the driver applicant's prosthetic or orthotic device worn, if any, by the driver applicant;

(e) Road test:

(i) A copy of the driver applicant's road test administered by the private carrier coapplicant and the certificate issued pursuant to WAC 446-55-120 (2) through (7); or

(ii) A unilateral applicant shall be responsible for having a road test administered by a private carrier or a person who is competent to administer the test and evaluate its results;

(f) Application for employment:

(i) A copy of the driver applicant's application for employment completed pursuant to WAC 446-55-080; or

(ii) A unilateral applicant shall be responsible for submitting a copy of the last commercial or private driving position's employment application he or she held. If not previously employed as a commercial or private driver, so state;

(g) A copy of the driver applicant's waiver of certain physical defects issued by the individual state(s), where applicable; and

(h) A copy of the driver applicant's state motor vehicle driving record for the past 3 years from each state in which a motor vehicle driver's license or permit has been obtained.

(5) Agreement. A private carrier that employs a driver with a waiver agrees to:

(a) File promptly (within 30 days) with the chief of the Washington state patrol such documents and information as may be required about driving activities, accidents, arrests, license suspensions, revocations, or withdrawals, and convictions which involve the driver applicant. This applies whether the driver's waiver is a unilateral one or has a coapplicant private carrier;

(b) Evaluate the driver with a road test using the trailer the private carrier intends the driver to transport or, in lieu of, accept a certificate of a trailer road test from another private carrier if the trailer type(s)

is similar or accept the trailer road test done during the skill performance evaluation if it is a similar trailer type(s) to that of the prospective private carrier;

NOTE: Job tasks, as stated in subsection (5)(c) of this section, are not evaluated in the skill performance evaluation.

(c) Evaluate the driver for those nondriving safety-related job tasks associated with whatever type of trailer(s) will be used and any other nondriving safety-related or job-related tasks unique to the operations of the employing private carrier; and

(d) Use the driver to operate the type of motor vehicle defined in the waiver only when the driver is in compliance with the conditions and limitations of the waiver.

(6) The driver shall supply each employing private carrier with a copy of the waiver.

(7) The chief of the Washington state patrol or his designee may require the driver applicant to demonstrate his or her ability to safely operate the motor vehicle(s) the driver intends to drive to a designated member of the state patrol. The waiver form will identify the power unit (bus, truck, truck-tractor) for which the waiver has been granted. The waiver forms will also identify the trailer type used in the skill performance evaluation; however, the waiver is not limited to that specific trailer type. A driver may use the waiver with other trailer types if a successful trailer road test is completed in accordance with subsection (5)(b) of this section. Job tasks, as stated in subsection (5)(c) of this section, are not evaluated during the skill performance evaluation.

(8) The chief or his designee may deny the application for waiver or may grant it totally or in part and issue the waiver subject to such terms, conditions, and limitations as deemed consistent with the public interest. A waiver is valid for a period not to exceed 2 years from date of issue, and may be renewed 30 days prior to the expiration date.

(9) The waiver renewal application shall be submitted to: Chief of the Washington State Patrol, State Patrol Headquarters, General Administration Building, Olympia, WA 98504. The waiver renewal application shall contain the following:

(a) Name and complete address of private carrier currently employing the applicant;

(b) Name and complete address of the driver;

(c) Effective date of the current waiver;

(d) Expiration date of the current waiver;

(e) Total miles driven under the current waiver;

(f) Number of accidents incurred while driving under the current waiver, including date of the accidents(s), number of fatalities, number of injuries, and the estimated dollar amount of property damage;

(g) A current medical examination report;

(h) A medical evaluation summary pursuant to subsection (4)(c) of this section if an unstable medical condition exists. All handicapped conditions classified under WAC 446-55-170 (2)(a) are considered unstable.

NOTE: Refer to subsection (4)(c)(ii) of this section for the condition under WAC 446-55-170 (2)(b) which may be considered medically stable.

(i) A copy of driver's current state motor vehicle driving record for the period of time the current waiver has been in effect;

(j) Notification of any change in the type of tractor the driver will operate;

(k) Driver's signature and date signed; and

(l) Private carrier coapplicant's signature and date signed.

(10) Upon granting a waiver, the chief of the Washington state patrol or his designee will notify the driver applicant and coapplicant private carrier (if applicable) by letter. The terms, conditions, and limitations of the waiver will be set forth. A private carrier shall maintain a copy of the waiver in its driver qualification file. A copy of the waiver shall be retained in the private carrier's file for a period of 3 years after the driver's employment is terminated. The driver applicant shall have the waiver (or a legible copy) in his/her possession whenever on duty.

(11) The chief of the Washington state patrol or his designee may revoke a waiver after the person to whom it was issued is given notice of the proposed revocation and has been allowed a reasonable opportunity to appeal.

Falsifying information in the letter of application, the renewal application, or falsifying information required by this section by either the applicant or private carrier is prohibited.

NEW SECTION

WAC 446-55-220 DRIVER QUALIFICATION FILES. (1) Each private carrier shall maintain a driver qualification file for each driver it employs. A driver's qualification file may be combined with his personnel file.

(2) The qualification file for a driver who has been a regularly employed driver of the private carrier for a continuous three-year period prior to the effective date of this rule, must include:

(a) The medical examiner's certificate of his physical qualification to drive a motor vehicle or a legible photographic copy of the certificate;

(b) The chief of the Washington state patrol's or his designee's letter granting a waiver of a physical disqualification, if a waiver was issued under WAC 446-55-210;

(c) The note relating to the annual review of his driving record required by WAC 446-55-100;

(d) The list or certificate relating to violations of motor vehicle laws and ordinances required by WAC 446-55-110; and

(e) Any other matter which relates to the driver's qualifications or ability to drive a motor vehicle safely.

(3) The qualification file for a regularly employed driver who has not been regularly employed by the private carrier for a continuous three-year period prior to the effective date of this rule, must include:

(a) The documents specified in subsection (2) of this section;

(b) The driver's application for employment completed in accordance with WAC 446-55-080;

(c) The responses of state agencies and past employers to the private carrier's inquiries concerning the driver's driving record and employment pursuant to WAC 446-55-090;

(d) The certificate of driver's road test issued to the driver pursuant to WAC 446-55-120(5), or a copy of the license or certificate which the private carrier accepted as equivalent to the driver's road test pursuant to WAC 446-55-130; and

(e) The questions asked, the answers the driver gave, and the certificate of written examination issued to him pursuant to WAC 446-55-140, or a copy of a certificate which the private carrier accepted as equivalent to a written examination pursuant to WAC 446-55-160.

(4) The qualification file for an intermittent, casual, or occasional driver employed under the rules in WAC 446-55-250 must include:

(a) The medical examiner's certificate of his physical qualification to drive a motor vehicle or a legible photographic copy of the certificate;

(b) The certificate of driver's road test issued to the driver pursuant to WAC 446-55-120(5), or a copy of the license or certificate which the private carrier accepted as equivalent to the driver's road test pursuant to WAC 446-55-120;

(c) The questions asked, the answers the driver gave, and the certificate of written examination issued to him pursuant to WAC 446-55-140, or a copy of a certificate which the private carrier accepted as equivalent to a written examination pursuant to WAC 446-55-160; and

(d) The driver's name, his social security number, and the identification number, type, and issuing state of his motor vehicle operator's license.

(5) A using carrier's qualification file for a driver who is regularly employed by another private carrier, and who is employed by the using carrier in accordance with WAC 446-55-260, shall include a copy of a certificate, as prescribed by WAC 446-55-260 (1)(b), by the regularly employing carrier that the driver is fully qualified to drive a motor vehicle.

(6) Except as provided in subsections (7) and (8) of this section, each driver's qualification file shall be kept at the private carrier's principal place of business for as long as a driver is employed by that private carrier and for 3 years thereafter.

(7) Upon a written request to and with the approval of the chief of the Washington state patrol or his designee, the carrier may retain one or more of its drivers' qualification files at a regional or terminal office.

(8) The following records may be removed from a driver's qualification file after 3 years from date of execution:

(a) The medical examiner's certificate of his physical qualification to drive a motor vehicle or the photographic copy of the certificate as required by WAC 446-55-180(4);

(b) The note relating to the annual review of his driving record as required by WAC 446-55-100;

(c) The list or certificate relating to violations of motor vehicle laws and ordinance as required by WAC 446-55-110;

(d) The letter issued under WAC 446-55-210 granting a waiver of a physical disqualification.

NEW SECTION

WAC 446-55-230 DRIVERS WHO WERE REGULARLY EMPLOYED FOR A CONTINUOUS THREE-YEAR PERIOD PRIOR TO THE EFFECTIVE DATE OF THIS RULE. The provisions of WAC 446-55-080 (relating to applications for employment), WAC 446-55-090 (relating to investigations and inquiries), WAC 446-55-120 (relating to road tests), and WAC 446-55-140 (relating to written examinations) do not apply to a driver who has been a regularly employed driver (as defined in WAC 446-60-020(6)) of a private carrier for a continuous three-year period prior to the effective date of this rule, as long as he continues to be a regularly employed driver of that private carrier. Such a driver is qualified to drive a motor vehicle if he fulfills the requirements of WAC 446-55-060 (2)(a) through (i) (relating to qualifications of drivers).

NEW SECTION

WAC 446-55-240 DRIVERS OF LIGHTWEIGHT VEHICLES. (1) The following rules in this chapter do not apply to a person who drives only a lightweight vehicle as defined in WAC 446-55-030(5).

- (a) WAC 446-55-080 through 446-55-110 (relating to disclosure of, investigation into, and inquiries about, the background, character, and driving record of drivers);
- (b) WAC 446-55-120 through 446-55-160 (relating to road tests and written examinations);
- (c) So much of WAC 446-55-170, 446-55-180, and 446-55-190 as require a driver to be medically examined, to obtain a certificate of medical examination, and to carry a medical examiner's certificate on his person;
- (d) WAC 446-55-220 (relating to maintenance of files and records).

(2) A person who is qualified to drive a motor vehicle under the rules in this chapter and chapter 46.20 RCW may drive a lightweight vehicle.

NEW SECTION

WAC 446-55-250 INTERMITTENT, CASUAL, OR OCCASIONAL DRIVERS. (1) If a private carrier employs a person who is not a regularly employed driver (as defined in WAC 446-60-020(6)) to drive a motor vehicle for a single trip or on an intermittent, casual, or occasional basis, the private carrier shall comply with all requirements of this chapter, except that the private carrier need not:

- (a) Require the person to furnish an application for employment in accordance with WAC 446-55-080;
- (b) Make the investigations and inquiries specified in WAC 446-55-090 with respect to that person;
- (c) Perform the annual review of the person's driving record required by WAC 446-55-100; or
- (d) Require the person to furnish a record of violations or a certificate in accordance with WAC 446-55-110.

(2) Before a private carrier permits a person described in subsection (1) of this section to drive a motor vehicle, the private carrier must obtain his name, his social security number, and the identification number, type and issuing state of his motor vehicle operator's license. The private carrier must retain that information in its files for 3 years after the person's employment by the private carrier ceases.

NEW SECTION

WAC 446-55-260 DRIVERS FURNISHED BY OTHER MOTOR CARRIERS. (1) A private carrier may employ a driver who is not a regularly employed driver of that private carrier without complying with the generally applicable driver qualification file requirements in this chapter, if:

- (a) The driver is regularly employed by another motor carrier; and
- (b) The motor carrier which regularly employs the driver certifies that the driver is fully qualified to drive a motor vehicle in a written statement which:
 - (i) Is signed and dated by an officer or authorized employee of the regularly employing carrier;
 - (ii) Contains the driver's name and signature;
 - (iii) Certifies that the driver has been employed regularly to drive, as defined in WAC 446-55-030(3) or Part 391.3(c) of the Code of Federal Regulations;

(iv) Certifies that the driver is fully qualified to drive a motor vehicle under WAC 446-55-010 through 446-55-280 or Part 391 of the Code of Federal Regulations;

(v) States the expiration date of the driver's medical examiner's certificate;

(vi) Specifies an expiration date for the certificate, which shall be not longer than 2 years or, if earlier, the expiration date of the driver's current medical examiner's certificate; and

(vii) After the effective date of this rule, is substantially in accordance with the following form:

(Name of driver)

(SS No.)

(Signature of driver)

I certify that the above-named driver as defined in 391.3(c) of the Code of Federal Regulations or WAC 446-55-030(3) is regularly driving a vehicle operated by the below-named carrier and is fully qualified under Part 391, Federal Motor Carrier Safety Regulations or WAC 446-55-010 through 446-55-280. His current medical examiner's certificate expires on _____ (Date)
This certificate expires:

(Date not later than expiration date of medical certificate)

Issued on _____ (date)

Issued by _____
(Name of carrier)

(Address)

(Signature)

(Title)

(2) A private carrier that obtains a certificate in accordance with subsection (1)(b) of this section shall retain a copy of that certificate in its files for 3 years.

(3) A carrier which certifies a driver's qualifications under this section shall:

- (a) Be responsible for the accuracy of the certificate; and
- (b) Recall the unexpired certificate carried by a driver immediately upon learning that the driver is no longer qualified under the rules in this chapter.

NEW SECTION

WAC 446-55-270 DRIVERS OF ARTICULATED (COMBINATION) FARM VEHICLES. The following rules in this chapter do not apply to a farm vehicle driver (as defined in WAC 446-55-030(4)) who drives an articulated motor vehicle:

(1) WAC 446-55-060 (2)(g), (i), (j), and (k) (relating to driver qualifications in general).

(2) WAC 446-55-080 through 446-55-110 (relating to disclosure of, investigation into, and inquiries about the background, character, and driving record of drivers).

(3) WAC 446-55-120 through 446-55-160 (relating to road tests and written examinations).

(4) So much of WAC 446-55-170 and 446-55-190 as require a driver to be medically examined and to have a medical examiner's certificate on his person.

(5) WAC 446-55-220 (relating to maintenance of files and records).

NEW SECTION

WAC 446-55-280 INTRASTATE DRIVERS OF VEHICLES TRANSPORTING COMBUSTIBLE LIQUIDS. (1) The provisions of WAC 446-55-080 (relating to application for employment), WAC 446-55-090 (relating to investigations and inquiries), WAC 446-55-120 (relating to road test), and WAC 446-55-140 (relating to written examination) do not apply to a driver who is otherwise qualified and was a regularly employed driver (as defined in WAC 446-60-020(6))

for a continuous three-year period prior to the effective date of this rule, and continues to be a regularly employed driver of that motor carrier and who drives a motor vehicle that is transporting combustible liquids (as defined in subchapter 173.115 of the Code of Federal Regulations).

(2) In addition to the exemptions provided in subsection (1) of this section, the provisions of WAC 446-55-170 (2)(j) (relating to minimum visual requirements), do not apply to a driver who was a regularly employed driver (as defined in WAC 446-60-020(6)) for a continuous three-year period prior to the effective date of this rule, and continues to be a regularly employed driver of that motor carrier and who drives a vehicle that:

- (a) Is a truck;
- (b) Is operated in retail delivery service;
- (c) Is transporting combustible liquids.

**Chapter 446-60 WAC
PRIVATE CARRIER REGULATIONS—HOURS OF SERVICE
OF DRIVERS**

WAC

446-60-010	Compliance with, knowledge of, and interpretation of, the rules in this chapter.
446-60-020	Definitions.
446-60-030	Maximum driving and on-duty time.
446-60-040	Travel time.
446-60-050	Driver's record of duty status.
446-60-060	Adverse driving conditions.
446-60-070	Emergency conditions.
446-60-080	Relief from regulations.
446-60-090	Drivers declared out of service.

NEW SECTION

WAC 446-60-010 COMPLIANCE WITH, KNOWLEDGE OF, AND INTERPRETATION OF, THE RULES IN THIS CHAPTER. General. (1) Every private carrier and its officers, drivers, agents, employees, and representatives shall comply with the rules in this chapter, and every motor carrier shall require that its officers, drivers, agents, employees, and representatives be conversant with the rules in this chapter.

(2) The rules in this chapter shall be interpreted by the chief or his designee and when applicable shall be consistent with the federal interpretation of Part 395 of the Code of Federal Regulations as documented in the Federal Highway Administration, Department of Transportation, Federal Motor Carrier Safety Regulations, Interpretations.

NEW SECTION

WAC 446-60-020 DEFINITIONS. As used in this chapter, the following words and terms are construed to mean:

(1) A "private carrier" is a person who transports by his own motor vehicle, with or without compensation therefor, property which is owned or is being bought or sold by such person, or property of which such person is the seller, purchaser, lessee, or bailee where such transportation is incidental to and in furtherance of some other primary business conducted by such person in good faith. The term "private carrier" includes a private carrier and the agents, officers, representatives, and employees of a private carrier who are responsible for the hiring, supervision, training, assignment, or dispatching of drivers.

(2) A private carrier "employs" a person as a driver within the meaning of this chapter whenever it requires or permits that person to drive a motor vehicle (whether or not the vehicle is owned by the private carrier) in furtherance of the business of the private carrier.

(3) "Common carrier" means any person who undertakes to transport property for the general public by motor vehicle for compensation, whether over regular or irregular routes, or regular or irregular schedules, including motor vehicle operations of other carriers by rail or water and of express or forwarding companies.

(4) "Contract carrier" shall include all motor vehicle operators not included under the terms "common carrier" and "private carrier" as herein defined in subsections (1) and (3) of this section, and further shall include any person who under special and individual contracts or agreements transports property by motor vehicle for compensation.

(5) "Exempt carrier" means any person operating a vehicle exempted from certain provisions of this chapter under RCW 81.80.040.

(6) "Motor carrier" means and includes "common carrier," "contract carrier," "private carrier," and "exempt carrier" as herein defined.

(7) The term "chief" means the chief of the Washington state patrol.

(8) On-duty time. All time from the time a driver begins to work or is required to be in readiness to work until the time he is relieved from work and all responsibility for performing work. The term "on-duty" time shall include:

(a) All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the private carrier;

(b) All time inspecting, servicing, or conditioning any motor vehicle at any time;

(c) All driving time as defined in subsection (9) of this section;

(d) All time, other than driving time, in or upon any motor vehicle except time spent resting in a sleeper berth as defined in subsection (14) of this section;

(e) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;

(f) All time spent performing the driver requirements relating to accidents;

(g) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle;

(h) Performing any other work in the capacity of, or in the employ or service of, a private motor carrier.

(9) Driving time. The terms "drive" and "driving time" shall include all time spent at the driving controls of a motor vehicle in operation.

(10) Seven consecutive days. The term "7 consecutive days" means the period of 7 consecutive days beginning on any day at the time designated by the private carrier for a 24-hour period.

(11) Eight consecutive days. The term "8 consecutive days" means the period of 8 consecutive days beginning on any day at the time designated by the private carrier for a 24-hour period.

(12) Twenty-four hour period. The term "24-hour period" means any 24 consecutive hour period beginning at the time designated by the private carrier for the terminal from which the driver is normally dispatched.

(13) Regularly employed driver. The term "regularly employed driver" means a driver who in any period of 7 consecutive days is employed or used as a driver solely by a single motor carrier.

(14) Sleeper berth. The term "sleeper berth" means a berth conforming to the requirements of 49 CFR part 393.76.

(15) Driver-salesman. The term "driver-salesman" means any employee who is employed solely as such by a private carrier of property by motor vehicle, who is engaged both in selling goods, services, or the use of goods, and in delivering by motor vehicle the goods sold or provided or upon which the services are performed, who does so entirely within a radius of 100 miles of the point at which he reports for duty, who devotes not more than 50 percent of his hours on duty to driving time. The term "selling goods" for purposes of this subsection shall include in all cases solicitation or obtaining of reorders or new accounts, and may also include other selling or merchandising activities designed to retain the customer or to increase the sale of goods or services, in addition to solicitation or obtaining of reorders or new accounts.

(16) Multiple stops. All stops made in any one village, town, or city may be computed as one.

(17) Principal place of business or main office address. The principal place of business or main office address is the geographic location designated by the private carrier where the records required to be maintained by this chapter will be made available for inspection.

NEW SECTION

WAC 446-60-030 MAXIMUM DRIVING AND ON-DUTY TIME. (1) Except as provided in subsections (3) and (4) of this section and in WAC 446-60-060, no private carrier shall permit or require any driver used by it to drive nor shall any such driver drive:

- (a) More than 10 hours following 8 consecutive hours off duty; or
- (b) For any period after having been on duty 15 hours following 8 consecutive hours off duty;

(c) Exemption: Drivers using sleeper berth equipment as defined in WAC 446-60-020(6), or who are off duty at a natural gas or oil well location, may cumulate the required 8 consecutive hours off duty resting in a sleeper berth in two separate periods totaling 8 hours, neither

period to be less than 2 hours, or resting while off duty in other sleeping accommodations at a natural gas or oil well location.

(2) Except as provided in subsection (5) of this section, no private carrier shall permit or require any driver used by it to be on duty, nor shall any such driver be on duty, more than 60 hours in any 7 consecutive days as defined in WAC 446-60-020(3) regardless of the number of motor carriers using the driver's services: PROVIDED, That carriers operating vehicles every day in the week may permit drivers to remain on duty for a total of not more than 70 hours in any period of 8 consecutive days: PROVIDED FURTHER, That the limitations of this subsection shall not apply with respect to any driver-salesman whose total driving time does not exceed 40 hours in any 7 consecutive days: AND PROVIDED FURTHER, That private carriers operating log trucks, dump trucks and those persons engaged in agricultural pursuits, as defined in RCW 46.04.182, will be permitted to drive a total of 12 hours in any given 24-hour period, as designated by the owner, inclusive of on-duty time: AND PROVIDED FURTHER, That the total driving time and on-duty time will not exceed 90 hours in any 8 consecutive days.

(3) The provisions of subsection (1) of this section shall not apply with respect to drivers used wholly in driving motor vehicles having not more than 2 axles and whose gross weight does not exceed 10,000 pounds, unless such vehicle is used to transport passengers or explosives or other dangerous articles of such type and in such quantity as to require the vehicle to be specifically marked or placarded under the Hazardous Materials Regulations, subchapter 177.823 of the Code of Federal Regulations, or when operated without cargo under conditions which require the vehicle to be so marked or placarded under the cited regulations: PROVIDED, That this section shall not apply with respect to drivers of motor vehicles engaged solely in making deliveries for retail stores during the period from December 10 to December 25, both inclusive, of each year.

(4) In the instance of drivers of motor vehicles used exclusively in the transportation of oil field equipment, including the stringing and picking up of pipe used in pipelines, and servicing of the field operations of the natural gas and oil industry, any period of 8 consecutive days may end with the beginning of any off-duty period of 24 or more successive hours.

NEW SECTION

WAC 446-60-040 TRAVEL TIME. When a driver at the direction of a private carrier is traveling, but not driving or assuming any other responsibility to the carrier, such time shall be counted as on-duty time unless the driver is afforded at least 8 consecutive hours off duty when arriving at destination, in which case he shall be considered off duty for the entire period.

NEW SECTION

WAC 446-60-050 DRIVER'S RECORD OF DUTY STATUS.

(1) Every private carrier shall require every driver used by the private carrier to record his/her duty status, in duplicate, for each 24-hour period. Every driver who operates a motor vehicle shall record his/her duty status, in duplicate, for each 24-hour period. The duty status time shall be recorded on a specified grid, as shown in subsection (7) of this section. The grid and the requirements of subsection (4) of this section may be combined with any company forms.

(2) The duty status shall be recorded as follows:

- (a) "Off duty" or "OFF";
- (b) "Sleeper berth" or "SB" (only if a sleeper berth used);
- (c) "Driving" or "D";
- (d) "On-duty not driving" or "ON."

(3) For each change of duty status (e.g., the place of reporting for work, starting to drive, on-duty not driving and where released from work), the name of the city, town, or village, with state abbreviation, shall be recorded.

NOTE: If a change of duty status occurs at a location other than a city, town, or village, show one of the following: (a) The highway number and nearest milepost followed by the name of the nearest city, town, or village and state abbreviation, (b) the highway number and the name of the service plaza followed by the name of the nearest city, town, or village and state abbreviation, or (c) the highway numbers of the nearest two intersecting roadways followed by the name of the nearest city, town, or village and state abbreviation.

(4) The following information must be included on the form in addition to the grid:

- (a) Date;
- (b) Total miles driving today;
- (c) Truck or tractor number;
- (d) Name of carrier;
- (e) Driver's signature/certification;
- (f) 24-hour period starting time (e.g. midnight, 9:00 a.m., noon, 3:00 p.m.);
- (g) Main office address;
- (h) Remarks;
- (i) Total mileage today;
- (j) Name of co-driver;
- (k) Home terminal address;
- (l) Total hours (far right edge of grid);
- (m) Shipping document number(s), or name of shipper and commodity;
- (n) Origin; and
- (o) Destination or turnaround points.

(5) Failure to complete the record of duty activities, failure to preserve a record of such duty activities, or making of false reports in connection with such duty activities as prescribed herein shall make the driver and/or the carrier liable to prosecution.

(6) The driver's activities shall be recorded in accordance with the following provisions:

(a) Entries to be current. Drivers shall keep their record of duty status current to the time shown for the last change of duty status.

(b) Entries made by driver only. All entries relating to driver's duty status must be legible and in the driver's own handwriting.

(c) Date. The month, day, and year for the beginning of each 24-hour period shall be shown on the form containing the driver's duty status record.

(d) Total mileage driven. Total mileage driven during the 24-hour period shall be recorded on the form containing the driver's duty status record.

(e) Vehicle identification. The carrier's vehicle number or state and license number of each truck, truck tractor, and trailer operated during that 24-hour period shall be shown on the form containing the driver's duty status record.

(f) Name of carrier. The name(s) of the private carrier or other motor carrier(s) for which work is performed shall be shown on the form containing the driver's duty status record. When work is performed for more than one motor carrier during the same 24-hour period, the beginning and finishing time, showing a.m. or p.m., worked for each carrier shall be shown after each carrier name. Drivers of leased vehicles shall show the name of the motor carrier performing the transportation.

(g) Signature/certification. The driver shall certify to the correctness of all entries by signing the form containing the driver's duty status record with his/her legal name or name of record. The driver's signature certifies that all entries required by this section made by the driver are true and correct.

(h) Time base to be used. (i) The driver's duty status record shall be prepared, maintained, and submitted using the time standard in effect at the driver's home terminal, for a 24-hour period beginning with the time specified by the private carrier for that driver's home terminal.

(ii) The term "7 or 8 consecutive days" means the 7 or 8 consecutive 24-hour periods as designated by the private carrier for the driver's home terminal.

(iii) The 24-hour period starting time must be identified on the driver's duty status record. One-hour increments must appear on the graph, be identified, and preprinted. The words "midnight" and "noon" must appear above or beside the appropriate one-hour increment.

(i) Main office address. The private carrier's main office address shall be shown on the form containing the driver's duty status record.

(j) Recording days off duty. Two or more consecutive 24-hour periods off duty may be recorded on one duty status record.

(k) Total mileage today. Total mileage today shall be that mileage traveled while driving, on duty not driving, and resting in a sleeper berth, as defined in WAC 446-60-020(7) during the day covered by the record of duty status.

(l) Home terminal. The driver's home terminal address shown shall be that at which the driver normally reports for duty.

(m) Total hours. The total hours in each duty status: Off duty other than in a sleeper berth; off duty in a sleeper berth; driving, and on duty not driving, shall be entered to the right of the grid, the total of such entries shall equal 24 hours.

(n) Shipping document number(s), or name of shipper and commodity shall be shown on the driver's record of duty status.

driver's record of duty status, vehicle condition report, insurance report for the Fredericksburg, Virginia accident, checked for the next day's dispatch, etc. At 8 p.m., the driver went off duty.

(12) Exemptions. (a) 100-air mile radius driver. A driver is exempt from the requirements of this section if:

- (i) * * *
- (ii) The driver, except a driver salesperson, returns to the work reporting location and is released from work within 12 hours;
- (iii) At least 8 consecutive hours off duty separate each 12 hours on duty;
- (iv) The driver had 8 consecutive hours off duty prior to reporting for duty;
- (v) The driver does not exceed 10 hours maximum driving time following 8 consecutive hours off duty;
- (vi) The private carrier that employs the driver maintains and retains for a period of 6 months accurate and true time records showing:
 - (A) The time the driver reports for duty each day;
 - (B) The total number of hours the driver is on duty each day;
 - (C) The time the driver is released from duty each day; and
 - (D) The total time for the preceding 7 days in accordance with subsection (10)(b) of this section for drivers used for the first time or intermittently.
- (b) Drivers of lightweight vehicles. The rules in this section do not apply to a driver of a lightweight vehicle as defined in subchapter 390.17 of the Code of Federal Regulations.

NEW SECTION

WAC 446-60-060 ADVERSE DRIVING CONDITIONS. (1) A driver who encounters adverse driving conditions (as defined in subsection (2) of this section) and cannot, because of those conditions, safely complete the run within the 10-hour maximum driving time permitted by WAC 446-60-030(1) may drive and be permitted or required to drive a motor vehicle for not more than 2 additional hours in order to complete that run or to reach a place offering safety for vehicle occupants and security for the vehicle and its cargo. However, that driver may not drive or be permitted or required to drive:

- (a) For more than 12 hours in the aggregate following 8 consecutive hours off duty; or
 - (b) After he has been on duty 15 hours following 8 consecutive hours off duty.
- (2) "Adverse driving conditions" means snow, sleet, fog, other adverse weather conditions, a highway covered with snow or ice, or unusual road and traffic conditions, none of which were apparent on the basis of information known to the person dispatching the run at the time it was begun.

NEW SECTION

WAC 446-60-070 EMERGENCY CONDITIONS. In case of any emergency, a driver may complete his run without being in violation of the provisions of these regulations, if such run could reasonably have been completed without such violation.

NEW SECTION

WAC 446-60-080 RELIEF FROM REGULATIONS. These regulations shall not apply to any private carrier subject thereto when transporting passengers or property to or from any section of the country with the object of providing relief in case of earthquake, flood, fire, famine, drought, epidemic, pestilence, or other calamitous visitation or disaster.

NEW SECTION

WAC 446-60-090 DRIVERS DECLARED OUT OF SERVICE. (1) Authority to declare drivers out of service. All commissioned officers and commercial vehicle enforcement officers of the Washington state patrol are authorized by the chief of the Washington state patrol to declare a driver out of service and to notify the private carrier of that declaration, upon finding at the time and place of examination that the driver has violated the out of service criteria as set forth in subsection (2) of this section.

- (2) Out of service criteria. (a) No driver shall drive after being on duty in excess of the maximum periods permitted by this chapter.
- (b) No driver required to maintain a record of duty status under WAC 446-60-050 shall fail to have a record of duty status current on the day of examination and for the prior 7 consecutive days.

(c) Exception. A driver failing only to have possession of a record of duty status current on the day of examination and the prior day, but has completed records of duty status up to that time (previous 6 days), will be given the opportunity to make the duty status record current.

(3) Responsibilities of private carriers. No private carrier shall:

- (a) Require or permit a driver who has been declared out of service to operate a motor vehicle until that driver may lawfully do so under the rules in this chapter.

(b) Require a driver who has been declared out of service for failure to prepare a record of duty status to operate a motor vehicle until that driver has been off duty for 8 consecutive hours and is in compliance with this chapter. The consecutive 8-hour off-duty period may include sleeper berth time.

(4) Responsibilities of the driver. (a) No driver who has been declared out of service shall operate a motor vehicle until that driver may lawfully do so under the rules of this chapter.

(b) No driver who has been declared out of service, for failing to prepare a record of duty status, shall operate a motor vehicle until the driver has been off duty for 8 consecutive hours and is in compliance with this chapter.

(c) A driver to whom a form has been tendered declaring the driver out of service shall within 24 hours thereafter deliver or mail the copy to a person or place designated by the private carrier to receive it.

(d) This section does not alter the hazardous materials requirements prescribed in subchapter 397.5 of the Code of Federal Regulations pertaining to attendance and surveillance of motor vehicles.

WSR 86-05-016

**NOTICE OF PUBLIC MEETINGS
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION**

[Memorandum—February 12, 1986]

The March 27-28, 1986, regular meeting of the Intera-gency Committee for Outdoor Recreation will be held in the Coho Room, Tyee Motor Inn, 500 Tyee Drive, Tumwater, Washington, beginning at 9:00 a.m., Thursday, March 27th. The committee will meet the first day for discussion and overview of the off-road vehicle program of the state of Washington. On Friday, March 28th, the committee will hold its regular meeting concerning agenda items: Fiscal, planning, and projects status reports, director's report, project changes, legisla-tion, and consideration of funding for three off-road ve-hicle projects held over from the November 7, 1985, IAC funding session:

U.S. Forest Service Wenatchee Entiat	Mad River Trail	ORV #85-19D
U.S. Forest Service Wenatchee Entiat	Pond Camp Tie Trail	ORV #85-20D
Thurston County Parks and Recreation Department	ORV Safety/Education Program	ORV #85-8E

Interpreters for people with hearing impairments and brailled or taped information for people with visual im-pairments can be provided at this IAC meeting if neces-sary. A request for this type of service, however, must be received by the IAC ten days before the meeting (March 17, 1986). Please contact: Robert L. Wilder, Director, 4800 Capitol Boulevard, KP-11, Olympia, Washington 98504, (206) 753-3610. The meeting site is barrier free.

WSR 86-05-017
EMERGENCY RULES
HORSE RACING COMMISSION
 [Order 86-01—Filed February 13, 1986]

Be it resolved by the Washington Horse Racing Commission, acting at the Hyatt House, 17001 Pacific Highway South, Seattle, WA, that it does adopt the annexed rules relating to:

- Amd WAC 260-36-020 Relating to licenses of jockeys et al.
- Amd WAC 260-36-030 Relating to licenses of veterinarians et al.
- Amd WAC 260-36-040 Relating to registration of personnel other than owners, trainers and jockeys.
- Amd WAC 260-36-080 Relating to duration of licenses.
- Amd WAC 260-40-100 Relating to performance records.
- New WAC 260-48-035 Relating to payoffs on minus pools.

We, the Washington Horse Racing 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 at the end of February 1986, horse racing will begin again in Washington. The staff of the Horse Racing Commission has determined that there are a number of existing rules that need small changes made to them and there are a couple of subjects that require the enactment of new rules prior to the commencement of racing.

Of the eight rules that are proposed for amendment, the bulk of them deal with licensing procedures and licensing fees. For this reason, it is essential that the owners, trainers, jockeys, veterinarians and other personnel have as much advance notice as possible of these changes. They are primarily housekeeping amendments and they reflect the desire of the Horse Racing Commission to streamline and simplify the procedural rules wherever possible. This is true in regard to the other amendments where it is the desire of the Horse Racing Commission to simplify them and give as much clarity to the scope and application of the rules as can be done.

In regard to the remaining rules, the ones that deal with certification of Washington-bred horses are in express compliance with and response to action by the legislature in this past session where under section 13 of the amendment to chapter 67.16 RCW the Horse Racing Commission must promulgate rules and regulations to certify all Washington-bred horses. The remaining new rule relating to payoffs on minus pools is considered a clarification of the expected policy of the Horse Racing Commission.

It is thus necessary that these amendments and these enactments be adopted immediately due to the soon to be commenced 1986 racing season and the need to give members of the industry as much clarity as possible in regard to procedure. In addition, although the emergency exists at this time, it should be emphasized that all of the amendments and enactments will come up for further discussion under the regularly scheduled procedure of chapter 34.04 RCW and therefore, there will be ample opportunity for public comment at that time. In other words, these changes are being adopted at this time

but they will be addressed again in public meetings in the very near future as in keeping with the Administrative Procedure Act.

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

This rule is promulgated pursuant to RCW 67.16.020 and 67.16.040 and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 67.16.020 and 67.16.040 which directs that the Washington Horse Racing Commission has authority to implement the provisions of chapter 67.16 RCW, section 13 of 1985 amendment.

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

APPROVED AND ADOPTED February 5, 1986.

By Barbara Black
 Chairperson

AMENDATORY SECTION (Amending Order 82-05, filed 6/25/82)

WAC 260-36-020 LICENSES REQUIRED OF JOCKEYS, APPRENTICES, OWNERS, TRAINERS. *All jockeys and apprentice jockeys must first secure occupational license before accepting a mount; no trial ride will be permitted without such occupational license, except as provided in WAC 260-32-020(1). Each owner and trainer must secure occupational license before entering a horse and the racing secretary shall be required to secure such occupational license number of owner and trainer making such entry. The ((annual)) license fee for jockeys, apprentices, owners, and trainers shall be ((~~\$14.00~~)) for three years and shall be \$45.00.*

AMENDATORY SECTION (Amending Order 82-05, filed 6/25/82)

WAC 260-36-030 VETERINARIANS, PLATERS, AND DENTISTS—LICENSE REQUIRED—INELIGIBLE AS TRAINERS. *The license fee for veterinarians, platers and dentists shall ((pay an annual occupational license fee of \$14.00, and)) be for three years and shall be \$45.00. They must be approved by the commission before practicing their professions on the grounds of an association. They shall not be eligible to hold a license to train horses while holding said occupational license.*

AMENDATORY SECTION (Amending Order 82-05, filed 6/25/82)

WAC 260-36-040 REGISTRATION OF PERSONNEL OTHER THAN OWNERS, TRAINERS AND JOCKEYS—FEE. *(1) Any person acting in an official capacity or any person employed on a race track other than ((an owner, trainer or jockey, shall register with)) a groom or concession employee shall be licensed*

by the Washington horse racing commission (~~and procure an occupational permit, by paying annually a fee of \$5.00~~) for three years and the fee shall be \$15.00.

(2) All grooms and concession employees shall be licensed by the Washington horse racing commission for one year and the fee shall be \$5.00.

(3) All employees of the Washington horse racing commission shall be exempt from any license fees but shall be issued a photo identification badge which shall be displayed in the same manner as all other licensees while in the performance of their duties at the track.

AMENDATORY SECTION (Amending Rules of racing, § 345, filed 4/21/61)

WAC 260-36-080 DURATION OF LICENSE.
Every permit or license (~~shall be for not more than one year, and shall expire on December 31st of each year~~) for a three-year period shall expire on December 31st of the third year after it was issued. Every permit or license for a one-year period shall expire on December 31st of the year it was issued.

AMENDATORY SECTION (Amending Order 78-2, filed 7/31/78)

WAC 260-40-100 PERFORMANCE RECORDS.
(1) A horse which during the past calendar year, has started in a race which is not reported in the daily racing form monthly chart book shall not be entered at a Washington track unless and until the owner shall have furnished to the racing secretary, at least forty-eight hours prior to such entry, performance records as hereinafter designated. Such performance records shall show where and when said horse raced; the distance; the weight carried; amount earned; said horse's finishing position and time. Such performance records furnished to the racing secretary shall be signed and sworn to by the owner of the horse.

(2) In a maiden race, a horse which at any time, has started in a race which is not reported in daily racing form monthly chart book shall not be entered at a Washington track unless and until the owners shall have furnished to the racing secretary at least forty-eight hours prior to such entry, complete performance records hereinafter designated. Such performance of said horse; where and when said horse raced; the distance; the weight carried; amount earned; said horse's finishing position and time. Such performance records furnished to the racing secretary shall be signed and sworn to by the owner of the horse.

(3) No horse may be permitted to enter in a race whose recent workouts have not been properly recorded with the stewards.

(4) If the net value to the winner of a race run in the state of Washington is nine hundred dollars or less, said winnings shall not be counted in considering eligibility of horses running at Longacres, if the net value to the winner of a race run in the state of Washington is four hundred dollars or less, said winnings shall not be counted in considering eligibility of horses running at

Playfair and Yakima Meadows; however, the maiden allowance shall be lost by the winning of any race at a track whose complete official results are carried in the daily racing form, morning telegraph, quarter running horse chart book or appaloosa horse club charts. Furthermore, for any race to count against a horse's eligibility at Longacres, Playfair or Yakima Meadows the complete results of that race must be carried in the daily racing form, morning telegraph, quarter running horse chart book or appaloosa horse club charts.

All wins, regardless of the net value to the winner, shall be considered in eligibility requirements in all races, including maiden races at all tracks other than (~~Longacres, Playfair and Yakima Meadows~~) at a track whose complete official results are carried in the daily racing form, morning telegraph, quarter running horse chart book, or appaloosa horse club charts.

NEW SECTION

WAC 260-48-035 PAYOFF ON MINUS POOLS.
The association must pay to the holder of any ticket or tickets entitling him to participate in the distribution of a parimutuel pool the amount wagered by such holder plus a minimum of five percent thereof. This requirement is unaffected by the existence of a parimutuel pool which does not contain sufficient money to distribute said five percent to all persons holding such tickets.

WSR 86-05-018

NOTICE OF PUBLIC MEETINGS CONVENTION AND TRADE CENTER

[Memorandum—February 11, 1986]

The board of directors meeting scheduled for March 20, 1986, at 3:00 p.m., has been changed to March 21, 1986, at 3:00 p.m. The location of the meeting remains the same.

WSR 86-05-019

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF ECOLOGY

[Filed February 14, 1986]

Notice of withdrawal of proposed chapter 173-516 WAC, Skokomish-Dosewallips instream resources protection program, Notice No. WSR 85-20-054.

Notice is hereby given that the Washington State Department of Ecology has decided not to adopt the above referenced proposed rule at this time. The proposed rule is therefore being withdrawn from consideration until further notice.

Any questions should be directed to Mr. Kenneth Slattery, Water Resources Program, Department of Ecology, Mailstop PV-11, Olympia, WA 98504-8711, phone 459-6114.

Phillip C. Johnson
Deputy Director

WSR 86-05-020
PROPOSED RULES
STATE EMPLOYEES INSURANCE BOARD
 [Filed February 14, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Employees Insurance Board intends to adopt, amend, or repeal rules concerning the amending of WAC 182-12-160;

that the agency will at 9:00 a.m., Thursday, February 20, 1986, in the Department of Transportation, Material Lab Building, Tumwater, 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 chapter 41.05 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 17, 1986.

This notice is connected to and continues the matter in Notice No. WSR 86-01-072 filed with the code reviser's office on December 18, 1985.

Dated: February 14, 1986

By: C. H. Shay
 Assistant Benefits Manager

WSR 86-05-021
PROPOSED RULES
ENERGY FACILITY SITE
EVALUATION COUNCIL
 [Filed February 14, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Energy Facility Site Evaluation Council intends to conduct an investigatory proceeding which may lead to the adoption, amendment or repeal of rules concerning public health, safety and environmental protections which may be needed at energy facility sites where construction or operation have been stopped. Rules under consideration are those contained in Title 463 WAC.

The authority under which these rules are proposed is RCW 80.50.010.

Dated: February 14, 1986

By: William L. Fitch
 Executive Secretary

NOTICE OF INQUIRY

January 27, 1986

As part of its statutory authority contained in chapter 80.50 RCW, the Washington State Energy Facility Site Evaluation Council (EFSEC) hereby initiates a review proceeding to develop a process to determine if additional public health, safety and environmental protections are needed for sites where construction activities have been or may be suspended, and for sites where energy projects have been or may be terminated. EFSEC intends to use the results of its review and the written

record developed in response to this notice in deciding whether to initiate rule making on appropriate safeguards and in formulating recommendations to the legislature.

Chapter 80.50 RCW makes it the policy of the state to:

(1) Ensure through available and reasonable methods that the location and operation of such facilities will produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life;

(2) Develop and apply environmental and ecological guidelines in relation to the type, design, location and construction and operational conditions of certification of energy facilities;

(3) Prescribe the means for monitoring of the effects arising from the construction and the operation of energy facilities to assure continued compliance with terms of certification.

EFSEC during the processing of applications for the siting of major energy facilities has conducted hearings to identify those environmental and ecological concerns and public health and safety risks which may occur during the construction and operation of major energy facilities. Where concerns and risks have been identified appropriate terms and conditions have been written into the site certification agreements (SCA) to mitigate adverse effects. An active program of surveillance monitoring and inspection has been conducted by the state to determine compliance with the terms and conditions. This program has achieved the result the legislature intended "to seek courses of action that will balance the increasing demands for energy facility location and operation in conjunction with the broad interests of the public," (RCW 80.50.010).

EFSEC's CONCERN

EFSEC's rules of operation, Title 463 of the Washington Administrative Code (WAC), more specifically, chapter 463-42 WAC, Procedure guidelines—Applications for site certification, do not address what environmental, public health and safety provisions should be considered when construction or operation is stopped indefinitely on major energy facilities. Since the development of EFSEC's guidelines, changes in energy demand and in the economy have caused energy suppliers throughout the United States to stop construction, to reschedule completion dates and to terminate projects. This situation exists in Washington state for projects where construction was started and could exist for projects not yet started. The SCAs for these projects do not address any additional precautionary measures which may be appropriate to protect the environment, public health and safety when unforeseen reasons for construction or operation has been stopped. EFSEC now seeks comments on this matter in order to engage as necessary in rule making or in formulating recommendations to the legislature. Particularly, EFSEC is interested in developing a process to consider and effectuate public policy regarding the major energy facility owner's provision of safeguards for those environmental, public health and

safety risks which may occur where construction or operations may have been stopped indefinitely. EFSEC desires that reasonable efforts be made to identify the potential risks and to provide adequate protection and/or mitigation pursuant to its authority and obligations as contained in chapter 80.50 RCW.

INVITATION

In light of this desire and in order to fulfill its responsibility under chapter 80.50 RCW, EFSEC solicits written comments and proposals concerning the public's perception of the environmental and public health and safety risks which may occur at major energy facilities where construction or operations may be stopped. EFSEC is interested in receiving responses to the following specific questions:

1. What categories of ecological and environmental risks may occur and what is the owner's responsibility for these risks?
2. What categories of public health and safety risks may occur and what is the owner's responsibility for these risks?
3. How should performance standards be established to ensure adequate protection from environmental and public health and safety risks?
4. What additional or revised types of surveillance monitoring shall the state require to ensure adequate protection from environmental and public health and safety risks.
5. Who has the responsibility to pay for the measures designed to protect or mitigate environmental, public health and safety risks?

EFSEC invites all interested persons to submit written comments, data, views or arguments on issues raised in this notice. While EFSEC desires comments on the specific questions posed in this notice, parties are encouraged to comment on any aspect of the issues raised in the discussion above and commenters should not feel obligated to respond to every question. Responses can be limited to the questions that address the commenter's principal concerns. To the extent that several parties have similar interests, they are encouraged to file joint comments.

Comments must be filed by March 31, 1986, with the Executive Secretary, Energy Facility Site Evaluation Council, Mailstop PY-11, Olympia, WA 98504. Comments will then be available for public inspection at EFSEC's Office in Building 1, Rowsix, 4224 Sixth Avenue S.E., Lacey, Washington.

Any party wishing to respond to comments filed pursuant to this notice of inquiry is encouraged to do so. Written responses intending to rebut or otherwise respond to comments will be accepted by EFSEC at the above address until April 30, 1986.

Dated this 27th day of January 1986.

Washington State Energy Facility
Site Evaluation Council

By Curtis Eschels
Chairman

ATTEST:

By William L. Fitch
Executive Secretary

WSR 86-05-022

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed February 14, 1986]

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

New	WAC 192-40-010	Purpose of the program.
New	WAC 192-40-020	Definitions.
New	WAC 192-40-030	Administrative entity, subrecipient, and direct state level hearing procedures.
New	WAC 192-40-040	State level hearing procedures.
New	WAC 192-40-050	Hearing request.
New	WAC 192-40-060	Notice of hearing.
New	WAC 192-40-070	Right to review.
New	WAC 192-40-080	Petition for review by the department.
New	WAC 192-40-090	Department review procedures.
New	WAC 192-40-100	Decision issuance.
New	WAC 192-40-110	State level hearing review.
New	WAC 192-40-120	Delegation of review;

that the agency will at 9:00, Thursday, March 27, 1986, in the Commissioner's Conference Room, 212 Maple Park, 2nd Floor, Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 1, 1986.

The authority under which these rules are proposed is RCW 50.12.010 and 50.12.040.

The specific statute these rules are intended to implement is RCW 50.12.010 and 50.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 24, 1986.

Dated: February 14, 1986

By: Ernest F. LaPalm
Deputy Commissioner

STATEMENT OF PURPOSE

The following statement has been prepared by the Employment Security Department for the purpose of legislative review of agency rules as provided by chapter 34.04 RCW.

WAC 192-40-010 through 192-40-120, Job Training Partnership Act (JTPA).

Under the statutory authority of RCW 50.12.010, the commissioner of the Employment Security Department is adopting rules relating to the Job Training Partnership Act. This act provides employment and training services to participants within the state of Washington.

The chapter being adopted presents definitions, a description of the levels of hearing, and the review process. The rules are to provide due process for aggrieved parties, individuals or organizations with allegations of adverse action or grievances directed to administrators of programs authorized under the Job Training Partnership Act.

WAC 192-40-010 through 192-40-120 was drafted by Brian O'Neill, Manager, Program Review Section, Training Program Services Division, Employment Security Department, 1007 South Washington, Mailstop EL-01, Olympia, Washington 98504, phone 754-1011.

Israel David Mendoza, Assistant Commissioner, Training Program Services Division, is responsible for the implementation and enforcement of these rules. His office address is Training Program Services Division, Employment Security Department, 1007 South Washington, Mailstop EL-01, Olympia, Washington 98504, phone 754-1035.

CHAPTER 192-40 WAC
JOB TRAINING PARTNERSHIP ACT (JTPA)

WAC

192-40-010	PURPOSE OF THE PROGRAM
192-40-020	DEFINITIONS
192-40-030	ADMINISTRATIVE ENTITY, SUBRECIPIENT, AND DIRECT SUBRECIPIENT HEARINGS
192-40-040	STATE LEVEL HEARING PROCEDURES
192-40-050	HEARING REQUEST
192-40-060	NOTICE OF HEARING
192-40-070	RIGHT TO REVIEW
192-40-080	PETITION FOR REVIEW BY THE DEPARTMENT
192-40-090	DEPARTMENT REVIEW PROCEDURES
192-40-100	DECISION ISSUANCE
192-40-110	STATE LEVEL HEARING REVIEW
192-40-120	DELEGATION OF REVIEW

NEW SECTION

WAC 192-40-010 PURPOSE OF THE PROGRAM. The purpose of the program conducted under the Job Training Partnership Act (JTPA) is to provide employment and training services to participants. Participants may receive assistance and training through skills training, on-the-job training, classroom training, internship, as well as other activities authorized by the Job Training Partnership Act and implementing regulations of the United States Department of Labor.

NEW SECTION

WAC 192-40-020 DEFINITIONS. The definitions set forth in this section shall apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrative entity" means the organization or agency designated by the private industry council (PIC) to operate the programs for the service delivery area (SDA) grant recipient.

(2) "Assistant commissioner" means the senior administrator for the training program services division of the employment security department.

(3) "The department" means the employment security department of the state of Washington.

(4) "Direct subrecipient" means a subrecipient which contracts directly with the department or receives a grant of JTPA funds from the department.

(5) "Grant recipient" means the organization or agency designated by the PIC and local elected officials to contract and receive funds from the SDA under JTPA.

(6) "Interested party" means an individual who participates in or applies for participation in a program administered under the JTPA, or a person or organization which is directly or adversely affected by organizations or individuals operating programs under JTPA.

(7) "JTPA" means the Job Training Partnership Act of 1982, Public Law No. 97-300, as amended, codified as 29 U.S.C. § 1501 et seq.

(8) "Provision" means the operating procedures for the activities of the service delivery areas and other program operations.

(9) "Private industry council (PIC)" means the group of individuals from the public and private sectors certified by the department to plan and oversee the Title II programs under JTPA.

(10) "Service delivery area (SDA)" means the geographic area designated by the department in which a comprehensive program pursuant to JTPA will be planned by a certified PIC.

(11) "Subrecipient" means any person, organization or other entity which receives JTPA funds either directly or indirectly from the department. The PIC, local elected officials, administrative entity, or a division of the employment security department may be subrecipients.

NEW SECTION

WAC 192-40-030 ADMINISTRATIVE ENTITY, SUBRECIPIENT, AND DIRECT SUBRECIPIENT HEARINGS. Each administrative entity, subrecipient, and direct subrecipient shall provide hearings in accordance with the Job Training Partnership Act, regulations, and state provisions.

NEW SECTION

WAC 192-40-040 STATE LEVEL HEARING PROCEDURES. For any complaint, alleged adverse action, or grievance directed to the state administrative office for JTPA operations, the training program services division will notify the office of administrative hearings to conduct a hearing pursuant to 29 U.S.C. §§ 1554 and 1577, except for complaints of discrimination filed pursuant to 42 U.S.C. § 2000d et seq.

Any aggrieved party with a complaint, alleged adverse action, or grievance directed to the state administrative office for JTPA operations, shall be provided a written description of the training program services complaint procedures including notification of their right to file a complaint and instructions on how to so file. The office of administrative hearings will conduct the hearing within thirty days of the date of the complaint. A written proposed decision pursuant to RCW 34.04.110 will be issued within sixty days of the complaint. Each party adversely affected shall file exceptions and present written arguments to the assistant commissioner of the training program services division within ten days of the proposed decision. The proposed decision shall include notice of the right to a review.

In cases alleging violation of the nondiscrimination requirements of 29 U.S.C. § 1557, representatives of the training program services division shall immediately advise complainants of their right to file directly with the United States Department of Labor, Office of Civil Rights, and provide them with instructions on how to so file.

NEW SECTION

WAC 192-40-050 HEARING REQUEST. A request for a hearing is any oral or written communication by an interested party or its legal counsel which expresses a clear intent to consider an adverse action. The freedom to make such a request must not be limited or interfered with in any way. If the request is oral, the department shall prepare a written request on behalf of the individual and obtain the individual's signature on the request. The request for hearing shall be filed in accordance with the following time limits:

(1) Within ten days of the date of an adverse decision when the request is a review of an adverse decision which resulted from a subrecipient grievance procedure;

(2) Within ten days of the date that the subrecipient failed to hold a hearing or issue a decision within the required time limit;

(3) Within one year of the date of the alleged adverse occurrence in all other cases.

