

APRIL 4, 1990

OLYMPIA, WASHINGTON

ISSUE 90-07



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CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: The 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m. Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (206) 753-7470 (SCAN 234-7470).

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CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of April 1990 pursuant to RCW 19.52.020 is twelve point two two percent (12.22%).

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

The maximum allowable retail installment contract service charge applicable for calendar year 1990 pursuant to RCW 63.14.130(1)(a) is fourteen and one-half percent (14.50%).

The maximum allowable retail installment contract service charge for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) is fourteen point zero percent (14.0%) for the second calendar quarter of 1990.

The maximum allowable retail installment contract service charge for the purchase of a vessel pursuant to RCW 63.14.130(3)(a) is fourteen percent (14.00%) for the first calendar quarter of 1990.

WASHINGTON STATE REGISTER

(ISSN 0164-6389) is published twice each month by the Statute Law Committee, Office of the Code Reviser, Olympia, WA 98504, pursuant to RCW 34.08.020. Subscription rate is \$161.70 per year, sales tax included, postpaid to points in the United States. Second-class postage paid at Olympia, Washington.

Changes of address notices, subscription orders, and undelivered copies should be sent to:

WASHINGTON STATE REGISTER
Code Reviser's Office
Legislative Building
Olympia, WA 98504

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

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

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

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

The three types of rule-making actions taken under the Administrative Procedure Act (chapter 34.05 RCW) may be distinguished by the size and style of type in which they appear.

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

3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.05.395 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
 - (i) underlined material is new material;
 - (ii) ~~deleted material is ((lined out 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 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 normally take effect thirty days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed or advanced and such an effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office unless a later date is provided by the agency. They remain effective for a maximum of one-hundred-twenty days from the date of filing.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

6. EDITORIAL CORRECTIONS

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

7. INDEX AND TABLES

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

1989 – 1990

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing on or after
89-14	Jun 7	Jun 21	Jul 5	Jul 19	Aug 8
89-15	Jun 21	Jul 5	Jul 19	Aug 2	Aug 22
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89-17	Jul 26	Aug 9	Aug 23	Sep 6	Sep 26
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89-19	Aug 23	Sep 6	Sep 20	Oct 4	Oct 24
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90-23	Oct 24	Nov 7	Nov 21	Dec 5	Dec 25
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¹All documents are due at the code reviser's office by 5:00 p.m. on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.

²A filing of any length will be accepted on the closing dates of this column if it has been prepared and completed by the order typing service (OTS) of the code reviser's office; see WAC 1-21-040. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.

³At least twenty days before the rule-making hearing, the agency shall cause notice of the hearing to be published in the Register; see RCW 34.05.320(1). These dates represent the twentieth day after the distribution date of the applicable Register.

WSR 90-07-001
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF NATURAL RESOURCES
(Board of Natural Resources)
 [Memorandum—March 6, 1990]

The Board of Natural Resources meeting regularly scheduled for Tuesday, April 3, 1990, has been rescheduled to be held Thursday, April 12, 1990, at 9:00 a.m. in the House Hearing Room A of the John L. O'Brien Building, Olympia, Washington.

WSR 90-07-002
PROPOSED RULES
DEPARTMENT OF FISHERIES
 [Filed March 8, 1990, 4:58 p.m.]

Continuance of WSR 89-24-100.

Title of Rule: Commercial fishing rules.

Purpose: Establish spawn on kelp fishery.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.28.245.

Summary: The 1989 legislature provided for establishing a spawn on kelp permit. These proposals implement that provision.

Reasons Supporting Proposal: Provide for herring management and economic health of the herring fishery.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 115 General Administration Building, Olympia, 586-2429; Implementation: Mark Pedersen, 115 General Administration Building, Olympia, 753-6716; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, 753-6585.

Name of Proponent: Washington State Department of Fisheries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See WSR 89-24-100.

Proposal Changes the Following Existing Rules: See WSR 89-24-100.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

See WSR 89-24-100.

Date of Intended Adoption: February 28, 1990.

January 16, 1990
 R. Kahler Martinson
 for Joseph R. Blum
 Director

WSR 90-07-003
PERMANENT RULES
DEPARTMENT OF FISHERIES
 [Order 90-17—Filed March 8, 1990, 5:00 p.m.]

Date of Adoption: February 28, 1990.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Amending WAC 220-20-020.

Statutory Authority for Adoption: RCW 75.08.080 and 75.28.245.

Pursuant to notice filed as WSR 89-24-100 on December 6, 1989; and WSR 90-07-002 on March 8, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 220-20-020(6), deleted "for commercial purposes" so that a permit is required for any spawn on kelp harvest; WAC 220-49-063(1), deleted "one or more" as the terms "permits" is inclusive. Deleted notification provision and added requirement for proof of current validation; WAC 220-49-063 (2)(a), deleted notification requirement; WAC 220-49-063 (2)(b), deleted sealed bidding and tie-breaking procedures; added open bidding provision; WAC 220-49-063 (2)(c), deleted tie-breaker provisions, added a requirement for submission of certified check for minimum bid amount; WAC 220-49-063 (2)(d), changed 30 days to 10 days, added forfeiture of deposit and changed awarding to secondary bidder procedure; WAC 220-49-063 (2)(e), deleted royalty payments liability; WAC 220-49-064(2), deleted royalty payments; WAC 220-49-064(5), deleted royalty payments and added that if a permit is surrendered, the department will retain the bid; and WAC 220-49-064(6), changed "cancellation" to "revocation", added examples of grounds for revocation and added notice of time for corrective action to be taken. Deleted royalty payments provision.

Effective Date of Rule: Thirty-one days after filing.

February 28, 1990
 R. Kahler Martinson
 for Joseph R. Blum
 Director

NEW SECTION

WAC 220-16-430 SPAWN ON KELP. "Spawn on kelp" is defined as herring eggs which have been deposited on any type of aquatic vegetation. It is unlawful to take spawn on kelp for commercial purposes unless a person has a spawn on kelp permit issued by the director.

AMENDATORY SECTION (Amending Order 80-69, filed 7/18/80)

WAC 220-20-020 GENERAL PROVISIONS—LAWFUL AND UNLAWFUL ACTS—FOOD FISH OTHER THAN SALMON. (1) It shall be unlawful to take, fish for or possess for commercial purposes any round, undressed sturgeon less than 48 inches or greater than 72 inches in length.

(2) It shall be unlawful to take, fish for or possess for commercial purposes or possess aboard a commercial fishing vessel for any purpose any species of halibut (Hippoglossus) unless permitted by the current regulations of the International Pacific Halibut Commission.

(3) It shall be unlawful to take, fish for or possess sturgeon in any of the waters of Puget Sound or tributaries thereof for commercial purposes with any type of commercial gear, and any sturgeon taken with any type of commercial gear incidental to a lawful fishery shall immediately be returned to the water unharmed.

(4) It shall be unlawful to take or fish for food fish for commercial purposes with any type of commercial gear in the waters of Shilshole Bay inland and inside a line projected in a southwesterly direction from Meadow Point to West Point.

(5) It shall be unlawful to take, fish for, or possess for commercial purposes any starry flounder less than 14 inches in length taken by any commercial gear, in all Puget Sound Marine Fish-Shellfish Areas.

(6) It shall be unlawful to harvest (~~for commercial purposes~~) herring eggs naturally deposited on marine vegetation or other substrate, unless a person has a permit issued by the director.

NEW SECTION

WAC 220-49-063 SPAWN ON KELP PERMITS—APPLICATIONS. (1) Any herring fisher holding a herring validation under RCW 75.30.140 may participate in an auction for spawn on kelp permits. Proof of current validation must be presented before entering the auction.

(2) The department shall offer spawn on kelp permits under the following conditions:

(a) The department shall establish a minimum acceptable bid for a permit.

(b) Permits shall be offered by open bidding at auction. The permit will be awarded to the bidder with the highest bid.

(c) The successful bidder for a permit must submit a certified check equal to the minimum acceptable bid at the conclusion of the auction as a down payment on the winning bid price.

(d) The successful bidder for a permit is required to sign and return to the department a copy of the spawn on kelp permit within 10 days after the award of a permit together with the balance of the bid amount. Failure to return the permit and bid balance will invalidate the award of the permit and result in forfeiture of the deposit. In such case the permit shall be offered to the other bidders in descending order of their bid amount. If the permit is not sold in this manner, the permit may be offered to any person possessing a herring validation who offers the largest amount within a specified time period.

(e) The department may revoke the permit for non-compliance with the terms of the permit. In such case, the bid amount shall be retained by the department.

NEW SECTION

WAC 220-49-064 SPAWN ON KELP PERMIT CONTRACT CONDITIONS. (1) Permit contracts shall protect the environment, prevent waste, ensure compliance with applicable laws and regulations, and ensure faithful performance of lease terms and conditions.

(2) Permittees shall not sell any spawn on kelp to anyone who is not a licensed wholesale dealer, except that the permittee may be a licensed wholesale dealer, and, after completing a state of Washington fish receiving ticket, may sell the spawn on kelp to someone who is not a wholesale dealer.

(3) Spawn on kelp permits are transferrable to any person holding a herring validation except a person currently holding a spawn-on-kelp permit. The transfer shall be made on a form provided by the department, and the transferee shall be subject to the same terms and conditions of the original permit.

(4) Every permittee may surrender the permit and shall be relieved of any obligation under the permit except as otherwise provided. The permittee must notify the department in writing of intention to surrender the permit. If operations under the permit have been conducted, the permittee shall correct any adverse environmental effects caused by the operations, including but not limited to, release of any entrapped herring, removal of any herring enclosure, and placement of any herring spawn upon habitat suitable for hatch and release of herring fry. If the permit is surrendered, the department will retain the amount of the bid.

(5) The permit shall provide for revocation for non-compliance with the terms of the permit. Grounds for revocation for noncompliance shall include, but not be limited to, failure to provide catch records as required, failure to provide required data on fishing and harvesting related activities, and failure to notify the department of anticipated times of fishing and harvesting. The permittee shall be notified, in writing, of noncompliance, the necessary corrective measures and the amount of time allowed to take corrective action. The permittee's remedying of the noncompliance within the specified time shall result in no revocation of the permit. The permittee may appeal any cancellation under chapter 34.05 RCW.

(6) The permit contract shall allow the permittee to conduct operations reasonably necessary for the production of spawn on kelp. Nothing in this section shall relieve the permittee of any responsibility under applicable laws or regulations.

WSR 90-07-004

PERMANENT RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 9, 1990, 9:43 a.m.]

Date of Adoption: March 9, 1990.

Purpose: To update descriptive and procedural information in compliance with the state's public records law, chapter 42.17 RCW.

Citation of Existing Rules Affected by this Order: Repealing WAC 296-06-990 and 296-06-99001; and amending WAC 296-06-010, 296-06-020, 296-06-030, 296-06-040, 296-06-080, 296-06-090, 296-06-100, 296-06-110, 296-06-120, 296-06-130, 296-06-140, 296-06-150 and 296-06-170.

Statutory Authority for Adoption: RCW 51.04.020(4) and 51.04.030.

Pursuant to notice filed as WSR 90-02-089 on January 3, 1990.

Effective Date of Rule: Thirty-one days after filing.

March 9, 1990
Joseph A. Dear
Director

AMENDATORY SECTION (Amending Order 76-27, filed 9/28/76)

WAC 296-06-010 PURPOSE. The department of labor and industries is a department of state government created by RCW 43.17.010. It shall hereafter in this chapter be referred to as the "department." Where appropriate, "department" also refers to its staff and employees. The department promulgates this chapter to ensure compliance with the provisions of chapter 42.17 RCW, and in particular with sections of that act dealing with public records.

AMENDATORY SECTION (Amending Order 76-27, filed 9/28/76)

WAC 296-06-020 DESCRIPTION OF ORGANIZATION OF THE DEPARTMENT. (1) Central organization. The chief executive officer of the department is the director of labor and industries, hereinafter called "director." He or she is appointed by the governor with the consent of the senate to hold office at the pleasure of the governor. The department is organized in five divisions: Industrial insurance, industrial safety and health, industrial relations, apprenticeship, and building and construction safety inspection services. Each division is ~~((headed by an))~~ responsible to a deputy director or assistant director appointed by the director, ~~((but in the case of the division of apprenticeship, the director's selection))~~ although the industrial relations and apprenticeship divisions both report to one assistant director, whose appointment as the head of apprenticeship must be confirmed by the Washington state apprenticeship and training council, ~~((whose))~~ the members of which are also appointed by the director. ~~((The department also has))~~ This combined industrial relations and apprenticeship division, which includes a section to administer the Crime Victims Act, chapter 7.68 RCW ~~((This section is also headed by an assistant director appointed by the director)),~~ is known as the employment standards, apprenticeship and crime victims compensation division. Major policy decisions, rule-making, and the primary administrative functions of the department are carried out by the department's central organizations in Olympia. ~~((The director also serves as chairman of the five-member state board of pilotage commissioners but that board is not a part of the department.))~~

(2) Field organization.

(a) The department maintains service locations, or major field offices, in ~~((fifteen))~~ seventeen cities ~~((Each of these offices is headed by a district manager))~~ other than Olympia. These service locations are grouped into six regions throughout the state, each of which is headed by a regional field service manager. In addition, certain programs operate field offices in other cities, but these are not complete service locations and are not required to keep complete policy manuals and other records available for public inspection.

(b) The ~~((department-owned))~~ department's rehabilitation center in ~~((Seattle))~~ Tukwila is headed by a superintendent.

AMENDATORY SECTION (Amending Order 76-27, filed 9/28/76)

WAC 296-06-030 LOCATION OF ESTABLISHED PLACES WHERE INFORMATION ABOUT THE DEPARTMENT MAY BE OBTAINED AND DEPARTMENT'S PUBLIC RECORDS INSPECTED AND COPIED. (1) Olympia office.

(a) The office of the director, the administrative office of the department, the main offices of the division of industrial insurance, and the office of the public records officer are in the General Administration Building, Olympia, Washington. The main offices of the other divisions are located at the following places: Industrial Safety and Health at ~~((308-318 East Fourth Avenue))~~ 805 Plum Street S.E., Olympia, Washington; Apprenticeship ~~((at 318 East Fourth Avenue)),~~ Employment Standards, and Crime Victims Compensation at 925 Plum Street S.E., Olympia, Washington; and Building and Construction Safety Inspection Services at ((319 East Fourth Avenue)) 406 Legion Way S.E., Olympia, Washington ~~((; and Industrial Relations and Crime Victims Compensation at 208 Eleventh Avenue, Olympia, Washington))~~. General information about the department and its divisions may be obtained at these places.

(2) Field offices.

(a) General information about the department may also be obtained at its service locations, or major field offices, at the following places:

~~((Aberdeen, P.O. Box 66,
2700 Simpson Avenue, 98520
Bellingham, P.O. Box 608,
2500 Elm Street, Suite F, 98225
Bremerton, P.O. Box 307,
245 Fourth Street Building, Suite 501,
98310
Ephrata, P.O. Box 906,
21 "C" Street, Southwest, 98823
Everett, P.O. Box 67,
Eastmont Plaza, 98206
Kennewick, P.O. Box 6126,
130 Vista Way, 99336
Longview, P.O. Box 578,
1342 12th Avenue, 98632
Mount Vernon, P.O. Box 189,
2021 College Way, 98273
Port Angeles, 405 East 8th, 98362
Seattle, 300 West Harrison, 98119
Spokane, 1322 North Post Street, 99201
Tacoma, 122 Public Service Building,
1305 Tacoma Avenue South, 98402
Vancouver, P.O. Box 331,
601 West Evergreen Boulevard, 98660
Walla Walla, 1750 Portland Avenue,
Eastgate Professional Building, 99362~~

Wenatchee, P.O. Box 597,
1139 Princeton, 98801
Yakima, P.O. Box 527,
1011 South Third Street, 98907)

Aberdeen, P.O. Box 66,
2700 Simpson Avenue, 98520-0013

Bellingham, P.O. Box 608,
2500 Elm Street, Suite F, 98227

Bremerton, 4841 Auto Center Way,
Suite 201, 98312-3440

Ephrata,
21 "C" Street, Southwest, 98823-1895

Everett, P.O. Box 67,
8625 Evergreen Way, Suite 250, 98206

Kelso,
711 Vine Street, 98626-2621

Kennewick, 500 North Morain,
Suite 1110, 99336

Mount Vernon,
1220 Memorial Highway, 98273-3262

Okanogan, P.O. Box 632,
1234 2nd Avenue South, 98840

Port Angeles,
1026 East First Street, Suite 1, 98362

Seattle,
300 West Harrison, 98119

Spokane,
TAF-C33, E. 3901 Main, 99220

Tacoma, Room 305, Public Service Building,
1305 Tacoma Avenue South, 98402-1988

Vancouver,
10401 N.E., 4th Plain, 98662

Walla Walla,
1815 Portland Avenue, Suite 2, 99362

Wenatchee,
123 Ohme Garden Road, 98801

Yakima,
1716 South 16th Avenue, 98902-5713

(b) Information about the extended care services offered injured workers, including physical therapy, special instruction, or vocational counseling, may be obtained from the department's Rehabilitation Center at (~~4730 32nd Avenue South and Alaska Street, P.O. Box 18289, Columbia Station, Seattle, Washington 98118~~) 12806 Gateway Drive, Tukwila, Washington 98168.

AMENDATORY SECTION (Amending Order 76-27, filed 9/28/76)

WAC 296-06-040 OPERATIONS AND PROCEDURES. The general course and method of channeling and determining the operations of the five divisions of the department and the nature of requirements of all

formal and informal procedures connected therewith are summarized in the following subsections:

(1) Industrial insurance. This division administers medical care and payment of disability compensation for workers (or their dependents or survivors) sustaining job injuries or occupational diseases. Virtually all employers in the state must provide this industrial insurance coverage. The medical program of the state fund is funded through payments by employers and employees. The disability payments by the state fund are funded by premiums collected from employers. Descriptions of procedures to be followed by employers and employees are outlined in department publications entitled (~~A Guide for Employers and Guide to Workers' Compensation Benefits:~~

This division)) Employers' Guide to Industrial Insurance and Workers' Guide to Industrial Insurance Benefits.

In order to ensure that premium costs are equitably distributed, the division sets rates, determines classifications, rates individual firms based on claims experience, and periodically audits businesses to ensure accurate reporting and premium payment. Information about the records required during an industrial insurance audit can be found in the department publication Preparing for Your Audit.

The division also provides guidance to individual employers and groups of employers in controlling industrial insurance premiums through better claims management, return-to-work efforts, and effective safety programs, as well as through a financial incentive program known as retrospective rating. Further information is available in Guide to Loss Control and Retrospective Rating.

The department also certifies certain employers to become "self-insured," which means that they are permitted to pay the legally defined industrial insurance benefits from their own funds. After ((this division)) the department certifies an employer as a self-insurer, it monitors all claims for injury benefits to make certain employees receive all rightful benefits. Descriptions of procedures to be followed by self-insured employers and their employees are outlined in Employers' Guide to Self-insurance and Employees of Self-insured Businesses: Guide to Industrial Insurance Benefits.

(2) Industrial safety and health. This division endeavors to prevent job injuries and illnesses by adopting and enforcing safety and health standards and by training employers and employees in safe working procedures. It administers the Washington Industrial Safety and Health Act (WISHA), operating under a state plan agreement with the federal Occupational Safety and Health Administration (OSHA). Employer and employee procedures and responsibilities are outlined in the department's publications, A Guide to WISHA and Workplace Safety and Health Standards. Information about voluntary consultations to improve workplace safety can be found in Free, No Fault, No Hassle., and reporting workplace accidents to OSHA is outlined in Injury and Illness Recordkeeping Requirements.

(3) (~~Industrial relations:~~) Employment standards, apprenticeship and crime victims compensation. The industrial relations, or employment standards, portion of

this division administers the laws regulating wages, hours, and working conditions. ~~((The division))~~ It also enforces the minimum wage and family care laws and may assist in the collection of claims for unpaid wages. The industrial statistician determines the "prevailing rate of wage" on public works contracts and gathers information on wages and conditions of labor in the state, the consumer price index, standard family budgets, and manpower data on the labor force, employment, unemployment, and earnings. The section headed by the supervisor of employment standards administers the state employment standard designed to protect the health, safety, and welfare of ~~((virtually all nonagricultural))~~ the vast majority of employees. This section also issues minor work permits designed to protect young workers from exploitation and hazardous environments. More information on this subject can be found in Youth in the Job Force: A Guide for Employers and Minor Workers. Industrial relations agents investigate complaints of violations of employment standards, the minimum wage law and other wage laws; hold conferences between employees and employers; inspect records; make investigations to determine whether or not there have been violations of statutes, rules, or regulations; and suggest remedial actions.

~~((4))~~ Apprenticeship.) The apprenticeship portion of this division, with the Washington state apprenticeship and training council, administers the apprenticeship training law for those persons desiring to become skilled in any one of various trades, crafts, and services. Local joint apprenticeship committees and program sponsors throughout the state are responsible for the actual training. This division acts as a liaison between these committees and the council to make certain that the policies of the council are followed uniformly. The division also administers on-the-job training programs for those persons training in occupations other than ~~((apprenticeable))~~ occupations in which apprenticeship is an option.

The crime victims compensation section of this division pays medical and disability benefits to innocent victims (or to their dependents or survivors) who sustain injuries as a result of criminal acts. Benefit payments and procedures are outlined in the department's publication Help for Crime Victims. This section also certifies local prosecutor-based victim-witness units.

~~((5))~~ (4) Building and construction safety inspection services. This division administers programs designed to protect the life, health, and property of the general public. The various sections of this division issue licenses; promulgate rules and regulations; certify standards; and ensure compliance. The division conducts electrical inspections; registers electrical contractors; inspects and regulates the use of boilers and pressure vessels; inspects elevators; ensures compliance with the standards for the manufacture, lease, and sale of mobile homes and recreational vehicles; enforces the statutes, rules, and regulations governing factory-built structures; reviews electrical plans for health care facilities, plans for elevators and other conveyances, and plans for factory-assembled structures; tests and licenses plumbers and electricians; ~~((and tests))~~ and registers general and specialty contractors.

~~((6)) Crime victims compensation.~~ This section pays medical and disability benefits to innocent victims of criminal acts (or to their dependents or survivors) who sustain injuries as a result thereof. Funds for this program are appropriated by the legislature from the state general fund. Benefit payments and procedures are outlined in the department's publication When Crime Strikes.

~~(7) State board of pilotage commissioners.~~ This board is not a part of the department but is included here because by statute the director of the department of labor and industries is its chairman and because RCW 88.16-020 names the department of labor and industries as its office and record-keeper. Other members include: Two pilots' representatives and two shipping company representatives. This board regulates pilotage services for ships moving in Puget Sound and adjacent inland waters, Grays Harbor and Willapa Bay. To carry out its responsibilities, the board establishes qualifications for, examines, and licenses pilots. It also fixes pilotage rates and enforces provisions of the law relating to safe pilotage.)

AMENDATORY SECTION (Amending Order 76-27, filed 9/28/76)

WAC 296-06-080 AUTHORIZATION FOR RELEASE OF INFORMATION. Any person having a right of privacy in any public records of the department may authorize the inspection and copying of any such records by persons not otherwise so authorized by providing the department with a signed and dated written authorization describing the records covered by the authorization, and naming the person or persons authorized to inspect and copy. In the event that a department file contains information related to a disease or condition usually transmitted through sexual contact, or to testing for the presence of such a disease, the authorization to release information must be specific to sexually transmitted disease. A general authorization to release information is not adequate for the release of information related to sexually transmitted disease. The department shall make a record of all authorizations to release information. The authorizations shall be immediately attached to such files and records and shall become a part thereof. No such authorization shall be valid until submitted to the department.

AMENDATORY SECTION (Amending Order 76-27, filed 9/28/76)

WAC 296-06-090 PUBLIC RECORDS OFFICER. The department's public records officer shall have charge of its public records. He or she shall have ~~((his))~~ an office in the administrative office of the department at Olympia, Washington. He or she shall be responsible for the enforcement of the department's rules and regulations regarding the release of public records, and shall ensure compliance and cooperation of the department's staff with the public records disclosure requirements of chapter 42.17 RCW. He or she may choose such designees as may be necessary.

AMENDATORY SECTION (Amending Order 76-27, filed 9/28/76)

WAC 296-06-100 OFFICE HOURS. The customary office hours of the department's Olympia offices and complete service locations, for the purpose of inspection and copying of any of the department's public records as provided by this chapter, shall be from 8:00 a.m. to ~~((noon and from 1:00 p.m. to))~~ 5:00 p.m., Monday through Friday, excluding legal holidays. The only exceptions to this are the Okanogan and Walla Walla service locations, where the customary office hours shall be from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m.

AMENDATORY SECTION (Amending Order 76-27, filed 9/28/76)

WAC 296-06-110 REQUESTS FOR PUBLIC RECORDS. Persons requesting opportunity to copy or inspect the department's public records shall follow these procedures:

(1) Informal oral requests may be made ~~((orally or in written form))~~ to any of the department's full service locations or its office in Olympia.

(2) The department may require a person who has made an informal request to submit a formal written request.

~~((3))~~ ~~((All formal requests shall be in writing on the form entitled, "Request for public record." Copies of said form shall be maintained in the department's offices in Olympia and at each service location.~~

~~((4))~~ All formal requests shall be submitted by mail or personally to the deputy director or assistant director who heads the division or the section from which records are being requested. If such a request is misdirected, department staff shall forward it to the proper person.

~~((5))~~ (4) Each formal request shall include the following information:

(a) The name of the person or persons making the request;

(b) The time of day and calendar date on which the request is made;

(c) The nature of the request, including description of the requested records by title, subject matter, date, and other means of enabling the staff of the department to identify the requested records and make them available.

(d) A signed statement that the material will not be used for commercial purposes, in the event that a list of any type is included in the material being requested.

~~((6))~~ (5) The staff of the department shall assist any person making a request, whether formal or informal, in identifying the requested record or records but in the event the records cannot be identified, the department shall so advise the person making the request, and, in the case of formal requests, return the formal request for resubmission with additional description of the requested records.

~~((7))~~ (6) When any request is made to inspect and copy material in files and public records where a right of privacy is involved, or when such files and records are exempt by any other provision of law, inspection and copying shall not be permitted until the authorization described in WAC 296-06-080, together with a formal

request, is presented to the ~~((assistant director for the division involved. The assistant director shall make a record of all such authorizations. The authorization shall be immediately attached to such files and records and shall become a part thereof))~~ department.

AMENDATORY SECTION (Amending Order 82-26, filed 8/25/82)

WAC 296-06-120 COPYING AND FEES. Where copies of public records are requested, the department may charge a fee ~~((of ten cents for each letter-size or legal-size copy)),~~ to be set by the public records officer, for reimbursement of its actual costs incident to such ~~((copying. For each paper copy of a microfilmed record, the department may charge 20 cents per copy. These copying fees do not apply to the contractor registration section of the department))~~ a request. The fees ~~((that))~~ the contractor registration section charges for copies of material from a contractor's file are set out in WAC 296-200-900. Whenever copies of public records are mailed to the person making the request, the department may require reimbursement for postage costs. All copies made at the request of persons desiring copies on copy equipment of the department will be made by department staff at times when the making of such copies will not unreasonably disrupt the operations of the department. If the records to be copied contain information that would violate any right of personal privacy, the department staff member shall prevent such information from appearing on any copy. Where the use of such equipment does not harm the public records or impede the normal work of the department, those requesting copies of public records may use their own copying equipment and paper without charge~~((+))~~, but in such event the department staff will supervise the copying at all times.

AMENDATORY SECTION (Amending Order 76-27, filed 9/28/76)

WAC 296-06-130 DENIALS OF REQUESTS FOR PUBLIC RECORDS. Only the public records officer or his or her designee shall have the power to ~~((make a denial of))~~ deny a request for public records. Action on all such requests shall be prompt. In cases of informal requests, any member of the department's staff to whom an informal request is made may require the person making the request to submit a formal request or such staff member may bring the matter to the attention of the assistant director or his designee of the division from which records are being requested.

A decision on a formal request may be deferred for a reasonable time but immediate written notice of such deferral shall be given. All denials of requests for public records shall be in written form. All denials shall include a statement specifying the reason for the denial, a statement of any exemption authorizing withholding the record and a brief explanation of how the exemption applies to the record withheld, and ~~((shall be signed by))~~ the signature of the public records officer or his or her designee.

AMENDATORY SECTION (Amending Order 76-27, filed 9/28/76)

WAC 296-06-140 REVIEW OF DENIALS OF REQUESTS FOR INSPECTION OR COPYING OF PUBLIC RECORDS. After any request for inspection or copying is denied, any person may petition the department to review its denial. Any such petition for review must be made in writing to the public records officer prior to the end of the second business day following the denial. Such petition shall specifically refer to the denial and shall contain a brief statement or any reasons for reconsideration of the denial. Any such petition shall be immediately referred to the director or such persons as he or she may designate to review such petitions. The person reviewing such petitions shall ~~((promptly))~~ review and reconsider the matter and either affirm or reverse the denial and communicate the decision ~~((promptly))~~ to the person submitting the petition prior to the end of the second business day following the petition for review.

AMENDATORY SECTION (Amending Order 76-27, filed 9/28/76)

WAC 296-06-150 PROTECTION OF PUBLIC RECORDS. The department shall protect public records from damage or disorganization and prevent excessive interference with other essential functions of the department. All inspections of public records shall be supervised by a department staff member. Any staff member supervising public records inspection may decline to act upon the requests of person who are intoxicated, violent, abusive, threatening, or disruptive, and may terminate the inspection or copying of public records by such persons. Any staff member supervising public records inspection will at all times ~~((insure))~~ ensure that those inspecting the department's public records do not tear, mutilate, mark, or otherwise harm such records and shall terminate the inspection or copying of public records by any person who has harmed such records. The staff member may limit inspection and copying to any extent necessary to prevent such activity from unreasonably disrupting the department's operations. Any staff member supervising public records inspection shall at all times provide full, prompt, courteous assistance to persons requesting the inspection and copying of the department's public records.

AMENDATORY SECTION (Amending Order 76-27, filed 9/28/76)

WAC 296-06-170 RECORDS INDEX. The department of labor and industries will not maintain a current index as provided for in RCW 42.17.260(2). As provided in RCW 42.17.260(3), this formal order is issued and published specifying the reasons why and the extent to which maintenance of such a current index would unduly burden or interfere with the operations of the department.

(1) It would both unduly burden and interfere with department operations to maintain a current index with the items specified in RCW 42.17.260 (2)(a), "final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases," as

the department through its several divisions, sections, and other subdivisions routinely and regularly issues a great number of determinative orders. The division of industrial insurance alone is estimated to issue daily an average of about 1,200 to 2,000 or more determinative orders. ~~((It is estimated that the division of industrial safety and health averages over 60 orders daily. While other divisions, sections, and subdivisions have a lesser volume of orders, it would be unduly burdensome for the department to index all of the materials which would come within the scope of RCW 42.17.260 (2)(a).))~~ To index all such orders would either require more personnel and consequent expense or reduce the level of handling the essential functions and result in constantly greater periods of delay. Furthermore, all indexes maintained for departmental use by the various divisions, sections, and subdivisions of the department for internal use will remain available for public inspection and copying where permitted by law. A listing of such indexes and other available material shall be available for public inspection and copying.

Accordingly, and for the above reasons, it is ordered that the public records officer not establish an index relative to such subject matter.

(2) It would both unduly burden and interfere with the department's operations to maintain a current index with all "instructions to staff that affect a member of the public" within the scope of RCW 42.17.260 (2)(c). The inclusion of every such instruction to the staff would require either more personnel to index such instructions or a reduction in the department's capacity to carry out its other functions. The department will, however, ~~((as it has in the past,))~~ continue to make available to the public for inspection or copying all instructions of a general nature to its staff that affects members of the public. A listing of all manuals containing such instructions shall be available for public inspection and copying.

Accordingly, and for the above reasons, it is ordered that the public records officer not establish an index relative to such subject matter.

(3) It would both unduly burden and interfere with department operations to maintain a current index of ~~((all "factual staff reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others" within the scope of RCW 42.17.260 (2)(3). Further, many of the items covered by that description may be protected by rights of privacy, involve specific intelligence information and specific investigative files compiled by the department in its investigative capacities, involve the rights of privacy of a taxpayer, reveal the identity of persons who file complaints with the department in its investigative capacities, reveal valuable formulae, designs, drawings, or research data, disclosure of which would produce private gain and public loss, or involve records relevant to a controversy to which the department is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior court. The department regularly and routinely has physical examinations conducted of injured workers and maintains the reports of such examinations~~

~~in its confidential claim files. The indexing of such reports would be highly burdensome. Such reports are available to persons authorized to inspect them by the injured workers, to the employer, and to public officers in the course of their duties. To make such information available to the public at large would, quite apart from any question of violations of rights of privacy, subject the department to great inconvenience. For the foregoing reasons the department will continue to make available for inspection and copying only the material described in RCW 42.17.260 (2)(3) which is of a general nature and does not involve any rights of privacy or the other points mentioned above.~~

Accordingly, and for the above reasons, it is ordered that the public records officer not establish an index relative to such subject matter.

~~((4)) It would both unduly burden and interfere with department operations to maintain a current index of the materials within the scope of RCW 42.17.260 (2)(f), that is, all "correspondence, and materials, referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party." The department daily, routinely, and regularly receives and sends a vast amount of material fitting this description. It would require either a greatly increased staff to index everything of that nature or a drastic reduction of the department's ability to carry out its other essential functions. ((Also, much of the material is incorporated in confidential claim files or is otherwise subject to rights of privacy or is exempt from public inspection and copying by the provisions of RCW 42.17.310. Materials relating to the claims of injured workers are available to the employer, to public employees in the performance of their official duties and persons authorized by the injured worker. The various divisions, sections, and parts of the department maintain internal indexes which are available for public inspection.))~~

Accordingly, and for the above reasons, it is ordered that the public records officer not establish an index relative to such subject matter.

~~((5))~~ (4) The department did maintain a current index of the matters not covered by subsections (1) through ~~((4))~~ (3) for nearly three years following the promulgation of its initial set of public records rules which was filed with the office of the code reviser on July 31, 1973. That index was virtually never asked for, nor was it used to any extent at all by the public. The department devoted many manhours that could have been put to accomplishment of its statutory duties to prepare and maintain that current index. The department finds it has been unduly burdensome to make the extensive effort necessary to maintain such a current index ~~((in the face of almost complete public apathy))~~. Therefore, pursuant to RCW 42.17.260(3), the department issues and publishes this formal order specifying the reasons why and the extent to which compliance with any of the provisions of RCW 42.17.260(2) requiring the maintenance of a current index would unduly burden or interfere with its operations. The department herewith states that it

will not hereafter maintain such a current index. The department further states that it will, however, make available for public inspection and copying all indexes and lists, not otherwise exempt, maintained for normal agency use. Guidance to public records available through the department and a general listing of such records and how they may be obtained will be provided by the public records officer upon request.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-06-990 APPENDIX A—FORM—DEPARTMENT OF LABOR AND INDUSTRIES AUTHORIZATION TO INSPECT OR COPY PUBLIC RECORDS IN WHICH AN INDIVIDUAL HAS A RIGHT OF PRIVACY.

WAC 296-06-99001 APPENDIX B—FORM—REQUEST FOR PUBLIC RECORDS UNDER THE PROVISIONS OF CHAPTER 1, LAWS OF 1973 (INITIATIVE 276).

WSR 90-07-005

NOTICE OF PUBLIC MEETINGS TACOMA COMMUNITY COLLEGE

[Memorandum—March 7, 1990]

Please be advised that our board of trustees has changed the date of their regular May board meeting from May 10 to May 3, 1990.

WSR 90-07-006

PERMANENT RULES COLUMBIA BASIN COLLEGE

[Filed March 12, 1990, 1:27 p.m.]

Date of Adoption: March 5, 1990.

Purpose: To comply with new Administrative Procedure Act.

Statutory Authority for Adoption: RCW 28B.50.140.

Pursuant to notice filed as WSR 90-03-083 [90-03-082] on January 22, 1990.

Effective Date of Rule: Thirty-one days after filing.

March 5, 1990

Marvin W. Weiss

College President

Secretary

Board of Trustees

PRACTICE AND PROCEDURE

NEW SECTION

WAC 132S-01-010 ADOPTION OF MODEL RULES OF PROCEDURE. The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, are hereby adopted for use at this institution. Those

rules may be found at Chapter 10-08 Washington Administrative Code. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and procedural rules adopted in this title, the procedural rules adopted by this institution shall govern. Rules adopted at this institution prior to July 1, 1989, remain in full force and effect unless specifically repealed or amended.

NEW SECTION

WAC 132S-01-020 APPOINTMENT OF PRESIDING OFFICERS. The president or president's designee shall designate a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, a member in good standing of the Washington State Bar Association, a panel of individuals, the president or his or her designee, or any combination of the above. Where more than one individual is designated to be the presiding officer, one person shall be designated by the president or president's designee to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters.

NEW SECTION

WAC 132S-01-030 METHOD OF RECORDING. Proceedings shall be recorded by a method determined by the presiding officer, among those available pursuant to the model rules of procedure in WAC 10-08-170.

NEW SECTION

WAC 132S-01-040 APPLICATION FOR ADJUDICATIVE PROCEEDING. An application for adjudicative proceeding shall be in writing. Application forms are available at the following address:

Columbia Basin College
2600 North 20th Avenue
Pasco, WA 99301

Written application for an adjudicative proceeding should be submitted to the above address within 20 days of the agency action giving rise to the application, unless provided for otherwise by statute or rule.

NEW SECTION

WAC 132S-01-050 BRIEF ADJUDICATIVE PROCEDURES. This rule is adopted in accordance with RCW 34.05.482-494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

- (1) Residency determinations made pursuant to RCW 28B.15.013, conducted by the admissions office;
- (2) Challenges to contents of education records;
- (3) Student conduct proceedings. The procedural rules in Chapter 132S-40 WAC apply to these proceedings.
- (4) Parking violations. The procedural rules in Chapter 132S-50 WAC apply to these proceedings;
- (5) Outstanding debts owed by students or employees;

- (6) Loss of eligibility for participation in institution sponsored athletic events, pursuant to Chapter 132S-40-130 through 145 WAC.

NEW SECTION

WAC 132S-01-060 DISCOVERY. Discovery in adjudicative proceedings may be permitted at the discretion of the presiding officer. In permitting discovery, the presiding officer shall make reference to the civil rules of procedure. The presiding officer shall have the power to control the frequency and nature of discovery permitted, and to order discovery conferences to discuss discovery issues.

NEW SECTION

WAC 132S-01-070 PROCEDURE FOR CLOSING PARTS OF THE HEARINGS. A party may apply for a protective order to close part of a hearing. The party making the request should state the reasons for making the application to the presiding officer. If the other party opposes the request, a written response to the request shall be made within 10 days of the request to the presiding officer. The presiding officer shall determine which, if any, parts of the proceeding shall be closed, and state the reasons therefor in writing within 20 days of receiving the request.

NEW SECTION

WAC 132S-01-080 RECORDING DEVICES. No cameras or recording devices shall be allowed in those parts of proceedings which the presiding officer has determined shall be closed pursuant to WAC 132S-108-010, except for the method of official recording selected by the institution.

NEW SECTION

WAC 132S-01-090 PETITIONS FOR STAY OF EFFECTIVENESS. Disposition of a petition for stay of effectiveness of a final order shall be made by the official, officer, or body of officers, who entered the final order.

RULES COORDINATOR—LOCATION

NEW SECTION

WAC 132S-05-010 RULES COORDINATOR. The Rules Coordinator for Columbia Basin College as designated by President Marvin Weiss is:

Jean Dunn
Office of the President
Columbia Basin College
2600 North 20th Avenue
Pasco, WA 99301

ORGANIZATION

NEW SECTION

WAC 132S-05-015 ORGANIZATION—OPERATION—INFORMATION. (a) Organization. Columbia Basin College is established in Title 28B

RCW as a public institution of higher education. The institution is governed by a 5-member board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer of the institution. The president establishes the structure of the administration.

(b) Operation. The administrative office is located at the following address:

Columbia Basin College
2600 North 20th Avenue
Pasco, WA 99301

and is open from 7:30 a.m. to 4:30 p.m., Monday through Friday, except on legal holidays. Educational operations are also located at the following addresses:

Columbia Basin College, Richland Campus
1011 Northgate Drive
Richland, WA 99352

Columbia Basin College, Chase Center
1600 North 20th Avenue
Pasco, WA 99301

(c) Additional and detailed information concerning the educational offerings may be obtained from the catalog, copies of which are available at the following address:

Columbia Basin College
2600 North 20th Avenue
Pasco, WA 99301

BOARD OF TRUSTEES REGULAR MEETING DATE

NEW SECTION

WAC 132S-05-020 REGULAR MEETING DATE, BOARD OF TRUSTEES. The board of trustees of Columbia Basin College shall hold at least one regular meeting each month, unless dispensed with by the board of trustees. The regular meeting shall be the first Monday of each month, unless dispensed with or changed by the board of trustees.

All regular board meetings shall be publicly announced at least 24 hours prior to the meeting.

GRIEVANCE PROCEDURE—HANDICAPPED

NEW SECTION

WAC 132S-30-037 GRIEVANCE PROCEDURE - HANDICAPPED. Any applicant for admission, enrolled student, applicant for employment or employee of Columbia Basin College who believes he/she has been discriminated against due to a handicap may lodge a formal institutional grievance by utilizing the steps listed in WAC 132S-30-036. The hearing officer will be the personnel director.

SCHOLARSHIPS

NEW SECTION

WAC 132S-40-130 SCHOLARSHIPS. All scholarships available at Columbia Basin College are coordinated through the Financial Aid Office.

All scholarships awarded by Columbia Basin College are evaluated by an appointed scholarship committee on the merits of pre-established criteria. The established conditions of a scholarship offered to Columbia Basin College students must meet CBC standards and be approved by the Financial Aid office. Scholarships are awarded on the basis of scholarship and/or need without regard to race, sex, age, religion or ethnic origin. Scholarships targeted to minority students are exceptions and are also based on scholarship and/or need.

FINANCIAL AID

NEW SECTION

WAC 132S-40-135 FINANCIAL AID. All students attending Columbia Basin College and receiving federal assistance in meeting direct and/or indirect educational costs through grants, work-study, and/or loans must maintain good academic standing.

Failure to maintain good academic standing will result in the termination of financial aid payments until satisfactory progress can be documented by the student.

For purposes of financial aid, the student is considered to be in good standing unless the student fails to complete a minimum of 12 credit hours with a grade point average of 2.00 for two consecutive quarters. However, a part-time student who fails to complete six credit hours in any quarter will be subject to immediate termination of financial aid.

Loss of Eligibility—Student Athletic Participation

NEW SECTION

WAC 132S-40-140 GROUNDS FOR INELIGIBILITY. Any student found by Columbia Basin College to have violated chapter 69.41 RCW by virtue of a criminal conviction or otherwise insofar as it prohibits the possession, use or sale of legend drugs, including anabolic steroids, will be disqualified from participation in any Columbia Basin College sponsored athletic event or activity.

NEW SECTION

WAC 132S-40-145 SUSPENSION PROCEDURE—RIGHT TO INFORMAL HEARING. Any student notified of a claimed violation of WAC 132S-40-130 shall have the right to a brief and adjudicative hearing if a written request for such a hearing is received by the dean of students within three days of receipt of a declaration of further athletic ineligibility. If no written request is received within three days after receipt of the declaration of athletic ineligibility, the student will be deemed to have waived any right to a brief adjudicative hearing and will be declared ineligible from further participation in Columbia Basin College sponsored athletic events or activities.

NEW SECTION

WAC 132S-40-150 HEARING. If a timely written request for a hearing is made, the dean of students shall designate a hearing officer who shall be a college officer who is not involved with the athletic program,

normally the director of personnel, to conduct the brief adjudicative hearing. The hearing officer shall promptly conduct the hearing and permit affected parties to explain both the college's view of the matter and the student's view of the matter. The brief adjudicative proceeding shall be conducted in accordance with the Administrative Procedures Act, RCW 34.05.482.494.

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

NEW SECTION

WAC 132S-40-155 DECISION. The college official who acts as hearing officer shall issue a written decision which shall include a brief statement of the reasons for the decision and a notice that judicial review may be available. All documents presented, considered or prepared by the hearing officer shall be maintained as the official record of the brief administrative proceeding. A decision must be promptly rendered after the conclusion of the brief adjudicative hearing and in no event later than 20 days after the request for hearing is received by the dean of students.

WSR 90-07-007

ATTORNEY GENERAL OPINION

Cite as: AGO 1990 No. 2

[March 9, 1990]

APPOINTMENT—RESIGNATION—OFFICES AND OFFICERS—DEPARTMENT OF WILDLIFE—GOVERNOR—LEGISLATURE

1. When the Governor appoints a Director of Wildlife pursuant to RCW 43.17.020, to serve at the pleasure of the Governor, and notifies the Senate as required by RCW 43.06.030, the Governor has exercised the power of appointment. The appointment is complete and effective unless the Senate rejects the appointment pursuant to RCW 43.06.092.
2. If there is a vacancy in the office of Director of Wildlife, RCW 43.17.040 allows the Governor to make a temporary appointment by either leaving the chief assistant in charge of the department or appointing an acting director. RCW 43.17.020 prohibits the Governor from leaving such a temporary appointee in charge of the Department of Wildlife for more than one year.
3. If a Director of Wildlife, who is not a temporary director and has not been rejected by the Senate, resigns the office, the Governor may immediately reappoint the same individual to that office.

Requested by:

Honorable Jack Metcalf
State Senator
10th District
Institutions Building
Olympia, Washington 98504

WSR 90-07-008

NOTICE OF PUBLIC MEETINGS FOREST PRACTICES BOARD

[Memorandum—March 12, 1990]

SPECIAL MEETING OF THE FOREST PRACTICES BOARD

March 28, 1990

10:00 a.m.

Location: Sea-Tac Ramada Inn, 18118 Pacific Highway South, Seattle, WA 98188.

WSR 90-07-009

NOTICE OF PUBLIC MEETINGS EDMONDS COMMUNITY COLLEGE

[Memorandum—March 12, 1990]

Thursday, March 15, 1990

Applied Technology Center

2333 Seaway Boulevard, Room 120

Everett, WA

4:30 – 7:15

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 90-07-010

PERMANENT RULES BOARD OF HEALTH

[Order 042—Filed March 12, 1990, 2:24 p.m.]

Date of Adoption: February 14, 1990.

Purpose: Revision to regulations for water recreation facility regulations to regulate safety, sanitation and water quality.

Citation of Existing Rules Affected by this Order: Repealing WAC 248-98-999; and amending WAC 248-98-001, 248-98-010, 248-98-020, 248-98-030, 248-98-040, 248-98-050, 248-98-060, 248-98-080, 248-98-090, 248-98-100, 248-98-110 and 248-98-120.

Statutory Authority for Adoption: RCW 70.90.120.

Pursuant to notice filed as WSR 90-02-072 on January 2, 1990.

Changes Other than Editing from Proposed to Adopted Version: The changes made to WAC 248-98-110

were made so that requests for variances could be resolved expeditiously with local health department concurrence in those jurisdictions which have an active local water recreation facilities program; the changes to WAC 248-98-045 (2)(h)(iv) were made to avoid inconsistency with other parallel regulations; the changes to subsection (5) of WAC 248-98-045, 248-98-060 and 248-98-085 were made to allow an additional acceptable source of lifeguard training to be specified in the regulations; and the amendments to subsection (3) of WAC 248-98-020, subsections (4)(a) and (4)(a)(ii)(B)(b) of WAC 248-98-040, subsections (4)(a) and (4)(a)(ii)(B)(c) of WAC 248-98-050, and subsections (4)(a) and (4)(a)(ii)(B)(1) of WAC 248-98-080 were made to increase public safety by requiring higher fencing for all new construction, and higher fencing for existing construction having fencing at less than four feet, but allowing existing facilities having fences of four foot or more to continue operation.

Effective Date of Rule: Thirty-one days after filing.

February 14, 1990

Sylvia Beck

Executive Director

AMENDATORY SECTION (Amending Regulation .98.001, effective 3/11/60)

WAC 248-98-001 DEFINITIONS. ~~((+))~~ The term "public swimming pool" as used in these regulations shall mean an artificial pool of water having a depth of 24 inches or more used for swimming or recreative bathing together with buildings and appurtenances in connection therewith, and shall be construed as including all pools of water used for swimming or recreative bathing, in which it is necessary to employ such measures as the addition of clean water or disinfectant or both, for the purpose of maintaining the water quality standards included in these regulations, and shall include any swimming pool owned or operated by the state of Washington or any of its political subdivisions or is a pool generally available to the general public upon the payment of a specific admission charge for the use of the same, and shall include pools maintained by hotels, motels, or private clubs as an additional facility for members or guests where the same is 1500 square feet or more in surface area, or any pools not otherwise defined in this section:

(2) The term "semipublic pool" shall mean a pool provided by a hotel, motel, or private club as an additional facility for members or guests where the same is less than 1500 square feet in surface area and having a water depth of 24 inches or more:

(3) The term "bathing beach" shall mean a bathing place, together with buildings and appurtenances used in connection therewith, on a natural pond, lake, stream, or other body of fresh or salt water, which is open to the public for bathing by express permission of the owner, or which is operated for a fee, or which is openly advertised as a place for bathing by the public.

(4) The term "wading pool" shall mean any artificial pool of water intended for wading purposes.

(5) The term "spray pool" shall mean a pool or artificially constructed depression for use by children, into

which water is sprayed but is not allowed to pond in the bottom of the pool:

(6) The term "private pool" shall mean a swimming pool, bathing beach, wading pool, or spray pool maintained by an individual for use of his family and friends and shall not be subject to the provisions of these rules and regulations:

(7) The term "health officer" shall mean the state director of health or the city, county, city-county, or district health officer, as defined in RCW 43.20.010 and chapters 70.04, 70.08, and 70.46 RCW, or their authorized representatives: (1) "Abbreviations" (technical):

(a) "DE" means diatomaceous earth;

(b) "fps" means feet per second;

(c) "gpm" means gallons per minute;

(d) "mg/l" means milligrams per liter. When requirements in this regulation specify limits for liquid volume measurements using mg/l or ppm, either may be used depending on the type of testing equipment available;

(e) "ppm" means parts per million. See notation under mg/l for use;

(f) "TU" means turbidity unit as measured by the nephelometric method.

(2) "ANSI" means American National Standards Institute.

(3) "APHA" means American Public Health Association.

(4) "Approved" means the department or local health officer has stated in writing that the design plans and specifications are in accordance with chapter 248-98 WAC.

(5) "ARC" means American Red Cross.

(6) "Architect" means a registered architect currently licensed under chapter 18.08 RCW in Washington state.

(7) "ASHRAE" means American Society of Heating, Refrigeration and Air Conditioning Engineers.

(8) "Assistant lifeguard" means a person appointed by the owner or manager meeting the training requirements of this chapter actively assisting lifeguards (under direct lifeguard supervision) for the purpose of ensuring bather safety.

(9) "Attendant" means a person appointed by the owner or manager meeting the training requirements of this chapter, monitoring activities and conditions for the purpose of ensuring bather safety.

(10) "Bathing beach" means a bathing place, together with buildings and appurtenances used in connection therewith, on a natural pond, lake, stream, or other body of fresh or salt water, which is open to the public for bathing by express permission of the owner, or which is operated for a fee, or openly advertised as a place for bathing by the public.

(11) "Board" means the state board of health.

(12) "CNCA" means Council for National Cooperation in Aquatics.

(13) "CPSC" means Consumer Product Safety Commission (U.S.).

(14) "Communication system" means any combination of devices permitting the passage of or exchange of messages between personnel and/or personnel and bathers. Systems can include but are not limited to two-way

radios, hard wired intercoms, horns, whistles, hand signals, direct voice, signs, or equivalent.

(15) "Contaminant" means any physical, chemical, or biological substance present in the WRF water which may adversely affect the health or safety of the bather and/or the quality of the water.

(16) "Cross-connection" means any physical arrangement connecting a:

(a) Potable water system directly or indirectly, with anything other than another potable water system; or

(b) WRF pool to any potable or nonpotable water source capable of contaminating either the WRF pool, its components, or potable water source as a result of backflow.

(17) "Department" means the department of health.

(18) "Diving envelope" means the minimum dimensions of an area within the pool necessary to provide entry from a diving board, platform, or pool decking intended for users to dive.

(19) "Engineer" means a registered professional engineer currently licensed under chapter 18.43 RCW in Washington state.