The submission of any request for a fair hearing not within the specific statutory or regulatory period shall be considered timely if it is established to the satisfaction of the department that the delay in submission was due to departmental error or misinformation or to a delay caused by the United States Postal Service or its successor.

The hearing shall be conducted within thirty days of the date of the request unless all interested parties waive the time limit in writing.

NEW SECTION

WAC 192-40-060 NOTICE OF HEARING. Advance written notice of the hearing will be provided by regular mail to all interested parties at least ten days prior to the hearing to permit adequate preparation of the case. The notice will include:

(1) The time, date, and place of the hearing. Hearings shall be held at the regularly established hearing locations most convenient to the interested parties, or at the discretion of the hearing officer, by telephone;

(2) The name, address, and telephone number of the person to notify in the event it is not possible for the party or its legal counsel to attend the scheduled hearing;

(3) The hearing procedures, a statement of the issues, and any other information which would provide the party or its legal counsel with an understanding of the proceedings and contribute to the effective presentation of the party's case;

(4) An explanation that the party or its legal counsel may examine the case file prior to the hearing.

Any interested party may waive his/her right to notice either in writing or on the record.

NEW SECTION

WAC 192-40-070 RIGHT TO REVIEW. Any interested party shall have the right to review a determination, decision, order, or other action or inaction of an administrative entity, subrecipient, or direct subrecipient, or the state administrative office.

NEW SECTION

WAC 192-40-080 PETITION FOR REVIEW BY THE DEPARTMENT. (1) Any individual or organization may petition for review of a hearing decision, if the decision was previously issued by the SDA administrative entity, state subrecipient, or direct subrecipient provided:

- (a) Applicable JTPA procedures have been exhausted; and
- (b) A decision was not received within sixty days of filing; or
- (c) The decision received was unsatisfactory to the complainant.

(2) A petition for review will be regarded as filed on the date a written request is received by the assistant commissioner of the training program services division of the employment security department. Requests must be received within thirteen days after the date on which the decision was mailed or ten days from the date on which the complainant should have received a decision. If the petition is mailed, it will be deemed filed with the addressee on the postmark date if it is properly addressed and has sufficient postage.

Petition for review will be addressed to: Assistant Commissioner, Training Program Services Division, Employment Security Department, Mail Stop KG-11, Olympia, Washington 98504.

(3) Within five days of any request, SDA administrative entity, state subrecipients and direct subrecipients will transmit all records pertaining to a complaint to the training program services division.

(4) Upon request, SDA administrative entity, state subrecipients or direct subrecipients will take necessary action to obtain any additional evidence requested by the assistant commissioner.

NEW SECTION

WAC 192-40-090 DEPARTMENT REVIEW PROCEDURES. After having received a petition for review, the assistant commissioner shall review the proceedings in question. The assistant commissioner shall render a decision in writing affirming, modifying, or setting aside the decision of the lower review authority. The assistant commissioner's decision is final.

NEW SECTION

WAC 192-40-100 DECISION ISSUANCE. Following receipt of a petition for review, the assistant commissioner shall issue a decision within thirty days.

NEW SECTION

WAC 192-40-110 STATE LEVEL HEARING REVIEW. When a request for review is made of a state level hearing decision conducted under WAC 192-40-030, the review shall be conducted by the reviewing officer of the employment security department. Such review will be conducted in accordance with WAC 192-40-090 and 192-40-100.

NEW SECTION

WAC 192-40-120 DELEGATION OF REVIEW. In the interest of fairness, the assistant commissioner reserves the option to delegate the review procedure as described in WAC 192-40-090 to the reviewing officer of the employment security department or other qualified legal authority. The decision of the delegated review authority shall be final.

WSR 86-05-023

PROPOSED RULES

OFFICE OF THE GOVERNOR

[Filed February 14, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Office of the Governor intends to adopt, amend, or repeal rules concerning this notice proposes to amend chapter 240-10 WAC, entitled state employee combined charitable contributions program. The amendments do the following: Adds the objective "social" in front of the word "service" in WAC 240-10-010(9) and in front of the word "services" in WAC 240-10-030 (6)(g), thereby bringing these two sections into conformity with the wording found in the "service programs" criteria of WAC 240-10-040 (2)(a). In WAC 240-10-040 (1)(d) finances, the amendment deletes the phrase "an independent certified public accountant" and replaces it with the phrase "the American Institute of Certified Public Accountants," thereby inserting the established standards of a nationally recognized accounting association in place of those of an individual CPA. The amendment adds new section WAC 240-10-055, Determination of eligibility—Procedure for reconsideration. The new section adds a specific appeal process for those charitable agencies and federated organizations that are denied participation in a charitable contributions campaign by the State Employee Combined Fund Drive Committee;

that the agency will at 9:00 a.m., Tuesday, March 25, 1986, in the Department of Personnel Board Room, 600 South Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 1, 1986.

The authority under which these rules are proposed is RCW 41.04.035, 41.04.036 and 41.04.230.

The specific statute these rules are intended to implement is RCW 41.04.035, 41.04.036 and 41.04.230.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Friday, March 21, 1986. Please submit them to the individual named below.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

Mr. Collum C. Liska
Senior Policy Coordinator
Accounting and Fiscal Services Division
Office of Financial Management
4th Floor, Insurance Building
Mailstop AQ-44
Olympia, Washington 98504
(206) 753-8538
234-8538 scan

Dated: February 13, 1986
 By: Terry Sebring
 Legal Counsel

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 240-10 WAC, State employee combined charitable contributions program, consisting of the following: Adopting new section WAC 240-10-055 Determination of eligibility—Procedure for reconsideration, and amending WAC 240-10-010 Committee established; 240-10-030 Definitions; and 240-10-040 Basis standards and criteria for agency membership applicable to all agencies.

Statutory Authority: RCW 41.04.035, 41.04.036 and 41.04.230.

Specific Statute that the Rule is Intended to Implement: RCW 41.04.035, 41.04.036 and 41.04.230.

Summary of the Rules: The rules propose to make the following additions and changes to existing chapter 240-10 WAC, State employee combined charitable contributions program: WAC 240-10-055 adds a specific appeal process for those charitable agencies and federated organizations (such as United Way of Thurston County) that are denied participation in a charitable contributions campaign by the State Employee Combined Fund Drive Committee; the adjective "social" is added in front of the word "service" in WAC 240-10-010(9) and in front of the word "services" in WAC 240-10-030 (6)(g). This proposed amendment brings these two sections into conformity with the wording found in the "service programs" criteria of WAC 240-10-040 (2)(a); and the phrase "an independent certified public accountant" is deleted in WAC 240-10-040 (1)(d) and replaced by the phrase, "the American Institute of Certified Public Accountants." The proposed amendment inserts the established standards of a nationally recognized accounting association in place of those of an individual certified public accountant.

Reasons Supporting the Proposed Rules: The promulgation of these proposed rules will enable all charitable organizations seeking financial support from state employees to know the exact standards and criteria by which their applications for such support will be judged, both initially and, if necessary, upon appeal.

Involved Agency Personnel Responsible for Drafting: Mr. Collum C. Liska, Senior Executive Policy Coordinator, Accounting and Fiscal Services Division, Office of Financial Management, 4th Floor, Insurance Building, Mailstop AQ-44, Olympia, Washington 98504, phone (206) 753-8538; Implementation and Enforcement: Mr. Michael L. Bigelow, Chair, Washington State Employee Combined Fund Drive Committee, c/o The Council of Presidents, The Evergreen State College, Mailstop TA-00, Olympia, Washington 98505, phone (206) 866-6125.

Name of Involved Agency Proposing the Rules: Office of the Governor.

Agency Comments: None.

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

Other Information: None.

Small Business Economic Impact Statement: Not attached since these proposed rules are not applicable to the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 85-2, filed 12/23/85)

WAC 240-10-010 COMMITTEE ESTABLISHED. (1) In accordance with RCW 41.04.035, 41.04.036 and 41.04.230 and in order to implement Executive Orders EO 84-13 and EO 84-15 a committee is established to conduct a single, annual, consolidated effort to secure funds for distribution to agencies engaged in charitable and public health, welfare and service purposes.

(2) The committee shall be known as the Washington state employee combined fund drive committee.

(3) The committee shall be composed of not more than eight state employees appointed by the governor for three year terms, except that the terms of those first appointed shall be staggered with two persons appointed for one year, three persons appointed for two years, and three persons appointed for three years, as determined by the governor. The members shall be selected from the following groups:

(a) One member from an employee organization;

(b) One member from the legislative branch;

(c) One member from the judicial branch;

(d) Three members from state agencies;

(e) Two members from higher education.

(4) The committee shall elect a chairperson annually, and such other officers as may be needed.

(5) Members of the committee shall serve without additional salary, but shall be reimbursed by their employing agencies for travel, lodging and meals in accordance with state law and regulations.

(6) The committee shall be a policy committee which shall organize and effect one solicitation effort each year.

(7) The committee shall establish standards and criteria for participation in the fund drive. (WAC 240-10-040 and 240-10-050).

(8) The committee shall annually print and distribute an application form which agencies shall use to apply for participation in the fund drive.

(9) The committee shall evaluate each application, based on its criteria, and determine which agencies engaged in charitable and public health, welfare and social service purposes shall participate in one annual combined effort to secure funds from state employees through payroll deduction or other payment method.

(10) The committee may establish departmental combined fund drive coordinators, local combined fund drive coordinators, local campaign steering committees and local campaign managers to assist in the fund drive.

(11) The department of personnel shall provide the administrative support for the operation of the committee.

(12) All costs such as printing of brochures, preparation of slide presentations, and other promotional costs shall be the responsibility of those organizations designated to participate in the distribution of all funds collected. In circumstances where promotional costs cannot be associated with an individual charitable service organization, the costs shall be shared in a percentage relating to the total funds distributed.

AMENDATORY SECTION (Amending Order 85-2, filed 12/23/85)

WAC 240-10-030 DEFINITIONS. (1) Committee - The Washington state employee combined fund drive committee described in WAC 240-10-010.

(2) State employee combined fund drive campaign - An arrangement by which the committee provides one or more other participating organizations with the opportunity to receive funds contributed to them in the annual campaign, based on their compliance with the regulations herein.

(3) Participating organization - A health and welfare agency whose application has been accepted by the committee.

(4) Annual campaign - The once-a-year period of organized solicitation of state employees conducted annually in the month of October to obtain voluntary contributions from state employees for charitable commitments to be allocated during the ensuing year of contributions.

(5) Year of contributions - The annual calendar year for collection of the voluntary payroll deductions for charitable contributions authorized by state employees pursuant to these regulations. The normal, full annual calendar year shall begin with January and end with the ensuing December.

(6) Health and welfare agency – The terms "voluntary agency," "voluntary health and welfare agency," "voluntary charitable agency," and "voluntary charitable health and welfare agency" mean an organization that is organized and operated for the purpose of rendering, or of materially or financially supporting the rendering of, one or more of the following services directly to, and for the direct benefit of, human beings:

- (a) Delivery of health care to ill or infirm individuals;
 - (b) Education and training of personnel for the delivery of health care to ill or infirm individuals;
 - (c) Health research for the benefit of ill or infirm individuals;
 - (d) Delivery of education, training, and care to physically and mentally handicapped individuals;
 - (e) Treatment, care, rehabilitation, and counseling of juvenile delinquents, criminals, released convicts, persons who abuse drugs or alcohol, persons who are victims of intra-family violence or abuse, persons who are otherwise in need of social adjustment and rehabilitation, and the families of such persons;
 - (f) Relief of victims of crime, war, casualty, famine, natural disasters, and other catastrophes and emergencies;
 - (g) Neighborhood and community-wide social services that directly assist needy, poor, and indigent individuals, including provision of emergency relief and shelter, recreation, transportation, the preparation and delivery of meals, educational opportunities, and job training;
 - (h) Protection of families that, on account of economic or other need, poverty, indigence, or emergency, are in long-term or short-term need of family, child-care, and maternity services, child and marriage counseling, foster care, and guidance or assistance in the management and maintenance of the home and household;
 - (i) Relief of needy, poor, and indigent infants and children, and of orphans, including the provision of adoption services;
 - (j) Relief of needy, poor, and indigent adults and of the elderly.
- (7) Local presence – Demonstration of direct and substantial presence in the local campaign community:
- (a) The availability of services, such as examinations, treatments, inoculations, preventive care, counseling, training, scholarship assistance, transportation, feeding, institutionalization, shelter, and clothing to persons working or residing in the local campaign community.
 - (b) The presence within the local campaign community, or within reasonable commuting distance thereof, of a facility at which services may be obtained, such as an office, clinic, mobile unit, field agency, or direct provider, or specific demonstrable effects of research, such as personnel or facilities engaged therein or specific local applications thereof.
 - (c) The availability to persons working or residing in the local campaign community of communication with the voluntary charitable agency by means of home visits, transportation, or telephone calls, provided by the voluntary agency at no charge to the recipient or beneficiary of the service.
 - (8) Overseas – Areas outside of the District of Columbia and the fifty states of the United States.

AMENDATORY SECTION (Amending Order 85-2, filed 12/23/85)

WAC 240-10-040 BASIC STANDARDS AND CRITERIA FOR AGENCY MEMBERSHIP APPLICABLE TO ALL AGENCIES. (1) Basic standards.

(a) Federal exemption. Each charitable organization must submit a copy of the Internal Revenue Service determination letter indicating that it is an exempt organization under Internal Revenue Code Section 501(c)(3). An advance ruling on its exempt status shall meet this requirement.

(b) Registration and reporting. Each charitable organization shall have registered as a charitable organization with the secretary of state under the provisions of chapter 19.09 RCW (charitable solicitations) and with the attorney general under the provisions of chapter 11.110 RCW (charitable trusts) unless specifically exempt from registration by state law, and shall have filed all required reports within any established time limits.

(c) Integrity of operations. Each charitable organization must have at least a minimal history of service and demonstrate a real capability to serve. Funds contributed to charitable organizations by state employees must be used for their announced purposes. There shall be no payment of commissions for fund-raising, no mailing of commercial merchandise, and no paid general telephone solicitors.

(d) Finances. The charitable organization must use standards of accounting and a financial system based on generally accepted accounting principles which includes accounting procedures that would be

acceptable to ~~((an independent certified public accountant))~~ the American Institute of Certified Public Accountants. The committee may require an independent audit by a certified public accountant. The charitable organization must conduct its fiscal operations in accordance with a detailed annual program budget which is prepared and approved at the beginning of each fiscal year by the board of directors. Prior authorizations by the board of directors shall be required for any significant variation from the approved budget. The committee may require that the charitable organization prepare and make available to the general public an annual financial report.

(e) Nondiscrimination. The charitable organization shall have a policy and procedure of nondiscrimination in regard to race, color, religion, national origin, handicap, age, or sex applicable to persons served by the charitable organization.

(f) Annual reports. The charitable organization shall prepare an annual report available to the general public which includes a full description of the charitable organization's activities including types of solicitation for contributions, the names of its chief administrative personnel, and a full disclosure of the source and use of contributions.

(g) Agency organization. The charitable organization must maintain an active local volunteer board of directors, serving without compensation through regular meetings and exercising satisfactory administrative controls in accordance with the agency's articles of incorporation, bylaws, and, preferably, standards adopted by its national or state affiliate: **PROVIDED**, That the "local volunteer board" is exempted for those voluntary charitable health and welfare agencies whose services are rendered exclusively or in substantial preponderance overseas, and which meet all the criteria set forth except for the requirement of direct and substantial presence in the local campaign community.

(h) Fund-raising costs. Each organization shall disclose to the committee the estimated percentages of the money collected which will be applied to the cost of solicitation and to the charitable purpose. The information thus provided will be disclosed to state employees during the campaign.

(i) Application deadline. Completed applications must be received before the closing date established annually by the committee.

(2) Criteria.

(a) Service programs. Each charitable agency must have a substantial local presence in a Washington state community with a history of providing programs aimed toward direct services, research, and education in an effort to meet human health, welfare, or social service needs within a Washington state community: **PROVIDED**, That voluntary charitable health and welfare agencies whose services are rendered exclusively or in substantial preponderance overseas, and that meet all the criteria set forth except for the requirement of direct and substantial presence in the local campaign community, shall be eligible for agency membership; and each must be able to comply with integrity and other applicable standards that such services are indeed provided.

(b) Participation in eligible federations.

(i) No charitable organization may participate in more than one eligible federation (umbrella organization) in a county.

(ii) No charitable organization may participate both individually and as a member of an eligible federation (umbrella organization) within a county.

NEW SECTION

WAC 240-10-055 DETERMINATION OF ELIGIBILITY—PROCEDURE FOR RECONSIDERATION. Using the information supplied under this chapter and the standards set forth in WAC 240-10-040 and 240-10-050, the committee will determine which agencies and which federated organizations are eligible to participate in annual state employee combined fund drive campaigns. Any agency or federated organization determined not to be eligible may, within fifteen days after receiving notice of noneligibility, request reconsideration in writing, submitting responsive materials relating to the noneligibility notice in support of the request at the same time. The committee will duly reconsider the eligibility of the requesting agency or federated organization and will issue written notice of its final decision on eligibility within thirty days of receiving the request. Any decision on reconsideration will be a final determination of eligibility. If the committee fails to issue a written notice within thirty days after receiving a request for reconsideration, it will be deemed to have made a final determination of noneligibility.

For the purposes of this section, any written requests or notices will be presumed to be received no more than three business days after mailing.

WSR 86-05-024
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 86-04—Filed February 14, 1986]

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 numbers of razor clams are available.

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

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

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

APPROVED AND ADOPTED February 14, 1986.

By Russell W. Cahill
 for William R. Wilkerson
 Director

NEW SECTION

WAC 220-56-36000L RAZOR CLAMS. *Notwithstanding the provisions of WAC 220-56-360, effective immediately until further notice it is unlawful to dig for or possess razor clams taken for personal use except as provided for in this section:*

(1) *Razor Clam Areas 1, 2, and 3 are open from 12:01 a.m. February 15 to 11:59 p.m. April 15, 1986.*

(2) *Razor Clam digging is allowed on odd-numbered days only.*

(3) *Effective 12:01 a.m. February 15 through 11:59 p.m. March 15, 1986, digging will be allowed only during the hours from noon to midnight. Effective 12:01 a.m. March 17 until April 15, 1986 digging will be allowed only during the hours of midnight to noon.*

(4) *It is unlawful to dig for razor clams at any time in the Long Beach or Twin River Razor Clam Sanctuaries as defined in WAC 220-56-372.*

WSR 86-05-025
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
 [Memorandum—February 18, 1986]

Board of Trustees Meeting
 Meadowdale Hall, Room 230

The facilities for this meeting are free of mobility barriers and interpreters for deaf individuals and brailled or taped information for blind individuals will be provided upon request when adequate notice is given.

WSR 86-05-026
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES
 [Filed February 19, 1986]

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 new sections proposed for chapter 296-52 WAC, possession, handling and use of explosives:

- New WAC 296-52-401 Scope and application.
- New WAC 296-52-405 Incorporation of standards of national organizations and federal agencies.
- New WAC 296-52-409 Variance and procedure.
- New WAC 296-52-413 Equipment approval by nonstate agency or organization.
- New WAC 296-52-417 Definitions.
- New WAC 296-52-421 Licenses—Information verification.
- New WAC 296-52-425 Dealer's license.
- New WAC 296-52-429 License for manufacturing.
- New WAC 296-52-433 Purchaser's license.
- New WAC 296-52-437 User's (blaster's) license.
- New WAC 296-52-441 Storage magazine license.
- New WAC 296-52-445 Annual inspection.
- New WAC 296-52-449 Storage magazine license fees.
- New WAC 296-52-453 Construction of magazines.
- New WAC 296-52-457 Storage of caps with other explosives prohibited.
- New WAC 296-52-461 Storage of explosives.
- New WAC 296-52-465 Storage of ammonium nitrate.
- New WAC 296-52-469 Storage of blasting agents and supplies.
- New WAC 296-52-473 Quantity and distance tables for storage.
- New WAC 296-52-477 Quantity and distance tables for separation between magazines.
- New WAC 296-52-481 Blasting agents.
- New WAC 296-52-485 Quantity and distance tables for manufacturing buildings.
- New WAC 296-52-489 Transportation.
- New WAC 296-52-493 Use of explosives and blasting agents.
- New WAC 296-52-497 Blasting agents.
- New WAC 296-52-501 Water gel (slurry) explosives and blasting agents.
- New WAC 296-52-505 Coal mining code unaffected.
- New WAC 296-52-509 Small arms ammunition, primers, propellants and black powder.
- Rep WAC 296-52-010 Introduction.
- Rep WAC 296-52-012 Incorporation of standards of national organizations and federal agencies.
- Rep WAC 296-52-020 Purpose.
- Rep WAC 296-52-025 Variance and procedure.
- Rep WAC 296-52-027 Equipment approval by nonstate agency or organization.
- Rep WAC 296-52-030 Definitions.
- Rep WAC 296-52-040 User's (blaster's) license.
- Rep WAC 296-52-043 Use of explosives and blasting agents.
- Rep WAC 296-52-050 Transportation.
- Rep WAC 296-52-060 More stringent ordinances prevail.

- Rep WAC 296-52-080 Temporary permit for existing storage facilities.
- Rep WAC 296-52-090 Construction of magazines.
- Rep WAC 296-52-100 Quantity and distance tables for storage.
- Rep WAC 296-52-110 Limit on storage quantity.
- Rep WAC 296-52-120 Quantity and distance tables for factory buildings.
- Rep WAC 296-52-140 Quantity and distance table for separation between magazines.
- Rep WAC 296-52-150 Storage of blasting caps with other explosives prohibited.
- Rep WAC 296-52-160 License for manufacturing.
- Rep WAC 296-52-165 Blasting agents.
- Rep WAC 296-52-167 Water gel (slurry) explosives and blasting agents.
- Rep WAC 296-52-170 Storage magazine license.
- Rep WAC 296-52-180 Storage magazine license fees.
- Rep WAC 296-52-190 Dealer's license.
- Rep WAC 296-52-200 Annual inspection.
- Rep WAC 296-52-220 Purchaser's license.
- Rep WAC 296-52-230 Unlawful access to explosives.
- Rep WAC 296-52-260 Coal mining code unaffected.
- Rep WAC 296-52-270 Shipments out-of-state.
- Rep WAC 296-52-330 Explosives containers to be marked—Penalty.
- Rep WAC 296-52-350 Small arms ammunition, primers, and propellants—Transportation regulations.
- Rep WAC 296-52-360 Small arms ammunition, primers, and propellants—Separation from flammable materials.
- Rep WAC 296-52-370 Small arms ammunition, primers, and propellants—Smokeless propellants and black powder, transportation, storage and display requirements.
- Rep WAC 296-52-380 Small arms ammunition, primers, and propellants—Small arms ammunition primers, transportation, storage, and display requirements.
- Rep WAC 296-52-390 Storage of ammonium nitrate.
- Rep WAC 296-52-400 Enforcement;

that the agency will at 9:30 a.m., Thursday, March 27, 1986, in the Large Conference Room, Office Building No. 2, 12th and Franklin, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 6, 1986.

The authority under which these rules are proposed is RCW 49.17.040 and 49.17.050.

The specific statute these rules are intended to implement is RCW 49.17.060(1), 49.17.080, 49.17.090 and chapter 70.74 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 21, 1986.

Written or oral submissions may also contain data, views and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the formal decision for adoption or in response to written comments received before the deadline.

The agency may need to change the date for public hearing or adoption on short notice. To ascertain that the public hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

G. David Hutchins, Assistant Director
 Industrial Safety and Health Division
 Post Office Box 207
 Olympia, Washington 98504
 (206) 753-6500

Dated: February 18, 1986

By: Richard A. Davis
 Director

STATEMENT OF PURPOSE

Title and Number of Rule(s) or Chapter: Chapter 296-52 WAC, Safety standards for the possession, handling and use of explosives.

Statutory Authority: RCW 49.17.040 and 49.17.050.

Specific Statute that Rules are Intended to Implement: RCW 49.17.090, 49.17.060(1), 49.17.080 and chapter 70.74 RCW.

Summary of the Rule(s): Chapter 296-52 WAC, Safety standards for the possession, handling and use of explosives was reviewed by an ad hoc committee consisting of equal representation by labor and management along with the Department of Labor and Industries, Division of Industrial Safety and Health personnel to update the standard, incorporate possession, handling and use of explosives in the construction industry into the chapter and reorganize the text of the chapter.

Reasons Supporting the Proposed Rule(s): To ensure safe and healthful working conditions for every person working in the state of Washington; and to be in compliance with federal regulations.

Agency Personnel Responsible for Drafting: Ray V. Wax, Safety Regulations Program Supervisor, Department of Labor and Industries, Division of Industrial Safety and Health, 814 East 4th Avenue, Olympia, Washington 98504, (206) 753-6381; Implementation: G. David Hutchins, Assistant Director, Department of Labor and Industries, Division of Industrial Safety and Health, 814 East 4th Avenue, Olympia, Washington 98504, (206) 753-6500; and Enforcement: Same as above.

Name of Person or Organization, Whether Private, Public or Governmental that is Proposing the Rule(s): Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule(s): These are basic rules that will not be difficult or expensive for employers who must comply with them. However, the rules will likely prevent many costly injuries, including death, to employees in the state of Washington.

Portions of the rules are necessary to comply with a federal law, 29 U.S.C. subsection 667(c)(2).

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: No negative impact.

NEW SECTION

WAC 296-52-401 SCOPE AND APPLICATION. The subject code shall apply to all persons in the state of Washington and shall be known as the "Safety standards for the possession and handling of explosives," hereinafter called the "Explosives Code." The department of labor and industries, through the division of industrial safety and health, shall enforce the entire code, particularly all items affecting persons covered under Title 51 RCW, the transportation and storage of explosives not exempted under RCW 70.74.191, and the licensing required under this code.

Other law enforcement agencies, city, municipal, county, Washington state, other states and federal are obliged, under their own laws, codes, and ordinances, to enforce specific aspects of the possession and handling of explosives (RCW 70.74.201).

The division of industrial safety and health shall cooperate with all other law enforcement agencies in carrying out the intent of the Explosives Code and the Explosives Act.

NEW SECTION

WAC 296-52-405 INCORPORATION OF STANDARDS OF NATIONAL ORGANIZATIONS AND FEDERAL AGENCIES.

(1) Whenever a provision of this chapter incorporates by reference a national code or portion thereof which has been adopted by and is currently administered by another state agency, compliance with those provisions adopted and administered by such other state agency, if from a more recent edition of such national code, will be deemed to be prima facie evidence of compliance with the provisions of this chapter.

(2) Whenever a provision of this chapter incorporates therein provisions of the Code of Federal Regulations (CFR) or any other regulations adopted by an agency of the federal government, that provision of this chapter shall be construed to mean that compliance with such regulations shall be prima facie evidence of compliance with the provisions of this chapter.

(3) Whenever a provision of this chapter incorporates therein provisions of the Code of Federal Regulations, the provisions so incorporated shall be those in effect on the date of effectiveness of this chapter, unless the content of the incorporating section specifies otherwise.

NEW SECTION

WAC 296-52-409 VARIANCE AND PROCEDURE. Realizing that conditions may exist in operations under which certain state standards will not have practical application, the director of the department of labor and industries or his authorized representative may, pursuant to this section, RCW 49.17.080 and/or 49.17.090 and appropriate administrative rules of this state and the department of labor and industries and upon receipt of application and after adequate investigation by the department, permit a variation from these requirements when other means of providing an equivalent measure of protection are afforded. Such variation granted shall be limited to the particular case or cases covered in the application for variance and may be revoked for cause. The permit for variance shall be conspicuously posted on the premises and shall remain posted during the time it is in effect. All requests for variances from safety and health standards included in this or any other chapter of Title 296 WAC, shall be made in writing to the director of the department of labor and industries at Olympia, Washington, or his duly authorized representative, the assistant director, division of industrial safety and health, department of labor and industries, Olympia, Washington. Variance application forms may be obtained from the department upon request.

NEW SECTION

WAC 296-52-413 EQUIPMENT APPROVAL BY NON-STATE AGENCY OR ORGANIZATION. Whenever a provision of this chapter states that only that equipment or those processes approved by an agency or organization other than the department of labor and industries, such as the Underwriters Laboratories or the Bureau of Mines, shall be construed to mean that approval of such equipment or process by the designated agency or group shall be prima facie evidence of compliance with the provision of this chapter.

NEW SECTION

WAC 296-52-417 DEFINITIONS. Definitions as used in this chapter, unless a different meaning is plainly required by the context:

(1) "Attend" means the physical presence of an authorized person within the field of vision of explosives. The said attendant shall be awake, alert and not engaged in activities which may divert his attention so that in case of an emergency he can get to the explosives quickly and without interference, except for brief periods of necessary absence, during which absence simple theft of explosives is not ordinarily possible.

(2) "Authorized," "approved" or "approval" means authorized, approved, or approval by the department of labor and industries or other approving agency or individual as specified by the provisions of this chapter.

(3) "Barricaded" means the effective screening of a building containing explosives from a magazine or other building, railway, or highway by a natural or an artificial barrier. A straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine or other building or to a point twelve feet above the center of a railway or highway shall pass through such barrier.

(4) "Blast area" means the area of a blast within the influence of flying rock missiles, gases, and concussion.

(5) "Blast pattern" means the plan of the drill holes laid out on a bench; an expression of the burden distance and the spacing distance and their relationship to each other.

(6) "Blast site" means the area where explosive material is handled during loading, including the perimeter of blast holes and 50 feet in all directions from loaded holes or holes to be loaded. In underground mines 15 feet of solid rib or pillar can be substituted for the 50 foot distance.

(7) "Blaster" means that qualified person in charge of and responsible for the loading and firing of a blast.

(8) "Blasting agent" means any material or mixture consisting of a fuel and oxidizer, intended for blasting, not otherwise classified as an explosive, and in which none of the ingredients are classified as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated when unconfined by means of a No. 8 test blasting cap.

(9) "Day box" means a box which is not approved as a magazine for unattended storage of explosives. Such box may be used for storage of explosives during working hours on a job site, provided that it shall always be guarded against theft, particularly in inhabited areas, and shall be attended or locked and secured against outright lifting, as the risk demands. Caps shall be safely separated from other explosives. Such day boxes shall be marked with the word "explosives."

(10) "Dealer" means any person who purchases explosives or blasting agents for the sole purpose of resale, and not for use or consumption.

(11) "Department" means the department of labor and industries.

(12) "Detonating cord" means a round, flexible cord containing a center core of high explosive and used to initiate other explosives.

(13) "Detonator" means any device containing any initiating or primary explosive that is used for initiating detonation. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and nonelectric instantaneous and delay blasting caps which use detonating cord, shock tube, or any other replacement for electric leg wires.

(14) "Director" means the director of the department of labor and industries, or his designated representative.

(15) "Division" means the division of industrial safety and health of the department.

(16) "Efficient artificial barricade" means an artificial mound or properly revetted wall of earth of a minimum thickness of not less than three feet or such other artificial barricade as approved by the department of labor and industries.

(17) "Explosive" or "explosives" whenever used in this chapter means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing, that an ignition by fire, by friction, by concussion, by percussion, or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb. In addition, the term "explosives" shall include all material which is classified as Class A, Class B, and Class C explosives by the federal Department of Transportation: PROVIDED, That for the purposes of this chapter small arms ammunition, small arms ammunition

primers, smokeless powder not exceeding fifty pounds, and black powder not exceeding five pounds shall not be defined as explosives: PROVIDED, That such black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms. Classification of explosives shall include but not be limited to the following:

NOTE: Classification of explosives is described by the U.S. Department of Transportation as follows (see 49 CFR Chapter I):

- (a) Class A explosives: (Possessing detonating hazard) dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, black powder exceeding five pounds, blasting caps in quantities of 1001 or more, and detonating primers.
- (b) Class B explosives: (Possessing flammable hazard) propellant explosives, including smokeless propellants exceeding fifty pounds.
- (c) Class C explosives: (Including certain types of manufactured articles which contain Class A or Class B explosives, or both, as components but in restricted quantities) blasting caps in quantities of 1000 or less.

(18) "Explosive-actuated power devices" means any tool or special mechanized device which is actuated by explosives, but not to include propellant-actuated power devices.

(19) "Explosives manufacturing building" means any building or other structure (excepting magazines) containing explosives, in which the manufacture of explosives, or any processing involving explosives, is carried on, and any building where explosives are used as a component part or ingredient in the manufacture of any article or device.

(20) "Explosives manufacturing plant" means all lands, with the buildings situated thereon, used in connection with the manufacturing or processing of explosives or in which any process involving explosives is carried on, or the storage of explosives thereat, as well as any premises where explosives are used as a component part or ingredient in the manufacture of any article or device.

(21) "Factory building" means the same as "manufacturing building."

(22) "Forbidden or not acceptable explosives" means explosives which are forbidden or not acceptable for transportation by common carriers by rail freight, rail express, highway, or water in accordance with the regulations of the federal Department of Transportation.

(23) "Fuel" means a substance which may react with oxygen to produce combustion.

(24) "Fuse cap (fuse detonator)" means a detonator which is initiated by a safety fuse; also referred to as an ordinary blasting cap.

(25) "Fuse (safety)" means a flexible cord containing an internal burning medium by which fire or flame is conveyed at a continuous and uniform rate from the point of ignition to the point of use, usually a fuse detonator.

(26) "Handler" means any person/individual who handles explosives for purposes of transporting, moving, or assisting a licensed user (blaster) in loading, firing, blasting, or disposing of explosives and blasting agents. This does not include employees of a licensed manufacturer engaged in manufacturing process, drivers of common carriers or contract haulers.

(27) "Handloader" means any person who engages in the noncommercial assembling of small arms ammunition for his own use, specifically the operation of installing new primers, powder, and projectiles into cartridge cases.

(28) "Handloader components" means small arms ammunition, small arms ammunition primers, smoke-less powder not exceeding fifty pounds, and black powder as used in muzzle loading firearms not exceeding five pounds.

(29) "Highway" means any public street, public alley, or public road.

(30) "Inhabited building" means only a building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other building where people are accustomed to assemble, other than any building or structure occupied in connection with the manufacture, transportation, storage, or use of explosives.

The magazine for indoor storage is not required to be a cubic yard in size as long as it is constructed as stated in WAC 296-52-090(3).

The interpretation of an uninhabited building as defined by the "Bureau of Alcohol, Tobacco, and Firearms" Department of the Treasury, which is the federal regulatory agency of explosives, allows 50 pounds of high explosives or 5,000 caps in a warehouse, wholesale, or retail establishments. It also states: "No indoor facilities for storage of high explosive shall be located in a residence or dwelling."

We only allow 1,000 caps, which is computed to 1-1/2 pounds of explosives and is much less than the Bureau of Alcohol, Tobacco, and Firearms allows. Therefore, the department will allow indoor storage to include shops and maintenance buildings.

(31) "Magazine" means any building, structure or container, other than an explosive manufacturing building, approved for the storage of explosive materials.

(32) "Manufacturer" means any person engaged in the business of manufacturing explosive materials for purposes of sale, distribution, or use.

(33) "Motor vehicle" means any self-propelled automobile, truck, tractor, semi-trailer or full trailer, or other conveyance used for the transportation of freight.

(34) "Mudcap" means covering the required number of cartridges that have been laid on top of a boulder with a three or four inch layer of mud (free from rocks or other material which might constitute a missile hazard). Mudcapping is also commonly known as "bulldozing" and "dobyng."

(35) "Natural barricade" means any natural hill, mound, wall, or barrier composed of earth or rock or other solid material of a minimum thickness of not less than three feet.

(36) "Oxidizer" means a substance that yields oxygen readily to stimulate the combustion of organic matter or other fuel.

(37) "Permanent magazines" means magazines that are permanently fastened to a foundation and that are left unattended. The capacity of said permanent magazines shall not exceed the limits stated in RCW 70.74.040. Permanent magazines shall be approved and licensed.

(38) "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, and including any trustee, receiver, assignee, or personal representative thereof.

(39) "Person responsible," for an explosives magazine, means the legal person who actually operates the magazine and who is responsible for the proper storage, protection and removal of the explosives. The responsible person may be the owner or the lessee or the authorized operator of the magazine.

(40) "Portable magazines" also called "field" magazines means magazines that are designed to be unattended and that are not permanently fastened to a foundation. Said magazines shall be so constructed or secured that they can not be readily lifted and carried away by unauthorized persons. The capacity of said portable magazines shall be limited to the amount of explosives required for efficient operation. Portable magazines shall be approved and licensed.

(41) "Possess" means the physical possession of explosives in one's hand, vehicle, magazine or building.

(42) "Primer" means a unit, package, cartridge, or explosive used to initiate other explosives or blasting agents.

(43) "Propellant-actuated power device" means any tool or special mechanized device or gas generator system which is actuated by a propellant or which releases and directs work through a propellant charge.

(44) "Public conveyance" means any railroad car, streetcar, ferry, cab, bus, airplane, or other vehicle which is carrying passengers for hire.

(45) "Public utility transmission system" means power transmission lines over 751 volts, telephone cables, or microwave transmission systems, or buried or exposed pipelines carrying water, natural gas, petroleum, or crude oil, or refined products and chemicals, whose services are regulated by the utilities and transportation commission, municipal, or other publicly owned systems.

(46) "Purchaser" means any person who buys, accepts, or receives any explosives or blasting agents.

(47) "Pyrotechnics" means any combustible or explosive compositions or manufactured articles designed and prepared for the purpose of producing audible or visible effects which are commonly referred to as fireworks.

(48) "Railroad" means any steam, electric, or other railroad which carries passengers for hire.

(49) "Railroad freight car" means cars that are built for and loaded with explosives and operated in accordance with DOT rules.

(50) "Semiconductive hose" means a hose with an electrical resistance high enough to limit flow of stray electric currents to safe levels, yet not so high as to prevent drainage of static electric charges to ground; hose of not more than 2 megohms resistance over its entire length and of not less than 5,000 ohms per foot meets the requirement.

(51) "Shall" means that the rule establishes a minimum standard which is mandatory.

(52) "Small arms ammunition" means any shotgun, rifle, pistol, or revolver cartridge, and cartridges for propellant-actuated power devices and industrial guns. Military-type ammunition containing explosive bursting charges, incendiary, tracer, spotting, or pyrotechnic projectiles is excluded from this definition.

(53) "Small arms ammunition primers" means small percussion-sensitive explosive charges encased in a cap or capsule and used to ignite propellant powder and shall include percussion caps as used in muzzle loaders.

(54) "Smokeless propellants" means solid chemicals or solid chemical mixtures in excess of fifty pounds which function by rapid combustion.

(55) "Special industrial explosive devices" means explosive-actuated power devices and propellant-actuated power devices.

(56) "Special industrial explosives materials" means shaped materials and sheet forms and various other extrusions, pellets, and packages of high explosives, which include dynamite, trinitrotoluene (TNT), pentaerythritol tetranitrate (PETN), hexahydro-1, 3, 5-trinitro-s-triazine (RDX), and other similar compounds used for high-energy-rate forming, expanding, and shaping in metal fabrication, and for dismemberment and quick reduction of scrap metal.

(57) "Sprung holes" means to spring or chamber the bottom of the drilled hole to allow room for additional explosives as a bottom load.

(58) "Trailer" means semitrailers or full trailers as defined by DOT, that are built for and loaded with explosives and operated in accordance with DOT rules.

(59) "Unclassified explosives" means any two components which, when mixed become capable of detonation by a No. 6 test blasting cap.

(60) "User" means any natural person, manufacturer, or blaster who acquires, purchases, or uses explosives as an ultimate consumer or who supervises such use.

(61) "Water gels or slurry explosives" comprise a wide variety of materials used for blasting. They all contain substantial proportions of water and high proportions of ammonium nitrate, some of which is in solution in the water. Two broad classes of water gels are:

(a) Those which are sensitized by a material classed as an explosive, such as TNT or smokeless powder,

(b) Those which contain no ingredient classified as an explosive; these are sensitized with metals such as aluminum or with other fuels. Water gels may be premixed at an explosives plant or mixed at the site immediately before delivery into the bore hole.

(62) "DOT specification" are regulations of the Department of Transportation published in 49 CFR Chapter I.

NEW SECTION

WAC 296-52-421 LICENSES—INFORMATION VERIFICATION. Any information request by the department, in order to verify statements in an application or in order to facilitate a department inquiry, shall be supplied prior to the issuance or renewal of a license.

NEW SECTION

WAC 296-52-425 DEALER'S LICENSE. (RCW 70.74.130 and 70.74.230, apply.)

(1) The application for a dealer's license to buy explosives for the sole purpose of resale shall be made to Department of Labor and Industries, Division of Industrial Safety and Health, Olympia.

(2) The license shall be renewed annually, no later than the expiration date.

(3) When an order for explosives is placed in person, by telephone, or in writing by a purchaser, the seller shall request proper authorization and identification from the purchaser and shall record the purchaser's license number.

(4) A dealer shall not distribute explosive materials to a company or individual on the order of a person who does not appear on the up to date list of representatives or agents and if the person does appear on the list, the dealer shall verify the identity of such person.

(5)(a) A dealer's record of all explosives purchased and sold as defined in RCW 70.74.010, shall be kept on file and a copy transmitted not later than the tenth of every month to the department.

(b) The purchaser's name and license number shall be stated on dealer's record, and the name of the person authorized by the purchaser to physically receive the explosives.

(6) Any package, cask, or can containing any explosive, nitroglycerin, dynamite, or powder that is put up for sale, or is delivered to any warehouseman, dock, depot, or common carrier shall be properly labeled thereon to indicate its explosive classification.

(7) If the explosives are delivered by the dealer or dealer's authorized agent to an explosives magazine, the license number of said magazine and the legal signature of the recipient, properly authorized and identified, shall be obtained.

(8) No person shall sell, display, or expose for sale any explosive or blasting agent on any highway, street, sidewalk, public way, or public place.

NEW SECTION

WAC 296-52-429 LICENSE FOR MANUFACTURING. RCW 70.74.110, applies.

(1) The application for license for manufacturing explosives and/or blasting agents shall be made to Department of Labor and Industries, Division of Industrial Safety and Health, Olympia.

(2) The license shall be renewed annually, no later than the expiration date.

(3) A copy of the plan of the plant submitted with said application and approved by the department shall be kept in the plant open to inspection by the department.

(4) The manufacturing of explosives is covered by chapter 296-50 WAC.

NEW SECTION

WAC 296-52-433 PURCHASER'S LICENSE. RCW 70.74.135, applies.

(1) The application for a purchaser's license shall be made by a legal person, including public agencies, to Department of Labor and Industries, Division of Industrial Safety and Health, Olympia.

Application forms may be obtained at all department district offices, and from explosives dealers.

Purchaser will be required to verify they have a user (blaster) with a valid license, which will be confirmed and approved by the department.

The department will grant a purchaser's license after all legal requirements have been fulfilled.

The license is valid for one year from date of issuance.

(2) Purchaser shall, prior to ordering explosive materials, furnish the dealer a current list of the representatives or agents authorized to order explosive materials on their behalf showing the name, address, drivers license number or valid identification and date and place of birth. A copy of the list shall be submitted with the purchaser's application. The dealer and the department lists shall be updated as changes occur.

(3) The individual who physically receives the purchased explosives shall prove to the satisfaction of the dealer that he, personally, is the purchaser, or the person authorized by the purchaser to receive said purchased explosives. Such authorization procedure shall be approved by the department. Said receiver of explosives shall identify himself properly and shall sign the dealer's record with his legal signature.

NEW SECTION

WAC 296-52-437 USER'S (BLASTER'S) LICENSE. RCW 70.74.020, applies.

(1) The application for a user's (blaster's) license to use, blast or dispose explosives and blasting agents shall be made to Department of Labor and Industries, Division of Industrial Safety and Health, Olympia.

Application forms may be obtained at all department district offices, and from explosives dealers.

The license is valid for one year from date of issuance.

User (blaster) may be required to verify name of licensed purchaser, which will be confirmed and approved by the department.

(2) In addition to the submission of the application form, all new applicants, all applicants requesting change in classification of their license, and all applicants who have not renewed their user (blaster) license within sixty days of expiration will be required to submit a resume of successful blasting experience, properly witnessed, and to pass a written examination prepared and administered by the department.

(3) User (blaster) qualifications:

(a) A user (blaster) shall be able to understand and give written and oral orders.

(b) A user (blaster) shall be in good physical condition and not be addicted to narcotics, intoxicants, or similar types of drugs. This rule does not apply to persons taking prescription drugs and/or narcotics as

directed by a physician providing such use shall not endanger the worker or others.

(c) A user (blaster) shall be qualified by reason of training, knowledge, and experience, in the field of transporting, storing, handling, and use of explosives, and have a working knowledge of state and local laws and regulations which pertain to explosives.

(d) User (blaster) shall be required to furnish satisfactory evidence of competency in handling explosives and performing in a safe manner the type of blasting that will be required.

(e) The user (blaster) shall be knowledgeable and competent in the use of each type of blasting method used.

(4) The department will issue a user's license card which shall state the limitations imposed on the licensee and shall be presented by the user to authorized persons, upon request, together with valid personal identification.

(5) A "hand loader" as defined in RCW 70.74.010, does not require a user's license.

NEW SECTION

WAC 296-52-441 STORAGE MAGAZINE LICENSE. RCW 70.74.120, applies.

(1)(a) A separate application shall be made for each and every magazine.

(b) The application for a license to operate a permanent or portable storage magazine for explosives shall be made by the person responsible for the storage of the explosives, to the Department of Labor and Industries, Division of Industrial Safety and Health, Olympia.

(c) The exact location of the storage magazine shall be shown on the application, as well as, the kind and maximum quantity of explosives stored, and the distance to nearby structures and other magazines.

(2) A license fee shall be paid for one year, as shown in WAC 296-52-449. The fee will be collected or billed upon receipt of application.

(3) The said license shall be renewed annually, no later than the expiration date.

(4) A license number shall be permanently affixed on the inside and outside of each storage magazine. This license number will stay with each magazine during its life.

(5) The unlawful entry into an explosives magazine or an actual or suspected theft of explosives shall be reported immediately to the department and to the local law enforcement agency.

(6) If the magazine is used or leased by a person other than the owner, such other person shall then be responsible for the safe operation of the magazine, and for obtaining of the license.

When the responsibility for a magazine is transferred from one person to another, the transferor shall immediately notify the department, stating the magazine license number. The transferee shall execute a new application and pay the fee for one year, based on WAC 296-52-449.

(7) When a magazine is moved, altered or destroyed, the responsible person shall notify the department stating the magazine license number. When a magazine is altered, the alterations made shall be stated.

The moving of a magazine on a job site within a reasonable distance from its original location stated on the application is permitted without notifying the department; provided, that the new location complies with the Explosives Act and Explosives Code, and that the magazine can be quickly located for an inspection.

NEW SECTION

WAC 296-52-445 ANNUAL INSPECTION. RCW 70.74.150, applies.

The department of labor and industries shall make, or cause to be made, at least one inspection during every year, of each licensed explosives plant or magazine.

NEW SECTION

WAC 296-52-449 STORAGE MAGAZINE LICENSE FEES. RCW 70.74.140, applies.

The annual license fee for operating each magazine has been established by the department and shall be as shown in the following table:

Maximum Weight (pounds) of explosives permitted in each magazine	Maximum Number of blasting caps permitted in each magazine	Annual Fee (dollars) for each magazine
200	133,000	5.00
600	400,000	10.00
1,000	667,000	15.00
2,000	1,330,000	20.00
4,000	2,670,000	25.00
6,000	4,000,000	30.00
8,000	5,230,000	35.00
10,000	6,670,000	40.00
20,000	13,330,000	45.00
Max. 300,000	Max. 20,000,000	50.00

NEW SECTION

WAC 296-52-453 CONSTRUCTION OF MAGAZINES. (1) Construction of all explosive storage magazines must comply with Washington state and Bureau of Alcohol, Tobacco, and Firearms regulations.

(2) Construction of permanent storage facilities.

(a) General. A Class 1 storage facility shall be a permanent structure; a building, an igloo or army-type structure, a tunnel, or a dug-out. It shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and well ventilated.

(b) Buildings. All building type storage facilities shall be constructed of masonry, wood, metal, or a combination of these materials and shall have no openings except for entrances and ventilation. Ground around such storage facilities shall slope away for drainage.

(c) Masonry wall construction. Masonry wall construction shall consist of brick, concrete, tile, cement block, or cinder block and shall be not less than 6 inches in thickness. Hollow masonry units used in construction shall have all hollow spaces filled with well tamped coarse dry sand or weak concrete (a mixture of one part cement and eight parts of sand with enough water to dampen the mixture while tamping in place). Interior wall shall be covered with a nonsparking material.

(d) Fabricated metal wall construction. Metal wall construction shall consist of sectional sheets of steel or aluminum not less than number 14 gauge, securely fastened to a metal framework. Such metal wall construction shall be either lined inside with brick, solid cement blocks, hardwood not less than 4 inches in thickness or material of equivalent strength, or shall have at least a 6 inch sand fill between interior and exterior walls. Interior walls shall be constructed of or covered with a nonsparking material.

(e) Wood frame wall construction. The exterior of outer wood walls shall be covered with iron or aluminum not less than number 26 gauge. An inner wall of nonsparking materials shall be constructed so as to provide a space of not less than 6 inches between the outer and inner walls, which space shall be filled with coarse dry sand or weak concrete.

(f) Floors. Floors shall be constructed of a nonsparking material and shall be strong enough to bear the weight of the maximum quantity to be stored.

(g) Foundations. Foundations shall be constructed of brick, concrete, cement block, stone, or wood posts. If piers or posts are used, in lieu of a continuous foundation, the space under the buildings shall be enclosed with metal.

(h) Roof.

(i) Except for buildings with fabricated metal roofs, the outer roof shall be covered with no less than number 26-gauge iron or aluminum fastened to a 7/8-inch sheathing.

(ii) Where it is possible for a bullet to be fired directly through the roof and into the storage facility at such an angle that the bullet would strike a point below the top of inner walls, storage facilities shall be protected by one of the following methods:

(A) A sand tray shall be located at the tops of inner walls covering the entire ceiling area, except that necessary for ventilation, lined with a layer of building paper, and filled with not less than 4 inches of coarse dry sand.

(B) A fabricated metal roof shall be constructed of 3/16-inch plate steel lined with 4 inches of hardwood or material of equivalent strength (for each additional 1/16-inch of plate steel, the hardwood or material of equivalent strength lining may be decreased one inch).

(i) Doors. All doors shall be constructed of 1/4-inch plate steel and lined with 2 inches of hardwood or material of equivalent strength. Hinges and hasps shall be attached to the doors by welding, riveting or

bolting (nuts on inside of door). They shall be installed in such a manner that the hinges and hasps cannot be removed when the doors are closed and locked.

(j) Locks. Each door shall be equipped with two mortise locks; or with two padlocks fastened in separate hasps and staples; or with a combination of mortise lock and a padlock, or with a mortise lock that requires two keys to open; or a three-point lock. Padlocks shall have at least five tumblers and a case-hardened shackle of at least 3/8-inch diameter. Padlocks shall be protected with not less than 1/4-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(k) Ventilation. Except at doorways, a 2-inch air space shall be left around ceilings and the perimeter of floors. Foundation ventilators shall be not less than 4 by 6 inches. Vents in the foundation, roof, or gables shall be screened and offset.

(l) Exposed metal. No sparking metal construction shall be exposed below the top of walls in the interior of storage facilities, and all nails therein shall be blind-nailed, countersunk or nonsparking.

(m) Igloos, army-type structures, tunnels and dugouts. Storage facilities shall be constructed of reinforced concrete, masonry, metal or a combination of these materials. They shall have an earthmound covering of not less than 24 inches on the top, sides and rear unless the magazine meets the requirements of (h)(ii) of this subsection. Interior walls and floors shall be covered with a nonsparking material. Storage facilities of this type shall also be constructed in conformity with the requirements of subsection (1) (a), (b), (f), (i), (j), (k) and (l) of this section.

(3) Construction of portable (field) storage facilities.

(a) General. A Class 2 storage facility shall be a box, a trailer, a semitrailer or other mobile facility. It shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and well ventilated. Portable magazines shall be at least one cubic yard in size. They are to be supported to prevent direct contact with the ground. The ground around magazines shall slope away for drainage or other adequate drainage provided. When unattended, vehicular magazines shall have wheels removed or otherwise effectively immobilized by kingpin locking devices or other methods approved by the department.

(b) Construction. The exterior and doors shall be constructed of not less than 1/4-inch steel and lined with at least two inches of hardwood. Magazines with top openings shall have lids with water-resistant seals or shall overlap the sides by at least one inch when in a closed position.

(c) Hinges and hasps. Hinges and hasps shall be attached to doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps shall be installed so that they cannot be removed when the doors are closed and locked.

(d) Locks. Each door shall be equipped with two mortise locks; or with two padlocks fastened in separate hasps and staples; or with a combination of mortise lock and a padlock, or with a mortise lock that requires two keys to open; or a three-point lock. Padlocks shall have at least five tumblers and a case-hardened shackle of at least 3/8-inch diameter. Padlocks shall be protected with not less than 1/4-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(e) Ventilation. Except at doorways, a 2-inch air space shall be left around ceilings and the perimeter of floors. Foundation ventilators shall be not less than 4 by 6 inches. Vents in the foundation, roof, or gables shall be screened and offset.

(f) Exposed metal. No sparking metal construction shall be exposed below the top of walls in the interior of storage facilities and all nails therein shall be blind-nailed, countersunk, or nonsparking.

NOTE: The following alternatives may be used. (All steel and wood dimensions indicated are actual thicknesses. To meet the concrete block and brick dimensions indicated, the manufacturer's represented thicknesses may be used.)

(i) Exterior of 5/8-inch steel, lined with an interior of any type of nonsparking material.

(ii) Exterior of 1/2-inch steel, lined with an interior of not less than 3/8-inch plywood.

(iii) Exterior of 3/8-inch steel, lined with an interior of two inches of hardwood.

(iv) Exterior of 3/8-inch steel, lined with an interior of three inches of softwood or 2-1/4-inches of plywood.

(v) Exterior of 1/4-inch steel, lined with an interior of five inches of softwood or 5-1/4-inches of plywood.

(vi) Exterior of 3/16-inch steel, lined with an interior of four inches of hardwood.

(vii) Exterior of 3/16-inch steel, lined with an interior of seven inches of softwood or 6-3/4-inches of plywood.

(viii) Exterior of 3/16-inch steel, lined with an intermediate layer of three inches of hardwood and an interior lining of 3/4-inch plywood.

(ix) Exterior of 1/8-inch steel, lined with an interior of five inches of hardwood.

(x) Exterior of 1/8-inch steel, lined with an interior of nine inches of softwood.

(xi) Exterior of 1/8-inch steel, lined with an intermediate layer of four inches of hardwood and an interior lining of 3/4-inch plywood.

(xii) Exterior of any type of fire-resistant material which is structurally sound, lined with an intermediate layer of four inches solid concrete block or four inches solid brick or four inches of solid concrete, and an interior lining of 1/2-inch plywood placed securely against the masonry lining.

(xiii) Standard eight-inch concrete block with voids filled with well-tamped sand/cement mixture.

(xiv) Standard eight-inch solid brick.

(xv) Exterior of any type of fire-resistant material which is structurally sound, lined with an intermediate six-inch space filled with well-tamped dry sand or well-tamped sand/cement mixture.

(xvi) Exterior of 1/8-inch steel, lined with a first intermediate layer of 3/4-inch plywood, a second intermediate layer of 3-5/8-inches well-tamped dry sand or sand/cement mixture and an interior lining of 3/4-inch plywood.

(xvii) Exterior of any type of fire-resistant material, lined with a first intermediate layer of 3/4-inch plywood, a second intermediate layer of 3-5/8-inch well-tamped dry sand or sand/cement mixture, a third intermediate layer of 3/4-inch plywood, and a fourth intermediate layer of two inches of hardwood or 14-gauge steel and an interior lining of 3/4-inch plywood.

(xviii) Eight-inch thick solid concrete.

(4) Construction of detonator (blasting cap) indoor storage facilities.

(a) General. Class 3 storage facility for detonators (blasting caps) in quantities of 1,000 or less shall be fire-resistant and theft-resistant. They need not be bullet-resistant and weather-resistant if the locked uninhabited building in which they are stored provide protection from the weather and from bullet penetration.

(b) Construction. Sides, bottoms and covers shall be constructed of not less than number 12-gauge metal and lined with a nonsparking material.

(c) Hinges and hasps shall be attached so they cannot be removed from the outside.

(d) Locks. One steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least 3/8-inch diameter is sufficient for locking purposes.

(5) Construction of blasting agent, low explosive or electric blasting cap storage facilities.

(a) General. A Class 4 storage facility may be a building, an igloo, or army-type structure, a tunnel, a dugout, a box, a trailer, or a semitrailer or other mobile facility. They shall be fire-resistant, weather-resistant and theft-resistant. The ground around such storage facilities shall slope away for drainage. When unattended, vehicular storage facilities shall have wheels removed or otherwise effectively immobilized by kingpin locking devices or other methods approved by the department.

NOTE: As a result of tests with electric blasting caps, it has been determined that these blasting caps are not subject to sympathetic detonation. Therefore, a Class 4 storage facility meets the necessary requirements for storage of electric blasting caps.

(b) Construction. These magazines shall be constructed of masonry, metal-covered wood, fabricated metal, or a combination of these materials. Foundations are to be constructed of brick, concrete, cement block, stone, or metal or wood posts. If piers or posts are used, in lieu of a continuous foundation, the space under the building shall be enclosed with fire-resistant material. The walls and floors are to be constructed of, or covered with, a nonsparking material or lattice work. The doors shall be metal or solid wood covered with metal.

(c) Hinges and hasps. Hinges and hasps shall be attached to doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps shall be installed so that they cannot be removed when the doors are closed and locked.

(d) Locks. Each door shall be equipped with two mortise locks; or with two padlocks fastened in separate hasps and staples; or with a combination of mortise lock and a padlock, or with a mortise lock that requires two keys to open; or a three-point lock. Padlocks shall have at least five tumblers and a case-hardened shackle of at least 3/8-inch diameter. Padlocks shall be protected with not less than 1/4-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps and staples. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(6) Construction of blasting agent storage facilities.

(a) General. A Class 5 storage facility may be a building, igloo or army-type structure, tunnel, dugout, bin, box, trailer, or a semitrailer or other mobile facility. They shall be weather-resistant and theft-resistant. The ground around such storage facilities shall slope away for drainage. When unattended, vehicular storage facilities shall have wheels removed or otherwise effectively immobilized by kingpin locking devices or other methods approved by the department.

(b) Construction. The doors shall be constructed of solid wood or metal.

(c) Hinges and hasps. Hinges and hasps shall be attached to doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps shall be installed so that they cannot be removed when the doors are closed and locked.

(d) Locks. Each door shall be equipped with two mortise locks; or with two padlocks fastened in separate hasps and staples; or with a combination of mortise lock and a padlock, or with a mortise lock that requires two keys to open; or a three-point lock. Padlocks shall have at least five tumblers and a case-hardened shackle of at least 3/8-inch diameter. Padlocks shall be protected with not less than 1/4-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples.

NOTE: Trailers, semitrailers, and similar vehicular magazines may, for each door, be locked with one steel padlock (which need not be protected by a steel hood) having at least 3/8-inch diameter, if the door hinges and lock hasp are securely fastened to the magazine and to the door frame. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(7) Construction of day box storage facilities for explosives.

(a) General. A temporary storage facility shall be a day box. It must be fire-resistant, weather-resistant and theft-resistant. The ground around such storage facilities shall slope away for drainage.

(b) Construction. A day box shall be constructed of not less than number 12-gauge (.1046 inches) steel, lined with at least either 1/2-inch plywood or 1/2-inch Masonite-type hardboard. Doors shall overlap sides by at least one inch.

(c) Hinges and hasps. Hinges and hasps are to be attached by welding, riveting or bolting (nuts on inside).

(d) Locks. One steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least 3/8-inch diameter is sufficient for locking purposes.

(e) Unattended storage. No explosive materials shall be left in a day box if unattended. The explosive materials contained therein shall be removed to licensed storage facilities for unattended storage.

(8) Construction of day box storage facilities for detonators (blasting caps).

(a) General. Temporary storage facilities for blasting caps in quantities of 100 or less.

(b) Construction. Sides, bottoms and covers shall be constructed of number 12-gauge metal and lined with a nonsparking material.

(c) Hinges and hasps shall be attached thereto by welding.

(d) Locks. A single five-tumbler proof lock shall be sufficient for locking purposes.

(e) No explosive materials shall be left in such facilities if unattended. The explosive materials contained therein shall be removed to licensed storage facilities for unattended storage.

(9) Magazine heating systems requirements, NFPA Code No. 495, "Manufacture, Transportation, Storage and Use of Explosive Materials, 1973." The following will apply:

(a) Magazines requiring heat shall be heated by either hot water radiant heating within the magazine building; or air directed into the magazine building over either hot water or low pressure steam (15 psig) coils located outside the magazine building.

(b) The magazine heating systems shall meet the following requirements:

(i) The radiant heating coils within the building shall be installed in such a manner that the explosive materials or their containers cannot contact the coils and air is free to circulate between the coils and the explosive materials or their containers.

(ii) The heating ducts shall be installed in such a manner that the hot air discharge from the duct is not directed against the explosive materials or their containers.

(iii) The heating device used in connection with a magazine shall have controls which prevent the ambient building temperature from exceeding 130°F.

(iv) The electric fan or pump used in the heating system for a magazine shall be mounted outside and separate from the wall of the magazine and shall be grounded.

(v) The electric fan motor and the controls for electrical heating devices used in heating water or steam shall have overloads and disconnects, which comply with the National Electrical Code, (National Fire Protection Association, NFPA No. 70-1984). All electrical switch gear shall be located a minimum distance of 25 feet from the magazine.

(vi) The heating source for water or steam shall be separated from the magazine by a distance of not less than 25 feet when electrical and 50 feet when fuel-fired. The area between the heating unit and the magazine shall be cleared of all combustible materials.

(vii) The storage of explosive materials and their containers in the magazine shall allow uniform air circulation so temperature uniformity can be maintained throughout the explosive materials.

(10) Lighting.

(a) Battery-activated safety lights or battery-activated safety lanterns may be used in explosives storage magazines.

(b) Electric lighting used in any explosives storage magazine shall meet the standards prescribed by the "National Electrical Code," (National Fire Protection Association, NFPA 70-84), for the conditions present in the magazine at any time. All electrical switches shall be located outside of the magazine and also meet the standards prescribed by the National Electrical Code.

NEW SECTION

WAC 296-52-457 STORAGE OF CAPS WITH OTHER EXPLOSIVES PROHIBITED. No blasting caps, or other detonating or fulminating caps, or detonators, or flame-producing devices shall be kept or stored in any magazine in which other explosives are kept or stored.

NEW SECTION

WAC 296-52-461 STORAGE OF EXPLOSIVES. (1) General. All Class A, Class B, Class C explosives, and special industrial explosives, and any newly developed and unclassified explosives, shall be kept in magazines which meet the requirements as defined in chapter 70.74 RCW and chapter 296-52 WAC, unless they are in the process of manufacture, being physically handled in the operating process, being used or being transported to a place of storage or use. No explosives and no detonators (blasting caps) in quantities of 1,001 or more shall be stored in any building or structure except a Class 1, permanent, magazine that has been approved and licensed.

Note 1: Separate storage of components capable of detonation when mixed. Any two components which, when mixed, become capable of detonation by a number 6 cap must be stored in separate locked containers or in a licensed, approved magazine.

Note 2: Electromagnetic radiation. Blasting operations or storage of electrical detonators shall be prohibited in vicinity of operating radio frequency (RF) transmitter stations except where the clearances, as referenced in WAC 296-52-493(g), can be observed.

Note 3: Blasting caps, electric blasting caps, detonating primers and primed cartridges shall not be stored in the same magazine with other explosives.

(2) Quantity restrictions. Explosive materials in excess of 300,000 pounds or blasting caps in excess of 20,000,000 shall not be stored in one storage magazine.

(3) Inventory and responsibility.

(a) Magazines shall be in the charge of a competent person at all times who shall be at least twenty-one years of age, and who shall be held responsible for the enforcement of all safety precautions.

(b) All explosives shall be accounted for at all times. Explosives not being used shall be kept in a locked magazine, unavailable to persons not authorized to handle them. The employer shall maintain an inventory and use record of all explosives.

(c) Appropriate authorities shall be notified of any loss, theft, or unauthorized entry into a magazine.

(4) Surrounding area.

(a) Smoking, matches, open flames, spark-producing devices, and firearms (except firearms carried by guards) shall not be permitted inside of or within 50 feet of magazines.

(b) The land surrounding a magazine shall be kept clear of all combustible materials, brush, dried grass, leaves and other materials for a distance of at least 25 feet.

(c) Combustible materials shall not be stored within 50 feet of magazines.

(5) Signs. The premises on which a magazine is located shall be conspicuously marked with signs containing the words "EXPLOSIVES - KEEP OFF" in letters at least three inches high. Such signs shall warn any person approaching the magazine of the presence of explosives, but shall be so located that a bullet passing directly through the face of the sign will not strike the magazine.

(6) Temporary storage at a site for blasting operations shall be located away from neighboring inhabited buildings, railways, highways, and other magazines. A distance of at least one hundred and fifty feet shall be maintained between magazines and the work in progress when the quantity of explosives kept therein is in excess of 25 pounds, and at least 50 feet when the quantity of explosives is 25 pounds or less.

(7) Explosives recovered from blasting misfires shall be placed in a separate magazine until competent personnel has determined from the manufacturer the method of disposal. Caps recovered from blasting misfires shall not be reused. Such explosives and caps shall then be disposed of in the manner recommended by the manufacturer.

(8) Storage within magazines.

(a) Packages of explosives shall be laid flat with top side up. Black powder when stored in magazines with other explosives shall be stored separately. Black powder stored in kegs shall be stored on ends, bungs down, or on side, seams down. Corresponding grades and brands shall be stored together in such a manner that brands and grade marks show. All stocks shall be stored so as to be easily counted and checked. Packages of explosives shall be piled in a stable manner. When any kind of explosive is removed from a magazine for use, the oldest explosive of that particular kind shall always be taken first.

(b) Tools used for opening packages of explosives shall be constructed of nonsparking materials, except that nonsparking metallic slitters may be used for opening fiberboard boxes. A wood wedge and a fiber, rubber, or wood mallet shall be used for opening or closing wood packages of explosives. Opened packages of explosives shall be securely closed before being returned to a magazine.

(c) Magazines shall not be used for the storage of any metal tools nor any commodity except explosives, but this restriction shall not apply to the storage of blasting agents and blasting supplies.

(d) Magazine floors shall be regularly swept, kept clean, dry, free of grit, paper, empty used packages, and rubbish. Brooms and other cleaning utensils shall not have any spark-producing metal parts. Sweepings from floors of magazines shall be properly disposed of. Magazine floors stained with nitroglycerin shall be cleaned according to instructions by the manufacturer.

(e) When any explosive has deteriorated to an extent that it is in an unstable or dangerous condition, or if nitroglycerin leaks from any explosives, then the person in possession of such explosive shall immediately proceed to destroy such explosive in accordance with the instructions of the manufacturer. Only experienced persons shall be allowed to do the work of destroying explosives.

(f) When magazines need inside repairs, all explosives shall be removed therefrom and the floors cleaned. In making outside repairs, if there is a possibility of causing sparks or fire the explosives shall be removed from the magazine. Explosives removed from a magazine under repair shall either be placed in another magazine or placed a safe distance from the magazine where they shall be properly guarded and

protected until repairs have been completed, when they shall be returned to the magazine.

(9) Underground storage.

(a) Explosives and related materials shall be stored in approved facilities required under the provisions of chapter 296-52 WAC.

(b) No explosives or blasting agents shall be permanently stored in any underground operation until the operation has been developed to the point where at least two modes of exit have been developed.

(c) Permanent underground storage magazines shall be at least 300 feet from any shaft, adit, or active underground working area.

(d) Permanent underground magazines containing detonators shall not be located closer than 50 feet to any magazine containing other explosives or blasting agents.

(e) Upon the approach of an electrical storm, unless a greater hazard would be created thereby, explosives at the adit or the top of any shaft leading to where persons are working shall be moved away from such location a distance equal to that required for inhabited buildings, as listed in the American table of distances for storage of explosive materials.

(10) All explosive manufacturing buildings and magazines in which explosives or blasting agents, except small arms ammunition and smokeless powder are had, kept, or stored, must be located at distances from inhabited buildings, railroads, highways, and public utility transmission systems in conformity with the following quantity and distance tables, and these tables shall be the basis on which applications for license for storage shall be made and license for storage issued, as provided in RCW 70.74.110 and 70.74.120. All distances prescribed in the following quantity and distance tables are unbarricaded, and, if there is an efficient artificial barricade or natural barricade between the explosives manufacturing building or magazine and another explosives manufacturing building or magazine, building, railroad, highway, or public utility transmission system, the distance prescribed in the following quantity and distance tables may be reduced by one-half. Blasting and electric blasting caps in strength through number 8 should be rated as one and one-half pounds of explosives per one thousand caps. Blasting and electric blasting caps of strength higher than number 8 should be computed on the combined weight of explosives.

(11) When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways, and highways, and in addition, they should be separated from each other by not less than the distances shown for "separation of magazines", except that the quantity of explosives contained in cap magazines shall govern in regard to the spacing of said cap magazines from magazines containing other explosives. If any two or more magazines are separated from each other by less than the specified "separation of magazines" distances, then such two or more magazines, as a group, must be considered as one magazine, and the total quantity of explosives stored in such group must be treated as if stored in a single magazine located on the site of any magazine of the group, and must comply with the minimum of distances specified from other magazines, inhabited buildings, railways and highways.

NEW SECTION

WAC 296-52-465 STORAGE OF AMMONIUM NITRATE.

(1) Scope and definitions.

(a) Except as provided in (d) of this subsection applies to the storage of ammonium nitrate in the form of crystals, flakes, grains, or prills including fertilizer grade, dynamite grade, nitrous oxide grade, technical grade, and other mixtures containing 60 percent or more ammonium nitrate by weight but does not apply to blasting.

(b) This section does not apply to the transportation of ammonium nitrate.

(c) This section does not apply to storage under the jurisdiction of and in compliance with the regulations of the United States Coast Guard (see 46 CFR Parts 146-149).

(d) The storage of ammonium nitrate and ammonium nitrate mixtures that are more sensitive than allowed by the "definition of test procedures for ammonium nitrate fertilizer" is prohibited.

(e) Nothing in this section shall apply to the production of ammonium nitrate or to the storage of ammonium nitrate on the premises of the producing plant, provided that no distinct undue hazard to the public is created.

(f) The definition and test procedures for ammonium nitrate fertilizer are those found in the bulletin, "Definition and test procedures for ammonium nitrate fertilizer," available from the National Plant Food

Institute, 1700 K Street N.W., Washington, D.C. 20006. This definition limits the contents of organic materials, metals, sulfur, etc., in a product that may be classified ammonium nitrate fertilizer.

(g) The standards for ammonium nitrate (nitrous oxide grade) are those found in the "specifications, properties, and recommendations for packaging, transportation, storage, and use of ammonium nitrate," available from the Compressed Gas Association, Inc., 500 Fifth Avenue, New York, NY 10036.

(2) General provisions.

(a) This subsection applies to all persons storing, having, or keeping ammonium nitrate, and to the owner or lessee of any building, premises, or structure in which ammonium nitrate is stored in quantities of 1,000 pounds or more.

(b) Approval of large quantity storage shall be subject to due consideration of the fire and explosion hazards, including exposure to toxic vapors from burning or decomposing ammonium nitrate.

(c) Storage buildings shall not have basements unless the basements are open on at least one side. Storage buildings shall not be over one story in height.

(d) Storage buildings shall have adequate ventilation or be of a construction that will be self-ventilating in the event of fire.

(e) The wall on the exposed side of a storage building within 50 feet of a combustible building, forest, piles of combustible materials and similar exposure hazards shall be of fire-resistive construction. In lieu of the fire-resistive wall, other suitable means of exposure protection such as a free standing wall may be used. The roof coverings shall be Class C or better, as defined in Roof Coverings, NFPA 203M-1970.

(f) All flooring in storage and handling areas, shall be of noncombustible material or protected against impregnation by ammonium nitrate and shall be without open drains, traps, tunnels, pits, or pockets into which any molten ammonium nitrate could flow and be confined in the event of fire.

(g) The continued use of an existing storage building or structure not in strict conformity with this section may be approved in cases where such continued use will not constitute a hazard to life or adjoining property.

(h) Buildings and structures shall be dry and free from water seepage through the roof, walls, and floors.

(3) Storage of ammonium nitrate in bags, drums, or other containers.

(a) Bags and containers used for ammonium nitrate must comply with specifications and standards required for use in interstate commerce (see 49 CFR Chapter I).

(b) Containers used on the premises in the actual manufacturing or processing need not comply with provisions of (a) of this subsection.

(c) Containers of ammonium nitrate shall not be accepted for storage when the temperature of the ammonium nitrate exceeds 130°F.

(d) Bags of ammonium nitrate shall not be stored within 30 inches of the storage building walls and partitions.

(e) The height of piles shall not exceed 20 feet. The width of piles shall not exceed 20 feet and the length 50 feet except that where the building is of noncombustible construction or is protected by automatic sprinklers the length of piles shall not be limited. In no case shall the ammonium nitrate be stacked closer than 36 inches below the roof or supporting and spreader beams overhead.

(f) Aisles shall be provided to separate piles by a clear space of not less than 3 feet in width. At least one service or main aisle in the storage area shall be not less than 4 feet in width.

(4) Storage of bulk ammonium nitrate.

(a) Warehouses shall have adequate ventilation or be capable of adequate ventilation in case of fire.

(b) Unless constructed of noncombustible material or unless adequate facilities for fighting a roof fire are available, bulk storage structures shall not exceed a height of 40 feet.

(c) Bins shall be clean and free of materials which may contaminate ammonium nitrate.

(d) Due to the corrosive and reactive properties of ammonium nitrate, and to avoid contamination, galvanized iron, copper, lead, and zinc shall not be used in a bin construction unless suitably protected. Aluminum bins and wooden bins protected against impregnation by ammonium nitrate are permissible. The partitions dividing the ammonium nitrate storage from other products which would contaminate the ammonium nitrate shall be of tight construction.

(e) The ammonium nitrate storage bins or piles shall be clearly identified by signs reading "ammonium nitrate" with letters at least 2 inches high.

(f) Piles or bins shall be so sized and arranged that all material in the pile is moved out periodically in order to minimize possible caking of the stored ammonium nitrate.

(g) Height or depth of piles shall be limited by the pressure-setting tendency of the product. However, in no case shall the ammonium nitrate be piled higher at any point than 36 inches below the roof or supporting and spreader beams overhead.

(h) Ammonium nitrate shall not be accepted for storage when the temperature of the product exceeds 130°F.

(i) Dynamite, other explosives, and blasting agents shall not be used to break up or loosen caked ammonium nitrate.

(5) Contaminants.

(a) Ammonium nitrate shall be in a separate building or shall be separated by approved type firewalls of not less than 1 hour fire-resistance rating from storage or organic chemicals, acids, or other corrosive materials, materials that may require blasting during processing or handling, compressed flammable gases, flammable and combustible materials or other contaminating substances, including but not limited to animal fats, baled cotton, baled rags, baled scrap paper, bleaching powder, burlap or cotton bags, caustic soda, coal, coke, charcoal, cork, camphor, excelsior, fibers of any kind, fish oils, fish meal, foam rubber, hay, lubricating oil, linseed oil, or other oxidizable or drying oils, naphthalene, oakum, oiled clothing, oiled paper, oiled textiles, paint, straw, sawdust, wood shavings, or vegetable oils. Walls referred to in this subsection need extend only to the underside of the roof.

(b) In lieu of separation walls, ammonium nitrate may be separated from the materials referred to in (a) of this subsection by a space of at least 30 feet.

(c) Flammable liquids such as gasoline, kerosene, solvents, and light fuel oils shall not be stored on the premises except when such storage conforms to WAC 296-24-330, and when walls and sills or curbs are provided in accordance with (a) or (b) of this subsection.

(d) LP-Gas shall not be stored on the premises except when such storage conforms to WAC 296-24-475.

(e) Sulfur and finely divided metals shall not be stored in the same building with ammonium nitrate except when such storage conforms to chapter 296-52 WAC.

(f) Explosives and blasting agents shall not be stored in the same building with ammonium nitrate except on the premises of makers, distributors, and user-compounders of explosives or blasting agents.

(g) Where explosives or blasting agents are stored in separate buildings, other than on the premises of makers, distributors, and user-compounders of explosives or blasting agents, they shall be separated from the ammonium nitrate by the distances and/or barricades specified in Table H-22 of WAC 296-52-481, but by not less than 50 feet.

(h) Storage and/or operations on the premises of makers, distributors, and user-compounders of explosives or blasting agents shall be in conformity with chapter 296-52 WAC.

(6) General precautions.

(a) Electrical installations shall conform to the requirements of chapter 296-46 WAC for ordinary locations. They shall be designed to minimize damage from corrosion.

(b) In areas where lightning storms are prevalent, lightning protection shall be provided. (See the Lightning Protection Code, NFPA 78-1968.)

(c) Provisions shall be made to prevent unauthorized personnel from entering the ammonium nitrate storage area.

(7) Fire protection.

(a) Not more than 2,500 (2270 metric) tons of bagged ammonium nitrate shall be stored in a building or structure not equipped with an automatic sprinkler system. Sprinkler systems shall be of the approved type and installed in accordance with WAC 296-24-607.

(b) Suitable fire control devices such as small hose or portable fire extinguishers shall be provided throughout the warehouse and in the loading and unloading areas. Suitable fire control devices shall comply with the requirements of WAC 296-24-592 and 296-24-602.

(c) Water supplies and fire hydrants shall be available in accordance with recognized good practices.

NEW SECTION

WAC 296-52-469 STORAGE OF BLASTING AGENTS AND SUPPLIES. (1) Blasting agents or ammonium nitrate, when stored in conjunction with explosives, shall be stored in the manner set forth in WAC 296-52-453 (2)(a) for explosives. The mass of blasting agents and one-half the mass of ammonium nitrate shall be included when computing the total quality of explosives for determining distance requirements.

(2) Blasting agents, when stored entirely separate from explosives, may be stored in the manner set forth in WAC 296-52-453 (5) and (6) or in one-story warehouses (without basements) which shall be:

- (a) Noncombustible or fire resistive;
- (b) Constructed so as to eliminate open floor drains and piping into which molten materials could flow and be confined in case of fire;
- (c) Weather resistant;
- (d) Well ventilated; and
- (e) Equipped with a strong door kept securely locked except when open for business.

(3) Semitrailer or full-trailer vans used for highway or on-site transportation of the blasting agents are satisfactory for temporarily storing these materials, provided they are located in accordance with Table H-21 with respect to inhabited buildings, passenger railways, and public highways and according to Table H-22 with respect to one another. Trailers shall be provided with substantial means for locking, and the trailer doors shall be kept locked, except during the time of placement and removal of stocks of blasting agents.

(4) Warehouses used for the storage of blasting agents shall be located in accordance with the provisions of Table H-21 with respect to inhabited buildings, passenger railways, and public highways, and according to Table H-22 with respect to one another.

(5) If both blasting agents and ammonium nitrate are handled or stored within the distance limitations prescribed in Table H-21, one-half the mass of the ammonium nitrate shall be added to the mass of the blasting agent when computing the total quantity of explosives for determining the proper distance.

(6) Smoking, matches, open flames, spark producing devices, and firearms are prohibited inside of or within 50 feet of any warehouse used for the storage of blasting agents. Combustible materials shall not be stored within 50 feet of warehouses used for the storage of blasting agents.

(7) The interior of warehouses used for the storage of blasting agents shall be kept clean and free from debris and empty containers. Spilled materials shall be cleaned up promptly and safely removed. Combustible materials, flammable liquids, corrosive acids, chlorates, or nitrates shall not be stored in any warehouse used for blasting agents unless separated therefrom by a fire resistive separation of not less than one hour resistance. The provisions of this subsection shall not prohibit the storage of blasting agents together with nonexplosive blasting supplies.

(8) Piles of ammonium nitrate and warehouses containing ammonium nitrate shall be adequately separated from readily combustible fuels.

(9) Caked oxidizers, either in bags or in bulk, shall not be loosened by blasting.

(10) Every warehouse used for the storage of blasting agents shall be under the supervision of a competent person who shall be not less than twenty-one years of age.

NEW SECTION

WAC 296-52-473 QUANTITY AND DISTANCE TABLES FOR STORAGE.

**TABLE H-21
AMERICAN TABLE OF DISTANCES FOR
STORAGE OF EXPLOSIVES**

If there is an efficient artificial or natural barricade between magazine and building, railroad, highway or public utility transmission system, the distance in the following table may be reduced by one-half. Reference WAC 296-52-461(10)

Column 1 Quantity that may be had, kept or stored		Column 2 Distance From Nearest Inhabited Building	Column 3 Distance From Nearest Railroad	Column 4 Distance From Nearest Highway & Pub. Util. Trans. System
Pounds over	Pounds not over	Feet	Feet	Feet
2	5	140	60	60
5	10	180	70	70
10	20	220	90	90

Column 1 Quantity that may be had, kept or stored		Column 2 Distance From Nearest Inhabited Building	Column 3 Distance From Nearest Railroad	Column 4 Distance From Nearest Highway & Pub. Util. Trans. System
Pounds over	Pounds not over	Feet	Feet	Feet
20	30	250	100	100
30	40	280	110	110
40	50	300	120	120
50	75	340	140	140
75	100	380	150	150
100	125	400	160	160
125	150	430	170	170
150	200	470	190	190
200	250	510	210	210
250	300	540	220	220
300	400	590	240	240
400	500	640	260	260
500	600	680	270	270
600	700	710	290	290
700	800	750	300	300
800	900	780	310	310
900	1,000	800	320	320
1,000	1,200	850	340	330
1,200	1,400	900	360	340
1,400	1,600	940	380	350
1,600	1,800	980	390	360
1,800	2,000	1,010	410	370
2,000	2,500	1,090	440	380
2,500	3,000	1,160	470	390
3,000	4,000	1,270	510	420
4,000	5,000	1,370	550	450
5,000	6,000	1,460	590	470
6,000	7,000	1,540	620	490
7,000	8,000	1,600	640	500
8,000	9,000	1,670	670	510
9,000	10,000	1,730	690	520
10,000	12,000	1,750	740	540
12,000	14,000	1,770	780	550
14,000	16,000	1,800	810	560
16,000	18,000	1,880	840	570
18,000	20,000	1,950	870	580
20,000	25,000	2,110	940	630
25,000	30,000	2,260	1,000	680
30,000	35,000	2,410	1,050	720
35,000	40,000	2,550	1,100	760
40,000	45,000	2,680	1,140	800
45,000	50,000	2,800	1,180	840
50,000	55,000	2,920	1,220	880
55,000	60,000	3,030	1,260	910
60,000	65,000	3,130	1,290	940
65,000	70,000	3,220	1,320	970
70,000	75,000	3,310	1,350	1,000
75,000	80,000	3,390	1,380	1,020
80,000	85,000	3,460	1,410	1,040
85,000	90,000	3,520	1,440	1,060
90,000	95,000	3,580	1,460	1,080
95,000	100,000	3,630	1,490	1,090
100,000	110,000	3,670	1,540	1,100
110,000	120,000	3,710	1,580	1,110
120,000	130,000	3,750	1,620	1,120
130,000	140,000	3,780	1,670	1,130
140,000	150,000	3,800	1,700	1,140
150,000	160,000	3,870	1,740	1,160
160,000	170,000	3,930	1,780	1,180
170,000	180,000	3,980	1,810	1,200
180,000	190,000	4,020	1,840	1,210
190,000	200,000	4,060	1,870	1,220
200,000	210,000	4,110	1,910	1,240
210,000	230,000	4,200	1,960	1,270
230,000	250,000	4,310	2,020	1,300
250,000	275,000	4,430	2,080	1,340
275,000	300,000	4,550	2,150	1,380

NEW SECTION

WAC 296-52-477 QUANTITY AND DISTANCE TABLE FOR SEPARATION BETWEEN MAGAZINES. Magazines containing blasting caps and electric blasting caps shall be separated from

other magazines containing like contents, or from magazines containing explosives by distances based on the following:

- (1) Blasting caps in strengths through number 8 should be rated at one and one-half pounds of explosive per one thousand caps;
- (2) For strengths higher than number 8, use the total combined weight of explosives;
- (3) For quantity and distance purposes, detonating cord of 50 or 60 grains shall be calculated as equivalent to 9 pounds of high explosives per 1,000 feet. Heavier or lighter core loads should be rated proportionately.
- (4) Magazines in which explosives are kept and stored shall be detached from other structures and separated from other magazines in conformity with the quantity and distance table set forth below:

TABLE H-21
QUANTITY AND DISTANCE TABLE FOR SEPARATION BETWEEN
MAGAZINES CONTAINING EXPLOSIVES

Pounds Over	Pounds Not Over	Separation Distance in Feet Between Magazines	
		Not Barricaded	Barricaded
2	5	12	6
5	10	16	8
10	20	20	10
20	30	22	11
30	40	24	12
40	50	28	14
50	75	30	15
75	100	32	16
100	125	36	18
125	150	38	19
150	200	42	21
200	250	46	23
250	300	48	24
300	400	54	27
400	500	58	29
500	600	62	31
600	700	64	32
700	800	66	33
800	900	70	35
900	1,000	72	36
1,000	1,200	78	39
1,200	1,400	82	41
1,400	1,600	86	43
1,600	1,800	88	44
1,800	2,000	90	45
2,000	2,500	98	49
2,500	3,000	104	52
3,000	4,000	116	58
4,000	5,000	122	61
5,000	6,000	130	65
6,000	7,000	136	68
7,000	8,000	144	72
8,000	9,000	150	75
9,000	10,000	156	78
10,000	12,000	164	82
12,000	14,000	174	87
14,000	16,000	180	90
16,000	18,000	188	94
18,000	20,000	196	98
20,000	25,000	210	105
25,000	30,000	224	112
30,000	35,000	238	119
35,000	40,000	248	124
40,000	45,000	258	129
45,000	50,000	270	135
50,000	55,000	280	140
55,000	60,000	290	145
60,000	65,000	300	150
65,000	70,000	310	155
70,000	75,000	320	160
75,000	80,000	330	165
80,000	85,000	340	170
85,000	90,000	350	175
90,000	95,000	360	180
95,000	100,000	370	185
100,000	110,000	380	195
110,000	120,000	410	205
120,000	130,000	430	215
130,000	140,000	450	225
140,000	150,000	470	235
150,000	160,000	490	245
160,000	170,000	510	255

Pounds Over	Pounds Not Over	Separation Distance in Feet Between Magazines	
		Not Barricaded	Barricaded
170,000	180,000	530	265
180,000	190,000	550	275
190,000	200,000	570	285
200,000	210,000	590	295
210,000	230,000	630	315
230,000	250,000	670	335
250,000	275,000	720	360
275,000	300,000	770	385

- Note 1. "Natural barricade" means natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the magazine when the trees are bare of leaves.
- Note 2. "Artificial barricade" means an artificial mound or revetted wall of earth of a minimum thickness of 3 feet.
- Note 3. "Barricaded" means that a building containing explosives is effectually screened from a magazine, building, railway, or highway, either by a natural barricade, or by an artificial barricade of such height that a straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine, or building, or to a point 12 feet above the center of a railway or highway, will pass through such intervening natural or artificial barricade.
- Note 4. This table applies only to the manufacture and permanent storage of commercial explosives. It is not applicable to transportation of explosives, or any handling or temporary storage necessary or incident thereto. It is not intended to apply to bombs, projectiles, or other heavily encased explosives.

(4) WAC 296-52-461(1) does not apply to:

- (a) Stocks of small arms ammunition, propellant-actuated power cartridges, small arms ammunition primers in quantities of less than 750,000, smokeless propellants in quantities of less than 150 pounds or black powder, as used in muzzle loading firearms, in quantities of less than 25 pounds;
- (b) Explosive-actuated power devices when in quantities less than 50 pounds net weight of explosives;
- (c) Fuse lighters and fuse igniters;
- (d) Safety fuses other than cordeau detonant fuses.

NEW SECTION

WAC 296-52-481 BLASTING AGENTS.

TABLE H-22
TABLE OF RECOMMENDED SEPARATION DISTANCES OF AMMONIUM
NITRATE AND BLASTING AGENTS FROM EXPLOSIVES OR BLASTING
AGENTS^{1 6}

Donor weight		Minimum separation distance of receptor when barricaded* (ft.)		Minimum thickness of artificial barricades ⁵ (in.)
Pounds over	Pounds not over	Ammonium nitrate ⁴	Blasting agent ⁴	
100	100	3	11	12
300	300	4	14	12
600	600	5	18	12
1,000	1,000	6	22	12
1,600	1,600	7	25	12
2,000	2,000	8	29	12
3,000	3,000	9	32	15
4,000	4,000	10	36	15
6,000	6,000	11	40	15
8,000	8,000	12	43	20
10,000	10,000	13	47	20
12,000	12,000	14	50	20
16,000	16,000	15	54	25
20,000	20,000	16	58	25
25,000	25,000	18	65	25
30,000	30,000	19	68	30
35,000	35,000	20	72	30

Donor weight		Minimum separation distance of receptor when barricaded ² (ft.)		Minimum thickness of artificial barricades ⁵ (in.)
Pounds over	Pounds not over	Ammonium nitrate ³	Blasting agent ⁴	
35,000	40,000	21	76	30
40,000	45,000	22	79	35
45,000	50,000	23	83	35
50,000	55,000	24	86	35
55,000	60,000	25	90	35
60,000	70,000	26	94	40
70,000	80,000	28	101	40
80,000	90,000	30	108	40
90,000	100,000	32	115	40
100,000	120,000	34	122	50
120,000	140,000	37	133	50
140,000	160,000	40	144	50
160,000	180,000	44	158	50
180,000	200,000	48	173	50
200,000	220,000	52	187	60
220,000	250,000	56	202	60
250,000	275,000	60	216	60
275,000	300,000	64	230	60

Notes to table of recommended separation distances of ammonium nitrate and blasting agents from explosives or blasting agents:

- Note 1. These distances apply to the separation of stores only. Table H-21 shall be used in determining separation distances from inhabited buildings, passenger railways, and public highways.
- Note 2. When the ammonium nitrate and/or blasting agent is not barricaded, the distances shown in the table shall be multiplied by six. These distances allow for the possibility of high velocity metal fragments from mixers, hoppers, truck bodies, sheet metal structures, metal containers, and the like which may enclose the "donor." Where storage is in bullet-resistant magazines recommended for explosives or where the storage is protected by a bullet-resistant wall, distances, and barricade thicknesses in excess of those prescribed in Table H-21 are not required.
- Note 3. The distances in the table apply to ammonium nitrate that passes the insensitivity test prescribed in the definition of ammonium nitrate fertilizer promulgated by the National Plant Food Institute*; and ammonium nitrate failing to pass said test shall be stored at separation distances determined by competent persons. (*Definition and Test Procedures for Ammonium Nitrate Fertilizer, National Plant Food Institute, November 1964.)
- Note 4. These distances apply to nitro-carbo-nitrates and blasting agents which pass the insensitivity test prescribed in the United States Department of Transportation (DOT) regulations.
- Note 5. Earth, or sand dikes, or enclosures filled with the prescribed minimum thickness of earth or sand are acceptable artificial barricades. Natural barricades, such as hills or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the "donor" when the trees are bare of leaves, are also acceptable.
- Note 6. When the ammonium nitrate must be counted in determining the distances to be maintained from inhabited buildings, passenger railways and public highways, it may be counted at one-half its actual weight because its blast effect is lower.
- Note 7. Guide to use of table of recommended separation distances of ammonium nitrate and blasting agents from explosives or blasting agents.

- (a) Sketch location of all potential donor and acceptor materials together with the maximum mass of material to be allowed in that vicinity. (Potential donors are high explosives, blasting agents, and combination of masses of detonating materials. Potential acceptors are high explosives, blasting agents, and ammonium nitrate.)
- (b) Consider separately each donor mass in combination with each acceptor mass. If the masses are closer than table allowance (distances measured between nearest edges), the combination of masses becomes a new potential donor of weight equal to the total mass. When individual masses are considered as donors, distances to potential acceptors shall be measured between edges. When combined masses within propagating distance of each other are considered as a donor, the appropriate distance to the edge of potential acceptors shall be computed as a weighted distance from the combined masses:

- (i) Calculation of weighted distance from combined masses:

Let $M_2, M_3 \dots M_n$ be donor masses to be combined.

M_1 is a potential acceptor mass.

D_{12} is distance from M_1 to M_2 (edge to edge).

D_{13} is distance from M_1 to M_3 (edge to edge), etc.

To find weighted distance $[D_{1(2,3 \dots n)}]$ from combined masses to M_1 , add the products of the individual masses and distances and divide the total by the sum of the masses thus:

$$D_{1(2,3 \dots n)} = \frac{M_2 \times D_{12} + M_3 \times D_{13} \dots + M_n \times D_{1n}}{M_2 + M_3 \dots + M_n}$$

Propagation is possible if either an individual donor mass is less than the tabulated distance from an acceptor or a combined mass is less than the weighted distance from an acceptor.

- (c) In determining the distances separating highways, railroads, and inhabited buildings from potential explosions (as prescribed in Table H-21), the sum of all masses which may propagate (i.e., lie at distances less than prescribed in the Table) from either individual or combined donor masses are included. However, when the ammonium nitrate must be included, only 50 percent of its weight shall be used because of its reduced blast effects. In applying Table H-21 to distances from highways, railroads, and inhabited buildings, distances are measured from the nearest edge of potentially explodable material as prescribed in Table H-21, Note 5.
- (d) When all or part of a potential acceptor comprises Explosives Class A as defined in DOT regulations, storage in bullet-resistant magazines is required. Safe distances to stores in bullet-resistant magazines may be obtained from the intermagazine distances prescribed in Table H-21.
- (e) Barricades must not have line-of-sight openings between potential donors and acceptors which permit blast or missiles to move directly between masses.
- (f) Good housekeeping practices shall be maintained around any bin containing ammonium nitrate or blasting agent. This includes keeping weeds and other combustible materials cleared within 25 feet of such bins. Accumulation of spilled product on the ground shall be prevented.

NEW SECTION

WAC 296-52-485 QUANTITY AND DISTANCE TABLES FOR MANUFACTURING BUILDINGS. All explosives manufacturing buildings shall be located one from the other and from other buildings on explosives manufacturing plants in which persons are regularly employed, and all magazines shall be located from factory buildings and buildings on explosives plants in which persons are regularly employed, in conformity with the intraexplosives plant quantity and distance table below.

TABLE H-23

EXPLOSIVES		Distance Feet
Pounds Over	Pounds Not Over	
		Separate Building or Within Substantial Dividing Walls
.....	10	
10	25	40
25	50	60
50	100	80
100	200	100
200	300	120
300	400	130
400	500	140
500	750	160
750	1,000	180
1,000	1,500	210
1,500	2,000	230
2,000	3,000	260
3,000	4,000	280
4,000	5,000	300
5,000	6,000	320
6,000	7,000	340
7,000	8,000	360
8,000	9,000	380
9,000	10,000	400
10,000	12,500	420
12,500	15,000	450
15,000	17,500	470
17,500	20,000	490
20,000	25,000	530
25,000	30,000	560
30,000	35,000	590
35,000	40,000	620
40,000	45,000	640
45,000	50,000	660
50,000	55,000	680
55,000	60,000	700
60,000	65,000	720
65,000	70,000	740
70,000	75,000	770
75,000	80,000	780
80,000	85,000	790
85,000	90,000	800
90,000	95,000	820
95,000	100,000	830
100,000	125,000	900
125,000	150,000	950
150,000	175,000	1,000
175,000	200,000	1,050
200,000	225,000	1,100
225,000	250,000	1,150
250,000	275,000	1,200
275,000	300,000	1,250

NEW SECTION

WAC 296-52-489 TRANSPORTATION. (1) The transportation of explosives by vehicle on public highways shall be administered by the United States Department of Transportation, CFR 49-1978, Parts 100 through 199, and the Washington state patrol under RCW 46.48.170. The following sections cover the transportation of explosives on the job site.

(a) No employee shall be allowed to smoke, carry matches or any other flame-producing device, or carry any firearms or loaded cartridges while in or near a motor vehicle transporting explosives; or drive, load, or unload such vehicle in a careless or reckless manner.

(b) Explosives shall not be carried on any vehicle while vehicle is being used to transport workers other than driver and two persons.

(c) Explosives shall be transferred from the disabled vehicle to another, only when proper and qualified supervision is provided.

(2) Transportation vehicles. Vehicles used for transporting explosives shall be strong enough to carry the load without difficulty and be in good mechanical condition. If vehicles do not have a closed body, the body shall be covered with a flameproof and moisture-proof tarpaulin or other effective protection against moisture and sparks. All vehicles used for the transportation of explosives shall have tight floors and any exposed spark-producing metal on the inside of the body shall

be covered with wood or other nonsparking materials to prevent contact with packages of explosives. Packages of explosives shall not be loaded above the sides of an open-body vehicle.

(3) Vehicles shall be placarded and displayed as specified by the United States Department of Transportation, CFR 49-1981, Parts 100 through 199.

(4) (a) Each motor vehicle used for transporting explosives shall be equipped with a minimum of two extinguishers, each having a rating of at least 10-BC.

(i) Only extinguishers listed or approved by Underwriters Laboratories, Inc., or the Factor Mutual Engineering Corp. shall be deemed suitable for use on explosives-carrying vehicles.

(ii) Extinguishers shall be filled and ready for immediate use and readily available. Extinguishers shall be examined periodically by a competent person.

(b) A motor vehicle used for transporting explosives shall be given the following inspection to determine that it is in proper condition for safe transportation of explosives:

(i) Fire extinguishers shall be filled and in working order.

(ii) All electrical wiring shall be completely protected and securely fastened to prevent short-circuiting.

(iii) Chassis, motor, pan, and underside of body shall be reasonably clean and free of excess oil and grease.

(iv) Fuel tank and feedline shall be secure and have no leaks.

(v) Brakes, lights, horn, windshield wipers, and steering apparatus shall function properly.

(vi) Tires shall be checked for proper inflation and defects.

(vii) The vehicle shall be in proper condition in every other respect and acceptable for handling explosives.

(5) Operation of transportation vehicles.

(a) Vehicles transporting explosives shall only be driven by and be in the charge of a licensed driver who is not less than twenty-one years of age, physically fit, careful, capable, reliable, able to read and write the English language, and not addicted to the use, or under the influence of intoxicants, narcotics, or other dangerous drugs. This rule does not apply to persons taking prescription drugs and/or narcotics as directed by a physician providing such use shall not endanger the worker or others. They shall be familiar with the traffic regulations, state laws, and the provisions of this section.

(b) Except under emergency conditions, no vehicle transporting explosives shall be parked before reaching its destination, even though attended.

(c) Every motor vehicle transporting any quantity of Class A or Class B explosives shall, at all times, be attended by a driver or other attendant of the motor carrier. This attendant shall have been made aware of the class of the explosive material in the vehicle and of its inherent dangers, and shall have been instructed in the measures and procedures to be followed in order to protect the public from those dangers. He shall have been made familiar with the vehicle he is assigned, and shall be trained, supplied with the necessary means, and authorized to move the vehicle when required.

(i) For the purpose of this subdivision, a motor vehicle shall be deemed "attended" only when the driver or other attendant is physically on or in the vehicle, or has the vehicle within his field of vision and can reach it quickly and without any kind of interference; "attended" also means that the driver or attendant is awake, alert, and not engaged in other duties or activities which may divert his attention from the vehicle.

(ii) However, an explosive-laden vehicle may be left unattended if parked within a securely fenced or walled area properly barricaded with all gates or entrances locked where parking of such vehicle is otherwise permissible, or at a magazine site established solely for the purpose of storing explosives.

(d) No spark-producing metal, spark-producing tools, oils, matches, firearms, electric storage batteries, flammable substances, acids, oxidizing materials, or corrosive compounds shall be carried in the body of any motor truck and/or vehicle transporting explosives, unless the loading of such dangerous articles and the explosives comply with U.S. Department of Transportation regulations.

(e) Vehicles transporting explosives shall avoid congested areas and heavy traffic.

(f) Delivery shall only be made to authorized persons and into authorized magazines of authorized temporary storage or handling area.

(6) Transporting of explosives and blasting caps or electric blasting caps in the same vehicle. Blasting caps, blasting caps with safety fuse, blasting caps with metal clad mild detonating fuse and/or electric

blasting caps may be transported in the same vehicle with other explosives, provided the following condition is complied with:

The top, lid or door, sides and bottom of each container must be of laminate construction consisting of A/C grade or better exterior plywood, solid hardwood, asbestos board or sheetrock and sheet metal. In order of arrangement, from inside to outside, the laminate must consist of the following with the minimum thickness of each lamination as indicated: 1/4-inch plywood, 1-inch solid hardwood, 1/2-inch plywood, 1/2-inch sheetrock or 1/4-inch asbestos board, and 22-gauge sheet metal constructed inside to outside in that order.

(7) When primers are made up at a central primer house for use in high speed tunneling, the following shall apply:

- (a) Only enough primers shall be made up for one day's usage.
- (b) The primers shall be placed in separate containers or bins, categorized by degree of delay in such a manner so as to prevent them from physical impact.
- (c) Explosives carried in the same magazine shall be separated by 1/4-inch steel, covered on each side by four inches of hardwood planking, or equivalent.
- (d) Only a state approved powder car or vehicle shall be used underground.

(e) The number of primers for one round will be removed from the state approved car or vehicle at the face or heading after the drilling has been completed and the holes readied for loading. After loading the charge, the powder car or vehicle will be withdrawn from the tunnel.

(f) Wires on electric caps shall be kept shunted until wired to the bus wires.

(g) The powder car or vehicle shall be inspected daily for lights, brakes and external damage to electrical circuitry. The electrical system shall be checked weekly to detect any failures that may constitute an electrical hazard and a written record of such inspection shall be kept on file for the duration of the job.

(8) When explosives are carried to the blasting site from the main storage magazines by the blaster or helper:

- (a) Special insulated containers shall be used for this purpose, either boxes or bags, one container for explosives and one for detonators.
- (b) Detonators or explosives shall never be carried in pockets of clothing.

NEW SECTION

WAC 296-52-493 USE OF EXPLOSIVES AND BLASTING AGENTS. (1) General provisions.

(a) While explosives are being handled or used, smoking, matches, or any other source of fire or flame shall not be allowed within 100 feet of the blast site. No person shall be allowed to handle explosives while under the influence of intoxicating liquors, narcotics, or other dangerous drugs. This rule does not apply to persons taking prescription drugs and/or narcotics as directed by a physician providing such use shall not endanger the worker or others.

(b) Original containers or day box magazines shall be used for taking detonators and other explosives from storage magazines to the blast site.

(c) When blasting is done in congested areas or in close proximity to a structure, railway, or highway or any other installation that may be damaged, the blast shall be covered before firing with a mat or material that is capable of preventing fragments from being thrown.

(d) Persons authorized to prepare explosive charges or conduct blasting operations shall use every reasonable precaution, including but not limited to warning signals, flags and barricades.

(e) Blasting operations shall be conducted during daylight hours whenever possible.

(f) Whenever blasting is being conducted in the vicinity of gas, electric, water, fire alarm, telephone, telegraph, and steam utilities, the user (blaster) shall notify the appropriate representatives of such utilities at least twenty-four hours in advance of blasting, specifying the location and intended item of such blasting. Verbal notice shall be confirmed with written notice.

(g) Due precautions shall be taken to prevent accidental discharge of electric blasting caps from current induced by radar, radio transmitters, lightning, adjacent powerlines, dust storms, or other sources of extraneous electricity. These precautions shall include:

- (i) The suspension of all blasting operations and removal of persons from the blast site during the approach and progress of an electric storm.
- (ii) The posting of signs, warning against the use of mobile radio transmitters, on all roads shall be in accordance with the applicable

provisions of the American National Standards Institute D6.1-1971, Manual on Uniform Traffic Control Devices for Streets and Highways, as amended by Washington State Department of Highways Manual M24-01 (HT), (February 22, 1972).

(iii) Ensuring that mobile radio transmitters which are less than 100 feet away from electric blasting caps, when the caps are in other than original containers, shall be deenergized and effectively locked.

(iv) Compliance with the recommendations of The Institute of the Makers of Explosives (IME) with regard to blasting in the vicinity of radio transmitters as stipulated in Radio Frequency Energy—A Potential Hazard in the Use of Electric Blasting Caps, IME Publication No. 20, September 1981.

(v) When electric blasting caps are being used in blasting operations in the proximity of fixed radio transmitters, the following table of distances must be observed, unless it is determined by designated test procedures that there is not sufficient radio frequency energy present to create a hazard. The test procedure shall be to attach a No. 47 radio pilot lamp in place of the cap in the blasting circuit progressively as the circuit is connected, starting with the initial hole. In the event the lamp glows, the length of the wires connecting the circuit shall be altered by adding or cutting off wire until the lamp does not glow. A radio frequency field strength meter may be used in lieu of the test lamp.

Electromagnetic radiation. Blasting operations or storage of electrical detonators shall be prohibited in vicinity of operating radio frequency (RF) transmitter stations except where the clearances given below can be observed.

Transmitter Power Except FM Mobile (Watts)	Minimum Distance (Feet)
5 - 25	100
25 - 50	150
50 - 100	220
100 - 250	350
250 - 500	450
500 - 1,000	650
1,000 - 2,500	1,000
2,500 - 5,000	1,500
5,000 - 10,000	2,200
10,000 - 25,000	3,500
25,000 - 50,000	5,000
50,000 - 100,000	7,000

Transmitter Power FM Mobile (Watts)	Minimum Distance (Feet)
1 - 10	5
10 - 30	10
30 - 60	15
60 - 250	30

(vi) When necessary to perform blasting operations at distances less than those shown in table, detonating type fuse or other approved type systems shall be used.

(h) No fire shall be fought where the fire is in imminent danger of contact with explosives. All employees shall be removed to a safe area and the fire area guarded against intruders.

(i) Electric detonators shall be shunted until wired into the blasting circuit.

(j) Explosives shall not be handled near open flames, uncontrolled sparks or open electric circuits.

(k) Delivery and issue of explosives shall only be made by and to authorized persons and into authorized magazines or approved temporary storage or handling area.

(l) All loading and firing shall be directed and supervised by licensed persons thoroughly experienced in this field.

(m) The employer shall permit only persons having proof of valid safety explosive training to handle explosives at the blasting site.

(2) Storage at use sites.

(a) Empty boxes and paper and fiber packing materials which have previously contained high explosives shall not be used again for any purpose, but shall be destroyed by burning at an approved isolated location out of doors, and no person shall be nearer than 100 feet after the burning has started.

(b) When opening kegs or wooden cases, no sparking metal tools shall be used; wooden wedges and either wood, fiber or rubber mallets shall be used. Nonsparking metallic slitters may be used for opening fiberboard cases.