(20) "FINA" means Federation Internationale de Natation Amateur.

(21) "General use pool" means any swimming, spa, wading, or spray pool regulated by this chapter not meeting the definition of a "limited use pool." If limited-use pools provide organized programs (as noted in limited use definition), the limited use pools shall conform with the general-use pool requirements during periods of such activity.

(22) "Handhold" means a structure not over twelve inches above the water line around the perimeter of the pool wall, affording physical means for the bather to grasp the pool sides.

(23) "Illness or injury report" means the written record of all facts regarding an injury or illness associated with the WRF.

(24) "Lifeguard" means a person appointed by the owner or manager to maintain surveillance over the bathers on the deck or in the pool and to supervise bather safety. The lifeguard shall meet the training requirements of this chapter.

(25) "Lifeguard station" means designated work station of a lifeguard.

(26) "Lifesaving equipment" means emergency equipment and barrier protection.

(27) "Limited use pool" means any swimming, spa, wading, or spray pool regulated by this chapter at an apartment, boarding home, condominium, home owners association, hotel, mobile home park, motel, recreational vehicle park, or rental housing unit and is for the use of the persons living or residing at these facilities and the resident's invited guests. If such pool provides organized programs at the facility (that is, formal instructional lessons for swimming or diving, swim meets, exercise classes, or other activities planned for users besides those specified under the limited use pool category), the pool facility shall conform with the general use pool requirements during periods of such activity.

(28) "Local health officer" means the health officer of the city, county, or city-county department or district or a representative authorized by the local health officer.

(29) "NSF" means National Sanitation Foundation.

(30) "NSPI" means National Spa and Pool Institute.

(31) "Operations" means all aspects of a WRF which must be controlled to make the facility safe, healthy, and usable for the purpose intended.

(32) "Owner" means a person owning and responsible for a WRF or authorized agent.

(33) "Person" means an individual, firm, partnership, copartnership, corporation, company, association, club, government entity, or organization of any kind.

(34) "Pool" means swimming pool, wading pool, spray pool, or spa pool or the like.

(35) "Plummet" means a line perpendicular to water surface and extending vertically to a point located at the front end of the diving board and at the center line directly in front of the diving board.

(36) "Primary zone of visual coverage" means the area assigned to a lifeguard or attendant for primary visual surveillance of user activity.

(37) "Radius of curvature" means the radius arc denoting the curved surface from the point of departure from the springline (vertical sidewall) of the pool to the pool bottom.

(38) "Response time" means time between bather distress and initiation of rescue assistance contact by a lifeguard in facilities providing lifeguards.

(39) "Recreational water contact facility" means an artificial water associated facility with design and operational features that provide patron recreational activity which is different from that associated with a conventional swimming pool and purposefully involves immersion of the body partially or totally in the water, and that includes but is not limited to water slides, wave pools, and water lagoons. These facilities are regulated by chapter 248-97 WAC.

(40) "RLSSC" means the Royal Life Saving Society of Canada.

(41) "Secretary" means the secretary of the department of health.

(42) "Serious injury" means any injury:

(a) Requiring emergency service response where a person requires medical treatment as determined by the emergency medical response personnel; and/or

(b) Resulting in a person seeking medical attention at a hospital emergency room or admittance to a hospital.

(43) "Spa pool" means a pool designed for relaxation or recreational use where the user is sitting, reclining, or at rest and the pool is not drained, cleaned, or refilled for each user. The spa pool may include, but not be limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction bubbles in any combination.

(44) "Spray pool" means a pool or artificially constructed depression for use by bathers in which water is sprayed, but is not allowed to pond, in the bottom of the pool.

(45) "Springline" means the point where the pool wall breaks from vertical and begins its arc in the radius of curvature (for cove construction) to the bottom of the pool.

(46) "Swimming pool" means any structure, basin, chamber, or tank containing an artificial body of water for swimming, diving, relaxation, or recreational bathing and having a depth of two feet or more at any point and including all associated facilities.

(47) "Turnover time" means the minimum time necessary to circulate the entire volume of the pool facility through the treatment system.

(48) "Wading pool" means any artificial pool of water equal to or less than two feet deep and intended for wading purposes.

(49) "Walking surface" means any surface used as a direct access surface for a pool area and the walking surface's change room facilities where the user is bare foot.

(50) "Water treatment operator" means the appointed person operating the physical and mechanical equipment and performing related water quality monitoring and associated record keeping for proper operation of the physical facility.

(51) "Water recreation facility (WRF)" means any artificial basin or other structure containing water used or intended to be used for recreation, bathing, relaxation or swimming, where body contact with the water occurs or is intended to occur and includes auxiliary buildings and appurtenances. The term includes, but is not limited to:

(a) Conventional swimming pools, wading pools, and spray pools;

(b) Recreational water contact facilities as defined under RCW 70.90.110 and regulated under chapter 248-97 WAC;

(c) Spa pools and tubs using hot water, cold water, mineral water, air induction, or hydrojets; and

(d) Any area designated for swimming in natural waters with artificial boundaries within the waters.

NEW SECTION

WAC 248-98-003 PURPOSE AND AUTHORITY. The purpose of this chapter is to protect the health, safety, and welfare of users of water recreation facilities (WRF). This chapter is established per RCW 70.90.120.

NEW SECTION

WAC 248-98-005 GENERAL ADMINISTRATION. (1) The department and local health officer for each local health jurisdiction shall develop an interagency agreement listing the responsibilities of each agency for administering these rules. The agreement shall designate the person responsible for:

(a) Issuance of construction permits with plan review and review of completed facilities;

(b) Issuance of operation permits and routine surveillance of facilities; and

(c) Enforcement actions.

(2) Fees may be charged as authorized in RCW 70.90.150.

(3) The interagency agreement shall be reviewed periodically to ensure effective use of local and state resources.

(4) The department shall conduct a local health jurisdiction program review a minimum of once every five years to ensure conformance with state board of health standards.

(5) The department shall review this chapter for changes at least once every five years.

AMENDATORY SECTION (Amending Regulation 98.010, effective 3/11/60)

~~WAC 248-98-010 ((APPROVAL OF PLANS)) CONSTRUCTION PERMIT. ((No municipality, person, persons, firm, corporation, association, organization, or institution shall construct a public or semipublic swimming pool, or make changes in any such pools already built, or in the appurtenances thereof, until the plans and specifications therefor shall first have been submitted to and received the approval of the state director of health. The state director of health may stipulate when granting this approval such modifications or conditions as the public health or safety may require. Such plans and specifications shall be prepared by a professional engineer or architect registered in the state of Washington.)) (1) Persons planning to construct, alter, or modify a WRF pool, except for routine maintenance, shall submit plans to the department or local health officer as required for review and approval:~~

~~(a) A completed construction permit application form obtained from the department or local health officer;~~

~~(b) Three sets of plans and specifications prepared and signed by an engineer or architect.~~

~~(2) The architect or engineer shall provide the following information for plan review approval and project completion:~~

~~(a) Plans drawn to scale and in sufficient detail to completely illustrate construction including, but not limited to:~~

~~(i) One plan view;~~

~~(ii) One or more cross sections through the main drain;~~

~~(iii) Overall plan showing the pool in relation to other facilities in the area;~~

~~(iv) Detailed view of the equipment layout and the associated room or location;~~

~~(v) A piping schematic showing piping configuration, pipe size, valves, inlets, main drains, overflow outlets, make-up water, and backwash from filter;~~

~~(vi) Dimensional drawings of pool bottom and sidewalls;~~

~~(vii) Specifications of all required components;~~

~~(viii) Such other department-required information.~~

~~(b) Engineers or architects may submit standard plans for prefabricated structures or structures virtually identical from one installation to the next. When the engineer or architect submits such standard drawings, future submittals, involving the standard equipment shall:~~

~~(i) Include copies of the approved standard drawings;~~

~~(ii) Include an engineer or architect cover letter noting the location and address of the new facility;~~

~~(iii) Be substantially in conformance with the original standard plan;~~

~~(iv) Provide information on changes and note any specification differences; and~~

(v) Be valid only during the period regulations or department policies concerning plan review and design standards are not changed. If errors are determined at a later period, it will be necessary to resubmit.

(c) The facility construction report noted under subsection (5)(a) of this section. On pools:

(i) Less than fifteen hundred square feet, the construction report shall confirm the:

(A) Mechanical equipment and circulation system is installed and functioning substantially in accordance with the approved plans; and

(B) Facility with provisions for diving substantially conforms with the diving envelope requirements established in the regulation.

(ii) Fifteen hundred square feet or more, shall confirm:

(A) Subitems under subsection (2)(c)(i) of this section; and

(B) Walking surfaces, barriers, pool components including piping, inlets, outlets, dimensional design, pool appurtenances, equipment rooms, ventilation, and lighting and plumbing fixtures are substantially in conformance with the approved plans.

(3) Following review of the completed permit application and plans and specifications, the department or local health officer shall forward:

(a) Written approval or rejection or note modifications, additional information needed or conditions, and issue or deny a construction permit within thirty days of a complete submittal;

(b) A copy of approved plans to the designer; and

(c) A copy of the approval letter to the department or local health officer and local building department.

(4) The owner shall ensure any construction, modification, or alteration is completed according to approved plans and specifications.

(5) Upon completion of WRF pool facility construction, modification, or alteration and before use, owners shall:

(a) Submit to the department or local health officer a construction report signed by an engineer or architect certifying construction is substantially in compliance with approved plans and specifications and related to conditions under subsection (2)(c) of this section;

(b) Notify the department or local health officer at least five working days before intended use of the facility; and

(c) Before use of a new or modified pool facility, obtain a valid operating permit from the state or local health jurisdiction having authority for surveillance of the pool.

(6) The construction permit issued by the department or local health officer shall be valid for a period of eighteen months. Renewals of construction permits may be granted by the department or local health officer for a period of one year. The owner is responsible to resubmit for a reapplication for a construction permit.

(7) WRF pool owners shall comply and obtain approval with all other applicable agency codes and standards. The agency codes and standards include, but are not limited to:

(a) The National Electrical Code, chapter 19.28 RCW and chapter 296-46 WAC determined under the electrical section of the Washington state department of labor and industries or local electrical authority;

(b) Local gas piping and appliance codes, American Gas Association standards, and certification meeting the latest ANSI Z21.56 or other applicable and equivalent standards;

(c) Local building authority standards, including structural design of components;

(d) State and local plumbing authority standards;

(e) Washington state department of labor and industries requirements for pressure vessels under chapter 70-79 RCW and chapter 296-104 WAC; and

(f) Codes designated under chapter 70.92 RCW for handicapped accessibility.

NEW SECTION

WAC 248-98-015 OPERATING PERMIT. (1) No person shall operate a water recreation pool facility without a current department or local health officer-issued operating permit.

(2) To obtain an operating permit, owners of a water recreation pool facility shall provide department or local health officer information showing the WRF is in compliance with this chapter.

(3) Operating permits shall be:

(a) Valid for one year;

(b) Subject to annual renewal; and

(c) Nontransferable without written department or local health officer consent. For purposes of this section, a change in management of a corporation, partnership, association, or other nonindividual business entity shall create a new person requiring either consent to a permit transfer or issuance of a new permit upon proper application.

(4) The department or local health officer issuing the operating permit may revoke or suspend the permit if the WRF is not operated in accordance with chapter 70.90 RCW or chapter 248-98 WAC.

AMENDATORY SECTION (Amending Regulation 98.020, effective 3/11/60)

WAC 248-98-020 COMPLIANCE. (1) Existing ((public and semipublic swimming pools and wading pools)) water recreation facilities which do not fully comply with the design, construction, and equipment requirements ((as outlined)) in WAC 248-98-040, 248-98-050 ((and)), 248-98-080 ((of these regulations)), and 248-98-090 may be continued in use((, provided the pool is)).

(2) Existing water recreation facilities shall be operated in continuous compliance with the ((requirements regarding water quality, disinfection, and sanitary control)) provisions of this chapter as outlined in ((WAC 248-98-030, 248-98-040, and 248-98-060 of these regulations)) the life saving equipment requirements as defined in WAC 248-98-001(26), 248-98-030, 248-98-035, 248-98-045, 248-98-060, 248-98-085, 248-98-095, and 248-98-098, and provisions for lifesaving equipment in this chapter.

(3) Existing water recreation facilities built before the effective date of this chapter revision:

(a) Having barriers not conforming with this chapter, may maintain the barrier as it presently exists provided:

- (i) Barrier is forty-eight inches or more in height;
- (ii) Barrier has a maximum width opening of vertical members not exceeding six inches in width;
- (iii) Each entry to the pool area has a self-closing, self-latching gate or door.

(b) Having barriers not conforming with this chapter, must upgrade the barrier to conform with this chapter if the existing barrier height is less than forty-eight inches in height.

(4) Facilities exempted from the regulations are noted under RCW 70.90.250 and the term medical therapy include facilities whose sole use is therapy provided for medical:

(a) Treatment under the supervision of licensed medical practitioners; or

(b) Rehabilitation for institutionalized patients under supervision of licensed medical practitioners.

NEW SECTION

WAC 248-98-025 SURVEILLANCE. (1) Owners and operators shall permit the department or local health officer to perform on-site WRF inspections or other surveillance activity as necessary in the discretion of the enforcing agency to ensure compliance with standards under chapter 70.90 RCW and chapter 248-98 WAC.

(2) Employees of the enforcing agency shall provide appropriate identification when entering a WRF for the purpose of routine inspections.

AMENDATORY SECTION (Amending Regulation 98.030, effective 3/11/60)

WAC 248-98-030 WATER QUALITY STANDARDS, ANALYSIS, AND SAMPLE COLLECTION. ~~((1) Water quality. The water in all pools subject to these rules and regulations shall at all times meet the following standards of quality:~~

~~(a) Bacteria count - Not more than 15% of any series of samples, (see WAC 248-98-030(2) following) nor more than 2 consecutive samples in any series of samples collected at times when the swimming pool is in use, shall show the presence of bacteria of the coliform group in any of the five 10-milliliter portions examined.~~

~~Not more than 15% of any series of samples nor more than 2 consecutive samples in any series of samples (see WAC 248-98-030(2)), collected at times when the swimming pool is in use, shall contain more than 200 bacteria per milliliter when incubated for 24 hours on standard nutrient agar at 35°C. ± 0.5°C.~~

~~(b) Turbidity - At all times when the pool is in use the water shall be sufficiently clear to permit a black disc six inches in diameter on a white field, when placed on the bottom of the pool at the deepest point, to be clearly visible from the walkways of the pool at all distances up to ten yards, measured from a line drawn across the pool through said disc. When conditions are~~

~~such that the test disc cannot be seen as specified, bathers shall not be permitted in the pool until the test can be complied with. A test disc shall be kept readily available at all times.~~

~~(c) Chemical - The water in a swimming pool shall be maintained at all times in such alkaline condition that the pH value of the water in the pool shall be between 7.2 and 8.9.~~

~~(2) Analytical methods. Sample shall be examined in accordance with the latest edition of standard methods of water analysis of the American Public Health Association by a laboratory approved for the purpose by the state director of health. Samples of water submitted to such laboratory shall be accompanied by all pertinent data requested on water sample information form accompanying official water sample bottles relative to the operation of the pool, indicating the conditions prevailing at the time of collection of samples.~~

~~(3) Collection of samples. The health officer shall prescribe what series of samples of swimming pool water shall be collected and shall determine the frequency of samples necessary to assure that the water quality will meet the standards as set forth in paragraph (1) of this section. Such samples shall be collected while the swimming pool is in use, at a point near the outlet of the swimming pool, and at such additional sampling points as may be selected to indicate the quality of the water being maintained throughout the swimming pool. Samples of chlorinated water shall be dechlorinated when collected.~~

~~(4) No chemicals or materials shall be added to any pool unless the use thereof has been approved by the state director of health.)) (1) Contaminants. Owners shall maintain waters free from harmful levels of disease-producing organisms, toxic chemicals, or adverse physical conditions.~~

~~(2) Bacteriological standards. Owners shall maintain WRF pool waters to meet the following standards of bacteriological quality:~~

~~(a) Heterotrophic plate counts not to exceed two hundred bacteria per milliliter in two consecutive tests;~~

~~(b) Total coliform not to exceed an average of one coliform per sample of one hundred milliliters in two consecutive tests when using the membrane filter test; and~~

~~(c) Total coliform not to exceed one tube positive in two consecutive tests when using the MPN method.~~

~~(3) Disinfection. Owners shall maintain continuous and effective methods of disinfection of WRF pool waters at all times with use of:~~

~~(a) Chlorine or bromine described under Table 030.1 of this section; and/or~~

~~(b) Alternate forms of disinfection meeting the following criteria:~~

~~(i) Registered with the Environmental Protection Agency, if required;~~

~~(ii) Registered with the Washington state department of agriculture, if required;~~

~~(iii) Conformance with NSF standard 50 or equal when applicable; and~~

~~(iv) Adherence to department-established guidelines.~~

(c) Alternate forms of disinfection for which the department has developed board-approved standards or guidelines including:

(i) "Interim guidelines governing the use of ozone and ozonators for water recreation facilities;"

(ii) "Interim guidelines governing the use of copper/silver disinfection processes for water recreation facilities."

(4) Chemical and physical quality. Owners shall maintain:

(a) Physical and chemical conditions within the ranges specified under Table 030.2 of this section;

(b) Cleanliness by:

(i) Closing an affected WRF area or affected portion of a WRF area when contaminated with feces, vomit, sewage, or other hazardous or unknown material until the area is clean, disinfected, and free of the hazardous material;

(ii) Daily removal of scum or floating material on the pool water surface;

(iii) Continuous removal of scum or floating material by overflow action of pool water with flotsam screened and filtered; and

(iv) Maintaining sanitary walking surfaces.

(c) WRF spa pools which are routinely drained, cleaned, and refilled at a minimum using the formula as follows:

$$\text{Spa volume} \div 3 \div \text{average number of users/day} = \text{Number of days between draining, cleaning, and refilling.}$$

(5) Laboratory sampling and testing. Persons collecting laboratory analysis water samples shall:

(a) Collect and transport chemical and micro-organism samples based on the most recent published edition of standard methods for the examination of water and waste/water analysis, published jointly by the American Public Health Association/Water Pollution Control Federation and American Waterworks Association, referred to as "standard methods" in this chapter;

(b) Have laboratory tests performed per "standard methods" at department-approved laboratories to provide such analyses;

(c) Provide adequate data for completing analyses; and

(d) Use department-approved water sample bottles for collection of samples.

(6) Field testing. Owners shall have field testing equipment:

(a) To provide means for measuring disinfectant residuals, pH, alkalinity, and any other chemicals routinely used in the pool water;

(b) In pools where compressed chlorine gas is used, to detect leaks using commercial strength (twenty-six degrees Baume') ammonia vapor; and

(c) With a suitable range of readings for the routinely measured parameters as noted under Table 030.3 of this section.

(7) Chemicals in pool. Owners shall ensure addition of chemicals or materials to WRF pool waters only when the use is approved or recognized as acceptable by the

department. The department has available to WRF pool owners the current approved or acceptable material lists.

(8) Additional tests. Owners shall perform additional department or local health officer-directed tests.

TABLE 030.1

MINIMUM AND MAXIMUM LEVELS OF DISINFECTANTS *

Currently Recognized Disinfectants	Type of Residual Measured	pH Ranges			Maximum Residual ppm **
		7.2-7.49	7.5-7.79	7.8-8.0	
1. Chlorine	Free available chlorine	1.0	1.4	1.8	6
2. Chlorinated cyanurate	Free available chlorine	1.5	2.0	2.8	6
3. Bromine	Total available bromine	2.0	2.5	3.5	6

NOTE:

*When using spa facilities, increase minimum residuals in all categories by 1.5 ppm.

**Maximum residual as noted or manufacturer's recommendations (whichever is less). In spa facilities, maximum residual may be raised to 10 ppm or manufacturer's recommendations (whichever is less).

TABLE 030.2

ACCEPTABLE RANGES OF SELECTED CHEMICAL AND PHYSICAL WATER QUALITY CONSTITUENTS

Chemical or Physical Constituent	Minimum	Maximum
1. pH (Hydrogen ion)	7.2	8.0
2. Water clarity (safety)	Main drain and pool bottom visible at all times	—
3. Turbidity (shielding micro-organisms from disinfection)	—	0.5 TU*
4. Cyanuric acid or its derivatives (if used)	0	90 ppm
5. Temperature	—	104 F.**
6. Combined chlorine	—	<50% of free chlorine
7. ORP***	700 mv.	—

NOTE:

*In peak periods, turbidity may increase to 1.0 TU provided turbidity returns to 0.5 TU within a six-hour period following peak use. Turbidity is not a required routine analysis. Turbidity monitoring may be required by the department or local health officer if special conditions warrant turbidity monitoring.

**A pool facility thermometer shall be provided when the water temperature exceeds 95 degrees Fahrenheit.

***Oxidation-reduction potential (ORP) readings used in conjunction with chlorine and bromine may be allowed as long as values are maintained no less than 700 millivolts. ORP readings do not preclude the need for field testing of the actual mg/l residual for the specific disinfectant on at least a daily basis.

TABLE 030.3

RANGE OF ACCEPTABLE TESTING LEVELS FOR FIELD TEST KITS*

Chemical Test	Minimum Range	Minimum Accuracy
1. Free available chlorine	0.3 to 3.0 ppm	0.2 ppm to 1.0 ppm 0.5 ppm above 1.0 ppm
2. Total chlorine	0.3 to 3.0 ppm	0.2 ppm to 1.0 ppm 0.5 ppm above 1.0 ppm
3. Total bromine	0.3 to 4.0 ppm	0.2 ppm to 1.0 ppm 0.5 ppm above 1.0 ppm

Chemical Test	Minimum Range	Minimum Accuracy
4. pH (hydrogen ion)	7.0 to 8.2	0.2
5. Cyanuric Acid	0 to 100 ppm	10 ppm
6. Alkalinity	0 to 300 ppm	15 ppm
7. Temperature (spas)	60 to 110 degrees F.	1 degree F.

NOTE:

*Do not make a chemical condition determination based on readings at the extreme measurable limits of the scale.

NEW SECTION

WAC 248-98-035 MONITORING, REPORTING, AND RECORD KEEPING. (1) Reporting death, injury, and illness. Owners shall:

(a) Provide department or local health officer-requested information for statewide injury and illness surveillance reports; and

(b) Within forty-eight hours, notify the department or local health officer of a drowning, near drowning, death, or serious injury or illness occurring at the water recreation facility.

(2) Incidents. Owners shall provide department or local health officer-requested information after an incident creating a potential problem of health or safety significance, for example, chlorine gas leak.

(3) Monitoring and record keeping. Owners shall monitor and maintain records for at least three years on the following:

(a) Water quality conditions on WRF pools including:

(i) Residual disinfectant testing often enough to determine the residual is satisfactory, and in no condition shall residual disinfectant testing be done less than once every twenty-four hours;

(ii) Hydrogen ion (pH) concentration testing often enough to determine the concentration is satisfactory, and in no condition shall testing be done less than once every twenty-four hours;

(iii) Checking alkalinity monitored at least weekly;

(iv) Recording quantities of all chemicals added to pool water, including alum, algicides, cyanuric acid, acids, alkalinity compounds, etc.

(v) Checking gauges sufficiently to assure conformance with code requirements for turnover during the filter cycle;

(vi) Any gross water contamination, for example, vomiting, feces, etc.;

(vii) When pool temperature is over ninety-five degrees, temperature testing sufficiently often to determine temperature is in a satisfactory range at or below one hundred and four degrees Fahrenheit and in no condition shall temperature testing be done less than once every twenty-four hours; and

(viii) When cyanuric acid or its derivatives are used in a pool, cyanurate level testing to determine the cyanurate level is maintained below the maximum level of ninety mg/l, and in no condition shall cyanurate level testing be done less than once every week the pool is in use.

(b) Routine preventive maintenance provided on all hazardous equipment, for example, gas chlorination equipment;

(c) Daily estimation of number of users;

(d) Personnel credentials, training, and/or certifications required under WAC 248-98-045(5), 248-98-060(5), and 248-98-085(5) of this chapter.

(4) Availability. Owners shall make records required by this section available for department or local health officer review upon request.

AMENDATORY SECTION (Amending Regulation 98.040, effective 3/11/60)

~~WAC 248-98-040 ((DISINFECTION)) SPA POOL GENERAL DESIGN, CONSTRUCTION, AND EQUIPMENT. ((A disinfection process or procedure shall be used at all pools subject to these rules and regulations for the purpose of insuring continuous disinfection of the water throughout the pool during the period the pool is in use.~~

~~When chlorine or chlorine compounds are used as the disinfectant, the water in the pool at all times while in use shall contain a chlorine residual of not less than 0.4 parts per million as measured by the orthotolidine method, or shall contain a free chlorine residual of a value to be determined by the health officer.~~

~~Disinfection by other than chlorine or chlorine compounds may be used, if approved by the state director of health, and if such disinfection process or procedure will permit maintenance of a water quality in compliance with the requirements as outlined in WAC 248-98-030 of these regulations.)) (1) Location. Owners shall locate pools to:~~

~~(a) Minimize pollution by dust, smoke, soot, and other undesirable substances;~~

~~(b) Eliminate pollution from surrounding surface drainage; and~~

~~(c) Ensure pump house, trees, and other structure locations are fifteen feet or more away from the pool or provide barriers or other means to prevent ready access from any such structure. Structures shall not be constructed to include:~~

~~(i) Building walkways above the second story or roofs of any building structure; or~~

~~(ii) Any barriers provided to prevent unauthorized pool access, for example, fencing.~~

~~(2) Materials. Owners shall use only structure and equipment materials which are nontoxic, durable, inert, impervious to water, and easily cleanable.~~

~~(3) Walking surfaces. Owners shall design and maintain walking surfaces:~~

~~(a) Uniformly sloping away from the pool or pools with a minimum of one-fourth inch per foot and a maximum of one-half inch per foot;~~

~~(b) Of a nonslip finish not presenting a tripping hazard;~~

~~(c) Equipped with sufficient drains to prevent standing water;~~

~~(d) Of easily cleanable impervious finishes;~~

~~(e) Providing a minimum unobstructed six feet by seven feet area adjacent to the pool;~~

~~(f) Continuous and four feet wide or more extending around the entire pool if perimeter is equal to or greater than forty feet;~~

~~(g) Forty inches or less below horizontal ledge of elevated pool. Elevated pools over twelve inches above deck~~

level shall have a maximum ledge thickness of twelve inches, except in the area of stairs;

(h) Continuously extending, and four feet wide or more, around fifty percent or more of the pool, if the pool is over forty inches above the primary walkway; and

(i) In conformance with department-established guidelines for any resilient artificial surfaces.

(4) Barriers. Owners shall provide barrier protection to prevent unauthorized access including:

(a) In outdoor facilities, a barrier of sixty inches or more in height with:

(i) Barrier:

(A) Not allowing passage of a four-inch diameter sphere;

(B) Horizontal members with less than forty-five inches spacing between the tops of the horizontal members shall have vertical members not exceeding one and three quarter inches in width; or

(C) Horizontal members with forty-five inches or more spacing between tops of the horizontal members shall have vertical members not exceeding four inches in width.

(ii) Lockable gates and entrances provided with a self-closing, self-latching mechanism fifty-four inches or more from the ground with a clear space fifty inches deep on the latch side of the door to position a wheelchair. When a latching mechanism is provided at any lower height, the latching mechanism shall be of a type remaining continuously locked, and only opening with the use of a key or other access control system.

(b) Indoor facility barriers sixty inches or more in height suitable to prevent access of unauthorized individuals;

(c) Restricted area service entrances shall be exempt from door or gate requirements providing no public access is available;

(d) Lifeguarded pools are not required to have a self-closing, self-latching gate during the period a pool is in use. Facility gates shall be closed and locked during non-use periods; and

(e) An entrance to the pool area which shall not serve as a required exit from another part of a building when there is a conflict with other codes or regulations.

(5) Spa pool structure. Owners shall ensure general pool requirements include:

(a) Pool surfaces which are nontoxic, impervious, smooth, easily cleanable, and enduring. Pools one hundred square feet or more shall be a white or light color;

(b) A dimensional design providing for safety, circulation, and quality of the water including, but not be limited to:

(i) Surfaces not causing cutting, pinching, puncturing, entanglement, or an abrasion hazard under casual contact;

(ii) Construction tolerances conforming with current NSPI public spa standards;

(iii) Uniform floor slopes not exceeding one foot of drop in twelve feet of run sloped to drain;

(iv) A minimum height between the top of the pool rim and the ceiling shall be seven feet; and

(v) Maximum operational depth of four feet measured from the water line. Exceptions may be made for special purpose designed pools.

(c) Adequate means to routinely drain or otherwise remove water from the pool.

(6) Spa pool appurtenances. Owners shall ensure pools contain:

(a) Handholds around the pool perimeter two feet or more in depth. Handholds shall be four feet apart or less and consist of any one or a combination of the following:

(i) Coping, ledges, radius flanges, or decks along the immediate top edge of the pool or suitable slip-resisting handholds located twelve inches or less above the water line;

(ii) Ladders or steps; or

(iii) Secured rope or railing twelve inches or less above the water line.

(b) Stairs:

(i) Meeting the following construction requirements:

(A) Non-slip tread finishes;

(B) Contrasting color stair tread edges clearly visible to users;

(C) Handrails with the leading edge for stairs at pool entry/exit being neither eighteen inches or more beyond nor eight inches or more inside (horizontally) the vertical plane of the bottom riser;

(D) Less than or equal to twenty feet of any point within the spa measured at the wall at the point of entry;

(E) Riser treads with a minimum unobstructed, horizontal, ten-inch tread depth and a minimum two-hundred-forty-inch surface area;

(F) Riser heights on spa pools over forty feet in perimeter, uniform and seven and one-half inches or less, except the bottom riser may be less than uniform height; and

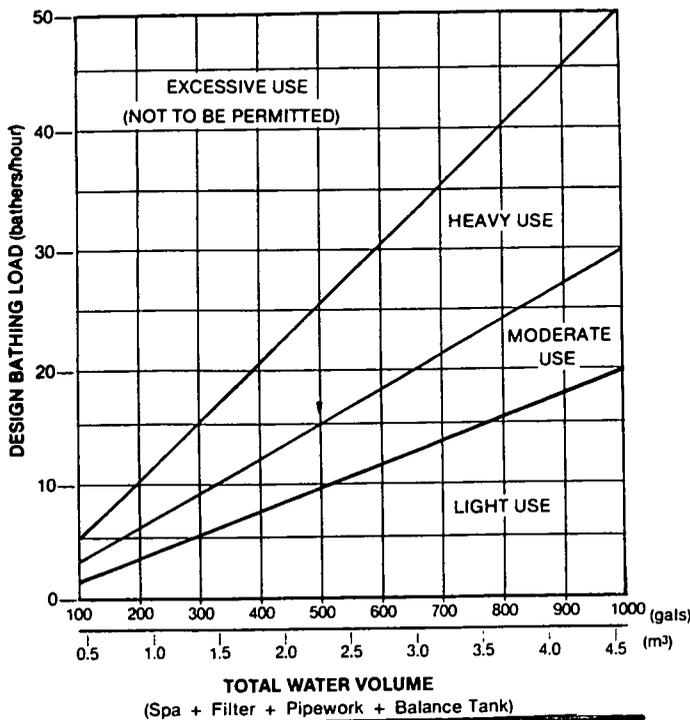
(G) Riser heights on spa pools of forty feet or less in perimeter, uniform and have a preferred seven and one-half inch height, but not greater than ten inches, except the bottom riser may be less than uniform height.

(7) Spa pool bather design capacity and load. Owners shall design and control the pool use to not exceed a maximum bather capacity and load as designated below:

(a) The maximum bather capacity is one person per four square feet. Maximum bather capacity is the maximum number of bathers at any one time; and

(b) Bather loads are designated in terms of three different loading conditions: Light, moderate, and heavy use as shown under Graph 040.1. Maximum bather load is the maximum number of bathers in a one-hour period. Interpret a single bather use to mean a bather using the pool for a fifteen minute duration. For pools with volumes greater than noted on the graph, loadings shall be based on the continued slope of the line above each use category.

GRAPH 040.1 SPA DESIGN FOR BATHER LOAD AND TURNOVER



(8) Turnover. Owners shall ensure pools turn over entire pool water volume at rates in accordance with designated bather load as determined from Graph 040.1 noted in subsection (7) of this section.

(a) Minimum turnover time for treatment recirculation shall be:

- (i) For light use pool facilities, thirty minutes;
- (ii) For moderate use pool facilities, twenty minutes;
- (iii) For heavy use pool facilities, ten minutes.

(b) Exceptions to recirculation requirements may be made for flow-through pools in the following conditions:

- (i) Where water supply is sufficient to provide the same turnover period specified for recirculation pools;
- (ii) The source water supply meets the quality requirements and is subject to a disinfection method outlined under WAC 248-98-030(3);
- (iii) The introduction of fresh treated pool water is accomplished by the same type of inlet and outlet design required for recirculation pools; and
- (iv) The pool water quality complies with WAC 248-98-030.

(9) Inlets. Owners shall provide pool inlets:

- (a) Submerged and located to produce uniform water and chemical circulation throughout the pool;
- (b) Located on the bottom of pools ten thousand gallons or more, unless otherwise justified by the design engineer to either the department's or local health officer's satisfaction.

(10) Outlets. Owners shall provide pool outlets with:

(a) Overflow and main drain grating systems each designed to carry one hundred percent of the total recirculation filter flow, and main drain piping designed to carry fifty percent or more of the total recirculation filter flow;

(b) Overflow outlets maintaining:

(i) A minimum of sixty percent of filter recirculation flow at all times; and

(ii) An overflow channel which may be used on any pool and required on pools ten thousand gallons or more on the pool perimeter to promote uniform circulation and skimming action of the upper water layer with:

(A) A design preventing all matter entering the channel from returning to the pool;

(B) Dimensions minimizing bather hazards, such as catching arms or feet;

(C) One one-hundredth of a foot slope per foot or more;

(D) Drains sufficiently spaced and sized to collect and remove overflow water to return line and filter, where applicable; and

(E) Size sufficient to prevent flooded suction conditions on the overflow system and to properly drain water away from the pool. Displacement shall be computed at twenty gallons per bather. Balancing tanks use is optional dependent on the overflow channel volume and design.

(iii) Skimmers in lieu of pool overflow channels up to ten thousand gallons if:

(A) Weir provided in skimmer has a maximum flow rate through skimmer not exceeding four gpm per inch of weir;

(B) Devices are recessed in the pool wall so no part protrudes beyond the plane of the wall into the pool;

(C) The skimmer is equipped with a device to prevent air lock in the recirculation suction line, such as, an equalizer line;

(D) The skimmer is equipped with a removable and cleanable screen designed to trap large solids;

(E) Automatically adjustable and operates freely with continuous skimming action to continue through all loading rates as the skimmer is designed. Displacement shall be computed at twenty gallons per bather.

(c) Main drains in all pools with:

(i) Location of one main drain or more at the lowest point of the pool floor, or means to readily drain the entire pool water readily available;

(ii) A minimum of two main drains with equivalent recirculation capacity and net surface open area; or on spa pools with fifteen hundred gallon volume or less, a large single main drain twelve inches square or more in surface area;

(iii) A design to aid in hair entrapment prevention when main drains are on vertical walls;

(iv) Total open area of grates sized to prevent a suction or entrapment hazard dangerous to user;

(v) Grates on drains with a:

(A) Maximum flow of one and one-half feet per second; or

(B) Net outlet area four times or more the area of the discharge pipe;

(vi) Openings one-half inch or less wide;

- (vii) Grates designed to withstand forces of users;
- (viii) Grates removable only with specific tools; and
- (ix) Means to control flow from recirculation pump or balancing tank.

(11) Flow. Owners shall maintain pool recirculation flow not to exceed:

- (a) Six feet per second in the valved suction or discharge side of the pump; and
- (b) Ten feet per second in open discharge pipes on the pressure side of the pump or filter discharge. The recirculation flow limit does not apply to the return inlet and the last two feet of pipe leading to the inlet.

(c) The recirculation piping of the spa pool shall not inter-mix back with any companion swimming pool water.

(12) Pumps. Owners shall have and maintain recirculation pumps with adequate capacity to:

- (a) Provide design flows and pressure for water recirculation over the entire operating filter pressure;
- (b) Allow proper backwashing of filters when specified;
- (c) Have self-priming capability when installed above the pool water level; and
- (d) Ensure the recirculation pump system shall have a separate water treatment pump than that used for hydrotherapy spa action, unless automatic flow control valving is provided to limit filter flow to required design.

(13) Strainers. Where pumps precede the filter, owners shall equip pool recirculation facilities with hair and lint strainers which shall:

- (a) Be located upstream of recirculation pumps;
- (b) Provide strainer screen sufficiently strong to prevent collapse when clogged;
- (c) Have an operable cover; and
- (d) Provide valving to isolate the strainer when located below pool water level.

(14) Valves. Owners shall provide valves at appropriate locations to allow equipment isolation and maintenance.

(15) Equipment rooms. Owners shall provide equipment rooms for a spa pool with:

- (a) Ten thousand gallons or more in water volume or for spa pools provided adjacent to a swimming pool at the same facility with:
 - (i) Enclosed pumps, disinfection equipment, filters, and other electrical and mechanical feed equipment and associated chemicals. Storage of chemicals shall conform to manufacturer requirements;
 - (ii) Working space and access to perform routine operation;
 - (iii) A forty-six-square-foot minimum floor area and provides a three-foot minimum access area to service equipment;
 - (iv) One floor drain or more and a floor slope to the drain at a one-fourth-inch-per-foot minimum;
 - (v) If below grade, ready access;
 - (vi) Ventilation;
 - (vii) Twenty foot candles or more of light measured thirty inches from the floor; and
 - (viii) Kept locked.

(b) Less than ten thousand gallons in water volume or for spa pools not provided at the same facility as a

swimming pool complying with subsection (15)(a)(i), (ii), (v), and (viii) of this section.

(16) Make-up water. Owners shall ensure a source of make-up water and associated piping at the pool:

- (a) Providing sufficient quantity to replace daily pool water losses;
- (b) Coming from a supply conforming with chapter 248-54 WAC;
- (c) Preventing cross connections using a minimum air gap of two pipe diameters or approved backflow prevention devices between the make-up water source and the pool water or waste water; and
- (d) If using a pool fill spout, not projecting greater than one inch into the space above the water surface area and shielded to not create a deck hazard.

(17) Filters. Owners shall equip pools with filtration equipment:

- (a) Meeting the applicable NSF standards or equivalent;
- (b) Using acceptable type and filter rates described under Table 040.2 of this section;
- (c) Having pressure or vacuum gauges for measuring loss of head through the filter with a minimum of one gauge preceding and one gauge following the filter;
- (d) Having a rate of flow indicator to measure a flow with accuracy, repeatability, and durability equivalent to flow meters meeting NSF standards; and
- (e) Having means of discharging filter backwash to waste with:
 - (i) Discharge in a manner not creating a public nuisance;
 - (ii) Disposal in accordance with applicable local laws or regulations;
 - (iii) Minimum air gap of two pipe diameters to prevent cross-connection from waste discharge and recirculation system piping;
 - (iv) Discharge receptor and sufficient size piping to accept backwash water and to prevent flooding; and
 - (v) Ability to monitor filter effluent during backwash, that is, use of sight glass.

(f) Providing means to release air entering the filter tank on pressure filters;

- (g) When cartridge filters are used:
 - (i) Provide with an extra set of cartridges; and
 - (ii) Have any bypass valves in a permanently closed position.
- (h) When using pressure DE filters with separation tanks:
 - (i) Providing a means of air release or a lid providing a slow and safe release of pressure; and
 - (ii) Showing a readily visible user warning that the air release must be opened before starting the circulation pump.

TABLE 040.2

SPA POOL FILTER RATE APPLICATION RATES

Type of Filter Media	Rates in gpm/Square Feet	
	Minimum	Maximum
Sand		
Rapid Sand or Pressure Sand	—	3
High Rate Sand Pressure or Vacuum	10	15

Type of Filter Media	Rates in gpm/Square Feet		
	Continuous Feed	Manual Feed	
DE			
Pressure	0.8	1.0	1.5
Vacuum	1.0	1.35	1.5
Cartridge*			.375

NOTE:

*Cartridge filters shall have a nominal micron rating of twenty microns or less.

(18) Disinfection equipment. Owners shall provide disinfection equipment:

(a) Providing a continuous and effective disinfectant residual in the water;

(b) Using a disinfectant with an easily monitored residual;

(c) Having a design feed rate providing effective disinfection levels when the pool is in peak demand conditions;

(d) Having easily cleanable equipment and piping used to apply chemicals and with provisions to prevent undue clogging. All materials shall be resistant to action of chemicals used;

(e) Conforming to NSF standards if the disinfection equipment contains:

(i) Adjustable output rate chemical feed equipment for liquid solutions. The equipment shall:

(A) Feed under positive pressure in the recirculation system;

(B) Provide means for dosage adjustment;

(C) Have provisions to prevent hypochlorite solution siphoning when equipment is turned off. This applies when the disinfection equipment is above pool water level.

(ii) Flow through chemical feed for solid feed materials. Solid tablets or granules shall not be placed in skimmer baskets accessible to the public.

(f) Allowing hand feeding on an emergency basis only;

(g) Meeting the following conditions when using chlorine gas:

(i) Chlorine rooms shall:

(A) Be above ground level;

(B) Be constructed so all openings or partitions with adjoining rooms are sealed;

(C) Be located with consideration of prevailing winds to dissipate leaked chlorine away from the pool facility;

(D) Have door opening outward only and to the out-of-doors; and

(E) Provide a sign on the door exterior reading DANGER CHLORINE. The sign shall be large enough to be read twenty-five feet away.

(ii) Chlorine rooms shall have mechanical exhausting ventilation including:

(A) Air inlet located as far as possible from fan intake to promote good air circulation patterns;

(B) Minimum of one air change per minute in the chlorine room when fan is operating;

(C) A remote switch outside the room or a door-actuated switch to turn on fan before entering;

(D) Suction for fan near the floor;

(E) Exhaust for fan and chlorinator vent located to prevent contaminating air intake and prevent undue hazard for pool facility users; and

(F) Screened chlorinator vent.

(iii) Gas chlorine systems shall:

(A) Be vacuum injection type, with vacuum actuated cylinder regulators;

(B) Provide integral backflow and anti-siphon protection at the injector;

(C) Provide taring (net weight of cylinder gas) scales to determine chlorine weight.

(iv) Breathing protection available in an accessible area for the operator outside of the chlorine room including:

(A) Self-contained breathing apparatus designed for use in a chlorine atmosphere for working with chlorine leaks and maintained in accordance with department of labor and industries standards; or

(B) Provisions to substitute breathing protection at the site, if procedures can be established and documented with emergency service fire districts or other approved organization within the area for promptly responding to chlorine leaks.

(v) Means for automatic shutoff when pool flow is interrupted;

(vi) Chlorine gas cylinders shall:

(A) Be stored only in chlorine rooms;

(B) Have approved valve-stem cylinder wrench on the valve stem to shut the system down in an emergency event;

(C) Be properly secured to prevent tipping;

(D) Be tagged to indicate cylinders are empty or full; and

(E) Not exceed one hundred fifty pounds tare weight per cylinder. If one-ton cylinder use is desired, an engineer specializing in chlorine design shall prepare a design proposal for department consideration.

(19) Chemical feeding equipment for pH control. Owners applying chemicals for controlling pH through chemical feed equipment shall provide equipment with:

(a) Adequate size and design to allow routine cleaning and maintenance;

(b) Materials resistant to chemical action;

(c) Means for automatic shut off when pool flow is interrupted;

(d) Chemical feed equipment for pH control on pools ten thousand gallons or greater;

(e) Any pool feeding with:

(i) Caustic soda (NaOH);

(ii) Carbon dioxide (CO₂); or

(iii) Other chemicals the department determines necessary to require metered and controlled feeding.

(20) Heaters. Where pool heating equipment is provided, owners shall:

(a) Locate equipment so any standing pilot is readily accessible;

(b) Install equipment per NEC and UMC.

(21) Ventilation. Owners shall provide indoor pool facility ventilation conforming with ASHRAE pool facility standards.

(22) Testing equipment. Owners shall use testing equipment as noted in the water quality section under WAC 248-98-030(6).

(23) Chemical storage. Owners shall ensure chemical storage design and placement minimizes safety risks.

(24) Restroom and plumbing fixtures. Owners shall provide restrooms and plumbing facilities at pools as follows:

(a) In the spa pool facilities provided in conjunction with general use and limited use swimming pools, wading pools, or other water recreation facilities, the spa pool bathing load shall be added to the total load for consideration of plumbing fixture units;

(b) If a spa pool is the sole water recreation facility at a site, plumbing fixtures, as noted under Table 040.3, including:

(i) Flush toilets and toilet tissue in dispensers;

(ii) Shower facilities that:

(A) Deliver water at a temperature range of ninety to one hundred ten degrees Fahrenheit; and

(B) Provide single service soap in nonglass dispensers.

(iii) Sinks provided with:

(A) Tempered or hot and cold running water;

(B) Single service soap in nonglass dispensers; and

(C) Single service towels or electric hand dryer.

(iv) Hose bibs with vacuum breakers conveniently accessible to pool and within one hundred feet; and

(v) Sewage disposed in a manner approved by the department or local health officer.

(c) If owners limit the number of people within their facility to a certain number and post maximum occupancy loading, the number of plumbing fixtures may be based on the maximum occupancy.

(25) Lighting. Owners shall design and maintain pool facility lighting to:

(a) Illuminate indoor facilities, outdoor facilities used after dusk, and locker room facilities with a minimum lighting intensity maintained thirty inches above any walking surface, pool deck, or pool area of:

(i) Thirty foot candles at indoor facilities;

(ii) Fifteen foot candles at outdoor facilities; and

(iii) Twenty foot candles in locker rooms.

(b) Allow lifeguards or attendants to clearly see pool areas and walking surfaces;

(c) Meet any additional lighting requirements deemed necessary by the department or local health officer;

(d) Provide protective shielding for all lighting fixtures above walking surfaces and pool areas; and

(e) Provide all indoor facilities with one or more pool-area emergency lights designed to turn on in the event of a power failure. The emergency lighting shall conform to requirements of UL standard 924.

(26) Emergency equipment. Owners shall provide first aid and emergency equipment readily available during operating hours as follows:

(a) Spa pool facilities ten thousand gallons or more or used in conjunction with a general use swimming pool:

(i) A telephone within the facility with a prominently displayed list of emergency medical service response numbers;

(ii) Sufficient and suitable area provided to accommodate persons within the facility requiring first aid treatment and necessary first aid equipment;

(iii) A standard sixteen unit first aid kit;

(iv) Two or more blankets reserved for emergency use;

(v) A clearly marked emergency shut off switch for shutting off all pumps, accessible to the public within twenty feet of the pool. Spa pool facilities shall also provide an audible alarm with the emergency shut off switch; and

(vi) Heater thermostat switches shall be inaccessible to bathers.

(b) Spa facilities containing less than ten thousand gallons:

(i) During the period the facility is open for use, one of the following is required:

(A) Telephone within one minute access;

(B) Alternate means of reaching emergency medical service response numbers; or

(C) Provision of an audible emergency alarm to alert others at the area of need to respond.

(ii) Comply with subsections (26)(a)(iii), (iv), (v), and (vi) of this section.

(27) Signs. Owners shall provide signs at pools which must convey the following conditions, but may be conveyed by any combination of words, pictures, or symbols:

(a) Prohibition of running or horseplay;

(b) Prohibition of use by persons with communicable diseases;

(c) Prohibition of use by persons under the influence of alcohol or drugs;

(d) Requirement for a cleansing shower before pool entry;

TABLE 040.3

PLUMBING FIXTURE MINIMUM REQUIREMENTS FOR SOLE FACILITY SPA POOLS

Spa Pools With:	Minimum Number of Fixture Units				
	Toilet	Shower	Sink	Dress- ing Room	Hose Bib
1. Limited spa use with living units* within 100 feet and less than 3 stories	-	-	-	-	1
2. Limited spa use with living units > 100 ft. and < 500 ft. and < three stories**	1	-	1	-	1
3. Limited spa use with living units > 500 ft. and < 1/4 mi. and/or > three stories**	1(M) 1(F)	1(M) 1(F)	1(M) 1(F)	- -	1 -
4. Limited spa use with living units > 1/4 mile or general use spa pool***	1(M) 1(F)	1(M) 1(F)	1(M) 1(F)	1(M) 1(F)	1 -

NOTE:

Living unit means all the units the facility serves.

**Consideration for elevators adjacent to pool may allow variance from this requirement.

***When bathing load exceeds 40 of either sex, the fixture units provided shall conform to general use requirements for swimming pools.

(e) Caution that persons suffering from heart disease, diabetes, or high blood pressure should consult a physician before spa pool use;

(f) Caution for women who are or may be pregnant to seek the advice of a physician regarding spa use and to limit the women's time in the pool;

(g) Persons should limit the stay in the pool to fifteen minutes at any one session;

(h) All children twelve years of age or under shall be accompanied by a responsible adult observer. No child six years of age or under should use the pool;

(i) No person seventeen years of age or under shall use the pool alone;

(j) Maximum bathing capacity of pool shall be posted;

(k) Prohibition of food or drink in the pool water;

(l) In pools where lifeguards or attendants are not present, post requirements for facility use as described under WAC 248-98-045(3); and

(m) Location of the nearest telephone or emergency notification procedure.

(28) Food service. When owners allow or make provisions for food service:

(a) At general use pool facilities, ensure food and beverage sale and consumption areas are separated from pool and deck. Special provisions may allow food and beverage service on the walkway provided a minimum six feet clear area is maintained between the pool and any tables or chairs provided for food service for special facility functions;

(b) At limited use spa pool facilities, prohibit food and beverage in the pool water and maintain a minimum four foot clear area between pool edge and any tables and chairs provided for food service;

(c) At general use pool facilities, prohibit alcoholic beverages;

(d) At limited use pool facilities, when alcohol is sold within the pool facility, provide an attendant at the pool area;

(e) Provide trash containers; and

(f) Prohibit glass containers in the pool facilities.

NEW SECTION

WAC 248-98-045 OPERATION—SPA POOLS.

(1) Operation plan. Owners shall ensure proper operation to protect the public health, safety, and water quality by establishing practices and developing an operations manual addressing each of the following:

(a) Physical pool facility components;

(b) Personnel;

(c) Users and spectators; and

(d) Environmental conditions.

(2) Physical components. Owners shall provide routine checks of the physical components:

(a) Ensuring all structural facilities which the users come in contact are intact and free from undue wear or fatigue and replaced as needed;

(b) Eliminating adverse affects of water ponding on walking surfaces;

(c) Ensuring preventive maintenance on equipment essential for protection of the public health, safety, and water quality;

(d) Ensuring any necessary emergency equipment is available and in good repair;

(e) Having means for routine oxidation of spa pool water provided after heavy use, for example, super chlorination;

(f) Maintaining barrier protection;

(g) Ensuring common articles such as towels, bathing suits, bathing caps, etc., for patron use shall be sanitized before re-use if provided for patrons; and

(h) Ensuring a continuous twenty-four-hour-a-day treatment and turnover during periods of use not exceeding:

(i) Thirty minutes in lightly loaded spas; or

(ii) Twenty minutes in moderately loaded spas; or

(iii) Ten minutes in heavily loaded spas.

(iv) Turnover rates designated in subsection (2) of this section, except allowance shall be made for minor equipment maintenance and existing pools with turnover rates varying from this section may continue to operate if water quality conditions conform with WAC 248-90-030.

(3) Required personnel. Owners shall ensure appropriate personnel at pool facilities as follows:

(a) A lifeguard or attendant. If no lifeguard or attendant is present, pool facility use shall be subject to the following conditions:

(i) When pool is used by children twelve years of age or under, a responsible adult eighteen years of age or older shall accompany the children and be at the pool or the pool deck at all times the children use the facility;

(ii) When used by persons seventeen years of age or under, a minimum of two people at the pool facility at all times the pool is in use;

(iii) At general use pools, subdivision (a)(i) and (ii) of this subsection be posted; and

(iv) At limited use pools, subdivision (a)(i) and (ii) of this subsection be posted and ongoing provisions notify the responsible person of the conditions.

(b) A water treatment operator.