(c) Should cartridges or packages of explosives show signs of discoloration or deterioration, the manufacturer or the department shall be notified. Such explosives must be carefully set aside and properly disposed of.

(3) Loading of explosives or blasting agents.

(a) Procedures that permit safe and efficient loading shall be established before loading is started.

(b) All drill holes shall be sufficiently large to admit freely the insertion of the cartridges of explosives.

(c) Tamping shall be done only with wood rods or with approved plastic tamping poles without exposed metal parts, but nonsparking metal connectors may be used for jointed poles. Violent tamping shall be avoided. The primer shall never be tamped.

(d) No holes shall be loaded except those to be fired in the next round of blasting. After loading, all remaining explosives and detonators shall be immediately returned to an authorized magazine.

(e) Drilling shall not be started until all remaining butts of old holes are examined for unexploded charges, and if any are found, they shall be refired before work proceeds.

(f) When a charge of explosives has been exploded in a bore hole to enlarge or "spring" it, an interval of at least two hours must be allowed to pass before an additional charge of explosives can be loaded into the hole.

NOTE: There may be an exception made to this rule provided the sprung hole is thoroughly wet down with water before it is loaded.

(g) No person shall be allowed to deepen drill holes which have contained explosives or blasting agents.

(h) No explosives or blasting agents shall be left unattended unless stored in a licensed magazine.

(i) Users (blasters) shall not load, store or use explosives closer than the length of the steel being used for drilling and in no event nearer than fifty feet of drilling operations.

(j) Machines and all tools not used for loading explosives into bore holes shall be removed from the immediate location of holes being loaded with explosives. Equipment shall not be operated within 50 feet of loaded holes except when equipment is needed to add burden, mats or tracking of drills out of the loading area.

(k) Powerlines and portable electric cables for equipment being used shall be kept a safe distance from explosives or blasting agents being loaded into drill holes. Cables in the proximity of the blast area shall be deenergized and locked out.

(l) Holes shall not be drilled where there is danger of intersecting a charged or misfired hole.

(m) No explosives for underground operations other than those in Fume Class 1, as set forth by the Institute of Makers of Explosives, shall be used; however, explosives complying with the requirements of Fume Class 2 and Fume Class 3 may be used if adequate ventilation has been provided.

(n) Warning signs, indicating a blast area, shall be maintained at all approaches to the blast area. The warning sign lettering shall not be less than 4 inches in height on a contrasting background. All loaded stumps must be marked for identification on logging sites.

(o) A bore hole shall never be sprung when it is adjacent to or near a hole which has been loaded. Batteries shall not be used for springing holes.

(p) No loaded holes shall be left unattended.

(q) The user (blaster) shall keep an accurate, up-to-date record of explosives, blasting agents, and blasting supplies used in a blast and shall keep an accurate running inventory of all explosives and blasting agents stored on the operation.

(r) When loading blasting agents pneumatically over electric blasting caps, semiconductive delivery hose shall be used and the equipment shall be bonded and grounded.

(4) Initiation of explosive charges - electric blasting.

(a) Only electric blasting caps shall be used for blasting operations in congested districts, or on highways, or adjacent to highways open to traffic, except where sources of extraneous electricity make such use dangerous. Blasting cap leg wires shall be kept short-circuited (shunted) until they are connected into the circuit for firing.

(b) Before adopting any system of electrical firing, the user (blaster) shall conduct a thorough survey for extraneous currents, and all dangerous currents shall be eliminated before any holes are loaded.

(c) In any single blast using electric blasting caps, all caps shall be of the same style or function and be of the same manufacture.

(d) Electric blasting shall be carried out by using blasting circuits or power circuits in accordance with the electric blasting cap manufacturer's recommendations.

(e) The firing line shall be checked with an approved testing device at the terminals before being connected to the blasting machine or other power source.

(f) The circuit including all caps shall be tested with an approved testing device before being connected to the firing line.

(g) When firing a circuit of electric blasting caps, care shall be exercised to ensure that an adequate quantity of delivered current is available, in accordance with the manufacturer's recommendations.

(h) Connecting wires and lead wires shall be insulated single solid wires of sufficient current-carrying capacity, and shall not be less than twenty gauge (American wire gauge) solid core insulated wire.

(i) Firing line or leading wires shall be solid single wires of sufficient current-carrying capacity, and shall be not less than fourteen gauge (American wire gauge) solid core insulated wire. Bus wires - depends on the size of the blast, fourteen gauge (American wire gauge) copper is recommended.

(j) The ends of lead wires which are to be connected to a firing device shall be shorted by twisting them together or otherwise connecting them before they are connected to the leg wires or connecting wires, and they shall be kept in the possession of the person who is doing the loading until loading is completed and the leg wires attached. Lead wires shall not be attached to the firing device until the blaster is ready to fire the shot and must be attached by the user (blaster) themselves.

(k) The ends of the leg wires on electric detonators shall be shorted in a similar manner and not separated until all holes are loaded and the loader is ready to connect the leg wires to the connecting wires or lead wires.

(l) When firing electrically, the insulation on all firing lines shall be adequate and in good condition.

(m) A power circuit used for firing electric blasting caps shall not be grounded.

(n) In underground operations when firing from a power circuit, a safety switch shall be placed at intervals in the permanent firing line. This switch shall be made so it can be locked only in the "off" position and shall be provided with a short-circuiting arrangement of the firing lines to the cap circuit.

(o) In underground operations there shall be a "lightning" gap of at least 5 feet in the firing system ahead of the main firing switch; that is, between this switch and the source of power. This gap shall be bridged by a flexible jumper cord just before firing the blast.

(p) When firing from a power circuit, the firing switch shall be locked in the open or "off" position at all times, except when firing. It shall be so designed that the firing lines to the cap circuit are automatically short-circuited when the switch is in the "off" position. Keys to this switch shall be entrusted only to the user (blaster).

(q) Blasting machines shall be in good condition and the efficiency of the machine shall be tested periodically to make certain that it can deliver power at its rated capacity.

(r) When firing with blasting machines, the connections shall be made as recommended by the manufacturer of the electric blasting caps used.

(s) The number of electric blasting caps connected to a blasting machine shall not be in excess of its rated capacity. Furthermore, in primary blasting, a series circuit shall contain no more caps than the limits recommended by the manufacturer of the electric blasting caps in use.

(t) The user (blaster) shall be in charge of the blasting machines, and no other person shall connect the leading wires to the machine.

(u) Users (blasters), when testing circuits to charged holes, shall use only blasting testers especially designed for this purpose.

(v) Whenever the possibility exists that a leading line or blasting wire might be thrown over a live powerline by the force of an explosion, care shall be taken to see that the total length of wires are kept too short to hit the lines, or that the wires are securely anchored to the ground. If neither of these requirements can be satisfied, a nonelectric system shall be used.

(w) In electrical firing, only the person making leading wire connections shall fire the shot. All connections shall be made from the

bore hole back to the source of firing current, and the leading wires shall remain shorted and not be connected to the blasting machine or other source of current until the charge is to be fired.

(x) After firing an electric blast from a blasting machine, the leading wires shall be immediately disconnected from the machine and short-circuited.

(y) When electric blasting caps have been used, workers shall not return to misfired holes for at least thirty minutes.

(5) Use of safety fuse.

(a) A fuse that is deteriorated or damaged in any way shall not be used.

(b) The hanging of fuse on nails or other projections which will cause a sharp bend to be formed in the fuse is prohibited.

(c) Before capping safety fuse, a short length shall be cut from the end of the supply reel so as to assure a fresh cut end in each blasting cap.

(d) Only a cap crimper of approved design shall be used for attaching blasting caps to safety fuse. Crimpers shall be kept in good repair and accessible for use.

(e) No unused cap or short capped fuse shall be placed in any hole to be blasted; such unused detonators shall be removed from the working place and disposed of or stored in licensed magazine.

(f) No fuse shall be capped, or primers made up, in any magazine or near any possible source of ignition.

(g) Capping of fuse and making of primers shall only be done in a place selected for this purpose and at least one hundred feet distant from any storage magazine.

(h) Fuse must be cut long enough to reach beyond the collar of the bore hole and in no case less than three feet. When shooting choker holes, not less than three feet of fuse shall be used.

(i) At least two persons shall be present when multiple cap and fuse blasting is done by hand lighting methods.

(j) Not more than 12 fuses shall be lighted by each blaster when hand lighting devices are used. However, when two or more safety fuses in a group are lighted as one by means of igniter cord, or other similar fuse-lighting devices, they may be considered as one fuse.

(k) The so-called "drop fuse" method of dropping or pushing a primer or any explosive with a lighted fuse attached is prohibited.

(l) Cap and fuse shall not be used for firing mudcap charges unless charges are separated sufficiently to prevent one charge from dislodging other shots in the blast.

(m) When blasting with safety fuses, consideration shall be given to the length and burning rate of the fuse. Sufficient time, with a margin of safety, shall always be provided for the blaster to reach a place of safety.

(n) The burning rate of the safety fuse in use at any time shall be measured, posted in conspicuous locations, and brought to the attention of all workers concerned with blasting. No fuse shall be used that burns faster than one foot in forty seconds or slower than one foot in fifty-five seconds.

(o) For use in wet places the joint between the cap and fuse shall be waterproofed with a compound prepared for this purpose.

(p) In making up primers only nonsparking skewers shall be used for punching the hole in the cartridge to insert the capped fuse.

(q) Only sufficient primers for one day's use shall be made up at one time. They shall be stored in a box type magazine in which no other explosives are stored.

(r) Any loose cartridges of explosives, detonators, primers and capped fuse unused at the end of the shift shall be returned to their respective magazines and locked up.

(6) Use of detonating cord.

(a) Care shall be taken to select a detonating cord consistent with the type and physical condition of the bore hole and stemming and the type of explosives used.

(b) Detonating cord shall be handled and used with the same respect and care given other explosives.

(c) For quantity and distance purposes detonating fuse up to 60 grains per foot should be calculated as equivalent to 9 lbs. of high explosives per 1,000 feet. Heavier cord loads should be rated proportionately.

(d) If using a detonating type cord for blasting the double-trunkline or loop systems shall be used.

(e) Trunk lines in multiple-row blasts shall make one or more complete loops, with crossties between loops at intervals of not over two hundred feet.

(f) All detonating cord knots shall be tight and all connections shall be kept at right angles to the trunk lines.

(g) The line of detonating cord extending out of a bore hole or from a charge shall be cut from the supply spool before loading the remainder of the bore hole or placing additional charges.

(h) Detonating cord shall be handled and used with care to avoid damaging or severing the cord during and after loading and hooking-up.

(i) Detonating cord connections shall be competent and positive in accordance with approved and recommended methods. Knot-type or other cord-to-cord connections shall be made only with detonating cord in which the explosive core is dry.

(j) All detonating cord trunklines and branchlines shall be free of loops, sharp kinks, or angles that direct the cord back toward the oncoming line of detonation.

(k) All detonating cord connections shall be inspected before firing the blast.

(l) When detonating cord millisecond-delay connectors or short-interval-delay electric blasting caps are used with detonating cord, the practice shall conform strictly to the manufacturer's recommendations.

(m) When connecting a blasting cap or an electric blasting cap to detonating cord, the cap shall be taped or otherwise attached securely along the side or the end of the detonating cord, with the end of the cap containing the explosive charge pointed in the direction in which the detonation is to proceed.

(n) Detonators for firing the trunkline shall not be brought to the loading area nor attached to the detonating cord until everything else is in readiness for the blast.

(7) Firing the blast.

(a) A code of blasting signals equivalent to Table T-1 shall be posted on one or more conspicuous places at the operation, and all employees shall be required to familiarize themselves with the code and conform to it. Danger signs shall be placed at suitable locations.

(b) All charges shall be covered with blasting mats before firing, where blasting may cause injury or damage by flying rock or debris.

(c) Before a blast is fired, a loud warning signal shall be given by the blaster in charge, who has made certain that all surplus explosives are in a safe place and all employees, vehicles, and equipment are at a safe distance, or under sufficient cover.

(d) Flagmen shall be safely stationed on highways which pass through the danger zone so as to stop traffic during blasting operations.

(e) It shall be the duty of the blaster to fix the time of blasting.

(f) Before firing an underground blast, warning shall be given, and all possible entries into the blasting area, and any entrances to any working place where a drift, raise, or other opening is about to hole through, shall be carefully guarded. The blaster shall make sure that all employees are out of the blast area before firing a blast.

TABLE T-1

WARNING SIGNAL	— A 1-minute series of long blasts 5 minutes prior to blast signal.
BLAST SIGNAL	— A series of short blasts 1 minute prior to the shot.
ALL CLEAR SIGNAL	— A prolonged blast following the inspection of blast area.

(8) Inspection after blasting.

(a) Immediately after the blast has been fired, the firing line shall be disconnected from the blasting machine, or where power switches are used, they shall be locked open or in the off position.

(b) Sufficient time shall be allowed, not less than fifteen minutes in tunnels, for the smoke and fumes to leave the blasted area before returning to the shot. An inspection of the area and the surrounding rubble shall be made by the user (blaster) to determine if all charges have been exploded before employees are allowed to return to the operation, and in tunnels, after the muck pile has been wetted down.

(9) Misfires.

(a) If a misfire is found, the user (blaster) shall provide proper safeguards for excluding all employees from the danger zone.

(b) No other work shall be done except that necessary to remove the hazard of the misfire and only those employees necessary to do the work shall remain in the danger zone.

(c) No attempt shall be made to extract explosives from any charged or misfired hole; a new primer shall be put in and the hole re-blasted. If re-firing of the misfired hole presents a hazard, the explosives may be removed by washing out with water or, where the misfire is under water, blown out with air.

(d) If there are any misfires while using cap and fuse, all employees shall remain away from the charge for at least one hour. Misfires shall be handled under the direction of the person in charge of the blasting.

(e) When electric blasting caps have been used, workers shall not return to misfired holes for at least thirty minutes. All wires shall be carefully traced and a search made for unexploded charges.

(f) If explosives are suspected of burning in a hole, all persons in the endangered area shall move to a safe location and no one shall return to the hole until the danger has passed, but in no case within one hour.

(g) No drilling, digging, or picking shall be permitted until all missed holes have been detonated or the authorized representative has approved that work can proceed.

(10) Underwater blasting.

(a) A user (blaster) shall conduct all blasting operations.

(b) Loading tubes and casings of dissimilar metals shall not be used because of possible electric transient currents from galvanic action of the metals and water.

(c) Only water-resistant blasting caps and detonating cords shall be used for all underwater blasting. Loading shall be done through a non-sparking metal loading tube when tube is necessary.

(d) No blast shall be fired while any vessel under way is closer than 1,500 feet to the blasting area. Those on board vessels or craft moored or anchored within 1,500 feet shall be notified before a blast is fired.

(e) No blast shall be fired while any swimming or diving operations are in progress in the vicinity of the blasting area. If such operations are in progress, signals and arrangements shall be agreed upon to assure that no blast shall be fired while any persons are in the water.

(f) Blasting flags shall be displayed.

(g) The storage and handling of explosives aboard vessels used in underwater blasting operations shall be according to provisions outlined herein on handling and storing explosives.

(h) When more than one charge is placed under water, a float device shall be attached to an element of each charge in such manner that it will be released by the firing. Misfires shall be handled in accordance with the requirements of WAC 296-52-493(9).

(11) Blasting in excavation work in pressurized air locks.

(a) Detonators and explosives shall not be stored or kept in tunnels, shafts, or caissons. Detonators and explosives for each round shall be taken directly from the magazines to the blasting zone and immediately loaded. Detonators and explosives left over after loading a round shall be removed from the working chamber before the connecting wires are connected up.

(b) When detonators or explosives are brought into an air lock, no employee except the powderman, user (blaster), lock tender and the employees necessary for carrying, shall be permitted to enter the air lock. No material, supplies, or equipment shall be brought through with the explosives.

(c) Primers, detonators and explosives shall be taken separately into pressure working chambers.

(d) The user (blaster) or powderman shall be responsible for the receipt, unloading, storage, and on-site transportation of explosives and detonators.

(e) All metal pipes, rails, air locks, and steel tunnel lining shall be electrically bonded together and grounded at or near the portal or shaft, and such pipes and rails shall be cross-bonded together at not less than 1,000-foot intervals throughout the length of the tunnel. In addition, each air supply pipe shall be grounded at its delivery end.

(f) The explosives suitable for use in wet holes shall be water-resistant and shall be Fume Class 1, or other approved explosives.

(g) When tunnel excavation in rock face is approaching mixed face, and when tunnel excavation is in mixed face, blasting shall be performed with light charges and with light burden on each hole. Advance drilling shall be performed as tunnel excavation in rock face approaches mixed face, to determine the general nature and extent of rock cover and the remaining distance ahead to soft ground as excavation advances.

(12) Vibration and damage control. Blasting operations in or adjacent to cofferdams, piers, underwater structures, buildings, structures, or other facilities shall be carefully planned with full consideration for all forces and conditions involved.

(13) Black blasting powder shall not be used for blasting except when a desired result cannot be obtained with another type of explosive such as in quarrying certain types of dimension stone.

(14) In the use of black blasting powder:

(a) Containers shall not be opened in, or within fifty feet of any magazine; within any building in which a fuel-fired or exposed-element electric heater is in operation; where electrical or incandescent-

particle sparks could result in powder ignition; or within fifty feet of any open flame.

(b) Granular powder shall be transferred from containers only by pouring.

(c) Spills of granular powder shall be cleaned up promptly with nonsparking equipment, contaminated powder shall be put into a container of water and its content disposed of promptly after the granules have disintegrated, or the spill area shall be flushed with a copious amount of water to completely disintegrate the granules.

(d) Containers of powder shall be kept securely closed at all times other than when the powder is being transferred from or into a container.

(e) Containers of powder transported by vehicles shall be in a wholly enclosed cargo space.

(f) Misfires shall be disposed of by:

(i) Washing the stemming and powder charge from the bore hole, and

(ii) Removal and disposal of the initiator as a damaged explosive.

(iii) Bore holes of shots that fire but fail to break, or fail to break promptly, shall not be recharged for at least twelve hours.

(15) No person shall store, handle, or transport explosives or blasting agents when such storage, handling, and transportation of explosives or blasting agents constitutes an undue hazard to life.

(16) It shall be unlawful for any person to abandon explosives or explosive substances.

NEW SECTION

WAC 296-52-497 **BLASTING AGENTS.** (1) General. Unless otherwise set forth in this section, blasting agents, excluding water gels, shall be transported, stored, and used in the same manner as explosives. Water gels are covered in WAC 296-52-501.

(2) Fixed location mixing.

(a) Buildings or other facilities used for mixing blasting agents shall be located, with respect to inhabited buildings, passenger railroads, and public highways, in accordance with Table H-21. In determining the distance separating highways, railroads, and inhabited buildings from potential explosions (as prescribed in Table H-21), the sum of all masses which may propagate (i.e., lie at distances less than prescribed in Table H-22) from either individual or combined donor masses are included. However, when the ammonium nitrate must be included, only fifty percent of its weight shall be used because of its reduced blast effects.

(b) Buildings used for the mixing of blasting agents shall conform to the requirements of this section.

(i) Buildings shall be of noncombustible construction or sheet metal on wood studs.

(ii) Floors in a mixing plant shall be of concrete or of other nonabsorbent materials.

(iii) All fuel oil storage facilities shall be separated from the mixing plant and located in such a manner that in case of tank rupture, the oil will drain away from the mixing plant building.

(iv) The building shall be well ventilated.

(v) Heating units which do not depend on combustion processes, when properly designed and located, may be used in the building. All direct sources of heat shall be located outside the mixing building.

(vi) All internal-combustion engines used for electric power generation shall be located outside the mixing plant building, or shall be properly ventilated and isolated by a firewall. The exhaust systems on all such engines shall be located so any spark emission cannot be a hazard to any materials in or adjacent to the plant.

(c) Equipment used for mixing blasting agents shall conform to the requirements of this subsection.

(i) The design of the mixer shall minimize the possibility of frictional heating, compaction, and especially confinement. All bearings and drive assemblies shall be mounted outside the mixer and protected against the accumulation of dust. All surfaces shall be accessible for cleaning.

(ii) Mixing and packaging equipment shall be constructed of materials compatible with the fuel-ammonium nitrate composition.

(iii) Suitable means shall be provided to prevent the flow of fuel oil to the mixer in case of fire. In gravity flow systems an automatic spring-loaded shutoff valve with fusible link shall be installed.

(d) The provisions of this subsection shall be considered when determining blasting agent compositions.

(i) The sensitivity of the blasting agent shall be determined by means of a No. 8 test blasting cap at regular intervals and after every change in formulation.

(ii) Oxidizers of small particle size, such as crushed ammonium nitrate prills or fines, may be more sensitive than coarser products and shall, therefore, be handled with greater care.

(iii) No hydrocarbon liquid fuel with flashpoint lower than that of No. 2 diesel fuel oil 125°F. minimum shall be used.

(iv) Crude oil and crankcase oil shall not be used.

(v) Metal powders such as aluminum shall be kept dry and shall be stored in containers or bins which are moisture-resistant or weather-tight. Solid fuels shall be used in such manner as to minimize dust explosion hazards.

(vi) Peroxides and chlorates shall not be used.

(e) All electrical switches, controls, motors, and lights located in the mixing room shall conform to the requirements in WAC 296-24-956 through 296-24-960; otherwise they shall be located outside the mixing room. The frame of the mixer and all other equipment that may be used shall be electrically bonded and be provided with a continuous path to the ground.

(f) Safety precautions at mixing plants shall include the requirements of this subsection.

(i) Floors shall be constructed so as to eliminate floor drains and piping into which molten materials could flow and be confined in case of fire.

(ii) The floors and equipment of the mixing and packaging room shall be cleaned regularly and thoroughly to prevent accumulation of oxidizers or fuels and other sensitizers.

(iii) The entire mixing and packaging plant shall be cleaned regularly and thoroughly to prevent excessive accumulation of dust.

(iv) Smoking, matches, open flames, spark-producing devices, and firearms (except firearms carried by guards) shall not be permitted inside of or within 50 feet of any building or facility used for the mixing of blasting agents.

(v) The land surrounding the mixing plant shall be kept clear of brush, dried grass, leaves, and other materials for a distance of at least 25 feet.

(vi) Empty ammonium nitrate bags shall be disposed of daily in a safe manner.

(vii) No welding shall be permitted or open flames used in or around the mixing or storage area of the plant unless the equipment or area has been completely washed down and all oxidizer material removed.

(viii) Before welding or repairs to hollow shafts, all oxidizer material shall be removed from the outside and inside of the shaft and the shaft vented with a minimum one-half inch diameter opening.

(ix) Explosives shall not be permitted inside of or within 50 feet of any building or facility used for the mixing of blasting agents.

(3) Bulk delivery and mixing vehicles.

(a) The provisions of this subsection shall apply to off-highway private operations as well as to all public highway movements.

(b) A bulk vehicle body for delivering and mixing blasting agents shall conform with the requirements of this subsection.

(i) The body shall be constructed of noncombustible materials.

(ii) Vehicles used to transport bulk premixed blasting agents on public highways shall have closed bodies.

(iii) All moving parts of the mixing system shall be designed as to prevent a heat buildup. Shafts or axles which contact the product shall have outboard bearings with 1-inch minimum clearance between the bearings and the outside of the product container. Particular attention shall be given to the clearances on all moving parts.

(iv) A bulk delivery vehicle shall be strong enough to carry the load without difficulty and be in good mechanical condition.

(c) Operation of bulk delivery vehicles shall conform to the requirements of WAC 296-52-489(2). These include the placarding requirements as specified by department of transportation.

(i) The operator shall be trained in the safe operation of the vehicle together with its mixing, conveying, and related equipment. The employer shall assure that the operator is familiar with the commodities being delivered and the general procedure for handling emergency situations.

(ii) The hauling of either blasting caps or other explosives but not both, shall be permitted on bulk trucks provided that a special wood or nonferrous-lined container is installed for the explosives. Such blasting caps or other explosives shall be in DOT-specified shipping containers: See 49 CFR Chapter I.

(iii) No person shall smoke, carry matches or any flame-producing device, or carry any firearms while in or about bulk vehicles effecting the mixing transfer or down-the-hole loading of blasting agents at or near the blasting site.

(iv) Caution shall be exercised in the movement of the vehicle in the blasting area to avoid driving the vehicle over or dragging hoses over firing lines, cap wires, or explosive materials. The employer shall assure that the driver, in moving the vehicle, has assistance of a second person to guide the driver's movements.

(v) No intransit mixing of materials shall be performed.

(d) Pneumatic loading from bulk delivery vehicles into blastholes primed with electric blasting caps or other static-sensitive systems shall conform to the requirements of this subsection.

(i) A positive grounding device shall be used to prevent the accumulation of static electricity.

(ii) A discharge hose shall be used that has a resistance range that will prevent conducting stray currents, but that is conductive enough to bleed off static buildup.

(iii) A qualified person shall evaluate all systems to determine if they will adequately dissipate static under potential field conditions.

(e) Repairs to bulk delivery vehicles shall conform to the requirements of this section.

(i) No welding or open flames shall be used on or around any part of the delivery equipment unless it has been completely washed down and all oxidizer material removed.

(ii) Before welding or making repairs to hollow shafts, the shaft shall be thoroughly cleaned inside and out and vented with a minimum one-half-inch diameter opening.

(4) Bulk storage bins.

(a) The bin, including supports, shall be constructed of compatible materials, waterproof, and adequately supported and braced to withstand the combination of all loads including impact forces arising from product movement within the bin and accidental vehicle contact with the support legs.

(b) The bin discharge gate shall be designed to provide a closure tight enough to prevent leakage of the stored product. Provision shall also be made so that the gate can be locked.

(c) Bin loading manways or access hatches shall be hinged or otherwise attached to the bin and be designed to permit locking.

(d) Any electrically driven conveyors for loading or unloading bins shall conform to the requirements of WAC 296-24-956 through 296-24-960. They shall be designed to minimize damage from corrosion.

(e) Bins containing blasting agent shall be located, with respect to inhabited buildings, passenger railroads, and public highways, in accordance with Table H-21 and separation from other blasting agent storage and explosives storage shall be in conformity with Table H-22.

(f) Bins containing ammonium nitrate shall be separated from blasting agent storage and explosives storage in conformity with Table H-22.

(5) Transportation of packaged blasting agents.

(a) When blasting agents are transported in the same vehicle with explosives, all of the requirements of WAC 296-52-489 shall be complied with.

(b) Vehicles transporting blasting agents shall only be driven by and in charge of a driver at least twenty-one years of age who is capable, careful, reliable, and in possession of a valid motor vehicle operator's license. Such a person shall also be familiar with the states vehicle and traffic laws.

(c) No matches, firearms, acids, or other corrosive liquids shall be carried in the bed or body of any vehicle containing blasting agents.

(d) No person shall be permitted to ride upon, drive, load, or unload a vehicle containing blasting agents while smoking or under the influence of intoxicants, narcotics, or other dangerous drugs.

(e) It is prohibited for any person to transport or carry any blasting agents upon any public vehicle carrying passengers for hire.

(f) Vehicles transporting blasting agents shall be in safe operating condition at all times.

(g) When offering blasting agents for transportation on public highways the packaging, marking, and labeling of containers of blasting agents shall comply with the requirements of DOT.

(h) Vehicles used for transporting blasting agents on public highways shall be placarded in accordance with DOT regulations.

(6) Use of blasting agents. Persons using blasting agents shall comply with all of the applicable provisions of WAC 296-52-493.

NEW SECTION

WAC 296-52-501 WATER GEL (SLURRY) EXPLOSIVES AND BLASTING AGENTS. (1) General provisions. Unless otherwise set forth in this section, water gels shall be transported, stored and used in the same manner as explosives or blasting agents in accordance with the classification of the product.

(2) Types and classifications.

(a) Water gels containing a substance in itself classified as an explosive shall be classified as an explosive and manufactured, transported, stored, and used as specified for "explosives" in this section, except as noted in subsection (d) of this section.

(b) Water gels containing no substance in itself classified as an explosive and which are cap-sensitive as defined in WAC 296-52-417 under blasting agent shall be classified as an explosive and manufactured, transported, stored and used as specified for "explosives" in this section.

(c) Water gels containing no substance in itself classified as an explosive and which are not cap-sensitive as defined in WAC 296-52-417 under blasting agent shall be classified as blasting agents and manufactured, transported, stored, and used as specified for "blasting agents" in this section.

(d) When tests on specific formulations of water gels result in department of transportation classification as a Class B explosive, bullet-resistant magazines are not required, see WAC 296-52-453.

(3) Fixed location mixing.

(a)(i) Buildings or other facilities used for mixing water gels shall be located with respect to inhabited buildings, passenger railroads and public highways, in accordance with Table H-21.

(ii) In determining the distances separating highways, railroads, and inhabited buildings from potential explosions (as prescribed in Table H-21), the sum of all masses that may propagate (i.e., lie at distances less than prescribed in Table H-22) from either individual or combined donor masses are included. However, when the ammonium nitrate must be included, only fifty percent of its weight shall be used because of its reduced blast effects.

(b) Buildings used for the mixing of water gels shall conform to the requirements of this subsection.

(i) Buildings shall be of noncombustible construction or sheet metal on wood studs.

(ii) Floors in a mixing plant shall be of concrete or of other nonabsorbent materials.

(iii) Where fuel oil is used all fuel oil storage facilities shall be separated from the mixing plant and located in such a manner that in case of tank rupture, the oil will drain away from the mixing plant building.

(iv) The building shall be well ventilated. Heating units that do not depend on combustion processes, when properly designed and located, may be used in the building. All direct sources of heat shall be provided exclusively from units located outside of the mixing building.

(v) All internal-combustion engines used for electric power generation shall be located outside the mixing plant building, or shall be properly ventilated and isolated by a firewall. The exhaust systems on all such engines shall be located so any spark emission cannot be a hazard to any materials in or adjacent to the plant.

(c) Ingredients of water gels shall conform to the requirements of this subsection.

(i) Ingredients in themselves classified as Class A or Class B explosives shall be stored in conformity with WAC 296-52-461.

(ii) Nitrate-water solutions may be stored in tank cars, tank trucks, or fixed tanks without quantity or distance limitations. Spills or leaks which may contaminate combustible materials shall be cleaned up immediately.

(iii) Metal powders such as aluminum shall be kept dry and shall be stored in containers or bins which are moisture-resistant or weather-tight. Solid fuels shall be used in such manner as to minimize dust explosion hazards.

(iv) Ingredients shall not be stored with incompatible materials.

(v) Peroxides and chlorates shall not be used.

(d) Mixing equipment shall comply with the requirements of this subsection.

(i) The design of the processing equipment, including mixing and conveying equipment, shall be compatible with the relative sensitivity of the materials being handled. Equipment shall be designed to minimize the possibility of frictional heating, compaction, overloading, and confinement.

(ii) Both equipment and handling procedures shall be designed to prevent the introduction of foreign objects or materials.

(iii) Mixers, pumps, valves, and related equipment shall be designed to permit regular and periodic flushing, cleaning, dismantling, and inspection.

(iv) All electrical equipment including wiring, switches, controls, motors, and lights, shall conform to the requirements of WAC 296-24-956 through 296-24-960.

(v) All electric motors and generators shall be provided with suitable overload protection devices. Electrical generators, motors, proportioning devices, and all other electrical enclosures shall be electrically bonded. The grounding conductor to all such electrical equipment shall be effectively bonded to the service-entrance ground connection and to all equipment ground connections in a manner so as to provide a continuous path to ground.

(e) Mixing facilities shall comply with the fire prevention requirements of this subsection.

(i) The mixing, loading, and ingredient transfer areas where residues or spilled materials may accumulate shall be cleaned periodically. A cleaning and collection system for dangerous residues shall be provided.

(ii) A daily visual inspection shall be made of the mixing, conveying, and electrical equipment to establish that such equipment is in good operating condition. A program of systematic maintenance shall be conducted on regular schedule.

(iii) Heaters which are not dependent on the combustion process within the heating unit may be used within the confines of processing buildings, or compartments, if provided with temperature and safety controls and located away from combustible materials and the finished product.

(4) Bulk delivery and mixing vehicles.

(a) The design of vehicles shall comply with the requirements of this subsection.

(i) Vehicles used over public highways for the bulk transportation of water gels or of ingredients classified as dangerous commodities, shall meet the requirements of the department of transportation and shall meet the requirements of WAC 296-52-489 and 296-52-497 of this section.

(ii) When electric power is supplied by a self-contained motor generator located on the vehicle the generator shall be at a point separate from where the water gel is discharged.

(iii) The design of processing equipment and general requirements shall conform to subsection (3)(c) and (d) of this section.

(iv) A positive action parking brake which will set the wheel brakes on at least one axle shall be provided on vehicles when equipped with air brakes and shall be used during bulk delivery operations. Wheel chocks shall supplement parking brakes whenever conditions may require.

(b) Operation of bulk delivery and mixing vehicles shall comply with the requirements of this subsection.

(i) The placarding requirements contained in DOT regulations apply to vehicles carrying water gel explosives or blasting agents.

(ii) The operator shall be trained in the safe operation of the vehicle together with its mixing, conveying, and related equipment. The operator shall be familiar with the commodities being delivered and the general procedure for handling emergency situations.

(iii) The hauling of either blasting caps or other explosives, but not both, shall be permitted on bulk trucks provided that a special wood or nonferrous-lined container is installed for the explosives. Such blasting caps or other explosives shall be in DOT-specified shipping containers; see 49 CFR Chapter I.

(iv) No person shall be allowed to smoke, carry matches or any flame-producing device, or carry any firearms while in or about bulk vehicles effecting the mixing, transfer, or down-the-hole loading of water gels at or near the blasting site.

(v) Caution shall be exercised in the movement of the vehicle in the blasting area to avoid driving the vehicle over or dragging hoses over firing lines, cap wires, or explosive materials. The employer shall furnish the driver the assistance of a second person to guide the driver's movements.

(vi) No intransit mixing of materials shall be performed.

(vii) The location chosen for water gel or ingredient transfer from a support vehicle into the bore hole loading vehicle shall be away from the blasthole site when the bore holes are loaded or in the process of being loaded.

NEW SECTION

WAC 296-52-505 COAL MINING CODE UNAFFECTED.
RCW 70.74.210 applies.

NEW SECTION

WAC 296-52-509 SMALL ARMS AMMUNITION, PRIMERS, PROPELLANTS AND BLACK POWDER. Storage, transportation, and display requirements.

(1) Small arms ammunition shall be separated from flammable liquids, flammable solids and oxidizing materials by a fire-resistant wall of one-hour rating or by a distance of 25 feet.

(2) Small arms smokeless propellant (class B) shall be packed, stored and transported in DOT approved shipping containers and the following shall apply.

	<u>Maximum Pounds Permitted</u>	<u>Special Restrictions</u>
Private residence or car _____	25 pounds or less _____ 25 to 50 pounds _____	None Store in strong box or cabinet constructed of 3/4-inch plywood (minimum) or equivalent, on all sides, top and bottom.
Dealer's warehouse _____	150 pounds _____	20 to 150 pounds shall be stored in portable wooden boxes having walls at least one inch nominal thickness.
Dealer's display _____	75 pounds _____	In one pound containers.

Quantities in excess of 50 pounds shall be transported in accordance with federal department of transportation regulations.

Quantities in excess of 150 pounds shall be stored in approved, licensed magazines as required in WAC 296-52-441 and 296-52-453.

(3) Small arms ammunition primers shall be packed, stored and transported in DOT approved shipping containers. They shall be separate from flammable liquids, flammable solids and oxidizing materials by a fire-resistant wall of one-hour rating or by a distance of 25 feet. The following shall also apply.

	<u>Maximum Number Permitted</u>	<u>Special Restrictions</u>
Private residence _____	10,000 primers _____	None
Private car _____	25,000 primers _____	None
Dealer's display _____	10,000 primers _____	None
Dealer's warehouse _____	750,000 primers _____	No more than 100,000 shall be stored in a pile and piles shall be separated by at least 15 feet.

Quantities in excess of 750,000 primers shall be stored in approved, licensed magazines as required by WAC 296-52-441 and 296-52-453.

(4) Black powder, as used in muzzle loading firearms, shall be packed, stored and transported in DOT approved shipping containers and the following shall apply.

	<u>Maximum Pounds Permitted</u>	<u>Special Restrictions</u>
Private residence _____	5 pounds _____	None
Private car _____	5 pounds _____	None
Dealer's warehouse _____	25 pounds _____	None
Dealer's display _____	4 pounds _____	In one pound containers.

Quantities in excess of 25 pounds of black powder, as used in muzzle loading firearms, shall be stored in approved, licensed magazines as required by WAC 296-52-441 and 296-52-453.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-52-010 INTRODUCTION.
- WAC 296-52-012 INCORPORATION OF STANDARDS OF NATIONAL ORGANIZATIONS AND FEDERAL AGENCIES.
- WAC 296-52-020 PURPOSE.
- WAC 296-52-025 VARIANCE AND PROCEDURE.
- WAC 296-52-027 EQUIPMENT APPROVAL BY NON-STATE AGENCY OR ORGANIZATION.
- WAC 296-52-030 DEFINITIONS.
- WAC 296-52-040 USER'S (BLASTER'S) LICENSE.
- WAC 296-52-043 USE OF EXPLOSIVES AND BLASTING AGENTS.
- WAC 296-52-050 TRANSPORTATION.

- WAC 296-52-060 MORE STRINGENT ORDINANCES PREVAIL.
- WAC 296-52-080 TEMPORARY PERMIT FOR EXISTING STORAGE FACILITIES.
- WAC 296-52-090 CONSTRUCTION OF MAGAZINES.
- WAC 296-52-095 STORAGE OF EXPLOSIVES.
- WAC 296-52-100 QUANTITY AND DISTANCE TABLES FOR STORAGE.
- WAC 296-52-110 LIMIT ON STORAGE QUANTITY.
- WAC 296-52-120 QUANTITY AND DISTANCE TABLES FOR FACTORY BUILDINGS.
- WAC 296-52-140 QUANTITY AND DISTANCE TABLE FOR SEPARATION BETWEEN MAGAZINES.
- WAC 296-52-150 STORAGE OF BLASTING CAPS WITH OTHER EXPLOSIVES PROHIBITED.
- WAC 296-52-160 LICENSE FOR MANUFACTURING.
- WAC 296-52-165 BLASTING AGENTS.

WAC 296-52-167 WATER GEL (SLURRY) EXPLOSIVES AND BLASTING AGENTS.
 WAC 296-52-170 STORAGE MAGAZINE LICENSE.
 WAC 296-52-180 STORAGE MAGAZINE LICENSE FEES.
 WAC 296-52-190 DEALER'S LICENSE.
 WAC 296-52-200 ANNUAL INSPECTION.
 WAC 296-52-220 PURCHASER'S LICENSE.
 WAC 296-52-230 UNLAWFUL ACCESS TO EXPLOSIVES.
 WAC 296-52-260 COAL MINING CODE UNAFFECTED.
 WAC 296-52-270 SHIPMENTS OUT-OF-STATE.
 WAC 296-52-330 EXPLOSIVES CONTAINERS TO BE MARKED—PENALTY.
 WAC 296-52-350 SMALL ARMS AMMUNITION, PRIMERS, AND PROPELLANTS—TRANSPORTATION REGULATIONS.
 WAC 296-52-360 SMALL ARMS AMMUNITION, PRIMERS, AND PROPELLANTS—SEPARATION FROM FLAMMABLE MATERIALS.
 WAC 296-52-370 SMALL ARMS AMMUNITION, PRIMERS, AND PROPELLANTS—SMOKELESS PROPELLANTS AND BLACK POWDER, TRANSPORTATION, STORAGE AND DISPLAY REQUIREMENTS.
 WAC 296-52-380 SMALL ARMS AMMUNITION, PRIMERS, AND PROPELLANTS—SMALL ARMS AMMUNITION PRIMERS, TRANSPORTATION, STORAGE, AND DISPLAY REQUIREMENTS.
 WAC 296-52-390 STORAGE OF AMMONIUM NITRATE.
 WAC 296-52-400 ENFORCEMENT.

WSR 86-05-027**PROPOSED RULES****DEPARTMENT OF LABOR AND INDUSTRIES**

[Filed February 19, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning the repeal of chapter 296-132 WAC. Said rules are obsolete in that they purport to implement labor relations statutes (chapter 41.56 RCW) which are no longer administered by the Department of Labor and Industries. Jurisdiction to administer chapter 41.56 RCW was transferred to the Public Employment Relations Commission which agency has adopted comprehensive rules codified under Title 391 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 25, 1986.

The authority under which these rules are proposed is RCW 51.04.020 (chapter 296, Laws of 1975 1st ex. sess.).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 25, 1986.

Dated: February 18, 1986

By: Richard A. Davis
Director**STATEMENT OF PURPOSE**

Title and Number of Rule Sections to be Repealed: WAC 296-132-005 Purpose; 296-132-010 Policy; 296-132-015 Construction; 296-132-050 General; 296-132-055 Petitioner; 296-132-060 Authorized agent; 296-132-065 Labor organization, lawful organization; 296-132-100 Initiation; 296-132-105 Filing of petition; 296-132-110 Contents of petition—General; 296-132-115 Contents of petition—Filed by public employees; 296-

132-120 Contents of petition—Filed by public employer; 296-132-125 Intervention; 296-132-130 Initial action; 296-132-135 Petition—Amendments or withdrawal; 296-132-140 Decertification; 296-132-145 Severance; 296-132-150 Determination of nature and scope; 296-132-151 Unit clarification; 296-132-152 Union membership; 296-132-155 Special election; 296-132-160 List of employees; 296-132-200 Selection of representation method; 296-132-205 Two or more organizations; 296-132-210 Examination of membership rolls; 296-132-215 Use of authorization cards; 296-132-220 Authorization cards—Acceptability; 296-132-225 Conduct of election; 296-132-226 Central filing—Arbitration and fact-finding; 296-132-250 Certification; 296-132-255 Noncertification; 296-132-260 Time extensions; 296-132-265 Bypass of steps; 296-132-301 Unfair labor practices—Who may file; 296-132-302 Unfair labor practice presumed—Change of conditions during bargaining; 296-132-306 Filing of charges; 296-132-311 Investigation; 296-132-316 Remedies; 296-132-350 Appeal procedure; 296-132-360 Appeal briefs; 296-132-370 Appeal briefs—Contents; and 296-132-380 Record on appeal.

Statutory Authority: RCW 51.04.020 (chapter 296, Laws of 1975 1st ex. sess.). Jurisdiction to administer chapter 41.56 RCW was transferred to the Public Employment Relations Commission by chapter 296, Laws of 1975 as codified at chapter 41.58 RCW.

Specific Statute that Rule is Intended to Implement: Jurisdiction to administer chapter 41.56 RCW was transferred to the Public Employment Relations Commission by chapter 296, Laws of 1975, leaving the Department of Labor and Industries without authority to enforce chapter 296-132 WAC.

Summary of Rules: Chapter 296-132 WAC is presently obsolete in that it purports to implement labor relations statutes which are no longer administered by the Department of Labor and Industries. Jurisdiction to administer chapter 41.56 RCW was transferred to the Public Employment Relations Commission, which agency has adopted comprehensive rules codified under Title 391 WAC. The purpose of the present administrative proposal is to repeal chapter 296-132 WAC so as to avoid confusion and update the administrative code title.

Agency Personnel Responsible for Drafting: Robert K. Costello, Assistant Attorney General, 4224 6th Avenue, Rowesix, Building 1, Lacey, Washington 98504, 459-6568; Implementation and Enforcement: Joseph A. Dear, Deputy Director, General Administration Building, Olympia, Washington 98504, 753-6308.

Name of the Person or Organization, Whether Private, Public or Governmental that is Proposing the Rule: Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: This proposal seeks to repeal chapter 296-132 WAC which is presently ineffective because of the transfer of jurisdiction from the Department of Labor and Industries to the Public Employment Relations Commission.

The rule is not necessary to comply with a federal law or federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required because chapter 296-132 WAC is presently ineffective and has been since the enactment of chapter 296, Laws of 1975 1st ex. sess., therefore it's repeal will have no impact. The present administrative proposal is essentially a housekeeping matter to remove chapter 296-132 WAC from the administrative code.

WSR 86-05-028
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed February 19, 1986]

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—Voluntary quit, amending WAC 388-54-677.

It is the intention of the secretary to adopt these rules on an emergency basis on or about February 18, 1986; that the agency will at 10:00 a.m., Wednesday, March 26, 1986, 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 April 2, 1986.

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 March 26, 1986.

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

Lee D. Bomberger, Acting Director
 Division of Administration and Personnel
 Department of Social and Health Services
 Mailstop OB 14
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, at State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by March 12, 1986. The meeting site is in a location which is barrier free.

Dated: February 18, 1986
 By: Lee D. Bomberger, Acting Director
 Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045. Amending WAC 388-54-677 regarding voluntary quit.

Purpose of the Rule Change: To begin the voluntary quit sanction with the day of quit. Presently the sanction begins with the day of application.

Reason this Rule is Necessary: Food and Nutrition Service, United States Department of Agriculture advised us of the correction in the voluntary quit section.

Statutory Authority: RCW 74.04.510.

Summary of the Rule Change: WAC 388-54-677(4), an applicant household containing a primary wage earner who voluntarily quit his most recent job without good cause shall be disqualified for 90 days from the date of quit; WAC 388-54-677(6), the policy for handling a sanctioned individual who leaves the household has been included; and the other two changes are editorial.

Person Responsible for Drafting, Implementation and Enforcement of the Rule Change: Dana Beck, Program Manager, Division of Income Assistance, mailstop OB 31J, phone 753-4912.

This rule is necessary to administer the voluntary quit provision correctly.

This rule is a result of federal regulation, United States Department of Agriculture, Food and Nutrition Service - Administrative Notice 86-20; Section 273.17 of the Federal Food Stamp Regulations.

AMENDATORY SECTION (Amending Order 2222, filed 4/8/85)

WAC 388-54-677 VOLUNTARY QUIT. No applicant or recipient household whose primary wage earner voluntarily quit his or her most recent job without good cause shall be eligible for participation in the program. Consequences of the primary wage earner quitting his or her job without good cause shall be explained at the time of application. Benefits shall not be delayed beyond normal processing time pending the outcome of voluntary quit determination.

(1) Voluntary quit applies if any currently unemployed household member required to register for full-time work has quit his or her most recent job without good cause within the last sixty days and the employment involved twenty hours or more weekly or provided weekly earnings equal to federal minimum wage multiplied by twenty.

(a) An employee of the federal, state, or local government participating in a strike against such government and dismissed from that job because of participation in a strike, shall be considered to have voluntarily quit a job without good cause.

(b) Changes in employment status resulting from reducing hours of employment, while working for the same employer, terminating a self-employment enterprise, or resigning from a job at the demand of the employer will not be considered as a voluntary quit for purpose of this subsection.

(2) Voluntary quit applies to the household's primary wage earner. The primary wage earner shall be that household member age eighteen or over acquiring the greatest amount of earned financial support for the household at the time of the quit.

(3) The CSO determines if the voluntary quit was without good cause. See WAC 388-54-675 (7)(a) for ~~((explanation of))~~ reasons for good cause. Good cause for leaving employment shall also include:

(a) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin, or political beliefs;

(b) Work demands or conditions rendering continued employment unreasonable, such as working without being paid on schedule;

(c) Acceptance by the primary wage earner of employment, or enrollment of at least half time in any recognized school, training program, or institution of higher education including fulfillment of the provisions in WAC 388-54-670(2), requiring the primary wage earner to leave employment;

(d) Acceptance by any other household member of employment or enrollment at least half time in any recognized school, training program or institution of higher education in another county or similar political subdivision requiring the household to move thereby requiring the primary wage earner to leave employment;

(e) Resignations by persons under the age of sixty recognized by the employer as retirement;

(f) Employment becoming unsuitable by not meeting the criteria specified in WAC (~~(388-54-675(7))~~) 388-54-676(3) after the acceptance of such employment;

(g) Acceptance of a bona fide offer of employment of more than twenty hours a week or where the weekly earnings are equivalent to the federal minimum wage multiplied by twenty hours which, because of circumstances beyond the control of the primary wage earner, subsequently either does not materialize or results in employment of less than twenty hours a week or weekly earnings of less than the federal minimum wage multiplied by twenty hours; and

(h) Leaving a job in connection with patterns of employment where workers frequently move from one employer to another such as migrant farm labor or construction work. There may be some circumstances where households will apply for food stamp benefits between jobs particularly in cases where work may not yet be available at the new job site. Even though employment at the new site has not actually begun, the quitting of the previous employment shall be considered as with good cause if part of the pattern of that type of employment.

(4) If the quit is without good cause, the household's application shall be denied for a period of ninety days beginning with the day of (~~application~~) quit. The household shall be advised of the reason for the denial, period of disqualification, rights to reapply, and right to request a fair hearing.

(5) If the quit without good cause occurs in a participating household, provide notice of adverse action to the household within ten days of the determination of voluntary quit. A participating household shall be disqualified for three months. Those households leaving the program before the sanction can be imposed shall receive the sanction when the household reapplies. The adverse action notice shall be the same as for an applicant household. If a participating household requests a fair hearing to appeal the sanction and the CSO is upheld, the sanction will begin the first of the month after the hearing decision is rendered.

(6) If the household member causing the sanction leaves the household, the sanction follows that member. The remaining household members are no longer sanctioned. The sanction does not apply to a household that a sanction member may join.

(7) If an application for participation in the food stamp program is filed in the third month of disqualification, the department shall use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month or months if all other eligibility criteria are met.

~~((7))~~ (8) The department shall request verification of the household's statements only to the extent the information given by the household is questionable:

(a) The primary responsibility for providing verification rests with the household;

(b) If it is difficult or impossible for the household to obtain documentary evidence in a timely manner, the department shall offer assistance to the household to obtain the needed verification;

(c) Acceptable sources of verification include but are not limited to the previous employer, employee association, union representatives and grievance committees or organizations;

(d) The department is responsible for obtaining verification from acceptable collateral contacts provided by the household;

(e) If the household and department are unable to obtain requested verification because the cause for the quit resulted from circumstances that for good reason cannot be verified, the household will not be denied access to the program.

WSR 86-05-029

ADOPTED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(General Provisions)

[Order 2342—Filed February 19, 1986]

I, Lee D. Bomberger, acting director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to labor camp certification of occupancy, new WAC 440-44-100.

This action is taken pursuant to Notice No. WSR 85-23-015 filed with the code reviser on November 13, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

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

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

APPROVED AND ADOPTED February 18, 1986.

By Lee D. Bomberger, Acting Director
Division of Administration and Personnel

NEW SECTION

✓ WAC 440-44-100 LABOR CAMP CERTIFICATE OF OCCUPANCY FEES. A labor camp regulated by the department pursuant to chapter 248-63 WAC shall be assessed a fee on an annual basis. Upon payment of said fee, an annual labor camp certificate of occupancy shall be issued by the department provided all other requirements of chapter 248-63 WAC are met. The annual fee is due with application for initial certification or renewal. The annual fee for a certificate of occupancy for a labor camp shall be a flat fee of fifty-five dollars plus two dollars per each dwelling unit of six through one hundred units and one dollar per each dwelling unit in excess of one hundred units, provided that for fee purposes only, a space provided exclusively to accommodate a temporary worker supplied shelter shall not be considered a dwelling unit. A building or a part of a building intended for occupancy by one family or one tenant shall constitute a separate dwelling unit. Each seventy square feet of gross floor space in a dormitory shall constitute one dwelling unit. A labor camp with dwelling units or clusters of units at separate locations, each location having its own support facilities, shall be assessed a fee of fifty-five dollars per location plus two dollars per dwelling unit in excess of a cumulative total of five units when any two locations are located greater than five miles apart. A labor camp having less than five dwelling units at each and every location, regardless of the distance between the locations, shall be subject to only the flat fee of fifty-five dollars plus two dollars per dwelling unit in excess of five. This section does not apply to labor camps regulated by local health officers in accordance with WAC 248-63-020.

WSR 86-05-030

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2343—Filed February 19, 1986]

I, Lee D. Bomberger, acting director of the Division of Administration and Personnel, do promulgate and

adopt at Olympia, Washington, the annexed rules relating to Food stamps—Voluntary quit, amending WAC 388-54-677.

I, Lee D. Bomberger, 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 will be of substantial benefit to certain food stamp recipients.

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

This rule is promulgated pursuant to RCW 74.04.510 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 February 18, 1986

By Lee D. Bomberger, Acting Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2222, filed 4/8/85)

WAC 388-54-677 VOLUNTARY QUIT. No applicant or recipient household whose primary wage earner voluntarily quit his or her most recent job without good cause shall be eligible for participation in the program. Consequences of the primary wage earner quitting his or her job without good cause shall be explained at the time of application. Benefits shall not be delayed beyond normal processing time pending the outcome of voluntary quit determination.

(1) Voluntary quit applies if any currently unemployed household member required to register for full-time work has quit his or her most recent job without good cause within the last sixty days and the employment involved twenty hours or more weekly or provided weekly earnings equal to federal minimum wage multiplied by twenty.

(a) An employee of the federal, state, or local government participating in a strike against such government and dismissed from that job because of participation in a strike, shall be considered to have voluntarily quit a job without good cause.

(b) Changes in employment status resulting from reducing hours of employment, while working for the same employer, terminating a self-employment enterprise, or resigning from a job at the demand of the employer will not be considered as a voluntary quit for purpose of this subsection.

(2) Voluntary quit applies to the household's primary wage earner. The primary wage earner shall be that household member age eighteen or over acquiring the greatest amount of earned financial support for the household at the time of the quit.

(3) The CSO determines if the voluntary quit was without good cause. See WAC 388-54-675 (7)(a) for

~~((explanation of))~~ reasons for good cause. Good cause for leaving employment shall also include:

(a) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin, or political beliefs;

(b) Work demands or conditions rendering continued employment unreasonable, such as working without being paid on schedule;

(c) Acceptance by the primary wage earner of employment, or enrollment of at least half time in any recognized school, training program, or institution of higher education including fulfillment of the provisions in WAC 388-54-670(2), requiring the primary wage earner to leave employment;

(d) Acceptance by any other household member of employment or enrollment at least half time in any recognized school, training program or institution of higher education in another county or similar political subdivision requiring the household to move thereby requiring the primary wage earner to leave employment;

(e) Resignations by persons under the age of sixty recognized by the employer as retirement;

(f) Employment becoming unsuitable by not meeting the criteria specified in WAC ~~((388-54-675(7)))~~ 388-54-676(3) after the acceptance of such employment;

(g) Acceptance of a bona fide offer of employment of more than twenty hours a week or where the weekly earnings are equivalent to the federal minimum wage multiplied by twenty hours which, because of circumstances beyond the control of the primary wage earner, subsequently either does not materialize or results in employment of less than twenty hours a week or weekly earnings of less than the federal minimum wage multiplied by twenty hours; and

(h) Leaving a job in connection with patterns of employment where workers frequently move from one employer to another such as migrant farm labor or construction work. There may be some circumstances where households will apply for food stamp benefits between jobs particularly in cases where work may not yet be available at the new job site. Even though employment at the new site has not actually begun, the quitting of the previous employment shall be considered as with good cause if part of the pattern of that type of employment.

(4) If the quit is without good cause, the household's application shall be denied for a period of ninety days beginning with the day of ~~((application:))~~ quit. The household shall be advised of the reason for the denial, period of disqualification, rights to reapply, and right to request a fair hearing.

(5) If the quit without good cause occurs in a participating household, provide notice of adverse action to the household within ten days of the determination of voluntary quit. A participating household shall be disqualified for three months. Those households leaving the program before the sanction can be imposed shall receive the sanction when the household reapplies. The adverse action notice shall be the same as for an applicant household. If a participating household requests a

fair hearing to appeal the sanction and the CSO is upheld, the sanction will begin the first of the month after the hearing decision is rendered.

(6) If the household member causing the sanction leaves the household, the sanction follows that member. The remaining household members are no longer sanctioned. The sanction does not apply to a household that a sanction member may join.

(7) If an application for participation in the food stamp program is filed in the third month of disqualification, the department shall use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month or months if all other eligibility criteria are met.

~~((7))~~ (8) The department shall request verification of the household's statements only to the extent the information given by the household is questionable:

(a) The primary responsibility for providing verification rests with the household;

(b) If it is difficult or impossible for the household to obtain documentary evidence in a timely manner, the department shall offer assistance to the household to obtain the needed verification;

(c) Acceptable sources of verification include but are not limited to the previous employer, employee association, union representatives and grievance committees or organizations;

(d) The department is responsible for obtaining verification from acceptable collateral contacts provided by the household;

(e) If the household and department are unable to obtain requested verification because the cause for the quit resulted from circumstances that for good reason cannot be verified, the household will not be denied access to the program.

WSR 86-05-031

ADOPTED RULES

DEPARTMENT OF LICENSING

(Board of Funeral Directors and Embalmers)

[Order PL 581—Filed February 19, 1986]

Be it resolved by the Washington State Board of Funeral Directors and Embalmers, acting at Seattle, Washington, that it does adopt the annexed rules relating to registration fee for endorsement for crematory operations, WAC 308-48-790.

This action is taken pursuant to Notice No. WSR 86-01-083 filed with the code reviser on December 18, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.39.175(4) as amended by section 6, chapter 402, Laws of 1985, 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 31, 1986.

By Ian D. Morrison
Chairman

NEW SECTION

✓ WAC 308-48-790 REGISTRATION FEE FOR CREMATORY OPERATIONS. The registration fee and the annual renewal fee for an endorsement for crematory operations is twenty-five dollars. Crematory endorsements shall expire annually on June 30.

WSR 86-05-032

PROPOSED RULES

DEPARTMENT OF LICENSING

(Dental Hygiene Examining Committee)

[Filed February 19, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Dental Hygiene Examining Committee intends to adopt, amend, or repeal rules concerning:

New	WAC 308-25-015	Examination.
New	WAC 308-25-035	Examination results.
Amd	WAC 308-25-010	Application for examination.
Rep	WAC 308-25-025	The examination.
Rep	WAC 308-25-030	Examination results;

that the agency will at 9:30 a.m., Friday, April 4, 1986, in the Vance Airport Inn, Olympic 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 18.29.031.

The specific statute these rules are intended to implement is RCW 18.29.031.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 1, 1986.

Dated: February 19, 1986

By: Linda G. Crerar
Executive Secretary

STATEMENT OF PURPOSE

Name of Agency: Washington State Dental Hygiene Examining Committee.

Purpose: To revise and clarify the examination requirements and procedures.

Statutory Authority: RCW 18.29.031.

Summary of the Rules: WAC 308-25-015 describes the make up of the examination; 308-25-035 describes the requirements for passing the examination; and 308-25-010 describes the application procedure.

Reasons Proposed: To make examination procedures easier to implement and understand.

Responsible Department Personnel: In addition to the members of the Dental Hygiene Examining Committee, the following Department of Licensing personnel have

knowledge of and responsibility for drafting, implementing and enforcing these rules: Linda Crerar, Executive Secretary, 1300 Quince Street Building, Olympia, Washington 98504, phone (206) 753-1156 comm, 234-1156 scan.

Proponents: Washington State Dental Hygiene Examining Committee.

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 308-25-015 EXAMINATION. (1) The dental hygiene examination will consist of both written and practical tests.

(a) Written tests—The written tests will include:

(i) Written theory test. National board will be accepted in lieu of the written theory test.

(ii) Washington state written test. All applicants must successfully complete a written test covering anesthesia, restorative dentistry, Washington state dental hygiene practice, and other subjects related to dental hygiene practice.

(b) Practical tests—The practical tests will include:

(i) Patient evaluation test which will include a health history, extraoral and interoral examination, periodontal charting and radiographs.

(ii) Prophylaxis test which will include a clinical demonstration of a prophylaxis to consist of the removal of deposits from and the polishing of the surfaces of the teeth.

(iii) Anesthesia test which will include applicants demonstrating the administration of a local anesthetic.

(iv) Restorative test which will include demonstrating the insertion, condensation, carving and polishing of amalgam restorations.

(2) Each applicant must furnish a patient for the patient evaluation test, prophylaxis test and anesthesia test. Patients must be at least eighteen years of age with a minimum of twenty-four teeth. A patient shall not be a dentist, dental student, or dental hygiene student. The state dental hygiene examining committee and the school of dentistry assume no responsibility regarding the work done on patients. Candidates will be required to furnish documentary evidence of malpractice and liability insurance for the examination.

(3) The committee may, at its discretion, give a test in any other phase of dental hygiene. Candidates will receive information concerning each examination.

(4) The applicant will comply with all written instructions provided by the board.

NEW SECTION

WAC 308-25-035 EXAMINATION RESULTS. (1) In order to pass the examination the applicant must:

(a) Attain a score of 65% in the written theory test, OR submit proof of successful completion of the national board of dental hygiene examination and a score of 75% in any required additional written test;

(b) Successfully complete the patient practical evaluation test;

(c) Successfully complete the prophylaxis case;

(d) Successfully complete the anesthetic practical test;

(e) Successfully complete the restorative practical test; and,

(f) Successfully complete the written theory test.

(2) An applicant who passes at least two of the following tests may elect to retake only the tests failed: PROVIDED, That if the applicant has not passed all tests at the next examination administration offered then the entire examination must be retaken. The tests are:

(a) Patient evaluation;

(b) Prophylaxis case;

(c) Anesthetic practical;

(d) Restorative practical; and,

(e) Additional written tests.

AMENDATORY SECTION (Amending Order PL 398, filed 5/14/82)

WAC 308-25-010 APPLICATION FOR EXAMINATION. (1) To be eligible for the dental hygiene examination the applicant must have attained the age of eighteen years or be going to attain such age before the date of the examination, and must be a graduate from a

dental hygiene school approved by the director of the department of licensing. The director adopts those standards of the American Dental Association's Commission on Accreditation which were relevant to accreditation of dental hygiene schools and which were accredited by the commission as of January 1981. Other dental hygiene schools which apply for director's approval and which meet these adopted standards to the director's satisfaction will be approved, but it is the responsibility of a school to apply for approval and of a student to ascertain whether or not a school has been approved by the director.

(2) Application blanks for the examination may be secured from the Division of Professional Licensing, P.O. Box 9649, Olympia, Washington, upon request. The application must be completed in every respect and must reach the division of professional licensing in Olympia, at least sixty days prior to the examination. The application must include:

(a) The required examination fee;

(b) Either the national board IBM card or a notarized card of the national board certificate. Applicants who have not passed the national board will be given a Washington State written ((~~examination~~)) test;

(c) Two photos of the applicant taken within the year immediately preceding the application.

(3) The only acceptable proof of graduation from an approved dental hygiene school is an official transcript from such school, or a verified list of graduating students from the dean or director of the dental hygiene school. The verified list of candidates will only be acceptable from applicants who have graduated within 45 days of the examination date for which they are applying. An applicant may complete application requirements and be scheduled for the examination before graduation, but no application will be admitted to the examination unless the official transcript or the verified list from the dean or director has been received by the division of professional licensing of the department of licensing on or before the day of the examination.

(4) Upon establishing examination eligibility, the division of professional licensing will mail to each applicant examination forms, instructions and schedule. It is imperative that the applicant bring this information to the examination as it will be used by the director or the director's authorized agent throughout the practical examination.

(5) Applicants will be required to furnish documentary evidence of malpractice liability insurance covering their performance during the examination.

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.

REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

WAC 308-25-025 THE EXAMINATION.

WAC 308-25-030 EXAMINATION RESULTS.

WSR 86-05-033

PROPOSED RULES

DEPARTMENT OF LICENSING (Veterinary Board of Governors)

[Filed February 19, 1986]

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:

New WAC 308-151-110 Examination review procedures.

New WAC 308-156-075 Examination review procedures;

that the agency will at 1:30 p.m., Tuesday, March 25, 1986, in the Vance Airport Inn, 18220 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 18.92.030.

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 25, 1986.

Dated: February 13, 1986

By: Yvonne Braeme
Executive Secretary

STATEMENT OF PURPOSE

Name of Agency: Washington State Veterinary Board of Governors.

Purpose of Proposed Rules: To adopt rules relating to examination review procedures for the veterinary state examination and the animal technician examination.

Statutory Authority: RCW 18.92.030.

Summary of the Rules: WAC 308-151-110 Examination review procedures; and 308-156-075 Examination review procedures.

Reasons for Proposed Rules: To adopt rules providing procedures for applicants taking the veterinary state examination or the animal technician examination to review failing results.

Responsible Personnel: The Washington State Veterinary Board of Governors and the executive secretary for the board have the responsibility for drafting, implementing and enforcing these rules. The executive secretary is Yvonne Braeme, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 753-3576 comm, 234-3576 scan.

Proponents of the Proposed Rules: Washington State Veterinary Board of Governors.

Federal Law or Federal or State Court Requirements: Not necessitated as the result of federal or state court action.

Small Business Economic Impact Statement: Not required and not provided in that these rules do not impact small businesses as that term is defined in RCW 19.85.020.

NEW SECTION

WAC 308-151-110 EXAMINATION REVIEW PROCEDURES. (1) Each individual who takes the Washington state examination for licensure as a veterinarian and does not pass the Washington state examination section may request review by the Board of his or her examination results. This request must be in writing and must be received by the Board within thirty (30) days of notification of the examination results. The request must state the reason or reasons the applicant feels the results of the examination should be changed. The Board will not consider any challenges to examination scores unless the total revised score could result in the issuance of a license. The Board will consider the following to be adequate reasons for consideration for review and possible modification of examination results:

- (a) A showing of a significant procedural error in the examination process;
- (b) Evidence of bias, prejudice or discrimination in the examination process;
- (c) Other significant errors which result in substantial disadvantage to the applicant.

(2) Any applicant who is not satisfied with the result of the examination review may appeal the Board's decision and may request a formal hearing to be held before the Board pursuant to the Administrative Procedure Act. Such hearing must be requested within twenty (20) days of receipt of the result of the Board's review of the examination results. The board will not consider any challenges to examination scores unless the total revised score could result in the issuance of a license.

NEW SECTION

WAC 308-156-075 EXAMINATION REVIEW PROCEDURES. (1) Each individual who takes the examination for registration as an animal technician and does not pass the examination may request review by the Board of his or her examination results. This request must be in writing and must be received by the Board within thirty (30) days of notification of the examination results. The request must state the reason or reasons the applicant feels the results of the examination should be changed. The Board will not consider any challenges to examination scores unless the total revised score could result in the issuance of a registration. The Board will consider the following to be adequate reasons for consideration for review and possible modification of examination results:

- (a) A showing of a significant procedural error in the examination process;
- (b) Evidence of bias, prejudice or discrimination in the examination process;
- (c) Other significant errors which result in substantial disadvantage to the applicant.

(2) Any applicant who is not satisfied with the result of the examination review may appeal the Board's decision and may request a formal hearing to be held before the Board pursuant to the Administrative Procedure Act. Such hearing must be requested within twenty (20) days of receipt of the result of the Board's review of the examination results. The Board will not consider any challenges to examination scores unless the total revised score could result in the issuance of a registration.

WSR 86-05-034

PROPOSED RULES

COUNCIL ON HEARING AIDS

[Filed February 19, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Council on Hearing Aids intends to adopt, amend, or repeal rules concerning the fitting and dispensing of hearing aids;

that the agency will at 9:30 a.m., Friday, April 4, 1986, in the Peninsula East and West Rooms, Airport Hilton, 17620 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 18.35.161.

The specific statute these rules are intended to implement is RCW 18.35.161.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 28, 1986.

Data, views or arguments may be submitted to:

Mrs. Barbara Johnson, Executive Secretary
Washington State Council on Hearing Aids
Division of Professional Licensing
P.O. Box 9649
Olympia, WA 98504

Dated: February 12, 1986
By: Barbara Johnson
Executive Secretary

STATEMENT OF PURPOSE

Title and Number of Rule Sections or Chapters: WAC 308-50-230 Unfair or deceptive practices, unethical conduct and unfair methods of competition—Misrepresenting business establishments; 308-50-330 Purchaser rescission rights; 308-50-420 Reasonable cause for rescission; and 308-50-430 Procedure for declaratory ruling.

Statutory Authority: RCW 18.35.161.

Specific Statute that Rule is Intended to Implement: RCW 18.35.161.

Summary of the Rules: WAC 308-50-230 prohibits the use of terms such as "hearing center," "hearing clinic," "hearing bureau," etc. by commercial hearing aid establishments; 308-50-330 describes how a purchaser of a hearing aid can cancel the sales transaction and the steps he/she must follow to do so. It also describes the conduct that must be followed by the licensee in the event of cancellation; 308-50-420 describes the conditions and/or acceptable reasons a purchaser may rescind a sales transaction and recover monies of the purchase; and 308-50-430 describes the format and procedures to be followed when requesting the Council on Hearing Aids to issue a ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by it.

Reasons Supporting the Proposed Actions: WAC 308-50-230, to remove stringent restrictions on business establishment names; 308-50-330, to bring it into conformity with chapter 18.35 RCW and to offer the purchaser of a hearing aid the right to rescind the sales transaction if the product is unacceptable in some way; 308-50-420, to set forth the reasons for which a purchaser of a hearing aid may rescind the sales transaction; and 308-50-430, to provide interested parties the availability of seeking a ruling from the Council on Hearing Aids on any statute or rule enforceable by it.

Responsible Personnel: In addition to members of the Council on Hearing Aids, and the director of the Department of Licensing, the following individual has knowledge of and responsibility for drafting, implementing and enforcing these rules: Barbara Johnson, Executive Secretary, Professional Licensing, P.O. Box 9649, Olympia, WA 98504, 753-1153, 234-1153 scan.

Name of the Person or Organization that is Proposing the Rules: Washington State Council on Hearing Aids.

Agency Comments or Recommendations: Rule-making and disciplinary authorities under chapter 18.35 RCW were previously delegated to the director of the Department of Licensing. The authorities were newly delegated to the Council on Hearing Aids with the enactment of RCW 18.35.161. The council has undertaken to review existing rules and to propose amendments necessary to fulfill the obligations imposed upon the council by RCW 18.35.161.

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

Any Other Information that may be of Assistance in Identifying the Rules or Their Purposes: None.

Small Business Economic Impact Statement: Not required and has not been filed since these rules do not impact more than twenty percent of all industries, or more than ten percent of any one industry as that term is defined by RCW 19.85.020(3).

AMENDATORY SECTION (Amending Order PL 159 [190], filed 2/8/74 [5/23/75])

WAC 308-50-330 PURCHASER RESCISSION RIGHTS. In addition to the receipt and disclosure information required by RCW 18.35.030, 63.14.040 and 63.14.120, every retail agreement for the sale of a hearing aid shall contain or have attached the following notice~~(s)~~ to buyer in ten point boldface type or larger~~(-)~~ on the front page in reasonable proximity to the purchaser signature line.

The notice of additional rights must be made known to the purchaser before the contract is executed. Such knowledge shall be demonstrated by the signature of the purchaser following a statement of those "additional rights" or following a statement on the face of the contract that the purchaser has been advised and is aware of the "additional rights". The "additional rights" must be provided in writing to the purchaser by the licensee and be in ten point boldface type or larger.

~~(-)~~NOTICE TO BUYER~~(-)~~

~~(-)~~(1) Do not sign this agreement before you read it or if any spaces intended for the agreed terms, except as to unavailable information, are blank.

~~(-)~~(2) You are entitled to a copy of this agreement at the time you sign it.

~~(-)~~(3) You may cancel this agreement if it was solicited in person, and you sign it, at a place other than the seller's business address shown on the agreement, by sending notice of such ~~(-)~~cancellation by certified mail, return receipt requested, to the seller at his address shown on the agreement, which notice shall be posted not later than midnight of the third day (excluding Sundays and holidays) following your signing this agreement; you must return or make available to the seller at the place of delivery any merchandise, in its original condition, received by you under this agreement.

~~(-)~~ADDITIONAL RIGHTS

~~(-)~~In addition to the rights and remedies provided for under the above circumstances, you, the purchaser, have the right to rescind the transaction for other than the seller's breach if~~(-)~~ ~~(-)~~You consult a licensed physician and such licensed physician advises you against the purchase or use of a hearing aid and specifies in writing the medical reason for such advice., for reasonable cause, ~~(-)~~~~(-)~~ you return the hearing aid or hold it at the seller's disposal and the hearing aid is in its original condition less normal wear and tear, and you send a notice to the licensee's ~~(at his)~~ regular place of business by certified mail, return receipt requested. The notice should state that the transaction is cancelled pursuant to RCW 18.35.190(3) and must be mailed not later than thirty days following the date of ~~(purchase)~~ delivery. ~~(Such notice shall include a copy of the physician's signed statement.)~~ Reasonable cause does not include a mere change of mind or cosmetic concerns.

~~(-)~~In the event of cancellation under RCW 18.35.190(3), or as otherwise provided by law, the licensee must, without further request, refund to you within ten days after such cancellation, all deposits, including down payment, less ~~(ten)~~ fifteen percent of the total purchase price ~~(and less the reasonable price of earmolds, if any.)~~ or one hundred dollars per hearing aid, whichever is less. He must also return all goods traded in. ~~(by you on account or in contemplation of the sale less any reasonable costs actually incurred in making all such goods so traded in ready for resale.)~~

~~(-)~~You, the buyer, shall incur no additional liability for such cancellation.~~(-)~~ If you have taken the steps described above to cancel the purchase and subsequently agree with the seller to extend the trial or rescission period, you remain entitled to receive the refund upon demand made within sixty days of the original date of delivery or such other time as agreed to in writing by both parties. Written notice of the last date for demanding a refund is to be provided to you at the time the trial or rescission period is extended.

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

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

NEW SECTION

WAC 308-50-420 REASONABLE CAUSE FOR RECISION. The purchaser of the hearing aid(s) may rescind the purchase and recover monies in accordance with RCW 18.35.190(3) for reasonable cause. The term "reasonable cause" is defined to include the following:

(1) Any material misstatement of fact or misrepresentation by the licensee regarding the hearing aid(s) or fitting and dispensing services to be provided which the purchaser relied on or which induced the purchaser into making the agreement;

(2) Failure by the licensee to provide the purchaser with the hearing aid(s) and fitting and dispensing services which conform to those specified in the purchase agreement between the parties;

(3) Diagnosis of a medical condition unknown to the purchaser at the time of purchase, which precludes the purchaser from using the hearing aid(s);

(4) Failure by the licensee to remedy a significant material defect of the hearing aid(s) within a reasonable period of time in accordance with RCW 18.35.190 (3)(c);

(5) The hearing aid(s) and/or fitting and dispensing services would not be in accordance with accepted practices of the industry; and

(6) The licensee fails to meet any standard of conduct prescribed in the laws regarding the fitting and dispensing of hearing aids and this failure adversely affects in any way the transaction which the purchaser seeks to rescind.

NEW SECTION

WAC 308-50-430 PROCEDURE FOR DECLARATORY RULING. (1) In accord with RCW 34.04.080, on petition of any interested person, the Council may issue a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by it.

(2) Such interested person shall submit the petition for declaratory ruling in written form to the Council's departmental staff.

(3) The petition shall set forth, at a minimum, the following:

(a) The name of the person(s) seeking the ruling,
(b) The person's or persons' interest in the subject matter of the petition,

(c) The rule or statute at issue,

(d) A concise statement of the facts at issue,

(e) A statement by the petitioner that he or she understands that he or she waives any possible objections to the Council's fitness to hear the same matter as a disciplinary case should the Council decline to issue a declaratory ruling or should the Council issue a ruling contrary to the petitioner(s) argument and the facts otherwise warrant prosecution.

(4) The Council shall make the preliminary decision whether or not to accept the petition at the first meeting subsequent to the department's receipt of the request or as soon thereafter as reasonably possible.

(5) If the Council accepts the petition, the matter may be referred to committee, but shall ultimately be decided by a quorum of the Council.

(6) The party or parties to the petition may request leave to present argument which may or may not be heard at the discretion of the Council.

(7) The ruling shall be binding, pursuant to RCW 34.04.080, if issued after argument and stated to be binding between the Council and the petitioner.

REPEALER

The following section of the Washington Administrative Code is hereby repealed:

WAC 308-50-230 UNFAIR OR DECEPTIVE PRACTICES, UNETHICAL CONDUCT AND UNFAIR METHODS OF COMPETITION — MISREPRESENTING BUSINESS ESTABLISHMENTS

WSR 86-05-035

PROPOSED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed February 19, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning Finance—Emergency school closure, chapter 392-129 WAC;

that the agency will at 9:00 a.m., Monday, March 31, 1986, in the Bruno Conference Room, Superintendent of Public Instruction, Old Capitol Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 1, 1986.

The authority under these rules are proposed is RCW 28A.41.170.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 31, 1986.

Dated: February 18, 1986

By: Frank B. Brouillet
Superintendent of Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-129 WAC, Finance—Emergency school closure.

Rule Section(s): WAC 392-129-013 Application to Superintendent of Public Instruction.

Statutory Authority: RCW 28A.41.170.

Purpose of the Rule(s): To implement the emergency school closure law.

Summary of the New Rule(s) and/or Amendments: WAC 392-129-013 requires districts to name school affected in application for exemption.

Reasons Which Support the Proposed Action(s): Clarifies agency policy.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Robert Schley, SPI, 3-1717; and Enforcement: Perry Keithley, SPI, 3-6742.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 84-13, filed 6/13/84)

WAC 392-129-013 APPLICATION TO SUPERINTENDENT OF PUBLIC INSTRUCTION. The following information shall be contained in each application to the superintendent of public instruction for a determination of eligibility:

(1) Name of the district;

(2) Name of the superintendent of the district;

(3) Statement by the superintendent of the district that the board of directors has reviewed the application and supports its submittal;

(4) If request is made for an individual school closure pursuant to WAC 392-129-015(2), the name of the individual school(s) which did not operate for the day(s);

(5) The unforeseen condition(s) which cause a district and/or individual ((building)) school closure (see WAC 392-129-010);

((5)) (6) The specific dates on which the district and/or ((building)) school was closed;

((6)) (7) The specific dates the district shall schedule for making up the days of school closure.

WSR 86-05-036

PROPOSED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed February 19, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning Finance—Special allocations, instructions, and requirements, chapter 392-140 WAC;

that the agency will at 9:00 a.m., Monday, March 31, 1986, in the Bruno Conference Room, Superintendent of Public Instruction, Old Capitol Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 1, 1986.

The authority under these rules are proposed is RCW 28A.58.082(4).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 31, 1986.

Dated: February 18, 1986

By: Frank B. Brouillet
Superintendent of Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-140 WAC, Finance—Special allocations, instructions, and requirements.

Rule Section(s): WAC 392-140-075 1985-87 school based management pilot projects—Applicable provisions—Authority; 392-140-076 School based management—Definition; 392-140-077 School site council—Definition; 392-140-078 School improvement plan—Definition; 392-140-079 District application; 392-140-080 Project selection criteria and advisory committee; 392-140-081 Conditions precedent to application by district for pilot project approval; 392-140-082 Grant expenditures and termination; and 392-140-083 Allocations by Superintendent of Public Instruction.

Statutory Authority: RCW 28A.58.082(4).

Purpose of the Rule(s): To set forth state policy regarding pilot school based management projects.

Summary of the New Rule(s) and/or Amendments: WAC 392-140-075 sets forth authority and provisions applicable to school based management pilot projects; 392-140-076 defines the term "school based management"; 392-140-077 defines the term "school site council"; 392-140-078 defines the term "school improvement plan"; 392-140-079 sets forth conditions and assurances related to school district applications for grant funds; 392-140-080 creates advisory committee and sets forth

criteria for SPI selection of pilot projects; 392-140-081 sets forth conditions precedent to an application for a pilot project; 392-140-082 sets forth conditions if district decides to terminate pilot project; and 392-140-083 sets forth method for allocation of state funds to districts.

Reasons Which Support the Proposed Action(s): New program established by 1985 legislature. .

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Ken Bumgarner, SPI, 3-5647; and Enforcement: Mona Bailey, SPI, 3-6701.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

NEW SECTION

WAC 392-140-075 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—APPLICABLE PROVISIONS—AUTHORITY. The provisions of WAC 392-140-075 through 392-140-083 shall be applicable to the distribution of categorical grant funds to districts for the establishment of a school based management system for one or more school buildings within the district. The authority for these regulations is RCW 28A.58.082(4) which authorizes the superintendent of public instruction to adopt rules and regulations for the implementation of school based management pilot projects.

NEW SECTION

WAC 392-140-076 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—SCHOOL BASED MANAGEMENT—DEFINITION. For the purpose of WAC 392-140-075 through 392-140-083, the term "school based management" shall mean the use of an established school site council for the development of an annual school improvement plan for a particular school building.

NEW SECTION

WAC 392-140-077 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—SCHOOL SITE COUNCIL—DEFINITION. For the purpose of WAC 392-140-075 through 392-140-083, the term "school site council" shall mean a council for a particular school building selected initially by a process established by the board of directors of the district and composed initially of at least the following:

- (1) Principal of the school.
- (2) Two or more teachers from the school.
- (3) School personnel from the school other than principal or teachers.
- (4) Two or more parents of students attending the school.
- (5) Two or more nonparent community members from the school's service area—i.e., geographical areas within the district from which students attend such school.
- (6) Two or more secondary students from the school if the particular school building is a secondary school—i.e., containing any grade seven through twelve or equivalent, if nongraded.

NEW SECTION

WAC 392-140-078 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—SCHOOL IMPROVEMENT PLAN—DEFINITION. For the purpose of WAC 392-140-075 through 392-140-083, the term "school improvement plan" shall mean the identification of education needs, goals, objectives, and strategies that will provide excellence in one or more or all components within the basic education program within the particular building. The scope of the

components to be addressed in the plan shall be specified by the board of directors of the district in its application to the superintendent of public instruction for approval as a pilot project as required by WAC 392-140-079(4).

NEW SECTION

WAC 392-140-079 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—DISTRICT APPLICATION. The board of directors of any district may apply to the superintendent of public instruction to establish a school based management system. Such application shall contain:

(1) An assurance that the district will establish a school site council in conformance with WAC 392-140-077 and RCW 28A.58.082(2) for each particular building which will utilize the school based management system for preparation of a school improvement plan.

(2) A description of the composition and selection process for the school site council.

(3) An assurance that the school site council will be required to develop an annual school improvement plan.

(4) A statement whether the district will participate in one or more or all components within the basic education program and, if not all components, a description of the educational needs, goals, objectives, and strategies and/or the components of the basic education program which the school site council is authorized to address.

(5) An assurance that no school improvement plan will be approved by the board of directors for the particular school building affecting the specified components unless it is developed and recommended by the school site council in conformance with RCW 28A.58.082(4). For the purpose of this subsection, any proposed improvement which has a nexus to the specified components shall be included in such assurance.

(6) An assurance that categorical grant funds allocated by the superintendent of public instruction will be expended only for implementation of the school based management system—i.e., expenses related to the building based management system process and not for the cost of implementation of the school improvement plan resulting from such process.

(7) An assurance that the district will maintain accurate fiscal records and supporting documentation and, when requested, will provide such documentation to the superintendent of public instruction.

(8) A proposed program budget for the school based management system by activities and objects of expenditure, including any local or other funds, if any, committed to the pilot project.

(9) An assurance that if the district decides to terminate the building based management system pursuant to WAC 392-140-082 that such district will provide the superintendent of public instruction with an evaluation of the pilot project and state the reasons for termination.

(10) An assurance that the district after completion of the pilot project will provide the superintendent of public instruction with an evaluation of the program, including successes and failures and recommendations for improvement of the program.

(11) An assurance that the district will cooperate with efforts of the superintendent of public instruction to monitor and assess the success of the various pilot projects, including notification of scheduled meetings of the school site councils and submission of any progress reports requested by the superintendent of public instruction.

NEW SECTION

WAC 392-140-080 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—PROJECT SELECTION CRITERIA AND ADVISORY COMMITTEE. The superintendent of public instruction shall appoint an advisory committee to review applications from school districts for categorical grant funds to implement school based management systems and to make recommendations to the superintendent of public instruction as to the priority for funding such projects. The following criteria shall be used by the advisory committee and the superintendent of public instruction to evaluate pilot projects:

(1) At least one pilot project shall be selected from a district that uses the school based management system in every building within the district.

(2) If possible, at least one pilot project shall be selected from within:

- (a) The boundaries of each educational service district.
- (b) A school district with more than fifteen thousand FTE students.
- (c) A school district with fewer than one thousand FTE students.

(d) A school district with a school improvement plan that addresses all components within the basic education program.

(e) A school district with a school improvement plan that addresses only selective components within the basic education program.

NEW SECTION

WAC 392-140-081 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—CONDITIONS PRECEDENT TO APPLICATION BY DISTRICT FOR PILOT PROJECT APPROVAL. In order for a district to be eligible for pilot project approval by the superintendent of public instruction, the district shall be required to meet the following conditions precedent to the application for approval.

(1) The district representatives—at least the superintendent or his/her designee, a board member, and the principal of, and three other persons, each representing a different category specified in WAC 392-140-077 (2) through (6) from the designated building—shall attend a one-day workshop on school based management systems sponsored by the superintendent of public instruction.

(2) The district shall hold at least one public hearing on the application to the superintendent of public instruction for approval to establish a pilot project utilizing a school based management system.

NEW SECTION

WAC 392-140-082 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—GRANT EXPENDITURES AND TERMINATION. Upon receipt of funds allocated by the superintendent of public instruction, the board of the district shall be authorized to budget and expend such funds for support of the school based management system. If at any time the board of directors determines it is terminating the school based management system, any remaining funds not expended as of the date of such decision to terminate shall be returned to the superintendent of public instruction and no further allocations pursuant to WAC 392-140-083 shall be made by the superintendent of public instruction regardless of any obligation incurred by the district.

NEW SECTION

WAC 392-140-083 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—ALLOCATIONS BY SUPERINTENDENT OF PUBLIC INSTRUCTION. Allocation of funds by the superintendent of public instruction shall be one-third of the grant upon approval and the remainder made in equal monthly installments based on the budget approved by the superintendent of public instruction. Such allocations shall commence no earlier than March, 1986 and conclude in June, 1987. The budget approved by the superintendent of public instruction shall be the amount submitted in the district's pilot project approval application subject to negotiations if the superintendent of public instruction deems any item or amount excessive. In any event, the approved amount shall be negotiated and fixed prior to the commencement of the pilot project by the district.

WSR 86-05-037

EMERGENCY RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Order 86-2—Filed February 19, 1986]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Finance—Special allocations, instructions, and requirements, chapter 392-140 WAC.

I, Frank B. Brouillet, 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 1985 legislature authorized

SPI to commence and conclude pilot projects by districts in school based management systems during the 1985-87 biennium. The agency's normal rule development process was delayed by unforeseen legal and administration problems associated with the act. An emergency is created by the fact that any further delay in adoption of the rules would tend to defeat timely implementation of the program as required by the legislature.

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.58.082(4) 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 February 18, 1986.

By Frank B. Brouillet
Superintendent of Public Instruction

NEW SECTION

WAC 392-140-075 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—APPLICABLE PROVISIONS—AUTHORITY. The provisions of WAC 392-140-075 through 392-140-083 shall be applicable to the distribution of categorical grant funds to districts for the establishment of a school based management system for one or more school buildings within the district. The authority for these regulations is RCW 28A.58.082(4) which authorizes the superintendent of public instruction to adopt rules and regulations for the implementation of school based management pilot projects.

NEW SECTION

WAC 392-140-076 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—SCHOOL BASED MANAGEMENT—DEFINITION. For the purpose of WAC 392-140-075 through 392-140-083, the term "school based management" shall mean the use of an established school site council for the development of an annual school improvement plan for a particular school building.

NEW SECTION

WAC 392-140-077 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—SCHOOL SITE COUNCIL—DEFINITION. For the purpose of WAC 392-140-075 through 392-140-083, the term "school site council" shall mean a council for a particular school building selected initially by a process established by the board of directors of the district and composed initially of at least the following:

- (1) Principal of the school.
- (2) Two or more teachers from the school.
- (3) School personnel from the school other than principal or teachers.
- (4) Two or more parents of students attending the school.

(5) Two or more nonparent community members from the school's service area—i.e., geographical areas within the district from which students attend such school.

(6) Two or more secondary students from the school if the particular school building is a secondary school—i.e., containing any grade seven through twelve or equivalent, if nongraded.

NEW SECTION

WAC 392-140-078 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—SCHOOL IMPROVEMENT PLAN—DEFINITION. For the purpose of WAC 392-140-075 through 392-140-083, the term "school improvement plan" shall mean the identification of education needs, goals, objectives, and strategies that will provide excellence in one or more or all components within the basic education program within the particular building. The scope of the components to be addressed in the plan shall be specified by the board of directors of the district in its application to the superintendent of public instruction for approval as a pilot project as required by WAC 392-140-079(4).

NEW SECTION

WAC 392-140-079 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—DISTRICT APPLICATION. The board of directors of any district may apply to the superintendent of public instruction to establish a school based management system. Such application shall contain:

(1) An assurance that the district will establish a school site council in conformance with WAC 392-140-077 and RCW 28A.58.082(2) for each particular building which will utilize the school based management system for preparation of a school improvement plan.

(2) A description of the composition and selection process for the school site council.

(3) An assurance that the school site council will be required to develop an annual school improvement plan.

(4) A statement whether the district will participate in one or more or all components within the basic education program and, if not all components, a description of the educational needs, goals, objectives, and strategies and/or the components of the basic education program which the school site council is authorized to address.

(5) An assurance that no school improvement plan will be approved by the board of directors for the particular school building affecting the specified components unless it is developed and recommended by the school site council in conformance with RCW 28A.58.082(4). For the purpose of this subsection, any proposed improvement which has a nexus to the specified components shall be included in such assurance.

(6) An assurance that categorical grant funds allocated by the superintendent of public instruction will be expended only for implementation of the school based management system—i.e., expenses related to the building based management system process and not for the cost of implementation of the school improvement plan resulting from such process.

(7) An assurance that the district will maintain accurate fiscal records and supporting documentation and, when requested, will provide such documentation to the superintendent of public instruction.

(8) A proposed program budget for the school based management system by activities and objects of expenditure, including any local or other funds, if any, committed to the pilot project.

(9) An assurance that if the district decides to terminate the building based management system pursuant to WAC 392-140-082 that such district will provide the superintendent of public instruction with an evaluation of the pilot project and state the reasons for termination.

(10) An assurance that the district after completion of the pilot project will provide the superintendent of public instruction with an evaluation of the program, including successes and failures and recommendations for improvement of the program.

(11) An assurance that the district will cooperate with efforts of the superintendent of public instruction to monitor and assess the success of the various pilot projects, including notification of scheduled meetings of the school site councils and submission of any progress reports requested by the superintendent of public instruction.

NEW SECTION

WAC 392-140-080 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—PROJECT SELECTION CRITERIA AND ADVISORY COMMITTEE. The superintendent of public instruction shall appoint an advisory committee to review applications from school districts for categorical grant funds to implement school based management systems and to make recommendations to the superintendent of public instruction as to the priority for funding such projects. The following criteria shall be used by the advisory committee and the superintendent of public instruction to evaluate pilot projects:

(1) At least one pilot project shall be selected from a district that uses the school based management system in every building within the district.

(2) If possible, at least one pilot project shall be selected from within:

(a) The boundaries of each educational service district.

(b) A school district with more than fifteen thousand FTE students.

(c) A school district with fewer than one thousand FTE students.

(d) A school district with a school improvement plan that addresses all components within the basic education program.

(e) A school district with a school improvement plan that addresses only selective components within the basic education program.

NEW SECTION

WAC 392-140-081 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—CONDITIONS PRECEDENT TO APPLICATION BY DISTRICT FOR PILOT PROJECT APPROVAL. In order for a district to be eligible for pilot project approval by the superintendent of public instruction, the district shall be required to meet the following conditions precedent to the application for approval.

(1) The district representatives—at least the superintendent or his/her designee, a board member, and the principal of, and three other persons, each representing a different category specified in WAC 392-140-077 (2) through (6) from the designated building—shall attend a one-day workshop on school based management systems sponsored by the superintendent of public instruction.

(2) The district shall hold at least one public hearing on the application to the superintendent of public instruction for approval to establish a pilot project utilizing a school based management system.

NEW SECTION

WAC 392-140-082 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—GRANT EXPENDITURES AND TERMINATION. Upon receipt of funds allocated by the superintendent of public instruction, the board of the district shall be authorized to budget and expend such funds for support of the school based management system. If at any time the board of directors determines it is terminating the school based management system, any remaining funds not expended as of the date of such decision to terminate shall be returned to the superintendent of public instruction and no further allocations pursuant to WAC 392-140-083 shall be made by the superintendent of public instruction regardless of any obligation incurred by the district.

NEW SECTION

WAC 392-140-083 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—ALLOCATIONS BY SUPERINTENDENT OF PUBLIC INSTRUCTION. Allocation of funds by the superintendent of public instruction shall be one-third of the grant upon approval and the remainder made in equal monthly installments based on the budget approved by the superintendent of public instruction. Such allocations shall commence no earlier than March, 1986 and conclude in June, 1987. The budget approved by the superintendent of public instruction shall be the amount submitted in the district's pilot project approval application subject to negotiations if the superintendent of public instruction deems any item or amount excessive. In any event, the approved amount shall be negotiated and fixed prior to the commencement of the pilot project by the district.

WSR 86-05-038
PROPOSED RULES
CORRECTIONS STANDARDS BOARD
[Filed February 19, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Corrections Standards Board intends to adopt, amend, or repeal rules concerning maximum capacities, amending WAC 289-15-225;

that the agency will at 9:00 a.m. or later, Friday, April 11, 1986, in the South Room, Sheraton-Tacoma, 1320 Broadway Plaza, Tacoma, WA 98402, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 70.48.050 (1)(a) and 70.48.070.

The specific statute these rules are intended to implement is RCW 70.48.050 (1)(a) and 70.48.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 28, 1986.

Dated: February 18, 1986
By: Robert W. Cote
Executive Secretary

STATEMENT OF PURPOSE

Title: Maximum capacities.

Description of Purpose: WAC 289-15-225, which was originally adopted by the State Jail Commission on May 14, 1983, is to incorporate within the custodial care standards specific maximum jail capacity figures for purposes of applying the crowding standard set forth in WAC 289-15-220. The purpose of these amendments is to change several of those capacities.

Statutory Authority: RCW 70.48.050 (1)(a) and 70.48.070.

Summary of Rule: These amendments change the capacity figures for Grant County, Grays Harbor County, Jefferson County, the city of Kent, King County, and the city of Issaquah.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert W. Cote, Executive Secretary, Corrections Standards Board, 110 East 5th Avenue, Mailstop GB-12, Olympia, WA 98504, (206) 753-5790, scan 234-5790.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Corrections Standards Board.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: None.

Small Business Economic Impact Statement: None.

AMENDATORY SECTION (Amending Order 86-04, filed 12/24/85)

WAC 289-15-225 MAXIMUM CAPACITIES. Pursuant to WAC 289-15-220, the maximum capacity of each detention and correctional facility within the state of Washington is established at the figure indicated below.

Detention Facilities

- Auburn (22)
Bremerton (23)
Issaquah ((6)) (10)
Olympia (temporary) (19)
Stevens County (22)

Correctional Facilities

- Asotin County (16)
Benton County (109)
Chelan County (132)
Clallam County (102)
Clark County (300)
Cowlitz County(91)
Ferry County (22)
Forks (11)
Franklin County (76)
Grant County ((54)) (85)
Grays Harbor County ((74)) (82)
Island County (50)
Jefferson County ((+8)) (20)
Kent ((20)) (56)
King County ((+38)) (784)
Kitsap County (103)
Kitsap County Work Release (42)
Kittitas County (45)
Klickitat County (30)
Lewis County (68)
Lincoln County (15)
Mason County (34)
Okanogan County (67)
Pacific County (29)
Pend Oreille County (18)
Pierce County (470)
Skagit County (83)
Skamania County (17)
Snohomish County (116)
Snohomish County Work Release (60)
Spokane County (352)
Thurston County (94)
Walla Walla County (44)
Whatcom County (82)
Whitman County (34)
Yakima County (274)

WSR 86-05-039
PROPOSED RULES
DEPARTMENT OF FISHERIES
[Filed February 19, 1986]

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 fishing rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 25, 1986.

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 25, 1986.

Dated: February 18, 1986
By: Russell W. Cahill
for William R. Wilkerson
Director

STATEMENT OF PURPOSE

Title: WAC 220-57A-185 Wilderness Lake; and 220-57A-190 Wynoochee Reservoir.

Description of Purpose: Delete opening and closing dates.

Statutory Authority: RCW 75.08.080.

Summary of Rule and Reasons Supporting Proposed Action: These lakes are to be regulated together with the rest of the lakes containing land locked salmon.

Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, WA, 586-2429; Implementation: Gene DiDonato, 115 General Administration Building, Olympia, WA, 753-6772; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, WA, 753-6585.

These rules are proposed by the Washington Department of Fisheries.

Comments: These lakes were inadvertently omitted from the sport proposal package for 1986. See WSR 86-03-089.

These proposals are not the result of federal law or court order.

Small Business Economic Impact Statement: No effect. These rules regulate the sport fishing for salmon only.

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

WAC 220-57A-185 WILDERNESS LAKE (KING COUNTY). Bag limit I(~~=April 21 through September 2~~).

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

WAC 220-57A-190 WYNOOCHEE RESERVOIR (GRAYS HARBOR COUNTY). Bag limit I(~~=April 21 through October 31~~).

WSR 86-05-040
PROPOSED RULES
DEPARTMENT OF FISHERIES
[Filed February 19, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning commercial fishing rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 25, 1986.

The authority under which these rules are proposed is RCW 75.08.070 and 75.08.080.

The specific statute these rules are intended to implement is RCW 75.08.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 25, 1986.

Dated: February 18, 1986

By: Russell W. Cahill
for William R. Wilkerson
Director

STATEMENT OF PURPOSE

Title: WAC 220-32-021 Lawful gear and seasons—Smelt.

Description of Purpose: Redefine lawful gear and commercial seasons for smelt on the Columbia River.

Statutory Authority: RCW 75.08.070 and 75.08.080.

Summary of Rule and Reasons Supporting Proposed Action: Will limit trawl net gear and establish the maximum bag frame for dip bag net gear. Seasons are set to coincide with the expected peak return, and vessel size limitation is proposed for inside waters. These rules are intended to provide an orderly fishery and allow for sustained harvest.

Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, WA, 586-2429; Implementation: Gene DiDonato, 115 General Administration Building, Olympia, WA, 753-6772; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, WA, 753-6585.

These rules are proposed by the Washington Department of Fisheries.

Comments: No public hearing is scheduled.

These proposals are not the result of federal law or court order.

Small Business Economic Impact Statement: This rule will allow smaller vessels to be competitive in the Columbia River smelt fishery.

AMENDATORY SECTION (Amending Order 77-14, filed 4/15/77)

WAC 220-32-021 LAWFUL GEAR AND SEASONS—SMELT. (1) It (~~shall be lawful in the main Columbia River to take;~~) is unlawful to fish for (~~and~~) or possess smelt taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except with gill nets, hand dip nets and (~~with any~~) trawl net (~~that is constructed with mesh not exceeding 2 inches stretch measure and the ground line or foot rope of the trawl net does not exceed 25 feet in length.~~

(1) It shall be lawful to take, fish for and possess smelt taken for commercial purposes with hand dip nets in tributaries flowing in the Columbia River downstream from a point 5 miles below Bonneville Dam) gear.

((2)) (a) Trawl net gear - It is unlawful to fish more than one trawl net from a boat at one time or with trawl gear that exceeds the following specifications:

- (i) The head rope of the trawl may not exceed 25 feet in length;
- (ii) The foot rope or groundline of the trawl may not exceed 25 feet in length;
- (iii) The dimensions of the trawl's otter doors may not exceed 3 feet by 4 feet;
- (iv) The bag length of the trawl, as measured from the center of the head rope to the terminal end of the bunt, may not exceed 35 feet;
- (v) The bridal rope from the rear of the otter doors to the foot and head ropes may not exceed 8 feet;
- (vi) Each breast rope may not exceed 5 feet; and
- (vii) Mesh size used in the trawl may not exceed 2 inches stretch measure.

(b) Gill net gear - It (~~shall be~~) is unlawful to (~~take;~~) fish for or possess smelt (~~in Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E~~) taken with gill net gear containing mesh larger than 2 inches stretch measure.

(c) Hand dip net gear - It is unlawful to fish for or possess smelt taken with hand dip net gear measuring more than 36 inches across the bag frame.

(2) Seasons - It is unlawful to fish for or possess smelt taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, or 1E except as provided for in this subsection:

- (a) Trawl season -
 - (i) Salmon Management and Catch Reporting Area 1A is open from 6 p.m. Monday to 6 p.m. Wednesday of each week from March 1 through March 31.
 - (ii) Salmon Management and Catch Reporting Areas 1B, 1C, 1D, and 1E are open 7 days per week from December 1 through March 31 of the following year for boats not exceeding 32 feet in length.
- (b) Gill net season - Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E are open 7 days per week from December 1 of each year through March 31 of the following year.
- (c) Hand dip net season -
 - (i) Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E are open 7 days per week from December 1 of each year through March 31 of the following year.
 - (ii) Tributaries to Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E are open 7 days per week from December 1 of each year through March 31 of the following year, except that it is

unlawful to fish for smelt within one mile of any dam or other obstruction or in the Cowlitz River upstream from a monument located at Peterson's Eddy, also known as Miller's Eddy.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-042 COLUMBIA RIVER—WEEKLY CLOSURES—SMELT. (915)

WSR 86-05-041**PROPOSED RULES****PUBLIC DISCLOSURE COMMISSION**

[Filed February 19, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Disclosure Commission intends to adopt, amend, or repeal rules concerning:

Amd WAC 390-16-041 Forms—Summary of contributions and expenditures.

Amd ch. 390-24 WAC Forms for financial affairs reporting;

that the agency will at 9 a.m., Tuesday, March 25, 1986, in the 2nd Floor Conference Room, Evergreen Plaza Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 25, 1986.

The authority under which these rules are proposed is RCW 42.17.370(1).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 25, 1986.

Dated: February 19, 1986

By: Graham E. Johnson
Executive Director

STATEMENT OF PURPOSE

Title: WAC 390-16-041 Forms—Summary of total contributions and expenditures.

Description of Purpose: Adopts forms necessary for reports of contributions and expenditures made by candidates and political committees along with the appropriate schedules.

Statutory Authority: RCW 42.17.370(1).

Summary of Rule: Adopts forms and schedules.

Reasons Supporting Proposed Action: Schedule B was revised adding instruction on the reverse side of the form.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Graham E. Johnson, Executive Director.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: PDC staff.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: N/A.

Title: Chapter 390-24 WAC, Financial affairs reporting.

Description of Purpose: Adopts procedures for reporting financial affairs.

Statutory Authority: RCW 42.17.370(1).

Summary of Rules: Procedures for reporting financial affairs and adopts forms for reporting.

Reasons Supporting Proposed Action: Rules need updating.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Graham E. Johnson, Executive Director.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: PDC staff.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: N/A.

AMENDATORY SECTION (Amending Order 86-01, filed 2/5/86)

WAC 390-16-041 FORMS—SUMMARY OF TOTAL CONTRIBUTIONS AND EXPENDITURES. The official form for reports of contributions and expenditures by candidates and political committees is designated "C-4", revised 8/83, and includes Schedule A, revised 1/86, Schedule B, revised ((+2/8+)) 1/86, Schedule C, revised 12/81, and Schedule T, revised 8/83. Copies of this form are available at the commission office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.

CONTRIBUTION AND EXPENDITURE SUMMARY							
Candidate or Committee Name (Do not abbreviate. Include candidate's full name).					C4	P M Date	
Address						Recv. Date	
City County Zip						OFFICE USE	
Report Period Covered	From: (last C-4)	To: (end of period)	Funds on hand at start of this report period:	Checking and Petty Cash \$	Savings Other \$		
RECEIPTS							
			This Report Period	Total for Campaign or Year			
1. Previous total cash and in kind contributions (From line 8, last C-4) (If beginning a new campaign or calendar year, see instruction booklet)							
2. Cash received during this reporting period (From line 3, Schedule A)							
3. In kind contributions received during this reporting period (From line 1, Schedule B)							
4. Total cash and in kind contributions received (Line 2 plus 3)							
5. Loan repayments made during this period (From line 5, Schedule A)							
6. Corrections (From line 1 or 4 Schedule C) Show + or (-)							
7. Net contributions this period (Combine lines 4, 5, & 6) Show + or (-)							
8. Total cash and in kind contributions during campaign (Total lines 1 & 7)							
9. Total pledge payments due (From line 4, Schedule B)							
EXPENDITURES							
			This Report Period	Total for Campaign or Year			
10. Previous cash and in kind expenditures (From line 16, last C-4)							
11. Total cash expenditures during this reporting period (From line 4, Schedule A)							
12. In kind expenditures (goods & services) during this reporting period (From line 1, Schedule B)							
13. Total cash and in kind expenditures made (Line 11 plus line 12)							
14. Corrections (From line 2 or 4, Schedule C) Show + or (-)							
15. Net expenditures this period (Combine lines 13 & 14) Show + or (-)							
16. Total cash and in kind expenditures during campaign (Total lines 10 and 15)							
17. Orders placed but not yet paid (From line 3, Schedule B)							
18. Pledges made to other candidates or committees but not yet paid (From line 5, Schedule B)							
ELECTION RESULTS: Candidates please complete this section for reports filed after primary or general elections <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> PRIMARY <input type="checkbox"/> Won <input type="checkbox"/> Lost <input type="checkbox"/> Unopposed <input type="checkbox"/> Did not run </td> <td style="width: 50%; border: none;"> GENERAL <input type="checkbox"/> Won <input type="checkbox"/> Lost <input type="checkbox"/> Unopposed <input type="checkbox"/> Did not run </td> </tr> </table>				PRIMARY <input type="checkbox"/> Won <input type="checkbox"/> Lost <input type="checkbox"/> Unopposed <input type="checkbox"/> Did not run	GENERAL <input type="checkbox"/> Won <input type="checkbox"/> Lost <input type="checkbox"/> Unopposed <input type="checkbox"/> Did not run	RECAPITULATION 19. Cash balance to date (Subtract line 18 from line 8) _____ 20. Total loans owed _____ 21. Total unpaid orders and outstanding bills _____ 22. Total debts and liabilities (Line 20 plus line 21) (-) _____ 23. Surplus or deficit (Subtract line 22 from line 19) _____	
PRIMARY <input type="checkbox"/> Won <input type="checkbox"/> Lost <input type="checkbox"/> Unopposed <input type="checkbox"/> Did not run	GENERAL <input type="checkbox"/> Won <input type="checkbox"/> Lost <input type="checkbox"/> Unopposed <input type="checkbox"/> Did not run						
CERTIFICATION: I certify that the information herein and on accompanying schedules and attachments is true. Candidate's Signature _____ Date _____ Treasurer's Signature (if a political committee) _____ Date _____							

PUBLIC DISCLOSURE COMMISSION
 403 EVERGREEN PLAZA—FJ-42
 OLYMPIA, WASHINGTON 98504
 PHONE: 206-753-1111

PDC FORM <div style="text-align: center; font-size: 2em; font-weight: bold;">C-4</div> <small>Rev. 8/82</small>	CONTRIBUTION AND EXPENDITURE SUMMARY
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INSTRUCTIONS

Please consult PDC instruction book or RCW 42.17 and WAC 390-18 when completing this report. If you have questions, write or telephone PDC (phone 206-753-1111).