(4) Personnel duties and equipment. Owners shall ensure the specific duties and equipment of designated personnel include:

(a) Lifeguards, during periods of lifeguarding, guard users of the pool facility in areas assigned;

(b) Assistant lifeguards when provided at the pool used under the following conditions:

(i) Assistant lifeguard limited to guarding responsibility of areas four feet or less in depth; and

(ii) A lifeguard overseeing the activities of the assistant lifeguard;

(c) Attendants, when provided, at pools not requiring lifeguards oversee use of the pool by bathers and provide supervision and elementary rescues such as reaching assists to bathers in need;

(d) Water treatment operator oversees that the water treatment components are adequately functioning to protect public health, safety, and water quality;

(e) Notification of responsible persons on the conditions for facility use at pool facilities not requiring lifeguards, and where no lifeguards or attendants are

present. A responsible person means a person having responsibility for overseeing users seventeen years of age or under, including but not limited to a person:

(i) Renting an apartment, hotel, motel, RV camp site; or

(ii) Who is an owner or member of a condominium, home owner's association, mobile home park, or private club with a pool facility.

(f) Lifeguards, assistant lifeguards, or attendants:

(i) Wear distinguishing suit, uniform, or emblem; and

(ii) Equipped with a whistle or a signaling device.

(5) Personnel training. Owners shall require training for each type of personnel including:

(a) Lifeguards shall maintain current certificates in the following:

(i) Standard first aid and adult, single rescue CPR through ARC or American Heart Association; and

(ii) Advanced lifesaving, advanced lifesaving review, or lifeguard training through ARC; or

(iii) YMCA lifeguarding or crossover course through the YMCA; or

(iv) Lifeguard through the National Lifeguard Service, Canada; or

(v) Lifeguard through the National Pool and Waterpark Lifeguard Training; or

(vi) Basic lifeguard through advanced lifeguard training international; or

(vii) Other training the department determines equivalent; and

(viii) Thirty-six months after enactment of personnel training provisions of this chapter, the department shall no longer recognize training for lifeguards in advanced lifesaving or advanced lifesaving review through the ARC.

(b) Assistant lifeguards shall maintain current certificates and meet the requirements in the following:

(i) Adult, single rescue CPR through ARC or American Heart Association; and

(ii) Emergency water safety with ARC; or

(iii) Bronze medallion award through the Royal Life-saving Society of Canada; or

(iv) Shallow water lifeguard through the National Pool and Waterpark Lifeguard Training; or

(v) Other training the department determines equivalent; and

(vi) Be fourteen years of age or older.

(c) Attendant shall maintain current certificates and meet the requirements in the following:

(i) Adult, single rescue CPR through ARC or American Heart Association; and

(ii) Basic water safety with ARC; or

(iii) Lifesaver with YMCA; or

(iv) Bronze medallion award through the Royal Life-saving Society of Canada; or

(v) Other training the department determines equivalent; and

(vi) Be sixteen years of age or older.

(d) Water treatment operator shall have specific knowledge in the provision of pool water chemistry, filtration, pumping equipment, and rules and regulations pertaining to pool facilities;

(e) When the pool facility is using chlorine gas, an operator shall have specific training as follows:

(i) Proper operation of the chlorination equipment and routine maintenance procedures;

(ii) Basic understanding of physical and chemical properties of chlorine gas under pressure;

(iii) Basic understanding on use of leak detection and emergency safety equipment;

(iv) Basic knowledge of proper first aid procedures and response for accidental chlorine gas inhalation; and

(v) Six hours or more of formal instruction once every three years or three hours or more every eighteen months with certificate of training provided.

(f) Persons shall be exempt from having a current CPR or standard first aid certificate if the person holds a current certificate in any of the following:

(i) Community CPR, in place of adult, single rescue CPR;

(ii) In place of standard first aid:

(A) Advanced first aid;

(B) First responder;

(C) Emergency medical technician; or

(D) Paramedic.

(iii) Other training the department recognizes as equivalent or exceeding current requirements.

(6) Emergency response plan. Owners shall ensure emergency response provisions as follows:

(a) In pool facilities where lifeguards or assistant lifeguards are provided:

(i) Lifeguard, or assistant lifeguard where provided, is located to provide a response time not to exceed thirty seconds to all pool users;

(ii) Based on, but not limited to, the following:

(A) Pool depth;

(B) Line of sight;

(C) Bather load;

(D) Training procedures;

(E) Emergency procedures; and

(F) Lifeguard rotation.

(iii) Emergency response drills to meet the response time including:

(A) Drills two or more times each year;

(B) Testing documentation.

(b) In pool facilities where no lifeguard or assistant is provided:

(i) Posting and ongoing notification and enforcement of conditions of pool use described under subsection (3) of this section;

(ii) Enforcement of conditions by owner and authorized personnel;

(iii) Emergency equipment specified under WAC 248-98-040(26) readily available during operating hours.

(c) In pool facilities where chlorine gas is used:

(i) Annual emergency drills; and

(ii) Identification of the location of accessible chlorine cylinder repair kits.

(7) Bather use. Owners shall establish rules of conduct for facility users to ensure health and safety. The rules shall include signage noted under WAC 248-98-040(27) of this chapter.

(8) Environmental conditions. Owners shall monitor various environmental conditions affecting the facility or the user and take appropriate action in response to these factors, including electrical storms, fog, wind, visibility problems, etc.

(9) Closure. Owners shall close the facility when the facility or portion thereof presents an unhealthful, unsafe, or unsanitary condition. These conditions would include lack of compliance with the water quality or operation requirements as detailed under WAC 248-98-030 and 248-98-045.

AMENDATORY SECTION (Amending § 248-98-050 (11)(j), filed 10/3/67)

WAC 248-98-050 SWIMMING POOL DESIGN, CONSTRUCTION, AND EQUIPMENT. ((The following design, construction, and equipment criteria will apply to all pools subject to these rules and regulations except as specifically noted. The design engineer or architect shall submit his computations for such portions of the design as the state director of health may require.

(1) Location. Outdoor pools shall be located where they will not be exposed to excessive pollution by dust, smoke, soot, surface drainage from surrounding areas, or other undesirable substances.

(2) Material. Pools shall be constructed of concrete or other approved material with an impervious finish adapted to the requirements of the various parts of the pool, and suitably constructed to withstand normal weather cycles.

(3) The rate of slope of the bottom of a public swimming pool shall not exceed 1 foot in 15 feet from the point of least depth to the tangent point of the vertical transition curve leading to the deepest part of the pool, and the radius of curvature from the transition tangent point through the first 15° of curvature shall not exceed 2 feet. All portions of the pool bottom shall have definite slope toward the outlets.

(4) Radius of curvature of coving. Where coved construction is used between the side walls and bottom of public and semipublic swimming pools, the radius of curvature shall not exceed the following values:

(a) At 3-foot depth, a 6-inch radius cove at the base of a 2-foot, 6-inch vertical section.

(b) At 3-foot, 6-inch depth, a 1-foot radius cove at the base of a 2-foot, 6-inch vertical section.

(c) At 5-foot depth, a 1-foot, 6-inch radius cove at the base of a 3-foot, 6-inch vertical section.

From this point the spring line or point of departure from vertical may rise through an 8-foot transitional zone, measured horizontally, to a typical deep end wall design consisting of a 2-foot, 6-inch vertical section with a curved section from that point meeting the floor of the pool.

(5) Walk areas. Walkways shall be provided around the entire perimeter of the pool. They shall slope away from the pool, be provided with adequate drains, and be constructed of an impervious material with nonslip finish. For public swimming pools, total walkway area provided shall be not less than 16 square feet per bather, based on the bather load as computed below in paragraph (11)(m) of this section, and may be distributed

around the pool in any manner, provided that the minimum walkway width at any point shall be 4 feet. For semipublic swimming pools walkways shall be not less than 4 feet in width and shall circumscribe the pool.

(6) Fencing. At outdoor public and semipublic pools, the entire area shall be fenced so that persons in street apparel and animals cannot enter the area used by bathers. Spray pools and wading pools shall be fenced so as to prevent the entrance of animals and minimize the entrance of persons not actively utilizing the pool facilities. For semipublic pools, fencing may consist of any suitable barrier so designed and constructed as to prevent the free and easy passage of persons from one area to another.

(7) Sand and grass areas. Sand and grass areas shall not be allowed inside of the pool enclosure unless properly fenced off to prevent direct access on the part of bathers and unless satisfactory facilities are provided for the proper cleansing of bathers before they again enter the bathing area. Fencing may consist of any barrier so designed and constructed as to prevent the free and easy passage of persons from one area to another. The provisions of this paragraph shall not apply to semipublic pools, spray pools, and wading pools.

(8) Inlets. Inlets for fresh or repurified water shall be located to produce, so far as possible, uniform circulation of water and the maintenance of a uniform chlorine or other disinfectant residual throughout the entire pool without existence of dead spots. Inlets for the circulation system shall be submerged to reduce escape of chlorine or other disinfectants.

(9) Outlets. Outlets shall be provided at the low points of the pool. They shall be not more than 20 feet apart nor more than 10 feet from the vertical portion of the sidewalls. Total area of the openings in the outlet gratings shall be such as to preclude the possibility of developing a suction dangerous to bathers' safety. The pool outlet piping shall be valved and shall discharge to the recirculation pump suction and have a capacity equal to 100% of the recirculation pump capacity.

(10) Overflow channel and skimming facilities.

(a) Public swimming pools, except as provided for under subparagraph (b) of this paragraph, shall be provided with an overflow channel around the entire perimeter of the pool. The design shall be such that matters entering them will not be washed back into the pool, and so dimensioned as to minimize the danger of bathers catching arms or feet in them. Channels shall be adequately sloped to provide rapid drainage to drains spaced not more than 15 feet apart, and drainage from channels shall be returned to the filters. The overflow channel drainage and collection system shall have a hydraulic capacity sufficient to carry 100% of the recirculation pump capacity plus one-fifth of the balancing tank capacity expressed in gallons per minute.

(b) Semipublic swimming pools and public swimming pools of 2500 square feet of area, or less, provided for hotels, motels, private clubs, apartment houses or trailer courts may, in lieu of overflow channels, be provided with suitable devices which will accomplish the purpose of an overflow channel. The minimum number of such devices shall be equal to at least one device for each 500

square feet of surface area, or fraction thereof, plus one additional device where considered necessary, and they shall be so spaced that the surface of the pool will be skimmed uniformly. Each device shall be provided with a valve, and piping will be so designed hydraulically that the devices will collectively carry 100% of the recirculation pump capacity. Such devices must be recessed in the wall of the pool in such a manner that no part protrudes beyond the plane of the wall into the pool. They shall be automatically adjustable to variations in water level over a range of at least 3 inches; shall be provided with a device to prevent air lock in the recirculation suction line; and shall be equipped with an easily removable and cleanable screen designed to trap large solids.

(11) Recirculation:

(a) Public swimming pools shall be provided with complete recirculation equipment and facilities, including pumping equipment, hair and lint catcher, filters, and balancing tanks, together with all necessary valves, pipe connections to the inlets and outlets of the pool, and provisions for cleaning the filters. The entire system and its component parts shall be so designed that the entire volume of the pool can be recirculated in 6 hours. Not less than 60% of the recirculated water shall be returned through the overflow channels.

(b) Semipublic pools shall be provided with complete recirculation equipment and facilities, including pumping equipment, hair and lint catcher, filters, and balancing tanks, when required, together with all necessary valves, pipe connections to the inlets and outlets of the pool, and provisions for cleaning the filters. The entire system and its component parts shall be so designed that the entire volume of the pool can be recirculated in 12 hours. Not less than 60% of the recirculated water shall be returned through the overflow devices or channels.

(c) Filtration equipment. The maximum permissible filter rates shall be not greater than 3 g.p.m. per square foot of filter area for pressure filters using sand or equal media; 2 g.p.m. per square foot of filter area for diatomaceous earth filters; and 3 g.p.m. per square foot of filter area for gravity filters using sand or equal media.

(d) Disinfection equipment. Equipment shall be provided for the adequate disinfection of all pool water. When chlorinators are used for public pools, the capacity shall be sufficient to feed at the rate of at least 3 lb. of chlorine per 24 hours per 10,000 gallons of pool capacity; and for semipublic pools the capacity shall be sufficient to feed at the rate of at least 1 lb. of chlorine per 24 hours per 10,000 gallons of pool capacity. When gas chlorination is used, the chlorination equipment and all gas containers shall be housed in a separate room or rooms with the access doors opening to the outside of the building. All gas chlorination equipment, including gas containers, shall be housed above ground level and be adequately ventilated.

(e) Coagulant and alkalinity equipment. Suitable equipment for the feeding of a coagulant and alkalinity-producing chemical at such points that their use will be most effective shall be provided.

(f) All swimming pools shall be equipped with facilities for adding make-up water.

(g) Cross-connections. No piping arrangement shall exist which under any condition will permit sewage or waste water to enter the recirculation system or the pool; or water from the recirculation system or the pool to enter the make-up water supply.

(h) Access to equipment. Filters and other equipment shall be easily accessible.

(i) Testing equipment. Suitable testing equipment in good repair, for determination of hydrogen ion concentration (pH), alkalinity, and disinfectant residual shall be provided, together with the necessary reagents.

(j) Rate of flow indicators:

(i) Public pools: Two rate of flow indicators shall be installed so as to measure gallons per minute flow. One indicator shall be located at the recirculation pump; and the other shall be located at the main pool outlet pipeline.

(ii) Semipublic pools: A single flow indicator shall be installed to measure in gallons per minute the total recirculation flow.

(k) Loss of head gauges. Suitable loss of head gauges shall be provided for measurement of lost head through filters.

(l) Provision shall be made for means of discharging filter backwash to waste; and where diatomaceous filters are used, provision shall be made for recirculating first-filtered water to filter or discharging to waste.

(m) Bather load capacity. The maximum number of bathers permitted within the pool enclosures of public pools at any one time shall not exceed a number determined by the following formula:

$$\text{Maximum Bathing Load} = \frac{A - S}{27} + \frac{S}{10}$$

Where

A = Total area of water surface in square feet

S = Area of pool less than 5-feet 6-inches deep in square feet

Also, this formula will be used in determining certain features of pools as noted elsewhere in these rules and regulations:

(n) Balancing tank capacity. Where balancing tanks are required, the capacity shall be equal to 6 times the maximum bathing load expressed in gallons. If the balancing tank is designed to serve as a make-up water tank or to prevent air lock in the pump suction line; or both, the capacity shall be increased sufficiently to accommodate these uses.

(12) Exceptions to recirculation requirements can be made for flowing-through pools in cases where the supply of water is sufficient to provide the same turnover period that is specified for recirculation pools; and provided that the water supply meets the quality requirements as outlined in WAC 248-98-030 and is subjected to a method of disinfection as outlined in WAC 248-98-040; and provided that the introduction of fresh treated water into pool is accomplished by the same type of inlet design required for recirculation pools.

(13) Steps, ladders, and step holes. Steps, ladders and step holes for entering and leaving the pool shall be of

such construction as to minimize danger of accidents. Treads shall be of nonslip material. Where step holes are provided, they shall be of such design that they may be readily cleaned and be provided with drains into the pool to prevent accumulation of dirt. In public swimming pools, stairs shall be recessed into the wall of the pool and walkway of the pool, and a guard rail shall be provided in the walkway around the stairwell. In semipublic swimming pools, stairs may be constructed so as to extend into the pool, provided that the stair tread edge is constructed of a material so colored as to contrast with the color of the stairs and be clearly visible and evident to bathers.

(14) Dressing rooms. Dressing rooms shall be arranged so as to be easily accessible to toilet and shower facilities, and such that there will be minimum occasion for the patrons with bare feet and those in street shoes to walk in the same area, and shall be well lighted and ventilated. Floors of dressing rooms shall be constructed of impervious material with a nonslip finish and sloped to properly located drains.

(15) Shower facilities. Adequate shower bath facilities, with hot and cold or tempered running water, shall be provided for each sex. The minimum number of showers shall be one for each forty bathers at time of maximum use.

(16) Toilet facilities.

(a) Flush toilets shall be provided at a place all bathers must pass before entering the pool. One toilet for each forty women and one toilet and one urinal for each sixty men shall be provided. Urinals shall be so constructed that urine does not splash onto the floor or bathers' legs.

(b) The sewage or excreta from toilet facilities provided in the vicinity of any swimming pool shall be disposed of in a manner approved by the health officer.

(c) Where toilet facilities are provided for spectators, such facilities must be separate from those provided for bathers, and the approaches to spectators' toilet facilities shall not include areas where bathers pass in bare feet.

(17) Lighting.

(a) Pool and pool enclosure. All indoor public and semipublic pools, and all outdoor public and semipublic pools at which night bathing is permitted, shall be provided with lighting fixtures of such number and design as to light all parts of the pool enclosure and the water in the pool. The lighting intensity measured at a point 30 inches above any part of the pool walkway shall be not less than 15 foot-candles. Arrangement and design of lighting fixtures shall be such that lifeguards may see clearly every part of the pool waters, walkways, springboards, and other appurtenances without being blinded by light. When underwater pool lighting is provided, such lights shall be so installed as to create no hazard to bathers.

(b) Shower and dressing rooms. Shower rooms and dressing rooms of all public and semipublic pools shall be provided with lighting fixtures of such number and design, and be so located, as to provide a lighting intensity of not less than 15 foot-candles measured at a point 30 inches above any part of the shower room or dressing room floor. Location of lighting fixtures and control

switches shall be such as to create no hazard to persons using these facilities.

(18) Drinking water supply. A safe, sanitary drinking water supply shall be provided at conveniently located drinking fountains located within the pool enclosure. The drinking fountains shall be of the angle jet type and meet the standards of the American Standards Association.

(19) Semipublic pools are exempted from the provisions of paragraphs (14), (15), (16)(a), and (18) of this section.

(20) Foot baths. The provision of foot baths is optional. If provided, they shall be equipped with an adequate drain, or shall be of a portable nature, shall be cleaned daily, and shall contain a chlorine solution of 0.3% to 0.6% chlorine or other solution of equal bactericidal quality approved by the health officer.

(21) Hose bibs. Hose bibs shall be provided at convenient locations within the dressing rooms and adjacent to the pool walkways at all public and semipublic pools and wading pools.

(22) Wash basins. A minimum of one wash basin shall be provided for each sex and be located adjacent to the toilets.

(23) Soap. Liquid or powdered soap in suitable dispensing equipment shall be provided at each shower head and each wash basin, and soap dispensers shall be kept clean and filled at all times that pool is in use.

(24) Toilet tissue. Toilet tissue in suitable dispensers shall be provided at each toilet. Dispensers shall be kept filled at all times that pool is in use.)) (1) Location. Owners shall locate pools to:

(a) Minimize pollution by dust, smoke, soot, and other undesirable substances;

(b) Eliminate pollution from surrounding surface drainage; and

(c) Ensure pump house, trees, and other structures are located fifteen feet or more from the pool or provide barriers or other means to prevent ready access from the structure. Structures shall not be construed to include:

(i) Building walkways above the second story or roofs of any building structure; or

(ii) Any barriers provided to prevent unauthorized pool access, for example fencing.

(2) Materials. Owners shall use only structure and equipment materials which are nontoxic, durable, inert, impervious to water, and easily cleanable.

(3) Walking surfaces. Owners shall design and maintain walking surfaces:

(a) Uniformly sloping away from the pool or pools a minimum of one-fourth inch per foot and a maximum of one-half inch per foot;

(b) Of a nonslip finish not presenting a tripping hazard;

(c) Equipped with sufficient drains to prevent standing water;

(d) Of easily cleanable, impervious finishes;

(e) At least six feet wide on the shallow end of pool, except for:

(i) Pools with all depths uniform at ends, at least one end six feet wide or more; or

(ii) Circular or irregular pools at least twenty-five percent of the deck six feet wide or more.

(f) Four feet or more in width on pools with an area fifteen hundred square feet or less;

(g) Six feet or more in width;

(i) On outdoor pools fifteen hundred square feet or more;

(ii) On fifty percent of the perimeter of indoor pools fifteen hundred square feet or more. Perimeter on remainder of the deck shall be four feet or more in width.

(h) A minimum of sixteen square feet per bather on pools fifteen hundred square feet or more. Determine maximum bather load as described under subsection (12) of this section. If owner provides maximum facility occupancy loading less than that of subsection (12) of this section, and such occupancy limit is posted and enforced, that loading may be used in lieu of the maximum bather load figure as described under subsection (12) of this section;

(i) In swimming pools designed for competitive use with likelihood of spectators, a minimum of six feet between spectator viewing area and the pool. Balconies shall be fifteen feet or more from the pool unless properly safeguarded from intruding into the pool area;

(j) In conformance with department-established guidelines for any resilient artificial surfaces; and

(k) General use pools shall not have sand and grass areas within the pool enclosure unless separated to prevent direct access from the pool area and means are provided for cleansing the bather's feet before re-entering the pool and deck area.

(4) Barriers. Owners shall provide barrier protection to prevent unauthorized access including:

(a) In outdoor facilities, a barrier of sixty inches or more in height with:

(i) Barrier:

(A) Not allowing passage of a four-inch diameter sphere;

(B) Horizontal members with less than forty-five inches spacing between tops of the horizontal members shall have vertical members not exceeding one and three-quarter inches in width;

(C) Horizontal members with forty-five inches or more spacing between tops of the horizontal members shall have vertical members not exceeding four inches in width.

(ii) Lockable gates and entrances provided with a self-closing, self-latching mechanism fifty-four inches or more from the ground with a clear space fifty inches deep on the latch side of the door to position a wheelchair. When a latching mechanism is provided at any lower height, the latching mechanism shall be of a type remaining continuously locked, and only opening with the use of a key or other access control system.

(b) At outdoor facilities not a part of living facilities, such as in a municipal park, a barrier six feet or more shall be provided to prevent unauthorized access;

(c) Indoor facility barriers sixty inches or more in height, suitable to prevent access of unauthorized individuals;

(d) Restricted area service entrances shall be exempt from door or gate requirements providing no public access is available;

(e) Lifeguarded pools are not required to have a self-closing, self-latching gate during the period a pool is in use. Facility gates shall be closed and locked during non-use periods; and

(f) An entrance to the pool area which shall not serve as a required exit from another part of the building when there is a conflict with other codes or regulations.

(5) Pool surfaces. Owners shall ensure pool surfaces with:

(a) Materials complying with subsection (2) of this section;

(b) Water tight and nonabrasive construction; and

(c) White or light color finish not obscuring the view of objects or surfaces;

(d) Surfaces not causing cutting, pinching, puncturing, entanglement, or abrasion hazard under casual contact; and

(e) Construction tolerances conforming with current NSPI public pool standards.

(6) Pool general floor and wall dimensional design. Owners shall ensure pool dimensional designs for floors and walls provide for safety, circulation, and quality of the water including, but not limited to:

(a) Uniform pool floor slopes as follows:

(i) Pools fifteen hundred square feet or more providing a maximum slope of one foot drop in twelve feet of run at pool depths to five and one-half feet;

(ii) Where diving provisions are included, floor slopes not intruding into the area designated as the diving envelope; and

(iii) A slope change transition zone (breakpoint from shallow to deep areas of pool) providing warning of the break in slope into diving or deep pool areas consisting of a two-foot wide ramp sloped at twice the slope of the shallow bottom.

(b) Pool vertical walls may be curved, not to exceed allowable radius, to join the floor for minimum distance as noted under Table 050.1 of this section. Vertical means walls not greater than eleven degrees from plumb:

(i) Coving or portion of the side wall of a pool diving area shall conform as required and as described under subsection (7) of this section; and

(ii) In new construction or alterations to existing construction, ledges are prohibited.

(c) A maximum intrusion for pool walls beyond the vertical, as defined under subsection (6)(b) of this section, with any configuration not to exceed a transitional radius from wall to floor where floor slopes join walls and which has:

(i) Center of radius not less than the minimum vertical depth specified under Table 050.1 of this section below the water level;

(ii) Arc of radius tangent to the wall; and

(iii) Maximum radius of coving, or any intrusion into the pool wall/floor interface, determined by subtracting the vertical wall depth from the total pool depth.

TABLE 050.1

MAXIMUM RADIUS COVING OR POOL INTRUSION DIMENSIONS BETWEEN POOL FLOOR AND WALL*

Pool Depth	2'0"	3'0"	3'6"	5'0"	>5'0"
Minimum Sidewall	1'6"	2'2"	2'6"	3'6"	@>3'6"
Vertical Depth (Springline)					
Maximum Radius of Curvature	6"	10"	12"	1'6"	**Maximum radius equals pool depth minus the vertical wall depth

NOTE:

- *For pool depths falling between the depths listed, values can be interpolated.
- **Radius of coving cannot intrude into pool within diving envelope.

(7) Specific design requirements for pools furnishing areas for diving. Owners shall ensure provision of diving envelopes in pools or areas of pools designated for diving activities to include a diving envelope not less than the:

(a) APHA standard configuration noted under figure 050.2 of this section in areas where user would enter from the deck level twelve inches or less from water level. This requirement is based on a standard described under APHA public pool regulations, 1981, for pool type described under D-8.01 Table 1, the section noting the requirements from deck level;

(b) CNCA standard configuration noted under figure 050.3 of this section in areas where the user would enter from the deck level over twelve inches from water level, or has a platform or diving board provided at a height of less than one-half meter (twenty inches). This requirement is based on a standard described under CNCA publication Swimming Pools: a Guide to their Planning, Design, and Operation 1987, Fourth Edition. Human Kinetics Publisher, Inc., Champaign, Illinois, figure 8.1; and

(c) FINA standard configuration noted under figure 050.4 of this section in areas where the user would enter from the diving board or platform at a height of one-half meter (twenty inches) or greater. This requirement is based on a standard described in FINA publication FINA Handbook, 1986-88, constitution and rules governing swimming, diving, water polo, and synchronized swimming, 1986-88. Edited by E. Allen Harvey, Vancouver, Canada VGN 3R6, Section D, pp. 114-115.

FIGURE 050.2

MINIMUM DIMENSIONS FOR POOLS WITH DIVING FROM DECK LEVEL WHICH IS LESS THAN TWELVE INCHES FROM THE WATER LINE

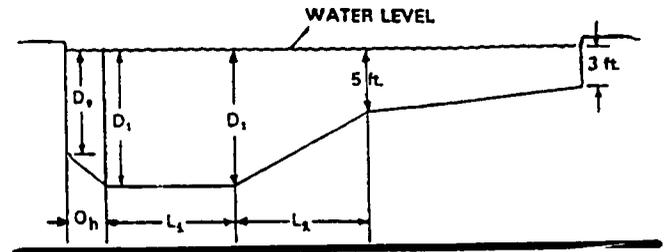
**APHA STANDARDS*
D-8 DIVING AREA REQUIREMENTS**

D-8.01

The dimensions of the diving area on all swimming pools providing diving from deck level shall conform to the following dimensions:

Table 1. The diving area dimensions on all swimming pools providing diving from deck level.

Heights		Lengths		
Height of Deck Above Water Level	Water Depths	Length of Diving Well		Run-Out
H	D(0) D(1)	L(1)	L(2)	
12" or less	6 ft 8.5 ft	12 ft	10.5 ft	
Over 12 inches	See standards for over twelve inches as applicable (either CNCA or FINA in inches following subsections).			



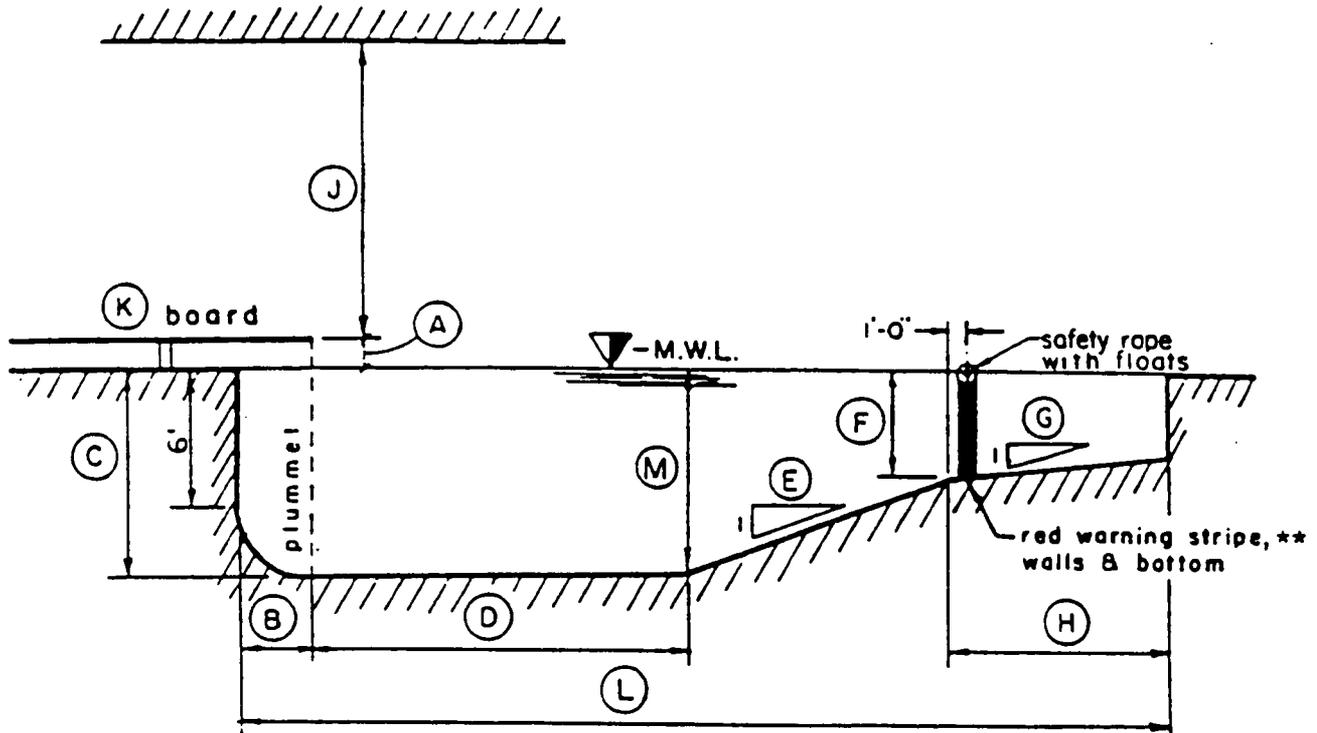
NOTE:

*The department underlined areas for clarification.

Figure 050.3

Minimum dimensions for pools with boards or platforms at a height of less than 1/2 meter (20 inches)

CNCA STANDARDS



Dimension	Minimum	Preferred or Maximum
A Height of board above water		20 in.
B Board overhang	2 ft 6 in.	3 ft
C Depth of water at plummet	9 ft	10 ft *
D Distance from plummet to start of upslope	16 ft	18 ft *
E Inclination of upslope of bottom		1:3
F Depth of water at breakpoint	4 ft 6 in.	
G Slope of bottom in shallow portion of pool	1:12	1:15 *
H Length of shallow section of pool	8 ft	14 ft *
J Distance to any overhead structure	13 ft	15 ft *
K Board length		12 ft
L Length of pool	40 ft	50 ft *
M Dimension not less than C minus	6 in.	

NOTE (FROM FIGURE 050.3):

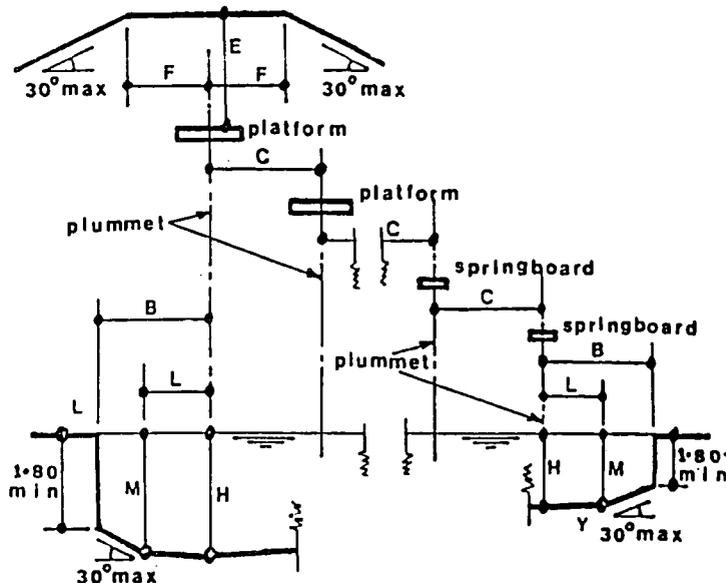
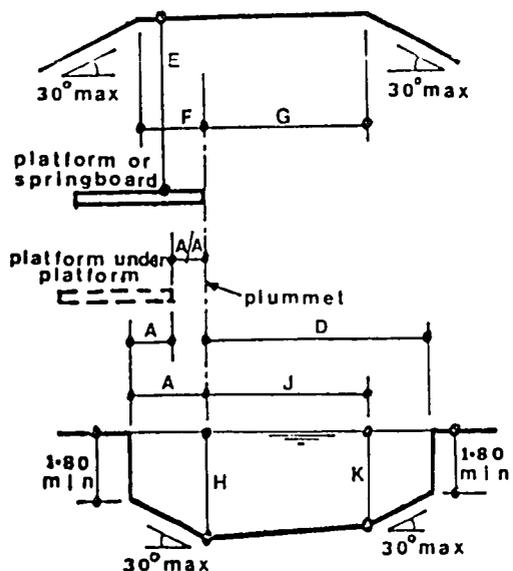
*Values with asterisks are not to be considered as maximums.

**Warning stripe at break point may be of any contrasting color.

FIGURE 050.4

MINIMUM DIMENSIONS FOR POOLS WITH BOARDS OR PLATFORMS AT A HEIGHT OF 1/2 METER OR MORE

FINA STANDARDS



LONGITUDINAL SECTION
DIAGRAMMATIC ONLY

CROSS SECTION
DIAGRAMMATIC ONLY

FINA Dimensions for Diving Facilities		Dimensions are in Metres	Springboard		Platform				
			1 Metre	3 Metres	1 Metre	3 Metres	5 Metres	7.5 Metres	10 Metres
Revised to 1st Jan 1987		LENGTH	4.80	4.80	4.50	5.00	6.00	6.00	6.00
		WIDTH	0.50	0.50	0.60	1.50	1.50	1.50	2.00
		HEIGHT	1.00	3.00	0.60-1.00	2.60-3.00	5.00	7.50	10.00
A	From plummet BACK TO POOL WALL	DESIGNATION	A-1	A-3	A-1pl	A-3pl	A-5	A-7.5	A-10
A/A	From plummet BACK TO PLATFORM plummet directly below	DESIGNATION					A-5/1	A-7.5/1	A-10/3/1
B	From plummet to POOL WALL AT SIDE	DESIGNATION	B-1	B-3	B-1pl	B-3pl	B-5	B-7.5	B-10
C	From plummet to ADJACENT PLUMMET	DESIGNATION	C-1/1	C-3/3/1	C-1/1pl	C-3/1/1/3pl	C-5/3/1	C-7.5/5/3/1	C-10/7.5/5/3/1
D	From plummet to POOL WALL AHEAD	DESIGNATION	D-1	D-3	D-1pl	D-3pl	D-5	D-7.5	D-10
E	On plummet, from BOARD TO CEILING	DESIGNATION	E-1	E-3	E-1pl	E-3pl	E-5	E-7.5	E-10
F	CLEAR OVERHEAD behind and each side of plummet	DESIGNATION	F-1	F-3	F-1pl	F-3pl	F-5	F-7.5	F-10
G	CLEAR OVERHEAD ahead of plummet	DESIGNATION	G-1	G-3	G-1pl	G-3pl	G-5	G-7.5	G-10
H	DEPTH OF WATER at plummet	DESIGNATION	H-1	H-3	H-1pl	H-3pl	H-5	H-7.5	H-10
J	DISTANCE AND DEPTH ahead of plummet	DESIGNATION	J-1	J-3	J-1pl	J-3pl	J-5	J-7.5	J-10
K	DISTANCE AND DEPTH each side of plummet	DESIGNATION	K-1	K-3	K-1pl	K-3pl	K-5	K-7.5	K-10
L	DISTANCE AND DEPTH each side of plummet	DESIGNATION	L-1	L-3	L-1pl	L-3pl	L-5	L-7.5	L-10
M	DISTANCE AND DEPTH each side of plummet	DESIGNATION	M-1	M-3	M-1pl	M-3pl	M-5	M-7.5	M-10
N	MAXIMUM SLOPE TO REDUCE DIMENSIONS beyond full requirements	POOL DEPTH	30 degrees	30 degrees	NOTE: Dimensions C (plummet to adjacent plummet) apply for Platform with widths as detailed. For wider Platforms increase C by half the additional width(s)				

(8) Pool appurtenances. Owners shall ensure swimming pools:

(a) Have handholds around the perimeter in pools two feet or more in depth. Handholds shall be four feet or less apart and consist of any one or a combination of the following:

(i) Coping, ledges, radius flanges, or decks along the immediate top edge of the pool or suitable slip-resisting handholds located twelve inches or less above the waterline;

(ii) Ladders or steps; or

(iii) Secured rope or railing twelve inches or less above the water line.

(b) Have stairs, ladders, or stepholes with:

(i) Stairs, when provided, meeting the following construction requirements:

(A) Nonslip tread finish;

(B) Contrasting color stair tread edges clearly visible to users;

(C) Recessed in pool areas used for lap or competitive swimming to prevent intrusion into the activity areas;

(D) Handrails with the leading edge for stairs at pool entry/exit being neither eighteen inches or more beyond nor eight inches or more inside (horizontally) the vertical plane of the bottom riser;

(E) Riser treads with a minimum unobstructed, horizontal, ten-inch tread depth and a minimum two-hundred-forty-inch surface area;

(F) Riser heights, on general use pools fifteen hundred square feet or more, uniform and seven and one-half inches or less, except the bottom riser may be less than the uniform height; and

(G) Riser heights, on general use pools less than fifteen hundred square feet, and limited use pools, uniform and have a preferred seven-and-one-half-inch height, but not greater than ten inches, except the bottom riser may be plus or minus two-inches of the uniform height.

(ii) Ladders or stepholes:

(A) Spaced at a minimum of one for every seventy-five feet of pool perimeter deeper than four feet;

(B) Provided at both sides of the deep end of pools over thirty feet in width; and

(C) Equipped with a handrail at the top of both sides extending over the coping or deck edge.

(iii) Means of access at the shallow end of the pool; and

(iv) Designs permitting entry and exit for impaired or handicapped persons are encouraged.

(c) Diving boards and diving platforms, when provided, shall:

(i) Be installed according to manufacturer's instructions;

(ii) Have slip-resistant tread surfaces;

(iii) Have steps and ladders leading to diving boards which provide handrails.

(iv) Be protected with forty-two inch high guardrails extending at least to the water edge when one meter or more above the water.

(d) Starting blocks, when provided, shall:

(i) If on the shallow end of pool, be removed when not in use by the competitive swimmers trained in starting blocks proper use; and

(ii) Be firmly secured when in use.

(e) Water slides, when provided, shall:

(i) Be installed according to manufacturer's instructions and be approved by the manufacturer for general use and limited use pools; and

(ii) Conform to Part 1207 of the Consumer Product Safety Act (Sec. 7(f), P.L. 92-573, 86 Statute 1215, 15 U.S.C. 1056(f)); or

(iii) If not manufactured for general use and limited use pools, conform to requirements under chapter 248-97 WAC, Recreational Water Contact Facilities.

(9) Turnover. Owners shall ensure pools turn over entire pool water volume in six hours or less. Exceptions to recirculation requirements may be made for flow-through pools in the following conditions where:

(a) Water supply is sufficient to provide the same turnover period specified for recirculation pools;

(b) The source water supply meets acceptable quality requirements and is subject to a disinfection method as described under WAC 248-98-030(3);

(c) The introduction of fresh treated pool water is accomplished by the same type of inlet and outlet design required for recirculation pools; and

(d) The pool water quality complies with WAC 248-98-030.

(10) Pool depth markings. Owners shall provide depth markings:

(a) Plainly marking the water depth in feet on the vertical wall at or above the water level and on the horizontal surface of the coping or deck edge;

(b) Positioned on the vertical pool wall to be read from the water side. Where markings cannot be placed above the water level, markings shall be placed in other areas and plainly visible to users in the pool;

(c) Located on the coping or deck within eighteen inches of the water edge and positioned to be read while standing on the deck facing the water;

(d) Which are slip resistant;

(e) Placed at the maximum and minimum water depths and at all points of slope change;

(f) Installed at intermediate increments of water depth not to exceed two feet, nor spaced at distances greater than twenty-five foot intervals;

(g) Uniformly arranged on both sides and ends of the pool;

(h) On irregularly shaped pools, meeting the requirements in subdivision (a) through (g) of this subsection and also designate the depths at all major deviations in shape;

(i) With a four-inch minimum height on the deck and a two-inch minimum height on the vertical pool wall; and

(j) Applied in a contrasting deck color which does not fade.

(11) Safety line or marking line. Owners shall provide safety (float) lines or marking lines (lines on pool sides and bottom) separating areas where the pool slope breaks from a uniform slope leading from shallow to deeper water.

(a) Safety lines when used shall:

(i) Be kept in place at all times, except when the pool is used for a specific purpose such as lap swimming or competitive use;

(ii) Be placed one foot toward the shallow end away from the break point line. See subsection (6)(a)(iii) of this section;

(iii) Be strung tightly allowing the bather to hold onto the line for support;

(iv) Have a receptacle for receiving the safety line:

(A) Recessed in the wall; or

(B) Not constituting a safety hazard when the safety line is removed.

(v) Provide floats on the line at a minimum distance of every four feet.

(b) Markings lines when used shall:

(i) Provide a minimum three-inch wide marking line at the break point where the pool slope breaks from a uniform slope leading from shallow to deeper water; and

(ii) Be of a contrasting color to the background color of the pool sidewalls and floor.

(c) In pool facilities with uniform slopes not exceeding one foot in twelve feet to deep portions of the pool, a safety line or marking line shall not be required.

(12) Bather load. Owners shall ensure maximum number of bathers in the pool facility at any one time do not exceed a number determined by the formula noted under Table 050.5 of this section.

TABLE 050.5

SWIMMING POOL MAXIMUM BATHING LOAD*
(SPMBL)

$$\text{SPMBL} = \frac{A - S}{(30)} + \frac{S}{(15)} \quad \text{For outdoor pools}$$

$$\text{SPMBL} = \frac{A - S}{(30)} + \frac{S}{(25)} \quad \text{For indoor pools}$$

Where

A = Total area of water surface in square feet

S = Area of pool less than 5 feet deep in square feet

NOTE:

*This formula will be used in determining certain features of pools as noted elsewhere in these rules and regulations.

(13) Inlets. Owners shall provide pool inlets:

(a) Submerged and located to produce uniform water and chemical circulation throughout the pool; and

(b) Located on the bottom of pools twenty-five hundred square feet or more, unless otherwise justified by the design engineer to the department's or local health officer's satisfaction.

(14) Outlets. Owners shall provide pool outlets with:

(a) Overflow and main drain grating systems each designed to carry one hundred percent of the total recirculation filter flow and main drain piping designed to carry fifty percent or more of total recirculation filter flow;

(b) Overflow outlets that maintain:

(i) A minimum of sixty percent of filter recirculation flow at all times; and

(ii) An overflow channel which may be used on any pool and required on pools twenty-five hundred square feet or more on the pool perimeter to promote uniform

circulation and skimming action of the upper water layer with:

(A) A design preventing all matter entering the channel from returning to the pool;

(B) Dimensions minimizing the hazard for bathers, such as catching arms or feet;

(C) One one-hundredth of a foot slope per foot or more;

(D) Drains sufficiently spaced and sized to collect and remove overflow water to return line and filter, where applicable; and

(E) Size sufficient to carry one hundred percent of the recirculation flow plus the surge flow equivalent to one-fifth of the balancing tank expressed in gallons per minute.

(iii) Skimmers in lieu of pool overflow channels up to twenty-five hundred square feet if:

(A) Weir provided in skimmer has a maximum flow rate through skimmer not exceeding four gpm per inch of weir;

(B) Devices are recessed in the pool wall so no part protrudes beyond the plane of the wall into the pool;

(C) The skimmer is equipped with a device to prevent air lock in the recirculation suction line, such as, an equalizer line;

(D) The skimmer is equipped with a removable and cleanable screen designed to trap large solids;

(E) Automatically adjustable and operates freely with continuous skimming action to continue through all designed loading rates. Displacement shall be computed at fifteen gallons per bather.

(c) Main drains in all pools with:

(i) Location at the pool's low points;

(ii) A minimum of two main drains spaced:

(A) Twenty feet or less apart nor closer than six feet; or

(B) As far as possible from each other in pools seven feet or less linear floor distance.

(iii) Total open area of grates sized to prevent a suction or entrapment hazard dangerous to user;

(iv) Grates on drains with:

(A) Maximum flow of one and one-half feet per second; or

(B) Net outlet area four times or more the area of the discharge pipe.

(v) Openings one-half inch or less wide;

(vi) Grates designed to withstand forces of users;

(vii) Grates removable only with specific tool; and

(viii) Means to control flow from recirculation pump or balancing tank.

(15) Flow. Owners shall maintain pool recirculation flow not to exceed:

(a) Six feet per second in valved suction or discharge side of the pump; and

(b) Ten feet per second in open discharge pipes on the pressure side of the pump or filter discharge. The recirculation flow limit does not apply to the return inlet and the last two feet of pipe leading to the inlet.

(16) Balancing tanks. Owners with overflow channels requiring balancing tanks shall:

(a) Maintain volume equivalent to fifteen times maximum bathing load expressed in gallons; and

(b) Increase capacity as necessary to provide volume for make-up water and to prevent air lock in the pump suction line.

(17) Pumps. Owners shall have and maintain recirculation pumps with adequate capacity to:

(a) Provide design flows and pressure for water recirculation over the entire operating filter pressure;

(b) Allow proper back washing of filters when specified; and

(c) Have self-priming capability when installed above pool water level.

(18) Strainers. Where pumps precede the filter, owners shall equip pool recirculation facilities with hair and lint strainers which shall:

(a) Be located upstream of recirculation pumps;

(b) Provide strainer screen sufficiently strong to prevent collapse when clogged;

(c) Have an openable cover; and

(d) Provide valving to isolate the strainer when located below pool water level.

(19) Valves. Owners shall provide valves at appropriate locations to allow isolation and maintenance of equipment.

(20) Equipment rooms. Owners shall provide equipment rooms:

(a) Enclosing pumps, disinfection equipment, filters and other electrical and mechanical feed equipment and associated chemicals. Chemical storage shall conform to manufacturer requirements;

(b) Providing work space and access to perform routine operations;

(c) With a forty-six-square-foot minimum floor area and provide a three-foot minimum access area to service equipment;

(d) With one floor drain or more and a floor slope to the drain at a one-fourth-inch-per-foot minimum;

(e) Ready access if below grade;

(f) Ventilation;

(g) Twenty foot-candles or more of light measured thirty inches from the floor; and

(h) Kept locked.

(21) Make-up water. Owners shall ensure a source of make-up water and associated piping at the pool:

(a) Providing sufficient quantity to replace daily pool losses;

(b) Coming from a supply conforming with chapter 248-54 WAC;

(c) Preventing cross connections using a minimum air gap of two pipe diameters or approved backflow prevention devices between the make-up water source and the pool water or waste water; and

(d) If using a pool fill spout, not projecting greater than one inch into the space above the water surface area and shielded to not create a deck hazard.

(22) Filters. Owners shall equip pools with filtration equipment:

(a) Meeting the applicable standards of NSF or equivalent;

(b) Using acceptable type and filter rates described under Table 050.6 of this section;

(c) Having pressure or vacuum gauges for measuring loss of head through the filter with minimum of one gauge preceding and one gauge following the filter;

(d) Having a rate of flow indicator to measure flow which has accuracy, repeatability, and durability equivalent to flow meters meeting NSF standards; and

(e) Having a means of discharging filter backwash to waste with:

(i) Discharge in a manner not creating a public nuisance;

(ii) Disposal in accordance with applicable local laws or regulations;

(iii) Minimum air gap of two pipe diameters to prevent cross-connection from waste discharge and recirculation system piping;

(iv) Discharge receptor and piping of sufficient size to accept backwash water and prevent flooding; and

(v) Ability to monitor filter effluent during backwash, that is, use of a sight glass.

(f) Providing means to release air entering the filter tank on pressure filters;

(g) When cartridge filters are used:

(i) Provide with an extra set of cartridges; and

(ii) Have any bypass valves in a permanently closed position.

(h) When using pressure DE filters with separation tanks:

(i) Provide a means of air release or a lid providing a slow and safe release of pressure; and

(ii) Show a readily visible user warning that the air release must be opened before starting the circulation pump.

TABLE 050.6

TYPE AND RANGES OF FILTERS FOR SWIMMING POOLS

Range of Acceptable Filter Rate Type of Filter Media	Expressed in gpm/Square Feet			
	Minimum	Maximum		
Sand	—	3		
	10	18*		
	Continuous Feed	Manual Feed		
D.E.	0.8	1.0	2.0	
	Vacuum	1.0	1.35	2.0
Cartridge**			.375	

NOTE:

*Filters which are sized at maximum application rate shall be equipped with flow control valves to maintain flow equilibrium to account for varying filter pressures and consequent flow production.

**Cartridge filters shall have a nominal micron rating of twenty microns or less.

(23) Disinfection equipment. Owners shall provide disinfection equipment:

(a) Providing a continuous and effective disinfectant residual in the water;

(b) Using a disinfectant with an easily monitored residual;

(c) Having a design feed rate providing effective disinfection levels when the pool is in peak demand conditions;

(d) Having easily cleanable equipment and piping used to apply chemicals and with provisions to prevent undue clogging. All materials shall be resistant to action of chemicals used;

(e) Conforming to NSF standards if disinfection equipment has:

(i) Adjustable output rate chemical feed equipment for liquid solutions. The equipment shall:

(A) Feed under positive pressure in the recirculation system;

(B) Provide means for dosage adjustment;

(C) Have provisions to prevent hypochlorite solution siphoning when equipment is turned off. This applies when the disinfection equipment is above pool water level.

(ii) Flow through chemical feed for solid feed material. Solid tablets or granules shall not be placed in skimmer baskets accessible to the public.

(f) Allowing hand feeding on an emergency basis only;

(g) Meeting the following conditions when using chlorine gas:

(i) Chlorine rooms shall:

(A) Be above ground level;

(B) Be constructed so all openings or partitions with adjoining rooms are sealed;

(C) Be located with consideration of prevailing winds to dissipate leaked chlorine away from the pool facility;

(D) Have door opening outward only and to the out-of-doors;

(E) Provide a sign on the door exterior reading DANGER CHLORINE. The sign shall be large enough to be read twenty-five feet away.

(ii) Chlorine rooms shall have mechanical exhausting ventilation including:

(A) Air inlet located as far as possible from fan intake to promote good air circulation patterns;

(B) Minimum of one air change per minute in the chlorine room when fan is operating;

(C) A remote switch outside the room or a door-activated switch to turn on fan before entering;

(D) Suction for fan near the floor;

(E) Exhaust for fan and chlorinator vent located to prevent contaminating air intake and prevent undue hazard for the pool facility users; and

(F) Screened chlorinator vent.

(iii) Gas chlorine systems shall:

(A) Be vacuum injection type, with vacuum-actuated cylinder regulators;

(B) Provide integral backflow and anti-siphon protection at the injector; and

(C) Provide taring (net weight of cylinder gas) scales for determining chlorine weight.

(iv) Breathing protection available in an accessible area for the operator outside of the chlorine room including:

(A) Self-contained breathing apparatus designed for use in a chlorine atmosphere for working with chlorine leaks and maintained in accordance with department of labor and industries standards; or

(B) Provisions to substitute breathing protection at the site, if procedures can be established and documented with emergency service fire districts or other approved organization within the area for promptly responding to chlorine leaks.

(v) Means for automatic shutoff when pool flow is interrupted; and

(vi) Chlorine gas cylinders shall:

(A) Be stored only in chlorine rooms;

(B) Have approved valve-stem cylinder wrench on the valve stem to shut the system down in an emergency event;

(C) Be properly secured to prevent tipping;

(D) Be tagged to indicate cylinders are empty or full; and

(E) Not exceed one hundred fifty pounds tare weight per cylinder. If one-ton cylinder use is desired, an engineer specializing in chlorine design shall prepare a design proposal for department consideration.

(24) Chemical feeding equipment for pH control. Owners applying chemicals for controlling pH through chemical feed equipment shall provide equipment with:

(a) Adequate size and design to allow routine cleaning and maintenance;

(b) Materials resistant to chemical action;

(c) Means for automatic shut off when pool flow is interrupted;

(d) Chemical feed equipment for pH control on pools fifty thousand gallons volume or greater;

(e) Any pool feeding with:

(i) Caustic soda (NAOH);

(ii) Carbon dioxide (CO₂); or

(iii) Other chemicals the department determines necessary to require metered and controlled feeding.

(25) Heaters. Where pool heating equipment is provided, owners shall:

(a) Locate equipment so any standing pilot is readily accessible; and

(b) Install equipment per NEC and UMC.

(26) Ventilation. Owners shall provide indoor pool facility ventilation conforming with ASHRAE pool facility standards.

(27) Testing equipment. Owners shall use testing equipment as noted in the water quality section under WAC 248-98-030(6).

(28) Chemical storage. Owners shall ensure chemical storage design and placement minimizes safety risks.

(29) Restroom, locker room, and plumbing fixtures. Owners shall provide restroom, locker room, and plumbing facilities at pools as follows:

(a) General use swimming pool facilities with:

(i) Minimum components including:

(A) Dressing rooms;

(B) Showers;

(C) Toilets and urinals;

(D) Lavatories; and

(E) Hose bibs.

(ii) A design providing easy accessibility to toilet and shower facilities by users with minimum cross traffic of nonusers;

(iii) Locker rooms including:

- (A) Separate facilities for both sexes with provisions to block line of sight into locker rooms;
- (B) Nonslip floors with suitable drains;
- (C) Junctions between walls and floors covered for ease of cleaning; and
- (D) Adequate ventilation to prevent moisture build-up in the facility.
- (iv) Plumbing fixtures as described under Table 050.7 of this section;
- (v) Shower facilities that:
 - (A) Deliver water at a temperature range of ninety to one hundred ten degrees Fahrenheit; and
 - (B) Provide single service soap in nonglass dispensers.
- (vi) Flush toilets and toilet tissue in dispensers;
- (vii) Sinks provided with:
 - (A) Tempered or hot and cold running water;
 - (B) Single service soap in nonglass dispensers; and
 - (C) Single service towels or electric hand dryers.
- (viii) Hose bibs with vacuum breakers provided:
 - (A) At a maximum spacing of one hundred fifty feet around pool deck; and
 - (B) Within the equipment room at facilities having pools fifteen hundred square feet or more.
- (ix) Janitor sink with a vacuum breaker at pools greater than fifteen hundred square feet; and
- (x) Sewage disposed of in a manner approved by the department or local health officer.
- (b) Limited-use swimming pool facility plumbing as described under Table 050.8 of this section.

TABLE 050.7

PLUMBING FIXTURE MINIMUM REQUIREMENTS FOR GENERAL USE SWIMMING POOLS AMOUNT OF FIXTURES REQUIRED FOR OCCUPANCY LOAD BY SEX

Type of Fixture	Male	Female
1. Toilets		
up to 120	1/60	1/40
from 121-360 add	1/80	1/60
over 360 add	1/150	1/100
2. Urinals		
up to 120	1/60	NA
from 121-360 add	1/80	
over 360 add	1/150	
3. Showers		
up to 120	1/40	1/40
from 121-360 add	1/60	1/60
over 360 add	1/100	1/100
4. Sinks		
up to 200	1/100	1/100
from 201-400 add	1/200	1/200
over 400 add	1/400	1/400
5. Hose bibs		
One hose bib accessible to each locker room and provided with a vacuum breaker.		
6. Janitor sink	One*	

NOTE:

*Required for pools 1500 square feet or greater.

TABLE 050.8

PLUMBING FIXTURE MINIMUM REQUIREMENT FOR LIMITED USE SWIMMING POOLS

Pools with:	Toilets	Showers	Sinks	Dress.Rm.
1. Living units within 100 feet and less than 3 stories	-	-	-	-
2. Living units >100 feet but <500 feet and less than 3 stories.	1	-	1	-
3. Living units within 1/4 mile and/or with 3 or more stories.*	1(M) 1(F)	-	1(M) 1(F)	-

Pools with:	Toilets	Showers	Sinks	Dress.Rm.
4. Living units greater than 1/4 mile.**	1(M) 1(F)	1(M) 1(F)	1(M) 1(F)	1(M) 1(F)

NOTE:

*Consideration for elevators adjacent to pool may allow variance from this requirement.

**When pool bathing load for the proposed facility exceeds a capacity of 150 people, the fixture units provided at limited use facilities shall conform with the general use requirements in Table 050.7.

(c) If owners limit the number of people within their facility to a certain number and post maximum occupancy loading, the number of plumbing fixture units may be based on that maximum occupancy.

(30) Lighting. Owners shall design and maintain pool facility lighting to:

(a) Illuminate indoor facilities, outdoor facilities used after dusk, and locker room facilities with a minimum lighting intensity maintained thirty inches above any walking surface, pool deck, or pool area of:

- (i) Thirty foot-candles at indoor facilities;
- (ii) Fifteen foot-candles at outdoor facilities;
- (iii) Twenty foot-candles in locker rooms.

(b) Allow lifeguards or attendants to clearly see pool areas and walking surfaces;

(c) Meet any additional lighting requirements deemed necessary by the department or local health officer;

(d) Provide protective shielding for all lighting fixtures above walking surfaces and pool areas; and

(e) Provide all indoor facilities with one or more pool area emergency lights designed to turn on in the event of a power failure. The emergency lighting shall conform to requirements of UL standard 924.

(31) Emergency equipment. Owners shall provide first aid and emergency equipment readily available during operating hours as follows:

(a) General use swimming pool facilities:

(i) A telephone within the facility with a prominently displayed list of emergency medical service response numbers;

(ii) Sufficient and suitable area provided to accommodate persons within the facility requiring first aid treatment and necessary first aid equipment;

(iii) A supplied first aid kit as follows:

(A) For general use pools fifteen hundred square feet or more, a standard twenty-four unit kit;

(B) For general use pools less than fifteen hundred square feet and limited use pools, a standard sixteen unit kit;

(iv) Two or more blankets reserved for emergency use;

(v) A backboard with means to secure victim to board and provide immobilization of head, neck, and back at pools requiring lifeguards;

(vi) Devices to aid victims in distress as follows:

(A) For pools with width less than twenty-four feet, rescue poles one-half the pool width or more;

(B) For pools with width twenty-four feet or more, rescue poles twelve feet or more in length;

(C) One or more of the poles with a double crook life hook in pools without lifeguards;

(D) One or more reaching poles for every fifteen hundred square feet of pool surface area;

(E) Throwing ring buoy, heaving jug, heaving line, throw-rope bag, or other similar devices with rope the width of the pool or fifty feet, whichever is less for reaching and retrieving victim;

(F) Rescue tube or rescue buoy at each lifeguard station.

(b) Limited use swimming pool facilities:

(i) During period facility is open for use, one of the following:

(A) A telephone within one minute access;

(B) Alternate means of reaching emergency medical service response numbers;

(C) Provision of an audible emergency alarm to alert others at area of need to respond.

(ii) Comply with requirements under subsection (31)(a)(iii), (iv), and (vi) of this section.

(32) Lifeguard chairs. Owners shall provide lifeguard chairs as follows:

(a) Where lifeguards are required and pools have depths greater than five feet, at least one lifeguard chair shall be provided adjacent to the deep area of the pool;

(b) Installed to manufacturer standards.

(33) Signs. Owners shall provide signs at pools which must convey the following conditions, but may be conveyed by any combination of words, pictures, or symbols:

(a) Prohibition of running or horseplay;

(b) Prohibition of use by persons with communicable diseases;

(c) Prohibition of use by persons under the influence of alcohol or drugs;

(d) Requirement for a cleansing shower before entering the pool;

(e) Warning that persons refusing to obey the regulations are subject to removal from the premises;

(f) Prohibition of food or drink in the pool water;

(g) In pools where lifeguards are not present, post requirements for facility use as described under WAC 248-98-060(3)(b)(iii) and (c);

(h) Location of nearest telephone for emergency use or emergency notification procedure.

(34) Food service. When food service is provided, owners shall:

(a) At general use pool facilities, ensure food and beverage sale and consumption areas are separated from pool and deck enclosure areas. Special provisions may be made for allowing food and beverage service on the walkway provided a minimum six feet clear area is maintained between the pool edge and any tables or chairs provided for special facility functions;

(b) At limited use pool facilities, prohibit food and beverage in the pool water and maintain a minimum four foot clear area between pool edge and any tables and chairs provided for food service;

(c) At general use pool facilities, prohibit alcohol;

(d) At limited use pool facilities, when alcohol is sold within the pool facility, provide an attendant at the pool area;

(e) Provide trash containers;

(f) Prohibit glass containers in the pool facility.

(35) Drinking fountain. Owners shall provide an operable drinking fountain at general use swimming pools fifteen hundred square feet or more. Drinking fountains shall conform with American Standards Association requirements.

(36) Foot baths. Owners shall prohibit the use of foot baths at water recreation facilities. This does not preclude use of foot showers, provided the area is well drained.

AMENDATORY SECTION (Amending Regulation .98.060, effective 3/11/60)

WAC 248-98-060 OPERATION((, - SANITARY CONTROL AND SAFETY MEASURES)) OF SWIMMING POOL FACILITIES. ((+)) All parts of all pools subject to these rules and regulations, including their premises and appurtenances, shall be maintained in a clean and sanitary condition at all times while the pool is open to bathers.

(2) Operator or attendant. All public and semipublic pools shall be maintained and operated by one or more persons familiar with the equipment and appurtenances and having a good understanding of the principles of swimming pool operation. The operator or attendant shall require a careful observance of the sanitary regulations.

(3) Operating records. At all public swimming pools, semipublic swimming pools, and wading pools, full daily records shall be kept as follows: The actual length of time pumps and filters are in operation, when each filter is backwashed or cleaned, the results of all tests made of the quality of the water and the results of disinfectant residual tests. These records must be available for inspection by the state department of health or the local health officer having jurisdiction.

(4) All persons using public or semipublic pools shall be required to take a cleansing bath in the nude, using warm water and soap, and to rinse off thoroughly all soapsuds before entering the pool. In the case of semipublic pools, the requirement of this paragraph will be posted in a prominent location within each living unit, or on a prominent sign adjacent to the pool.

(5) Communicable disease. No person having skin lesions, sore or inflamed eyes, mouth, nose, or ear discharges, or who is known to the health officer to be a carrier of any communicable disease shall use any pool subject to these rules and regulations.

(6) Pollution of pool prohibited. Urinating, expectorating, blowing the nose, or depositing any foreign matter in any pool subject to these rules and regulations is prohibited.

(7) Tobacco, food and drink shall be completely banned from the enclosure of any public swimming pool.

(8) Spectators. Persons not dressed for bathing shall not be allowed on walks immediately adjacent to public pools.

(9) Lifesaving and first aid facilities.

(a) Every public and semipublic swimming pool shall be equipped with one or more light but strong poles with blunt ends and not less than 12 feet in length for making reaching assists or rescues, one or more throwing buoys not more than 15 inches in diameter, having 60 feet of

~~3/16 inch manila rope attached, placed in easily accessible racks adjacent to the pool; a standard 24-unit first aid kit which shall be kept filled and readily accessible for emergency use; and two or more blankets reserved for emergency use. In addition, there shall be prominently displayed immediately adjacent to the telephone a telephone number list to include the nearest available doctor, ambulance service, hospital, and police or fire department rescue unit.~~

~~(10) Common towels, combs, brushes and drinking cups are prohibited.~~

~~(11) Posting regulations. Placards reciting paragraphs (4) through (10) inclusive shall be posted conspicuously at the pool or enclosure and in the dressing rooms and offices of all pools subject to the provisions of these rules and regulations.~~

~~(12) Care of bathing suits and towels. All bathing suits, towels and bathing caps furnished patrons at any pool subject to these rules and regulations shall be laundered with soap and hot water, and thoroughly rinsed and dried before re-use.~~

~~(13) Care of floor surfaces. Bathhouse floors and ap-
partenances as well as pool decks and walkways shall be scrubbed at least daily to insure cleanliness at all times. Disinfection with chlorine solution or other germicides shall be accomplished daily. The provisions of this paragraph shall apply to all public and semipublic pools, wading pools and spray pools.~~

~~(14) Public pools shall be so operated that the entire volume of the pool shall be recirculated in not more than six hours. Semipublic pools shall be so operated that the entire volume of the pool shall be recirculated in not more than 12 hours. PROVIDED, That pools previously approved with turnover rates varying from the above may continue to so operate:)) (1) Operation plan. Owners shall ensure proper operation to protect the public health, safety, and water quality by establishing practices and developing an operations manual addressing each of the following:~~

~~(a) Physical pool facility components;~~

~~(b) Personnel;~~

~~(c) Users and spectators;~~

~~(d) Environmental conditions.~~

~~(2) Physical components. Owners shall provide routine checks of the physical components:~~

~~(a) Ensuring all structural facilities which the users come in contact are intact and free from undue wear or fatigue and replaced as needed;~~

~~(b) Eliminating adverse affects of water ponding on walking surfaces;~~

~~(c) Ensuring preventive maintenance on equipment essential for protection of the public health, safety, and water quality;~~

~~(d) Ensuring any necessary emergency equipment is available and in good repair;~~

~~(e) Maintaining barrier protection;~~

~~(f) Ensuring common articles such as towels, bathing suits, bathing caps, etc., for patron use are sanitized before re-use if provided for patrons; and~~

~~(g) Ensuring treatment and turnover times are continuous twenty-four hours a day during seasons or periods of use and do not exceed six hours provided:~~

~~(i) Allowances shall be made for minor equipment maintenance;~~

~~(ii) Pools previously approved with turnover rates varying from subsection (2)(g)(i) of this section may continue to operate if water quality conditions conform with WAC 248-98-030.~~

~~(3) Required personnel. Owners shall ensure appropriate personnel at pool facilities as follows:~~

~~(a) General use pool facilities having one or more pools fifteen hundred square feet or more in surface area shall have lifeguards present at all times pools are in use, except:~~

~~(i) Pools having surface area less than twenty-five hundred square feet, four and one-half feet or less in depth, limiting use from two to ten adults in the pool are not required to have a lifeguard;~~

~~(ii) When swim teams are facility users, the owner may allow substitution of qualified coaches. See subsection (5) of this section to substitute for a lifeguard for guarding of a swim team.~~

~~(b) General use pool facilities less than fifteen hundred square feet shall provide lifeguards or attendants as follows:~~

~~(i) Lifeguards shall be present:~~

~~(A) If pool facility provides training for water safety and basic swimming instruction for children twelve years of age or under; or~~

~~(B) If pool facility provides training for safety and basic swimming instruction for adults and the pool is over four feet deep; or~~

~~(C) When pool facility provides training, practice, and/or meets for swim teams, substitution may occur as described under subsection (3)(a)(ii) of this section.~~

~~(ii) Attendants or lifeguards shall be present when organized programs are provided at the pool facility, for example, teaching of adult swimming lessons in water four feet or less, formal exercise classes, and the like;~~

~~(iii) When no lifeguard or attendant is present, the facility use shall be limited by the following conditions:~~

~~(A) When pool is used by children twelve years of age or under, a responsible adult eighteen years of age or older shall accompany the children and be at the pool or pool deck at all times the children use the facility;~~

~~(B) When used by persons seventeen years of age or under, a minimum of two people at the pool facility at all times the pool is in use;~~

~~(C) Subdivision (b)(iii)(A) and (B) of this subsection posted.~~

~~(c) When lifeguards are not provided at limited use pool facilities, within the conditions noted in the definition for a limited use pool, use of the facility shall be limited by the following conditions:~~

~~(i) When the pool is used by children twelve years of age or under, a responsible adult eighteen years of age or older shall accompany the children and be at the pool or pool deck at all times the children use the facility;~~

~~(ii) When used by persons seventeen years of age or under, a minimum of two people at the pool facility at all times the pool is in use;~~

~~(iii) Subdivision (c)(i) and (ii) of this subsection posted and ongoing provisions to notify the responsible person of conditions for use of the facility.~~

(d) A water treatment operator.

(4) Personnel duties and equipment. Owners shall ensure the specific duties and equipment of designated personnel include:

(a) Lifeguards during periods of lifeguarding, guard users of the pool facility in areas assigned;

(b) Assistant lifeguards when provided at the pool used under the following conditions:

(i) Fifty percent or more of the persons assigned to guard on the deck are lifeguards;

(ii) Assistant lifeguards limited to guarding responsibility of areas four feet or less in depth; and

(iii) One or more lifeguards on duty trained at the equivalent of "lifeguard training" as recognized by the ARC or equivalent as recognized by the department.

(c) Attendants, when provided at pools not requiring lifeguards, oversee pool use by the bathers and provide supervision and elementary rescues such as reaching assists to bathers in need. This does not mean the person is qualified or trained to make swimming rescues;

(d) Qualified swimming coaches when substituting for lifeguards, guard swimming team at the pool facility in areas assigned;

(e) Water treatment operator oversees that the water treatment components are functioning adequately to protect public health, safety, and water quality;

(f) Notification of responsible persons on the conditions for facility use at pool facilities not requiring lifeguards, and for which no lifeguards or attendants are present. A responsible person means a person having responsibility for overseeing users seventeen years of age or under including, but not limited to a person:

(i) Renting an apartment, hotel, motel, RV camp site;

or

(ii) Who is an owner or member of a condominium, homeowner's association, mobile home park, or private club with a pool facility.

(g) Lifeguards, assistant lifeguards, or attendants:

(i) Wearing a distinguishing suit, uniform, or emblem; and

(ii) Equipped with a whistle or a signaling device.

(5) Personnel training. Owners shall require training for each type of personnel including:

(a) Lifeguards shall maintain current certificates in the following:

(i) Standard first aid and adult, single rescue CPR through ARC or the American Heart Association; and

(ii) Advanced lifesaving, advanced lifesaving review, or lifeguard training through ARC; or

(iii) YMCA lifeguarding or crossover course through the YMCA; or

(iv) Lifeguard through the National Lifeguard Service, Canadian; or

(v) Lifeguard through the National Pool and Waterpark Lifeguard Training Course; or

(vi) Basic lifeguard through advanced lifeguard training international; or

(vii) Other training the department determines equivalent; and

(viii) Thirty-six months after enactment of the personnel training provisions of this chapter, the department will no longer recognize training for lifeguards in

advanced lifesaving or advanced lifesaving review through the ARC.

(b) Assistant lifeguards shall maintain current certificates and meet the requirements in the following:

(i) Adult, single rescue CPR through ARC or the American Heart Association; and

(ii) Emergency water safety with ARC; or

(iii) Bronze medallion award through the Royal Lifesaving Society of Canada;

(iv) Shallow water lifeguard through the National Pool and Waterpark Lifeguard Training; or

(v) Other training the department determines equivalent; and

(vi) Be fourteen years of age or older.

(c) Swim coaches substituting for lifeguards with swim teams shall maintain current certificates through the following:

(i) Standard first aid and adult, single rescue CPR through ARC or the American Heart Association; and

(ii) Safety training for swim coaches through ARC; or

(iii) Other training the department determines equivalent.

(d) Attendant shall maintain current certificates and meet the requirements in the following:

(i) Adult, single rescue CPR through ARC or the American Heart Association; and

(ii) Basic water safety with ARC; or

(iii) Other training the department determines equivalent; and

(iv) Be sixteen years of age or older.

(e) Water treatment operator shall have specific knowledge in provision of pool water chemistry, filtration, pumping equipment, and rules and regulations pertaining to pool facilities;

(f) When pool facility is using chlorine gas, an operator shall have specific training as follows:

(i) Proper operation of the chlorination equipment and routine maintenance procedures;

(ii) Basic understanding of physical and chemical properties of chlorine gas under pressure;

(iii) Basic understanding on use of leak detection and emergency safety equipment;

(iv) Basic knowledge of proper first-aid procedures and response for accidental inhalation of chlorine gas;

(v) Six hours or more of formal instruction once every three years or three hours or more every eighteen months with certificate of training provided.

(g) Persons shall be exempt from having current CPR or standard first-aid certificates if the persons hold current certificates in any of the following:

(i) Community CPR in the place of adult, single rescue CPR;

(ii) In the place of standard first aid:

(A) Advanced first aid;

(B) First responder;

(C) Emergency medical technician; or

(D) Paramedic.

(iii) Other training the department recognizes as equivalent or exceeding current requirements.

(6) Emergency response plan. Owners shall ensure emergency response provisions as follows:

(a) In pool facilities where lifeguards, assistant lifeguards, or swim coaches are required:

(i) Sufficient qualified personnel, for example, lifeguards, assistant lifeguards, or swim coaches where appropriate, located to provide a response time not to exceed thirty seconds to all pool users;

(ii) Based on, but not limited to, the following:

(A) Pool depth;

(B) Line of sight;

(C) Bather load;

(D) Training procedures;

(E) Emergency procedures, and

(F) Lifeguard rotation.

(iii) Emergency response drills to meet the response time including:

(A) Drills two or more times each year;

(B) Testing documentation.

(iv) Where SCUBA or kayaking lessons are performed at the pool, personnel guarding these activities shall be provided special in-service training.

(b) In pool facilities where no lifeguards are provided:

(i) Posting and ongoing notification and enforcement of conditions for pool use. See subsection (3)(b) and (c) of this section;

(ii) Enforcement of conditions by owner and authorized personnel;

(iii) Emergency equipment specified under WAC 248-98-050(31), readily available during operating hours.

(c) Ongoing training and evaluation of the lifeguarding skills and/or assistant, coach, or attendant skills;

(d) In facilities where chlorine gas is used:

(i) Annual emergency drills;

(ii) Identification of the location of accessible chlorine cylinder repair kits.

(7) Bather use. Owners shall establish rules of conduct for facility users to ensure health and safety as follows:

(a) Signage noted under WAC 248-98-050(33);

(b) Facilities used for swimming instruction courses may allow diving into water depths recognized as adequate by the organization providing the certificates, for example ARC or YMCA, provided the divers are supervised by instructors.

(8) Environmental conditions. Owners shall monitor various environmental conditions affecting the facility or the user and take appropriate action in response to these factors, including electrical storms, fog, wind, visibility problems, etc.

(9) Closure. Owners shall close the facility when the facility or portion thereof presents an unhealthful, unsafe, or unsanitary condition. These conditions include lack of compliance with the water quality or operation requirements as detailed under WAC 248-98-030 and 248-98-060.

AMENDATORY SECTION (Amending Regulation 98.080, effective 3/11/60)

WAC 248-98-080 WADING POOLS. ((+)) Wading pools shall be not more than 24 inches in depth.

~~(2) The water in wading pools at all times while in use shall meet the requirements pertaining to water quality as outlined in WAC 248-98-030 of these rules and regulations.~~

~~(3) Wading pool water shall be recirculated and shall be disinfected in accordance with the provisions of WAC 248-98-040 and of 248-98-050 (11)(d).~~

~~(4) In the operation of wading pools the requirements pertaining to sanitary control of swimming pools as outlined in WAC 248-98-060 (1), (5) and (6) of these regulations apply.~~

~~(5) Adequate sanitary toilet facilities shall be available in the vicinity of wading pools.~~

~~(6) No wading pool shall be maintained or operated when such pool is determined by the health officer to constitute a menace to health if used for wading.) (1) Location. Owners shall locate pools to:~~

~~(a) Minimize pollution by dust, smoke, soot, and other undesirable substances;~~

~~(b) Eliminate pollution from surrounding surface drainage; and~~

~~(c) Ensure pump house, trees, and other structures are located fifteen feet or more from the pool or provide barriers or other means to prevent ready access from the structures. Structure shall not be construed to include:~~

~~(i) Building walkways above the second story or roofs of any building structure; or~~

~~(ii) Any barriers provided to prevent unauthorized pool access, for example, fencing.~~

~~(2) Materials. Owners shall use only structure and equipment materials which are nontoxic, durable, inert, impervious to water, and easily cleanable.~~

~~(3) Walking surfaces. Owners shall design and maintain pool walking surfaces:~~

~~(a) Uniformly sloping away from the pool or pools a minimum of one-fourth inch per foot and a maximum of one-half inch per foot;~~

~~(b) Of a nonslip finish not presenting a tripping hazard;~~

~~(c) Equipped with sufficient drains to prevent standing water;~~

~~(d) Of easily cleanable, impervious finishes;~~

~~(e) Four feet or more in width;~~

~~(f) At facilities with swimming pools fifteen hundred square feet or more associated with the wading pool, provide a minimum of sixteen square feet per bather; and~~

~~(g) In conformance with department-established guidelines for any resilient artificial surface.~~

~~(4) Barriers. Owners shall provide barrier protection to prevent unauthorized access including:~~

~~(a) In outdoor facilities, a barrier of sixty inches or more in height with:~~

~~(i) Barrier:~~

~~(A) Not allowing passage of a four-inch diameter sphere;~~

~~(B) Horizontal members with less than forty-five inches spacing between the tops of the horizontal members shall have vertical members not exceeding one and three-quarters inches in width;~~

~~(C) Horizontal members with forty-five inches or more spacing between tops of horizontal members shall~~

have vertical members not exceeding four inches in width.

(ii) Lockable gates and entrances provided with a self-closing, self-latching mechanism fifty-four inches or more from the ground with a clear space fifty inches deep on the latch side of the door to position a wheelchair. When a latching mechanism is provided at any lower height, the latching mechanism shall be of a type remaining continuously locked, and only opening with the use of a key or other access control system.

(b) Indoor facility barriers sixty inches or more in height, suitable to prevent access of unauthorized individuals;

(c) Restricted area service entrances shall be exempt from door or gate requirements providing no public access is available;

(d) Lifeguarded pools are not required to have a self-closing, self-latching gate during the period a pool is in use. Facility gates shall be closed and locked during non-use periods; and

(e) An entrance to the pool area which shall not serve as a required exit from another part of a building when there is a conflict with other codes or regulations.

(5) Pool surfaces. Owners shall ensure pool surfaces with:

(a) Materials complying with subsection (2) of this section;

(b) Water tight and nonabrasive construction;

(c) White or light color finish not obscuring the view of objects or surfaces;

(d) Surfaces not causing cutting, pinching, puncturing, entanglement, or abrasion hazard under casual contact; and

(e) Construction tolerances conforming with current NSPI public pool standards.

(6) Wading pool floor and wall dimensional design. Owners shall ensure pool dimensional designs for floors and walls provide for safety, circulation, and water quality including, but not limited to:

(a) All corners formed by intersection of walls with floor shall be coved;

(b) Uniform pool floor slopes not exceeding one foot of drop in twelve feet of run.

(7) Wading pool entry and exit. Owners shall provide means of entry and exit on all pools including one of the following:

(a) Stairs when provided meeting the following construction requirements:

(i) Nonslip tread finish;

(ii) Contrasting color stair tread edges clearly visible to users;

(iii) Handrails with the leading edge for stairs at entry/exit being neither eighteen inches or more beyond nor eight inches or more inside (horizontally) the vertical plane of the bottom riser;

(iv) Riser treads with a minimum unobstructed, horizontal, ten-inch tread depth and minimum two-hundred-forty-inch surface area;

(v) Riser height uniform and seven and one-half inches or less, except last step leading into pool may be less than uniform height.

(b) Shallow pool entry seven and one-half inches or less in depth;

(c) Ramp entry into the pool meeting the following construction requirements:

(i) Handrail extending over the deck edge and extending to the bottom of the ramp for entering and leaving the wading pool;

(ii) Ramp edges protruding into the pool of contrasting color;

(iii) Ramp slope not to exceed one foot in seven feet.

(d) Designs permitting entry and exit for impaired or handicapped persons are encouraged.

(8) Turnover. Owners shall ensure pools turn over entire pool water volume in three hours or less and:

(a) Where wading pools are recirculated jointly with swimming pools, means to ensure efficient turnover and treatment are maintained;

(b) Exceptions to recirculation requirements may be made for flow through pools in the following conditions:

(i) Where water supply is sufficient to provide the same turnover period specified for recirculation pools;

(ii) The water supply source meets the quality requirements and is subject to a disinfection method as outlined under WAC 248-98-030(3);

(iii) The introduction of fresh treated pool water is accomplished by the same type of inlet and outlet design required for recirculation pools; and

(iv) The pool water quality complies with WAC 248-98-030.

(9) Pool depth markings. Owners shall provide depth markings:

(a) Plainly marking the water depth in feet on the horizontal surface of the coping or deck edge;

(b) Located on the coping or deck within eighteen inches of the water edge and positioned to be read while standing on the deck facing the water;

(c) Which are slip resistant;

(d) Placed at the maximum and minimum water depths;

(e) Spaced at intervals not exceeding twenty-five feet;

(f) Uniformly arranged on both sides and ends of the pool; and

(g) With a four inch minimum height.

(10) Bather load. Owners shall ensure maximum number of bathers permitted in the wading pool facility at any one time not exceed one bather per seven square feet.

(11) Inlets. Owners shall provide pool inlets:

(a) Submerged and located to produce uniform water and chemical circulation throughout the pool; and

(b) Located on the bottom of pools twenty-five hundred square feet or more, unless otherwise justified by the design engineer to the department's or local health officer's satisfaction.

(12) Outlets. Owners shall provide pool outlets with:

(a) Overflow and main drain grating systems each designed to carry one hundred percent of the total recirculation filter flow and main drain piping designed to carry fifty percent or more of total recirculation filter flow;

(b) Overflow outlets that maintain:

(i) A minimum of sixty percent of filter recirculation flow at all times; and

(ii) An overflow channel which may be used on any pool and required on pools twenty-five hundred square feet or more on the pool perimeter to promote uniform circulation and skimming action of the upper water layer with:

(A) A design preventing all matter entering the channel from returning to the pool;

(B) Dimensions minimizing the hazard for bathers, such as catching arms or feet;

(C) One one-hundredth of a foot slope per foot or more;

(D) Drains sufficiently spaced and sized to collect and remove overflow water to return line and filter, where applicable; and

(E) Size sufficient to carry one hundred percent of the recirculation flow plus the surge flow equivalent to one-fifth of the balancing tank expressed in gallons per minute.

(iii) Skimmers in lieu of pool overflow channels up to twenty-five hundred square feet if:

(A) Weir provided in skimmer has a maximum flow rate through skimmer not exceeding four gpm per inch of weir;

(B) Devices are recessed in the pool wall so no part protrudes beyond the plane of the wall into the pool;

(C) The skimmer is equipped with a device to prevent air lock in the recirculation suction line, such as, an equalizer line;

(D) The skimmer is equipped with a removable and cleanable screen designed to trap large solids;

(E) Automatically adjustable and operates freely through all designed loading rates. Displacement shall be computed at ten gallons per bather.

(c) Main drains in all pools with:

(i) Location at the pool's low points;

(ii) A minimum of two main drains spaced:

(A) Twenty feet or less apart nor closer than six feet;

or
(B) As far as possible from each other in pools seven feet or less linear floor distance.

(iii) Total open area of grates sized to prevent a suction or entrapment hazard dangerous to user;

(iv) Grates on drains with:

(A) Maximum flow of one and one-half feet per second; or

(B) Net outlet area four times or more the area of the discharge pipe.

(v) Openings one-half inch or less wide;

(vi) Grates designed to withstand forces of users;

(vii) Grates removable only with specific tool; and

(viii) Means to control flow from recirculation pump or balancing tank.

(13) Flow. Owners shall maintain pool recirculation flow not to exceed:

(a) Six feet per second in valved suction or discharge side of the pump; and

(b) Ten feet per second in open discharge pipes on the pressure side of the pump or filter discharge. The recirculation flow limit does not apply to the return inlet and the last two feet of pipe leading to the inlet.

(14) Balancing tanks. Owners with overflow channels requiring balancing tanks shall:

(a) Maintain volume equivalent to seven times maximum bathing load expressed in gallons; and

(b) Increase capacity as necessary to provide volume for make-up water and to prevent air lock in the pump suction line.

(15) Pumps. Owners shall have and maintain wading pool recirculation pumps with adequate capacity to:

(a) Provide design flows and pressure for water recirculation over the entire operating filter pressure;

(b) Allow proper back washing of filters when specified; and

(c) Have self-priming capability when installed above pool water level.

(16) Strainers. Where pumps precede the filter, owners shall equip pool recirculation facilities with hair and lint strainers which shall:

(a) Be located upstream of recirculation pumps;

(b) Provide strainer screen sufficiently strong to prevent collapse when clogged;

(c) Have an openable cover; and

(d) Provide valving to isolate the strainer when located below pool water level.

(17) Valves. Owners shall provide valves at appropriate locations to allow isolation and maintenance of equipment.

(18) Equipment rooms. Owners shall provide equipment rooms:

(a) Enclosing pumps, disinfection equipment, filters and other electrical and mechanical feed equipment and associated chemicals. Chemical storage shall conform to manufacturer requirements;

(b) Providing work space and access to perform routine operations;

(c) With a forty-six-square-foot minimum floor area and provide a three-foot minimum of access area to service equipment;

(d) With one floor drain or more and a floor slope to the drain at a one-fourth-inch-per-foot minimum;

(e) Ready access if below grade;

(f) Ventilation;

(g) Twenty foot-candles or more of light measured thirty inches from the floor; and

(h) Kept locked.

(19) Make-up water. Owners shall ensure a source of make-up water and associated piping at the pool:

(a) Providing sufficient quantity to replace daily pool losses;

(b) Coming from a supply conforming with chapter 248-54 WAC;

(c) Preventing cross connections using a minimum air gap of two pipe diameters or approved backflow prevention devices between the make-up water source and the pool water or waste water; and

(d) If using a pool fill spout, not projecting greater than one inch into the space above the water surface area and shielded to not create a deck hazard.

(20) Filters. Owners shall equip pools with filtration equipment:

(a) Meeting the applicable standards of NSF or equivalent;

(b) Using acceptable type and filter rates described under Table 080.1 of this section;

- (c) Having pressure or vacuum gauges for measuring loss of head through the filter with a minimum of one gauge preceding and one gauge following the filter;
- (d) Having a rate of flow indicator to measure flow which has accuracy, repeatability, and durability equivalent to flow meters meeting NSF standards; and
- (e) Having a means of discharging filter backwash to waste with:
 - (i) Discharge in a manner not creating a public nuisance;
 - (ii) Disposal in accordance with applicable local laws or regulations;
 - (iii) Minimum air gap of two pipe diameters to prevent cross-connection from waste discharge and recirculation system piping;
 - (iv) Discharge receptor and piping of sufficient size to accept backwash water and prevent flooding; and
 - (v) Ability to monitor filter effluent during backwash, that is, use of a sight glass.
- (f) Providing means to release air entering the filter tank on pressure filters;
 - (g) When cartridge filters are used:
 - (i) Provide with an extra set of cartridges; and
 - (ii) Have any bypass valves in a permanently closed position.
 - (h) When using pressure DE filters with separation tanks:
 - (i) Provide means of air release or a lid providing a slow and safe release of pressure; and
 - (ii) Show a readily visible user warning that the air release must be opened before starting the circulation pump.

- (b) Using a disinfectant with an easily monitored residual;
- (c) Having a design feed rate providing effective disinfection levels when the pool is in peak demand conditions;
- (d) Having easily cleanable equipment and piping used to apply chemicals and with provisions to prevent undue clogging. All materials shall be resistant to action of chemicals used;
- (e) Conforming to NSF standards if the disinfection equipment has:
 - (i) Adjustable output rate chemical feed equipment for liquid solutions. When using this equipment, it shall:
 - (A) Feed under positive pressure in the recirculation system;
 - (B) Provide means for dosage adjustment;
 - (C) Have provisions to prevent hypochlorite solution siphoning when equipment is turned off, this applies when the disinfection equipment is above pool water level.
 - (ii) Flow through chemical feed for solid feed material. Solid tablets or granules shall not be placed in skimmer baskets accessible to the public.
 - (f) Allowing hand feeding on an emergency basis only;
 - (g) Meeting the following conditions when using chlorine gas:
 - (i) Chlorine rooms shall:
 - (A) Be above ground level;
 - (B) Be constructed so all openings or partitions with adjoining rooms are sealed;
 - (C) Be located with consideration of prevailing winds to dissipate leaked chlorine away from the pool facility;
 - (D) Have door opening outward only and to the out-of-doors;
 - (E) Provide a sign on the door exterior reading DANGER CHLORINE. The sign shall be large enough to be read twenty-five feet away.
 - (ii) Chlorine rooms shall have mechanical exhausting ventilation including:
 - (A) Air inlet located as far as possible from fan intake to promote good air circulation patterns;
 - (B) Minimum of one air change per minute in the chlorine room when fan is operating;
 - (C) A remote switch outside the room or a door-activated switch to turn on fan before entering;
 - (D) Suction for fan near the floor;
 - (E) Exhaust for fan and chlorinator vent located to prevent contaminating air intake and prevent undue hazard for the pool facility users; and
 - (F) Screened chlorinator vent.
 - (iii) Gas chlorine systems shall:
 - (A) Be vacuum injection type, with vacuum-actuated cylinder regulators;
 - (B) Provide integral backflow and anti-siphon protection at the injector; and
 - (C) Provide taring (net weight of cylinder gas) scales for determining chlorine weight.
 - (iv) Breathing protection available in an accessible area for the operator outside of the chlorine room including:

TABLE 080.1

TYPE AND RANGES OF FILTERS FOR WADING POOLS

Range of Acceptable Filter Rate		Expressed in gpm/Square Feet	
Type of Filter Media		Minimum	Maximum
Sand			
Rapid Sand and Pressure Sand		—	3
Wading Pools less than 10,000 gallons			
High Rate Sand Pressure or Vacuum		10	15
Wading Pools greater than 10,000 gallons			
High Rate Sand Pressure* or Vacuum*		10	18
		Continuous Feed	Manual Feed
D.E.			
Pressure		1.0	1.35
Vacuum		0.8	1.0
Cartridge**			0.375

NOTE:

*Filters sized at maximum application rate shall be equipped with flow control valves to maintain flow equilibrium to account for varying filter pressures and consequent flow production.

**Cartridge filters shall have a nominal micron rating of twenty microns or less.

- (21) Disinfection equipment. Owners shall provide disinfection equipment:
 - (a) Providing a continuous and effective disinfectant residual in the water;

(A) Self-contained breathing apparatus designed for use in a chlorine atmosphere for working with chlorine leaks and maintained in accordance with department of labor and industries standards; or

(B) Provisions to substitute breathing protection at the site, if procedures can be established and documented with emergency service fire districts or other approved organization within the area for promptly responding to chlorine leaks.

(v) Means for automatic shutoff when pool flow is interrupted; and

(vi) Chlorine gas cylinders shall:

(A) Be stored only in chlorine rooms;

(B) Have approved valve-stem cylinder wrench on the valve stem to shut the system down in an emergency event;

(C) Be properly secured to prevent tipping;

(D) Be tagged to indicate cylinders are empty or full; and

(E) Not exceed one hundred fifty pounds tare weight per cylinder. If one-ton cylinder use is desired, an engineer specializing in chlorine design shall prepare a design proposal for department consideration.

(22) Chemical feeding equipment for pH control. Owners applying chemicals for controlling pH through chemical feed equipment shall provide equipment with:

(a) Adequate size and design to allow routine cleaning and maintenance;

(b) Materials resistant to chemical action;

(c) Means for automatic shut off when pool flow is interrupted;

(d) Chemical feed equipment for pH control on pools fifty thousand gallons volume or greater;

(e) Any pool feeding with:

(i) Caustic soda (NAOH);

(ii) Carbon dioxide (CO₂); or

(iii) Other chemicals the department determines necessary to require metered and controlled feeding.

(23) Heaters. Where pool heating equipment is provided, owners shall:

(a) Locate equipment so any standing pilot is readily accessible; and

(b) Install equipment per NEC and UMC.

(24) Ventilation. Owners shall provide indoor pool facility ventilation conforming with ASHRAE pool facility standards.

(25) Testing equipment. Owners shall use testing equipment as noted in the water quality section under WAC 248-98-030(6).

(26) Chemical storage. Owners shall ensure chemical storage design and placement minimizes safety risks.

(27) Restroom and plumbing fixtures. Owners shall provide restroom and plumbing facilities at pools as follows:

(a) Where wading pool facilities are provided in conjunction with general use and limited use swimming pools, spas, or other water recreation facilities, the wading pool bathing load shall be added to the total load for consideration of plumbing fixture units;

(b) If a wading pool is the sole water recreation facility at a site, plumbing fixtures as described under Table 080.2 including:

(i) Flush toilets and toilet tissue in dispensers;

(ii) Shower facilities that:

(A) Deliver water at a temperature range of ninety to one hundred ten degrees Fahrenheit;

(B) Provide single service soap in nonglass dispensers.

(iii) Sinks provided with:

(A) Tempered or hot and cold running water;

(B) Single service soap in nonglass dispensers; and

(C) Single service towels or electric hand dryers.

(iv) Hose bibs with vacuum breakers conveniently accessible to pool and within one hundred feet; and

(v) Sewage disposed of in a manner approved by the department or local health officer.

TABLE 080.2

PLUMBING FIXTURE MINIMUM REQUIREMENTS FOR SOLE FACILITY WADING POOLS

Wading Pools with:	Toilets	Sinks	H.B.	Showers
1. Limited use wading pools with living units* within 100 feet and less than 3 stories	-	-	1	-
2. Limited use wading pools with living units > 100 feet but < 500 feet and less than 3 stories.**	1	1	1	-
3. Limited use wading pools with living units > 500 feet but < 1/4 mile and/or with 3 or more stories.**	1(M) 1(F)	1(M) 1(F)	1	-
4. Limited use wading pools with living units > 1/4 mile or general use wading pools.***	1(M) 1(F)	1(M) 1(F)	1	1(M) 1(F)

NOTE:

**Living Units" means all units associated with limited use facilities intended to be served.

***Consideration for elevators adjacent to pool may allow variance from this requirement.

***When wading pool bathing load exceeds 40 of either sex, the fixture units provided shall conform with the general use requirements for swimming pools.

(c) If owners limit the number of people within their facility to a certain number and post maximum occupancy loading, the number of plumbing fixture units may be based on that maximum occupancy.

(28) Lighting. Owners shall design and maintain pool facility lighting to:

(a) Illuminate indoor facilities, outdoor facilities used after dusk, and locker room facilities with a minimum lighting intensity maintained thirty inches above any walking surface, pool deck, or pool area of:

(i) Thirty foot-candles at indoor facilities;

(ii) Fifteen foot-candles at outdoor facilities;

(iii) Twenty foot-candles in locker rooms.

(b) Allow lifeguards or attendants to clearly see pool areas and walking surfaces;

(c) Meet any additional lighting requirements deemed necessary by the department or local health officer;

(d) Provide protective shielding for all lighting fixtures above walking surfaces and pool areas;

(e) Provide all indoor facilities with one or more pool area emergency lights designed to turn on in the event of a power failure. The emergency lighting shall conform to requirements of UL standard 924.

(29) Signs. Owners shall provide signs at pools which must convey the following conditions, but may be conveyed by any combination of words, pictures, or symbols:

- (a) Prohibition of running or horseplay;
- (b) Prohibition of use by persons with communicable diseases;
- (c) Prohibition of use by persons under the influence of alcohol or drugs;
- (d) Prohibition of food or drink in the pool water;
- (e) In pools where lifeguards or attendants are not present, post requirements for facility use as required under WAC 248-98-085(3).

(30) Food service. When food service is provided, owners shall:

- (a) At general use pool facilities, ensure food and beverage sale and consumption areas are separated from pool and deck. Special provisions may be made for allowing food and beverage service on the walkway provided a minimum six feet clear area is maintained between the pool edge and any tables or chairs provided for special facility functions;
- (b) At limited use pool facilities, prohibit food and beverage in the pool water and maintain a minimum four foot clear area between pool edge and any tables and chairs provided for food service;
- (c) Provide trash containers;
- (d) Prohibit glass containers in the pool facility.

NEW SECTION

WAC 248-98-085 OPERATION—WADING POOLS. (1) Operation plan. Owners shall ensure proper operation to protect the public health, safety, and water quality by establishing practices and developing an operations manual addressing each of the following:

- (a) Physical pool facility components;
- (b) Personnel;
- (c) Users and spectators;
- (d) Environmental conditions.
- (2) Physical components. Owners shall provide routine checks of the physical components:
 - (a) Ensuring all structural facilities the users come in contact are intact and free from undue wear or fatigue and replaced as needed;
 - (b) Eliminating adverse effects of water ponding on walking surfaces;
 - (c) Ensuring preventative maintenance on equipment essential for protection of the public health, safety, and water quality;
 - (d) Maintaining barrier protection;
 - (e) Ensuring treatment turnover is continuous twenty-four hours a day during seasons or periods of use and does not exceed three hours provided:
 - (i) Allowances shall be made for minor equipment maintenance;
 - (ii) Pools previously approved with turnover rates varying from subsection (2)(e)(i) of this section may continue to operate if water quality conditions conform with WAC 248-98-030.
 - (3) Required personnel. Owners shall ensure appropriate personnel at pool facilities as follows:

(a) A water treatment operator oversees that the water treatment components are adequately functioning to protect public health, safety, and water quality; and

(b) At pool facilities with no lifeguards, assistant lifeguards, or attendants, use shall be subject to the following conditions:

(i) When the pool is used by children twelve years of age or under, a responsible adult eighteen years of age or older shall accompany the children and be at the pool or pool deck at all times the children use the facility;

(ii) When used by persons seventeen years of age or under, a minimum of two people are at the pool facility at all times the pool is in use;

(iii) At general use pools, subdivision (b)(i) and (ii) of this subsection be posted; and

(iv) At limited-use pools, subdivision (b)(i) and (ii) of this subsection be posted and ongoing provisions notifying the responsible person of the conditions.

(4) Personnel duties and equipment. Owners shall ensure the specific duties and equipment of designated personnel include:

(a) Lifeguards, during periods of lifeguarding, guard pool facility users in areas assigned;

(b) Assistant lifeguards when provided at the pool used under the following conditions:

(i) Assistant lifeguard limited to guarding responsibility of areas four feet or less in depth; and

(ii) A lifeguard overseeing the activities of the assistant lifeguard.

(c) Attendants when provided oversee use of the pool by the bathers and provide supervision and elementary rescues, such as reaching assists to bathers in need;

(d) Water treatment operators oversee, as needed, the water treatment components are functioning adequately to protect public health, safety, and water quality;

(e) Notification of responsible persons on the conditions for use at pool facilities not requiring lifeguards, and for which no lifeguards or attendants are present. A responsible person means a person having responsibility for overseeing users, including but limited to a person:

(i) Renting an apartment, hotel, motel, RV camp site; or

(ii) Who is an owner or member of a condominium, homeowner's association, mobile home park, or private club with a pool facility.

(f) Lifeguards, assistant lifeguards, or attendants:

(i) Wear distinguishing suit, uniform, or emblem; and

(ii) Equipped with a whistle or a signaling device.

(5) Personnel training. Owners shall require training for each type of personnel including:

(a) Lifeguards shall maintain a current certificate in the following:

(i) Standard first aid and adult, single rescue CPR through ARC or American Heart Association; and

(ii) Advanced lifesaving, advanced lifesaving review, or lifeguard training through ARC; or

(iii) YMCA lifeguarding or crossover course through the YMCA; or

(iv) Lifeguard through the National Lifeguard Service, Canadian; or

(v) Lifeguard through National Pool and Waterpark Lifeguard Training; or

(vi) Basic lifeguard through advanced lifeguard training international; or

(vii) Other training the department determines equivalent; and

(viii) Thirty-six months after enactment of the personnel training provisions of this chapter, the department shall no longer recognize training for lifeguards in advanced lifesaving, or advanced lifesaving review through the ARC.

(b) Assistant lifeguards shall maintain current certificates and meet the requirements in the following:

(i) Adult, single rescue CPR through ARC or American Heart Association; and

(ii) Emergency water rescue with ARC; or

(iii) Bronze medallion award through the Royal Life-saving Society of Canada; or

(iv) Shallow water lifeguard through the National Pool and Waterpark lifeguard training; or

(v) Other training the department determines equivalent; and

(vi) Be fourteen years of age or older.

(c) Attendant shall maintain current certificates and meet the requirements in the following:

(i) Adult, single rescue CPR through ARC or the American Heart Association; and

(ii) Basic water safety with ARC; or

(iii) Other training the department determines equivalent; and

(iv) Be sixteen years of age or older.

(d) Water treatment operator shall have specific knowledge in provision of pool water chemistry, filtration, pumping equipment and rules and regulations pertaining to pool facilities;

(e) When pool facility is using chlorine gas, an operator shall have specific training as follows:

(i) Proper operation of the chlorination equipment and routine maintenance procedures;

(ii) Basic understanding of physical and chemical properties of chlorine gas under pressure;

(iii) Basic understanding on use of leak detection and emergency safety equipment;

(iv) Basic knowledge of proper first aid procedures and response for accidental inhalation of chlorine gas;

(v) Six hours or more of formal instruction once every three years or three hours or more every eighteen months with certificate of training provided.

(f) Persons shall be exempt from having current CPR or standard first aid certificates if the persons hold current certificates in any of the following:

(i) Community CPR in place of adult, single rescue CPR;

(ii) In place of standard first aid:

(A) Advanced first aid;

(B) First responder;

(C) Emergency medical technician; or

(D) Paramedic.

(iii) Other training the department recognizes as equivalent or exceeding current requirements.

(6) Bather use. Owners shall establish conduct rules for users to ensure health and safety. The rules shall include signage noted under WAC 248-98-080(29).

(7) Environmental conditions. Owners shall monitor various environmental conditions affecting the facility or the user and take appropriate action in response to these factors, including electrical storms, visibility problems, etc.

(8) Closure. Owners shall close the facility when the facility or portion thereof presents an unhealthy, unsafe, or unsanitary condition. These conditions include lack of compliance with the water quality or operation requirements as detailed under WAC 248-98-030 and 248-98-085.

AMENDATORY SECTION (Amending Regulation .98.090, effective 3/11/60)

WAC 248-98-090 SPRAY POOLS. ((The water supply for a spray pool shall at all times meet the water quality requirements as outlined in WAC 248-98-030 of these rules and regulations. The spray pool shall be equipped at its low point with an unvalved drain of sufficient capacity and design to prohibit accumulation of any water in the pool.)) (1) Location. Owners shall locate pools to:

(a) Minimize pollution by dust, smoke, soot, and other undesirable substances; and

(b) Eliminate pollution from surrounding surface drainage.

(2) Materials. Owners shall only use structure and equipment materials which are nontoxic, durable, inert, impervious to water and easily cleanable.

(3) Walking surfaces. Owners shall design and maintain walking surfaces:

(a) Uniformly sloping away from the pool or pools a minimum of one-fourth inch per foot and a maximum of one-half inch per foot;

(b) Of a nonslip finish not presenting a tripping hazard;

(c) Equipped with sufficient drains to prevent standing water;

(d) Of easily cleanable impervious finishes;

(e) Four feet or more in width, extending around fifty percent or more of the spray pool;

(f) In conformance with department-established guidelines for any resilient artificial surfaces.

(4) Pool structure. Owners shall ensure general pool requirements include:

(a) Pool surfaces with nonslip finishes and impervious to water;

(b) Uniform pool floor slopes not to exceed one foot in twelve feet;

(c) Provision for using an approved potable water supply. Water shall not be recirculated, but drain to waste after use in the spray pool; or

(d) If a spray pool facility is used in conjunction with a swimming pool over thirty thousand gallons in volume, recirculated swimming pool water may be used in the spray pool if:

(i) Means for treatment of the water draining from the spray pool is provided including filtration, disinfection, and recirculation through a separate spray pool treatment system;

(ii) Such system is sized on the maximum introduction rate of water from the recirculated swimming pool water;

(iii) Treated spray pool water is introduced into the swimming pool recirculation system;

(iv) Proper safeguards are employed to prevent interruption of proper swimming pool facility operation; and

(v) Design and construction of treatment equipment and associated facilities conform with swimming pool design requirements.

(5) Inlets and outlets. Owners shall provide pool inlets and outlets with:

(a) Spray nozzles not inflicting damage to users. Maximum flow through nozzles within close proximity to bathers shall not exceed fifteen fps at the nozzle;

(b) The drain located at the low point of the pool and with sufficient capacity and design to prohibit water accumulation in the pool. The outlet drain shall:

(i) Be located at the low point of the pool;

(ii) Have openings one-half inch or less wide;

(iii) Use grate design to withstand forces of users;

(iv) Have grates removable only with specific tools; and

(v) On grates attached to recirculating pumps, have:

(A) Total open area of grates sized to prevent a suction hazard dangerous to the user;

(B) Grates on drains with a maximum flow of one and one-half feet per second, or net area of outlet four times or more the discharge pipe area.