WHO MUST REPORT:

Each candidate or political committee which receives contributions or makes expenditures in an election campaign. This report is not required by candidates who use the MINI reporting option.

WHEN TO SEND C-4 REPORTS:

	ABBREVIATED REPORTING	FULL REPORTING
Day C-1 registration is filed if contributions have been received or expenditures made.	No	Yes
Tenth of each month if contributions received or expenditures were over \$200 made since last C-4 report was filed.	No	Yes
<i>Tenth of month report is not required if another C-4 is required to be filed during that month</i>		
For each election for which the candidate or committee will make an expenditure:		
21 days prior to each election	No	Yes
7 days prior to each election	No	Yes
21 days after each election	Yes *	Yes
<small>* Not required after primary.</small>		
By January 31 (Continuing committees which use Abbreviated Reporting).	Yes	No
Final report. When campaign is finished or committee closes operation. This is often the same as 21 days after the election.	Yes	Yes

SCHEDULES AND ATTACHMENTS (FULL REPORTING ONLY):

The C-4 report is a summary page. Schedules A, B and C as appropriate must be attached to support financial information on the C-4. Also, copies of C-3 and C-3A reports must be attached if they have not previously been filed with PDC and the county election office.

WHERE TO SEND REPORTS:

Send original to:
 Public Disclosure Commission
 403 Evergreen Plaza—FJ-42
 Olympia, WA 98504

Send duplicate to:
 County Election Dept. (or County Auditor)
 where candidate lives
 Political committees sent to county where
 headquarters is located

OTHER REPORTS REQUIRED:

- C-1 (registration statement) is used to register candidates and committees.
- C-3 (contribution report) is used to list campaign contributors.
- F-1 (financial affairs statement) is filed by candidates (not required from other committees).

**IN KIND CONTRIBUTIONS and EXPENDITURES,
PLEDGES and ORDERS PLACED**

**SCHEDULE
to C4 B**

Name of Candidate or Committee Name (Do not abbreviate. Use candidate's full name)

1. In kind contributions received and expended (goods, services, discounts, etc.)

Date received	Contributor's name and nature of contribution	Address, City, Zip	Fair market value	Total contributions by this person during campaign or year
TOTAL			_____	
Enter also on line 3 and line 12 of C4				

2. In kind expenditures made to other candidates and committees

Date	Recipient	Address, City, Zip	Fair market value	
Note: Amounts in this section are not carried forward on C4 report				

3. New orders placed (but not yet paid)

Date	Recipient	Address, City, Zip	Amount	Purpose
TOTAL (Include new orders above and all other orders and unpaid bills.)			_____	
Enter also on lines 17 and 21 of C4				

4. Pledges received but not yet paid

Date you were notified of pledge	Name of person (including organizations) making pledge	Address, City, Zip	Amount	Total contributions by this person during campaign or year
TOTAL (Include new pledges above and all other outstanding pledges.)			_____	
Enter also on line 9 of C4				

5. Pledges made to other candidates and committees (but not yet paid)

Date Made	Recipient	Address, City, Zip	Amount	
TOTAL			_____	
Enter total on line 18 of C4				

CONTRIBUTIONS OVER \$5,000 (cash or Inkind)

IT IS A VIOLATION OF LAW FOR ANY PERSON TO MAKE OR FOR ANY CANDIDATE OR POLITICAL COMMITTEE TO ACCEPT FROM ANY ONE PERSON CONTRIBUTIONS IN THE AGGREGATE EXCEEDING \$5,000 WITHIN 21 DAYS OF A GENERAL ELECTION.

CONTRIBUTIONS OVER \$500 (cash or Inkind)—SPECIAL REPORTS

A SEPARATE, SPECIAL REPORT MUST BE MADE FOR EVERY CONTRIBUTION OF OVER \$500 RECEIVED WITHIN 7 DAYS OF A PRIMARY ELECTION OR 21 DAYS OF A GENERAL ELECTION.

THE REPORT MUST BE IN WRITING (C-3, LETTER, TELEGRAM, MAILGRAM) AND RECEIVED BY PDC WITHIN 48 HOURS OR THE FIRST WORKING DAY AFTER RECEIPT OR NOTIFICATION OF THE CONTRIBUTION. THE REPORT MUST INCLUDE THE NAME OF THE RECIPIENT, DATE RECEIVED, AMOUNT, AND CONTRIBUTOR'S NAME AND ADDRESS.

THE REPORT MAY BE MADE BY TELEPHONE TO THE PDC WITHIN THE REQUIRED TIME, IF THE WRITTEN REPORT IS POSTMARKED WITHIN THE REQUIRED TIME ALSO.

NOTE: ANY COMMITTEE, LOBBYIST OR LOBBIST'S EMPLOYER WHO MAKES A CONTRIBUTION OVER \$500 WITHIN 7 DAYS BEFORE A PRIMARY OR WITHIN 21 DAYS BEFORE A GENERAL ELECTION MUST NOTIFY PDC AND THE RECIPIENT WITHIN 24 HOURS OR THE FIRST WORKING DAY AFTER THE CONTRIBUTION IS MADE.

CORRECTIONS

**SCHEDULE
to C4** **C**

Candidate or Committee Name (Do not abbreviate. Use candidate's full name.)

Date

1. Corrections to cash or in kind contributions previously reported on C4 Schedule A, C3 or C3A.

Date of Report	Name of Contributor or Description of Correction	Amount Reported	Corrected Amount	Difference (+ or -)
		Total Corrections to Contributions Enter here and on line 6 of C4. Show + or (-).		

2. Corrections to cash or in kind expenditures previously reported

Date of Report	Name of Vendor or Description of Correction	Amount Reported	Corrected Amount	Difference (+ or -)
		Total Corrections to Expenditures Enter here and on line 14 of C4. Show + or (-).		

3. Loans forgiven. Loans listed below and previously reported on C3 reports have been forgiven in whole or part and should now be considered as cash or in kind contributions to that extent.

Date of Loan	Name of Creditor	Original Amount	Amount Repaid	Amount Forgiven
				TOTAL
Line 20 of C4 should be reduced by the total amount reported here.				

4. Refunds. The below listed amounts have been received as refunds on expenditures previously reported. The refund has been deposited and reported on C3 report (line 4).

Date of Refund	Source/Person Making Refund	Amount of Refund
		TOTAL
Enter as (-) on line 6 & line 14 of C4.		

TRANSFER OF FUNDS

SCHEDULE **T**
to C4

CANDIDATE OR COMMITTEE NAME

TO BE USED BY CANDIDATES OR CANDIDATE'S COMMITTEE WHICH RECEIVES FUNDS FROM OR TRANSFERS FUNDS TO ANOTHER CANDIDATE OR CANDIDATE'S COMMITTEE.

RECEIPTS

INCLUDE ALL FUNDS RECEIVED FROM ANOTHER CANDIDATE OR CANDIDATE'S COMMITTEE. BE SURE THAT FUNDS REPORTED HERE ARE DEPOSITED IN YOUR CAMPAIGN BANK ACCOUNT AND THAT DEPOSIT IS REPORTED ON FORM C-3.

DATE RECEIVED	CONTRIBUTOR'S NAME	ADDRESS, CITY, ZIP	AMOUNT	TOTAL CONTRIBUTED

EXPENDITURES

INCLUDE ALL FUNDS TRANSFERRED TO ANOTHER CANDIDATE OR CANDIDATE'S COMMITTEE. BE SURE THAT FUNDS REPORTED HERE ARE ALSO REPORTED AS AN EXPENDITURE IN ITEM 4, SCHEDULE A TO C-4.

DATE OF PAYMENT	CANDIDATES TO WHOM FUNDS WERE GIVEN	AMOUNT

AMENDATORY SECTION (Amending Order 85-05, filed 11/26/85)

WAC 390-24-010 FORMS FOR CONFLICT OF INTEREST STATEMENT. The official form for conflict of interest statements as required by RCW 42.17.240 is designated "F-1", revised 12/85. The form adopted by WAC 390-24-020 may be used by those persons filing after their first filing of this form. Copies of this form are available at the commission office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.



CONFLICT OF INTEREST STATEMENT
elected officials, candidates
and state appointed officials

PDC OFFICE USE
P M
O A
R S
T K

Instructions:

Include information for yourself, spouse and dependents in your household.
Report period: Elected and state appointed officials—preceding calendar year.
Candidates and others—preceding 12 calendar months.
When due: Elected and state appointed officials—by April 15
Candidates and others—within two weeks of becoming a candidate or being newly
appointed to a vacancy.

Table with 2 columns: DOLLAR CODE, AMOUNT. Rows: A \$1 to \$1,999, B \$2,000 to \$9,999, C \$10,000 to \$19,999, D \$20,000 to \$49,999, E \$50,000 or more

R
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C
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V
E
D

SEND REPORT TO PUBLIC DISCLOSURE COMMISSION.

LAST NAME FIRST NAME MIDDLE INITIAL NAMES OF SPOUSE AND DEPENDENTS POLITICAL PARTY

ADDRESS

CITY COUNTY ZIP

CHECK YOUR FILING STATUS (mark only one box)

- An elected or state appointed official filing annual report
Final report as an elected official. Term expired
Candidate running in the election: month year
Newly appointed to an elective office
Newly appointed to a state appointive office

OFFICE YOU HOLD OR ARE A CANDIDATE FOR:

Office title
County, city or district of the office,
name and number:
Position number
Term begins: ends:

1 INCOME: List each source of income, compensation and employment from which you or a family member received \$1,000 or more during the year.

Table with 3 columns: NAME AND ADDRESS OF EMPLOYER OR SOURCE OF COMPENSATION, OCCUPATION OR HOW COMPENSATION WAS EARNED, AMOUNT USE CODE

2 REAL ESTATE: List all Washington real estate assessed in value over \$5,000 in which you held a financial interest. (Show partnership, company, etc. real estate on F-1 supplement.)

PROPERTY OWNED OR IN WHICH YOU HELD A FINANCIAL INTEREST DURING THE PERIOD COVERED BY THIS REPORT.

Table with 4 columns: PROPERTY PURCHASED OR IN WHICH YOU ACQUIRED AN INTEREST DURING REPORT PERIOD, NATURE OF FINANCIAL INTEREST, PAYMENT OR CONSIDERATION GIVEN, DOLLAR VALUE USE CODE

3 ASSETS: List bank and savings accounts, insurance policies, stocks, bonds and other valuable property.

A. Name and address of each bank or financial institution in which you had an account over \$10,000 any time during the report period.	TYPE OF ACCOUNT, DESCRIPTION OF ASSET	VALUE USE CODE
B. Name and address of each insurance company where you had a policy with a cash or loan value over \$10,000 during the period.		
C. Name and address of each company, union, association, government agency, etc. in which you owned or had a financial interest worth over \$1,000. Include stocks, bonds, ownership, retirement plan, IRA, and other intangible property.		

Check here if continued on attached sheet

4 LIABILITIES: List each creditor owed \$1,000 or more any time during the period. Don't include retail charge accounts or credit cards.

CREDITOR'S NAME AND ADDRESS	TERMS OF PAYMENT	SECURITY GIVEN	AMOUNT USE CODE	
			ORIGINAL	PRESENT

Check here if continued on attached sheet

5 Answer each question below. Your answer should cover all times during the reporting period. If you answer yes to any of these questions you must also complete the supplement page to this report. The supplement is not required if all answers are no.

- A. Are you, your spouse or dependents an officer, director, general partner or trustee of any corporation, company, union, association, joint venture or other entity? _____ If yes, complete supplement, Parts A and B.
- B. Do you, your spouse or dependents have an ownership of 10% or more in any company, corporation, partnership, joint venture or other business? _____ If yes, complete supplement, Parts A, B, and C.
- C. Do you, your spouse or dependents own your own business? _____ If yes, complete supplement, Parts A, B, and C.
- D. Have you, your spouse or dependents prepared, promoted or opposed state legislation, rules, rates or standards for current or deferred compensation? (Do Not include pay for your currently-held public office.) _____ If yes, complete supplement, Part D.

DOLLAR CODE	AMOUNT	HAVE YOU ? ? ? ?	Certification: I hereby certify under penalty of perjury that the information contained in this report is true and correct.
A	\$1 to \$1,999	Answered each item?	Signature _____ Telephone _____ Date _____
B	\$2,000 to \$9,999	Put your name on each attached page?	
C	\$10,000 to \$19,999	Kept a copy for your records?	
D	\$20,000 to \$49,999		
E	\$50,000 or more		



POC FORM F-1 SUPPLEMENT (12/85) CONFLICT OF INTEREST STATEMENT SUPPLEMENT PAGE

PROVIDE INFORMATION FOR YOURSELF, SPOUSE, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD

Form with fields: LAST NAME, FIRST NAME, M.I., DATE

OFFICES HELD, BUSINESS INTERESTS For each corporation, association, union, partnership, joint venture, or other entity in which you are an officer, director, general partner, trustee, or 10 percent or more owner—provide the following information: Entity No., Paper name of corporation, association, etc.; Position or position title; Year office or title or percent of ownership first obtained; Customers; List every governmental body, corporation, partnership, joint venture, sole proprietorship, union, association, business, or other commercial entity which paid compensation of \$5,000 or more during the stated time period above.

Entity No. 1: POSITION OR OWNERSHIP % SHOW SELF (S) SPOUSE (SP) DEPENDENT (D) CUSTOMERS: PURPOSE OF PAYMENT Check here if continued on attached sheet

Entity No. 2: POSITION OR OWNERSHIP % SHOW SELF (S) SPOUSE (SP) DEPENDENT (D) CUSTOMERS: PURPOSE OF PAYMENT Check here if continued on attached sheet

Report additional entities on plain 8 1/2 x 11 paper using above format. Attach pages to this supplement. Put your name on all attachments.

B GOVERNMENT CUSTOMERS: If the government body in which you hold or are running for office has paid compensation to any entity listed in part "A", complete this section.

NAME OF ORGANIZATION WHICH RECEIVED PAYMENT	GOVERNMENT AGENCY WHICH MADE PAYMENT	DOLLAR AMOUNT PAID AND PURPOSE OF PAYMENT

Check here if continued on attached sheet

C BUSINESS REAL ESTATE: List each parcel of Washington real estate with assessed value over \$10,000 in which a direct financial interest was held by any corporation, partnership, firm, enterprise or other entity in which you, your spouse or dependent own 10% or more.

DESCRIPTION OF PROPERTY (STREET ADDRESS, TAX DESCRIPTION OR LEGAL DESCRIPTION)

Check here if continued on attached sheet

D LOBBYING: List persons for whom state legislation or state rules, rates or standards have been prepared or lobbied for current or deferred compensation. Do not list pay from government body in which you are an elected or appointed official or professional staff member.

PERSON TO WHOM SERVICES RENDERED	DESCRIPTION OF LEGISLATION, RULES, ETC.	COMPENSATION

POC FORM F-1 SUPPLEMENT (REVISED 12/85) -C-1070-

AMENDATORY SECTION (Amending Order 83-03, filed 12/9/83)

WAC 390-24-020 FORMS FOR AMENDING CONFLICT OF INTEREST STATEMENT. (1) The official form for amending conflict of interest statements as required by RCW 42.17.240 for all persons who have previously filed the Form F-1 is hereby adopted for use. This form shall be designated ((as)) Form "F-1A" revised 11/83.

(2) No more than three F-1A forms may be filed to amend a previously submitted conflict of interest statement (Form F-1). The form can be used only to update information required on an F-1.

(3) The commission reserves the right to reject amendatory forms and require a new conflict of interest statement (Form F-1) at any time if the amendments shown on an F-1A are of such length or detail so as to be confusing or to create misunderstandings. Authority is delegated to the commission's ((administrator)) executive director to make this determination.

(4) Copies of Form F-1A may be obtained at the commission office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.

 PUBLIC DISCLOSURE COMMISSION 403 EVERGREEN PLAZA OLYMPIA, WASHINGTON 98504 206-753-1111	PDC FORM	CONFLICT OF INTEREST STATEMENT elected officials, candidates and state appointed officials	THIS SPACE FOR OFFICE USE
	F-1A		

INSTRUCTIONS Please refer to the instruction book when completing this report. WHO MUST REPORT: All elected officials, persons appointed to elective office, candidates, designated state appointed officials. (Federal officials precinct committeemen and candidates for those offices are exempt from reporting.) WHEN TO REPORT: By April 15, each year you hold office. Officials whose terms expire December 31, or in January are still obligated to report the following year. Candidates or persons appointed to office report within two weeks of becoming a candidate or being appointed. SEND REPORT TO: PUBLIC DISCLOSURE COMMISSION		DOLLAR CODE <table border="1"> <tr> <th>CODE</th> <th>AMOUNT</th> </tr> <tr> <td>A</td> <td>Less than \$1,000</td> </tr> <tr> <td>B</td> <td>\$1,000 but less than \$5,000</td> </tr> <tr> <td>C</td> <td>\$5,000 but less than \$10,000</td> </tr> <tr> <td>D</td> <td>\$10,000 but less than \$25,000</td> </tr> <tr> <td>E</td> <td>\$25,000 or more</td> </tr> </table>	CODE	AMOUNT	A	Less than \$1,000	B	\$1,000 but less than \$5,000	C	\$5,000 but less than \$10,000	D	\$10,000 but less than \$25,000	E	\$25,000 or more
CODE	AMOUNT													
A	Less than \$1,000													
B	\$1,000 but less than \$5,000													
C	\$5,000 but less than \$10,000													
D	\$10,000 but less than \$25,000													
E	\$25,000 or more													
Last name _____ First name _____ Middle initial _____		NAMES OF SPOUSE AND DEPENDENTS _____ POLITICAL PARTY If partisan office or pertinent to appointment _____												
Address _____ City _____ County _____ Zip _____														
OFFICE HELD (for elected or appointed officials) DISTRICT _____ POSITION NO. _____		OFFICE SOUGHT (for candidates) DISTRICT _____ POSITION NO. _____												
Current term—began: _____ ends: _____		If elected, term will begin: _____ ends: _____												

Elected official report covers previous calendar year; candidate report preceding 12 months
 PROVIDE INFORMATION FOR YOURSELF, SPOUSE, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD

The F-1A report is designed primarily to simplify reporting by persons who have no changes or only minor changes to an F-1 report previously filed.
 After filing a complete F-1 report, you may use the F-1A for no more than the next three reports. A complete F-1 must be filed at least every four years.
 The Commission reserves the right to require that a complete F-1 report be filed if it believes amendments shown on one or more F-1A reports could cause confusion or misunderstanding to persons reviewing the reports.
 Complete the Statements below, sign your report and send it to the Public Disclosure Commission.
 Keep a copy for your own records.

<input type="checkbox"/> No change report. I have reviewed my last complete F-1 report dated _____ and F-1A reports (if any) dated (1) _____, (2) _____. There have been no changes to that information during the preceding calendar year.
<input type="checkbox"/> Minor change report. I have reviewed my last complete F-1 report dated _____ The changes listed below have occurred during the preceding calendar year. F-1 Item No. _____ Add _____ Delete _____ Change _____ (Provide all information required by F-1 report.)

PUBLIC OFFICE FUND: If you have received contributions or used surplus campaign funds to defray non-reimbursed public office related expenses, you must file a report (PDC F-2) or include those expenses in campaign reports (PDC C-4.) Instructions and forms are available from PDC. F-2 is due Jan 31.

SIGNATURE _____	
CERTIFICATION: I certify under penalty of perjury that the information contained in this report is true and correct.	TELEPHONE _____ DATE _____

AMENDATORY SECTION (Amending Order 83-03, filed 12/9/83)

WAC 390-24-025 TIME FOR FILING CONFLICT OF INTEREST STATEMENT. It shall be the policy of the public disclosure commission to construe the filing requirements of RCW 42.17.240 for elected officials in the following manner: It is the interpretation of the commission that:

(1) Any person holding elected public office, except as exempted by the terms of RCW 42.17.240, and any appointed official and professional staff member listed or referenced in RCW 42.17.240, and any appointed official required to comply with the reporting requirements of RCW 42.17.240 by any other statute is required to file the conflict of interest statement if such person holds such public office (~~in the month of~~) between January 1 and April 15 of any year. Such report shall be for the ~~((twelve months))~~ preceding ((that month)) calendar year.

(2) Any local elected official whose term of office expires immediately after December 31 shall file a conflict of interest statement for the calendar year which ended on that date.

(3) Any local elected official who resigns his public office prior to the completion of his current term of office shall file a conflict of interest statement covering that portion of the year that he was in office.

AMENDATORY SECTION (Amending Order 80-07, filed 12/1/80)

WAC 390-24-030 FORM FOR REPORTS OF PUBLIC OFFICE FUND. ((Pursuant to the statutory authority of RCW 42.17.360(1);)) The official form for reports of public office fund as required by RCW 42.17.243 is ((hereby adopted for use in reporting to the public disclosure commission. This form shall be)) designated ((as)) "F-2." Copies of this form ((may be obtained)) are available at the commission office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.



PDC FORM F-2 <small>(1/81)</small>	PUBLIC OFFICE FUND REPORT
---	--------------------------------------

THIS SPACE FOR OFFICE USE	
P.M. DATE	DATE RECEIVED

PLEASE TYPE OR PRINT CLEARLY

Last Name	First Name	MI	Office You Hold	Period covered by report
Address				<input type="checkbox"/> Jan 1 to Dec 31, 19 <input type="checkbox"/> Other / Show Dates
City	County	Zip	To	

CONTRIBUTIONS RECEIVED (CASH AND CHECKS)

Date	Contributor's Name and Address	Amount
Check here <input type="checkbox"/> if continued on attached page		TOTAL (Including Attached Pages)

**OTHER CONTRIBUTIONS RECEIVED
(INCLUDE TRAVEL AND OTHER IN-KIND GOODS AND SERVICES)**

Date	Contributor's Name and Address. If Value is unknown include description of contribution	Value
Check here <input type="checkbox"/> if continued on attached page		TOTAL (Including Attached Pages)

CONTINUE ON REVERSE

EXPENDITURES MADE

Date	Person to Whom Payment Made	Address	Nature of Expenditure	Amount

Check here if continued on attached pages

TOTAL (Including Attached Pages)

CERTIFICATION: I certify that this report is a true and complete account of contributions received and expenditures made to defray non-reimbursed public office expenses as provided in RCW 42.17.243.

Signature

Date

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 62, filed 8/26/75)

WAC 390-24-100 DEFINITION—DIRECT FINANCIAL INTEREST. For the purpose of RCW ((42.17.240)) 42.17.241 (1)(b), the phrase "direct financial interest" means and includes any direct ownership interest in a bank or savings account, in the cash surrender value of an insurance policy, in stocks, bonds, securities, evidences of indebtedness, judgments, accounts receivable, and other monetary claims in liquidated amounts..

The term "direct financial interest" as used in that subsection, shall not be deemed to include:

(1) Any direct financial interest which is required to be reported by such elected official or candidate under any other provision of chapter 42.17 RCW;

(2) An account receivable by a business entity in the ordinary course of such entity's business.

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 62, filed 8/26/75)

WAC 390-24-105 DEFINITION—WRITTEN SWORN STATEMENT. The term written, sworn statement for the purposes of RCW 42.17.240(6) shall mean a statement prepared by the elected official or candidate written and sworn to as to truth and accuracy to this best and actual knowledge or belief, of the candidate or elected official.

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 62, filed 8/26/75)

WAC 390-24-110 DEFINITION—DEBT. (1) For the purpose of RCW ((42.17.240)) 42.17.241 (1)(c), the term "debt" means and includes a personal obligation or liability to pay or return something of value. (2) The term "debt" as used in RCW ((42.17.240)) 42.17.241 (1)(c) shall not be deemed to include(:(:)) an account payable of a business entity in the ordinary course of such entity's business.

AMENDATORY SECTION (Amending Order 88, filed 12/29/76)

WAC 390-24-160 DEFINITION—PROFESSIONAL STAFF MEMBER. (1) A professional staff member of the office of the governor and of the Legislature includes all individuals retained on a full or part time basis whose primary responsibilities require the exercise of judgment and discretion in policy related matters, including, but not limited to, such individuals who are involved in the development of legislation. A professional staff member does not include individuals retained primarily for clerical, ministerial, or internal accounting and bookkeeping purposes.

(2) To insure that the provisions of Referendum 36 and this rule are properly and fairly administered and to provide guidance to affected individuals, the commission, through its chairman and ((administrator)) executive director, shall confer annually in December with the governor, the secretary of the senate and the clerk of the house regarding the specific professional staff WAC members believed to fall within the criteria set forth in paragraph (1). The ((administrator)) executive director shall submit a report of those conferences to the commission at its December meeting for approval, disapproval or modification, or other determination. Each determination shall be based on an annual review of the positions and personnel to be retained by the affected governmental bodies during the ensuing year and shall constitute the commission's administrative interpretation of the term "professional staff member" in RCW 42.17.240 (2) & (3) ((as amended by Referendum 36)) and its application to such positions and personnel.

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 63, filed 9/10/75)

WAC 390-24-200 SUFFICIENT DESCRIPTIONS OF PROPERTY. For the purposes of reporting under RCW ((42.17.240)) 42.17.241 (1)(h)-(k), the commission shall deem the following to be sufficient descriptions of property:

- (1) Complete legal description, or
- (2) Abbreviated legal description as appear on property tax statements;
- (3) Street address, except when such address is a rural route.

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 90, filed 1/20/77)

WAC 390-24-205 REPORT OF LEGISLATION PREPARED, PROMOTED OR OPPOSED. (1) Pursuant to RCW ((42.17.240)) 42.17.241 (1)(e), an official must provide in each report required by that subsection:

- (a) The name of each governmental entity of which the official is an officer or employee,
 - (b) A statement of each subject area on which the reporting official has ((proposed)) prepared, promoted or opposed any legislation, rule, rate or standard for such entity,
 - (c) The compensation received or promised for said service and,
 - (d) All other persons for whom such services have been performed for current or deferred compensation, together with an itemization of such actual or proposed legislation, rules, rates and standards, and the amount of compensation paid or promised for the service.
- (2) A person need not report the information described in subsection (a), (b), and (c) as to any entity of which such person is an elected official.

AMENDATORY SECTION (Amending Order 77, filed 6/2/76)

WAC 390-24-210 REPORT((S)) OF OFFICERS AND DIRECTORS OF FINANCIAL INSTITUTIONS. An elected official or candidate who is an officer or director of a financial institution may comply in part with RCW ((42.17.240)) 42.17.241 (1)(g)(ii) by incorporating by reference a list of the financial institution's officers and directors if such a list has been filed with the commission by the financial institution in the current year.

WSR 86-05-042

ATTORNEY GENERAL OPINION

Cite as: AGO 1986 No. 3

[February 18, 1986]

COUNTIES—ASSESSOR—TAXES—VALUATION OF PROPERTY—PRESUMPTION OF CORRECTNESS

In an appeal to the State Board of Tax Appeals from a county board of equalization, the presumption of correctness established by RCW 84.40.0301 in valuation of property for taxation applies to the determination of the assessor, not that of the board of equalization.

Requested by:

Honorable Henry R. Dunn
Cowlitz County Prosecuting Attorney
Hall of Justice
312 South First Avenue W.
Kelso, Washington 98626

WSR 86-05-043
PROPOSED RULES
DEPARTMENT OF REVENUE
 [Filed February 19, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning automobile dealers/demonstrator and executive vehicles, amending WAC 458-20-132;

that the agency will at 9:00 a.m., Thursday, March 27, 1986, in the Revenue Conference Room, 415 General Administration Building, 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 April 3, 1986.

The authority under which these rules are proposed is RCW 82.32.300.

The specific statute these rules are intended to implement is RCW 82.12.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 27, 1986.

Dated: February 19, 1986

By: Matthew J. Coyle
 Acting Director

STATEMENT OF PURPOSE

Title: WAC 458-20-132 Automobile dealers/demonstrator and executive vehicles.

Description of Purpose: To reorganize the rule into more understandable format; to provide needed definitions of terms; to recognize the changing customs of the industry; to implement the use tax exclusion in RCW 82.12.010(1) for the value of property of like kind traded in, with respect to trade-ins of demonstrator and executive use vehicles; to provide a uniform and consistent valuation method for such traded-in vehicles; and to extend the rule's provisions to used car dealers as well as new car dealers.

Statutory Authority: RCW 82.32.300.

Specific Statute(s) Rule is Intended to Implement: RCW 82.12.010.

Reasons Supporting Proposed Action: Because under RCW 82.12.010 the use tax does not apply to the trade-in value of property, this rule must provide for computing trade-in values in instances where no sale takes place, when vehicles are removed from inventory for demonstrator and executive use. The rule requires further amendment to account for changed economic realities of the custom of the industry. The rule needs general housekeeping revision for form.

Agency Personnel Responsible for Drafting: Edward L. Faker, 415 General Administration Building, Olympia, WA 98504, phone 753-5579; Implementation: Garry G. Fujita, 415 General Administration Building, Olympia, WA 98504, phone 753-5544; and Enforcement: Department of Revenue, 415 General Administration Building, Olympia, WA 98504, phone 753-5540.

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

WAC 458-20-132 ((AUTOMOBILES FOR DEMONSTRATION PURPOSES:)) AUTOMOBILE DEALERS/DEMONSTRATOR AND EXECUTIVE VEHICLES. This section accounts for the unique practices of the retail automobile dealer's industry and reflects administrative notice of the customs of this trade. The tax reporting formula explained in this rule represents a compromise of tax liabilities and offsetting deductions. It recognizes that demonstrator and executive used vehicles are actually used for limited periods of time without significantly affecting their marketability or retail selling value, and that such used vehicles have a high trade-in value when returned to inventory for sale.

DEFINITIONS

The terms "demonstration" and "demonstrator," as used in this section, mean the use of automobiles provided by dealers to their employees or other representatives, without charge, for any personal or business reason other than the mere display of such vehicles to prospective purchasers.

The term "display," as used herein, means the showing for sale of vehicles to prospective purchasers, at or near the dealer's premises, including the short term test driving, operating, and examining by prospective purchasers.

The term "executive use vehicle," as used herein, means any vehicle from sales inventory, used by any person associated with the automobile dealership for personal driving, other than for demonstration, when such person does not have a recent model vehicle registered in that person's own name.

BUSINESS AND OCCUPATION TAX

Automobile dealers are taxable under the Retailing classification upon sales of automobiles to their ((salesmen of automobiles)) employees or other representatives for personal use, including demonstration ((purposes)). The business and occupation tax does not apply upon the transfer of vehicles to employees or other representatives, where no sale occurs, for their personal use, including demonstration.

RETAIL SALES TAX

The retail sales tax applies upon sales of automobiles ((and)), parts, and accessories ((therefor made)) by dealers to their ((salesmen)) employees or other representatives for the personal use ((as demonstrators)), of such persons including demonstration. The retail sales tax does not apply to the display of automobiles where no sale takes place.

USE TAX

The use tax does not apply to the display of automobiles by dealers, their employees or other representatives. Neither does use tax apply upon the personal use or demonstration of automobiles which have been sold to dealers' employees or other representatives and upon which the retail sales tax has been paid. Also, use tax does not apply upon demonstrator vehicles if no such vehicles are actually used. However, where an automobile dealer purchases a passenger car or pickup truck without paying a retail sales tax in respect thereto, and uses such car or truck for personal use or demonstration purposes, the use tax is applicable irrespective of the fact that such personal car or demonstrator may later be sold by the dealer. As used in this rule the phrase "pickup truck" refers only to trucks having a commercial pickup body rated at three-quarter ton capacity or less.

COMPUTATION. For practical purposes, automobile dealers may elect to compute the use tax upon the use of demonstrators (but not on service cars) as follows:

The use of demonstrators is subject to the use tax on the basis of one demonstrator for each one hundred new automobiles and pickup trucks, or fractional part of such number, of all makes or models sold at retail including lease transactions during a calendar year. The use tax on each such demonstrator shall be measured by ((an)) twenty-five percent of the average ((cost)) selling price to be based upon the total ((cost)) selling price, including transportation and factory installed accessories, of all makes and models of passenger cars and pickup trucks sold during the preceding calendar year divided by the number of such units sold; PROVIDED, That the first such vehicle reported during any calendar year shall be subject to use tax measured by the full average suggested retail selling price. The computation is as follows:

<u>Retail Sales Volume/Preceding Year</u>	<u>Use Tax Rate (for 1st vehicle reported)</u>
x Average Selling Price x	
<u>Total Units Sold/Preceding Year</u>	<u>.25 x Use Tax Rate (for subsequent vehicles reported)</u>

Thus, for example, a dealer with \$3,000,000.00 in gross sales for 1985, who sold 250 units that year derives an average selling price of \$12,000.00. The very first demonstrator use in 1986 will be \$12,000.00 multiplied by the prevailing use tax rate. All subsequent demonstrators reported in 1986, based upon the formula of one demonstrator for each one hundred units sold, will be \$3,000.00 multiplied by the prevailing use tax rate.

The use tax shall be paid as of the date of the first sale in any calendar year and subsequently upon the sale of the one hundred and first automobile or pickup truck.

The foregoing method of computation (~~is available only in respect to vehicles used for demonstration purposes and not primarily used for any other purpose. It~~) applies only in respect to demonstrator vehicles operated under dealer plates or private licenses issued to the dealership. Demonstrator vehicles which are licensed otherwise than to the dealership are presumed to be used substantially for purposes other than demonstration and are subject to the use tax measured by the actual value of such vehicles.

When an automobile dealer has elected to report the use tax as above provided, or upon the actual number of demonstrators used by him, he will not be permitted to change the manner of reporting without the written consent of the department of revenue.

When a dealer or a person associated with a dealer (firm executive, corporate officer or partner) (~~does not have a recent model car registered in his own name and~~) regularly uses either one or various new cars from stock for personal driving (whether or not such cars are also used for demonstration purposes) the use tax will be applicable to the value of one such car for each two calendar years in addition to the tax otherwise applicable to demonstrator use. The term "recent model car" refers to a car of the current model year or of either of the two preceding model years. In such cases, the measure of the use tax shall be the same as the measure herein approved for the computation of use tax on subsequently used demonstrator (use) vehicles, that is, twenty-five percent of the average selling price during the preceding year.

The use tax is applicable to the value of vehicles which are loaned or donated to civic, religious, nonprofit or other organizations for continuous periods of use exceeding 72 hours, and such tax is in addition to the tax on the use of demonstrators as provided herein.

Vehicles removed from inventory and committed to use as service vehicles or parts trucks are not entitled to the special use tax treatment explained in this rule. Full use service vehicles are used by dealers as consumers and are subject to use tax measured by their full value.

USED CAR DEALER'S LIABILITY

Used car dealers are not deemed to be using vehicles for demonstration purposes and have no liability for reporting use tax on demonstrators. However, where used car dealers satisfy the criteria for executive car use (no current model vehicle registered in the user's name) they are deemed to be using one executive use vehicle per calendar year. In such cases use tax must be reported under the same formula as for subsequently used new demonstrator cars, that is, measured by twenty-five percent of the average selling price of all used cars sold during the preceding calendar year.

This rule and the reporting formulas contained herein are necessary for the consistent and uniform enforcement of the revenue act of this state as contemplated under RCW 82.32.300.

WSR 86-05-044
PROPOSED RULES
GAMBLING COMMISSION
 [Filed February 19, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State

Gambling Commission intends to adopt, amend, or repeal rules concerning amendatory sections WAC 230-08-080, 230-20-010, 230-20-100, 230-20-240 and 230-20-246;

that the agency will at 10:00 a.m., Thursday, April 10, 1986, in the Holiday Inn, Bellingham, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 9.46.070 (1), (9), (10), (11), (14) and (20).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 10, 1986.

Dated: February 19, 1986

By: Ronald O. Bailey
 Deputy Director

STATEMENT OF PURPOSE

Title: Amendatory sections WAC 230-08-080 Daily records—Bingo; 230-20-010 Disclosure of prizes and rules; 230-20-100 Receipting required for income and prizes in bingo games; 230-20-240 Bingo equipment to be used; and 230-20-246 Manner of conducting bingo.

Description of Purpose: Amends rules to authorize bingo licensees to accrue prizes and play bingo games where players select their number, requires disclosure for bingo prizes, tickets preprinted with dollar value, prizes to be awarded during session and merchandise prizes to be owned by the licensee before offering as a prize.

Statutory Authority: RCW 9.46.020(2) and 9.46.070 (1), (9), (10), (11), (14) and (20).

Summary of Proposed Rules and Reasons Supporting Action: WAC 230-08-080 authorizes bingo licensees to accrue special game prizes without issuing a prize receipt and the procedures for reporting the game prize; 230-20-010 requires bingo licensees to disclose any disclaimer for bingo prizes; 230-20-100 requires licensees to purchase only tickets with specific dollar value printed by the manufacturer. Requires disposable bingo cards from the same series to be sold for the same price; 230-20-240 authorizes a bingo game where players are permitted to select and enter numbers from 1-75 on a blank bingo card; and 230-20-246 requires bingo prizes to be awarded by the end of the session and merchandise prizes to be paid in full by the licensee prior to offering as a prize or the licensee may enter into a revocable contract to immediately purchase said prize.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Keith Kisor, Director, 234-0865 scan, 753-0865 comm; and Ronald O. Bailey, Deputy Director, 234-1075 scan, 753-1075 comm, Jefferson Building, 1110 South Jefferson, Olympia, WA 98504.

Proponents and Opponents: Gambling Commission staff proposes these rule amendments.

Agency Comments: The agency believes the proposed rules are self-explanatory and need no further comment.

These rules were not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined that there would be no economic

impact upon small businesses in the state of Washington by the adoption of these amendments.

AMENDATORY SECTION (Amending Order 134, filed 6/14/83)

WAC 230-08-080 DAILY RECORDS—BINGO. In addition to any other requirement set forth in these rules, licensees for the operation of bingo shall be required to prepare a detailed record covering each bingo session as defined in WAC 230-20-170: PROVIDED, That operators of bingo games conducted at qualified agricultural fairs and other special locations shall be exempt from this rule, but will be required to keep all operator records by location in order to properly report all information as required by WAC 230-08-250. This detailed daily record shall be recorded in a standard format prescribed by the commission, shall disclose the following information and be retained for a period of not less than three years:

(1) The gross receipts collected for each separate type of sale, of any kind, for bingo games including, but not limited to, regular games, early bird games, blackout games, special games, or pick up games. These gross receipts are to be supported by proper receipting records as required by WAC 230-20-100.

(2) The amount paid out on each separate bingo game supported by the licensee's copy of the prize receipts issued as required by WAC 230-20-100. Where a prize is awarded other than cash, such as merchandise or a trip, the amount for such prize shall be its actual cost to the licensee. Each prize awarded other than cash shall be fully described in these records: PROVIDED, That a licensee may accrue special game prizes without issuing a prize receipt prior to awarding the actual prize if the following conditions are met:

(a) Prize receipts will be issued only when the prize is actually awarded;

(b) Full details of accrued prizes outstanding at the end of each calendar quarter, will be furnished on the licensee's activity report;

(c) Once an election is made to accrue prizes for a particular game, all increases to that prize must be accrued;

(d) Prizes must be accrued after the completion of each session in which they are increased;

(e) A reconciliation of the prize fund shall be made on each "Daily Summary - Cash Control" record;

(f) The amount of prize accrued shall be deposited in the gambling receipts account per WAC 230-12-020 (1)(a) and (d);

(g) The balance of the gambling receipts banking account shall not be reduced at any time below the amount of prizes accrued and currently being offered: PROVIDED, That accrued prizes may be transferred to a special bank account, for this purpose, if the balance is maintained at a level equal to or greater than the amount of prizes accrued and currently being offered; and

(h) In the event management elects to discontinue games for which prizes have been accrued, the operator shall amend all activity reports and tax returns previously submitted to reflect the actual prizes awarded.

(3) A statement of the daily net receipts from the licensed activity accruing to the organization, supported by a validated copy of the bank deposit receipt.

(4) The cash on hand at the commencement and the conclusion of each session, along with a reconciliation of cash to the daily net receipts for each session. Overages and/or shortages exceeding \$10.00 are to be explained.

(5) An attendance record indicating the number of people participating and the time the attendance count was made.

Items 1 through 5 shall be recorded during the course of each session and this record shall be signed immediately following its completion by the person or persons preparing the daily record and by the bingo manager responsible for the session.

AMENDATORY SECTION (Amending Order 149, filed 4/15/85)

WAC 230-20-010 DISCLOSURE OF PRIZES AND RULES. All prizes awarded in connection with bingo and amusement games, whether in cash or merchandise, and all rules by which such prizes may be won, including all costs to a participant, shall be disclosed to each participant in the licensed activity prior to that participant taking part in the activity or paying for the opportunity to take part in the activity.

~~((This d))~~ Disclosure shall be made by conspicuously posting or displaying upon the premises where the activity is operated, the available prizes, or a list and complete description thereof, together with the

rules of the activity, an explanation of how each prize can be won, and the cost to participate in the activity.

Any advertisements or published information pertaining to bingo prizes, to be awarded at bingo games, must disclose if there are any contingencies which may result in changes to these prizes.

In those cases where persons are able to pay for the opportunity to participate in the activity after the winner of any one of the prizes offered has been determined, the licensee shall remove each prize won from any display of prizes, and from any list of prizes which have been posted or displayed upon the premises where the activity is conducted, immediately upon the determination of the winner of that particular prize.

AMENDATORY SECTION (Amending Order 134, filed 6/14/83)

WAC 230-20-100 RECEIPTING REQUIRED FOR INCOME AND PRIZES IN BINGO GAMES. Except for bingo activities conducted at a qualified agricultural fair all income from bingo games shall be receipted for by the licensee at the time the income is received from each individual player and all prizes shall be receipted for at the time the prize is distributed to each individual winner.

(1) Income receipts: Income receipts shall be supplied by the licensee. They may be consecutively numbered tickets, consecutively numbered disposable bingo cards, or cash register receipts. Each individual player must possess a proper receipt for the number of cards being played in order to be awarded the prize for the game.

(a) Cash register receipts for income: In the event a cash register is used, a consecutively numbered receipt shall be given to the customer. The following information shall appear upon the receipts given to the customer:

(i) The name of the licensee operating the activity;

(ii) The date;

(iii) The amount of money paid for the opportunity to play; and

(iv) The consecutive customer receipt number.

The cash register shall have a consecutive four digit customer receipt number which does not return to zero at the conclusion of any period of use.

Written commission staff approval must be obtained for use of a cash register which does not meet the above standard but does contain adequate control features.

The cash register shall have sufficient keys to record separately each type of sale as required by WAC 230-08-080, and shall provide a total for each type of sale recorded. Further, any cash register used must retain its transaction count between uses whether or not its power source is interrupted.

All cash register receipts for voids, overruns, returns, no sales and any other related receipts must be retained with the daily bingo records.

All transactions, customer receipt numbers, and control totals must be recorded on the tape retained in the cash register. The internal tape, showing these transactions, shall be retained with the daily records of the licensee for a period of not less than three years. If the cash register is used by the licensee for purposes other than recording the receipts from bingo, the internal cash register tapes from the other uses shall also be retained for not less than three years.

(b) Ticket receipts for income: When tickets are used for receipting the following conditions must be met:

(i) All tickets on a roll must be preprinted by the manufacturer with a consecutive number prior to purchase;

(ii) Each ticket on a roll shall represent the same specific amount of money and the amount of money represented by each ticket shall be clearly preprinted by the manufacturer on the face of the ticket;

(iii) Once a roll of tickets has been started, tickets shall be issued consecutively off of that roll;

(iv) A log shall be maintained, listing the date each roll of tickets is purchased or obtained by the licensee, the color, the dollar value of the tickets, the beginning ticket number, and the number of tickets on that roll. All tickets received shall be entered in the log prior to the licensee beginning the next bingo occasion. The individual logging the entry shall initial the log at the time of entry; and

(v) The licensee shall record in its daily records, the color, the value, the lowest numbered ticket and the highest numbered ticket issued as a receipt from each separate roll of tickets used. Tickets issued for each type of sale shall be recorded separately as required by WAC 230-08-080. Any ticket not issued as a receipt during a session that bears a number falling below the highest numbered ticket issued shall be retained by the licensee as a part of its daily records, along with any leftover tickets not issued from the end of a roll, and shall not be

otherwise used or disposed of by the licensee for a period of not less than three years

(c) Disposable bingo card receipts for income: Disposable bingo cards themselves may be used as the receipt required by this rule: PROVIDED, That:

(i) Each disposable card or sheet of cards sold represents a specific amount of money which has been paid to the licensee;

(ii) Each disposable card or sheet of cards from the same series shall be consecutively issued and sold for the same price as each other disposable card or sheet of cards in the same series (~~(being used during any particular bingo game)~~);

(iii) A log shall be maintained, listing the date each set of disposable cards is purchased or obtained by the licensee, the series number, the color, the number of cards per sheet, the beginning card or sheet number and the number of cards or sheets per set. All disposable cards or sheets received shall be entered in the log prior to the licensee beginning the next bingo occasion. The individual logging the entry shall initial the log at the time of entry; and

(iv) The licensee shall record in its daily records the series number, the color, the value, the beginning card or sheet number and the ending card or sheet number issued as a receipt for each separate set of disposable cards used: Disposable cards issued for each type of sale shall be recorded separately as required by WAC 230-08-080: PROVIDED, That when more than one card or sheet number appears on a sheet of cards issued, then the lowest card or sheet number shall be used to determine the beginning number sold and the ending number sold. Each time the numbering of the sheets breaks in the series a separate entry shall be made in the records. Disposable cards or sheets of cards which were not issued as receipts during a session, that bear a number below the highest numbered card or sheet issued shall be retained by the licensee as a part of its daily records, along with any leftover cards, or sheets of cards, not issued from the end of a series, and shall not be otherwise used or disposed of by the licensee for a period of not less than three years.

(2) Receipts for prizes: Receipts for prizes shall be consecutively numbered and issued. Each prize receipt shall contain at least a three digit consecutive number, printed prior to purchase. Prize receipts bearing a number below the highest number issued shall be voided and retained with the daily records. Each receipt for prizes shall contain the following information:

- (a) The name of the licensee operating the activity;
- (b) The date;
- (c) The game number;
- (d) The true name and address of the winner of the prize; and
- (e) A description of the prize won and the licensee's cost of that prize.

It shall be the responsibility of the licensee to see that the prize winner is accurately identified upon the receipt and the licensee shall require such proof of identification as is necessary to establish the winner's identity. The licensee shall not pay out any prize until the winner has furnished to the licensee all information required by this rule to be upon the receipt for the prize.

The original of each prize receipt shall be given to the winner and a duplicate copy shall be retained by the licensee as a part of its records for a period of not less than three years.

PROVIDED, That Class A bingo licensees and persons conducting bingo under the provisions of RCW 9.46.030(3), are exempt from all portions of this rule. Class B bingo licensees are exempt from maintaining the required logs for ticket and disposable card receipting, and from the issuing of prize receipts so long as they record items (2)(b), (c), (d) and (e) above in their records.

AMENDATORY SECTION (Amending Order 139, filed 12/12/83)

WAC 230-20-240 BINGO EQUIPMENT TO BE USED. The conduct of bingo must include the following required items:

(1) A mechanical device which uses an air flow for mixing and randomly withdrawing balls to determine the letters and numbers to be called. This device shall be constructed in a manner that:

(a) Will allow participants full view of the mixing action of the balls; and

(b) The operation cannot be interrupted to change the random placement of the balls at the exit receptacle of the device, except when the device is shut off as allowed by WAC 230-20-2((50))46.

Provided, That A, B, and C licensees are not required to use a mechanical device for the conduct of their bingo game, but may use other methods of randomly selecting letters and numbers.

(2) A set of seventy five balls bearing the numbers 1 through 75 and the letters B, I, N, G, and O. The 75 balls shall be available for inspection by the players before a bingo session begins to determine that all are present and in operating condition. Each numbered ball shall be the same weight as each of the other balls and free from any defects.

(3) Flashboards shall be located on each premises used to conduct bingo games and must be visible to all players and clearly indicate all numbers that have been called: PROVIDED, That ~~((malfunctions occurring during a bingo occasion need not be repaired during that occasion, but must be repaired before use on any other occasion: PROVIDED FURTHER, That!))~~ malfunctions occurring during a bingo occasion need not be repaired during that occasion, but must be repaired before use on any other occasion. PROVIDED FURTHER, That A, B, and C licensees are not required to have a flashboard for conduct of their bingo game.

(4) Hardcards and disposable bingo cards must be preprinted, manufactured cards and have twenty five spaces, one of which may be a free space, arranged in five even columns headed with the letters B, I, N, G, and O(:); PROVIDED, That the numbers designated on each card may be selected and entered by the players, if the following conditions are met:

(a) A two part disposable card that provides an exact duplicate copy is used;

(b) The disposable card method of receipting for income per WAC 230-20-100 (1)(c) is used;

(c) The licensee shall not purchase or use disposable cards without predesignated numbers if the purchase invoice does not contain all the items required by WAC 230-20-100 (1)(c)(iii);

(d) Purchase invoices for all disposable cards in play or in the unplayed inventory are on the premises;

(e) Players shall mark their number on each card and initial the original of each sheet of cards prior to separation of the duplicate;

(f) All numbers must be clear and legible. Operators shall establish and display house rules setting out acceptable clarity;

(g) All original cards shall be placed in containers which shall be physically locked and controlled to assure no cards are placed in the container after the first bingo ball is called;

(h) The player retains and plays the duplicate copy;

(i) In addition to the requirements of WAC 230-20-246(12), a winning card of \$250.00 or more is verified by the winner's signature on the back of the duplicate copy and the verifying neutral player's name and complete address on the back of the original card;

(j) All winning cards and the duplicate copies shall be retained by the operator as a part of their daily bingo records; and

(k) Incomplete cards and cards with alterations shall not be paid as winners. Numbers or initials, on the duplicate copy of a card, which were completed by any means other than by the original duplicating function, will be considered an alteration. Altered cards are the players' responsibility and refunds or exchanges shall not be allowed.

(5) ~~((In addition, e))~~ Each set of disposable bingo cards must be consecutively numbered from the first card to the last card, or from the first sheet of cards to the last sheet of cards ~~((or is consecutively numbered through the set))~~. Each card or sheet must have printed on its face both its individual card or sheet number, and the series number assigned by the manufacturer to that set of disposable cards.

Other equipment or devices may be used for the purpose of displaying numbers and letters called to the public, and such furniture and sound amplification system as is necessary for the convenience and comfort of the players and operators.

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 136, filed 9/13/83)

WAC 230-20-246 MANNER OF CONDUCTING BINGO. The conducting of a bingo game shall include, but is not limited to the following rules:

(1) All sales of bingo cards shall take place upon the premises during or immediately preceding the session for which the card is being sold;

(2) Bingo cards shall normally be sold and paid for prior to the start of a specified game or specified number of games. Cards may be sold after the start of a game or number of games if the late sale does not allow any player an advantage over any other player;

(3) No operator shall reserve, or allow to be reserved, any bingo card for use by players except braille cards or other cards for use by legally blind or disabled players;

(4) Legally blind players may use their personal braille cards when a licensee does not provide such cards. The licensee shall have the right to inspect, and to reject, any personal braille card. A legally blind or disabled person may use a braille card or reserved hard card in place of a purchased throwaway;

(5) If a licensee has duplicate cards in play, he shall conspicuously post that fact or notify all players;

(6) No two or more sets of disposable cards can be used at the same time if they have identical series numbers;

(7) Immediately following the drawing of each ball in a bingo game, the caller shall display the letter and number on the ball to the participants;

(8) The letter and number on the ball shall be called out prior to the drawing of any other ball;

(9) After the letter and number is called, the corresponding letter and number on the licensee's flashboard, if any, shall be lit for participant viewing;

(10) No bingo game shall be conducted to include a prize determined other than by the matching of letters and numbers on a bingo card with letters and numbers called by the licensee, in competition among all players in a bingo game;

(11) A winner is determined when a specified pattern of called numbers appears on a card;

(12) Immediately upon a bingo player declaring a winning combination of letters and numbers, the winning card shall be verified by a game employee and at least one neutral player;

(13) Upon a bingo player declaring a winning bingo, the next ball out of the machine shall be removed from the machine prior to shutting the machine off and shall be the next ball to be called in the event the declared winning bingo is not valid; ~~(and)~~

(14) After a winning bingo is validated, the prize shall be awarded. All prizes shall be awarded by the end of the related session. All merchandise offered as prizes to bingo players shall have been paid in full, without lien or interest of others, prior to the merchandise being offered as a prize: PROVIDED, That the licensee may enter into a contract to immediately purchase the merchandise when it is awarded as a prize, with the contract revocable if prize winners are allowed to exercise an option to receive a cash prize or the prize is no longer offered.

(15) No operator shall engage in any act, practice, or course of operation as would operate as a fraud to affect the outcome of any bingo game.

Dated: February 19, 1986

By: Ronald O. Bailey

Deputy Director

STATEMENT OF PURPOSE

Title: New sections WAC 230-46-100 Purpose—Video and electronic games; 230-46-110 Definitions—Video and electronic games; 230-46-120 Electronic or video games of chance—Prohibited; and 230-46-140 Operation of amusement devices.

Description of Purpose: Clarifies and limits the use of video and electronic games of chance, amusement devices, amusement games, and gambling devices in the state.

Statutory Authority: RCW 9.46.020 (1) and (10) and 9.46.070 (3), (11), (14) and (20).

Summary of Proposed Rules and Reasons Supporting Action: WAC 230-46-100 explains the reason for the rules on video and electronic games; 230-46-110 defines video and electronic games of chance, amusement games, amusement devices, and gambling devices; 230-46-120 prohibits the operation of video or electronic games of chance in the state; and 230-46-140 authorizes amusement devices to be used in league or tournament play for prizes.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Keith Kisor, Director, 234-0865 scan, 753-0865 comm; and Ronald O. Bailey, Deputy Director, 234-1075 scan, 753-1075 comm, Jefferson Building, 1110 South Jefferson, Olympia, WA 98504.