(6) Valves. Owners shall provide valves at appropriate locations to allow isolation and maintenance of equipment.

(7) Make-up water. Owners shall ensure a source of make-up water and associated pool piping:

(a) Coming from a supply conforming with chapter 248-54 WAC;

(b) Preventing cross connections using a minimum air gap of two pipe diameters or approved backflow prevention devices between the make-up water source and the spray pool water or waste water.

(8) Waste water discharge. Water used in a pool shall be disposed of in a manner acceptable to the local health jurisdiction.

(9) Signs. Owners shall provide signs at pools about general requirements for facility use. Owners may use any combination of words, pictures, or symbols conveying the prohibition of the following conditions:

(a) Running or horseplay;

(b) Use by persons with communicable diseases;

(c) Use by persons under the alcohol or drug influence;

(d) Food or drink in pool water.

NEW SECTION

WAC 248-98-095 OPERATION—SPRAY POOLS. (1) Operation plan. Owners shall ensure proper operation to protect the public health, safety, and water quality. An operations plan shall address each of the following:

(a) Physical pool facility components;

(b) Personnel;

(c) Users and spectators;

(d) Environmental conditions.

(2) Physical components. Owners shall provide routine checks of the physical components:

(a) Ensuring all structural facilities which the users come in contact are intact and free from undue wear or fatigue and replace as needed;

(b) Eliminating adverse effects of water ponding on walking surfaces;

(c) Ensuring preventative maintenance on equipment essential for protection of the public health, safety, and water quality.

(3) Required personnel and duties. Owners shall provide personnel to oversee the spray pool facility ensuring proper operation and maintenance. When the facility is using recirculated water, a water treatment operator shall oversee water quality and equipment operation.

(4) Bather use. Owners shall establish rules of conduct for users to ensure health and safety. The rules shall include conditions noted under WAC 248-98-090(9).

(5) Environmental conditions. Owners shall monitor various environmental conditions affecting the facility or the user and take appropriate action in response to these factors, including electrical storms, visibility problems, etc.

(6) Closure. Owners shall close the facility when the facility or portion thereof presents an unhealthy, unsafe, or unsanitary condition. The conditions include lack of compliance with the water quality and/or operation requirements as detailed under WAC 248-98-030 and 248-98-095.

NEW SECTION

WAC 248-98-098 WATER RECREATION FACILITY POOLS NOT IN OPERATION. Owners of pool facilities not in operation shall maintain one of the following conditions:

(1) Inoperable spa, swimming, and wading pool access shall be locked; and

(2) If pools are abandoned, backfilled with appropriate fill material.

AMENDATORY SECTION (Amending Regulation 98.100, effective 3/11/60)

WAC 248-98-100 (~~(APARTMENT HOUSES))~~ WATER RECREATION INDUSTRY REQUIREMENTS. (~~(A swimming pool provided and maintained by an apartment house or trailer court as an additional facility for tenants where the same is less than 1500 square feet in surface area may be designed, constructed, maintained, and operated in accordance with the requirements for semipublic pools:))~~ All owners of companies selling swimming pools, spa pools, wading pools or spray pools, and their associated facilities regulated by chapter 248-98 WAC shall furnish each purchaser a complete set of operating instructions and shall include detailed information on the safe use of the facilities including:

(1) Proper treatment methods to ensure water quality and sanitation;

(2) Proper safety procedures to reduce injury risks;

(3) Specific safety instructions for use at facilities having water temperatures ninety-five degrees Fahrenheit or more on the health effects of hot water and a specific caution and explanation on the health effects of hot water on pregnant women and young children.

NEW SECTION

WAC 248-98-102 TECHNICAL ADVISORY COMMITTEE. (1) The department shall appoint a technical advisory committee to assist in the following:

- (a) Reviewing and drafting of proposed rules;
- (b) Development of guidelines for use of new products, equipment, procedures, and periodic program review.

(2) The technical advisory committee shall have meetings whenever the department determines necessary.

(3) The technical advisory committee water recreation pool facility membership shall include representation from the following:

- (a) General use pool facility;
- (b) Limited use pool facility;
- (c) Local representative from the spa and pool industry (NSPI);
- (d) Washington recreation and parks association representative;
- (e) Engineer or architect design consultant;
- (f) Eastern and western Washington local environmental health authority representatives;
- (g) Department representative;
- (h) RWCF owner representative, as appropriate, as described under chapter 248-97 WAC.

(4) The technical advisory committee may appoint subcommittees as the committee determines appropriate to address specific issues.

(5) The department shall maintain minutes of meetings.

NEW SECTION

WAC 248-98-104 RESTRICTIONS ON ANIMALS. Owners shall prevent animal access to the water recreation pool facility except by users or spectators requiring services of guide dogs accompanying them to the deck area.

AMENDATORY SECTION (Amending Order 715, filed 9/14/72)

WAC 248-98-110 ~~((WAIVER))~~ VARIANCE. ~~((The secretary of the department of social and health services, or his designee, may in his discretion, waive parts of these regulations upon a showing by an applicant that a waiver may be made in an individual case without placing the safety or health of persons using the swimming pool in jeopardy.))~~ (1) The department or local health officer may allow variance from this chapter or portions thereof provided:

- (a) The local health officer receives written department concurrence;
- (b) The department receives written local health officer concurrence in jurisdictions with active water recreation facilities programs;

(c) Data and/or research provides sufficient evidence to the satisfaction of the department or local health officer the water recreation facility, or considered components, adequately protects public health and safety, as well as water quality;

(d) The variance is consistent with the intent of this chapter.

(2) The department and local health officer shall provide the board an annual summary of variances granted January 31 of the following year or at the board's request at any time. The board may evaluate such variances granted to determine if the provisions of this chapter are met.

(3) The board may, in its discretion, make provisions to submit variance requests to the board for review and decision.

AMENDATORY SECTION (Amending Order 715, filed 9/14/72)

WAC 248-98-120 SUBSTITUTION. The ~~((secretary of))~~ board authorizes the department ~~((of social and health services, or his designee, may, in his discretion.))~~ to allow substitutions of equipment, facilities, or procedures required by ~~((these regulations upon a showing))~~ chapter 248-98 WAC when, in the sole determination of the department, data and/or research provide sufficient evidence that such substitution is equivalent to the requirement and will adequately provide for the protection of the public health and safety of persons using the ~~((pool))~~ water recreation facility.

NEW SECTION

WAC 248-98-130 ENFORCEMENT. (1) The department or, if enforcement responsibility is assigned under a joint plan of operation in WAC 248-98-005, the local health officer:

- (a) Shall enforce chapter 248-98 WAC rules; or
- (b) May refer cases within the department's or local health officer's jurisdiction to the local prosecutor's office or the office of the attorney general, as appropriate.

(2) When a water recreation facility (WRF) is in violation of chapter 70.90 RCW provisions or chapter 248-98 WAC rules, appropriate enforcement action may be initiated by the department, local health officer, local prosecutor's office, or office of the attorney general. Enforcement actions may include any one or a combination of the following:

- (a) Informal administrative conferences to explore facts and resolve problems, convened at the request of the department, local health officer, or owner;
- (b) Orders directed to the water recreation facility (WRF) owner and/or operator and/or the person causing or responsible for the violation of the chapter 248-98 WAC rules;
- (c) Imposition of civil penalties of up to five hundred dollars per violation per day as authorized under RCW 70.90.200;
- (d) Denial, suspension, or revocation of operating permits; and
- (e) Civil or criminal action initiated by the local prosecutor's office or by the office of the attorney general.

(3) Orders authorized under this section include, but are not limited to the following:

(a) Requiring corrective measures necessary to effect compliance with chapters 248-98 WAC or 70.90 RCW. Such orders may or may not include a compliance schedule; and

(b) Orders to stop work and/or refrain from using any WRF or portion thereof or improvement thereto until all permits, certifications, and approvals required by statute or rule are obtained.

(4) An order issued under this section shall:

(a) Be in writing;

(b) Name the facility and the person or persons to whom the order is directed;

(c) Briefly describe each action or inaction constituting a violation of chapters 70.90 RCW or 248-98 WAC rules;

(d) Specify any required corrective action, if applicable;

(e) Provide notice, as appropriate, that continued or repeated violation may subject the violator to:

(i) Civil penalties of up to five hundred dollars;

(ii) Denial, suspension, or revocation of the facility's operating permit; or

(iii) Referral to the county prosecutor or attorney general's office.

(f) Provide the name, business address, and phone number of an appropriate staff person who may be contacted regarding an order.

(5) Service of an order shall be made:

(a) Personally, unless otherwise provided by law; or

(b) By certified mail return receipt requested.

(6) Under department or local health officer adopted rules or policies, civil penalties of up to five hundred dollars per day may be assessed against any person violating provisions of chapters 70.90 RCW or 248-98 WAC.

(7) The department or local health officer shall have cause to deny the operating permit application or reapplication or to revoke or suspend a required operating permit of any person who has:

(a) Previously had:

(i) An operating permit suspended or revoked; or

(ii) An operating permit application denied for reason.

(b) Failed or refused to comply with provisions of chapters 70.90 RCW and 248-98 WAC or any other statutory provision or rule regulating the WRF construction or operation; or

(c) Obtained or attempted to obtain an operating permit or any other required certificate or approval by fraudulent means or misrepresentation.

(8) For the purposes of subsection (7) of this section, a person shall be defined to include:

(a) Applicant;

(b) Reapplicant;

(c) Permit holder; or

(d) An individual associated with subsection (8)(a), (b), or (c) of this section including, but not limited to:

(i) Board members;

(ii) Officers;

(iii) Managers;

(iv) Partners;

(v) Association members;

(vi) Agents; and

(vii) In addition, third persons acting with the knowledge of such persons.

(9) The department or local health officer may summarily suspend an operating permit, other required permit, license, or certification without a prior hearing if the department or local health officer:

(a) Finds public health, safety, or welfare imperatively requires emergency action; and

(b) Incorporates a finding to that effect in its notice or order.

NEW SECTION

WAC 248-98-135 HEARINGS. (1) A person aggrieved by the department's or local health officer's denial, suspension, or revocation of any permit may request an administrative hearing.

(a) A hearing requested to contest a local health officer's action shall be governed by the local health jurisdiction's rules for hearings.

(b) A hearing requested to contest the department's action shall be governed by RCW 43.20A.205. The applicant's and permit holder's right to an adjudicative proceeding is in the same law.

(c) The procedure for the adjudicative proceeding is in this chapter and in chapter 248-08 WAC.

(2) Any person aggrieved by the department's or local health officer's application of civil penalties may request an administrative hearing.

(a) A hearing requested to contest a local health officer's action shall be governed by the local health jurisdiction's rules for hearings.

(b) A hearing requested to contest the department's action shall be governed by RCW 43.20A.205. When the department imposes a civil fine, the right of a person to an adjudicative proceeding is in the same law.

(c) The procedure for the adjudicative proceeding is in this chapter and in chapter 248-08 WAC.

NEW SECTION

WAC 248-98-998 SEVERABILITY. If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances shall not be affected.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 248-98-999 LEGAL AUTHORITY OF THE STATE BOARD OF HEALTH.

WSR 90-07-011
PERMANENT RULES
DEPARTMENT OF
GENERAL ADMINISTRATION
(Division of Banking)
 [Filed March 13, 1990, 1:12 p.m.]

Date of Adoption: March 13, 1990.

Purpose: To amend rules governing investments by Title 30 RCW, trust companies acting in a fiduciary capacity in mutual funds whose portfolios are limited to obligations of the United States and to repurchase agreements fully collateralized by such obligations.

Citation of Existing Rules Affected by this Order: Amending WAC 50-36-090.

Statutory Authority for Adoption: RCW 30.04.030.

Pursuant to notice filed as WSR 90-03-105 on January 24, 1990.

Changes Other than Editing from Proposed to Adopted Version: In WAC 50-36-090 (5)(b)(i) the phrase ", or fully guaranteed by," was added after the phrase "obligations of" and the phrase "or its agencies" was added after the phrase "United States" for clarity. The supervisor has determined that these changes do not alter the general subject matter of the proposed rule.

Effective Date of Rule: Thirty-one days after filing.

March 13, 1990
 Thomas H. Oldfield
 Supervisor of Banking

AMENDATORY SECTION (Amending Order 22, filed 8/14/73)

WAC 50-36-090 COLLECTIVE INVESTMENT FUNDS—INVESTMENTS AND ADMINISTRATION. (1) A trust company administering a collective investment fund shall have the exclusive management thereof.

(2) No trust company shall have any interest in a collective investment fund other than in its fiduciary capacity. Except for temporary net cash overdrafts or as otherwise specifically provided herein, it may not lend money to a fund, sell property to, or purchase property from a fund. No assets of a collective investment fund may be invested in stock or obligations, including time or savings deposits, of the bank or any of its affiliates: **PROVIDED**, That such deposits may be made of funds awaiting investment or distribution. Subject to all other provisions of this part, funds held by a trust company as fiduciary for its own employees may be invested in a collective investment fund.

(3) A trust company may not make any loan on the security of a participation in a fund. If because of a creditor relationship or otherwise the trust company acquires an interest in a participation in a fund, the participation shall be withdrawn on the first date on which such withdrawal can be effected. However, in no case shall an unsecured advance until the time of the next valuation date to an account holding a participation be deemed to constitute the acquisition of an interest by the bank.

(4) Any trust company administering a collective investment fund may purchase for its own account from

such fund any devaluated fixed income investment held by such fund, if in the judgment of the board of directors the cost of segregation of such investment would be greater than the difference between its market value and its principal amount plus interest and penalty charges due. If the trust company elects to so purchase such investment, it must do so at its market value or at the sum of cost, accrued unpaid interest, and penalty charges, whichever is greater.

(5) Except in the case of collective investment funds described in paragraph (b) of WAC 50-36-040:

((~~(i)~~)) (a) No funds or other property shall be invested in a participation in a collective investment fund if as a result of such investment the participant would have an interest aggregating in excess of 10 percent of the then market value of the fund: **PROVIDED**, That in applying this limitation if two or more accounts are created by the same person or persons and as much as one-half of the income or principal of each account is payable or applicable to the use of the same person or persons, such accounts shall be considered as one;

((~~(ii)~~)) (b) No investment for a collective investment fund shall be made in stocks, bonds, or other obligations of any closely held corporation, as may be determined by the supervisor of banking, or, of any one person, firm, or corporation if as a result of such investment the total amount invested in stocks, bonds, or other obligations issued or guaranteed by such person, firm, or corporation would aggregate in excess of 10 percent of the then market value of the fund: **PROVIDED**, That this limitation shall not apply to investments in direct obligations of the United States or its agencies or other obligations fully guaranteed by the United States or its agencies as to principal and interest: **AND PROVIDED FURTHER**, That this limitation shall not apply to investments in securities of, or other interests in, an open-end or closed-end management type investment company or investment trust registered under the Federal Investment Company Act of 1940, as now or hereafter amended, if both of the following conditions are met:

(i) The portfolio of the investment company or investment trust is limited to such obligations of, or fully guaranteed by, the United States or its agencies and to repurchase agreements fully collateralized by such obligations; and

(ii) The investment company or investment trust takes delivery of the collateral for any repurchase agreement either directly or through an authorized custodian;

(6) In addition to the investments permitted under WAC ((~~50-28-040~~)) 50-36-040, funds or other property received or held by a trust company as fiduciary may be invested collectively, to the extent not prohibited by law, as follows:

((~~(i)~~)) (a) In shares of a mutual trust investment company, organized and operated pursuant to a statute that specifically authorizes the organization of such companies exclusively for the investment of funds held by corporate fiduciaries, commonly referred to as a "bank fiduciary fund."

((~~(ii)~~)) (b) In a single real estate loan, a direct obligation of the United States, or an obligation fully guaranteed by the United States, or in a single fixed amount

security, obligation or other property, either real, personal or mixed, of a single issue: PROVIDED, That the trust company owns no participation in the loan or obligation and has no interest in any investment therein except in its capacity as fiduciary.

((iii)) (c) In a common trust fund maintained by the trust company for the collective investment of cash balances received or held by a trust company in its capacity as trustee, executor, administrator, or guardian, which the trust company considers to be individually too small to be invested separately to advantage. The total investment for such fund must not exceed \$100,000; the number of participating accounts is limited to 100, and no participating account may have an interest in the fund in excess of \$10,000: PROVIDED, That in applying these limitations if two or more accounts are created by the same person or persons and as much as one-half of the income or principal of each account is presently payable or applicable to the use of the same person or persons, such account shall be considered as one: AND PROVIDED, That no fund shall be established or operated under this subparagraph for the purpose of avoiding the provisions of chapter 50-36 WAC.

((iv)) (d) In any investment specifically authorized by court order, or authorized by the instrument creating the fiduciary relationship, in the case of trusts created by a corporation, its subsidiaries or affiliates or by several individual settlors who are closely related: PROVIDED, That such investment is not made under this subparagraph for the purpose of avoiding any provision of this regulation, in particular, but not limited to the provisions beginning with new section WAC ((50-28-040)) 50-36-040.

((v)) (e) In such other manner as shall be approved in writing by the supervisor of banking.

WSR 90-07-012
PERMANENT RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
 [Filed March 13, 1990, 1:37 p.m.]

Date of Adoption: March 8, 1990.

Purpose: Establishes standardized basic and inservice training requirements for railroad enforcement personnel commissioned by the governor for that purpose.

Statutory Authority for Adoption: RCW 43.101.080(2).

Pursuant to notice filed as WSR 90-03-085 on January 23, 1990.

Changes Other than Editing from Proposed to Adopted Version: Last line of proposed version: Delete "that" and add "the employing agency."

Effective Date of Rule: Thirty-one days after filing.
 March 13, 1990
 James C. Scott
 Executive Director

NEW SECTION

WAC 139-05-925 REQUIREMENT OF TRAINING FOR RAILROAD SPECIAL AGENTS. (1) For the purpose of this regulation, the term "special agent" means any individual appointed by the Governor of the State of Washington under the provisions of RCW 81.60.010 through 81.60.060.

(2) As a precondition of any exercise of police powers to enforce the laws of this state, special agents shall:

(a) possess the Washington State criminal justice training commission's basic certificate, or in the alternative, successfully complete, or have previously completed, a training program of at least two hundred and forty hours which shall include:

(i) Administration	15 hours
(ii) Introduction to Criminal Justice	5 hours
(iii) Law and procedure	40 hours
(iv) Community Relations	8 hours
(v) Patrol Skills and Procedures	34 hours
(vi) Investigative Skills and Procedures	108 hours
(vii) Defensive Tactics	20 hours
(viii) Departmental Policy and procedures	2 hours
(ix) Railroad Operation and procedures	4 hours
(x) Use of Force	4 hours
(xi) Firearms Qualification	<u>as required</u>
Total:	240 hours

(b) notwithstanding date of hire, successfully complete the following training, at least annually, in addition to any other in-service training program otherwise required by the special agent's employing agency:

(i) First Aid	8 hours
(ii) CPR	4 hours
(iii) Firearms Qualification	24 hours
(iv) Legal Update	4 hours
(v) SAC Training	<u>24 hours</u>
Total:	64 hours

(3) It shall be the responsibility of the special agent's employing agency to effect and ensure personnel compliance herein, and provide necessary records and information upon request of the training commission to which the employing agency shall be accountable for purpose of compliance.

WSR 90-07-013
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
 [Order 2029—Filed March 13, 1990, 3:02 p.m.]

Date of Adoption: March 13, 1990.

Purpose: To delete District 7 as an organized rapeseed production district and return district to nonproduction status. Eliminate Production District Board.

Citation of Existing Rules Affected by this Order: Amending WAC 16-570-040.

Statutory Authority for Adoption: Chapters 15.65 and 15.66 RCW.

Pursuant to notice filed as WSR 90-03-071 on January 19, 1990.

Effective Date of Rule: Thirty days after filing.

March 13, 1990
Michael V. Schwisow
Deputy Director

AMENDATORY SECTION (Amending Order 1970, filed 3/18/88)

WAC 16-570-040 **RULES OF RAPESEED PRODUCTION DISTRICTS.** Dominant type rapeseed. The dominant type of rapeseed for duly established production Districts 3, 4, 5, 6, ((7,)) 8, 9, 10, 11, and 12 shall be canola, low erucic acid rapeseed - low glucosinolates (lear-ig): **PROVIDED**, That off-type rapeseed production may be allowed if conditions outlined in WAC 16-570-030 (1)(f) are met. Production of rapeseed in Districts 1, 2, and 7 by any person for any purpose is prohibited as per WAC 16-570-020.

WSR 90-07-014

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 89-6A—Filed March 13, 1990, 3:32 p.m.]

I, Fred Olson, deputy director of the Department of Ecology, do promulgate and adopt at Ecology Headquarters, Lacey, the annexed rules relating to the amending of WAC 173-802-050 Designation of responsible official—SEPA; and 173-06-030 Delegation of powers.

This action is taken pursuant to Notice No. WSR 89-08-078 filed with the code reviser on April 5, 1989. 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 Ecology as authorized in chapter 43.21A RCW.

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

APPROVED AND ADOPTED March 13, 1990.

By Fred Olson
Deputy Director

READOPTED SECTION (Readopting Order 89-6, filed 5/11/89)

WAC 173-06-030 **DELEGATION.** The authority delegated hereby includes the authority to issue orders, directives or decisions reviewable before appropriate administrative or judicial bodies. The authority delegated is limited to the power to act for the department in carrying out functions within the power of the department. No delegation made shall be effective or within the authority of any particular person to exercise unless that person has been issued a specific letter of authorization from the director authorizing him or her to act for the

department in the specifics set forth in such letter. Subject to the foregoing restriction, the following delegations are made:

(1) To the deputy directors, assistant directors, regional directors, division supervisors and program managers, the authority to:

(a) Act on behalf of the department in the administration of programs and all other duties assigned the department;

(b) Approve or deny engineering reports, plans and specifications, or amendments thereto, required to be submitted to the department, provided that a registered professional engineer employed by the department shall have furnished engineering services in accordance with chapter 18.43 RCW, Engineers and land surveyors.

(2) Under special circumstances the director may determine it appropriate to delegate specific signature authority to any professional agency staff.

READOPTED SECTION (Readopting Order 89-6, filed 5/11/89)

WAC 173-802-050 **DESIGNATION OF RESPONSIBLE OFFICIAL.** Within the department of ecology, the ultimate responsible official is the director. The responsible official for a specific proposal shall be the person who has been delegated signature authority per WAC 173-06-030, unless more than one person has such authority in a proposal; if so, the responsible official shall be either the next higher supervisor common to all involved persons, or any senior professional staff designated by the deputy director.

WSR 90-07-015

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 89-8A—Filed March 13, 1990, 3:34 p.m.]

I, Fred Olson, deputy director of the Department of Ecology, do promulgate and adopt at the Department of Ecology, Headquarters, Lacey, Washington, the annexed rules relating to chapter 173-224 WAC, Wastewater discharge permit fees.

This action is taken pursuant to Notice No. WSR 89-07-088 filed with the code reviser on March 22, 1989. 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 Ecology as authorized in chapter 43.21A RCW.

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

APPROVED AND ADOPTED March 13, 1990.

By Fred Olson
Deputy Director

READOPTED SECTION (Readopting Order 89-8, filed 5/31/89)

WAC 173-224-015 **PURPOSE.** The purpose of this chapter is to establish a fee system for state waste discharge and NPDES permits issued by the department pursuant to RCW 90.48.160, 90.48.162, or 90.48.260. Initiative 97 authorizes the department to charge fees to fully recover, but not exceed the costs of the permit program based on expenses incurred in the issuance and administration of state waste discharge and NPDES permits. This regulation is a step towards developing a comprehensive permit program. The department will further document the program needs and costs, and re-examine the fees established within this chapter, and as appropriate, will propose changes to the fee schedule to fully recover the 1992-93 biennium program costs.

READOPTED SECTION (Readopting Order 89-8, filed 5/31/89)

WAC 173-224-020 **APPLICABILITY.** This chapter applies to all persons holding a state waste discharge or NPDES permit issued by the department pursuant to RCW 90.48.160, 90.48.162 or 90.48.260, including persons holding permits that remain in effect under WAC 173-216-040, 173-220-180(5), or RCW 90.48.200.

READOPTED SECTION (Readopting Order 89-8, filed 5/31/89)

WAC 173-224-030 **DEFINITIONS.** (1) "Administrative expenses" means those costs associated with issuing and administering permits under RCW 90.48.160, 90.48.162, and 90.48.260. Fees for hazardous waste clean up sites may be adjusted retrospectively based on cost accounting for such sites as provided for under the provisions of Initiative 97.

(2) "Aggregate production" means the mining of sand, gravel, or rock and/or the production of concrete and/or asphalt.

(3) "Aluminum and magnesium reduction mills" means the electrolytic reduction of alumina or magnesium salts to produce aluminum or magnesium metal.

(4) "Animal unit" means one slaughter or feeder steer, 0.7 mature dairy cow, 25 swine or as more fully defined in Appendix B of 40 CFR 122.

(5) "Annual permit fee" means the fee charged by the department of ecology for expenses associated with activities specified in Initiative 97. This annual fee is based on the state's fiscal year (July 1 - June 30).

(6) "bbls/d" means barrels per day of feedstock for petroleum refineries.

(7) "bins/yr" means total standard bins used during the last complete calendar year by a facility in the crop preparing industry. The bins measure approximately 47.5 inches x 47.4 inches x 29.5 inches and hold approximately 870 pounds of fruit.

(8) "Combined food processing waste treatment facility" means a facility which treats wastewater from more than one separately permitted food processor and receives no waste from industrial sources other than food processing and no domestic wastewater.

(9) "Combined industrial waste treatment" means a facility which treats wastewater from more than one industry in any of the following categories: Inorganic chemicals, metal finishing, ore concentration, organic chemicals, or photofinishers.

(10) "Combined sewer overflow (CSO)" means the event during which excess combined sewage flow caused by inflow is discharged from a combined sewer, rather than conveyed to the sewage treatment plant because either the capacity of the treatment plant or the combined sewer is exceeded.

(11) "Concentrated animal feeding operation" means an "animal feed operation" which meets the criteria in Appendix B of 40 CFR 122.23 (b)(3) as presently enacted and any subsequent modifications thereto.

(12) "Crop preparing" means the preparation of fruit for wholesale or retail sale by washing and/or other processes in which the skin of the fruit is not broken and in which the interior part of the fruit does not come in director contact with the wastewater.

(13) "cu. yds/yr" means the total production from an aggregate production facility in cubic yards during the most recent completed calendar year.

(14) "Department" means the department of ecology.

(15) "Director" means the director of the department of ecology.

(16) "Domestic wastewater" means water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration or surface waters as may be present.

(17) "Domestic wastewater facility" means all structures, equipment, or processes required to collect, carry away, treat, reclaim or dispose of domestic wastewater together with such industrial waste as may be present.

(18) "EPA" means the United States Environmental Protection Agency.

(19) "Fin fish rearing and hatching" means the raising of fin fish for fisheries enhancement or sale, by means of hatcheries, net pens, or other confined fish facilities.

(20) "Flavor extraction" means the recovery of flavors or essential oils from vegetable products.

(21) "Food processing" means the preparation of food for human or animal consumption or the preparation of animal byproducts, but exclusive of crop preparing. This category includes but is not limited to fruit and vegetable processing, meat and poultry products processing, dairy products processing, seafood processing, beer and wine production, rendering and animal feed production. Food processing wastewater treatment plants which treat wastes from only one separately permitted food processor shall be treated as one facility for billing purposes.

(22) "GPD" means maximum daily flow or maximum monthly average permitted flow in gallons per day as specified in the waste discharge permit.

(23) "Gross revenue" means gross receipts from monthly, bimonthly, and/or quarterly user charges for sewer services received from all classes of customers;

Included in these user charges are user charges and fees based on wastewater constituents' strengths and characteristics including high-strength surcharges and

charges based on biochemical oxygen demand, suspended solids, oil and grease, toxicants, heavy metals, and flow, etc.

Gross revenue includes charges for receipt and treatment of septic tank wastes, holding tank wastes, chemical toilet wastes, etc.

Gross revenue includes all amounts received from other municipalities for sewage interception, treatment, collection, or disposal.

Gross revenue excludes:

(a) Amounts derived by municipalities directly from taxes levied for the support or maintenance of sewer services.

(b) Late charges, penalties for nontimely payment by customers, interest on late payments, and all other penalties and fines.

(c) Permit fees and compliance monitoring fees for wastewater discharge permits issued by municipalities with local pretreatment programs. Permit fees which are charged to cover the cost of providing sewer service are not excluded from gross revenue.

(d) Receipts by a municipality of special assessments or installments thereof and interests and penalties thereon, and charges in lieu of assessments.

(e) Connection charges.

(f) Revenues from sales of by-products such as sludge, processed wastewater, etc.

(24) "Hazardous waste clean up sites" means hazardous waste sites which have a waste discharge permit but at which the department has not commenced cost recovery under section 4 of Initiative 97.

(25) "Industrial facility" means any facility not included in definition of municipal/domestic facility.

(26) "MGD" means permitted flow expressed in million gallons per day.

(27) "Metal finishing" means the preparation of metal surfaces by means of electroplating, electroless plating, anodizing, coating (chromating, phosphating and coloring), chemical etching and milling, and printed circuit board manufacture.

(28) "Municipal/domestic facility" means a publicly-owned facility treating domestic wastewater together with such industrial wastes as may be present, or a privately-owned facility treating solely domestic wastewater.

(29) "Municipality" means a city, town, county, district, association, or other public body created by or pursuant to state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under 33 U.S.C. Sec. 1288. State government agencies are not included in this definition.

(30) "Noncontact cooling water" means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product or finished product, and which does not contain chemicals added by the permittee. The noncontact cooling water fee category applies to those facilities which discharge only noncontact cooling water and which have no other wastewater discharges required to be permitted under RCW 90.48.160, 90.48.162, and 90.48.260.

(31) "Nonferrous metals forming" means the manufacturing of semifinished products from pure metal or metal alloys other than iron or steel or of metals not otherwise classified in WAC 173-224-040(1).

(32) "NPDES permit" means a National Pollutant Discharge Elimination System permit issued by the department pursuant to Section 402 of the federal Clean Water Act and RCW 90.48.260.

(33) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, partnership, association, firm, individual, or any other entity whatever.

(34) "Permitted flow" means:

(a) For municipal/domestic facilities, the monthly average flow limitation contained in the permit;

(b) For industrial facilities, the daily maximum flow limitation contained in the permit;

(c) For permits in which a flow limit is not specified, the department shall use the design flow corresponding to (a) or (b) of this subsection.

(35) "Residential equivalent" means a single-family residence or a unit of sewer service that yields an amount of gross revenue equal to the annual user charge for a single-family residence. In cases where the permit holder does not maintain data on gross revenue, user charges, and/or the number of single-family residences that it serves, "residential equivalent" means an influent flow of two hundred fifty gallons per day.

(36) "Sewer service" means the activity of receiving sewage deposited into and carried off by a system of sewers, drains, and pipes to a common point, or points, for disposal or for transfer to treatment for disposal, and activities involving the interception, transfer, storage, treatment, and/or disposal of sewage, or any of these activities.

(37) "State waste discharge permit" means a permit required under chapter 173-216 WAC.

READOPTED SECTION (Readopting Order 89-8, filed 5/31/89)

WAC 173-224-040 PERMIT FEE SCHEDULE.

(1) Industrial facility categories.

(2) Municipal/domestic categories.

INDUSTRIAL FACILITY CATEGORIES	ANNUAL PERMIT FEE
Aluminum Alloys	\$ 5,000.00
Aluminum and Magnesium Reduction Mills	30,000.00
Aluminum Forming	15,000.00
Aggregate Production	
a. Mineral Mining (Sand, Gravel and Rock)	
1. Mining only	500.00
2. Mining with classification (screening and/or crushing)	1,000.00
3. Mining with classification and washing	1,500.00
b. Concrete and/or Asphalt Production	
1. < 20,000 cu. yds/yr.	300.00
2. 20,000 - < 60,000 cu. yds/yr.	500.00
3. 60,000 - < 100,000 cu. yds/yr.	750.00
4. 100,000 - < 150,000 cu. yds/yr.	1,000.00
5. 150,000 - < 200,000 cu. yds/yr.	1,500.00
6. 200,000 - < 250,000 cu. yds/yr.	2,000.00
7. 250,000 cu. yds/yr. and greater	2,500.00

INDUSTRIAL FACILITY CATEGORIES	ANNUAL PERMIT FEE
The fee for a facility in the aggregate production category is the sum of the applicable fees in the mineral mining and the concrete and/or asphalt production subcategories.	
Coal Mining and Preparation	
a. < 200,000 tons per year	2,000.00
b. 200,000 - < 500,000 tons per year	4,500.00
c. 500,000 - < 1,000,000 tons per year	8,000.00
d. 1,000,000 tons per year and greater	15,000.00
Combined Industrial Waste Treatment	
a. < 10,000 gpd	1,000.00
b. 10,000 - < 50,000 gpd	2,500.00
c. 50,000 - < 100,000 gpd	5,000.00
d. 100,000 - < 500,000 gpd	10,000.00
e. 500,000 gpd and greater	15,000.00
Combined Food Processing Waste Treatment Facilities	5,000.00
Combined Sewer Overflow System	
a. < 50 acres	1,000.00
b. 50 - < 100 acres	2,000.00
c. 100 - < 500 acres	3,000.00
d. 500 acres and greater	4,000.00
Concentrated Animal Feeding Operation	
a. < 100 Animal Units	100.00
b. 100 - < 500 Animal Units	200.00
c. 500 - < 1,000 Animal Units	500.00
d. 1,000 Animal Units and greater	1,000.00
Crop Preparing	
a. 1,000 - < 5,000 bins/yr.	200.00
b. 5,000 - < 10,000 bins/yr.	400.00
c. 10,000 - < 25,000 bins/yr.	800.00
d. 25,000 - < 50,000 bins/yr.	1,600.00
e. 50,000 - < 100,000 bins/yr.	3,000.00
f. 100,000 - < 150,000 bins/yr.	5,000.00
g. 150,000 bins/yr. and greater	6,000.00
Facilities Not Otherwise Classified	
a. < 1,000 gpd	500.00
b. 1,000 - < 10,000 gpd	1,000.00
c. 10,000 - < 50,000 gpd	2,000.00
d. 50,000 - < 100,000 gpd	4,000.00
e. 100,000 - < 500,000 gpd	8,000.00
f. 500,000 - < 1,000,000 gpd	10,000.00
g. 1,000,000 gpd and greater	15,000.00
Fin Fish Rearing & Hatching	1,500.00
Flavor Extraction	
a. Steam Distillation	250.00
b. Solvent Extraction	1,000.00
Food Processing	
a. < 1,000 gpd	500.00
b. 1,000 - < 10,000 gpd	1,000.00
c. 10,000 - < 50,000 gpd	1,500.00
d. 50,000 - < 100,000 gpd	2,000.00
e. 100,000 - < 500,000 gpd	5,000.00
f. 500,000 - < 1,000,000 gpd	10,000.00
g. 1,000,000 gpd and greater	15,000.00
Fuel and Chemical Storage	
a. < 100,000 bbls	1,000.00
b. 100,000 - < 500,000 bbls	2,500.00
c. 500,000 bbls and greater	5,000.00
Hazardous Waste Clean Up Sites (See definition under WAC 173-224-030(24).)	20,000.00
Inorganic Chemicals Manufacturing	
a. Lime Products	2,500.00
b. Fertilizer	
c. Peroxide	4,000.00
d. Alkaline Earth Salts	5,000.00
e. Metal Salts	7,000.00
f. Acid Manufacturing	10,000.00
g. Chlor-alkali	20,000.00

INDUSTRIAL FACILITY CATEGORIES	ANNUAL PERMIT FEE
Iron and Steel	
a. Foundries	5,000.00
b. Mills	10,000.00
Metal Finishing	
a. < 1,000 gpd	600.00
b. 1,000 - < 10,000 gpd	1,000.00
c. 10,000 - < 50,000 gpd	2,500.00
d. 50,000 - < 100,000 gpd	5,000.00
e. 100,000 - < 500,000 gpd	10,000.00
f. 500,000 gpd and greater	15,000.00
Noncontact Cooling Water	
a. < 1,000 gpd	100.00
b. 1,000 - < 10,000 gpd	500.00
c. 10,000 - < 50,000 gpd	1,000.00
d. 50,000 - < 100,000 gpd	2,000.00
e. 100,000 - < 1,000,000 gpd	4,000.00
f. 1,000,000 - < 10,000,000 gpd	6,000.00
g. 10,000,000 gpd and greater	8,000.00
Nonferrous Metals Forming	5,000.00
Ore Mining	
a. Ore mining	1,000.00
b. Ore mining with physical concentration processes	2,000.00
c. Ore mining with physical and chemical concentration processes	8,000.00
Organic Chemicals Manufacturing	
a. Fertilizer	5,000.00
b. Aliphatic	10,000.00
c. Aromatic	15,000.00
Petroleum Refining	
a. < 10,000 bbls/d	10,000.00
b. 10,000 - < 50,000 bbls/d	20,000.00
c. 50,000 bbls/d and greater	40,000.00
Photofinishers	
a. < 1,000 gpd	400.00
b. 1,000 gpd and greater	1,000.00
Power and/or Steam Plants	
a. Steam Generation - Nonelectric	2,000.00
b. Hydroelectric	2,000.00
c. Nonfossil Fuel	3,000.00
d. Fossil Fuel	8,000.00
Pulp, Paper and Paper Board	
a. Fiber Recyclers	5,000.00
b. Paper Mills	10,000.00
c. Groundwood Pulp Mills	
1. < 300 tons per day	15,000.00
2. 300 tons per day and greater	30,000.00
d. Chemical Pulp Mills w/o Chlorine Bleaching	40,000.00
e. Chemical Pulp Mills w/Chlorine Bleaching	45,000.00
Shipyards	
\$1,000 per crane, travel lift, small boat lift	
1,000 per drydock under 250 ft in length	
1,000 per graving dock	
1,500 per marine way	
1,500 per synchrolift	
2,000 per drydock over 250 ft in length	
The fee for a facility in the shipyard category is the sum of the fees for the applicable units in the facility.	
Solid Waste Sites	
a. Nonputrescible	2,000.00
b. < 50 acres	4,000.00
c. 50 - < 100 acres	8,000.00
d. 100 - < 250 acres	10,000.00
e. 250 acres and greater	15,000.00

INDUSTRIAL FACILITY CATEGORIES	ANNUAL PERMIT FEE
Storm Water Only	
a. < 50 acres	1,000.00
b. 50 - < 100 acres	2,000.00
c. 100 - < 500 acres	3,000.00
d. 500 acres and greater	4,000.00
Textile Mills	20,000.00
Timber Products	
a. Log Storage	1,000.00
b. Veneer	2,000.00
c. Sawmills	4,000.00
d. Hardwood, Plywood	7,000.00
e. Wood Preserving	10,000.00
Vehicle Maintenance, Warehouse and Freight Transfer	
a. < 0.5 acre	1,000.00
b. 0.5 - < 1.0 acre	2,000.00
c. 1.0 acre and greater	3,000.00
Water Plants	
a. Potable water treatment	1,250.00
b. Irrigation water treatment	750.00

(a) Facilities other than those in the aggregate production, crop preparing, or shipyard categories which operate within several fee categories or subcategories will be charged for that category or subcategory with the highest fee.

(b) Facilities covered by general permits will be charged 70% of the fee category which they would otherwise belong.

(c) Industries with permitted discharges of 800 gpd or less will pay an annual fee of \$150.00.

(d) The annual permit fee for a water treatment plant that primarily serves residential customers may not exceed three dollars per residential equivalent. The number of residential equivalents is determined by dividing the facility's annual gross revenue in the previous calendar year by the annual user charge for a single family residence which uses nine hundred cubic feet of water per month.

(e) To verify information relevant to the determination of fees, the department may require industrial and commercial permittees to submit a form certifying annual production or unit processes. When required, the form must be completed and returned to the department within thirty days after it is mailed to the permittee by the department.

(f) Fees for crop preparers discharging noncontact cooling water only shall pay the lesser of the applicable fee in the crop preparing or noncontact cooling water categories.

(g) Hazardous waste clean up sites for which the department has commenced cost recovery under section 4 of Initiative 97 shall have permit fees deemed to have been charged through the cost recovery action.

(3) The form shall bear a certification of correctness and be signed:

(a) In the case of a corporation, by an authorized corporate officer;

(b) In the case of a limited partnership, by an authorized general partner;

(c) In the case of a general partnership, by an authorized partner;

(d) In the case of a sole proprietorship, by the proprietor.

(4) The department may verify the information contained in the form and, if it determines that the permit holder has made false or inaccurate statements, may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations.

MUNICIPAL/DOMESTIC FACILITIES

(a) The annual permit fee for a permit held by a municipality for a domestic wastewater facility issued under RCW 90.48.162 or 90.48.260 is determined as follows:

(i) If the number of residential equivalents that contribute to the domestic wastewater facility is less than 40,000, the fee is sixty cents times the number of residential equivalents;

(ii) If the number of residential equivalents that contribute to the domestic wastewater facility is 40,000 or greater but less than 150,000, the fee is fifty cents times the number of residential equivalents;

(iii) If the number of residential equivalents that contribute to the domestic wastewater facility is 150,000 or greater but less than 250,000, the fee is forty cents times the number of residential equivalents;

(iv) If the number of residential equivalents that contribute to the domestic wastewater facility is 250,000 or greater but less than 500,000, the fee is thirty-five cents times the number of residential equivalents;

(v) If the number of residential equivalents that contribute to the domestic wastewater facility is 500,000 or greater, the fee is thirty cents times the number of residential equivalents.

(b) The annual permit fee for each permit issued under RCW 90.48.162 or 90.48.260 that is held by a municipality that holds more than one permit for domestic wastewater facilities and which treats each domestic wastewater facility as a separate accounting entity, maintaining separate funds/accounts for each facility, into which revenue received from the users of that facility is deposited and out of which expenditures to pay for the costs of operating, etc., that facility are made, is determined as in (a) of this subsection.

(c) The sum of the annual permit fees for permits held by a municipality that holds more than one permit for domestic wastewater facilities issued under RCW 90.48.162 or 90.48.260 and which does not treat each domestic wastewater facility as a separate accounting entity, maintaining separate funds/accounts for each facility, into which revenue received from the users of that facility is deposited and out of which expenditures to pay for the costs of operating, etc., that facility are made, is determined as follows:

(i) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is less than 40,000, the fee is sixty cents times the number of residential equivalents;

(ii) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is 40,000 or greater but less than 150,000, the fee is fifty cents times the number of residential equivalents;

(iii) If the number of residential equivalents that contribute to the municipality's domestic wastewater system

is 150,000 or greater but less than 250,000, the fee is forty cents times the number of residential equivalents;

(iv) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is 250,000 or greater but less than 500,000, the fee is thirty-five cents times the number of residential equivalents;

(v) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is 500,000 or greater, the fee is thirty cents times the number of residential equivalents.

(d) The permit fee for a privately-owned domestic wastewater facility that primarily serves residential customers is determined as in (a) of this subsection. Residential customers are those whose lot, parcel or real estate, or building is primarily used for domestic dwelling purposes.

(e) Permit fees for privately-owned domestic wastewater facilities that do not serve primarily residential customers and for state-owned domestic wastewater facilities are the following:

<u>Permitted Flows</u>	<u>Annual Permit Fee</u>
.1 MGD and Greater	\$2,500.00
.05 MGD to < .1 MGD	1,000.00
.0008 MGD to < .05 MGD	500.00
< .0008 MGD	150.00

(f) The number of residential equivalents is calculated in the following manner:

(i) If the facility serves only single-family residences, the number of residential equivalents is the number of single-family residences that it served on January 1 of the previous calendar year.

(ii) If the facility serves both single-family residences and other classes of customers, the number of residential equivalents is calculated in the following manner:

(A) Calculation of the number of residential equivalents that the facility serves in its own service area. Subtract from the previous calendar year's gross revenue:

(I) Any amounts received from other municipalities for sewage interception, treatment, collection, or disposal; and

(II) Any user charges received from customers for whom the permit holder pays amounts to other municipalities for sewage treatment or disposal services. Divide the resulting figure by the annual user charge for a single-family residence.

(B) Calculation of the number of residential equivalents that the facility serves in other municipalities which pay amounts to the facility for sewage interception, treatment, collection, or disposal:

(I) Divide any such amounts received from other municipalities during the previous calendar year by the annual user charge for a single-family residence. In this case "annual user charge for a single-family residence" means the annual user charge that the facility charges other municipalities for sewage interception, treatment, collection, or disposal services for a single-family residence. If the facility charges different municipalities differing single-family residential user charges, then the charge used in these calculations must be that which applies to the largest number of single-family residential

customers. Alternatively, if the facility charges different municipalities differing single-family residential user charges, the permit holder may divide the amount received from each municipality by the annual user charge that it charges that municipality for a single-family residence and sum the resulting figures.

(II) If the facility does not charge the other municipality on the basis of a charge per single-family residence, the number of residential equivalents in the other municipality is calculated by dividing its previous calendar year's gross revenue by its annual user charge for a single-family residence. If the other municipality does not maintain data on its gross revenue, user charges, and/or the number of single-family residences that it serves, the number of residential equivalents is calculated as in (f)(iv) of this subsection.

(III) If the other municipality serves only single-family residences, the number of residential equivalents may be calculated as in (f)(i) of this subsection.

The sum of the resulting figures is the number of residential equivalents that the facility serves in other municipalities.

(C) The number of residential equivalents is the sum of the number of residential equivalents calculated in (f)(ii)(A) and (B) of this subsection.

(iii) The annual user charge for a single-family residence is calculated by either of the following methods, at the choice of the permit holder:

(A) The annual user charge for a single-family residence using nine hundred cubic feet of water per month. If users are billed monthly, this is calculated by multiplying by twelve the monthly user charge for a single-family residence using nine hundred cubic feet of water per month. If users are billed bimonthly, the annual user charge is calculated by multiplying by six the bimonthly user charge for a single-family residence using one thousand eight hundred cubic feet of water per two-month period. If the user charge for a single-family residence varies, depending on age, income, location, etc., then the charge used in these calculations must be that which applies to the largest number of single-family residential customers.

(B) The average annual user charge for a single-family residence. This average is calculated by dividing the previous calendar year's gross revenue from provision of sewer services to single-family residences by the number of single-family residences served on January 1 of the previous calendar year. If the user charge for a single-family residence varies, depending on age, income, location, etc., then the gross revenue and number of single-family residences used in making this calculation must be those for all the single-family residential customers.

In either case, (f)(iii)(A) or (B) of this subsection, the permit holder must provide the department with a copy of its complete sewer rate schedule for all classes of customers.

(iv) If a permit holder does not maintain data on its gross revenue, user charges, and/or the number of single-family residences that it serves, and therefore cannot use the methods described in (f)(i) or (ii) of this subsection to calculate the number of residential equivalents

that it serves, then the number of residential equivalents that it serves is calculated by dividing the average daily influent flow to its facility for the previous calendar year by two hundred fifty gallons. This average is calculated by summing all the daily flow measurements taken during the previous calendar year and then dividing the resulting sum by the number of days on which flow was measured. Data for this calculation must be taken from the permit holder's discharge monitoring reports. Permit holders using this means of calculating the number of their residential equivalents must submit with their application a complete set of copies of their discharge monitoring reports for the previous calendar year.

(v) If the facility received a permit fee reduction in accordance with WAC 173-223-090(3) for its fiscal year 1989 permit fee, the facility may use the residential equivalent count that was made in determining that fee reduction as the number of residential equivalents for calculating its fiscal year 1990 and 1991 permit fees.

(g) Fee calculation procedures for holders of permits for domestic wastewater facilities.

(i) Municipalities holding permits for domestic wastewater facilities issued under RCW 90.48.162 and 90.48.260, and holders of permits for privately-owned domestic wastewater facilities that primarily serve residential customers must complete a form certifying the number of residential equivalents served by their domestic wastewater system. The form must be completed and returned to the department within thirty days after it is mailed to the permit holder by the department. Fees will be calculated in even-numbered fiscal years.

(ii) The form shall bear a certification of correctness and be signed:

(A) In the case of a corporation, by an authorized corporate officer;

(B) In the case of a limited partnership, by an authorized partner;

(C) In the case of a general partnership, by an authorized partner;

(D) In the case of a sole proprietorship, by the proprietor;

(E) In the case of a municipal or other public facility, by either a ranking elected official or a principal executive officer.

(iii) The department may verify the information contained in the form and, if it determines that the permit holder has made false statements, may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations.

(iv) Residential equivalent counts calculated for the purpose of determining fees under chapter 173-223 WAC for the March 1 through June 30, 1989, period will be used to determine permit fees for fiscal years 1990 and 1991.

READOPTED SECTION (Readopting Order 89-8, filed 5/31/89)

WAC 173-224-050 PERMIT FEE PAYMENTS.
(1) Permit fee computation. Computation of permit fees shall begin on the first day of each fiscal year, or in the case of facilities or activities not previously covered by permits, on the issuance date of the permit. In the case

of applicants for state waste discharge permits who are deemed to have a temporary permit under RCW 90.48-.200, computation shall begin on the sixty-first day after the department receives an application. Computation of fees shall end on the last day of the state's fiscal year, or in the case of a terminated permit, on the date of termination. Computation shall end on the expiration date of a permit only if a permit holder has indicated to the department in writing that the permitted activity has been terminated.

(2) The department shall charge permit fees based on the permit fee schedule contained in WAC 173-224-040. The department may charge fees at the beginning of the year to which they apply. The department shall notify permit holders of fee charges by mailing billing statements. Permit fees must be received by the department thirty days after the department mails a billing statement. The department may elect to bill permit holders a prorated portion of the annual fee on a monthly, quarterly, or other periodic basis. In cases where a new permit is only in effect for a portion of the fiscal year upon which the annual fee is based, the department shall prorate the fee accordingly. In addition to other circumstances, this applies where the department terminates a permit upon its determination that an industry which discharges to a municipal sewer system is satisfactorily regulated by a local pretreatment program.

(3) The applicable permit fee shall be paid by check or money order payable to the "Department of Ecology" and mailed to the Wastewater Discharge Permit Fee Program, P. O. Box 5128, Lacey, Washington 98503-5128.

(4) In the event a check is returned due to insufficient funds, the permit fee shall be deemed to be unpaid.

READOPTED SECTION (Readopting Order 89-8, filed 5/31/89)

WAC 173-224-060 PERMITS ISSUED BY OTHER GOVERNMENTAL AGENCIES. The department shall not charge permit fees for:

(1) Permits issued by a city, town, or municipal corporation under RCW 90.48.165;

(2) Permits issued by the energy facilities site evaluation council under RCW 80.50.071;

(3) Permits administered by the EPA under 33 U.S.C. 1251 et seq.

Nothing herein shall restrict the department from charging fees to recover administrative expenses of permits it issues under RCW 90.48.160 for discharges into municipal sewer systems, nor for charging fees to recover administrative expenses related to monitoring compliance with delegated pretreatment programs.

READOPTED SECTION (Readopting Order 89-8, filed 5/31/89)

WAC 173-224-070 CREDITS. Any public entity engaging in a comprehensive monitoring program may apply for a credit against its permit fee. The full amount of a permit fee shall not be due until after the department made a determination on any such application for

credit. The department may establish a due date in accordance with WAC 173-224-050 for an amount equal to the permit fee assessment minus the requested credit. Any balance of permit fee charges remaining after approval or denial of a credit shall be due thirty days after the department gives notice of such approval or denial. The department may approve applications for credits that meet the following criteria:

(1) Credit shall not be granted to a facility in excess of twenty-five percent of the permit fee assessed over the five-year period of a permit;

(2) The total amount of combined credits granted to all permittees for the five-year period beginning July 1, 1988, shall not exceed fifty thousand dollars. The total amount of credits granted for any one year shall not exceed the balance of the fifty thousand dollar maximum divided by the number of years remaining before July 1, 1993. If more than one permittee applies for credits during any one calendar year, the department shall consider the amount of the credits applied for and the benefits derived from the comprehensive monitoring programs in distributing the credits for that year among the applicants;

(3) Credit shall not be granted for monitoring required by the terms of the applicant's permit; nor for monitoring of effluent or the effects of effluent on the receiving water, sediment, or biota in the vicinity of the discharge; nor for monitoring that is within the scope of monitoring guidelines developed by the department for implementation through permits;

(4) In applying for an NPDES permit credit, the applicant must demonstrate that its comprehensive monitoring produces benefits the general public or public agencies responsible for protection or management of the state's waters or aquatic resources. Such benefits must extend beyond the immediate jurisdiction or responsibility of the applicant;

(5) Requests for credit must be received by the department no later than October 1 during any state fiscal year.

READOPTED SECTION (Readopting Order 89-8, filed 5/31/89)

WAC 173-224-080 TRANSFER OF OWNERSHIP OR CONTROL. The department shall charge permit fees from the permit holder on record with the department. In the event that ownership or control of a permitted facility or activity is transferred, it shall not be the responsibility of the department to transfer funds between a new and previous permit holder, and the department shall not refund fee charges prospectively in the event of a transfer. Fees paid by a previous permit holder shall be deemed to satisfy the corresponding fee payment requirements of a new permit holder. Agreements between a new and previous permit holder are not binding on the department.

READOPTED SECTION (Readopting Order 89-8, filed 5/31/89)

WAC 173-224-090 SMALL DISCHARGER FEE REDUCTION. A small business required to pay a permit fee under an industrial facility category may receive a reduction of its permit fee.

(1) To qualify for the fee reduction, a business must:

(a) Be a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit;

(b) Be independently owned and operated from all other businesses (i.e., not a subsidiary of a parent company);

(c) Have fifty or fewer employees; and

(d) Have annual sales of five hundred thousand dollars or less of the goods or services produced using the processes regulated by the waste discharge permit.

(2) To receive a fee reduction, the permit holder must submit an application in a manner prescribed by the department demonstrating that the conditions of subsection (1) of this section have been met. The application shall bear a certification of correctness and be signed:

(a) In the case of a corporation, by an authorized corporate officer;

(b) In the case of a limited partnership, by an authorized general partner;

(c) In the case of a general partnership, by an authorized partner;

(d) In the case of a sole proprietorship, by the proprietor.

(3) The department may verify the information contained in the application and, if it determines that the permit holder has made false statements, may deny the fee reduction request and revoke previously granted fee reductions.

(4) The permit fee for small businesses determined to be eligible under subsection (1) of this section shall be reduced to the greater of: (a) Fifty percent of the permit fee; or (b) two hundred fifty dollars.

(5) If due to special economic circumstances a fee reduction allowed under subsection (4) of this section would nevertheless still impose an extreme economic hardship on a small business, the small business may so indicate in its application for fee reduction and request a further fee reduction. The small business must provide sufficient evidence to support its claim of extreme hardship. The factors which the department may consider in determining whether the applicant faces special economic circumstances and in setting the applicant's fee include: The applicant's annual sales, the size of its labor force, the conditions of the market which affect the applicant's ability to pass the cost of the permit fee through to its customers, and its average annual profits. In no case will a permit fee be reduced below one percent of the average annual gross sales of the goods or services produced using the process regulated by the waste discharge permit. The average annual gross sales is calculated using the previous three calendar years' gross sales.

READOPTED SECTION (Readopting Order 89-8, filed 5/31/89)

WAC 173-224-100 ADMINISTRATIVE APPEALS TO THE DEPARTMENT. Any person aggrieved by a determination made under this chapter by the department may file a written appeal to the department no later than the due date for payment of fees. Such appeal shall state the reasons that the aggrieved person believes that the department's determination is contrary to the requirements of Initiative 97, and specific actions that he/she is requesting that are consistent with those requirements. The department shall either issue a revised determination or a statement upholding the original determination. A revised determination shall be consistent with the requirements of Initiative 97.

READOPTED SECTION (Readopting Order 89-8, filed 5/31/89)

WAC 173-224-110 DEPOSITS. The department shall deposit permit fee payments in the water quality permit account in the state treasury. Funds collected shall not be available for use by the department until appropriated by the legislature.

READOPTED SECTION (Readopting Order 89-8, filed 5/31/89)

WAC 173-224-120 PAST DUE PAYMENTS. Any person who, by the effective date of this section, has not paid the fees and other amounts due under chapters 173-222 and 173-223 WAC shall continue to be obligated to pay such fees and amounts.

WSR 90-07-016**PERMANENT RULES****DEPARTMENT OF ECOLOGY**

[Order 89-4A—Filed March 13, 1990, 3:42 p.m.]

I, Fred Olson, deputy director of the Department of Ecology, do promulgate and adopt at the Ecology Headquarters Office, St. Martin's Campus, Lacey, Washington, the annexed rules relating to WAC 173-160-215 Minimum standards for construction and maintenance of wells.

This action is taken pursuant to Notice No. WSR 89-12-058 filed with the code reviser on June 6, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 18.104 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 13, 1990.

By Fred Olson
Deputy Director**READOPTED SECTION** (Readopting Order 89-4, filed 7/12/89, effective 8/12/89)

WAC 173-160-215 DESIGN AND CONSTRUCTION—WELL COMPLETION—GENERAL. The well may be completed with screens, perforated liners or pipe, or open bottom; these shall be of sufficient strength to withstand the forces to which they are subjected during and after construction. It is the well drillers or designers responsibility to advise the owner or his representative of the most appropriate method of completion. Wells shall be completed in a manner which prevents the production of inordinate amounts of sand or turbid water.

(1) Standard open bottom completion. Open bottom completion is appropriate only where the withdrawn waters are essentially free of sand, silt and turbidity.

(2) Perforated pipe completion. Perforated pipe completion is suitable only for a coarse-grained, permeable aquifer where the withdrawn waters are free of excessive sand, silt or turbidity.

Perforations above the static water level are not permitted. Wells may be completed with perforations as follows:

(a) In-place perforations with Star, Mills knife, or similar type perforators.

(b) Perforated pipe liners, either sawcut, torch-cut, mill-slotted, or punched. Such liners may be of steel, plastic or other suitable corrosion-resistant material, but if other than steel, a full evaluation of the structural stability of the liner must be made prior to its placement. They may be used in a natural development or gravel-packed type construction. The use of perforated casing for working casing as the hole is being drilled is prohibited, except in those cases where the contractor can, through personal experience in the particular area of drilling, attest to the sufficiency of the preperforated casing in all respects for the specific well being constructed.

(3) Well screens. Well screens (and well points) shall be constructed of one type of corrosion-resistant material. A neoprene, or grout seal shall be fitted to the top of the well screen assembly. The bottom of the well screen shall be plugged or capped.

(4) Alignment. A completed well must be so constructed that the drill hole and/or installed casing does not deviate from an alignment that would allow a twenty foot dummy section of pipe of no more than one diameter size smaller than the casing liner or drilled hole to be inserted to the bottom of the well without binding. Minimum specifications for casing sizes for various ranges in well yield or pumping rate are shown under WAC 173-160-235.

WSR 90-07-017**PERMANENT RULES****DEPARTMENT OF ECOLOGY**

[Order 89-1A—Filed March 13, 1990, 3:45 p.m.]

I, Fred Olson, deputy director of the Department of Ecology, do promulgate and adopt at Headquarters,

Lacey, Washington, the annexed rules relating to chapter 173-50 WAC, Accreditation of environmental laboratories.

This action is taken pursuant to Notice Nos. WSR 89-04-052 and 89-07-032 filed with the code reviser on February 1, 1989, and March 10, 1989. 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 43.21A-.230 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 13, 1990.

By Fred Olson
Deputy Director

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-010 PURPOSE. The purpose of this chapter is to establish a state program for accreditation of environmental laboratories which conduct tests for or prepare data for submittal to the department of ecology. The accreditation program implemented under this chapter is designed to satisfy the intent of RCW 43.21A.230.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-020 SCOPE. The environmental laboratory accreditation program applies to laboratories, within or outside the state, which conduct tests for or prepare analytical data for submittal to the department. Federal laboratories may participate in the accreditation program on a voluntary basis.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-030 OBJECTIVES. The primary objective of the accreditation program is to assure accredited laboratories have a demonstrated capability to accurately analyze environmental samples. A secondary objective is to assist environmental laboratories in improving their quality assurance/quality control procedures. Accreditation does not guarantee validity of analytical data submitted by the laboratory subsequent to accreditation.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-040 DEFINITIONS. Definitions set forth in this section shall apply throughout this chapter, unless context clearly indicates otherwise.

(1) "Accreditation" means the formal recognition by the department that an environmental laboratory is capable of producing accurate analytical data, signified by the issuance of a written certificate accompanied by a

scope of accreditation indicating those parameters for which the laboratory has been accredited. The term "accredit" as used in this chapter is intended to have the same meaning as the term "certify" as used in RCW 43.21A.230. Any laboratory accredited under this chapter shall be deemed to have been certified under RCW 43.21A.230. The department does not, by certifying or accrediting any laboratory pursuant to this chapter, vouch for or warrant the accuracy of any particular work done or report issued by the laboratory.

(2) "Analytical data" means the recorded qualitative and/or quantitative results of a chemical, physical, biological, microbiological, radiological, or other scientific determination.

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

(4) "Environmental laboratory" means any facility under the ownership and technical management of a single entity in a single geographical locale, where scientific examinations are performed on samples taken from the environment, the data from which is submitted to the department under the provisions of a department regulation, permit, or contractual agreement.

(5) "Mandatory analytical method" means a recognized written procedure for acquiring analytical data which is required by law or a regulatory agency of the federal or state government.

(6) "Matrix" means the substance from which a material to be analyzed is extracted, such as ground or surface water, wastewater, air, solid waste, nuclear waste, and hazardous waste.

(7) "Parameter" means a single determination or group of related determinations using a specific written method chosen by an applying laboratory.

(8) "Performance audit" means evaluation of the results of analyses of unknown samples whose true values are unknown to the laboratory conducting the analyses and which are provided by a source external to the environmental laboratory. Such samples may be referred to as performance evaluation samples.

(9) "Quality control" means those activities designed to assure analytical data produced by an environmental laboratory meet data quality objectives for accuracy. Those activities include routine application of statistically based procedures to evaluate and control the accuracy of analytical results.

(10) "Quality assurance (QA)" means those activities whose purpose is to assure that a quality control program is effective. A quality assurance program is a totally integrated program for assuring reliability of measurement data.

(11) "Quality assurance manual" means a written record of the policies, organization, objectives, and specific quality control and quality assurance activities established for use in an environmental laboratory to assure accuracy of analytical results. Volume and scope of quality assurance manuals vary with complexity of laboratory mission.

(12) "Recognized analytical method" means a documented analytical procedure for analysis of an environmental sample which was developed through collaborative studies by organizations or groups recognized by the department.

(13) "System audit" means an on-site inspection of laboratory capabilities by an agency external to the laboratory.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-050 RESPONSIBILITIES. (1) The department shall require persons and organizations submitting analytical data to the department under the purview of department programs to use environmental laboratories which are accredited under the provisions of this chapter.

(2) The department shall not require use of accredited laboratories for determination of analytical parameters for which no suitable accreditation process can be reasonably devised as determined by the quality assurance section.

(3) The department shall develop a procedural manual describing specifics of the accreditation process. As a minimum, the procedural manual shall describe in detail the procedures to be followed for: Submitting an application; system (on-site) audits; performance audits; accreditation of out-of-state laboratories; determination and payment of fees; issuance, denial, and revocation of accreditation; and methods for notifying laboratories and authorized department officials of accreditation actions. The procedural manual shall be made available to all interested persons.

(4) Managers of environmental laboratories desiring accreditation shall submit an application along with appropriate fees to the department fiscal officer, submit results of performance evaluations, a quality assurance manual and other required documentation to the quality assurance section, and assist/accommodate department personnel during system audits as required.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-060 REQUIREMENTS FOR ACCREDITATION. (1) Managers of environmental laboratories desiring accreditation shall submit to the department fiscal officer an application and pay required fees as predetermined by coordination with the quality assurance section. Concurrently, the laboratory manager shall submit a copy of their laboratory quality assurance manual to the quality assurance section and arrange with the quality assurance section for completion of a performance audit and system audit.

(2) Through the application, laboratory managers shall request accreditation in applicable parameters and provide evidence that sufficient personnel, equipment, and facilities are available to successfully perform analytical methods as specified in the application. The quality assurance manual submitted concurrently with the application shall be in detail and scope commensurate with the size and mission of the laboratory.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-070 PERFORMANCE AUDIT. (1) The quality assurance section shall advise applying laboratories of specific requirements for performance audits which shall be completed for applicable parameters no more frequently than twice annually (see exception in subsection (4) of this section). Current performance audits conducted under the provisions of other recognized programs may be used to satisfy the accreditation program performance audit requirement. Sufficiency of such audits shall be determined by the quality assurance section.

(2) Submission of raw data along with the report of analysis of the performance evaluation sample may be required at the discretion of the quality assurance section.

(3) Performance audits for certain accreditation parameters may be waived at the discretion of the quality assurance section if performance evaluation samples are not available or for other valid reasons.

(4) Laboratories which fail to accurately analyze a performance evaluation sample may be allowed a second performance audit. If necessitated by a second failure, a third performance audit may be allowed (as an exception to subsection (1) of this section) only after the laboratory has investigated cause for failure in the preceding audits and completed corrective actions.

(5) Applying laboratories shall be responsible for obtaining performance evaluation samples. No fee shall be charged to the department for analysis of performance evaluation samples.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-080 SYSTEM AUDIT. The laboratory shall undergo a system audit by the department to assess critical elements and areas of recommended practices.

(1) Critical elements for accreditation. Those elements of an environmental laboratory's operations which are critical to the consistent generation of reliable, accurate data are critical elements for accreditation. Those critical elements shall be the subject of intense scrutiny throughout the accreditation process and deficiencies in critical elements may be the basis for denial or revocation of accreditation status. Functional areas within which there are critical elements are:

(a) Analytical methods. The system audit shall seek to determine if documentation of mandatory or recognized analytical methods are present at the laboratory, readily available to analysts, and being routinely followed. If a locally-developed method is being followed, the audit may include an evaluation of the adequacy of that method.

(b) Equipment and supplies. The system audit shall seek to determine if sufficient equipment and supplies are required by analytical methods are available, being adequately maintained, and are in a condition to allow successful performance of applicable analytical procedures.

(c) Quality assurance. The laboratory quality assurance manual shall be reviewed for adequacy prior to the system audit. The system audit shall include a review of quality assurance plans and quality assurance/quality control records for programs/projects within which the laboratory is generating analytical data for submission to the department.

(d) Sample management. The system audit shall include a review of applicable procedures for receipt, preservation, transportation, and storage of samples. The laboratory shall be held responsible only for those elements of sample management over which it has direct control.

(2) Recommended practices. Those elements of laboratory operations which might affect efficiency, safety, and other administrative functions, but do not normally affect quality of analytical data, shall be brought to the attention of laboratory management under the heading of "recommended practices" and individually, shall not be the basis for denial or revocation of accreditation status. Functional areas within which recommended practices may be noted are:

(a) Personnel. The system audit shall seek to determine if managerial, supervisory, and analytical personnel have adequate training and experience to allow satisfactory completion of analytical procedures and compilation of reliable, accurate data. Minimum recommended education and experience criteria for laboratory personnel shall be specified in the program procedural manual.

(b) Facilities. The system audit shall seek to determine if laboratory facilities allow efficient generation of reliable, accurate data in a safe environment.

(c) Safety. When the system audit notes laboratory safety problems, those judged serious shall be referred to appropriate state or federal agencies.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-090 EVALUATION AND ISSUANCE OF CERTIFICATE. Following receipt of an application and completion of a performance audit and system audit, the quality assurance section shall submit a report to the affected laboratory concerning the results of the overall accreditation process. The report shall list findings, assess the importance of each finding, and make recommendations concerning actions necessary to ensure resolution of problems. After completing the accreditation review, the quality assurance section shall decide, based on information in the application and results of the system audit, performance audit, and review of the quality assurance manual, whether accreditation should be granted. If this decision is affirmative, a certificate shall be issued authorizing the affected laboratory to submit analytical data to the department as specified on an accompanying scope of accreditation. The certificate shall remain the property of the department and shall be surrendered to the department upon revocation of accreditation status. If accreditation is not justified, the department shall issue a report specifying areas of deficiency and steps necessary to upgrade the laboratory to accredited status. In such cases, the laboratory shall be allowed thirty days in which to provide

documentation that the specified deficiencies have been corrected. Based on such documentation the department shall decide whether to grant, renew, deny, or revoke accreditation.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-100 INTERIM ACCREDITATION. If for valid reasons based on a deficiency in the department and not the laboratory, the quality assurance section cannot conduct a complete assessment of laboratory capabilities within six months of receipt of an application, an interim accreditation may be granted based on submission of an application and fees by the laboratory, completion of a performance audit where appropriate, and an update of the laboratory's quality assurance manual.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-110 PROVISIONAL ACCREDITATION. Laboratories which have deficiencies requiring corrective action but can produce valid analytical data as determined by the quality assurance section may be given a provisional accreditation. When the laboratory has corrected such deficiencies, it may provide evidence of correction to the quality assurance section, or request reaudit, as appropriate. Upon determining deficiencies have been corrected, the quality assurance section shall take action to award full accreditation as in WAC 173-50-090. Provisional accreditation shall not be renewed for a subsequent accreditation period (fiscal year) unless laboratory management can demonstrate that all reasonable measures to correct deficiencies noted during the initial capability assessment have been exhausted.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-120 ACCREDITATION CATEGORIES. Environmental laboratories shall be accredited within the broad categories Chemistry I (general), Chemistry II (trace metals), Organics I (gas chromatography (GC), high pressure liquid chromatography (HPLC) methods), Organics II (gas chromatography/mass spectrometry (GC/MS) methods), Radiological, Microbiological, Bioassay, and Limited Municipal Wastewater Treatment. Within those broad categories, laboratories shall specifically be accredited to perform within the well-defined parameters identified in WAC 173-50-190 or as requested by the applying laboratory, using specific, recognized analytical methods chosen by the applying laboratory. Additional parameters may be designated in the program procedural manual without amendment of this chapter if required to allow more efficient execution of the accreditation program.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-130 REQUIREMENTS FOR MAINTAINING ACCREDITATION STATUS. Accreditation shall be granted for a given fiscal year and shall expire at the end of each fiscal year (last day of June). Renewal shall require submission of an application and appropriate fees, an update of the laboratory's quality assurance manual, and successful completion of a new performance audit. System audits shall be required for renewal of accreditation at periods not to exceed three years from the previous system audit.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-140 DENYING ACCREDITATION STATUS. A laboratory may be denied accreditation for failing to comply with standards for critical elements of the system audit, for misrepresenting its capabilities or failing to disclose pertinent information in the application, for falsifying analytical data, or for failing to render appropriate fees. Additionally, a laboratory may be denied accreditation for a specific parameter for unsatisfactory analysis of that parameter in the performance audit. Laboratories denied accreditation may appeal under the provisions of WAC 173-50-200 or, following correction of deficiencies, may reapply for accreditation to include payment of appropriate fees as determined in WAC 173-50-190.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-150 REVOKING ACCREDITATION STATUS. Accreditation status may be suspended or revoked if the laboratory violates a state rule relative to the analytical procedures for which it is accredited, misrepresents itself to the department, fails to submit an application and associated fees for renewal, falsifies reports of analysis, or engages in unethical or fraudulent practices concerning the generation of analytical data. Additionally, an accredited laboratory may be reaudited for cause and, if found to be deficient in its ability to provide accurate analytical data, may have its accreditation suspended or revoked.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-160 RECIPROCITY. The department may recognize accreditation (or certification, registration, licensure, approval) of an out-of-state laboratory by another state with which the department has established a reciprocity agreement. In such cases, the out-of-state laboratory shall submit an application and associated fee to offset administrative costs of processing its application (see WAC 173-50-190(5)), and a copy of their accreditation documentation including scope of accreditation. After review of the application and accreditation to assure compliance with minimum accreditation requirements as stated in this chapter, the laboratory

may be recognized as authorized to submit analytical data to the department.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-170 THIRD-PARTY ACCREDITATION. The department may recognize accreditation (or certification, registration, licensure, approval) of a laboratory, including in-state laboratories, by a third party when the accreditation is determined to be equivalent to that described in this chapter. Laboratories applying for recognition of third-party accreditation shall submit an application and associated fee to offset administrative costs (see WAC 173-50-190(5)), and provide documented information demonstrating requirements for accreditation have been fulfilled as a result of accreditation carried out by a third party. After review of the application and accreditation to ensure compliance with minimum accreditation requirements as stated in this chapter, the laboratory may be recognized as authorized to submit analytical data to the department.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-180 EXEMPTIONS. (1) The application form shall provide for wastewater dischargers whose laboratories meet the exemption qualifications of RCW 43.21A.230 to request exemption from the accreditation program. Those laboratories shall be required to submit evidence that they are participating in a federal Environmental Protection Agency Administered Quality Assurance Program including as a minimum the following elements: Current QA program/project plans; performance evaluation audits; system audits; corrective action for audit deficiencies; quality control guidelines and records; and training in quality assurance for laboratory management personnel. The department shall grant exemption from accreditation requirements of this chapter upon receipt of confirmation from Region X of the federal Environmental Protection Agency of such participation by a laboratory.

(2) Exemption shall be granted only for those analytical parameters included in the federal Environmental Protection Agency Quality Assurance Program. The exemption status shall be reviewed annually based upon submittal by the laboratory of a new application and updated evidence of continued participation in a sufficient quality assurance program.

Note: The federal Environmental Protection Agency does not presently administer a complete quality assurance program for wastewater dischargers in the state of Washington, such as would provide an exemption under subsection (1) of this section. Thus, this exemption is not presently available. The Environmental Protection Agency considers annual analysis of performance evaluation samples to constitute only one element of participation in a quality assurance program. The complete Environmental Protection Agency Quality Assurance Program is described in their Order 5360.1, "Policy and Program Requirements to Implement the Mandatory Quality Assurance Program," which is the basis for exemption requirements stated in subsection (1) of this section.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-190 FEE STRUCTURE. (1) Fees in this chapter are those established for initiation of the accreditation program. The fee structure shall be reviewed annually and modified as necessary to reflect currency value fluctuations or changes in program administration costs. Laboratory directors may request addition of parameters within given categories.

CATEGORY	PARAMETER	FEE/PARAMETER	MAX FEE PER CATEGORY			
Chemistry I (General)	Calcium	\$50	\$600			
	Chloride					
	Fluoride					
	Magnesium					
	pH					
	Potassium					
	Sodium					
	Specific Conductance					
	Sulfate					
	Total Alkalinity					
	Total Dissolved Solids (TDS)					
	Total Hardness					
	Ammonia (NH3-N)					
	Kjeldahl Nitrogen					
	Nitrate (NO3-N)					
	Nitrate-Nitrite (NO3-NO2)					
	Nitrite (NO2-N)					
	Orthophosphate					
	Phosphorous (total)					
	Biochemical Oxygen Demand (BOD)/Carbonaceous BOD (CBOD)					
	Chemical Oxygen Demand (COD)					
	Total Organic Carbon (TOC)					
	Acidity					
	Anionic Surfactants (LAS)					
	Bromide					
	Color					
	Cyanide (total)					
	Dissolved Oxygen (DO)					
	Nonfilterable Residue/ Total Suspended Solids (TSS)					
	Oil/grease					
	Phenolics (total)					
	Salinity					
	Silica					
	Sulfide					
	Sulfite					
	Total Residual Chlorine					
	Turbidity					
	Chemistry II (Trace Metals)			Aluminum	\$30	\$400
				Antimony		
				Arsenic		
Beryllium						
Cadmium						
Chromium						
Cobalt						
Copper						
Iron						
Lead						
Manganese						
Mercury						
Molybdenum						
Nickel						
Selenium						
Silver						
Strontium						
Thallium						
Tin						
Titanium						
Vanadium						
Zinc						

CATEGORY	PARAMETER	FEE/PARAMETER	MAX FEE PER CATEGORY			
Organics I (GC, HPLC methods)	Acrolein/Acrylonitrile	\$50	\$250			
	Phenols					
	Purgeable (volatile) Halocarbons					
	Purgeable (volatile) Aromatics					
	Benzidines					
	Phthalate Ester					
	Nitrosamines					
	Chlorinated Hydrocarbon Pesticides and Polychlorinated Biphenyls (PCBs)					
	Nitroaromatics/Isophorone					
	Polynuclear Aromatic Hydrocarbons					
	Haloethers					
	Chlorinated Hydrocarbons					
	Organics II (GC/MS methods)			Purgeables (volatiles)	\$100	\$250
				Base/Neutrals and Acids (semivolatiles)		
				Dioxin (2,3,7,8-Tetra-chlorodibenzo-p-dioxin)		
Radiological	Alpha	\$50	\$100			
	Beta					
	Radium					
Microbiological	Coliform (fecal)	\$100	\$250			
	Coliform (total)					
	Fecal streptococci					
	Enterococci					
	E. coli					
Bioassay	Fish	\$100	\$400			
	Rat					
	Amphipod					
	Bivalve Larvae					
	Chromosomal abnormality					
	Microtox					
	Daphnid					
	Echinoderm					
	Mysid					
	Algae					
Limited Municipal Wastewater Treatment	Not Applicable		\$150			

(2) Only laboratories owned and operated by municipalities whose discharge as permitted under chapter 173-216 or 173-220 WAC is less than one million gallons per day shall be accredited under the "limited municipal wastewater treatment" category.

(3) Out-of-state laboratories shall coordinate directly with the quality assurance section to determine the anticipated cost of completing the accreditation process. The fee assessed shall be the projected cost of travel and per diem added to the normal fee indicated in WAC 173-50-190(1).

(4) On-site inspections shall not be conducted nor shall interim or provisional or other accreditations be granted until appropriate fees have been received by the department.

(5) The fee to defray costs to the department for recognition of a laboratory under a reciprocity agreement (WAC 173-50-160) or recognition of third-party accreditation (WAC 173-50-170) shall be fifty dollars.

(6) Apart from the fee process, applicant laboratories shall be required to acquire and analyze performance evaluation (PE) samples for parameters specified by the quality assurance section. The source of PE samples, if other than the federal Environmental Protection Agency, shall be approved by the quality assurance section. To

the extent feasible as determined by the quality assurance section, performance evaluation samples already being analyzed by the applicant laboratories, shall be used to fulfill performance audit requirements of this chapter.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-200 APPEALS. An environmental laboratory manager may appeal final accreditation actions (awards, denials, revocations) in writing to the director of the department within thirty days of notification of final action.

READOPTED SECTION (Readopting Order 89-1, filed 4/20/89)

WAC 173-50-210 ENFORCEMENT. The department may enter any premises in which analytical data pertaining to accreditation under the provisions of this chapter are generated or stored, for the purpose of conducting system audits or otherwise enforcing this chapter. Refusal to permit entry for such purposes shall result in denial, revocation, or suspension of accreditation status.

WSR 90-07-018
PERMANENT RULES
GAMBLING COMMISSION

[Order 207—Filed March 13, 1990, 3:54 p.m.]

Date of Adoption: March 9, 1990.

Purpose: To comply with APA requirement regarding authority for summary suspensions.

Citation of Existing Rules Affected by this Order: Amending WAC 230-50-012 Summary suspensions.

Statutory Authority for Adoption: RCW 34.05.422(4).

Pursuant to notice filed as WSR 90-03-060 on January 18, 1990.

Effective Date of Rule: Thirty-one days after filing.

March 13, 1990
Frank L. Miller
Deputy Director

AMENDATORY SECTION (Amending Order 200, filed 11/21/89 [11/27/89])

WAC 230-50-012 (~~(EMERGENCY ADJUDICATED PROCEEDINGS)~~) SUMMARY SUSPENSIONS. (1) (~~(F)~~) Pursuant to RCW 34.05.422(4), the director may (~~(temporarily)~~) summarily suspend a license or permit issued pursuant to these rules pending a hearing upon suspension or revocation of the license, or issuance of a renewal thereof, for a period not to exceed 90 days when in the opinion of the commission or the director:

(a) The licensee or permittee has obtained the license or permit by fraud, trick, misrepresentation, concealment, or through inadvertence or mistake; or

(b) The licensee or permittee has engaged in any act, practice or course of operation as would operate as a fraud or deceit on any person, or has employed any device, scheme or artifice to defraud any person; or

(c) The licensee or permittee has again violated, failed, or refused to comply with any of the provisions, requirements, limitations, or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the commission pursuant thereto, after having been previously notified by the commission, its authorized representatives, or by local law enforcement personnel, that a violation or violations of the same or similar provisions had been, or were being, committed by the licensee or permittee; or

(d) Immediate cessation of the licensed or permitted activities by the licensee or permittee is necessary for the protection or preservation of the welfare of the community within which these activities are being conducted.

(2) When a license or permit has been (~~(temporarily)~~) summarily suspended by the director, an (~~(emergency)~~) adjudicated proceeding shall be commenced and the licensee or permittee shall be afforded an opportunity for a hearing before an Administrative Law Judge or the commission, upon the question of the suspension or revocation of the license or permit, or upon the renewal of the license or permit should it expire during the period of (~~(temporary)~~) summary suspension. If an application for an adjudicated proceeding and request for hearing is timely filed by the licensee or permittee, then a hearing shall be held within 90 days of the effective date of the (~~(temporary)~~) summary suspension ordered by the director.

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

WSR 90-07-019
EMERGENCY RULES
GAMBLING COMMISSION
[Filed March 13, 1990, 3:56 p.m.]

Date of Adoption: March 9, 1990.

Purpose: To clarify which card rooms may participate in the Washington Blackjack test. To give the director the authority to limit participation in the test in order to adequately monitor activity.

Citation of Existing Rules Affected by this Order: Amending WAC 230-40-125.

Statutory Authority for Adoption: RCW 9.46.070 (11) and (14).

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The test begins on April 1, 1990. These clarifications are necessary for participants to take part in the test.

Effective Date of Rule: Immediately.

March 13, 1990
 Frank L. Miller
 Deputy Director

AMENDATORY SECTION (Amending Order 205, filed 2/14/90)

WAC 230-40-125 WASHINGTON BLACKJACK - RULES OF PLAY - WAGERING LIMITS. Washington Blackjack is a non-house banking, card game and shall be permitted in Class A and E card rooms only and shall be played only in the following manner:

(1) One or two standard fifty-two-card decks shall be used with suits disregarded and each card valued numerically only: ace, 1 or 11; face cards (K, Q, J), 10 each; others according to their spots, 10 to 2. One or two decks may be used when there are six or less players. Two decks shall be used when there are seven or more players. The cards shall be dealt from a shoe at all times. The game is played with a dealer/banker and only a player may be a dealer/banker.

(2) When starting a new table the cards are cut to determine who the first dealer/banker will be. The dealer shall announce the amount of money that he or she will put into the bank. A minimum bank may be established as per individual house rule.

(3) Once the bank has been established, the player to the immediate left of the dealer places his/her wager on the bet line and the dealer covers that wager by matching it with a like amount of chips. Each player makes their wager in turn and each wager is immediately matched by the dealer. The maximum wager shall not be more than ten dollars (\$10.00) and the minimum wager may be set by house rule. If the bank runs out of money (tapped out) prior to the commencement of the deal, then only those players with a wager covered will be dealt a hand. No player may be dealt more than one hand.

(4) The play begins with the dealer dealing one card face up to each covered player including himself/herself, one more card face up to each covered player, and then one down card to himself/herself. If a player holds an ace and a face card or a ten, it is a "natural" 21 and the player collects twice the amount of their bet from the dealer, unless the dealer also has a natural which results in a tie (push). All ties result in the players and the dealer recovering their wagers.

(5) If the dealer has a "natural," he/she collects the wagers from players who do not have a "natural". If the dealer does not have a "natural," he/she pays off any player with a "natural" starting with the one closest to their left. Should the dealer not have enough money in the bank to make up the two for one payoff due on a "natural," then those hands and wagers will be frozen in place until the additional wagers are made up or the hand is over. If after the hand is over, a dealer cannot cover the two for one, the player shall get the amount of wager that was covered by the dealer.

(6) If the dealer does not have a "natural," play continues with the player on the dealer's immediate left. The dealer deals cards face up, one by one, as that

player calls for them. The player's aim is to total 21 or as close to 21 without going over. When a player is satisfied with their total, they shall declare "stand". If more cards are wanted, the player declares "hit". If a player goes over a 21 point count, the hand is a "bust" and they must turn the hand down, while the dealer collects the bet.

(7) The dealer does the same with each remaining player. Any player who stands must wait while the dealer draws his or her cards. If the dealer goes bust, each standing player is paid the amount of their wager. If the dealer "stands," the down card is turned up and players whose totals are higher than the dealer's are paid. The dealer collects from any player whose total is less. Action is always to the left of the dealer. Any frozen wagers needing to be "made up" will be done in order, to the left of the dealer from losing wagers the dealer collects. Should the dealer not be able to cover all frozen wagers then those frozen wagers are released to the winning players and the deal passes immediately to the left at which time the new dealer shall announce their bank and shuffle the cards. The same shall apply if the dealer has no money in the bank. The dealer may, if allowed by house rule, add to their bank in between hands.

(8) Upon completion of the shuffle, the player to the right of the dealer shall cut the cards. After the cards have been placed into the shoe the dealer shall insert a blank card approximately three quarters of the way through the deck(s). A dealer may deal from the shoe until he/she reaches the blank card. After the blank card appears, the dealer may continue dealing that hand, but will not start a new hand. The deal must then pass to the player on the dealer's immediate left. The discards may only be reshuffled to complete the last hand.

(9) Once wagers are placed and covered on the bet line, no player, including the dealer, may touch those wagers until the winner has been determined. Any player touching the wagers may be ruled to have fouled and their wager forfeited.

(10) Any player who lifts their cards up from the table or slides their cards out of their own playing area shall be ruled to have fouled and their wager may be forfeited.

(11) No player may "buy" the bank. The deal must pass around the table to the left and no player can authorize another player to deal for him or her. A new player entering the game may not participate as the dealer/banker until at least two other players have dealt. If a player does not wish to deal and passes the deal, that player may not play in the first two hands conducted by the next dealer. A dealer may after completing one full hand, pass the deal and be able to participate in the next hand.

(12) The dealer must stand on 17 or above and must take hits on 16 or below. If a dealer has an ace, it shall be counted as 11 (eleven) if it brings his or her total to 17 or more (but not over 21).

(13) If a player's first two cards total exactly 9, 10 or 11, they may double their wager and receive one more card. The player must then stand on those three cards. If the dealer's bank is insufficient to cover a double down wager, the player may wager an amount equal to the

dealer's remaining bank. The dealer must then cover that wager. If the dealer has no bank then a player may not double down.

(14) If the dealer's face-up card is a ten, face card or ace, he/she may look at their face-down card to see if they have a natural; if his/her face-up card is anything else, they may not look at their face-down card until their turn comes to draw. Should the dealer violate this rule their hand may be ruled to have been fouled, which shall result in forfeiture of all remaining dealer wagers.

(15) If a player's first two cards are a pair, then that player may split the pair into two separate hands. The amount of the player's original bet then goes on one of the cards, and they must place an equal amount as a bet on the other card. When this player's turn to draw comes, they receive an up-card for each hand and then play each hand in order. If the dealer does not have enough in their bank to cover the doubled bet, the dealer must cover an amount equal to the value of their remaining bank. The player then has the option to divide the wagers in any manner between the two hands, not to exceed the allowable limit per hand. If the dealer has no bank then the player may divide their wager in any manner between the two hands. If a player's original bet was a minimum allowed in that game then they may not split their pair. A player may only split a pair once.

(16) The dealer will pay only on the value of the cards held by the player and shall not pay on the number of cards received or the card sequence.

(17) There shall be no credit or I.O.U. issued by any player or management.

(18) Washington Blackjack shall be authorized for a one year test beginning April 1, 1990, and concluding March 31, 1991. Of the five (5) tables authorized under RCW 9.46.0281(1) the card room licensee may utilize no more than two (2) tables for Washington Blackjack, and must notify the director ten (10) days prior to initiating play.

(19) The director may limit the number of participants in the test when in his judgement the number of participants exceed the ability of the staff to adequately monitor the test.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

WSR 90-07-020
EMERGENCY RULES
GAMBLING COMMISSION
 [Filed March 13, 1990, 3:58 p.m.]

Date of Adoption: March 9, 1990.

Purpose: To extend the time allowed for manufacturers of pull tabs to comply with secondary verification code requirements and reduce operators inventory of games not in compliance.

Citation of Existing Rules Affected by this Order:
 Amending WAC 230-30-070 Control of prizes.

Statutory Authority for Adoption: RCW 9.46.070 (11) and (14).

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule will limit the economic impact on operators in the state of Washington attempting to dispose of pull tab sets not in compliance with new requirements.

Effective Date of Rule: Immediately.

March 13, 1990
 Frank L. Miller
 Deputy Director

AMENDATORY SECTION (Amending Order 196, filed 8/15/89, effective 9/15/89)

WAC 230-30-070 CONTROL OF PRIZES. All prizes from the operation of punchboards and pull tabs shall be awarded in cash or in merchandise.

(1) Prizes shall be cash or merchandise only. Prizes may not involve the opportunity of taking an additional chance or chances on another punchboard or of obtaining another pull tab or pull tabs. Where the prize involves the opportunity to punch again on the same punchboard, a prize must be awarded for each such punch which is not less than the highest amount of money, or worth not less than the most valuable merchandise prize, which might otherwise have been won by the punch for which the opportunity to take the second punch was awarded. Each such board must clearly indicate on its face the terms and conditions under which the opportunity to obtain the second, or step-up punch, may be obtained and the prizes which may be won by the step-up punch.

(2) Display of prizes:

(a) All prizes shall be displayed in the immediate vicinity of the punchboard or pull tab device and such prizes shall be in full view of any person prior to that person purchasing the opportunity to play.

(b) When the prize is cash it shall be displayed as follows:

(i) If the punchboard or pull tab series contains the opportunity to win both cash and merchandise prizes, the money itself shall not be displayed, but a coupon designating the cash available to be won shall be substituted; and

(ii) If the only prizes which may be won are cash prizes, they shall be clearly and fully described or represented by a coupon displayed upon the prize flare attached to the face or displayed in the immediate vicinity of the pull tab dispensing device.

(c) The licensee shall display prizes so arranged that a customer can easily determine which prizes are available from any particular punchboard or pull tab series or device operated or located upon the premises.

(d) Upon determination of a winner of a merchandise prize, the licensee shall immediately remove that prize from any display and present it to the winner.

(e) Upon determination of a winner of any cash prize of five dollars or more, or of any merchandise prize with a retail value of five dollars or more, but prior to award of the prize, the licensee shall conspicuously delete all references to that prize being available to players from any flare, punchboard or pull tab dispensing device upon which such reference may appear, and from any other list, sign, or notice which may be posted, in such a manner that all future customers will know the prize is no longer available. The prize shall then be paid or delivered to the winner forthwith.

(3) Payment of prizes.

The licensee must pay or award to the customer or player playing the punchboard or pull tab series all such prizes that have not been deleted from the flare of the punchboard or pull tab series when the punchboard or pull tab series is completely played out.

(4) Cash in lieu of merchandise prizes.

No licensee shall offer to pay cash in lieu of merchandise prizes which may be won.

(5) Record of winners:

(a) When any person wins a cash prize of over twenty dollars or wins a merchandise prize with a retail value of more than twenty dollars from the play of any punchboard or pull tab series, the licensee or licensee's representative shall make a record of the win. The record of the win shall be made in a standard format prescribed by the commission and shall disclose at minimum the following information:

(i) The Washington state identification stamp number of the punchboard or pull tab series from which the prize was won;

(ii) The series number of the pull tab series or punchboard from which the prize was won;

(iii) The name of the punchboard or pull tab series;

(iv) The date the pull tab series or punchboard was placed out for play;

(v) The date the pull tab series or punchboard was removed from play;

(vi) The month, day and year of the win;

(vii) If the prize is cash, the amount of the prize won;

(viii) If the prize is merchandise, a description of the prize won and its retail value;

(ix) The printed full name of the winner;

(x) The current address of the winner which will include the street address, the city and the state.

(b) It shall be the responsibility of the licensee to determine the identity of the winner and the licensee shall require such proof of identification as is necessary to properly establish the winner's identity. The licensee shall require the winner to sign his name in ink on the winning pull tab being presented for payment. The licensee shall not pay out any prize unless and until the winner has fully and accurately furnished to the licensee all information required by this rule to be maintained in the licensee record of the win.

(c) From October 1, 1989, until December 31, 1990, the commission shall conduct a test of an alternative

method of maintaining a record of winners. This test shall not include more than 100 licensees, all of which receive written permission from the director. Charitable or nonprofit licensees participating in this test shall be prohibited from intermingling of funds allowed by WAC 230-08-010(6) and must deposit funds separately and intact as set out in WAC 230-12-020. All participants shall adhere to alternative requirements for retention of winning tabs or punches required by subsection (6) of this rule and WAC 230-30-072. In addition, effective ((April 1)) October 1, 1990, all participants shall use only pull tabs that utilize a secondary verification code to prohibit counterfeiting on tabs that award prizes greater than \$20.00. Such codes shall be approved by the director prior to use within this state. Banded pull tabs and punchboards are exempt from the secondary verification code requirements. During the period of the test when a person wins a cash prize of over twenty dollars or a merchandise prize with a retail value of more than twenty dollars, the following alternative winners record procedures shall apply:

(i) The winners shall be required to print their name and date of birth, in ink, upon the side of the winning punch or tab opposite the winning symbol(s);

(ii) The licensee or their representative shall then verify the winner's identity and record the date and initial the winning punch or tab.

(6) Retention of records. Every licensee shall keep the record of all prizes awarded in excess of twenty dollars, containing all of the information required in subsection (5) above, and all winning pull tabs or punchboard punches for a period of at least four months following the last day of the month in which it was removed from play and shall display the same to any representative of the commission or law enforcement officials upon demand.

(7) Defacing winning punches or tabs. The licensee shall, within twenty-four hours after a winning pull tab or punch of five dollars or more has been presented for payment, mark or perforate the winning symbols in such a manner that the pull tab or punch cannot be presented again for payment.

(8) Value of merchandise prizes. For purposes of this rule, the retail value of a merchandise prize shall be the amount actually paid therefor by the licensed operator plus 50 percent of that actual cost.

(9) Spindle, banded, or "jar" type pull tabs played in a manner which awards merchandise prizes only. Pull tab series which award only merchandise prizes valued at no more than five dollars, are hereby permitted to employ schemes whereby certain predesignated pull tabs are free or the player is otherwise reimbursed the actual cost of said pull tabs. Flares for spindle-type pull tabs operated in this manner shall designate the total number of pull tabs in the series and the total number of pull tabs designated as free or reimbursable. Free or reimbursable pull tabs in these types of pull tab series shall not constitute a prize or prizes nor shall monies collected and later reimbursed constitute revenue for the purposes of determining gross receipts.

WSR 90-07-021
PROPOSED RULES
GAMBLING COMMISSION
 [Filed March 13, 1990, 4:01 p.m.]

Original Notice.

Title of Rule: WAC 230-30-070 Control of prizes.

Purpose: Describes requirements regarding prizes and records pertaining to punchboards and pull tabs.

Statutory Authority for Adoption: RCW 9.46.070 (11) and (14).

Statute Being Implemented: Chapter 9.46 RCW.

Summary: Allows manufacturers and pull tab operators additional time to prepare for test requirements on secondary verification codes and to deplete inventory not in compliance.

Name of Agency Personnel Responsible for Drafting: Loren Greenwood, Speciality Manufacturing, Bellevue, (206) 644-1820; **Implementation:** Ronald O. Bailey, Director, Lacey, 438-7640; and **Enforcement:** Richard Nicks, Assistant Director, Lacey, 438-7690.

Name of Proponent: Speciality Manufacturing (petition), private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule provides for an extension before requiring the operators of pull tabs to comply with secondary winner verification requirements. The requirement begins on October 1, 1990, instead of April 1, 1990. This extension will allow manufacturers and operators to deplete inventory and fully implement the new system.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The agency has considered whether this rule change is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons: The additional change to this rule does not affect more than 10% of one industry or more than 20% of all industries.

Hearing Location: Executive Inn, 5700 Pacific Highway East, Tacoma, WA 98424, on May 11, 1990, at 10:00 a.m.

Submit Written Comments to: Washington State Gambling Commission, 4511 Woodview Drive S.E., Lacey, WA 98504-8121, by May 11, 1990.

Date of Intended Adoption: May 11, 1990.

March 13, 1990
 Frank L. Miller
 Deputy Director

AMENDATORY SECTION (Amending Order 196, filed 8/15/89, effective 9/15/89)

WAC 230-30-070 CONTROL OF PRIZES. All prizes from the operation of punchboards and pull tabs shall be awarded in cash or in merchandise.

(1) Prizes shall be cash or merchandise only. Prizes may not involve the opportunity of taking an additional chance or chances on another punchboard or of obtaining another pull tab or pull tabs. Where the prize involves the opportunity to punch again on the same punchboard, a prize must be awarded for each such punch which is not less than the highest amount of money, or worth not less than the most valuable merchandise prize, which might otherwise have been won by the punch for which the opportunity to take the second punch was awarded. Each such board must clearly indicate on its face the terms and conditions

under which the opportunity to obtain the second, or step-up punch, may be obtained and the prizes which may be won by the step-up punch.

(2) Display of prizes:

(a) All prizes shall be displayed in the immediate vicinity of the punchboard or pull tab device and such prizes shall be in full view of any person prior to that person purchasing the opportunity to play.

(b) When the prize is cash it shall be displayed as follows:

(i) If the punchboard or pull tab series contains the opportunity to win both cash and merchandise prizes, the money itself shall not be displayed, but a coupon designating the cash available to be won shall be substituted; and

(ii) If the only prizes which may be won are cash prizes, they shall be clearly and fully described or represented by a coupon displayed upon the prize flare attached to the face or displayed in the immediate vicinity of the pull tab dispensing device.

(c) The licensee shall display prizes so arranged that a customer can easily determine which prizes are available from any particular punchboard or pull tab series or device operated or located upon the premises.

(d) Upon determination of a winner of a merchandise prize, the licensee shall immediately remove that prize from any display and present it to the winner.

(e) Upon determination of a winner of any cash prize of five dollars or more, or of any merchandise prize with a retail value of five dollars or more, but prior to award of the prize, the licensee shall conspicuously delete all references to that prize being available to players from any flare, punchboard or pull tab dispensing device upon which such reference may appear, and from any other list, sign, or notice which may be posted, in such a manner that all future customers will know the prize is no longer available. The prize shall then be paid or delivered to the winner forthwith.

(3) Payment of prizes.

The licensee must pay or award to the customer or player playing the punchboard or pull tab series all such prizes that have not been deleted from the flare of the punchboard or pull tab series when the punchboard or pull tab series is completely played out.

(4) Cash in lieu of merchandise prizes.

No licensee shall offer to pay cash in lieu of merchandise prizes which may be won.

(5) Record of winners:

(a) When any person wins a cash prize of over twenty dollars or wins a merchandise prize with a retail value of more than twenty dollars from the play of any punchboard or pull tab series, the licensee or licensee's representative shall make a record of the win. The record of the win shall be made in a standard format prescribed by the commission and shall disclose at minimum the following information:

(i) The Washington state identification stamp number of the punchboard or pull tab series from which the prize was won;

(ii) The series number of the pull tab series or punchboard from which the prize was won;

(iii) The name of the punchboard or pull tab series;

(iv) The date the pull tab series or punchboard was placed out for play;

(v) The date the pull tab series or punchboard was removed from play;

(vi) The month, day and year of the win;

(vii) If the prize is cash, the amount of the prize won;

(viii) If the prize is merchandise, a description of the prize won and its retail value;

(ix) The printed full name of the winner;

(x) The current address of the winner which will include the street address, the city and the state.

(b) It shall be the responsibility of the licensee to determine the identity of the winner and the licensee shall require such proof of identification as is necessary to properly establish the winner's identity. The licensee shall require the winner to sign his name in ink on the winning pull tab being presented for payment. The licensee shall not pay out any prize unless and until the winner has fully and accurately furnished to the licensee all information required by this rule to be maintained in the licensee record of the win.

(c) From October 1, 1989, until December 31, 1990, the commission shall conduct a test of an alternative method of maintaining a record of winners. This test shall not include more than 100 licensees, all of which receive written permission from the director. Charitable or non-profit licensees participating in this test shall be prohibited from intermingling of funds allowed by WAC 230-08-010(6) and must deposit

funds separately and intact as set out in WAC 230-12-020. All participants shall adhere to alternative requirements for retention of winning tabs or punches required by subsection (6) of this rule and WAC 230-30-072. In addition, effective (~~April 1~~) **October 1, 1990**, all participants shall use only pull tabs that utilize a secondary verification code to prohibit counterfeiting on tabs that award prizes greater than \$20.00. Such codes shall be approved by the director prior to use within this state. Banded pull tabs and punchboards are exempt from the secondary verification code requirements. During the period of the test when a person wins a cash prize of over twenty dollars or a merchandise prize with a retail value of more than twenty dollars, the following alternative winners record procedures shall apply:

(i) The winners shall be required to print their name and date of birth, in ink, upon the side of the winning punch or tab opposite the winning symbol(s);

(ii) The licensee or their representative shall then verify the winner's identity and record the date and initial the winning punch or tab.

(6) Retention of records. Every licensee shall keep the record of all prizes awarded in excess of twenty dollars, containing all of the information required in subsection (5) above, and all winning pull tabs or punchboard punches for a period of at least four months following the last day of the month in which it was removed from play and shall display the same to any representative of the commission or law enforcement officials upon demand.

(7) Defacing winning punches or tabs. The licensee shall, within twenty-four hours after a winning pull tab or punch of five dollars or more has been presented for payment, mark or perforate the winning symbols in such a manner that the pull tab or punch cannot be presented again for payment.

(8) Value of merchandise prizes. For purposes of this rule, the retail value of a merchandise prize shall be the amount actually paid therefor by the licensed operator plus 50 percent of that actual cost.

(9) Spindle, banded, or "jar" type pull tabs played in a manner which awards merchandise prizes only. Pull tab series which award only merchandise prizes valued at no more than five dollars, are hereby permitted to employ schemes whereby certain predesignated pull tabs are free or the player is otherwise reimbursed the actual cost of said pull tabs. Flares for spindle-type pull tabs operated in this manner shall designate the total number of pull tabs in the series and the total number of pull tabs designated as free or reimbursable. Free or reimbursable pull tabs in these types of pull tab series shall not constitute a prize or prizes nor shall monies collected and later reimbursed constitute revenue for the purposes of determining gross receipts.

WSR 90-07-022
PROPOSED RULES
GAMBLING COMMISSION
[Filed March 13, 1990, 4:03 p.m.]

Original Notice.

Title of Rule: WAC 230-40-125 Washington Blackjack—Rules of play—Wagering limits.

Purpose: Provides rules and manner of conducting a card game called Washington Blackjack.

Statutory Authority for Adoption: RCW 9.46.070 (11) and (14).

Statute Being Implemented: Chapter 9.46 RCW.

Summary: Clarifies which card room operators may participate in the Washington Blackjack test. Gives the director the authority to limit participation in the test commensurate with current staffing levels ability to monitor.

Name of Agency Personnel Responsible for Drafting: Frank L. Miller, Deputy Director, Lacey, Washington, 438-7640; Implementation: Ronald O. Bailey, Director, Lacey, Washington, 438-7640; and Enforcement: Richard A. Nicks, Assistant Director, Lacey, Washington, 438-7690.

Name of Proponent: Washington State Gambling Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Provides additional clarification for participant requirements in an authorized test of Washington Blackjack by card room operators. Allows the director to limit test participants.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

This rule amendment results in no significant change in existing rules.

Hearing Location: Executive Inn, 5700 Pacific Highway East, Tacoma, WA 98424, (206) 922-0080, on May 11, 1990, at 10:00 a.m.

Submit Written Comments to: Washington State Gambling Commission, 4511 Woodview Drive S.E., Lacey, WA 98504-8121, by May 11, 1990.

Date of Intended Adoption: May 11, 1990.

March 13, 1990
Frank L. Miller
Deputy Director

AMENDATORY SECTION (Amending Order 205, filed 2/14/90)

WAC 230-40-125 WASHINGTON BLACKJACK - RULES OF PLAY - WAGERING LIMITS. Washington Blackjack is a non-house banking, card game and shall be permitted in Class A and E card rooms only and shall be played only in the following manner:

(1) One or two standard fifty-two-card decks shall be used with suits disregarded and each card valued numerically only: ace, 1 or 11; face cards (K, Q, J), 10 each; others according to their spots, 10 to 2. One or two decks may be used when there are six or less players. Two decks shall be used when there are seven or more players. The cards shall be dealt from a shoe at all times. The game is played with a dealer/banker and only a player may be a dealer/banker.