Proponents and Opponents: Gambling Commission staff proposes these new rules.

Agency Comments: The agency believes the proposed rules are self-explanatory and need no further comment.

These rules were not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined that there would be no economic impact upon small businesses in the state of Washington by the adoption of these new rules.

NEW SECTION

WAC 230-46-100 PURPOSE—VIDEO AND ELECTRONIC GAMES. The Washington State Gambling Commission, aware of the overwhelming increase in the number of video and electronic games appearing for public play and the potential for converting these games to gambling devices, deems it to be in the public interest to establish rules to govern the play of these games in the state of Washington.

NEW SECTION

WAC 230-46-110 DEFINITIONS—VIDEO AND ELECTRONIC GAMES. (1) "Amusement device" means a game or device which is primarily a game of skill, including, but not limited to, games or devices requiring hand-eye coordination and/or intellectual processes, wherein achieving high scores in playing the game is determined by the skill of the players and not as a result of chance or an element of chance as a part of the game. Amusement devices may confer only an immediate and unrecorded right of replay to the players.

(2) "Amusement games" shall have the same definition as set forth in RCW 9.46.020(1).

(3) "Gambling devices" shall have the same definition as set forth in RCW 9.46.020(10).

(4) "Electronic or video game of chance" means games or devices that simulate games commonly referred to as poker, blackjack, craps,

WSR 86-05-045 PROPOSED RULES GAMBLING COMMISSION

[Filed February 19, 1986]

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 new sections WAC 230-46-100, 230-46-110, 230-46-120 and 230-46-140;

that the agency will at 10:00 a.m., Thursday, May 8, 1986, in the Town Plaza Motor Inn, Yakima, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 9.46.020 (1) and (10) and 9.46.070 (3), (11), (14) and (20).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 8, 1986.

hi-lo, roulette, acey ducey, horse racing or other common gambling forms, though not offering any type of pecuniary award or gain to players. The term also includes any electronic or video game having one or more of the following characteristics:

(a) It is primarily a game of chance, and has no substantial elements of skill involved;

(b) It awards game credits or replays and contains a meter or device which records unplayed credits or replays and contains a device that permits them to be cancelled; or

(c) It permits multiple winnings depending upon the number of coins inserted in the device.

(5) A "game of skill" is a game in which the average person, with a reasonable amount of practice, can be expected to improve his performance.

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 230-46-120 ELECTRONIC OR VIDEO GAMES OF CHANCE—PROHIBITED. The Washington State Gambling Commission, recognizing the close relationship of electronic or video games of chance to "slot machines" and other forms of gambling, hereby declares all electronic or video games of chance to be gambling devices as defined in RCW 9.46.020(10) and subject to seizure and destruction as set forth in RCW 9.46.230.

NEW SECTION

WAC 230-46-140 OPERATION OF AMUSEMENT DEVICES. (1) No operator or owner of an amusement device shall award a prize to a player of an amusement device who obtains a predetermined score or who obtains the high score for a predesignated period of time.

(2) No operator or owner of an amusement device shall use that device as an amusement game until it has been approved by the Washington State Gambling Commission under the procedures established in WAC 230-20-605. Amusement games can only be played at those locations authorized in WAC 230-20-380.

(3) Amusement devices may be used in tournaments or leagues where players compete on an equal basis with all other players. Prizes may be awarded to the winning team or players from the entry fee for the tournament or league. Sponsors of leagues or tournaments may also contribute prizes to the event provided the sponsor shall not contribute prizes in excess of the entry fees collected for the event.

(4) Amusement devices equipped with a ticket dispenser which awards tickets redeemable for merchandise prizes is an amusement game and subjects its operator to the licensing requirements of RCW 9.46.030(5) and the rules and regulations established by the commission.

WSR 86-05-046

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed February 19, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning notice to prospective candidates for certification, WAC 180-79-013;

that the agency will at 9:00 a.m., Thursday, April 3, 1986, in the Auditorium, Stadium High School, Tacoma, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, April 4.

The authority under which these rules are proposed is RCW 28A.04.120.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, April 3.

Dated: February 19, 1986

By: Monica Schmidt
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-79 WAC, Professional preparation certification requirements.

Rule Section(s): WAC 180-79-013 Notice to prospective candidates for certification.

Statutory Authority: RCW 28A.04.120.

Purpose of the Rule(s): To establish standards for certification as a professional educator.

Summary of the New Rule(s) and/or Amendments: WAC 180-79-013 delays implementation date of July 1, 1986, to July 1, 1987, for certificates issued that require continuing education as a condition to the validity of such certificate and that are limited to areas of specific endorsements.

Reasons Which Support the Proposed Action(s): To provide adequate time for field to prepare for implementation of new code.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Ted Andrews, SPI, 3-3222; and Enforcement: Bob Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 17-84, filed 12/10/84)

WAC 180-79-013 NOTICE TO PROSPECTIVE CANDIDATES FOR CERTIFICATION. Notice is hereby given to prospective candidates for certification that the state board of education has adopted as public policy certain fundamental changes to its current rules and regulations for professional certification and basic education program approval standards. (~~The state board of education intends to modify its current rules prior to September 1, 1985, to reflect these new policies.~~) Each Washington state college and university which has a training program of preparation for professional certification shall provide each student within such program a copy of this section of chapter 180-79 WAC. The following public policy shall affect professional certification:

(1) Each person issued a continuing certificate—i.e., teacher, administrator, and education staff associate—shall be required as a condition to the validity of such certification to complete during a five-year period one hundred fifty clock hours of continuing education which shall be in the form of inservice and/or college or university credit. Each college or university quarter credit shall be the equivalent of ten clock hours and each semester credit shall be the equivalent of fifteen clock hours. This requirement shall be effective for continuing certificates issued on or after July 1, ((1986)) 1987.

(2) Each person receiving a continuing education certificate shall be restricted to professional practice only in areas in which an endorsement has been received. The current requirements for obtaining an endorsement and the areas of endorsement shall be modified. Exceptions to the restrictive practice shall be limited to emergency circumstances and unusual situations. This requirement shall be effective to continuing certificates issued on or after July 1, ((1986)) 1987.

WSR 86-05-047
PROPOSED RULES
DEPARTMENT OF GAME
(Game Commission)
 [Filed February 19, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Game Commission intends to adopt, amend, or repeal rules concerning commercial buying and processing of anadromous game fish or roe, amending WAC 232-12-091;

that the agency will at 9:00 a.m., Monday, April 7, 1986, in the Red Lion Motor Inn, 2525 North 20th, 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 April 7, 1986.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.32.211.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1986.

Dated: February 13, 1986

By: Dave Schultz

Chief, Wildlife Enforcement Division

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-12-091 Commercial buying and processing of anadromous game fish or roe.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.32.211.

Summary of the Rule: Requires an anadromous game fish buyers license to commercialize in anadromous game fish or roe and sets up requirements for that commercialization.

Reasons Supporting the Proposed Rule: To implement new procedures for buying, selling and possessing treaty Indian caught anadromous game fish and a new joint receiving ticket agreed upon by the Departments of Game and Fisheries and northwest Washington treaty tribes.

Agency Personnel Responsible for Implementation: James R. Carlin, Game License Manager, Management Services Division, Department of Game, 600 North Capitol Way, Olympia, Washington 98504, phone (206) 753-5719; Drafting and Enforcement: Dave Schultz, Chief of Wildlife Enforcement, Department of Game, 600 North Capitol Way, Olympia, Washington 98504, phone (206) 753-5740.

Name of the Person or Organization Whether Private, Public or Governmental that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

This proposed rule is necessary to comply with a federal court decision, *U.S. v. Washington*.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

AMENDATORY SECTION (Amending Order 247, filed 4/9/85)

WAC 232-12-091 COMMERCIAL BUYING AND PROCESSING OF ANADROMOUS GAME FISH OR ROE. (1) It is unlawful to buy, sell or possess with intent to sell anadromous game fish or roe, without having in possession a valid ((department)) anadromous game fish buyer's license and comply with the following provisions:

(a) An anadromous game ((department)) fish buyer's license is valid for a year (January 1 to December 31).

(b) Fish buyer's licenses must be obtained by applying to the Department of Game, 600 North Capitol Way, Olympia, Washington 98504.

(c) The anadromous game fish buyer's license, or a copy, must be in possession of a person buying anadromous game fish or roe.

(d) Fish buyer's licenses are not transferable.

(e) Fish buyer's licenses authorize a person to buy only anadromous game fish or roe taken by treaty Indians possessing valid federal or tribal fishing identification cards during lawful open seasons.

(2) It is unlawful for a person possessing or buying anadromous game fish or roe from a treaty Indian to not comply with the following:

(a) Completely, accurately and legibly ((F)) fill out a ((department steelhead)) state of Washington treaty Indian fish receiving ticket including name of seller or tribal identification number, tribal affiliation, ((treaty fishing identification card number)) numbers of fish or skeins of roe, marine area or river where caught, and signature of the person directly receiving the fish.

(b) Obtain the signature of the seller on the tribal copy of the receiving ticket.

((b)) (c) Transmit the ((fish)) receiving tickets daily to the ((department)) Northwest Indian Fish Commission.

((c)) (d) Retain a copy of the ((steelhead)) receiving ticket with the anadromous game fish or roe as long as the fish or roe are in possession.

(3) Transactions involving the possession or sale of treaty caught anadromous game fish between two or more licensed buyers, the recipients of said fish must possess a ((copy of the original fish receiving ticket and)) sales invoice.

(4) This section does not apply to a person who buys lawfully caught treaty Indian anadromous game fish for personal consumption.

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 86-05-048
PROPOSED RULES
DEPARTMENT OF GAME
(Game Commission)
 [Filed February 19, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Game Commission intends to adopt, amend, or repeal rules concerning:

New	WAC 232-28-808	1986 Mountain goat, sheep, and moose hunting seasons.
Rep	WAC 232-28-807	1985 Mountain goat, sheep, and moose hunting seasons;

that the agency will at 9:00 a.m., Monday, April 7, 1986, in the Red Lion Motor Inn, 2525 North 20th, 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 April 7, 1986.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 4, 1986.

Dated: February 18, 1986

By: Jack L. Smith, Administrator
Wildlife Management Division

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-28-808
1986 Mountain goat, sheep, and moose hunting seasons.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement:
RCW 77.12.040.

Summary of the Rule: Adopts rules and regulations relating to the 1986 Mountain goat, sheep, and moose hunting seasons.

Reasons Supporting the Proposed Rule: Resource management.

Agency Personnel Responsible for Enforcement: Dave Schultz, Chief, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5740; Drafting and Implementation: Jack L. Smith, Administrator, Wildlife Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5728.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

The rule is not necessary to comply with a federal law or a federal state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

NEW SECTION

WAC 232-28-808 1986 MOUNTAIN GOAT, SHEEP, AND MOOSE HUNTING SEASONS.

Reviser's note: The text and accompanying pamphlet comprising the 1986 Mountain goat, sheep, and moose hunting seasons proposed by the Department of Game have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Game, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-807 1985 MOUNTAIN GOAT, SHEEP, AND MOOSE HUNTING SEASONS

WSR 86-05-049
PROPOSED RULES
DEPARTMENT OF GAME
(Game Commission)
[Filed February 19, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Game Commission intends to adopt, amend, or repeal rules concerning definition of eastern and western Washington, amending WAC 232-12-809;

that the agency will at 9:00 a.m., Monday, April 7, 1986, in the Red Lion Motor Inn, 2525 North 20th, 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 April 7, 1986.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 4, 1986.

Dated: February 19, 1986

By: Jack L. Smith, Administrator
Wildlife Management Division

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-12-809
Definition of eastern and western Washington.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement:
RCW 77.12.040.

Summary of the Rule: In definition of eastern and western Washington, this replaces the boundary of the summit of the Cascade Mountains with the boundary of the Cascade Crest Trail.

Reasons Supporting the Proposed Rule: The current boundary of the summit of the Cascade Mountains is not easily identified. The Cascade Crest Trail is an easily identified physical location for the public to recognize.

Agency Personnel Responsible for Enforcement: Dave Schultz, Chief, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5740; Drafting and Implementation: Jack L. Smith, Administrator, Wildlife Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5728.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

The rule is not necessary to comply with a federal law or a federal state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

AMENDATORY SECTION (Amending Order 184, filed 5/19/82)

WAC 232-12-809 DEFINITION OF EASTERN AND WESTERN WASHINGTON. For purposes of all rules of the commission, eastern and western Washington are defined as:

Eastern Washington - all lands lying east of the ((~~summit of the~~) Cascade ((~~Mountains~~)) Crest Trail and east of the Big White Salmon River in Klickitat County.

Western Washington - all lands lying west of the ((~~summit of the~~) Cascade ((~~Mountains~~)) Crest Trail and west of and including the Big White Salmon River in Klickitat County.

WSR 86-05-050
PROPOSED RULES
DEPARTMENT OF GAME

(Game Commission)

[Filed February 19, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Game Commission intends to adopt, amend, or repeal rules concerning 1986 Hunting season rules and unit descriptions, adopting WAC 232-28-211;

that the agency will at 9:00 a.m., Monday, April 7, 1986, in the Red Lion Motor Inn, 2525 North 20th, 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 April 7, 1986.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 4, 1986.

Dated: February 19, 1986

By: Jack L. Smith, Administrator
 Wildlife Management Division

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-28-211
 1986 Hunting season rules and unit descriptions.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement:
 RCW 77.12.040.

Summary of the Rule: Establishes 1986 hunting season rules and unit descriptions.

Reasons Supporting the Proposed Rule: Resource management.

Agency Personnel Responsible for Enforcement: Dave Schultz, Chief, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5740; Drafting and Implementation: Jack L. Smith, Administrator, Wildlife Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5728.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

The rule is not necessary to comply with a federal law or a federal state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

NEW SECTION

WAC 232-28-211 1986 HUNTING SEASON RULES AND UNIT DESCRIPTIONS.

Reviser's note: The text and accompanying pamphlet comprising the 1986 Hunting season rules and unit descriptions proposed by the Department of Game have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Game, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

WSR 86-05-051
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)

[Order 299—Filed February 19, 1986]

Be it resolved by the State Game Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to regulation change for sport fishing on the Nooksack, Cedar, and Sammamish River systems, and in lakes Washington, Sammamish, and Salmon Bay, WAC 232-28-61423.

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 the wild steelhead run is projected to be less than the spawning escapement objectives. All further harvest 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 February 19, 1986.

By Jack S. Wayland
 Director

NEW SECTION

WAC 232-28-61423 REGULATION CHANGE FOR SPORT FISHING ON THE NOOKSACK, CEDAR, AND SAMMAMISH RIVER SYSTEMS, AND IN LAKES WASHINGTON, SAMMAMISH, AND SALMON BAY. Notwithstanding the provisions of WAC 232-28-614 and WAC 232-28-615 on the Nooksack, Cedar, and Sammamish River systems, and in Lakes Washington, Sammamish, and Salmon Bay, only steelhead with missing adipose or ventral fins may be possessed. It is unlawful to possess a steelhead with a freshly cut or mutilated adipose or ventral fin effective December 1, 1985 to March 31, 1986.

WSR 86-05-052
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed February 19, 1986]

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:

- Amd ch. 173-14 WAC Permits for development on shorelines of the state.
 Amd ch. 173-19 WAC Shoreline Management Act of 1971—State master program.
 Amd ch. 173-22 WAC Adoption of designations of wetlands associated with shorelines of the state;

that the agency will at 7:00 p.m., Wednesday, March 26, 1986, in the Energy Facility Site Evaluation Council Hearing Room, 4224 6th Avenue S.E., Lacey, WA, and at 7:00 p.m., Thursday, March 27, 1986, in the Seattle Port Commission Chambers, 2201 Alaskan Way, Pier 66, Seattle, WA, and at 7:00 p.m., Thursday, April 3, 1986, in the Spokane County Planning Department Public Hearing Room, 2nd Floor, North 721 Jefferson Street, Spokane, WA, conduct public hearings on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 16, 1986.

The authority under which these rules are proposed is RCW 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1986.

Dated: February 14, 1986

By: Phillip C. Johnson
 Deputy Director, Programs

STATEMENT OF PURPOSE

Title: Amending chapter 173-14 WAC, Permits for development on shorelines of the state; chapter 173-19 WAC, Shoreline Management Act of 1971—State master program; and chapter 173-22 WAC, Adoption of designations of wetlands associated with shorelines of the state.

Description of Purpose: Revise the existing regulations to clarify, ensure consistent interpretation, and streamline administrative processes.

Statutory Authority: RCW 90.58.200.

Summary of Rule: The amendments define common terminology in shoreline administration, add standards for nonconforming developments, alter permit revision procedures, expand permit time limits, amend permit filing processes, amend master program adoption processes, clarify wetland area designation criteria and illustrate adoption and revision dates for designation maps.

Reasons Supporting Proposed Action: The existing regulations do not adequately define certain terminology and specific administrative processes need clarification and streamlining.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Mauermann, Department of Ecology, Mailstop PV-11, Olympia, WA 98504, (206) 459-6787.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: [No information supplied by agency.]

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Not required for the proposed amendments.

AMENDATORY SECTION (Amending Order DE 78-7, filed 6/14/78)

WAC 173-14-030 DEFINITIONS. The following definitions shall apply:

- (1) ~~("Department" means the department of ecology.~~
- (2) ~~"Local government" means any county, incorporated city or town which contains within its boundaries any lands or waters subject to this chapter.~~
- (3) ~~"Final order" shall include the approval or disapproval of a permit, or a letter of exemption as set forth in WAC 173-14-115.~~
- (4) ~~"Act" shall mean chapter 286, Laws of 1971 ex. sess., the Shoreline Management Act of 1971.~~
- (5) ~~"Substantial development undertaken on the shorelines of the state prior to the effective date of the act" shall mean actual construction begun upon the shoreline as opposed to preliminary engineering or planning.~~
- (6) ~~"Average grade level" shall mean the average of the natural or existing topography of the portion of the lot, parcel or tract of real property which will be directly under the proposed building or structure. PROVIDED, That in the case of structures to be built over water, average grade level shall be the elevation of ordinary high water.~~
 Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure.
- (7) ~~"Natural or existing topography" shall mean the topography of the lot, parcel or tract of real property immediately prior to any site preparation grading, excavation, or filling.~~
- (8) ~~"Height" shall be measured from average grade level to the highest point of a structure. PROVIDED, That appurtenances such as television antennas and chimneys shall not be used in calculating height.~~
- (9) ~~"Applicable master program" shall mean the master program approved or adopted by the department pursuant to RCW 90.58.090 or 90.58.190 prior to issuance of the permit by local government.~~

~~(10)) "Act" means chapter 286, Laws of 1971 ex. sess., the Shoreline Management Act of 1971;~~

~~(2) "Applicable master program" means the master program approved or adopted by the department pursuant to RCW 90.58.090 or 90.58.190 prior to issuance of the permit by local government;~~

~~(3) "Average grade level" means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real~~

property which will be directly under the proposed building or structure: PROVIDED, That in the case of structures to be built over water, average grade level shall be the elevation of ordinary high water.

Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure;

(4) "Conditional use" means a use or development which is classified as a conditional use or is not classified within the applicable master program and development exceeds one thousand dollars in total cost or fair market value or materially interferes with the normal public use of the water or shorelines of the state;

(5) "Department" means the department of ecology;

(6) "Exemption" means those developments set forth in WAC 173-14-040 which do not meet the definition of substantial development under RCW 90.58.030 (3)(e);

(7) "Fair market value" of a development is calculated using the expected price at which the development can be sold to a willing buyer. For developments which involve nonstructural activities such as dredging, drilling, dumping, or filling, the fair market value includes the value of the extracted or deposited material, including the labor and equipment associated with project completion;

(8) "Final order" includes the approval or disapproval of a permit, or a letter of exemption as set forth in WAC 173-14-115;

(9) "Height" is measured from average grade level to the highest point of a structure: PROVIDED, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where it results in view blockage or the applicable master program provides otherwise: PROVIDED FURTHER, That temporary construction equipment is excluded in this calculation;

(10) "Local government" means any county, incorporated city, or town which contains within its boundaries any lands or waters subject to this chapter;

(11) "Natural or existing topography" means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling;

(12) "Party of record" includes all persons who have notified local government of their desire to receive a copy of the final order on a permit under WAC 173-14-070;

(13) "Permit" means any substantial development, variance, or conditional use permit authorized under chapter 90.58 RCW;

(14) "Public interest" means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an adverse effect on public property or on health, safety, or general welfare resulting from a use or development;

(15) "Structure" means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels;

(16) "Transmit" means to send from one person or place to another by mail or hand delivery. The date of transmittal for mailed items is the date that the department's final order is certified for mailing or, for hand-delivered items, is the date of receipt at the destination; and

(17) "Variance" is a means to grant relief from the specific bulk, dimensional or performance standards set forth in the applicable master program and not a means to vary a use of a shoreline;

(18) "Vessel" includes ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water.

(19) The definitions and concepts set forth in RCW 90.58.030 (~~shall~~) also apply as used herein.

AMENDATORY SECTION (Amending Order DE 85-05, filed 4/15/85)

WAC 173-14-040 EXEMPTIONS FROM SUBSTANTIAL DEVELOPMENT PERMIT REQUIREMENT. (1) The following developments shall not require substantial development permits (~~for the purposes of the act~~):

((+)) (a) Any development of which the total cost or fair market value, whichever is higher, does not exceed one thousand dollars, if such development does not materially interfere with the normal public use of the water or shorelines of the state.

((+)) (b) Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair"

means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction where such repair does not involve replacement which is not common practice and does not cause substantial adverse effects on the shoreline resource or environment;

((+)) (c) Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead is constructed at or near the ordinary high water mark to protect a single family residence and is for protecting land from erosion, not for the purpose of creating land. Where an existing bulkhead is being replaced, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings;

((+)) (d) Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat which requires immediate action within a time too short to allow full compliance with this chapter;

((+)) (e) Construction of a barn or similar agricultural structure on wetlands. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on wetlands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: PROVIDED, That a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the wetlands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations((-));

((+)) (f) Construction or modification of navigational aids such as channel markers and anchor buoys((-);

((+)) (g) Construction on wetlands by an owner, lessee or contract purchaser of a single-family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence. On a state-wide basis, normal appurtenances include a garage; deck; driveway; utilities; and grading which does not exceed two hundred, fifty cubic yards (except to construct a conventional drainfield). Local circumstances may dictate additional interpretations which shall be set forth and regulated within the applicable master program;

((+)) (h) Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a single-family residence, for which the cost or fair market value, whichever is higher, does not exceed two thousand five hundred dollars. Subsequent additions to an existing dock do not fall within the context of this exemption.

Where a dock is designed to serve more than one single-family residence, the cost or fair market value limit for each participating waterfront residence may be combined: PROVIDED, That the applicable master program contains dimensional standards for residential docks;

((+)) (i) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands((-);

((+)) (j) The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water((-);

((+)) (k) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on the effective date of the 1975 amendatory act which were created, developed or utilized primarily as a part of an agricultural drainage or diking system((-); and

((+)) (l) Any project with a certification from the governor pursuant to chapter 80.50 RCW.

(2) Exemptions shall be construed narrowly.

(3) Exempted developments authorized by local government shall be consistent with the policies and provisions of the act and the applicable master program.

NEW SECTION

WAC 173-14-055 NONCONFORMING DEVELOPMENT STANDARDS. Where nonconforming development standards do not exist in the applicable master program, the following definitions and standards shall apply:

(1) "Nonconforming development" means a shoreline use or structure which was lawfully constructed or established prior to the effective date of the act and the applicable master program, or amendments thereto, but which does not conform to present regulations or standards of the program or policies of the act;

(2) Nonconforming development may be continued provided that it is not enlarged, intensified, increased, or altered in any way which increases its nonconformity;

(3) A nonconforming development which is moved any distance must be brought into conformance with the applicable master program and the act;

(4) If a nonconforming development is damaged to an extent not exceeding seventy-five percent replacement cost of the original structure, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, so long as restoration is completed within one year of the date of damage;

(5) If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, any subsequent development shall be conforming. It shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire; and

(6) Undeveloped lots of record which were established prior to the effective date of the act and the applicable master program but which do not conform to the present standards may be developed so long as such development conforms to the requirements of the applicable master program and the act.

AMENDATORY SECTION (Amending Order DE 80-9, filed 3/18/80)

WAC 173-14-060 ((TIME REQUIREMENTS OF)) PERMIT TERMINATION PERIODS. ((The following time requirements shall apply to all substantial development, conditional use and variance permits:

(1) Construction or substantial progress toward construction of a project for which a permit has been granted pursuant to the act must be undertaken within two years after the approval of the permit. Substantial progress towards construction shall include, but not be limited to the letting of bids, making of contracts, purchase of materials involved in development, but shall not include development or uses which are inconsistent with the criteria set forth in WAC 173-14-100. In determining the running of the two-year period hereof, there shall not be included the time during which a development was not actually pursued by construction and the pendency of litigation reasonably related thereto made it reasonable not to so pursue. PROVIDED, That local government may, at its discretion extend the two-year time period for a reasonable time based on factors, including the inability to expeditiously obtain other governmental permits which are required prior to the commencement of construction:

(2) If a project for which a permit has been granted pursuant to the act has not been completed within five years after the approval of the permit by local government, the local government that granted the permit shall, at the expiration of the five-year period, review the permit, and upon a showing of good cause, do either of the following:

(a) Extend the permit for one year; or

(b) Terminate the permit:

PROVIDED, That the running of the five-year period)) Permits shall have fixed termination periods for authorized construction and operations. Operations include those activities where the principal activity consists of ongoing modifications to the environment, including but not limited to dredging, drilling, dumping, filling, and removal of any sand, gravel or minerals.

(1) Construction and operation authorization shall terminate within two years after approval of the permit by local government unless substantial progress towards construction is undertaken, or for operations, unless the operation has commenced. Substantial progress towards construction shall include, but not be limited to the making of contracts, signing of notice to proceed, completion of grading and excavation, and the laying of major utilities: PROVIDED, That local government may, at its discretion and with prior notice to parties of record, extend the two year time period for a reasonable time based on

the inability to expeditiously obtain other required governmental permits.

(2) Where the applicant can demonstrate compliance with WAC 173-14-060(1), construction and operation authorization shall terminate within five years after approval of the permit by local government except where:

(a) Local government authorizes a one year extension with prior notice to parties of record and the department; or

(b) The permit establishes a greater or lesser time period consistent with the applicable master program. The established termination period shall be reasonable and appropriate considering the cost and magnitude of the project and the engineering and physical features to be encountered, having due regard for the public welfare and public interests affected. Termination periods may be established by one or more of the following methods:

(i) Establishing a termination date in the permit;

(ii) Establishing a monitoring and performance review schedule for operations which, at a minimum, addresses permit compliance and the existence of new information related to the natural environment;

(iii) Establishing operational parameter based on time, quantity, or geographic limits; and

(3) Authorization for a use within a structure shall continue in perpetuity unless the permit specifies a lesser time period.

(4) The running of a permit time limit shall not include the time during which a development was not actually pursued by construction ((and) due to the pendency of reasonably related administrative appeals and litigation ((reasonably related thereto made it reasonable not to so pursue, and: PROVIDED FURTHER, That nothing herein shall preclude local government from issuing permits with a fixed termination date of less than five years)).

AMENDATORY SECTION (Amending Order DE 85-05, filed 4/15/85)

WAC 173-14-064 REVISIONS TO ((SUBSTANTIAL DEVELOPMENT, CONDITIONAL USE, AND VARIANCE)) PERMITS. When an applicant seeks to revise a ((substantial development, conditional use, or variance)) permit, local government shall request from the applicant detailed plans and text describing the proposed changes in the permit.

(1) If local government determines that the proposed changes are within the scope and intent of the original permit, local government may approve a revision.

(2) "Within the scope and intent of the original permit" ((shall)) means all of the following:

(a) No additional over water construction ((will be)) is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;

(b) ((Not)) Ground area coverage and height of each structure may be increased a maximum of ten percent from the provisions of the original permit ((: PROVIDED, That revisions involving new structures not shown on the original site plan shall require a new permit, and: PROVIDED FURTHER, That any revisions authorized under this subsection shall not exceed height, lot coverage, setback or any other requirements of the master program for the area in which the project is located));

(c) Additional separate structures may not exceed two hundred fifty square feet;

(d) The revised permit does not exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under the original permit;

(e) Additional landscaping ((may be added to a project without necessitating an application for a new permit: PROVIDED, That the landscaping)) is consistent with conditions (if any) attached to the original permit and ((is consistent)) with the applicable master program ((for the area in which the project is located));

((f)) ((f)) The use authorized pursuant to the original permit is not changed; and

((g)) ((g)) No ((additional significant)) substantial adverse environmental impact will be caused by the project revision.

(3) If ((the revision or)) the sum of the revision and any previously approved revisions ((pursuant to)) under WAC 173-14-064 ((will)) violate the ((terms of one or more of the)) provisions in WAC 173-14-064(2) above, local government shall require that the applicant apply for a new ((substantial development, conditional use, or variance)) permit ((, as appropriate;)) in the manner provided for herein.

(4) ~~((The revised permit shall become effective immediately.))~~ Within eight days of the date of final local government action, the revision including the revised site plan, text and the ~~((approved revision))~~ final ruling on consistency with this section shall be ~~((submitted to))~~ filed with the department and the attorney general ~~((for the completion of their files))~~. In addition, local government shall ~~((submit a notice of revision approval to persons who have notified local government of their desire to receive a copy of the action on a permit pursuant to WAC 173-14-070))~~ notify parties of record of their action.

(5) If the revision to the original permit involves a conditional use or variance which was conditioned by the department, local government shall submit the revision to the department for the department's approval, approval with conditions, or denial. The revision shall indicate that it is being submitted under the requirements of this subsection. The department shall render and transmit to local government and the applicant its final decision within fifteen days of the date of the department's receipt of the submittal from local government. Local government shall notify parties of record of the department's final decision.

(6) The revised permit is effective immediately upon final action by local government or, when appropriate under WAC 173-14-064(5), by the department.

(7) Appeals shall be in accordance with RCW 90.58.180 and shall be filed within ~~((fifteen))~~ thirty days from the date of receipt of the local ~~((governments))~~ government's action by the department ~~((of ecology))~~ or, when appropriate under WAC 173-14-064(5), the date the department's final decision is transmitted to local government and the applicant. Appeals shall be based only upon contentions of non-compliance with ~~((one or more of))~~ the provisions of WAC 173-14-064(2) above. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit ~~((shall be))~~ is at the ~~((applicants))~~ applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision ~~((was))~~ is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

AMENDATORY SECTION (Amending Order DE 85-05, filed 4/15/85)

WAC 173-14-090 FILING WITH DEPARTMENT AND ATTORNEY GENERAL. ~~((Any))~~ A ruling by local government on an application for a ~~((substantial development, conditional use or variance))~~ permit or a revision, whether it be an approval or denial, shall be filed with the department and attorney general after administrative appeal periods have lapsed. When a substantial development permit and a conditional use or variance permit are required for a development, the filing of local government's rulings on the permits shall be made concurrently.

Copies of the original application, affidavit of public notice, site plan, vicinity map, permit, and final order shall be filed with the department and attorney general within eight days of the local government final decision on a permit. Where applicable, local government shall also file the following materials required by chapter 43.21C RCW, the State Environmental Policy Act~~((:))~~: Environmental checklist, threshold determination, and environmental impact statement, or in lieu thereof, a statement summarizing the actions and dates of such actions taken ~~((pursuant to))~~ under chapter 43.21C RCW.

Filing ~~((shall))~~ is not ~~((be))~~ complete until the required documents have ~~((actually))~~ been received by the department and by the attorney general. This same rule shall apply to conditional uses, variances, rescissions and revisions of permits. If the filing is determined by the department to be incomplete, the department will identify the deficiencies and so notify local government and the applicant in writing. If the requested materials are not received by the department within thirty days of notification, the permit will be returned to local government for completion and resubmittal.

"Date of filing" of a local government final order involving approval or denial of a substantial development permit, or involving a denial of a variance or conditional use permit, ~~((shall be))~~ is the date of actual receipt by the department. With regard to a permit for a conditional use or variance approved by local government, and such permits which also involve concurrent filing by local government of a substantial development permit, the "date of filing" ~~((shall))~~ means the date the department's final ~~((decision))~~ order on the variance or conditional use permit is transmitted to local government and the applicant. The department shall in all circumstances notify in writing the local government and the applicant of the "date of filing."

AMENDATORY SECTION (Amending Order DE 85-05, filed 4/15/85)

WAC 173-14-130 DEPARTMENT REVIEW OF CONDITIONAL USE AND VARIANCE PERMITS. After local government approval of a conditional use or variance permit, local government shall submit the permit to the department for the ~~((departments))~~ department's approval, approval with conditions ~~((with concurrence of local government))~~, or denial. When the department conditionally approves a conditional use or a variance permit, the department shall notify the local government of its intention to condition the permit and the nature of the conditions prior to rendering its final decision. The department shall render and transmit to local government and the applicant its final decision approving, approving with conditions, or disapproving the permit within thirty days of the date of submittal by local government pursuant to WAC 173-14-090. Local government shall notify those interested persons having requested notification from local government pursuant to WAC 173-14-070 of the department's final decision.

AMENDATORY SECTION (Amending Order DE 80-42, filed 2/2/81)

WAC 173-14-140 REVIEW CRITERIA FOR CONDITIONAL USE PERMITS. The purpose of a conditional use permit is to allow greater flexibility in varying the application of the use regulations of the master program in a manner consistent with the policies of RCW 90.58.020: PROVIDED, That conditional use permits should also be granted in a circumstance where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use.

(1) Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided the applicant can demonstrate all of the following:

(a) That the proposed use ~~((will be))~~ is consistent with the policies of RCW 90.58.020 and the policies of the master program~~((:))~~;

(b) That the proposed use will not interfere with the normal public use of public shorelines~~((:))~~;

(c) That the proposed use of the site and design of the project ~~((will be))~~ is compatible with other permitted uses within the area~~((:))~~;

(d) That the proposed use will cause no unreasonably adverse effects to the shoreline environment ~~((designation))~~ in which it is to be located~~((:))~~; and

(e) That the public interest suffers no substantial detrimental effect.

(2) Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate, in addition to the criteria set forth in WAC 173-14-140(1) above, that extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of the master program.

(3) Uses which are specifically prohibited by the master program may not be authorized.

(4) In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses ~~((should))~~ shall also remain consistent with the policies of RCW 90.58.020 and ~~((should))~~ shall not produce substantial adverse effects to the shoreline environment.

AMENDATORY SECTION (Amending Order DE 80-42, filed 2/2/81)

WAC 173-14-150 REVIEW CRITERIA FOR VARIANCE PERMITS. The purpose of a variance permit is strictly limited to granting relief ~~((to))~~ from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the master program ~~((would))~~ will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

Construction ~~((pursuant to))~~ under this permit will not begin or is not authorized in a thwarting of the policy enumerated in RCW 90.58.020. In all instances extraordinary circumstances ~~((should))~~ shall be shown and the public interest shall suffer no substantial detrimental effect.

(2) Variance permits for development that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), except within those areas designated by the department as marshes, bogs, or swamps pursuant to chapter 173-22 WAC, may be authorized provided the applicant can demonstrate all of the following:

(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by the master program~~(:);~~

(b) That the hardship described in WAC 173-14-150 (2)(a) above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions~~(:);~~

(c) That the design of the project ~~((will be))~~ is compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment ~~((designation:));~~

(d) That the requested variance ~~((authorized))~~ does not constitute a grant of special privilege not enjoyed by the other properties in the area, and ~~((will be))~~ is the minimum necessary to afford relief~~(:);~~ and

(e) That the public interest will suffer no substantial detrimental effect.

(3) Variance permits for development that will be located either waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), or within marshes, bogs, or swamps as designated by the department ~~((pursuant to))~~ under chapter 173-22 WAC, may be authorized provided the applicant can demonstrate all of the following:

(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes a reasonable use of the property not otherwise prohibited by the master program~~(:);~~

(b) That the hardship described in WAC 173-14-150 (3)(a) above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions~~(:);~~

(c) That the design of the project ~~((will be))~~ is compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment ~~((designation:));~~

(d) That the requested variance ~~((will))~~ does not constitute a grant of special privilege not enjoyed by the other properties in the area, and ~~((will be))~~ is the minimum necessary to afford relief~~(:);~~

(e) That the public rights of navigation and use of the shorelines will not be adversely affected ~~((by the granting of the variance:));~~ and

(f) That the public interest will suffer no substantial detrimental effect.

(4) In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments in the area where similar circumstances exist the total of the variances ~~((should))~~ shall also remain consistent with the policies of RCW 90.58.020 and ~~((should))~~ shall not produce substantial adverse effects to the shoreline environment.

(5) Requests for varying the use to which a shoreline area is to be put are not requests for variances, but rather requests for conditional uses. Such requests shall be evaluated using the criteria set forth in WAC 173-14-140.

AMENDATORY SECTION (Amending Order DE 80-42, filed 2/2/81)

WAC 173-14-180 REGULATORY ORDERS BY LOCAL GOVERNMENT OR THE DEPARTMENT. (1) Local government and the department ~~((shall have the authority to))~~ may serve upon a person undertaking, or about to undertake development as defined in RCW 90.58.030 (3)(d), a regulatory order if:

(a) The development constitutes an integral part of a project being undertaken, or about to be undertaken, on the shorelines of the state in the absence of a substantial development, conditional use, or variance permit; or

(b) The development being undertaken, although an integral part of a project approved by an existing, valid substantial development, conditional use, or variance permit is outside the scope and intent of said permit; or

(c) The development being undertaken on the shorelines of the state is in violation of chapter 90.58 RCW, and/or one of the following:

(i) Prior to the formal adoption or approval by the department of a master program for the area, the guidelines and regulations of the department, and so far as can be ascertained, the master program being developed for the area.

(ii) Thereafter this regulation of the department and the adopted or approved master program for the area.

(2) The regulatory order shall set forth or contain:

(a) The specific nature, extent and time of violation, and the damage or potential damage;

(b) An order that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a specific and reasonable time.

(3) A regulatory order issued pursuant hereto shall become effective immediately upon receipt by the person to whom the order is directed.

AMENDATORY SECTION (Amending Order DE 74-23, filed 12/30/74)

WAC 173-19-020 DEFINITIONS. As used herein, the following words have the following meanings:

(1) "Amendment" means a revision, deletion, reenactment, or addition to an existing master program. This term includes the following:

(a) An "administrative amendment" modifies the master program administrative procedures or format and does not affect the policies, use regulations, performance standards, or environment designations of the master program; and

(b) A "substantive amendment" is a revision to the master program which includes but is not limited to modifications affecting the policies, use regulations, performance standards, or environment designations of the master program;

(2) "Department" means the department of ecology~~(:);~~

~~((2))~~ (3) "Local government" means any county, incorporated city or town which contains within its boundaries any lands or waters subject to this chapter~~(:);~~

~~((3))~~ (4) "Master program" means the comprehensive use plan for a described area, and the use regulations, together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals and standards developed in accordance with the policies enunciated in RCW 90.58.020~~(:);~~ and

~~((4))~~ (5) "State master program" is the cumulative total of all master programs ~~((approved or))~~ adopted by the department of ecology.

In addition, the definitions and concepts set forth in ~~((section 3 of the act))~~ RCW 90.58.030 shall also apply as used herein.

AMENDATORY SECTION (Amending Order DE 79-6, filed 8/2/79)

WAC 173-19-044 LOCAL GOVERNMENT CHANGE OF JURISDICTION—EFFECT OF ANNEXATION. In the event of annexation of a shoreline area, the local government assuming jurisdiction shall ~~((revise their))~~ amend or develop a master program to include the annexed area. Such ~~((revision))~~ amendment or development shall be in accordance with the procedures established in ~~((WAC 173-19-060))~~ chapter 173-16 WAC and this chapter and shall be submitted to the department ~~((after completion of annexation))~~. Until a ~~((revised))~~ new or amended program is ~~((approved or))~~ adopted by the department, any ruling on an application for permit in the annexed shoreline area shall be based upon compliance with the preexisting master program ~~((approved or))~~ adopted for the area.

AMENDATORY SECTION (Amending Order DE 74-23, filed 12/30/74)

WAC 173-19-050 INCORPORATION BY REFERENCE. Due to the sheer bulk of the master programs adopted ~~((or approved))~~ by the department, they are not included in the text of this chapter, but rather are incorporated herein as an appendix hereto, having full force and effect as published herein. Copies of the appendix are available to the public at all reasonable times for inspection in the headquarters of the department of ecology in Olympia, with the Washington state code reviser and the county auditor or city clerk as appropriate. Copies of portions thereof, or the complete set, will be provided by the department at the expense of the party requesting the same.

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

WAC 173-19-060 ((REVISING)) AMENDMENT OF MASTER PROGRAMS. ((At any time after adoption or approval of the master program by the department, local government may pursuant to RCW 90.58.190 propose additions, deletions, or modifications)) The department and each local government shall periodically review any master program under its jurisdiction and make amendments to the master program deemed necessary ((by local government)) to reflect changing local circumstances, new information, or improved data. ((A revision to the master program shall be consistent with chapter 90.58 RCW and chapter 173-16 WAC, and shall be submitted to the department for its review and formal action. No such revision submitted to a master program by local government shall become effective until thirty days after the department's order adopting the revision has been filed with the code reviser.)) When the amendment is consistent with chapter 90.58 RCW and its applicable regulations, it may be approved by local government and adopted by the department according to the procedures established in this chapter.

NEW SECTION

WAC 173-19-061 APPROVAL OF MASTER PROGRAMS AND AMENDMENTS BY LOCAL GOVERNMENT. Prior to submission of a new or amended master program to the department, local government shall:

- (1) Conduct at least one public hearing to consider the proposal;
- (2) Publish notice of the hearing a minimum of once in each of the three weeks immediately preceding the hearing in one or more newspapers of general circulation in the area in which the hearing is to be held. The notice shall include:
 - (a) Reference to the authority under which the action is proposed;
 - (b) A statement or summary of the proposed changes to the master program;
 - (c) The date, time, and location of the hearing, and the manner in which interested persons may present their views thereon; and
 - (d) Reference to the availability of the proposal for public inspection at the local government office or upon request;
- (3) Consult with and obtain the comments of any federal, state, regional, or local agency, including tribes, having any special expertise with respect to any environmental impact;
- (4) Where amendments are proposed to a county or regional master program which has been adopted by cities or towns, the county shall coordinate with those jurisdictions and verify concurrence with or denial of the proposal. The procedural requirements of this section may be consolidated for concurring jurisdictions;
- (5) Solicit comments from the department on the proposal;
- (6) Assure compliance with chapter 43.21C RCW, the State Environmental Policy Act; and
- (7) Approve the proposal.

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

WAC 173-19-062 ((SUBMITTAL)) SUBMISSION OF ((RE-VISED)) MASTER PROGRAMS AND AMENDMENTS BY LOCAL GOVERNMENT. ((The local government shall, prior to the submittal of a revised master program to the department, conduct at least one public hearing to consider the proposed changes to the program:

- (a) Public notice of the hearing shall be made a minimum of once in each of the three weeks immediately preceding the hearing. The notice shall be published in one or more newspapers of general circulation in the county in which the hearing is to be held. The public notice shall include:
 - (i) Reference to the authority under which the action is proposed.
 - (ii) A statement or summary of the proposed changes to the master program.
 - (iii) The date, time, and location of the hearing, and the manner in which interested persons may present their views thereon.
- (b) The local government shall also notify abutting local governments affected by the proposed master program revision and specify any environment designation changes.
- (c) The revised master program should be available for public inspection at the local government office and available upon request at least seven days prior to the public hearing.

(2) Attached to the master program revision upon submittal to the department shall be a copy of the resolution or ordinance relating to the revisions submitted by the local government. The submittal letter must bear the signature of the authorized local official. In addition, the following items should also be included in the submittal:

- (a) An affidavit showing that the notice has been properly published;)) A master program or amendment approved by local government shall be submitted to the department for its review and formal action. The submittal shall include, where applicable:
 - (1) A transmittal letter which bears the signature of the authorized local official;
 - (2) Documentation that the proposal has been approved by the local government;
 - (3) A copy of the master program text. If the proposal includes amended text, it shall be submitted in a form that can replace or be easily incorporated within the original document;
 - (4) Amended environment designation map(s) at a scale consistent with the original document, except where all maps are replaced;
 - (5) A summary of proposed amendments which enables a precise determination of which text is amended and/or the boundaries of those areas affected by environment redesignations;
 - ((b)) (6) An explanatory statement, staff report, record of the hearing, and/or other materials which document the necessity for the proposed changes to the master program((-);
 - ((c)) (7) The material specified by chapter 43.21C RCW; i.e., an environmental checklist, threshold determination, and environmental impact statement, as required;
 - (8) An affidavit showing that the notice has been properly published; and
 - (9) Copies of comments received under WAC 173-19-061 (3) and (4).

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

WAC 173-19-064 REVIEW AND ADOPTION OF ((THE RE-VISED)) MASTER PROGRAMS AND AMENDMENTS BY THE DEPARTMENT. ((If more than one local government submits revised programs to the department for action and they are pending with the department, the department may elect to consolidate the proceedings for adoption:)) Review and adoption of master programs and amendments shall be in accordance with the provisions of RCW 34.04.025, insofar as such provisions are not inconsistent with the provisions of chapter 90.58 RCW, and shall follow the procedures set forth below:

- (1) REVIEW:
 - (a) The department shall review the submitted master program or amendment for consistency with the provisions of WAC 173-19-062. If the submittal is determined to be incomplete, the department will identify the deficiencies and so notify local government in writing.
 - (b) For complete submittals a notice of intent to adopt the ((revised)) new or amended master program shall be filed with the state code reviser's office ((in accordance with)) under the procedures and closing dates established by the code reviser. The department shall file notice in a manner that will allow for the most expeditious adoption of the ((revised)) new or amended program((-PROVIDED, That the department will not file notice more often than six times in each year unless special circumstances dictate more frequent filing)). If more than one local government submits new or amended programs to the department for action, the department may elect to consolidate the proceedings for adoption.
 - ((2)) (c) The department shall ((prior to an adoption proceeding)) hold a public hearing to consider the ((proposed changes to the master program:
 - (a) The location of the public hearing and the adoption proceeding shall be as follows:
 - (i) The public hearing shall be held in a location convenient to the department: PROVIDED, That if there is substantial public interest in a revised program, as determined by the department, the department may elect to conduct the public hearing in the local area affected by the revised program.
 - (ii) The adoption proceeding shall be held in a location convenient to the department.
 - (b) The date of the public hearing shall be established in accordance with the schedule of the code reviser for the first agency action date. The adoption proceeding shall be commenced within fourteen days of the public hearing unless the department determines that the public interest or special circumstances requires a longer time between the public hearing and the adoption proceeding)) proposal.

~~((c))~~ (d) Prior to the ~~((date of the))~~ public hearing, the department shall publish notice of the hearing and adoption proceeding in at least one newspaper of general circulation in the area affected by the ~~((revised))~~ master program. The public notice shall include:

(i) Reference to the authority under which the action is proposed; and

(ii) The dates, times, and locations of the public hearing and adoption proceeding, and the manner in which persons may present their views.

~~((d))~~ (e) The department shall also notify local governments, affected tribes, and interested state and federal agencies and persons who have expressed a desire to be advised of the proposed action.

~~((e))~~ (f) For new master programs and substantive amendments, a request for advice and guidance to members of the ecological commission shall be submitted at least thirty days prior to the adoption proceeding~~((s))~~ in accordance with chapter 43.21A RCW.

~~((f))~~ (g) An evaluation of economic impact shall be completed prior to the adoption ~~((of the revised program))~~ proceeding in accordance with chapter 43.21H RCW.

~~((g))~~ ~~The department staff shall present at the public hearing its proposed recommendation~~ (h) An evaluation of the proposal's consistency with chapter 90.58 RCW and the implementing regulations shall be completed prior to the adoption proceeding. Where minor modifications which are not substantial may render a program or amendment consistent, the department may propose such modifications for incorporation into the proposal without filing a new notice with the state code reviser. Prior to final adoption, any minor modifications shall receive written concurrence from local government.

(2) ADOPTION:

(a) Following the department's review of the master program or amendment, an adoption proceeding shall be conducted by the department within a reasonable time following the public hearing.

For administrative amendments, the adoption proceeding shall occur within thirty-five days from the date of filing the notice of intent to adopt the proposal with the state code reviser's office: PROVIDED, That an adoption proceeding may be continued if deemed necessary by the department.

(b) During the adoption proceeding, department staff shall present the evaluation completed under subsection (1)(h) of this section and recommend that the department:

~~((a))~~ (i) Adopt the ~~((revised))~~ new or amended program, or portions thereof;

~~((b))~~ Adopt with conditions, the revised program or portions thereof; or

~~((c))~~ (ii) Deny adoption of the ~~((revised))~~ new or amended program, or portions thereof. If ~~((the recommendation is))~~ it is recommended that ~~((the revised))~~ any part of the master program or amendment be denied ~~((in whole or in part))~~, the department staff shall state the reasons upon which that recommendation is based, including inconsistency with:

~~((i))~~ (A) The policies and procedures of the act; ~~((and~~

~~((ii))~~ (B) The guidelines, rules and regulations of the department~~((:~~

~~((4))~~ When the department determines to deny a revised master program in whole or in part, it shall, at the adoption proceeding date, advise the local government in writing of the reasons for the denial and the department's suggested modifications to the revised program which would make it consistent with chapter 90.58 RCW and chapter 173-16 WAC. The local government may, after it receives the recommendations from the department, make the specific modifications designed to eliminate the inconsistencies and resubmit the revised program to the department. Any resubmitted revision shall be subject to the full adoption procedure.

~~((5))~~ With regard to those segments of the program relating to shorelines of state-wide significance, the department may develop and adopt an alternative to the local governments proposal if the program submitted does not provide for the optimum implementation of the policies of chapter 90.58 RCW to satisfy the state-wide interest. The department shall notify local government of its intent to do so in writing at the adoption proceeding date.

~~((6))~~ The department shall present at the adoption proceeding, its decision on the revised master program, together with any resulting modifications to that proposal~~((:))~~; and

(C) The state environmental policy act.

~~((7))~~ (c) If the department determines to adopt a ~~((revised))~~ new or amended master program ~~((in whole or in part, following the adoption proceeding))~~, it shall file the amended rules and a copy of the ~~((revised))~~ new or amended master program with the state code reviser

following the adoption proceeding. The department shall also notify the appropriate city clerk or county auditor of the final action taken. ~~((8))~~ The ~~((revised))~~ new or amended master program shall not become effective until at least thirty days from the date of filing ~~((with the code reviser))~~ the order adopting the revisions with the code reviser in accordance with the provisions of chapter 34.04 RCW.

~~((9))~~ (d) If the department determines to deny a new or amended master program, it shall advise local government in writing of the reasons for the denial and the department's suggested modifications to the proposal which would make it consistent with chapter 90.58 RCW and the implementing regulations. The local government may make the specific modifications designed to eliminate the inconsistencies and resubmit the proposal to the department. Any resubmitted program or amendment shall be subject to the full adoption procedure. With regard to those segments of the program which relate to shorelines of state-wide significance, the department may develop and adopt an alternative to the local government's proposal if the program submitted does not provide for the optimum implementation of the policies of chapter 90.58 RCW to satisfy the state-wide interest. The department shall notify local government of its intent to do so in writing at the adoption proceeding date and shall follow the procedure established under RCW 90.58.090(2).

(e) If the department determines to partially deny a master program or amendment, it shall receive written concurrence from the authorized local government official. If concurrence is not received, the department may deny the entire proposal.

(f) The procedure for adopting emergency rules described in RCW 34.04.030 shall be used in lieu of the procedure described above only if the criteria in RCW 34.04.030 are met and the department determines that the ~~((proposed revision))~~ proposal is not controversial.

AMENDATORY SECTION (Amending Order DE 80-22, filed 7/2/80)

WAC 173-22-030 DEFINITIONS. As used herein, the following words have the following meanings:

(1) "Associated wetlands" is synonymous with "wetlands" or "wetland areas";

(2) "Flood plain" means that land area susceptible to being inundated by stream derived waters with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act;

(3) "Floodway" means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state. The limit of the floodway is that which has been established in flood regulation ordinance maps or by a reasonable method which meets the objectives of the act;

(4) "Lake" means a body of standing water in a depression of land or expanded part of a river, including reservoirs, of twenty acres or greater in total area. A lake is bounded by the ordinary high water mark or, where a stream enters a lake, the extension of the ordinary high water mark on each side of the stream;

(5) "Marshes, bogs, and swamps" are lands transitional between terrestrial and aquatic systems where saturation with water is the dominant factor determining plant and animal communities and soil development. For the purposes of this definition, these areas must have one or more of the following attributes:

(a) At least periodically, the land supports predominantly hydrophytes; and/or

(b) The substrate is predominantly undrained hydric soil.

Hydrophytes include those plants capable of growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. Hydric soils include those soils which are wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of plants;

(6) "Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark

upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department.

(a) Tidal waters.

(i) In high energy environments where the action of waves or currents is sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the line of vegetation. Where there is no vegetative cover for less than one hundred feet, the ordinary high water mark is the average tidal elevation of the adjacent lines of vegetation. Where the ordinary high water mark cannot be found, it is the elevation of mean higher high tide.

(ii) In low energy environments where the action of waves and currents is not sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the landward limit of salt tolerant vegetation. "Salt tolerant vegetation" means vegetation which is tolerant of interstitial soil salinities greater than or equal to 0.5 parts per thousand.