(2) When starting a new table the cards are cut to determine who the first dealer/banker will be. The dealer shall announce the amount of money that he or she will put into the bank. A minimum bank may be established as per individual house rule.

(3) Once the bank has been established, the player to the immediate left of the dealer places his/her wager on the bet line and the dealer covers that wager by matching it with a like amount of chips. Each player makes their wager in turn and each wager is immediately matched by the dealer. The maximum wager shall not be more than ten dollars (\$10.00) and the minimum wager may be set by house rule. If the bank runs out of money (tapped out) prior to the commencement of the deal, then only those players with a wager covered will be dealt a hand. No player may be dealt more than one hand.

(4) The play begins with the dealer dealing one card face up to each covered player including himself/herself, one more card face up to each covered player, and then one down card to himself/herself. If a player holds an ace and a face card or a ten, it is a "natural" 21 and the player collects twice the amount of their bet from the dealer, unless the dealer also has a natural which results in a tie (push). All ties result in the players and the dealer recovering their wagers.

(5) If the dealer has a "natural," he/she collects the wagers from players who do not have a "natural". If the dealer does not have a "natural," he/she pays off any player with a "natural" starting with the one closest to their left. Should the dealer not have enough money in the bank to make up the two for one payoff due on a "natural," then those hands and wagers will be frozen in place until the additional wagers are made up or the hand is over. If after the hand is over, a dealer cannot cover the two for one, the player shall get the amount of wager that was covered by the dealer.

(6) If the dealer does not have a "natural," play continues with the player on the dealer's immediate left. The dealer deals cards face up, one by one, as that player calls for them. The player's aim is to total 21 or as close to 21 without going over. When a player is satisfied with their total, they shall declare "stand". If more cards are wanted, the

player declares "hit". If a player goes over a 21 point count, the hand is a "bust" and they must turn the hand down, while the dealer collects the bet.

(7) The dealer does the same with each remaining player. Any player who stands must wait while the dealer draws his or her cards. If the dealer goes bust, each standing player is paid the amount of their wager. If the dealer "stands," the down card is turned up and players whose totals are higher than the dealer's are paid. The dealer collects from any player whose total is less. Action is always to the left of the dealer. Any frozen wagers needing to be "made up" will be done in order, to the left of the dealer from losing wagers the dealer collects. Should the dealer not be able to cover all frozen wagers then those frozen wagers are released to the winning players and the deal passes immediately to the left at which time the new dealer shall announce their bank and shuffle the cards. The same shall apply if the dealer has no money in the bank. The dealer may, if allowed by house rule, add to their bank in between hands.

(8) Upon completion of the shuffle, the player to the right of the dealer shall cut the cards. After the cards have been placed into the shoe the dealer shall insert a blank card approximately three quarters of the way through the deck(s). A dealer may deal from the shoe until he/she reaches the blank card. After the blank card appears, the dealer may continue dealing that hand, but will not start a new hand. The deal must then pass to the player on the dealer's immediate left. The discards may only be reshuffled to complete the last hand.

(9) Once wagers are placed and covered on the bet line, no player, including the dealer, may touch those wagers until the winner has been determined. Any player touching the wagers may be ruled to have fouled and their wager forfeited.

(10) Any player who lifts their cards up from the table or slides their cards out of their own playing area shall be ruled to have fouled and their wager may be forfeited.

(11) No player may "buy" the bank. The deal must pass around the table to the left and no player can authorize another player to deal for him or her. A new player entering the game may not participate as the dealer/banker until at least two other players have dealt. If a player does not wish to deal and passes the deal, that player may not play in the first two hands conducted by the next dealer. A dealer may after completing one full hand, pass the deal and be able to participate in the next hand.

(12) The dealer must stand on 17 or above and must take hits on 16 or below. If a dealer has an ace, it shall be counted as 11 (eleven) if it brings his or her total to 17 or more (but not over 21).

(13) If a player's first two cards total exactly 9, 10 or 11, they may double their wager and receive one more card. The player must then stand on those three cards. If the dealer's bank is insufficient to cover a double down wager, the player may wager an amount equal to the dealer's remaining bank. The dealer must then cover that wager. If the dealer has no bank then a player may not double down.

(14) If the dealer's face-up card is a ten, face card or ace, he/she may look at their face-down card to see if they have a natural; if his/her face-up card is anything else, they may not look at their face-down card until their turn comes to draw. Should the dealer violate this rule their hand may be ruled to have been fouled, which shall result in forfeiture of all remaining dealer wagers.

(15) If a player's first two cards are a pair, then that player may split the pair into two separate hands. The amount of the player's original bet then goes on one of the cards, and they must place an equal amount as a bet on the other card. When this player's turn to draw comes, they receive an up-card for each hand and then play each hand in order. If the dealer does not have enough in their bank to cover the doubled bet, the dealer must cover an amount equal to the value of their remaining bank. The player then has the option to divide the wagers in any manner between the two hands, not to exceed the allowable limit per hand. If the dealer has no bank then the player may divide their wager in any manner between the two hands. If a player's original bet was a minimum allowed in that game then they may not split their pair. A player may only split a pair once.

(16) The dealer will pay only on the value of the cards held by the player and shall not pay on the number of cards received or the card sequence.

(17) There shall be no credit or I.O.U. issued by any player or management.

(18) Washington Blackjack shall be authorized for a one year test beginning April 1, 1990, and concluding March 31, 1991. Of the five

(5) tables authorized under RCW 9.46.0281(1) the card room licensee may utilize no more than two (2) tables for Washington Blackjack, and must notify the director ten (10) days prior to initiating play.

(19) The director may limit the number of participants in the test when in his judgement the number of participants exceed the ability of the staff to adequately monitor the test.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

WSR 90-07-023

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed March 14, 1990, 1:42 p.m.]

Date of Adoption: March 14, 1990.

Purpose: To fix fees for timeshare program.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-127-010 Promulgation—Authority; 308-127-020 Organization; 308-127-030 Definitions; 308-127-100 Exemptions from registration; 308-127-155 Fees; 308-127-220 Original application, renewal, termination, and fees for a timeshare salesperson registration; amending WAC 308-127-040 Materially adverse change; 308-127-110 Disclosure documents—Projects already registered in foreign jurisdictions; 308-127-130 Disclosure of number of intervals to be sold to persons residing in the state of Washington; 308-127-140 Expiration and renewal of timeshare offering registration; 308-127-200 Activities requiring registration as a timeshare salesperson; 308-127-210 Relationship of timeshare promoters and salespersons and real estate brokers and salespersons; 308-127-300 Impoundment; and new sections WAC 308-127-035 Definitions; 308-127-105 Exemptions from registration; 308-127-160 Fees; 308-127-225 Original applications renewal, termination, and fees for a timeshare salesperson registration.

Statutory Authority for Adoption: RCW 43.24.086.

Pursuant to notice filed as WSR 90-04-088 on February 7, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 308-127-160(7) Advertising fees. Proposed: Each initial submission of advertisement not submitted in a timely manner, whether or not in use at the time of payment. Adopted: Each initial submission of advertisement whether or not submitted in a timely manner, and whether or not in use at the time of payment.

It was not the intent to change the requirement to pay the existing fee, merely to increase the fee. This was pointed out by public testimony.

Effective Date of Rule: Thirty days after filing.

March 14, 1990

Marsha Tadano Long

Assistant Director

Professional Licensing Services

NEW SECTION

WAC 308-127-035 DEFINITIONS. (1) Words and terms used in these rules shall have the same meaning as each has in the Timeshare Act, chapter 64.36 RCW, unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicates that they be given some other meaning.

(2) "Agency" means the department of licensing in the state of Washington.

(3) "Timeshare project" means all the properties located at a specific resort location whether or not subject to resort or condominium regimes documents, which properties are subject to a particular set of timeshare instruments.

(4) "Timeshare property" means all the properties subject to a particular timeshare program established by a particular set of timeshare instruments.

(5) "Timeshare program" means the rights and obligations of the timeshare owners, methods, procedures and rules for occupying, using and managing the timeshared property, as established by a particular set of timeshare instruments.

(6) "Resale timeshare interval" means a timeshare interval offered or sold which is not the original offer, transfer, or sale of such interval to the general public and not a forfeited timeshare sale being reoffered by a promoter, lender, or affiliate.

(7) "Start-up timeshare interval" means a timeshare interval that is being offered or sold to the general public for the first time or a forfeited timeshare purchase being resold by a promoter, lender, or affiliate.

(8) "Advance fee" means consideration of any description, collected for any purpose from buyers or sellers of resale timeshare intervals prior to the time of transacting a purchase or sale of a timeshare resale.

(9) "Prospective purchaser" means any person attending a sales presentation of any description or touring a timeshare property in response to an advertisement placed by any person, including lenders to whom a start-up timeshare purchaser contract is pledged, hypothecated, or conveyed for security purposes.

(10) "Consolidation" means any adding of intervals, real estate, or units of timeshared personal property to a program. Consolidations shall not be construed as amendments to the registration for purposes of determining fees under these rules.

(11) "Amendment" means an amendment of a registration or a public offering statement pursuant to WAC 308-127-040.

(12) "Limited timeshare offering" means a timeshare interval or timeshare intervals offered or sold in which:

(a) None of the owners of interests are owners for the purpose of making a profit from renting, exchanging, or selling the timeshare interests; and none do in fact make a profit from such activities during a three-year term subsequent to establishment of the program; and

(b) The establishment of the timeshare program is not for the purpose of making a profit on behalf of any person; and

(c) All co-owners had personal knowledge of each other prior to the establishment of the program and

there is no solicitation of co-owners by means of advertising in public media.

(13) "Public offering statement" means the disclosure document referred to in the Timeshare Act.

AMENDATORY SECTION (Amending Order 733 DOL, filed 12/6/83)

WAC 308-127-040 MATERIALLY ADVERSE CHANGE. (1) A materially adverse change means any change in the condition of a promoter or its affiliates which causes or might cause loss or risk of loss to the interests of the timeshare purchasers or prospective purchasers.

A materially adverse change occurs under circumstances which include, but are not limited to, the following:

(a) Any bulk sale of all or a significant portion of the timeshare properties;

(b) Any actual or threatened bankruptcy, receivership, or similar proceeding involving the promoter or its affiliates;

(c) Any lien, encumbrance, or similar circumstance which threatens to affect, or does affect, any of the timeshare properties;

(d) Any sale, lease, substitution of, or addition to the inventory of the timeshare properties by the promoter or its affiliates;

(e) Any amendment or change in the timeshare instruments or the timeshare program;

(f) Any change in the affiliation of the promoter or the association with a timeshare exchange company;

(g) Any change in the promoter's or an affiliate's plan of promotion;

(h) Any change in the status of an escrow, trust, bond, letter of credit, impound or other protective device, being utilized in the timeshare program for purposes of purchaser protection;

(i) Any criminal prosecution, civil lawsuit, or administrative proceeding in which the promoter or its affiliates are parties;

(j) Sell-out of the number of intervals registered to be sold to persons residing in the state of Washington;

(k) Any change in the financial status of the promoter or its affiliates that might adversely affect their ability to pay the timeshare expenses, including reserve accounts, during marketing of the timeshares.

(2) Materially adverse changes shall be reported to the agency for purposes of amending or renewing the registration and the public offering statement at the time they are known or proposed by the promoter or its affiliates. Failure to report such changes within 20 days shall result in the assessing of a \$500.00 penalty fee and shall be cause for suspension, revocation, or denial of a registration.

NEW SECTION

WAC 308-127-105 EXEMPTIONS FROM REGISTRATION. (1) Provided that the conditions stated are met, the director may exempt from registration limited timeshare offerings:

(a) The offering contains fewer than four owners or timeshare intervals for at least three years after its establishment; and

(b) There is no soliciting of purchasers in the timeshare program from among the general public; and

(c) There appears to be neither hazard to the public or owners nor violation of the nonregistration provisions of the statute; and

(d) The co-owners of the timeshare program provide the agency with advance notice of their intent to establish a limited timeshare offering. Such notice may be given on a form for this purpose provided by the agency, or otherwise, which shall include the names and addresses of all co-owners of the timeshare program and properties, the identity and location of the timeshare properties, and a description of the timeshare program, including a copy of all agreements and forms that financially commit the owners to the program.

(2) Resales, by an owner, on the owner's own account, shall be exempt from registration provided that any such offering or selling is noncommercial in nature. "Non-commercial" shall mean that the owner of the resale intervals is not in the business of offering or selling timeshare intervals and such offering or selling is only incidental to any profession, occupation, or business of the owner.

(3) Offering resale timeshares for another person's account, by a licensed broker or salesperson under chapter 18.85 RCW, shall be exempt from registration under the Timeshare Act, provided that:

(a) The broker shall act solely in a brokerage capacity; and

(b) The broker shall provide prospective purchasers with information about the timeshares, as required in the Timeshare Act; and

(c) The broker shall ensure the transfer of the timeshares; and

(d) The broker shall not be in a business of marketing as a clearing house for the primary purpose offering or selling timeshares.

AMENDATORY SECTION (Amending Order 733 DOL, filed 12/6/83)

WAC 308-127-110 DISCLOSURE DOCUMENTS—PROJECTS ALREADY REGISTERED IN FOREIGN JURISDICTIONS. (1) Whenever a timeshare project (~~(or a significant portion of a timeshare project's properties are)~~) is sited in a foreign jurisdiction and there has been a prior registration in that jurisdiction under an enactment specifically addressing the regulation of timeshares, the director may accept in whole or in part the disclosure statement of such foreign jurisdiction for purposes of satisfying the disclosure requirements of the Timeshare Act (~~(, sec. 3, chapter 22, Laws of 1983 1st ex. sess.)~~).

(2) Promoters who wish to utilize a disclosure document accepted by a foreign jurisdiction shall forward a copy of the (~~(foreign state's)~~) disclosure document to the agency along with the state of Washington registration forms, documents and filing fee ordinarily required of promoters.

(3) If a foreign jurisdiction's disclosure document is incorporated by reference into the state of Washington public offering statement, the state of Washington registration is deficient and void at the moment the (~~(foreign jurisdiction's)~~) registration in the foreign jurisdiction expires, or, if for any reason, (~~(that jurisdiction's)~~) the disclosure statement in that jurisdiction is or becomes deficient.

AMENDATORY SECTION (Amending Order 733 DOL, filed 12/6/83)

WAC 308-127-120 FINANCIAL INFORMATION REQUIREMENTS. (~~((+))~~) The agency may require that the financial statements provided for in the Timeshare Act, (~~(sec. 4(1), chapter 22, Laws of 1983 1st ex. sess.)~~) be prepared and audited by an independent certified public accountant, in a manner which complies with the standards and guidelines established by the American Institute of Certified Public Accountants, under circumstances which include but are not limited to the following:

(~~((a))~~) (1) For promoters of projects where accommodations or facilities are not completed at the time of the taking of a binding purchaser commitment and review of such statements will assist the agency in determining the promoter's ability to perform; or

(~~((b))~~) (2) For promoters of right-to-use projects where a review of such statements will assist the agency in determining the ability of the promoter to provide continued future quiet enjoyment of the timeshare; or

(~~((c))~~) (3) For promoters of projects where the promoter's payment of project expenses and servicing of reserve accounts cannot be assured by means other than reliance upon the promoter's own ability to pay such obligations from the promoter's existing assets.

AMENDATORY SECTION (Amending Order 733 DOL, filed 12/6/83)

WAC 308-127-130 DISCLOSURE OF NUMBER OF INTERVALS TO BE SOLD TO PERSONS RESIDING IN THE STATE OF WASHINGTON. The public offering statement shall declare the total number of intervals available to be sold to persons residing within the state of Washington.

AMENDATORY SECTION (Amending Order 733 DOL, filed 12/6/83)

WAC 308-127-140 EXPIRATION AND RENEWAL OF TIMESHARE OFFERING REGISTRATION. A timeshare offering registration shall expire one year from the date of issuance of the registration, or at the time the promoter sells the total number of intervals registered as available to be sold to persons residing in the state of Washington, whichever event occurs first. (~~(In order)~~) To continue offering the timeshare project in this state, a promoter shall file for renewal of its timeshare offering registration no later than thirty days prior to expiration of the registration. Failure to renew within six months after the renewal date shall result in the termination of the registration and all fees for an original application for registration shall apply.

NEW SECTION

WAC 308-127-160 FEES. The following fees shall be charged under the authority of RCW 64.36.081 and 43.24.086:

- (1) Registration application fees:
 - Start-up timeshare program including one project. \$2500.00
 - Each additional project in program. 1000.00
 - Each apartment unit in program. 150.00
 - The first unit of personal property in the timeshare program. 1000.00
 - Each additional unit of personal property in the timeshare program. 100.00
 - Businesses of listing or brokering resale intervals. 500.00
- (2) Interval Fees:
 - For each interval through one thousand. 1.00
 - Intervals beyond one thousand. 0.00
 - Each monthly filing of listings of resale intervals (in lieu of interval fees for resale intervals). 10.00
- (3) Renewal fees:
 - Timeshare program including one project. 2000.00
 - Late renewal fee for timeshare program. 2500.00
 - Each additional project to a maximum of five projects. 500.00
 - Each apartment unit - to maximum of twenty-five apartment units. 100.00
- (4) Consolidation fees:
 - Each additional project added. 1000.00
 - Each additional apartment unit. 150.00
 - The first additional unit of personal property being consolidated. 500.00
 - Each additional unit of personal property added in one consolidation. 100.00
- (5) Exemption fees:
 - Programs consisting of a single apartment unit in a single project with fifty-two or fewer intervals. 250.00
 - All other types of programs. 1000.00

- (6) Impound fees:
 - Initial establishment of an impound, escrow, trust, or other arrangement requiring a depository. 500.00
 - Each required periodic report. 50.00
- (7) Advertising fees:
 - Each initial submission of advertisement whether or not submitted in a timely manner, and whether or not in use at the time of payment. 100.00
 - Examination of advertisement which are for the purpose of marketing surveys and not involving an examination of project or program instruments. 150.00
- (8) Fees for persons in the business of offering commercial promotional programs:
 - Registration of individual. 500.00
- (9) Salespersons fees:
 - Registration. 150.00
 - Renewal. 75.00
 - Transfer. 75.00
 - Duplicate license. 25.00
- (10) Fees for amendment of registration:
 - For a timely submission of an amendment filing. 50.00
 - Penalty fee for failure to file an amendment within twenty days of the occurrence of a materially adverse change. 500.00
- (11) Inspection fees:
 - Applicants and registrants shall pay the cost of inspections conducted pursuant to chapter 64.36 RCW. The inspection fees shall be paid prior to the granting of a registration or consolidation. The inspection fee shall be the actual cost to the department for conducting of the inspection.

AMENDATORY SECTION (Amending Order 733 DOL, filed 12/6/83)

WAC 308-127-200 ACTIVITIES REQUIRING REGISTRATION AS A TIMESHARE SALESPERSON. (1) An individual acts as a timeshare salesperson whenever the individual induces, solicits, or attempts to encourage a person to acquire a timeshare; or the individual is responsible for causing an advertiser to publicize a timeshare offer.

(2) Unless exempted under the Timeshare Act, or these rules, a timeshare salesperson shall be registered in the state of Washington whenever one of the following apply:

(a) The timeshare salesperson offers a timeshare for sale from a timeshare project in which the principal

property of the ~~((project))~~ program is located in this state; or

(b) The timeshare salesperson offers a timeshare for sale from a timeshare project in which the principal property of the ~~((project))~~ program is located outside of this state, and

(i) The offer is made in or from this state, or

(ii) The person receiving the offer is located in this state at the time the offer is received.

AMENDATORY SECTION (Amending Order 733 DOL, filed 12/6/83)

WAC 308-127-210 RELATIONSHIP OF TIME-SHARE PROMOTERS AND SALESPERSONS AND REAL ESTATE BROKERS AND SALESPERSONS. (1) A timeshare salesperson shall be registered to a specific timeshare promoter who has one or more timeshare offerings registered in this state. The promoter shall have full responsibility for all activities of the promoter's timeshare salesperson which relate to offering timeshares for sale.

(2) An active real estate broker or salesperson may act as the brokerage agent of one or more timeshare promoters without registering as a timeshare salesperson. However, this exemption from registration as a timeshare salesperson applies only when the exempted person is performing real estate brokerage in compliance with chapter 18.85 RCW. Further, this exemption only pertains to the timeshare salesperson registration requirement. All other provisions of the Timeshare Act apply to real estate brokers and salespersons offering timeshares for sale.

(3) A natural person may be registered as a timeshare salesperson while ~~((actively))~~ licensed as a real estate broker or salesperson. However, the ~~((natural person))~~ salesperson shall ~~((carry out))~~ conduct timeshare activities and maintain associated business records ~~((in a manner which is))~~ separate and apart from his or her real estate broker or salesperson activities ~~((carried out and records maintained as a real estate broker or salesperson))~~ and records. The term "separate and apart" shall not preclude location of timeshare salesperson and real estate brokerage activities at the same office.

(4) Any individual who is registered as a timeshare salesperson and ~~((actively))~~ licensed as a real estate broker or salesperson shall disclose in writing to the recipient of a timeshare sales offer whether he or she is acting as the timeshare salesperson of a promoter or a real estate broker or salesperson at the time he or she presents the public offering statement ~~((to the prospective purchaser))~~.

NEW SECTION

WAC 308-127-225 ORIGINAL APPLICATION, RENEWAL, TERMINATION, AND FEES FOR A TIMESHARE SALESPERSON REGISTRATION.

(1) An individual shall apply for registration as a timeshare salesperson on a form prescribed by the agency. The registration for a timeshare salesperson shall identify the specific promoter responsible for the business activities of the salesperson and shall be valid for a period

of one year beginning on the issuance date printed on the registration.

(2) The registration of a timeshare salesperson shall be retained at all times by the timeshare promoter. When a timeshare salesperson ceases to be employed by a timeshare promoter the salesperson's registration shall be terminated. Notice of this termination shall be given by the promoter to the director and this notice shall be accompanied by the timeshare salesperson's registration. A terminated individual who desires to work for the same or another promoter shall apply for and receive registration as a timeshare salesperson before engaging in further timeshare sales activities.

(3) An individual may renew his timeshare salesperson registration for one year if the agency receives the individual's request and renewal fee on or before the expiration of the individual's existing registration. The effective date of the renewal shall be the anniversary date of the previous registration. If the registration is not renewed before the expiration date reregistration is required before timeshare sales activity may be continued.

(4) An application for registration or a renewal of registration is not complete unless it is accompanied by the proper fee. Payment of the fee with a check which is subsequently dishonored is a deficient application. Upon notification to the promoter by the agency, the promoter shall return the registration and cease employment of the applicant as a timeshare salesperson.

AMENDATORY SECTION (Amending Order 733 DOL, filed 12/6/83)

WAC 308-127-300 IMPOUNDMENT. (1) The agency may require impoundment authorized in the Timeshare Act, ~~((sec. 13(1), chapter 22, Laws of 1983 1st ex. sess.))~~ under circumstances which include, but are not limited to, the following:

(a) ~~((For))~~ The registration of any cooperative or right-to-use project whenever adequate assurances of continued quiet enjoyment cannot be provided by means of bonds, escrows, trusts, or other devices; or ~~((;))~~

(b) ~~((For))~~ The registration of any form of timeshare project whenever the timeshare properties and other facilities promised are not yet constructed or otherwise available, and where completion of construction or delivery of accommodations and facilities cannot be assured by bonds, escrows, trusts, or other devices; or

(c) The registration of persons in the business of listing or brokering resale timeshare intervals whenever any advance fees or funds of any description are to be collected from buyers or sellers of resale timeshare intervals prior to the time of transacting a purchase or sale of a timeshare interval; or

(d) The registration of persons in the business of offering commercial promotional programs whenever any advance fees or funds of any description are to be collected from persons in advance, in connection with delivery by the promisor of gifts, prizes, awards, or any other item of value.

(2) Funds subject to impoundment shall be placed in a separate and independent trust account with a bank or

depository institution acceptable to the director. A written consent of the depository to act in such capacity shall be filed with the director.

(3) The director will ~~((authorized))~~ authorize the depository to release to the promoter or an affiliate when appropriate, such amounts of the impounded funds applicable to a specified purpose such as, payment of selling costs or timeshare expenses, purchase of property, or the construction of an improvement, upon a showing that the promoter can satisfy its obligations under the purchaser contracts to furnish purchasers the accommodations, facilities and services promised, or ~~((that))~~ if for other reasons the impoundment is no longer required for the protection of purchasers. ~~((An application for an order of the director authorizing))~~ A request to authorize the release of the impounded funds to the promoter or an affiliate(;) shall ~~((be verified and))~~ contain(;) the following:

(a) A statement of the promoter, or affiliate where appropriate, that all required proceeds from the sale of timeshares have been placed with the depository in accordance with the terms and conditions of the impoundment agreement; ~~((and))~~

(b) A statement of the depository signed by an appropriate officer setting forth the aggregate amount of funds placed with the depository, and any interest earned by these funds; ~~((and))~~

(c) The name of each timeshare contract purchaser and the amount impounded for the account of each purchaser; and

(d) Such other information as the director may request in a particular case.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 308-127-010 PROMULGATION—AUTHORITY.
- WAC 308-127-020 ORGANIZATION.
- WAC 308-127-030 DEFINITIONS.
- WAC 308-127-100 EXEMPTIONS FROM REGISTRATION.
- WAC 308-127-155 FEES.
- WAC 308-127-220 ORIGINAL APPLICATION, RENEWAL, TERMINATION, AND FEES FOR A TIMESHARE SALESPERSON REGISTRATION.

WSR 90-07-024
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed March 14, 1990, 1:44 p.m.]

Date of Adoption: March 14, 1990.

Purpose: To fix fees for funeral director/embalmer fees.

Citation of Existing Rules Affected by this Order: Amending WAC 308-48-800.

Statutory Authority for Adoption: RCW 43.24.086.

Pursuant to notice filed as WSR 90-04-110 on February 7, 1990.

Changes Other than Editing from Proposed to Adopted Version: Proposed: Funeral establishment: Preneed renewal \$200.00. Adopted: Funeral establishment: Preneed renewal \$30.00. This change was made as a result of public testimony.

Effective Date of Rule: Thirty days after filing.

March 14, 1990

Marsha Tadano Long

Assistant Director

Professional Licensing Services

AMENDATORY SECTION (Amending Order PM 650, filed 5/1/87)

WAC 308-48-800 FUNERAL DIRECTOR/EMBALMER FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of fee	Fee
Embalmers:	
State examination or reexamination	\$150.00
Renewal	((75.00))
	<u>100.00</u>
Late renewal penalty	((40.00))
	<u>50.00</u>
Duplicate	15.00
((Reciprocity application	50.00))
Certification	25.00
Embalmer apprentice:	
Apprentice application	((50.00))
	<u>75.00</u>
Apprentice renewal	((35.00))
	<u>45.00</u>
Duplicate	15.00
Certification	25.00
Funeral director:	
State examination or reexamination	((200.00))
	<u>150.00</u>
Renewal	((125.00))
	<u>100.00</u>
Late renewal penalty	((100.00))
	<u>50.00</u>
Duplicate	15.00
Certification	25.00
Funeral director apprentice:	
Apprentice application	75.00
Apprentice renewal	45.00
Duplicate license	15.00
Certification	25.00
Funeral establishment:	
Original application	((250.00))
	<u>350.00</u>
Renewal	((200.00))
	<u>300.00</u>
Branch registration and renewal	<u>250.00</u>
Preneed application	((50.00))
	<u>200.00</u>
Preneed renewal	30.00
Financial statement fee	((25.00))

Title of fee	Fee
	<u>50.00</u>
Crematory endorsement registration	((50.00))
	<u>100.00</u>
Endorsement renewal	((40.00))
	<u>50.00</u>

WSR 90-07-025

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order DE 88-55A—Filed March 14, 1990, 2:00 p.m.]

I, Fred Olson, deputy director of the Department of Ecology, do promulgate and adopt at the Department of Ecology, Headquarters, Lacey, Washington, the annexed rules relating to the amending [readopting] of WAC 173-19-390 Snohomish County.

This action is taken pursuant to Notice No. WSR 89-01-107 filed with the code reviser on December 21, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 90.58.120 and 90.58.200 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 13, 1990.

By Fred Olson
Deputy Director

READOPTED SECTION (Readopting Order 89-18, filed 7/5/89, effective 8/5/89)

WAC 173-19-390 SNOHOMISH COUNTY. Snohomish County master program approved December 27, 1974. Revision approved June 16, 1978. Revision approved June 23, 1982. Revision approved August 25, 1983. Revision approved January 4, 1984. [Revision approved September 11, 1986.] Revision approved February 11, 1987. Revision approved March 7, 1989. Revision approved July 5, 1989.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 90-07-026

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order DE 88-22A—Filed March 14, 1990, 2:01 p.m.]

I, Fred Olson, deputy director of the Department of Ecology, do promulgate and adopt at Lacey, Washington, the annexed rules relating to WAC 173-19-360 San Juan County.

This action is taken pursuant to Notice No. WSR 88-19-102 filed with the code reviser on September 20, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 90.58.120 and 90.58.200 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 13, 1990.

By Fred Olson
Deputy Director

READOPTED SECTION (Readopting Order DE 88-22, filed 4/19/89)

WAC 173-19-360 SAN JUAN COUNTY. San Juan County master program approved May 28, 1976. Revision approved October 29, 1976. Revision approved April 13, 1981. Revision approved October 30, 1984. Revision approved April 19, 1989.

WSR 90-07-027

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order DE 88-56A—Filed March 14, 1990, 2:02 p.m.]

I, Fred Olson, deputy director of the Department of Ecology, do promulgate and adopt at Lacey, Washington, the annexed rules relating to the amending [readopting] of WAC 173-19-240 Jefferson County and 173-19-2401 Port Townsend, city of.

This action is taken pursuant to Notice No. WSR 89-01-106 filed with the code reviser on December 21, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 90.58.120 and 90.58.200 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 13, 1990.

By Fred Olson
Deputy Director

READOPTED SECTION (Readopting Order DE 88-56, filed 3/24/89)

WAC 173-19-240 JEFFERSON COUNTY. Jefferson County master program approved December 20, 1974. Revision approved August 12, 1982. Revision approved July 6, 1983. Revision approved March 7, 1989.

READOPTED SECTION (Readopting Order DE 88-56, filed 3/31/89)

WAC 173-19-2401 PORT TOWNSEND, CITY OF. City of Port Townsend master program approved December 20, 1974. Revision approved March 7, 1989.

WSR 90-07-028
PERMANENT RULES
DEPARTMENT OF ECOLOGY

[Order 89-23A—Filed March 14, 1990, 2:03 p.m.]

I, Fred Olson, deputy director of the Department of Ecology, do promulgate and adopt at Lacey, Washington, the annexed rules relating to the amending [readopting] of WAC 173-19-3910 Monroe, city of.

This action is taken pursuant to Notice No. WSR 89-08-115 filed with the code reviser on April 5, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 90.58.120 and 90.58.200 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 13, 1990.

By Fred Olson
 Deputy Director

READOPTED SECTION (Readopting Order 89-23, filed 7/5/89, effective 8/5/89)

WAC 173-19-3910 MONROE, CITY OF. City of Monroe master program approved December 27, 1974. Revision approved February 18, 1982. Revision approved July 5, 1989.

WSR 90-07-029
NOTICE OF PUBLIC MEETINGS
OIL AND GAS
CONSERVATION COMMITTEE

[Memorandum—March 14, 1990]

Date: Tuesday, April 17, 1990
 Time: 9:00 a.m. – 12:00 p.m.
 Place: EFSEC Hearing Room, Rowsix, Building 1,
 4224 6th Avenue S.E., Lacey, WA.

WSR 90-07-030
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed March 14, 1990, 2:33 p.m.]

Date of Adoption: March 14, 1990.

Purpose: To clarify language, allow students to apply for exam prior to completion of training and update fees.

Citation of Existing Rules Affected by this Order: Amending WAC 308-20-107, 308-20-140, 308-20-155 and 308-20-210.

Statutory Authority for Adoption: RCW 18.16.030 and 43.24.086.

Pursuant to notice filed as WSR 90-03-018 on Jan. 9, 1990.

Effective Date of Rule: Thirty days after filing.

March 14, 1990
 Marsha Tadano Long
 Assistant Director

AMENDATORY SECTION (Amending Order PM 772, filed 9/14/88)

WAC 308-20-107 USE AND TRAINING OF INSTRUCTOR-TRAINEES. (1) Cosmetology instructor-trainees cannot be used to replace a licensed instructor for the training of students. Instructor-trainees must be under the direct supervision of a licensed instructor at all times.

(2) "Direct supervision" means the licensed cosmetology instructor shall:

(a) Inspect a substantial portion of the instructor-trainee's work;

(b) Be physically present on the premises where the instructor-trainee is working and be available for consultation with the instructor-trainee a minimum of eighty percent of the time claimed as hours of training received. Provided, that "direct supervision" shall not require that the licensed cosmetology instructor while on the premises inspect all the instructor-trainee's work, nor shall it require that the licensed cosmetology instructor and the instructor-trainee be constantly in the same room.

(3) A school licensed under chapter 18.16 RCW and providing instruction to instructor-trainees must provide the department of licensing at least seven days advance notice, in writing, of the name and address of each person who will receive instruction as a cosmetology instructor-trainee.

(4) No person may be used as, or receive credit for training as, a cosmetology instructor-trainee unless the person holds a current, valid cosmetology license (~~or is currently eligible for licensure as a cosmetologist and has the same qualifications as a cosmetologist~~).

(5) No person may be used as, or receive credit for training as, a cosmetology instructor-trainee for more than 600 hours total at any school or schools licensed under chapter 18.16 RCW, unless the school has first requested and received from the department of licensing written approval to use or train a certain instructor-trainee for additional hours.

(6) No cosmetology instructor-trainee may receive any wage or commission.

AMENDATORY SECTION (Amending Order PM 772, filed 9/14/88)

WAC 308-20-140 EXAMINATION—APPLICATION. Examinations are administered monthly. Examination schedules will be published by the director and issued to each school. Each licensed school shall post the schedule of examinations in plain view for the students and provide students with an application and all necessary information for completing and submitting the application. No school shall prohibit or hinder a student from submitting an application for examination if the student is at least seventeen years of age and has completed the required number of hours in the approved course of study.

Each application submitted must ~~((include a sworn statement of both the student and the school owner or manager that all statements on the application are true and correct. Each application must))~~ be complete in every respect, including fee~~(s)~~ before the applicant ~~((may))~~ will be scheduled for examination. The application must include a copy of the final student record form verifying the hours of training in each course signed by the student and instructor. A sworn statement by the student that all statements on the application are true and correct is to be included. The school owner or manager will also sign a sworn statement that all statements made in the application are true and correct and this school has complied with all state regulations regarding the training of the student.

Applications may be submitted when the student is within one hundred fifty hours of completing the required training. These applications must include a sworn statement by student and school owner or manager that the student is within 150 hours of completing the required training. The training affidavit and final student record form may be submitted at the examination site the morning of the exam for determination of exam eligibility. If completed properly and otherwise satisfactory, the applicant will be allowed to take the examination(s).

Applications and fees for examination must be date stamped received into the department of licensing no later than the first day of the month to be scheduled for the following month's examination. (For example: Must be received by August 1 to be scheduled for September examination.) Only when the date received stamp is omitted or illegible, will the postmark by the postal service be substituted.

Any person who either (1) fails to appear as scheduled for an examination, ~~((or))~~ (2) fails to request to be rescheduled at least seven days prior to scheduled examination date, or (3) fails to supply the training affidavit and student record form at least seven days prior to the scheduled examination date shall forfeit the fee for examination, except in cases of emergency as determined by the department.

Applications and fees for reexamination must be received by the Professional Licensing Division at ~~((1300 Quince Street))~~ 2424 Bristol Court S.W., Olympia, Washington on or before the 20th of the month to be scheduled for the following month's examination.

AMENDATORY SECTION (Amending Order PM 772, filed 9/14/88)

WAC 308-20-155 PROCEDURE FOR APPLICANTS REQUIRING SPECIAL ACCOMMODATIONS FOR LICENSURE EXAMINATION. (1) An applicant for a licensure examination who, due to a specific physical, mental or sensory impairment, requires special accommodation in examination procedures, may submit a written request for the specific accommodation needed.

(a) The applicant must submit an individualized written opinion from a physician or other specialist:

(i) Verifying the existence of a specific physical, mental, or sensory impairment;

(ii) Stating whether special accommodation is needed for a specific licensure examination; and

(iii) Stating what special accommodation is necessary. The applicant must also submit to the department a signed and notarized authorization, authorizing the specifically identified physician or other specialist to discuss the matter with the department of licensing's representative.

(b) The written request for special accommodation and individualized written opinion must be submitted to the department of licensing at least eight weeks in advance of the examination date and must be accompanied by a completed application and the application fee.

(c) Only readers and translators provided and/or approved by the department may be used for reading/translating the examination.

(d) Applicants who pass the cosmetology examination with the assistance of a reader/translator will be issued a license with the following printed restriction: "Requires Reading Supervision For Product Usage When Performing Chemical Services." If a licensee with a license restriction successfully retakes the chemical services portion of the examination without the assistance of a reader or translator, a new license will be issued without the restriction.

(2) Applicants who wish to use a foreign language dictionary during an examination must obtain approval at the examination site prior to the examination. Only dictionaries without definitions will be approved for use.

AMENDATORY SECTION (Amending Order PM 650, filed 5/1/87)

WAC 308-20-210 COSMETOLOGY FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Cosmetologist:	
Examination application	\$ 25.00
Renewal	((10.00)) 20.00
Late renewal penalty	((10.00)) 20.00
Duplicate	15.00
Certification	25.00
Out-of-state application	25.00

Title of Fee	Fee
Instructor:	
Examination application	30.00
Renewal	((25.00))
	<u>20.00</u>
Late renewal penalty	((25.00))
	<u>20.00</u>
Duplicate	15.00
Certification	25.00
Out-of-state application	((25.00))
	<u>30.00</u>
Manicurist:	
Examination application	25.00
Renewal	((10.00))
	<u>20.00</u>
Late renewal penalty	((10.00))
	<u>20.00</u>
Duplicate	15.00
Certification	25.00
Out-of-state application	25.00
School:	
License application	((150.00))
	<u>175.00</u>
Renewal	((150.00))
	<u>175.00</u>
Late renewal penalty	((150.00))
	<u>175.00</u>
Duplicate	15.00
Barber:	
Examination application	25.00
Renewal	((10.00))
	<u>20.00</u>
Late renewal penalty	((10.00))
	<u>20.00</u>
Out-of-state application	25.00
Duplicate	15.00
Certification	25.00

WSR 90-07-031
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 90-18—Filed March 14, 1990, 3:15 p.m.]

Date of Adoption: March 13, 1990.
 Purpose: Commercial fishing regulations.
 Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-44-05000C.
 Statutory Authority for Adoption: RCW 75.08.080.
 Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 Reasons for this Finding: The Pacific Fishery Management Council has established a harvestable quota of groundfish. This regulation provides for harvest of the

quota without impacting nonharvest stocks. This regulation is adopted at the recommendation of the Pacific Fisheries Management Council.

Effective Date of Rule: 12:01 a.m., March 21, 1990.
 March 13, 1990
 R. Kahler Martinson
 for Joseph R. Blum
 Director

NEW SECTION

WAC 220-44-05000D COASTAL BOTTOM-FISH CATCH LIMITS. Notwithstanding the provisions of WAC 220-44-050, effective 12:01 a.m. March 21, 1990 until further notice it is unlawful to possess, transport through the waters of the state, or land in any Washington State port bottomfish taken for commercial purposes from Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B,, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the species indicated:

(1) Widow Rockfish (*Sebastes entomelas*) – 15,000 pounds per vessel trip per week, Wednesday through the following Tuesday. A fisherman may choose to make one landing of 25,000 pounds per vessel trip biweekly, defined as Wednesday through the second Tuesday following, by filing a declaration of intent. There is no limit on the number of landings less than 3000 pounds.

(2) Shortbelly rockfish (*Sebastes alutus*) and idiot rockfish (*Sebastes spp.*) – no maximum poundage per vessel trip, no minimum size.

(3) Pacific ocean perch (*Sebastes alutus*) – No restrictions on landings up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if Pacific ocean perch represent 20 percent or less of the total weight of fish on board. Under no circumstances may a vessel land more than 3,000 pounds of Pacific ocean perch in any one vessel trip.

(4) All other species of rockfish (includes all rockfish except Pacific ocean perch (*Sebastes alutus*), widow rockfish (*Sebastes entomelas*), shortbelly rockfish (*Sebastes jordani*) and idiot rockfish (*Sebastes spp.*)) – 25,000 pounds of all other species of rockfish combined per vessel trip per calendar week, defined as Wednesday through the following Tuesday, of which no more than 7,500 pounds may be yellowtail rockfish (*Sebastes flavidus*) except that a fisherman having made a 1990 declaration of intent, may make either one landing of no more than 50,000 pounds of all other species of rockfish combined per vessel trip biweekly, defined as Wednesday through the second Tuesday following of which no more than 15,000 pounds, may be yellowtail rockfish or two landings of not more than 12,500 pounds of all other species of rockfish in any one calendar week of which no more than 3,750 pounds in any one landing may be yellowtail rockfish. It is unlawful for any vessel to make other than one landing in excess of 3,000 pounds of other rockfish species in any calendar week, if no declaration to land other species of rockfish twice weekly has been made.

(5) Sablefish

(a) Trawl Vessels – No trip limit. No restrictions on landings up to 1,000 pounds per vessel trip. Landings

above 1,000 pounds allowed only if sablefish represent 25 percent or less of total combined round weight of sablefish, dover sole, arrowtooth flounder, and thornyhead rockfish on board. To convert from round weight to dressed weight multiply the dressed weight by 1.75. Minimum size 22 inches in length, unless dressed in which case minimum size 15.5 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail. Trawl vessels are allowed an incidental catch less than the minimum size of 1,000 pounds or 25 percent of the total combined round weight of the deep water complex on board but not to exceed 5,000 pounds per trip.

(b) *Non-Trawl Vessels - No trip limit.* Minimum size 22 inches in length, unless dressed, in which case minimum size 15.5 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail. Non-trawl vessels are allowed an incidental catch less than the minimum size of 1,500 pounds round weight, or 3% round weight of all sablefish on board, whichever is greater. To convert to round weight from dressed weight, multiply the dressed weight by 1.75.

(6) *1990 Declarations of Intent - A 1990 Declaration of Intent must be made to make other than one vessel trip per week and land in excess of the minimum amounts as provided for in this section. The new declaration form must be completed as provided for in this subsection. The 1990 declaration of intent to make other than one vessel trip per week must be mailed or delivered to the Department of Fisheries, 115 General Administration Building Olympia, Wa., 98504, and must be received prior to the beginning of such fishing. The declaration of intent must contain the name and address of the fishermen, the name and registration number of the vessel, the date on which such fishing will commence and must be signed and dated by the fisherman. The fisherman may return to the one vessel trip per calendar week fishing by filing a declaration of intent to stop fishing other than once weekly with the department in the above manner. The declaration to stop such fishing and begin one vessel trip per calendar week fishing must be received prior to the beginning of the week in which the one vessel trip per calendar week fishing will resume. The date of first landing will determine the beginning of bi-weekly periodicity. Biweekly periodicity will restart after a landing that occurs more than four calendar weeks after the immediate prior landing. A calendar week is defined as Wednesday through the following Tuesday.*

(7) *It is unlawful during unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species a species or category of bottomfish having a vessel trip limit.*

(8) *For purposes of this section, a vessel trip is defined as having occurred upon the initiation of transfer of catch from the fishing vessel, and all fish aboard the vessel are considered part of the vessel trip limit at the initiation of transfer of catch.*

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. March 21, 1990:

WAC 220-44-05000C COASTAL BOTTOMFISH CATCH LIMITS. (90-09)

WSR 90-07-032

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 90-20—Filed March 14, 1990, 3:21 p.m.]

Date of Adoption: March 14, 1990.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-57-315, 220-57-505 and 220-57-515.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable runs of spring chinook are available to the recreational fishery on each of these streams. Discussions with the Yakima Tribe on the tributary regulation package were not completed in time to make this regulation part of the permanent package.

Effective Date of Rule: April 1, 1990.

March 14, 1990
R. Kahler Martinson
for Joseph R. Blum
Director

NEW SECTION

WAC 220-57-31500S *KLICKITAT RIVER.* Notwithstanding the provisions of WAC 220-57-315, effective April 5 through May 31, 1990, two fish bag limit four days per week, Thursday through Sunday only, from the mouth of the Klickitat River upstream to Fisher Hill Bridge and from a point 400 feet above the number 5 fishway to the mouth of the Little Klickitat River.

NEW SECTION

WAC 220-57-50500R *LITTLE WHITE SALMON RIVER (DRANO LAKE).* Notwithstanding the provisions of WAC 220-57-505, effective April 1 through May 15, 1990, two fish bag limit downstream of Washington Department of Fisheries boundary markers placed on points of land downstream and across from the federal salmon hatchery and upstream of the Highway 14 Bridge.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 220-57-51500E WIND RIVER. *Notwithstanding the provisions of WAC 220-57-515, effective April 1 through May 31, 1990, two fish bag limit downstream from markers 400 feet below Shipperd Falls to markers at the outer land points downstream from the Burlington Northern Railroad Bridge at the mouth of the Wind River.*

WSR 90-07-033
PERMANENT RULES
DEPARTMENT OF HEALTH
(Board of Health)

[Order 043—Filed March 14, 1990, 3:40 p.m.]

Date of Adoption: February 15, 1990.

Purpose: The 1989 legislature amended RCW 70.24-.105 (6), related to customary methods of exchange of medical information. To set forth Board of Health standards for exchange of medical information and access to confidential information in health care facilities.

Citation of Existing Rules Affected by this Order: Amending WAC 248-100-016 Confidentiality.

Statutory Authority for Adoption: RCW 70.24.105.

Pursuant to notice filed as WSR 90-02-095 on January 3, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 248-100-016 Confidentiality. Identifying information about any individual with a reportable disease or condition pursuant to chapter 248-100 WAC shall be protected by person with knowledge of such identity.

(1) Health care providers, employees of a health care facility or medical laboratory, and other individuals with knowledge of a person with sexually transmitted disease, following the basic principles of health care providers, which respect the human dignity and confidentiality of patients:

The change to WAC 248-100-016(1) was made to reflect the board's recognition that health care providers are currently concerned about the dignity and confidentiality of their patients.

(a) May disclose identity of a person or release identifying information only as specified in RCW 70.24.105; and

(b) Shall establish and implement policies and procedures to maintain confidentiality related to a patient's medical information.

The change to WAC 248-100-016 (1)(b) was made to clarify the expectation of RCW 70.24.105 and 70.24-.130 for health care providers who may not be connected with an institutional environment. The words are consistent with federal conditions for participation for Medicare/Medicaid and other federal funding programs.

(2)(a) Health care providers may exchange confidential medical information related to HIV testing, HIV test results, and confirmed HIV or confirmed STD diagnosis and treatment in order to provide health care services to the patient. Meaning:

(i) The information shared impacts the care or treatment decisions concerning the patient; and

(ii) The health care provider requires the information for the patient's benefit.

The change to WAC 248-100-016 (2)(a) was made to emphasize the importance of confining exchange of medical information for the benefit of the patient and differentiates it from using information for infection control.

(2)(e) Health care facility administrators are authorized to permit exchange of medical information for training and teaching of health care providers and students when exchange of confidential medical information is necessary for such training and specifically related to the care of the patient.

The change to WAC 248-100-016 (2)(e) was made to allow students and graduate physicians in training access to confidential medical information in cases where they may not have the personal responsibility for treatment, but are part of a treatment team in the teaching institution environment.

Effective Date of Rule: Thirty-one days after filing.

February 15, 1990

Sylvia Beck

Executive Director

AMENDATORY SECTION (Amending Order 322, filed 10/19/88)

WAC 248-100-016 CONFIDENTIALITY. Identifying information about any individual with a reportable disease or condition pursuant to chapter 248-100 WAC shall be protected by persons with knowledge of such identity.

(1) Health care providers, employees of a health care facility or medical laboratory, and other individuals with knowledge of a person with sexually transmitted disease, following the basic principles of health care providers, which respect the human dignity and confidentiality of patients:

(a) May disclose identity of a person or release identifying information only as specified in RCW 70.24.105; and

(b) Shall establish and implement policies and procedures to maintain confidentiality related to a patient's medical information.

(2) For the purpose of RCW 70.24.105(6), customary methods for exchange of medical information shall be limited as follows:

(a) Health care providers may exchange confidential medical information related to HIV testing, HIV test results, and confirmed HIV or confirmed STD diagnosis and treatment in order to provide health care services to the patient. Meaning:

(i) The information shared impacts the care or treatment decisions concerning the patient; and

(ii) The health care provider requires the information for the patient's benefit.

(b) "Health care services to the patient" means personal interaction, treatment, consultation, or intervention for patient care.

(c) Health care facility administrators are authorized to permit access to medical information as necessary to

fulfill professional duties. Health care facility administrators shall advise those persons permitted access under this section of the requirement to maintain confidentiality of such information as defined under this section and chapter 70.24 RCW. Professional duties means the following or functionally similar activities:

- (i) Medical record or chart audits;
- (ii) Peer reviews;
- (iii) Quality assurance;
- (iv) Utilization review purposes;
- (v) Research review board reviews under chapter 42-48 RCW;
- (vi) Risk management; and
- (vii) Reviews required under federal or state law or rules.

(d) Health care facility administrators and health care providers responsible for office management are authorized to permit access to a patient's medical information and medical record by health care facility and medical staff or office staff to carry out duties required for care and treatment of a patient and the management of medical information and the patient's medical record.

(e) Health care facility administrators are authorized to permit exchange of medical information for training and teaching of health care providers and students when exchange of confidential medical information is necessary for such training and specifically related to the care of the patient.

(3) Health care providers, employees of a health care facility or medical laboratory, and other individuals with knowledge of a person with a reportable disease or condition, other than those specified in subsections (1) and (2) of this section, shall release identifying information only to other individuals responsible for protecting the health and well being of the public through control of communicable and certain other diseases.

~~((3))~~ (4) Local and state health department personnel shall maintain individual case reports as confidential records consistent with WAC 248-100-091.

~~((4))~~ (5) The Washington state public health laboratory, other laboratories approved as public health referral laboratories, and any persons, institutions, or facilities submitting specimens or records containing patient-identifying information shall maintain the identifying information accompanying submitted laboratory specimens as confidential records.

~~((5))~~ (6) Statistical summaries and epidemiologic studies based on individual case reports may be public information provided no individual is identified.

WSR 90-07-034
PERMANENT RULES
WASHINGTON STATE PATROL
 [Filed March 15, 1990, 3:21 p.m.]

Date of Adoption: March 15, 1990.

Purpose: Establishes the operator vehicle and equipment requirements for the issuance and renewal of emergency vehicle permits.

Citation of Existing Rules Affected by this Order:
 Amending chapter 204-36 WAC.

Statutory Authority for Adoption: RCW 46.37.194.

Pursuant to notice filed as WSR 90-04-023 on January 29, 1990.

Effective Date of Rule: Thirty-one days after filing.

March 15, 1990

George B. Tellevik

Chief

AMENDATORY SECTION (Amending Order 88-08-ESR, filed 7/18/88)

WAC 204-36-030 PERMIT REQUIREMENTS.

(1) Any person, firm, corporation or municipal corporation desiring to have a vehicle registered as an authorized emergency vehicle pursuant to RCW 46.37.194 shall apply for such classification to the state patrol on forms provided by the patrol.

(2) The applicant shall furnish the following information to the patrol:

(a) A description of the specific geographic area in which the vehicle shall be used as an authorized emergency vehicle.

(b) A description of the specific purposes for which the vehicle shall be used as an authorized emergency vehicle.

(c) An explanation of the nature and scope of the duties, responsibilities and authority of the vehicle operator which necessitate the vehicle's registration as an authorized emergency vehicle.

(d) A description of the emergency equipment to be used if the permit is granted.

(e) A listing of the names, addresses, birthdates, operator's license numbers and other identifying data as may be prescribed on the application form by the patrol, of all persons who will use the vehicle as an authorized emergency vehicle, and a completed applicant fingerprint card.

~~(f) Certification ((by the chief law enforcement officer, or fire chief if the vehicle is to be used for firefighting purposes, of each jurisdiction in which the vehicle is to be used as an authorized emergency vehicle, that a need exists in such jurisdiction for the vehicle to be used as described in the application and that he knows of no reason why the application should be denied. The patrol may issue emergency vehicle permits to vehicles which operate throughout the state, and such permit may be canceled upon receipt of complaint from any state law enforcement agency)) from each jurisdiction identified in (a) of this subsection that the vehicle is to be used as described. Such certification shall be by:~~

(i) The chief law enforcement officer if the applicant is a law enforcement or security officer, or has funeral home, coroner, ambulance or other nonfire related duties.