(b) Lakes. The ordinary high water mark is coincident with the waterward extent of an aerial predominance of persistent vegetation or the elevation of mean high water, whichever is further landward. "Persistent vegetation" means trees, shrubs, or erect, rooted herbaceous plants which normally remain standing at least from the end of one growing season to the beginning of the next.

(c) Streams.

(i) For streams which are not braided, the ordinary high water mark is coincident with the top of the channel bank or the waterward extent of an aerial predominance of persistent vegetation, whichever is greater.

(ii) For braided streams, the ordinary high water mark is coincident with the banks forming the outer limits of the depression within which the braiding occurs;

(7) "River delta" means those lands formed as an aggradational feature by stratified clay, silt, sand and gravel deposited at the mouths of streams where they enter a quieter body of water. The landward extent of a river delta is that limit where it no longer forms distributary channels;

(8) A "stream" is a naturally occurring body of periodic or continuously flowing water where:

(a) The mean annual flow is greater than twenty cubic feet per second; and

(b) The water is contained within a channel. A channel is an open conduit either naturally or artificially created. This definition does not include artificially created irrigation or return flow channels;

(9) "Tidal water" includes marine and estuarine waters bounded by the ordinary high water mark which:

(a) Are subject to the ebb and flow of oceanic tides; and

(b) Have salinities of 0.5 parts per thousand or greater during the period of average annual low flow;

(10) "Wetlands" or "wetland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high-water mark; (~~and all marshes, bogs, swamps,~~) floodways(~~, river deltas~~) and contiguous flood plain(s) areas landward two hundred feet from such floodways; and all marshes, bogs, swamps, and river deltas associated with the streams, lakes and tidal waters which are subject to the provisions of chapter 90.58 RCW(:

(2) "~~Associated wetlands~~" means those wetlands or wetland areas which either influence or are influenced by and are in proximity to any stream, river, lake, or tidal water, or combination thereof, subject to chapter 90.58 RCW:); PROVIDED, That any county or city may determine that portion of a one hundred-year flood plain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom; and

((3)) (11) The definitions set forth in chapter 90.58 RCW shall also apply as used herein.

AMENDATORY SECTION (Amending Order DE 85-05, filed 4/15/85)

WAC 173-22-040 WETLAND AREA DESIGNATION CRITERIA. ((1) Salt water areas and lakes. The wetlands shall be measured on a horizontal plane two hundred feet in all directions from the line of vegetation. If there is no vegetative cover, the measurement will be, wherever possible, from a line connecting the lines of vegetation on either side of an area; otherwise, the measurement will be from the

mean higher high tide on salt water, and the mean high water on fresh water.

(2) Riverine flood plains:

(a) The wetland area within the flood plains shall be not less than those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark or floodway pursuant to subsection (b) below, whichever is greater. The wetland area shall not be greater than the 100-year flood plain boundary as established by acceptable methods.

(b) Wetland boundaries shall remain as the 100-year flood plain boundary, as defined by chapter 173-22 WAC, unless local government chooses to change the wetland boundaries. If the boundaries are changed, those changes shall be according to one of the following methods:

(i) Appropriate surface soil type boundaries.

(ii) Changes in type, quantity or quality of vegetative ground cover.

(iii) Readily identifiable natural barriers or permanent flood control devices such as levees, dikes or revetments.

(iv) Any reasonable method which meets the objectives of the Shoreline Management Act.

(c) The proposed revision of wetland boundaries by any of the above methods must be submitted to the department of ecology for review. Prior to submittal to the department of ecology, a decision as to the relative environmental significance of the revision shall be made pursuant to chapter 197-10 WAC, the SEPA guidelines. If the department of ecology is satisfied that the proposal conforms to the criteria contained herein, the local shoreline master program shall be revised to reflect the boundary changes. The department of ecology shall amend chapter 173-19 WAC (state master program) at a reasonable interval following amendment of the local shoreline master program.

(3) Marshes, bogs and swamps. If marshes, bogs and swamps which constitute associated wetlands extend more than two hundred feet beyond the ordinary high-water mark of the body of water with which they are associated, their perimeters shall be the outer limit of the wetland designation. Such marshes, bogs and swamps shall be defined and designated according, but not limited to, the following definitions:

(a) Marsh—A low flat area on which the vegetation consists mainly of herbaceous plants such as cattails, bulrushes, tules, sedges, skunk cabbage, and other aquatic or semi-aquatic plant. Shallow water usually stands on a marsh, at least during a considerable part of the year. The surface is commonly soft mud or muck.

(b) Bog—A depression or other undrained or poorly drained area containing, or covered with, peat (usually more than one layer) on which characteristic kinds of sedges, reeds, rushes, mosses, and other similar plants grow. In the early stages of development the vegetation is herbaceous and the peat is very wet. In middle stages the dominant vegetation is brush. In mature stages trees are usually the dominant vegetation, and the peat, at least near the surface, may be comparatively dry.

(c) Swamp—A swamp is similar to a marsh except that trees and shrubs comprise the characteristic vegetation. Marshes and swamps merge into each other, and both tend to merge into bogs.)) The following criteria contain the standards for the department's designation of wetland areas associated with shorelines of the state which are subject to the jurisdiction of chapter 90.58 RCW:

(1) Tidal waters. The wetland area shall include:

(a) Those lands which extend landward two hundred feet as measured on a horizontal plane from the ordinary high water mark; and

(b) Those marshes, bogs, and swamps which are in proximity to and either influence or are influenced by the tidal water. This influence includes but is not limited to one or more of the following: Periodic tidal inundation; hydraulic continuity; formation by tidally influenced geohydraulic processes; or a surface connection through a culvert or tide gate;

(2) Lakes. The wetland area shall include:

(a) Those lands which extend landward two hundred feet as measured on a horizontal plane from the ordinary high water mark; and

(b) Those marshes, bogs, and swamps which are in proximity to and either influence or are influenced by the lake. This influence includes but is not limited to one or more of the following: Periodic inundation or hydraulic continuity;

(3) Streams. The wetland area shall include:

(a) Those lands which extend landward two hundred feet as measured on a horizontal plane from the floodway, or where no floodway has been established, from the ordinary high water mark: PROVIDED, That local government may, at its discretion, include all or a larger portion of the one hundred-year floodplain within the associated

wetlands than is identified in (a) of this subsection. Designation of this wetland area shall be in accordance with chapter 173-19 WAC, the state master program. If the applicable master program does not designate the wetland area for a stream, it shall be designated under the rules which applied at the time of adoption by the department;

(b) Those marshes, bogs, and swamps which are in proximity to and either influence or are influenced by the stream. This influence includes but is not limited to one or more of the following: Periodic inundation; location within a floodplain; or hydraulic continuity; and

(c) Those lands within a river delta floodplain.

AMENDATORY SECTION (Amending Order DE 80-22, filed 7/2/80)

WAC 173-22-050 REVIEW OF DESIGNATIONS. The department shall review all the designations made herein at least once in every five-year period following the effective date of chapter 90.58 RCW or as frequently ((before then)) as is deemed advisable by the department, and prepare the necessary revisions to ensure that the designations conform to the policies of chapter 90.58 RCW and of chapter 173-22 WAC in the manner and form prescribed for adopting and amending rules and regulations in chapter 34.04 RCW (the Administrative Procedure Act).

NEW SECTION

WAC 173-22-052 ALTERATIONS OF SHORELINES AFFECTING DESIGNATIONS. Alterations of the existing conditions of shorelines and wetlands of the state which affect the boundary or volume of those water bodies, whether through authorized development or natural causes, shall warrant a review of the designation of those shorelines and their associated wetlands.

AMENDATORY SECTION (Amending Order DE 80-22, filed 7/2/80)

WAC 173-22-055 CONFLICTS BETWEEN DESIGNATIONS AND CRITERIA. In the event that any of the wetland designations shown on the maps adopted in WAC 173-22-060 conflict with the criteria set forth in this chapter the criteria shall control. The boundary of the designated wetland areas shall be governed by the criteria ((as follows:

(1) Saltwater areas and lakes. The wetland boundary for saltwater areas and lakes shall be designated as set forth in WAC 173-22-040.

(2) Riverine flood plains. The wetland boundary in riverine flood plain areas shall be designated as set forth in WAC 173-22-040. The 100-year flood plain boundary shown on the designation maps shall control except, where this boundary has been established and mapped by others using acceptable methods. As to the 100-year floodway, the flood insurance study maps published by the Federal Insurance Administration shall, when adopted by the local government, be used to ascertain the 100-year floodway location, provided that these criteria not affect the designations nor the criteria for designation of marshes, bogs or swamps which lie within the floodplain or floodways.

(3) Marshes, bogs, and swamps. The wetland boundary for marshes, bogs, and swamps shall be designated as)) set forth in WAC 173-22-040.

AMENDATORY SECTION (Amending Order DE 85-05 [85-15], filed 4/15/85 [6/20/85])

WAC 173-22-060 SHORELINE DESIGNATION MAPS. Shoreline designation maps are those maps which have been prepared and adopted by the department in a manner consistent with chapter 34.04 RCW (the Administrative Procedure Act) that designate the location of shorelines of the state and their associated wetland areas. Wetland designations are applied under the criteria contained in WAC 173-22-040. Due to the bulk of the maps designating the wetland areas, they are not included in the text of this chapter, but rather are incorporated herein as an appendix hereto, having full legal force and effect as if published herein. Copies of the appendix are available to the public at all reasonable times for inspection in the headquarters of the department of ecology in Olympia, the Washington state code reviser's office, the appropriate county auditor and city clerk. Copies of portions thereof, or of the complete set, will be available from the department at the expense of the party requesting the same. Volumes I, II, and III entitled "Shorelines under the Shoreline Management Act of 1971" (chapter 90.58 RCW, chapter 286, Laws of 1971 1st ex. sess.) were adopted by reference on June 30, 1972. ((Revisions to the

designation maps were adopted on August 28, 1973, August 31, 1977, August 10, 1978, June 26, 1980, June 9, 1981, April 9, 1985, and June 18, 1985:))

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

NEW SECTION

WAC 173-22-0602 ADAMS COUNTY. Adams County designation maps approved June 30, 1972. Revision approved September 20, 1977.

NEW SECTION

WAC 173-22-0604 ASOTIN COUNTY. Asotin County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977.

NEW SECTION

WAC 173-22-0606 BENTON COUNTY. Benton County designation maps approved June 30, 1972. Revision approved September 20, 1977.

NEW SECTION

WAC 173-22-0608 CHELAN COUNTY. Chelan County designation maps approved June 30, 1972. Revision approved August 28, 1973.

NEW SECTION

WAC 173-22-0610 CLALLAM COUNTY. Clallam County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977. Revision approved April 15, 1985.

NEW SECTION

WAC 173-22-0612 CLARK COUNTY. Clark County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977.

NEW SECTION

WAC 173-22-0614 COLUMBIA COUNTY. Columbia County designation maps approved June 30, 1972.

NEW SECTION

WAC 173-22-0616 COWLITZ COUNTY. Cowlitz County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977. Revision approved July 2, 1980.

NEW SECTION

WAC 173-22-0618 DOUGLAS COUNTY. Douglas County designation maps approved June 30, 1972. Revision approved August 28, 1973.

NEW SECTION

WAC 173-22-0620 FERRY COUNTY. Ferry County designation maps approved June 30, 1972. Revision approved September 20, 1977.

NEW SECTION

WAC 173-22-0622 FRANKLIN COUNTY. Franklin County designation maps approved June 30, 1972. Revision approved August 28, 1973.

NEW SECTION

WAC 173-22-0624 GARFIELD COUNTY. Garfield County designation maps approved June 30, 1972.

NEW SECTION

WAC 173-22-0626 GRANT COUNTY. Grant County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977. Revision approved June 15, 1981.

NEW SECTION

WAC 173-22-0628 GRAYS HARBOR COUNTY. Grays Harbor County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved July 2, 1980. Revision approved April 15, 1985.

NEW SECTION

WAC 173-22-0630 ISLAND COUNTY. Island County designation maps approved June 30, 1972. Revision approved September 20, 1977. Revision approved July 2, 1980.

NEW SECTION

WAC 173-22-0632 JEFFERSON COUNTY. Jefferson County designation maps approved June 30, 1972. Revision approved September 20, 1977. Revision approved July 2, 1980.

NEW SECTION

WAC 173-22-0634 KING COUNTY. King County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977. Revision approved July 2, 1980. Revision approved June 15, 1981. Revision approved April 15, 1985.

NEW SECTION

WAC 173-22-0636 KITSAP COUNTY. Kitsap County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977. Revision approved July 2, 1980. Revision approved June 15, 1981.

NEW SECTION

WAC 173-22-0638 KITTITAS COUNTY. Kittitas County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977.

NEW SECTION

WAC 173-22-0640 KLICKITAT COUNTY. Klickitat County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977. Revision approved July 2, 1980.

NEW SECTION

WAC 173-22-0642 LEWIS COUNTY. Lewis County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977. Revision approved July 2, 1980.

NEW SECTION

WAC 173-22-0644 LINCOLN COUNTY. Lincoln County designation maps approved June 30, 1972. Revision approved September 20, 1977.

NEW SECTION

WAC 173-22-0646 MASON COUNTY. Mason County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977.

NEW SECTION

WAC 173-22-0648 OKANOGAN COUNTY. Okanogan County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977.

NEW SECTION

WAC 173-22-0650 PACIFIC COUNTY. Pacific County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977.

NEW SECTION

WAC 173-22-0652 PEND OREILLE COUNTY. Pend Oreille County designation maps approved June 30, 1972. Revision approved April 15, 1985.

NEW SECTION

WAC 173-22-0654 PIERCE COUNTY. Pierce County designation maps approved June 30, 1972. Revision approved September 20, 1977.

NEW SECTION

WAC 173-22-0656 SAN JUAN COUNTY. San Juan County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977. Revision approved August 15, 1978. Revision approved July 2, 1980. Revision approved June 20, 1985.

NEW SECTION

WAC 173-22-0658 SKAGIT COUNTY. Skagit County designation maps approved June 30, 1972. Revision approved September 20, 1977. Revision approved July 2, 1980.

NEW SECTION

WAC 173-22-0660 SKAMANIA COUNTY. Skamania County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977. Revision approved July 2, 1980.

NEW SECTION

WAC 173-22-0662 SNOHOMISH COUNTY. Snohomish County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved July 2, 1980.

NEW SECTION

WAC 173-22-0664 SPOKANE COUNTY. Spokane County designation maps approved June 30, 1972.

NEW SECTION

WAC 173-22-0666 STEVENS COUNTY. Stevens County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977.

NEW SECTION

WAC 173-22-0668 THURSTON COUNTY. Thurston County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977. Revision approved July 2, 1980. Revision approved April 15, 1985.

NEW SECTION

WAC 173-22-0670 WAHKAIKUM COUNTY. Wahkaikum County designation maps approved June 30, 1972.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-22-0672 WALLA WALLA COUNTY. Walla Walla County designation maps approved June 30, 1972. Revision approved September 20, 1977.

NEW SECTION

WAC 173-22-0674 WHATCOM COUNTY. Whatcom County designation maps approved June 30, 1972. Revision approved August

28, 1973. Revision approved September 20, 1977. Revision approved July 2, 1980.

NEW SECTION

WAC 173-22-0676 WHITMAN COUNTY. Whitman County designation maps approved June 30, 1972.

NEW SECTION

WAC 173-22-0678 YAKIMA COUNTY. Yakima County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977. Revision approved July 2, 1980.

WSR 86-05-053
PROPOSED RULES
SECRETARY OF STATE
[Filed February 19, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Secretary of State intends to adopt, amend, or repeal rules to implement federal and state statutes concerning providing accessible polling places and permanent voter registration facilities for elderly voters and voters of disabilities for federal elections;

that the agency will at 9:30 a.m., Tuesday, March 25, 1986, in the Office of the Secretary of State, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 26, 1986.

The authority under which these rules are proposed is RCW 29.57.030 and 29.57.170.

The specific statute these rules are intended to implement is chapter 29.57 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 21, 1986.

Dated: February 19, 1986
By: Ralph Munro
Secretary of State

STATEMENT OF PURPOSE

Title of the Rule: Accessibility of polling places and permanent voter registration facilities for elderly voters and voters of disabilities.

Purpose of the Rule: To implement P.L. 98-435 and chapter 29.57 RCW by prescribing standards and procedures for providing accessible polling places and registration facilities.

Statutory Authority: RCW 29.57.030 and 29.57.170.

Summary of Rule: Specifies the uniform procedures for implementing chapter 29.57 RCW and amends WAC 434-57-030, providing accessibility standards for polling places, by also applying standards to permanent voter registration facilities.

Reasons for Proposed Rule: These regulations are required by chapter 29.57 RCW in order to comply with P.L. 98-435 in providing accessible polling places and permanent voter registration facilities for elderly voters and voters of disabilities.

Agency Personnel Responsible for Enforcement: Donald F. Whiting, Office of Secretary of State, P.O.

Box 9000, AS-22, Olympia, WA 98504, (206) 753-2336; Drafting and Implementation: Jennifer L. Helget, Office of Secretary of State, P.O. Box 9000, AS-22, Olympia, WA 98504, (206) 753-2336.

Rules Proposed by: Elections Division, Office of Secretary of State.

Agency Comments: None.

Declaration of Effect of Federal Law: These proposed rules are the result of federal law.

REGULATIONS ON ACCESSIBILITY OF POLLING PLACES AND PERMANENT VOTER REGISTRATION FACILITIES TO ELDERLY VOTERS AND TO VOTERS OF DISABILITIES AND THE ELDERLY

WAC 434-57-010	Purpose.
WAC 434-57-020	Definitions.
WAC 434-57-030	Standards for accessible polling places and permanent voter registration facilities.
WAC 434-57-040	Use of public buildings as polling places.
WAC 434-57-050	Assistance from persons with disabilities.
WAC 434-57-070	Report of polling places.
WAC 434-57-080	Examination of inaccessible polling places.
WAC 434-57-090	Accessible polling places—exceptions.
WAC 434-57-100	Procedures for inaccessible polling places.
WAC 434-57-120	Accessible permanent voter registration facilities.
WAC 434-57-130	Voting and registration instructions.
WAC 434-57-150	Notice of accessibility.

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 434-57-010 PURPOSE. These regulations are adopted pursuant to RCW 29.57.030 and 29.57.170 to implement the provisions of chapter 29.57 RCW and the requirements of Public Law 98-435 regarding the accessibility of polling places and voter registration facilities for federal elections.

NEW SECTION

- WAC 434-57-020 DEFINITIONS. As used in these regulations:
- (1) "Accessible" means the combination of factors which create an environment free of barriers to the mobility of voters with disabilities and the elderly. The environment consists of the routes of travel to and through buildings or facilities used for the purpose of voting and voter registration.
 - (2) "Alternative polling place" means an accessible location which could be used as a polling place in the event that the existing site is inaccessible and which is reasonably convenient to assigned voters.
 - (3) "County auditor" means the county auditor or county election official.
 - (4) "Election" means any special or general election for any federal office.
 - (5) "Federal election" means a primary, special or general election for the office of President, Vice President, United States Senator or United States Representative.
 - (6) "Permanent voter registration facilities" means any offices or other locations specifically required to provide voter registration services under chapter 29.07 RCW or the location of any deputy registrar appointed by the county auditor to serve for an indefinite period of time.
 - (7) "State of emergency" means any condition which, in the opinion of the county auditor and secretary of state, would interfere with the safe and efficient conduct of a primary or election.

AMENDATORY SECTION

WAC 434-57-030 STANDARDS FOR ACCESSIBLE POLLING PLACES AND PERMANENT VOTER REGISTRATION FACILITIES. ((This regulation is adopted pursuant to RCW 29.57-030 (as amended by section 2, chapter 205, Laws of 1985) to implement the provisions of that chapter and the requirements of Public Law 98-435 regarding the accessibility of polling places for federal elections.))

A polling place is accessible if each of the following standards is met or exceeded. If each of the following standards cannot be met, alternative accommodations may be permitted under (~~section 5, chapter 205, Laws of 1985~~) RCW 29.57.090. A permanent voter registration facility is accessible if each of the following standards is met or exceeded, except where the standard specifically applies only to a polling place.

(1) **PARKING.** There is at least one existing or temporary parking place, designated for use by voters with disabilities on the day of the primary or election, for each nine hundred persons registered to vote at that polling place. There is at least one existing parking place designated for use by voters with disabilities at the permanent voter registration facility. The designated parking place(s) is in close proximity to the accessible entrance to the building containing the polling place and is no less than twelve feet six inches wide. The area surrounding the parking place(s) for voters with disabilities is a firm, stable surface and generally level, with a maximum slope in any direction of one inch in fifty inches. A slope of one inch in thirty inches in the area surrounding the designated parking place(s) is considered accessible only if all other potential polling places within the precinct are not and cannot be made to meet this standard.

(2) **ACCESSIBLE ROUTE OF TRAVEL.** A continuous, unobstructed pathway exists from the accessible parking place(s) to and through the accessible building entrance and to the polling place. The accessible route of travel is a minimum of thirty-six inches of clear width and seventy-nine inches in clear height unless otherwise specified in these standards.

(a) **WALKWAYS AND RAMPS.** Walkways or ramps which occur within the accessible route of travel have a minimum clear width of forty-four inches, no abrupt edge over one-half inch in height, no grating with openings larger than one-half inch, and a maximum slope in the direction of travel less than one inch in twenty inches with a cross slope no more than one inch in fifty inches. The width of walkways and ramps may be thirty-six inches only in instances where it is impractical or unreasonable to provide forty-four inches. If the slope of the accessible route of travel is between one inch in twenty inches and one inch in twelve inches, a level five foot by five foot landing is provided for each thirty inches of rise. Ramps and curb cuts have a slope no more than one inch in twelve inches. Ramps one inch in twenty or steeper have handrails. Curb cuts have a clear width of thirty-six inches and side slopes no more than one inch in six inches.

(b) **ENTRANCES.** The entrance to the building containing the polling place or permanent voter registration facility is at least thirty-two inches of clear width with a threshold no more than one-half inch in height. There is a level, firm, stable and slip resistant surface at least fifty inches wide, at least eighteen inches of which is directly adjacent to the latch side of the door, and five feet deep on both the inside and outside of the door. If the entrance to the building containing the polling place remains in an open position during polling hours, the requirement for the eighteen inches adjacent to the latch side of the door does not apply. If the door is power operated, it is equipped with a time delay.

(c) **INTERIOR CORRIDORS.** If the entrance to the building containing the polling place or permanent voter registration facility does not open directly to the polling place or permanent voter registration facility, there is an unobstructed route of travel from the entrance of the building to the entrance of the polling place or permanent voter registration facility which is at least forty-four inches wide. If there is an elevator in the only accessible route of travel, it is in close proximity to the entrance to the building, it has a minimum interior depth of forty-eight inches, the doors have at least thirty-two inches clear width, and the floor has a firm, stable surface.

(3) **POLLING PLACE.** There is seating and adequate, unobstructed space for reasonable movement of elderly voters and voters with disabilities within the polling place.

(4) **VOTING EQUIPMENT.** In polling places in which ballots are cast on voting machines or voting devices, there is at least one machine or device which is no higher than thirty inches with at least twenty-seven inches minimum height knee clearance under the machine or device for a wheelchair. Voters may also be provided with paper ballots and a voting booth with a horizontal surface which is no higher than thirty inches with at least twenty-seven inches minimum height knee clearance under the booth for a wheelchair.

(5) **ILLUMINATION.** There is sufficient illumination at all points along the accessible route of travel and within the polling place or permanent voter registration facility.

(6) **SIGNS.** There are signs identifying the accessible parking spaces. There are signs identifying the accessible route of travel to the polling

place or permanent voter registration facility if it is different from the primary route of travel to the polling place or permanent voter registration facility. Signs shall prominently display the international symbol of access as provided by RCW 70.92.120.

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 434-57-040 USE OF PUBLIC BUILDINGS AS POLLING PLACES. A county auditor may request the legislative authority of a county, municipality or special district for the use of their facility as a polling place when, in the judgment of the county auditor, that facility would provide a location that would best satisfy the requirements of chapter 29.57 RCW. The county auditor shall notify the secretary of state if authorization to use such a facility is not granted and no other accessible location is available.

NEW SECTION

WAC 434-57-050 ASSISTANCE FROM PERSONS WITH DISABILITIES. The secretary of state shall maintain a list of qualified persons from the disabled community and other service organizations from which county auditors may seek assistance in reviewing sites and recommending inexpensive remedies to improve accessibility.

NEW SECTION

WAC 434-57-070 REPORT OF PRECINCTS AND POLLING PLACES. (1) No later than April 1 of each even-numbered year, each county auditor shall report to the secretary of state, on a form prescribed and provided by the secretary of state, a list of all precincts and assigned polling places within that county. This report shall specify those polling places which are inaccessible, a summary of the efforts to locate alternative polling places and any measures taken to temporarily modify existing inaccessible polling places.

(2) In 1986, the secretary of state may, on the request of a county auditor, extend the deadline of this report to no later than July 1.

(3) No later than thirty days before the next primary or general in an even-numbered year, a county auditor shall notify the secretary of state of any changes in polling place locations. No changes in polling place locations may be made after that time except where a state of emergency exists.

NEW SECTION

WAC 434-57-080 EXAMINATION OF INACCESSIBLE POLLING PLACES. (1) No later than July 1 in each even-numbered year or August 1, 1986 when the reporting deadline has been extended, the secretary of state shall review the reports of polling places submitted by each county auditor. The secretary of state shall verify that every effort has been made to locate alternative polling places for each inaccessible polling place and shall check each inaccessible polling place to verify its inaccessibility.

(2) Any polling place for which a report has not been submitted shall be considered inaccessible and shall not be used in a primary or election unless it has been determined that a state of emergency exists.

NEW SECTION

WAC 434-57-090 ACCESSIBLE POLLING PLACES—EXCEPTIONS. An inaccessible polling place shall not be used in federal elections unless the following conditions have been met:

(1) The secretary of state has reviewed and verified the inaccessible polling place, that a reasonable effort has been made to locate an alternative polling place, and that measures to temporarily modify the existing polling place are not feasible, and

(2) The registered voters assigned to such an inaccessible polling place have been notified as required, or

(3) It has been determined that a state of emergency exists.

NEW SECTION

WAC 434-57-100 PROCEDURES FOR INACCESSIBLE POLLING PLACES. (1) No later than thirty days before a primary and election in each even-numbered year, a county auditor shall mail a notice to each registered voter assigned to an inaccessible polling place

which has been authorized for use under these rules and shall contain the following information:

(a) The polling place for that precinct is inaccessible for that primary or election according to the accessibility standards established for elderly voters and voters of disabilities.

(b) An elderly voter or voter of disabilities may request, within ten days of the date of the notice, to be assigned to an alternative polling place as listed in the notice, or may request to vote by absentee ballot.

(c) An absentee ballot request form or instructions for requesting an absentee ballot.

(2) The county auditor shall make the following accommodations in voting procedures necessary to allow the use of alternative polling places by elderly voters and voters of disabilities:

(a) The county auditor shall assemble election materials for voters who requests to vote at an alternative polling place. The following materials shall be separated according to the precinct in which the voters are registered and placed into an envelope which clearly identifies that precinct:

(i) a poll book or precinct list which contains the names of only those voters from that precinct assigned to the alternative polling place;

(ii) a ballot for each voter from the precinct in which that voter is registered;

(iii) an envelope for voted ballots which is clearly marked "Ballots for Precinct from Alternative Polling Place for Elderly and Disabled Voters";

(iv) instructions for the precinct election officers.

(b) The procedures for voting and ballot tabulation shall be as follows for all ballots cast by an elderly voter or voter of disabilities at an alternative polling place:

(i) The voter shall be given a ballot from the precinct in which the voter is registered. For lever machine precincts, the voter shall be given a paper ballot.

(ii) After the voter has cast his or her ballot, the ballot shall be placed in a separate ballot box or the envelope designated for ballots cast in alternative polling places.

(iii) Following the close of the polls, ballots shall be transmitted in the designated envelopes to the county auditor's office. All ballots cast in alternative polling places shall be canvassed in the same manner as absentee ballots and shall be reported separately from precinct totals and totals of absentee ballots and question or challenged ballots.

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 434-57-120 ACCESSIBLE PERMANENT VOTER REGISTRATION FACILITIES. Each county auditor shall provide a reasonable number of accessible permanent voter registration facilities. Each county auditor shall report to the secretary of state, on a form provided by the secretary of state, a list and address of all permanent voter registration facilities. This list shall identify those facilities which meet the accessibility standards as provided in these rules. Each county auditor shall submit this list with the report of polling places. required. The secretary of state shall review such lists and determine if the number of accessible permanent voter registration facilities is adequate to meet the needs of the elderly and persons of disabilities. If the secretary of state determines that the number of facilities is inadequate, he or she shall notify the county auditor and request additional facilities be provided.

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 434-57-130 VOTING AND REGISTRATION INSTRUCTIONS. Each county auditor shall conspicuously display voting instructions, printed in at least 16-point type, at each polling place on the day of the primary or election. Each county auditor shall also conspicuously display registration instructions, printed in at least 16-point type, at each permanent voter registration facility.

NEW SECTION

WAC 434-57-150 NOTICE OF ACCESSIBILITY. Each county auditor shall include a list of polling places, indicating those polling places which are accessible according to the standards for elderly voters and voters with disabilities, in the notice of election published under RCW 29.27.030 and 29.27.080.

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
173-301-300	REP	86-03-034	220-32-042	REP-P	86-05-040
173-301-301	REP	86-03-034	220-48-01500T	NEW-E	86-03-044
173-301-302	REP	86-03-034	220-48-01500T	REP-E	86-05-012
173-301-303	REP	86-03-034	220-48-01500U	NEW-E	86-05-012
173-301-304	REP	86-03-034	220-52-069	AMD-P	86-05-002
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173-301-307	REP	86-03-034	220-56-180	AMD-C	86-03-089
173-301-308	REP	86-03-034	220-56-190	AMD-C	86-03-089
173-301-309	REP	86-03-034	220-56-195	AMD-C	86-03-089
173-301-310	REP	86-03-034	220-56-205	AMD-C	86-03-089
173-301-320	REP	86-03-034	220-56-240	AMD-C	86-03-089
173-301-350	REP	86-03-034	220-56-295	AMD-C	86-03-089
173-301-351	REP	86-03-034	220-56-305	AMD-C	86-03-089
173-301-352	REP	86-03-034	220-56-310	AMD-C	86-03-089
173-301-353	REP	86-03-034	220-56-312	NEW-C	86-03-089
173-301-354	REP	86-03-034	220-56-325	AMD-C	86-03-089
173-301-355	REP	86-03-034	220-56-330	AMD-C	86-03-089
173-301-356	REP	86-03-034	220-56-335	AMD-C	86-03-089
173-301-357	REP	86-03-034	220-56-340	AMD-C	86-03-089
173-301-358	REP	86-03-034	220-56-350	AMD-C	86-03-089
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173-301-401	REP	86-03-034	220-56-380	AMD-C	86-03-089
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173-301-451	REP	86-03-034	220-57-001	AMD-C	86-03-089
173-301-452	REP	86-03-034	220-57-138	AMD-C	86-03-089
173-301-453	REP	86-03-034	220-57-140	AMD-C	86-03-089
173-301-454	REP	86-03-034	220-57-160	AMD-C	86-03-089
173-301-455	REP	86-03-034	220-57-175	AMD-C	86-03-089
173-301-456	REP	86-03-034	220-57-200	AMD-C	86-03-089
173-301-457	REP	86-03-034	220-57-220	AMD-C	86-03-089
173-301-500	REP	86-03-034	220-57-235	AMD-C	86-03-089
173-301-610	REP	86-03-034	220-57-260	AMD-C	86-03-089
173-301-611	REP	86-03-034	220-57-270	AMD-C	86-03-089
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173-480-040	NEW-P	86-04-092	220-57-450	AMD-C	86-03-089
173-480-050	NEW-P	86-04-092	220-57-455	AMD-C	86-03-089
173-480-060	NEW-P	86-04-092	220-57A-001	NEW-C	86-03-089
173-480-070	NEW-P	86-04-092	220-57A-012	AMD-C	86-03-089
173-480-080	NEW-P	86-04-092	220-57A-015	AMD-C	86-03-089
173-516-010	NEW-W	86-05-019	220-57A-017	AMD-C	86-03-089
173-516-020	NEW-W	86-05-019	220-57A-035	AMD-C	86-03-089
173-516-030	NEW-W	86-05-019	220-57A-037	AMD-C	86-03-089
173-516-040	NEW-W	86-05-019	220-57A-040	AMD-C	86-03-089
173-516-050	NEW-W	86-05-019	220-57A-045	AMD-C	86-03-089
173-516-060	NEW-W	86-05-019	220-57A-080	AMD-C	86-03-089
173-516-070	NEW-W	86-05-019	220-57A-110	AMD-C	86-03-089
173-516-080	NEW-W	86-05-019	220-57A-112	AMD-C	86-03-089
173-516-090	NEW-W	86-05-019	220-57A-120	AMD-C	86-03-089
173-516-100	NEW-W	86-05-019	220-57A-140	AMD-C	86-03-089
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180-25-050	AMD	86-04-066	220-57A-183	NEW-C	86-03-089
180-26-057	NEW	86-04-065	220-57A-185	AMD-P	86-05-039
180-27-105	AMD	86-04-067	220-57A-190	AMD-P	86-05-039
180-29-1075	NEW	86-04-065	230-08-080	AMD-P	86-05-044
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296-127-150	NEW	86-03-063	296-155-140	AMD-C	86-03-073	296-155-36313	NEW	86-03-074
296-127-160	NEW	86-03-063	296-155-140	AMD	86-03-074	296-155-36315	NEW-C	86-03-073
296-127-170	NEW	86-03-063	296-155-155	AMD-C	86-03-073	296-155-36315	NEW	86-03-074
296-127-180	NEW	86-03-063	296-155-155	AMD	86-03-074	296-155-36317	NEW-C	86-03-073
296-127-190	NEW	86-03-063	296-155-160	AMD-C	86-03-073	296-155-36317	NEW	86-03-074
296-127-200	NEW	86-03-063	296-155-160	AMD	86-03-074	296-155-36319	NEW-C	86-03-073
296-127-210	NEW	86-03-063	296-155-165	AMD-C	86-03-073	296-155-36319	NEW	86-03-074
296-127-220	NEW	86-03-063	296-155-165	AMD	86-03-074	296-155-36321	NEW-C	86-03-073
296-127-300	NEW	86-03-063	296-155-200	AMD-C	86-03-073	296-155-36321	NEW	86-03-074
296-127-310	NEW	86-03-063	296-155-200	AMD	86-03-074	296-155-365	AMD-C	86-03-073
296-127-320	NEW	86-03-063	296-155-201	AMD-C	86-03-073	296-155-365	AMD	86-03-074
296-132-005	REP-P	86-05-027	296-155-201	AMD	86-03-074	296-155-367	NEW-C	86-03-073
296-132-010	REP-P	86-05-027	296-155-203	NEW-C	86-03-073	296-155-367	NEW	86-03-074
296-132-015	REP-P	86-05-027	296-155-203	NEW	86-03-074	296-155-370	AMD-C	86-03-073
296-132-050	REP-P	86-05-027	296-155-20301	NEW-C	86-03-073	296-155-370	AMD	86-03-074
296-132-055	REP-P	86-05-027	296-155-20301	NEW	86-03-074	296-155-400	AMD-C	86-03-073
296-132-060	REP-P	86-05-027	296-155-20303	NEW-C	86-03-073	296-155-400	AMD	86-03-074
296-132-065	REP-P	86-05-027	296-155-20305	NEW-C	86-03-073	296-155-405	AMD-C	86-03-073
296-132-100	REP-P	86-05-027	296-155-20307	NEW-C	86-03-073	296-155-405	AMD	86-03-074
296-132-105	REP-P	86-05-027	296-155-20307	NEW	86-03-074	296-155-407	NEW-C	86-03-073
296-132-110	REP-P	86-05-027	296-155-205	AMD-C	86-03-073	296-155-407	NEW	86-03-074
296-132-115	REP-P	86-05-027	296-155-205	AMD	86-03-074	296-155-425	AMD-C	86-03-073
296-132-120	REP-P	86-05-027	296-155-211	NEW-C	86-03-073	296-155-425	AMD	86-03-074
296-132-125	REP-P	86-05-027	296-155-211	NEW	86-03-074	296-155-430	AMD-C	86-03-073
296-132-130	REP-P	86-05-027	296-155-212	AMD-C	86-03-073	296-155-430	AMD	86-03-074
296-132-135	REP-P	86-05-027	296-155-212	AMD	86-03-074	296-155-435	AMD-C	86-03-073
296-132-140	REP-P	86-05-027	296-155-225	AMD-C	86-03-073	296-155-435	AMD	86-03-074
296-132-145	REP-P	86-05-027	296-155-225	AMD	86-03-074	296-155-440	AMD-C	86-03-073
296-132-150	REP-P	86-05-027	296-155-230	AMD-C	86-03-073	296-155-440	AMD	86-03-074
296-132-151	REP-P	86-05-027	296-155-230	AMD	86-03-074	296-155-475	AMD-C	86-03-073
296-132-152	REP-P	86-05-027	296-155-250	AMD-C	86-03-073	296-155-475	AMD	86-03-074
296-132-155	REP-P	86-05-027	296-155-250	AMD	86-03-074	296-155-480	AMD-C	86-03-073
296-132-160	REP-P	86-05-027	296-155-260	AMD-C	86-03-073	296-155-480	AMD	86-03-074
296-132-200	REP-P	86-05-027	296-155-260	AMD	86-03-074	296-155-485	AMD-C	86-03-073
296-132-205	REP-P	86-05-027	296-155-270	AMD-C	86-03-073	296-155-485	AMD	86-03-074
296-132-210	REP-P	86-05-027	296-155-270	AMD	86-03-074	296-155-48523	NEW-C	86-03-073
296-132-215	REP-P	86-05-027	296-155-275	AMD-C	86-03-073	296-155-48523	NEW	86-03-074
296-132-220	REP-P	86-05-027	296-155-275	AMD	86-03-074	296-155-48525	NEW-C	86-03-073
296-132-225	REP-P	86-05-027	296-155-300	AMD-C	86-03-073	296-155-48525	NEW	86-03-074
296-132-226	REP-P	86-05-027	296-155-300	AMD	86-03-074	296-155-48527	NEW-C	86-03-073
296-132-250	REP-P	86-05-027	296-155-305	AMD-C	86-03-073	296-155-48527	NEW	86-03-074

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296-155-48529	NEW-C	86-03-073	296-155-705	AMD	86-03-074	308-61-050	AMD	86-03-011
296-155-48529	NEW	86-03-074	296-155-720	AMD-C	86-03-073	308-61-100	REP	86-03-011
296-155-48531	NEW-C	86-03-073	296-155-720	AMD	86-03-074	308-61-105	NEW	86-03-011
296-155-48531	NEW	86-03-074	296-155-725	AMD-C	86-03-073	308-61-108	NEW	86-03-011
296-155-48533	NEW-C	86-03-073	296-155-725	AMD	86-03-074	308-61-110	REP	86-03-011
296-155-48533	NEW	86-03-074	296-155-730	AMD-C	86-03-073	308-61-115	NEW	86-03-011
296-155-500	AMD-C	86-03-073	296-155-730	AMD	86-03-074	308-61-120	REP	86-03-011
296-155-500	AMD	86-03-074	296-155-750	AMD-C	86-03-073	308-61-125	NEW	86-03-011
296-155-505	AMD-C	86-03-073	296-155-750	AMD	86-03-074	308-61-130	REP	86-03-011
296-155-505	AMD	86-03-074	296-155-760	REP-C	86-03-073	308-61-135	NEW	86-03-011
296-155-50503	NEW-C	86-03-073	296-155-760	REP	86-03-074	308-61-140	REP	86-03-011
296-155-50503	NEW	86-03-074	296-155-765	AMD-C	86-03-073	308-61-145	NEW	86-03-011
296-155-50505	NEW-C	86-03-073	296-155-765	AMD	86-03-074	308-61-150	REP	86-03-011
296-155-50505	NEW	86-03-074	296-155-775	AMD-C	86-03-073	308-61-155	REP	86-03-011
296-155-510	AMD-C	86-03-073	296-155-775	AMD	86-03-074	308-61-158	NEW	86-03-011
296-155-510	AMD	86-03-074	296-155-830	AMD-C	86-03-073	308-61-160	REP	86-03-011
296-155-515	NEW-C	86-03-073	296-155-830	AMD	86-03-074	308-61-165	REP	86-03-011
296-155-515	NEW	86-03-074	296-155-850	REP-C	86-03-073	308-61-168	NEW	86-03-011
296-155-530	AMD-C	86-03-073	296-155-850	REP	86-03-074	308-61-170	REP	86-03-011
296-155-530	AMD	86-03-074	296-155-855	REP-C	86-03-073	308-61-175	NEW	86-03-011
296-155-545	AMD-C	86-03-073	296-155-855	REP	86-03-074	308-61-180	REP	86-03-011
296-155-545	AMD	86-03-074	296-155-860	REP-C	86-03-073	308-61-185	NEW	86-03-011
296-155-570	AMD-C	86-03-073	296-155-860	REP	86-03-074	308-61-190	NEW	86-03-011
296-155-570	AMD	86-03-074	296-155-865	REP-C	86-03-073	308-79-050	NEW-E	86-03-071
296-155-575	AMD-C	86-03-073	296-155-865	REP	86-03-074	308-96A-005	AMD-P	86-03-010
296-155-575	AMD	86-03-074	296-155-870	REP-C	86-03-073	308-96A-010	AMD-P	86-03-010
296-155-576	AMD-C	86-03-073	296-155-870	REP	86-03-074	308-96A-015	AMD-P	86-03-010
296-155-580	AMD-C	86-03-073	296-155-875	REP-C	86-03-073	308-96A-020	AMD-P	86-03-010
296-155-580	AMD	86-03-074	296-155-875	REP	86-03-074	308-96A-030	REP-P	86-03-010
296-155-605	AMD-C	86-03-073	296-155-880	REP-C	86-03-073	308-96A-035	AMD-P	86-03-010
296-155-605	AMD	86-03-074	296-155-880	REP	86-03-074	308-96A-040	AMD-P	86-03-010
296-155-610	AMD-C	86-03-073	296-155-885	REP-C	86-03-073	308-96A-050	AMD-P	86-03-010
296-155-610	AMD	86-03-074	296-155-885	REP	86-03-074	308-96A-055	REP-P	86-03-010
296-155-615	AMD-C	86-03-073	296-155-890	REP-C	86-03-073	308-96A-060	REP-P	86-03-010
296-155-615	AMD	86-03-074	296-155-890	REP	86-03-074	308-96A-075	AMD-P	86-03-010
296-155-617	NEW-C	86-03-073	296-155-895	REP-C	86-03-073	308-96A-100	AMD-P	86-03-010
296-155-617	NEW	86-03-074	296-155-895	REP	86-03-074	308-96A-105	AMD-P	86-03-010
296-155-61701	NEW-C	86-03-073	296-155-900	REP-C	86-03-073	308-96A-115	REP-P	86-03-010
296-155-61701	NEW	86-03-074	296-155-900	REP	86-03-074	308-96A-120	AMD-P	86-03-010
296-155-61703	NEW-C	86-03-073	296-155-905	REP-C	86-03-073	308-96A-125	REP-P	86-03-010
296-155-61703	NEW	86-03-074	296-155-905	REP	86-03-074	308-96A-130	REP-P	86-03-010
296-155-61705	NEW-C	86-03-073	296-155-910	REP-C	86-03-073	308-96A-135	AMD-P	86-03-010
296-155-61705	NEW	86-03-074	296-155-910	REP	86-03-074	308-96A-140	REP-P	86-03-010
296-155-61707	NEW-C	86-03-073	296-155-915	REP-C	86-03-073	308-96A-145	AMD-P	86-03-010
296-155-61707	NEW	86-03-074	296-155-915	REP	86-03-074	308-96A-155	REP-P	86-03-010
296-155-61709	NEW-C	86-03-073	296-155-920	REP-C	86-03-073	308-96A-160	REP-P	86-03-010
296-155-61709	NEW	86-03-074	296-155-920	REP	86-03-074	308-96A-165	REP-P	86-03-010
296-155-61711	NEW-C	86-03-073	296-155-950	AMD-C	86-03-073	308-96A-170	REP-P	86-03-010
296-155-61711	NEW	86-03-074	296-155-950	AMD	86-03-074	308-96A-200	REP-P	86-03-010
296-155-61713	NEW-C	86-03-073	296-350-400	AMD	86-03-064	308-96A-205	AMD-P	86-03-010
296-155-61713	NEW	86-03-074	304-25-030	AMD-P	86-03-048	308-96A-210	AMD-P	86-03-010
296-155-625	AMD-C	86-03-073	304-25-560	AMD-P	86-03-048	308-96A-215	REP-P	86-03-010
296-155-625	AMD	86-03-074	308-04-010	AMD-P	86-04-090	308-96A-220	AMD-P	86-03-010
296-155-650	AMD-C	86-03-073	308-12-050	AMD	86-04-088	308-96A-225	REP-P	86-03-010
296-155-650	AMD	86-03-074	308-12-081	AMD	86-04-088	308-96A-230	REP-P	86-03-010
296-155-655	AMD-C	86-03-073	308-12-140	NEW	86-04-088	308-96A-235	REP-P	86-03-010
296-155-655	AMD	86-03-074	308-12-145	NEW	86-04-088	308-96A-240	REP-P	86-03-010
296-155-65505	NEW-C	86-03-073	308-12-150	NEW	86-04-088	308-96A-260	AMD-P	86-03-010
296-155-65505	NEW	86-03-074	308-12-312	AMD-E	86-04-086	308-96A-265	REP-P	86-03-010
296-155-660	AMD-C	86-03-073	308-25-010	AMD-P	86-05-032	308-96A-270	REP-P	86-03-010
296-155-660	AMD	86-03-074	308-25-015	NEW-P	86-05-032	308-96A-275	AMD-P	86-03-010
296-155-66005	NEW-C	86-03-073	308-25-025	REP-P	86-05-032	308-96A-280	REP-P	86-03-010
296-155-66005	NEW	86-03-074	308-25-030	REP-P	86-05-032	308-96A-285	REP-P	86-03-010
296-155-665	AMD-C	86-03-073	308-25-035	NEW-P	86-05-032	308-96A-290	REP-P	86-03-010
296-155-665	AMD	86-03-074	308-40-102	AMD-P	86-04-089	308-96A-295	AMD-P	86-03-010
296-155-66501	AMD-C	86-03-073	308-48-790	NEW	86-05-031	308-96A-300	AMD-P	86-03-010
296-155-66501	AMD	86-03-074	308-50-230	REP-P	86-05-034	308-96A-305	REP-P	86-03-010
296-155-66502	AMD-C	86-03-073	308-50-330	AMD-P	86-05-034	308-102-090	AMD-P	86-03-083
296-155-680	AMD-C	86-03-073	308-50-420	NEW-P	86-05-034	308-102-100	AMD-P	86-03-083
296-155-680	AMD	86-03-074	308-50-430	NEW-P	86-05-034	308-102-190	AMD-P	86-03-083
296-155-690	AMD-C	86-03-073	308-52-270	AMD	86-03-056	308-102-200	AMD-P	86-03-083
296-155-690	AMD	86-03-074	308-61-010	AMD	86-03-011	308-102-265	NEW-P	86-03-083
296-155-695	AMD-C	86-03-073	308-61-025	AMD	86-03-011	308-104-012	NEW-P	86-03-083
296-155-695	AMD	86-03-074	308-61-026	NEW	86-03-011	308-104-056	AMD-P	86-03-083
296-155-700	AMD-C	86-03-073	308-61-027	REP	86-03-011	308-104-058	REP-P	86-03-083
296-155-700	AMD	86-03-074	308-61-030	AMD	86-03-011	308-104-080	AMD-P	86-03-083
296-155-705	AMD-C	86-03-073	308-61-040	AMD	86-03-011	308-104-090	AMD-P	86-03-083

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308-104-100	AMD-P	86-03-083	365-120-040	NEW	86-03-008	388-70-048	AMD	86-04-030
308-104-105	NEW-P	86-03-083	365-120-050	NEW	86-03-008	388-82-010	AMD-E	86-04-019
308-104-105	NEW-E	86-03-084	365-120-060	NEW	86-03-008	388-82-010	AMD-P	86-04-020
308-104-130	AMD-P	86-03-083	365-130-010	NEW-P	86-04-046	388-85-115	AMD-E	86-03-067
308-104-135	NEW-P	86-03-083	365-130-010	NEW-E	86-04-047	388-85-115	AMD-P	86-03-068
308-104-160	AMD-P	86-03-083	365-130-020	NEW-P	86-04-046	388-86-009	NEW	86-03-046
308-122-060	NEW	86-04-087	365-130-020	NEW-E	86-04-047	388-86-009	NEW-E	86-04-041
308-122-215	AMD	86-04-087	365-130-030	NEW-P	86-04-046	388-86-060	REP-E	86-04-007
308-122-500	AMD	86-04-087	365-130-030	NEW-E	86-04-047	388-86-060	REP-P	86-04-008
308-122-505	AMD	86-04-087	365-130-040	NEW-P	86-04-046	388-86-100	AMD	86-03-047
308-122-525	AMD	86-04-087	365-130-040	NEW-E	86-04-047	388-87-110	NEW	86-03-047
308-122-630	NEW	86-04-087	365-130-050	NEW-P	86-04-046	388-92-015	AMD	86-03-045
308-122-640	AMD	86-04-087	365-130-050	NEW-E	86-04-047	388-95-320	AMD-E	86-04-019
308-122-670	NEW	86-04-087	365-130-060	NEW-P	86-04-046	388-95-320	AMD-P	86-04-020
308-124A-430	NEW-P	86-04-091	365-130-060	NEW-E	86-04-047	388-99-010	AMD-E	86-04-019
308-124A-440	NEW-P	86-04-091	383-06	AMD	86-04-039	388-99-010	AMD-P	86-04-020
308-124A-450	NEW-P	86-04-091	383-06-010	AMD	86-04-039	388-99-020	AMD-E	86-03-066
308-124H-035	NEW-P	86-04-091	383-06-020	AMD	86-04-039	388-99-020	AMD-P	86-03-069
308-124H-036	NEW-P	86-04-091	383-06-030	AMD	86-04-039	388-100-005	AMD-E	86-04-007
308-124H-037	NEW-P	86-04-091	383-06-040	AMD	86-04-039	388-100-005	AMD-P	86-04-008
308-124H-040	AMD-P	86-04-091	383-06-045	NEW	86-04-039	390-16-011	AMD	86-04-071
308-151-110	NEW-P	86-05-033	383-06-050	AMD	86-04-039	390-16-031	AMD	86-04-071
308-156-075	NEW-P	86-05-033	383-06-060	AMD	86-04-039	390-16-036	AMD	86-04-071
314-12-030	AMD-P	86-04-033	383-06-070	AMD	86-04-039	390-16-038	AMD	86-04-071
314-12-140	AMD	86-04-003	383-06-080	AMD	86-04-039	390-16-039	AMD	86-04-071
314-16-040	AMD-P	86-04-082	383-06-090	AMD	86-04-039	390-16-041	AMD	86-04-071
314-16-100	REP-P	86-04-049	383-06-100	AMD	86-04-039	390-16-041	AMD-P	86-05-041
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314-24-080	AMD-P	86-04-083	383-06-130	AMD	86-04-039	390-16-060	AMD	86-04-071
314-24-190	AMD-P	86-04-084	383-06-140	AMD	86-04-039	390-16-061	REP	86-04-071
314-24-200	AMD-P	86-04-084	388-11-030	AMD	86-05-009	390-16-105	AMD	86-04-071
314-28-010	AMD-P	86-04-083	388-11-065	AMD	86-05-009	390-16-110	REP	86-04-071
314-37-020	NEW-P	86-04-048	388-11-100	AMD	86-05-009	390-16-111	AMD	86-04-071
314-40-040	AMD-P	86-04-034	388-11-150	AMD	86-05-009	390-16-115	AMD	86-04-071
314-52-020	AMD-P	86-04-001	388-13-020	AMD	86-05-009	390-16-120	AMD	86-04-071
314-52-020	AMD-E	86-04-002	388-13-070	AMD	86-05-009	390-16-125	AMD	86-04-071
314-52-114	AMD-P	86-04-084	388-14-010	AMD	86-05-009	390-16-150	AMD	86-04-071
315-11-190	NEW-E	86-03-003	388-14-020	AMD	86-05-009	390-16-155	AMD	86-04-071
315-11-190	NEW-P	86-03-079	388-14-205	AMD	86-05-009	390-16-206	AMD-C	86-04-052
315-11-191	NEW-E	86-03-003	388-14-270	AMD	86-05-009	390-16-207	AMD	86-04-071
315-11-191	NEW-P	86-03-079	388-14-302	AMD	86-05-009	390-16-220	REP	86-04-071
315-11-191	NEW-E	86-03-080	388-14-305	AMD	86-05-009	390-16-221	NEW	86-04-071
315-11-192	NEW-E	86-03-003	388-14-310	AMD	86-05-009	390-16-225	REP	86-04-071
315-11-192	NEW-P	86-03-079	388-14-320	AMD	86-05-009	390-16-230	AMD	86-04-071
315-32-040	AMD-P	86-03-079	388-14-325	AMD	86-05-009	390-16-306	AMD	86-04-071
332-12-210	AMD-P	86-04-081	388-14-385	AMD	86-05-009	390-18-040	NEW-P	86-04-053
332-12-260	AMD-P	86-04-081	388-14-400	NEW	86-05-009	390-24-010	AMD-P	86-05-041
332-12-262	NEW-P	86-04-081	388-14-405	NEW	86-05-009	390-24-020	AMD-P	86-05-041
332-12-310	AMD-P	86-04-081	388-14-410	NEW	86-05-009	390-24-025	AMD-P	86-05-041
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