(ii) The fire chief if the vehicle is to be used for firefighting purposes.

The certification shall state that a need exists in the jurisdiction for the vehicle to be used as described and that the certifier knows of no reason why the application should be denied.

Note: If the person making application is the chief law enforcement officer or the fire chief of the jurisdiction, certification must be made by the chief executive officer of the political subdivision of the jurisdiction.

Upon satisfactory application the patrol may issue an emergency vehicle permit or permits which, when carried as required, are valid until expiration or cancellation as prescribed in WAC 204-36-070.

AMENDATORY SECTION (Amending Order 88-08-ESR, filed 7/18/88)

WAC 204-36-040 PERMIT LIMITATIONS. (1) A vehicle registered by the patrol shall not be used as an authorized emergency vehicle except as follows:

(a) Only by the operators named in the original or amended application.

(b) Only with the equipment described in the original or amended application.

(c) Only within the geographic area described in the original or amended application.

(d) Only for the purposes set forth in the original or amended application.

(2) If an authorized emergency vehicle is used for private purposes, or for purposes in an area or by an operator other than as set forth in the application, all emergency equipment which is exposed to public view shall be covered with an opaque hood, and shall not be operated during such period of time.

(3) The issuance of an emergency vehicle permit does not relieve the driver of the responsibility for using due care and caution in the operation of the vehicle. The inappropriate or misuse of authorized emergency vehicles may result in criminal or civil liability as well as cancellation of the emergency vehicle permit.

AMENDATORY SECTION (Amending Order 88-08-ESR, filed 7/18/88)

WAC 204-36-050 EQUIPMENT ~~((REQUIRED))~~ REQUIREMENTS. Authorized emergency vehicles shall be conventional passenger cars, vans, pickups, or similar vehicles. The vehicles shall be conventionally painted, legally equipped and shall not display commercial signs, posters, or pictures. Equipment, not related to the emergency nature of the vehicle, shall not be carried or attached to the outside of the vehicle. Every authorized emergency vehicle shall be equipped in conformance with RCW 46.37.190(1) with at least one lamp capable of displaying a red light visible from at least five hundred feet in normal sunlight and a siren capable of giving an audible signal. To be considered approved equipment for use under the provisions of this section, all devices must meet the criteria established in RCW 46.37-.320. In descending order of preference, these are:

~~(1) ((Conformance to Federal Motor Vehicle Safety Standards, or, if none,~~

~~(2)))~~ Conformance to current standards and specifications of the Society of Automotive Engineers, or, if none,

~~((3)))~~ (2) Certified for compliance by any recognized organization or agency such as, but not limited to, the

American National Standards Institute, the Society of Automotive Engineers, or the American Association of Motor Vehicle Administrators.

(a) Such equipment shall not be installed prior to obtaining approval of the application by the patrol.

(b) Blue lamps shall not be installed unless requested in the application and specifically approved and listed on the permit.

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

AMENDATORY SECTION (Amending Order 88-08-ESR, filed 7/18/88)

WAC 204-36-060 PROCEDURE. (1) If the patrol approves the application, it shall first issue a certificate of approval which shall be valid for thirty days, during which time the emergency equipment may be installed. After installation of the emergency equipment, the applicant shall bring the vehicle to a district or detachment office of the Washington state patrol to be examined to determine if it is of an approved type. A Washington state patrol officer shall certify the results of this examination on a form prescribed and provided by the patrol and the applicant shall file the form with the State Patrol, E.S.R. Section, ~~((6604 Martin Way))~~ General Administration Building, Mailstop ((PO-11)) AS-12, Olympia, Washington 98504. Upon receipt of such certification, the patrol shall issue a permit, which shall expire one year from the date of issuance thereof.

(2) The patrol may refuse to approve the application, certificate or permit or in the case of an application which lists multiple operators may refuse to approve any single operator if the applicant/operator has been convicted of a felony during the ~~((last))~~ ten years preceding the date of the application ~~((and if))~~ provided the felony for which the applicant was convicted directly relates to the specific occupation, trade, vocation, or business for which the certificate or permit is sought.

(3) The certificate of approval and when issued, the permit, including all endorsements for change of conditions as provided in WAC 204-36-030, shall be carried in the authorized emergency vehicle at all times, and shall be displayed on request to any law enforcement officer.

WSR 90-07-035
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Vocational Rehabilitation)
[Filed March 15, 1990, 4:17 p.m.]

Original Notice.

Title of Rule: Chapter 490-500 WAC, Vocational rehabilitation and services for handicapped persons.

Purpose: To clarify language.

Statutory Authority for Adoption: RCW 74.29.025.

Statute Being Implemented: RCW 74.29.025.

Summary: Changes will have no current impact on policy or procedure but should eliminate confusion in the future should need for interpretation arise.

Reasons Supporting Proposal: These rule changes are necessary to update and clarify language.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Peter Janni, Vocational Rehabilitation, 753-0291.

Name of Proponent: Department of Social and Health Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on May 8, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by May 8, 1990.

Date of Intended Adoption: May 22, 1990.

March 14, 1990

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 1050, filed 8/29/75)

WAC 490-500-005 DEFINITIONS. (1) "Accepted for services" ~~((shall mean that))~~ means the division ~~((has determined that))~~ determines the following conditions ~~((have been))~~ are met and ~~((has accordingly reached the decision to))~~ may supply vocational rehabilitation services to an applicant:

(a) The division has certified the applicant ~~((has been certified))~~ as eligible to receive vocational rehabilitation services; and

(b) The division has sufficient funds, personnel, facilities, and other resources to undertake and complete the rehabilitation of the individual.

(2) "Act" means the Rehabilitation Act of 1973 ~~((t))~~, including subsequent amendments under 29 U.S.C. chapter 16~~((t))~~.

(3) "Applicant" ~~((shall mean))~~ means an individual ~~((who has submitted to the division))~~ submitting a letter or application to the division requesting vocational rehabilitation services ~~((which))~~. For a letter to be an application, the applicant's letter shall contain:

(a) ~~((Has been signed by))~~ The signature of the individual~~((, his parents or guardian))~~ or ~~((other))~~ the individual's representative~~((:));~~ and

(b) ~~((Sets forth))~~ The name, address, age, sex, ~~((and))~~ nature of disability of the requesting individual, and source of referral.

(4) "Civil employee of the federal government" means a person employed by, or serving in a civilian capacity with, the United States government who was disabled in the line of duty under CFR 361.37.

(5) "Client" ~~((shall mean))~~ means any handicapped individual;

(a) Who has applied for vocational rehabilitation services or independent living services from the division~~((:));~~ and

(b) For whom the division has not denied or terminated services ~~((have not been denied or terminated by the division))~~.

~~((t))~~ (6) "Comparable services" mean services or resources, other than from the division, the VRC determines are available to the applicant or client to meet the cost of any vocational rehabilitation services under CFR 361.47b.

(7) "Department" ~~((shall mean))~~ means the department of social and health services.

~~((t))~~ (8) "Director" means the director of the division of vocational rehabilitation.

(9) "Division" ~~((shall mean))~~ means the division of vocational rehabilitation of the department of social and health services.

~~((t))~~ (10) "Eligible" or "eligibility," when used in relation to an individual's qualification for vocational rehabilitation services, ~~((refers to))~~ means a certification that:

(a) The individual has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and

(b) Vocational rehabilitation services may reasonably ~~((be expected to))~~ benefit the individual in terms of employability.

~~((t))~~ (11) "Employability" ~~((refers to))~~ means a determination was made that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with ~~((his))~~ the individual's capacities and abilities in:

(a) The competitive labor market;

(b) The practice of a profession;

(c) Self-employment;

(d) Home~~((-))~~making;

(e) Farm or family work ~~((t))~~, including work for which payment is in-kind rather than in-cash~~((t))~~;

(f) Sheltered employment;

(g) Homebound employment; or

(h) Other gainful work.

~~((t))~~ (12) "Evaluation of rehabilitation potential" means, as appropriate, in each case~~((:))~~:

(a) A preliminary diagnostic study to determine:

(i) ~~((That))~~ An individual has a physical or mental disability which ~~((for such individual))~~ constitutes or results ~~((to))~~ in a substantial handicap to employment~~((, and))~~;

(ii) ~~((That))~~ Vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability~~((:));~~ and ~~((that))~~

(iii) The individual is eligible ~~((therefore))~~ for vocational rehabilitation services~~((:));~~

(b) A thorough diagnostic study ~~((consisting))~~ to determine which vocational rehabilitation services may be of benefit to the individual in terms of employability consisting of:

(i) A comprehensive evaluation of pertinent factors, which bear on the individual's handicap to employment and rehabilitation potential~~((:));~~ and

(ii) An appraisal of the individual's:

(A) Work behavior; and

(B) Ability to develop work patterns suitable for successful job performance ~~((in order to determine which vocational rehabilitation services may be of benefit to the individual in terms of employability));~~

(c) Any other goods or services ~~((provided for the purposes of ascertaining))~~ used to determine the nature of the handicap and whether ~~((it may reasonably be expected that))~~ the individual ~~((can))~~ may benefit from vocational rehabilitation services in terms of employability; and

(d) ~~((The provision of))~~ Providing vocational rehabilitation services to an individual for ~~((a total period of))~~ an extended evaluation period not ~~((in excess of t))~~ to exceed eighteen months ~~((for))~~. The services include initiation and continuing development of an individualized written rehabilitation plan with periodic assessment of results of providing services. The purpose ~~((of determining))~~ is to determine whether ~~((such individual))~~ a vocational goal is ~~((a handicapped))~~ feasible for the individual ~~((for whom a vocational goal is feasible, including the initiation and continuing development of an individual written rehabilitation program, and a periodic assessment of the results of the provision of such services to ascertain whether an individual is an eligible individual for whom a vocational goal is feasible))~~.

~~((t))~~ (13) "Family member" or "member of the family" means:

(a) Any relative, by blood, adoption, or marriage, of a handicapped individual~~((:));~~ and

(b) Other individuals ~~((living))~~ residing in the same household with whom the handicapped individual has a close interpersonal relationship.

~~((t))~~ (14) "Functional capacities" in terms of employability means:

(a) Mobility;

(b) Communication;

(c) Interpersonal skills;

(d) Self-care;

(e) Self-direction;

(f) Work tolerance; or

(g) Work skills.

(15) "Handicapped individual" means an individual;

(a) ~~((Who has))~~ With a physical or mental disability ((which for such individual constitutes)) constituting or ((results)) resulting in a substantial handicap to employment; and

(b) ~~((Who is expected))~~ Expecting to benefit in terms of employability from the provision of vocational rehabilitation services, or for whom an extended evaluation of rehabilitation potential is necessary ((for the purpose of determining)) to determine whether ((he might)) the individual may benefit in terms of employability from the provision of vocational rehabilitation services.

~~((+2))~~ (16) "Independent living services" means any goods or services provided to a severely handicapped client enabling the individual to achieve maximum family or community participation in support of a vocational rehabilitation plan.

(17) "Individual's representative" means a client-selected representative who is the individual's parent, guardian, or other representative.

(18) "Initial stock and supplies" means items used, consumed, or sold in the normal process of an occupation or in the normal course of a business enterprise.

(19) "Local medical consultant" ((shall mean)) means a doctor of medicine employed under contract by the division to provide consultation to local office rehabilitation counselors concerning the medical aspects of rehabilitation, usually reviewing and discussing medical problems of individual clients.

~~((+3))~~ (20) "Occupational license" means a license, permit, or other written authority required by a governmental unit as a prerequisite to entering a particular occupation.

(21) "Occupational tools and placement equipment" means tangible implements or appliances required for the efficient performance of a particular trade, business, or occupation.

(22) "On-the-job training services" means a program of organized training giving the client the opportunity to learn as an employee in an occupation under actual conditions of commercial, industrial, or other on-the-job employment.

(23) "Physical and mental restoration services" means ((those)) services ((which are)) necessary to correct or substantially modify, within a reasonable period of time, a physical or mental condition which is stable or slowly progressive.

~~((+4))~~ (24) "Physical or mental disability" means a physical or mental condition which materially limits, contributes to limiting or, if not corrected, will ((probably)) result in limiting an individual's activities or ((functioning)) functions.

~~((+5))~~ (25) "Public safety officer" means a person serving the United States or a state or unit of general local government, with or without compensation, in ((any)) an activity pertaining to:

(a) The enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the national guard or the armed forces;

(b) A correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees;

(c) A court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees; or

(d) Firefighting, fire prevention, or emergency rescue missions.

~~((+6))~~ (26) "Referral" ((is defined as)) means any individual ((who applied or has been)) referred to a vocational rehabilitation office by letter, telephone, direct contact, or by ((any)) other means ((for whom)). The following minimum information ((has been)) shall be furnished(;) for referral:

(a) Name and address;

(b) Disability;

(c) Age and sex;

(d) Date of referral; and

(e) Source of referral.

~~((+7))~~ (27) "Rehabilitation facility" means a facility ((which is)) operated ((for the primary purpose of providing)) primarily to provide vocational rehabilitation services to handicapped individuals, and ((which provides)) also provide one or more of the following services ((for handicapped individuals)):

(a) Vocational rehabilitation services ((which shall include)) under one management(;) including:

(i) Medical(;);

(ii) Psychological(;);

(iii) Social(;); and

(iv) Vocational services(;);

(b) Testing, fitting, or training in the use of prosthetic and ((orthotic)) orthotic devices;

(c) Prevocational conditioning or recreational therapy;

(d) Physical and occupational therapy;

(e) Speech and hearing therapy;

(f) Psychological and social services;

(g) Evaluation of rehabilitation potential;

(h) Personal and work adjustment;

(i) Vocational rehabilitation with a view toward career advancement

((f)) in combination with other rehabilitation services(;);

(j) Evaluation or control of specific disabilities; and

(k) Transitional or extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market ((provided that)). All medical and related health services ((must)) shall be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the state.

~~((+8))~~ (28) "Secretary," except when the context indicates otherwise, means the secretary of the department of social and health services.

~~((+9))~~ (29) "Severely handicapped individual" means a handicapped individual(;);

(a) ~~((Who has))~~ With a severe physical or mental disability which seriously limits ((his)) one or more of the individual's functional capacities ((mobility, communication, self-care, self-direction, work tolerance, or work skills)) in terms of employability; ((and))

(b) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time(;); and

(c) ~~((Who has))~~ With one or more physical or mental disabilities resulting from:

(i) Amputation(;);

(ii) Arthritis(;);

(iii) Autism;

(iv) Blindness(;);

(v) Burn injury;

(vi) Cancer(;);

(vii) Cerebral palsy(;);

(viii) Cystic fibrosis(;);

(ix) Deafness(;);

(x) Head injury;

(xi) Heart disease((-hemoptegia));

(xii) Hemiplegia;

(xiii) Hemophilia(;);

(xiv) Respiratory or pulmonary dysfunction(;);

(xv) Mental retardation(;);

(xvi) Mental illness(;);

(xvii) Multiple sclerosis(;);

(xviii) Muscular dystrophy(;);

(xix) Musculo-skeletal disorders(;);

(xx) Neurological disorders ((f))including stroke and epilepsy(f);

(xxi) Paraplegia(;);

(xxii) Quadriplegia((-and));

(xxiii) Other spinal cord conditions(;);

(xxiv) Sickle cell anemia((-and));

(xxv) Specific learning disability;

(xxvi) End-stage renal disease(;); or

(xxvii) Another disability or combination of disabilities determined ((on the basis of)) to cause comparable substantial functional limitation based on an evaluation of rehabilitation potential ((to cause comparable substantial functional limitation)).

~~((+10))~~ (30) "Substantial handicap to employment" means ((that)) a physical or mental disability ((in light of attendant medical, psychological, vocational, educational, and other related factors)) which impedes an individual's occupational performance, by preventing ((his)) the individual from:

(a) Obtaining(;);

(b) Retaining(;); or

(c) Preparing for employment consistent with ((his)) the individual's capacities and abilities.

~~((+11))~~ (31) "Vocational rehabilitation counselor((A)) (VRC) ((shall refer to))" means an employee of the division ((who has)) having direct responsibility for authorizing, providing, or supervising the provision of(;) all vocational rehabilitation services to a division client ((of the division)).

~~((+12))~~ (32) "Vocational rehabilitation services(;)" ((shall)) mean ((any)) services under the vocational rehabilitation plan including one or more of the following:

(a) Any goods or services provided to a client ~~((that is))~~ likely to enable ~~((him))~~ the client to enter or retain employment in the competitive labor market consistent with ~~((his))~~ the client's capacities and abilities ~~((in the competitive labor market));~~

(b) Any goods or services provided to a client for the purpose of extended evaluation to determine ~~((his))~~ the client's rehabilitation potential~~(:);~~

(c) The establishment, construction, development, operation, and maintenance of ~~((workshops and))~~ rehabilitation facilities~~(:);~~ and

(d) The provision of ~~((any))~~ facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but ~~((which are))~~ not related directly to the rehabilitation ~~((program))~~ plan.

~~((23))~~ "Workshop" means a rehabilitation facility, or that part of a rehabilitation facility, engaged in a production or service operation and which is operated for the primary purpose of providing gainful employment or professional services to the handicapped as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist) Vocational rehabilitation is a capped categorical program; thus, services appropriate and necessary for successful vocational rehabilitation are determined on an individual case-needs basis under CFR 361.42, dated January 19, 1981.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 1383, filed 3/28/79)

WAC 490-500-145 CRITERIA FOR SELECTION OF SERVICE—INDIVIDUALIZED, WRITTEN EXTENDED EVALUATION PLAN. The division shall use the following order to determine eligibility in selecting handicapped individuals to be provided vocational rehabilitation services when ~~((such))~~ the services cannot be provided to all persons who apply and ~~((who have been))~~ are determined to be ~~((eligible or who have been determined to be))~~ in need of services under an extended evaluation ~~((of rehabilitation potential to determine eligibility, use the following order))~~ plan:

~~((Those))~~ (1) Clients who are most severely ~~((disabled with))~~ handicapped shall be accepted for services first ~~((to be));~~

(2) Followed by other clients of the department of social and health services ~~((second)),~~ disabled public safety officers, Native Americans, and disabled civil employees of the United States Government; and

(3) Then all other clients in order of precedence by date of application with earliest date of application having first priority.

AMENDATORY SECTION (Amending Order 1050, filed 8/29/75)

WAC 490-500-257 ~~((VOCATIONAL))~~ INDIVIDUALIZED, WRITTEN REHABILITATION ~~((PROGRAM))~~ PLAN. Before providing services, the division shall initiate and continuously develop an individualized written rehabilitation ~~((program will be initiated and continuously developed))~~ plan for each ~~((handicapped individual eligible for vocational rehabilitation))~~ client.

AMENDATORY SECTION (Amending Order 1050, filed 8/29/75)

WAC 490-500-260 ~~((VOCATIONAL))~~ INDIVIDUALIZED, WRITTEN REHABILITATION ~~((PROGRAM))~~ PLAN—CONTENT ~~((OF REGULAR CASE PROGRAM)).~~ ~~((The))~~ When developing an individualized written rehabilitation ~~((program))~~ plan, the division shall place primary emphasis on the determination and achievement of a vocational goal~~((, and as appropriate));~~. The plan shall include, but ~~((shall))~~ not ~~((necessarity))~~ be limited to, appropriate statements concerning the following:

(1) The basis on which the determination of eligibility has been made;

(2) The long-range employment goals established for the individual and the intermediate rehabilitation objectives related to the attainment of ~~((such))~~ the goals, for which the division utilizes a prioritization of services, are as follows:

(a) Medical restoration enabling the client to return to previous employment;

(b) Job restructuring enabling the client to return to employment similar to the type previously held;

(c) Utilizing transferable skills placing the client in suitable employment; or

(d) Retraining necessary to obtain current marketable job skills within the client's limitations for employment available in the current labor market.

(3) The determination of the specific vocational rehabilitation services ~~((to be))~~ provided ~~((in order))~~ to achieve established employment goals and the terms and conditions for the provision of ~~((such))~~ the services;

(4) The projected rate for the initiation of each vocational rehabilitation service, the anticipated duration of each ~~((such))~~ service, and the time within which the objectives and goals for each individual might be achieved, including periodic progress reviews;

(5) The views of the handicapped individual, or ~~((, as appropriate, his parent, guardian, or other))~~ the individual's representative, concerning ~~((his))~~ the individual's goals and objectives and the vocational rehabilitation services ~~((being))~~ provided;

(6) The terms and conditions for the provision of vocational rehabilitation services including responsibilities of the handicapped individual in implementing the individualized written rehabilitation ~~((program))~~ plan:

(a) Extent of client participation in the cost of services based on the financial need of the client, and

(b) Extent to which the individual is eligible for ~~((similar benefits))~~ comparable services under ~~((any))~~ other programs;

(7) An assurance ~~((that))~~ the handicapped individual ~~((has been))~~ is informed of ~~((his))~~ the:

(a) Individual's rights ~~((and the));~~

(b) Means by which ~~((he))~~ the individual may express dissatisfactions; and

(c) Means by which the individual may seek remedy for ~~((his))~~ dissatisfactions, including the opportunity for:

(i) Client assistance program services;

(ii) An administrative review of action; or

(iii) A fair hearing~~(s)~~.

(8) ~~((Where appropriate;))~~ Assurance ~~((that))~~ the handicapped individual ~~((has been))~~ is provided a detailed explanation of the availability of the resources within a client assistance ~~((project;))~~ program;

(9) The basis on which the individual ~~((has been))~~ shall be determined to be rehabilitated; and

(10) ~~((Any))~~ Plans for the provision of post-employment services after a suitable employment objective ~~((has been))~~ is achieved and the basis on which ~~((such))~~ the plans are developed when required.

~~((+))~~ A copy of the written program, and any amendments thereto shall be provided to the handicapped individual, or, as appropriate, his parents, guardian or other representative.)

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 1050, filed 8/29/75)

WAC 490-500-270 ~~((VOCATIONAL))~~ INDIVIDUALIZED, WRITTEN REHABILITATION ~~((PROGRAM))~~ PLAN—PARTICIPATION OF CLIENT. The ~~((individualized written rehabilitation program shall be developed jointly by the))~~ VRC and the handicapped individual or ~~((, as appropriate, his parent, guardian or other))~~ the individual's representative~~((, and a copy of the))~~ shall jointly develop the individualized, written ~~((program, and any amendments thereto;))~~ rehabilitation plan. The division shall ~~((be provided to))~~ provide the ~~((handicapped))~~ individual or ~~((, as appropriate, his parent, guardian or other))~~ the individual's representative a copy of the written rehabilitation plan and subsequent amendments.

AMENDATORY SECTION (Amending Order 1050, filed 8/29/75)

WAC 490-500-275 ~~((VOCATIONAL))~~ INDIVIDUALIZED, WRITTEN REHABILITATION ~~((PROGRAM))~~ PLAN—ANNUAL REVIEW. (1) The division shall review for appropriateness with the individual or the individual's representative the individualized, written ~~((program shall be reviewed))~~ rehabilitation plan:

(a) On an annual basis; or

(b) As often as necessary ~~((but at least on an annual basis));~~

(2) At ~~((which))~~ the time ~~((each))~~ of review, the handicapped individual~~(:);~~ or ~~((, as appropriate, his parent, guardian or other))~~ the individual's representative ~~((with))~~ shall be ~~((afforded an opportunity to))~~

involved in the review (~~(such program)~~) and, if necessary, jointly redevelop (~~(its)~~) the terms.

AMENDATORY SECTION (Amending Order 1050, filed 8/29/75)

WAC 490-500-280 (~~VOCATIONAL~~) INDIVIDUALIZED, WRITTEN REHABILITATION (PROGRAM) PLAN—TERMINATION. (~~When the services are terminated under~~) (1) When a (~~written program on the basis of a determination that the~~) handicapped individual is not capable of achieving a vocational goal and is (~~then~~) no longer eligible, the (~~following conditions and procedures will be made and carried out.~~) (1) Such) division shall terminate services under the written rehabilitation plan.

(a) The division shall make the decision (shall be made only) to terminate services with (full participation) the involvement of (such individuals) the individual or (as appropriate, his parent, guardian, or other) the individual's representative.

~~((2))~~ (b) The VRC shall:

(i) Record the views of the individual or (his) the individual's representative concerning the decision (shall be recorded in the individualized written program. (3) The rationale for such decision must be thoroughly documented and included as a part or amendment to the written rehabilitation program); and

(ii) Document the rationale for such decision.

~~((4))~~ (2) When the (client will be informed that his) division terminates services, the division shall inform the individual the division will review the individual's case (will be reviewed) within twelve months (offering). The annual review shall offer the individual a clear opportunity for (full consultation):

(a) Involvement; and

(b) Reconsideration of (such) the decision (of) regarding ineligibility. The division shall make subsequent reviews (may be made) only upon (his) the individual's request.

~~((5) Consultation or)~~ (3) The division shall not schedule an annual review (would not be scheduled) if (:) :

(a) There is a recorded statement by the individual indicating ((that he) the individual does not want to have further consideration;

(b) The individual is uncooperative and shows lack of interest;

(c) The individual is no longer in the state;

(d) The individual's whereabouts are unknown;

(e) The individual's medical condition is rapidly progressive or terminal; or

(f) There are other strong reasons that would make an annual review impractical.

NEW SECTION

WAC 490-500-340 CRITERIA FOR SELECTION OF SERVICES—INDIVIDUALIZED, WRITTEN REHABILITATION PLAN. The division shall use the following order to determine eligibility in selecting handicapped individuals to be provided vocational rehabilitation services when the services cannot be provided to all persons who apply and are determined eligible:

(1) Clients who are most severely handicapped shall be accepted for service first;

(2) Followed by other clients of the department of social and health services, disabled public safety officers, Native Americans, and disabled civil employees of the United States Government; and

(3) Then all other clients in order of precedence by date of application, with earliest date of application having first priority.

AMENDATORY SECTION (Amending Order 1050, filed 8/29/75)

WAC 490-500-350 VOCATIONAL REHABILITATION SERVICES. (~~Each client accepted for services shall be provided any rehabilitation services found by the diagnostic study to be necessary for the realization of his~~) The division shall only provide rehabilitation services when preauthorized by the VRC. The division shall provide a thorough diagnostic study to determine rehabilitation services necessary to attain the client's rehabilitation objective (including). Rehabilitation services may include, but are not limited to:

(1) Evaluation of rehabilitation potential;

(2) Counseling and guidance;

(3) Physical and mental restoration services;

(4) Vocational and other training services, including personal and vocational adjustment, books, tools and other training materials;

(5) Maintenance;

(6) Transportation;

(7) Services to (members of a handicapped individual) the client's family members when (such) the services are necessary (to the adjustment of) for the client's rehabilitation (of the handicapped individual);

(8) Interpreter services for the deaf;

(9) Reader services, rehabilitation teaching services, and orientation and mobility services for the blind;

(10) Telecommunications, sensory and other technological aids and devices;

(11) Recruitment and training services (to provide) providing new employment opportunities and other appropriate public service employment;

(12) Placement in suitable employment;

(13) Post-employment services, necessary to assist (handicapped individuals to maintain) the client in maintaining suitable employment;

(14) Occupational licenses, tools, equipment, initial stocks ((including livestock)) and supplies; and

(15) Other goods and services which (can reasonably be expected to benefit a handicapped individual) in (terms) the opinion of the VRC benefit the client's employability.

AMENDATORY SECTION (Amending Order 1050, filed 8/29/75)

WAC 490-500-390 VOCATIONAL REHABILITATION SERVICES—TRAINING. (1) The division may provide rehabilitation training services to a client who:

(a) Has the mental, physical, and emotional qualifications and capacity to benefit from (rehabilitation) the training (:) ; and (who)

(b) Requires (such) the training (in order) to achieve (his) the client's rehabilitation goal (may receive).

(2) Vocational rehabilitation training services (from the division. Such services shall) may include, as necessary (:) :

(a) All vocational (:) ;

(b) Pre-vocational (:) ;

(c) Educational (:) ;

(d) Personal adjustment (:) ;

(e) Work adjustment; or

(f) Other types of training ((which might contribute) contributing to the client's rehabilitation.

(3) Vocational rehabilitation training may be:

(a) Provided directly by the division; or

(b) Procured from (other) :

(i) Public or private training facilities ((and workshops) ;)

(ii) Public or private schools (and) ; or

(iii) Commercial or industrial establishments.

~~((2))~~ (4) Vocational rehabilitation training shall be limited to the amount of training necessary to (fit) prepare the client for an appropriate and adequate occupational objective.

~~((3))~~ (5) Before expending division funds to provide training services, the (division) VRC shall (provide training services to clients without regard to) determine:

(a) The economic need of the client; and

(b) Comparable services available to the client are utilized.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 775, filed 3/1/73)

WAC 490-500-405 VOCATIONAL REHABILITATION SERVICES PROVIDED—ON-THE-JOB TRAINING ((EMPLOYMENT)) (OJT). (1) ((Employment)) The division may provide on-the-job training (OJT) services ((may be provided)) to a client ((when necessary) to (attainment of)) attain the client's vocational goal. ("Employment training services" shall mean a program of organized training by which a client is given the opportunity to learn an occupation under actual conditions of commercial, industrial, or other on-the-job employment.)

(2) ((Employment training)) The division shall provide OJT services ((shall be provided)) to an individual client only when the VRC ((has established that)) establishes the following conditions ((have been or will be met)) :

(a) The VRC prepares and outlines in detail the client's ((training)) OJT program ((has been prepared and outlined in detail and)) in advance;

(b) The client's (~~(training will follow)~~) OJT follows a definite schedule of specified operations, instructions, and practices (~~(which will insure)~~) ensuring well-rounded preparation for the client's selected occupation;

(c) (~~(A mutual understanding has been reached between)~~) The (~~(trainee)~~) client/trainee/employee, the trainer(~~(employment training facility)~~)/employer, and the VRC (~~(as to)~~) reach a mutual understanding regarding the (~~(provisions of the)~~) client's (~~(employment training)~~) OJT plan, including:

- (i) Length of the training period(;;);
- (ii) Financial arrangements(~~(, and)~~);
- (iii) Operations and skills to be learned(;;); and
- (iv) Necessary reports.

(d) The trainer/employer (~~(with)~~);

(i) Provides careful supervision of the client/trainee/employee's work; and (~~(with)~~)

(ii) Submits regular reports on the client/trainee/employee's attendance and progress to the VRC(;;);

(e) The (~~(training)~~) OJT programs (~~(with)~~) meet (~~(any)~~) trade or occupational licensing requirements (~~(for licensing in the trade or occupation which exists)~~) existing in the field (~~(or)~~) of work (~~(in which)~~) where the client is (~~(to be)~~) employed; and

(f) (~~(It has been ascertained that the employment)~~) An employer/employee relationship shall exist for the length of the training (~~(program is acceptable to other employees of)~~) plan with the intent it continues as permanent employment when the training (~~(facility)~~) is successfully completed.

AMENDATORY SECTION (Amending Order 1050, filed 8/29/75)

WAC 490-500-415 VOCATIONAL REHABILITATION SERVICES—TRAINING MATERIALS. (1) The division may provide training tools, equipment, materials, and supplies (~~(which)~~) the training facility requires the student to use in the course of training (~~(shall be supplied by)~~). Before expending funds, the (~~(division subject to)~~) VRC shall determine:

(a) The economic need of the client; and

(b) Comparable services available to the client are utilized. (~~(This includes such items as)~~)

(2) Training tools, equipment, materials, and supplies shall not include fees or tuition required for the enrollment of the student, but may include:

- (a) Textbooks,
- (b) Workbooks,
- (c) Papers(;;) and pens,
- (d) Uniforms,
- (e) Shoes,
- (f) Tools, and
- (g) Kits(~~(, but does not include fees or tuition required for the enrollment of the student)~~).

(3) Ownership of or title to training tools, equipment, materials, and supplies shall remain with the division until the client is rehabilitated and requires the tools or equipment for employment.

NEW SECTION

WAC 490-500-417 VOCATIONAL REHABILITATION SERVICES—INDEPENDENT LIVING. (1) The division may provide independent living services to a client when the services contribute directly to achievement of competitive employment. A client may only receive independent living services in conjunction with one or more other primary vocational rehabilitation services.

(2) Independent living services shall assist the client in dealing with and overcoming barriers to family or community participation which impede successful completion of the vocational goal. These services may include assistance or training in the following areas:

- (a) Obtaining a satisfactory living arrangement;
- (b) Attendant care recruitment and management;
- (c) Activities of daily living, including but not limited to:
 - (i) Grooming,
 - (ii) Dressing,
 - (iii) Hygiene,
 - (iv) Health,
 - (v) Nutrition,
 - (vi) Cooking,
 - (vii) Shopping,
 - (viii) Money management, and
 - (ix) Other general homemaking tasks.

(d) Participation in family or community events, including recreational activities;

(e) Use of transportation services or systems;

(f) Access and use of community resources necessary for the client's independence; and

(g) Peer or professional counseling to adjust to one's own disability, learn personal decision-making skills, and gain greater control over the circumstances of one's own life.

(3) All independent living services provided shall be in response to problems identified through evaluation, with the knowledge and agreement of the VRC and client.

(4) To the maximum extent possible, independent living services shall be provided by qualified persons with disabilities.

NEW SECTION

WAC 490-500-418 VOCATIONAL REHABILITATION SERVICES—ASSISTIVE TECHNOLOGY SERVICES. (1) Assistive technology services shall include the systematic application of:

- (a) Technology;
- (b) Rehabilitative engineering methodologies; or
- (c) Scientific principals.

(2) The services meeting the needs of, and addressing the barriers confronted by, individuals with handicaps relate to:

- (a) Education;
- (b) Rehabilitation;
- (c) Employment;
- (d) Transportation; or
- (e) Independent living and recreation.

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

WAC 490-500-420 VOCATIONAL REHABILITATION SERVICES—MAINTENANCE. (1) Maintenance services may include:

(a) The client's basic living expenses, such as food, housing, clothing, and health care needs(;;); and

(b) Other subsistence expenses (~~(which are essential to enable him)~~) enabling the client to receive full benefit from other vocational rehabilitation services.

(2) The division may provide maintenance services (~~(shall be provided)~~) to the extent necessary (~~(to enable)~~) enabling a client to derive the full benefit of other vocational rehabilitation services.

(3) The division may provide maintenance (~~(may be provided)~~) at any time during the rehabilitation plan(~~(, or)~~). Following placement, until (~~(such time as)~~) the client (~~(has actually received)~~) receives remuneration for (~~(his)~~) employment, maintenance may be provided to the client for a period not to exceed sixty days.

(4) The division shall base the provision of maintenance services (~~(shall be conditioned)~~) on the economic need of the client using DSHS standards and dollar amounts.

AMENDATORY SECTION (Amending Order 1050, filed 8/29/75)

WAC 490-500-430 VOCATIONAL REHABILITATION SERVICES—PLACEMENT MATERIALS. (1) The division may provide a client who is (~~(being)~~) placed with tools, equipment, (~~(occupational licenses, and)~~) initial stocks and supplies, occupational licenses, and vehicles for use in connection with placement(~~(. Such material will be provided)~~), in such quantity and (~~(will be)~~) of such quality as to give reasonable assurance of successful:

- (a) Operation of the enterprise(;;);
- (b) Performance in the occupation(;;); or
- (c) Practice of the profession.

(2) (~~(As used in this section)~~)

(a) "Occupational tools and placement equipment" are any tangible implements or appliances required for the efficient performance of a particular trade, business, or occupation;

(b) "Occupational license" is any license, permit, or other written authority required by a governmental unit as a prerequisite to entering a particular occupation;

(c) "Initial stock and supplies" are any items used, consumed or sold in the normal process of an occupation or in the normal course of a business enterprise.

(3) The division shall base the provision of tools, equipment, initial stocks and supplies, (~~(and)~~) occupational licenses, and vehicles to clients (~~(by the division shall be conditioned)~~) upon the:

- (a) Economic need of the client; and
- (b) Utilization of comparable services available to the client.

(3) Ownership of or title to tools, equipment, supplies, and vehicles shall remain with the division until the client is rehabilitated and requires the tools, equipment, or vehicle for employment.

AMENDATORY SECTION (Amending Order 1050, filed 8/29/75)

WAC 490-500-435 VOCATIONAL REHABILITATION SERVICES—TRANSPORTATION. (1) The division may provide transportation services ((shall be provided)) to a client((s where necessary)) in connection with the provision of:

- (a) Physical restoration((:));
- (b) Training((:));
- (c) Placement((:));
- (d) Extended evaluation((:)); and
- (e) Diagnostic services.

(2) Transportation services ((shall)) may include the costs of travel and subsistence during travel for a client((s)) and ((their)) the client's necessary attendants or escorts.

(3) Transportation services may also include:

- (a) Costs of relocation; and
- (b) Moving expenses ((where)) when:

(i) Incurred in connection with other vocational rehabilitation services; and ((where))

(ii) Necessary to the achievement of a vocational rehabilitation objective.

((3) The provision of) (4) Before expending division funds to provide transportation ((expenses shall be conditioned upon the client's economic need except that transportation expenses in connection with diagnostic)) services ((shall be provided by)), the ((division)) VRC shall determine:

- (a) The economic need of the client; and
- (b) Comparable services available to the client are utilized.

(5) The division may provide transportation services in connection with diagnostic services without regard to economic need.

AMENDATORY SECTION (Amending Order 2146, filed 8/29/84)

WAC 490-500-525 TERMINATION OF SERVICES ((FOR REASON OF INELIGIBILITY)). (1) The division shall terminate services under ((a)) an individualized, written ((program arc to be terminated)) rehabilitation plan on the basis ((that)) the handicapped individual is not capable of achieving a vocational goal ((and)) or is ((then)) no longer eligible.

(2) ((Whenever it has been determined that)) The division shall make the decision with the involvement of the individual or the individual's representative.

(3) When the division determines an individual is ineligible for vocational rehabilitation services, ((there)) the division shall ((be a certification)) document and certify ineligibility. The documentation and certification shall be:

- (a) Placed in the individual's file,
- (b) Dated, and
- (c) Signed by an appropriate staff member ((and placed in the individual's file)).

(4) The division shall terminate services under an individualized, written rehabilitation plan when the individual insists upon a vocational goal contraindicated by medical or labor market conditions.

AMENDATORY SECTION (Amending Order 2385, filed 6/3/86)

WAC 490-500-560 ADMINISTRATIVE REVIEW. (1) ((Any)) A client ((or applicant who feels aggrieved by, or is otherwise)) dissatisfied with((, any)) a decision ((or action)) by the division ((or its agents with regard to his or her)) regarding the client's vocational rehabilitation case may file a request with and receive from the division ((for, and shall thereupon receive,)) an administrative review and re-determination of ((that)) the decision or action. The division's administrative review effects a timely, informal resolution of disagreements. The process may not be used as a means to delay the more formal fair hearing unless each party agrees to a delay.

(2) ((A)) The client shall request ((for)) an administrative review ((may be made either verbally or)), in writing, and ((may be filed)) file the request in any office of the division. ((A verbal request shall promptly be documented in writing.))

(3) ((All requests)) A request for administrative review((s)) shall:

(a) Specify the date of the decision or action ((being)) appealed((:));

(b) Precisely specify ((as precisely as possible)) the issue to be resolved by the administrative review((:));

(c) ((Set forth)) State the address of the ((client or of his or her)) client or the client's representative((:)); and

(d) Be signed by the ((client or by his or her)) client or the client's representative.

(4) ((A)) The client shall submit the request for an administrative review ((must be made)) within sixty days after receiving notice from the division of the decision or action ((by the division)) which is the basis for the review request ((for review)).

(5) The regional administrator of the region where the client receives services shall provide an administrative review ((and redetermination shall be provided by the regional administrator of the vocational rehabilitation region in which the client has been receiving services; and shall be provided)) within thirty days after the submission of the review request ((for review)).

(6) ((As soon as possible after the conclusion of the administrative review,)) The regional administrator shall certify ((his or her)) the findings to the client, in writing, as soon as possible after the conclusion of the administrative review specifying ((in reasonable detail the reasons)) the reasons for ((his or her)) the findings and informing the client of ((his or her)) the client's right to request and receive a fair hearing if dissatisfied with ((those)) the findings.

AMENDATORY SECTION (Amending Order 2385, filed 6/3/86)

WAC 490-500-570 FAIR HEARING—ADJUDICATIVE PROCEEDING. (1) ((Any)) An applicant ((or recipient dissatisfied with the finding of an administrative review may request from the division, and shall thereupon be granted,)) shall have the right to a fair hearing(:

(a) An applicant or recipient desiring a fair hearing shall request such hearing within thirty days after receiving notice from the division of the finding of the administrative review:

(b) A request for a fair hearing may be made either verbally or in writing and may be filed in any office of the division. If made verbally, such a request shall promptly be documented in writing:

- (c) All requests for fair hearings shall:
- (i) Specify the date of the administrative review being appealed;
- (ii) Specify as precisely as possible the issue to be adjudicated at the fair hearing;
- (iii) Set forth the address of the client, his or her representative, or his or her attorney;
- (iv) Be signed by the client, his or her representative, or his or her attorney)) to contest the department's denial of the application. A client shall have the right to a fair hearing to contest a VRC's decision concerning the furnishing of services.

(2) ((Fair hearings in the vocational rehabilitation program arc governed by chapters 10-08 and 388-08 WAC and this section. If any provision of this section conflicts with chapter 388-08 WAC, the provision in this section governs.)) A client contesting a decision shall, within twenty-eight days of receipt of the decision:

(a) ((The decision-making procedure is the initial decision-petition for review-review decision procedure. See WAC 388-08-409 and 388-08-413.)) File a written request for a hearing by a method showing proof of receipt with the office of appeals; and

(b) ((The director, division of vocational rehabilitation, is the hearing authority to review and rule on petitions for review of initial decisions and orders)) Include in or with the request for a hearing:

- (i) A specific statement of the issue or issues and law involved;
- (ii) The grounds for contesting the department decision; and
- (iii) A copy of the department decision being contested.

(c) The proceeding shall be governed by the Administrative Procedure Act, chapter 34.05 RCW, this chapter, and chapter 388-08 WAC. If any provision of this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

(3) ((Any client not satisfied with a decision of the director, division of vocational rehabilitation regarding services under the IWRP, may request the secretary of education to review the decision pursuant to 29 U.S.C. Section 722)) The administrative law judge may extend the time limits in subsections (4), (5), and (6) of this section for good cause shown at the request of a party or of both parties.

(4) The hearing shall be held within forty-five days of the office of appeals' receipt of the request for a hearing.

(5) The administrative law judge shall serve the initial decision within thirty days of the hearing or completion of the hearing record.

(6) When a petition for review is filed, the director shall serve the review decision within thirty days of giving notice of receipt of a petition for review.

NEW SECTION

WAC 490-500-600 INDEPENDENT LIVING PROGRAM—INDEPENDENT LIVING REHABILITATION SERVICES. (1) The division may provide independent living rehabilitation services to eligible severely handicapped individuals who, through evaluation, are identified as:

(a) Having no reasonable vocational potential; or
(b) Needing no vocational services, but may benefit from services that enhance family or community participation.

(2) The division shall accept a severely handicapped individual's application for independent living rehabilitation services when the individual believes the individual has the potential to increase the quality and extent of family or community participation.

(3) Severely handicapped individuals shall:
(a) Play a substantial role in shaping the nature and delivery of the independent living rehabilitation services the individuals will receive; and

(b) Be responsible for fully participating in decisions affecting the course of the individualized, written independent living plan.

NEW SECTION

WAC 490-500-605 INDEPENDENT LIVING PROGRAM—ELIGIBILITY. (1) The division shall make an eligibility determination for applicants for independent living rehabilitation services. After receiving the application, the division shall base the determination of eligibility on the results of a preliminary study and evaluation as soon as possible.

(2) The division shall base eligibility only upon:
(a) The presence of an individual's severe physical or mental handicap which constitutes or results in a substantial barrier to family or community participation; and

(b) A reasonable expectation that independent living rehabilitation services may benefit the individual through enhanced family or community participation.

(3) Other eligibility requirements and procedures shall be followed under WAC 490-500-030 (2), (3), (4), and (5) through 490-500-120.

NEW SECTION

WAC 490-500-610 INDEPENDENT LIVING PROGRAM—ORDER OF SELECTION. The division shall use the following order to determine eligibility in selecting handicapped individuals to provide independent living rehabilitation services:

(1) Individuals, including the homebound, not receiving vocational services from the division;

(2) Individuals at risk of becoming institutionalized;
(3) Individuals who were institutionalized or are institutionalized; or
(4) Groups of severely handicapped individuals in need of a common service.

NEW SECTION

WAC 490-500-615 INDEPENDENT LIVING PROGRAM—ECONOMIC NEED AND COMPARABLE SERVICES. (1) The division shall require an applicant accepted for independent living rehabilitation services to furnish the division with all financial information and follow other provisions of economic need under WAC 490-500-185 through 490-500-200.

(2) Before expending division funds to purchase services, the VRC shall determine:

(a) The economic need of the client; and
(b) Comparable services available to the client are utilized.
In all cases, full consideration shall be given to any comparable services available to a handicapped individual participating in any other program.

NEW SECTION

WAC 490-500-620 INDEPENDENT LIVING PROGRAM—WRITTEN INDEPENDENT LIVING PLAN. (1) When accepted for independent living rehabilitation services, the individual and the VRC shall establish a written independent living plan to include:

(a) Goals addressing specific barriers to family or community participation; and

(b) Services leading to the accomplishment of each goal within specified time frames.

(2) The division may provide handicapped individuals with independent living rehabilitation services, under WAC 490-500-605 and 490-500-610, and the services may be provided for the purposes of:

(a) Obtaining a satisfactory living arrangement;
(b) Activities of daily living including, but not limited to:
(i) Grooming;
(ii) Dressing;
(iii) Hygiene;
(iv) Self-care;
(v) Health;
(vi) Nutrition;
(vii) Cooking;
(viii) Shopping;
(ix) Time management;
(x) Money management; and
(xi) Other general homemaking tasks.
(c) Participation in family or community events, including recreational activities;
(d) Use of transportation services or systems and/or development of mobility skills;
(e) Access to and use of community resources necessary for the individual's independence and integration within:

(i) Family;
(ii) Community; and
(iii) Work settings.
(f) Peer or professional counseling to:
(i) Adjust to one's disability;
(ii) Learn personal decision-making skills; and
(iii) Gain greater control over the circumstances of one's life.
(g) Other services needed for enhanced family or community participation.

NEW SECTION

WAC 490-500-625 INDEPENDENT LIVING PLAN—TERMINATION. The division shall terminate independent living rehabilitation services for an individual when the individual:

(1) Successfully completes the independent living rehabilitation;
(2) No longer is able or wishes to participate in services; or
(3) Is determined ineligible.

Procedures for termination shall be followed under WAC 490-500-525 through 490-500-545.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 490-500-387 VOCATIONAL REHABILITATION SERVICES—PUBLIC SAFETY OFFICER.

WSR 90-07-036
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2951—Filed March 15, 1990, 4:20 p.m.]

Date of Adoption: March 15, 1990.

Purpose: To amend food stamp program rules to exclude as resources payments received under the Puyallup Tribe of Indians Settlement Act of 1989, Public Law 101-41.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-410.

Statutory Authority for Adoption: RCW 74.04.510.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to implement provisions of Public Law 101-41 which exclude the payments as resources for federally assisted programs.

Effective Date of Rule: March 16, 1990, 12:01 a.m.

March 15, 1990

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2857, filed 8/29/89, effective 9/29/89)

WAC 388-49-410 RESOURCES—EXEMPT. (1) The department shall exempt the following resources:

- (a) An occupied home and surrounding property not separated by intervening property owned by others;
- (b) An unoccupied home and surrounding property if:
 - (i) The household intends to return to the home, and
 - (ii) The house is unoccupied due to:
 - (A) Employment;
 - (B) Training for future employment;
 - (C) Illness; or
 - (D) Uninhabitability due to casualty or natural disaster.
- (c) A piece of land where the household is building or intends to build a permanent home, if the household does not own another home. The land must not be separated by intervening property owned by others;
 - (d) Personal effects;
 - (e) Household goods;
 - (f) One burial plot per household member;
 - (g) Cash value of:
 - (i) Life insurance policies; and
 - (ii) Pension funds.
 - (h) Vehicles as provided under WAC 388-49-430;
 - (i) That portion of real or personal property directly related to the maintenance or use of a vehicle excluded under WAC 388-49-430 (1)(a), (b), and (f);
 - (j) Property annually producing income consistent with its fair market value, even if only used on a seasonal basis;
 - (k) Rental homes used by household for vacation purposes during the year if the property annually produces income consistent with its fair market value;
 - (l) Property essential to the employment or self-employment of a household member. Property excluded under this provision because the property is used by a self-employed farmer shall retain its exclusion for one year from the date the household member terminates self-employment from farming;
 - (m) Resources held separately by nonhousehold members, a person disqualified for noncompliance with work registration requirements, or an ineligible student;
 - (n) Indian lands:
 - (i) Held jointly with the tribe; or

(ii) Sold only with the approval of the Bureau of Indian Affairs.

(o) Resources prorated as income for self-employed persons or eligible students. These funds, if commingled in an account with nonexcluded funds, shall retain their exclusion for the period of time they are prorated as income;

(p) Cash value of resources not accessible to the household;

(q) Funds in a trust and the income produced by that trust, to the extent they are not available;

(r) Resources excluded by express provision of federal law from consideration in the food stamp program;

(s) Installment contracts or agreements for the sale of land or other property when it is producing income consistent with its fair market value;

(t) Value of the property sold under an installment contract;

(u) The value of property held for security if the purchase price is consistent with fair market value;

(v) Real or personal property when:

(i) Secured by a lien as a result of obtaining a business loan; and

(ii) The security or lien agreement prohibits the household from selling the asset or assets.

(w) Governmental payments designated for restoration of a home damaged in a disaster. The household must be subject to legal sanction if the funds are not used as intended;

(x) Energy assistance payments or allowances made under federal, state, or local laws; ((and))

(y) Resources of persons residing in shelters for battered women and children if:

(i) The resources are jointly owned with members of the former household; and

(ii) Access to the resources depends on the agreement of the joint owner.

(z) Payments received under the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, as follows:

(i) Payments from the annuity fund established by P.L. 101-41 made to a Puyallup Tribe member upon reaching twenty-one years of age;

(ii) The investments or purchases made directly with the annuity payment up to the amount from the annuity fund payment; and

(iii) Payments from the trust fund established by P.L. 101-41 made to a Puyallup Tribal member.

(2) Exempt funds commingled in an account with nonexempt funds shall continue to be exempt for up to six months from the date they are commingled.

WSR 90-07-037
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2952—Filed March 15, 1990, 4:22 p.m.]

Date of Adoption: March 15, 1990.

Purpose: The purpose of the amendment is to implement Puyallup Tribe of Indians Settlement Act of 1989, Public Law 101-41; Public Law 101-201 establishing a disregard for agent orange settlements; to simplify the programs by adopting current AFDC disregards for GA-U under RCW 74.04.005(ii); and for AFDC, disregards income earned taking the census.

Citation of Existing Rules Affected by this Order: Amending WAC 388-28-575.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to: Congress enacted Public Law 101-41 (hereafter referred to as the act) to authorize the actions and appropriations necessary to implement the provisions of the Puyallup settlement agreement. The act exempts for all federal programs, payments from the annuity fund established by the act. The act exempts for all federal, state and local programs payments from the trust fund established by the act. Congress enacted Public Law 101-201 to establish a disregard for all federal programs for settlements made from the agent orange settlement fund or any other fund established to settle agent orange claims. For AFDC, disregard wages earned taking the census.

Effective Date of Rule: March 16, 1990, 12:01 a.m.

March 15, 1990

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2848, filed 8/8/89, effective 9/8/89)

WAC 388-28-575 DISREGARD OF INCOME AND RESOURCES. (1) For aid to families with dependent children (AFDC), the department shall disregard as income and as a resource the following payments:

(a) Grants, loans, or federal work study to an undergraduate student insured by the Secretary of Education, U.S. Department of Education;

(b) ~~((Per capita judgment funds under Public Law (P.L.) 92-254 to members of the:~~

~~(i) Blackfoot Tribe of the Blackfoot Indian Reservation, Montana; and~~

~~(ii) Gros Ventre Tribe of the Fort Belknap Reservation, Montana;~~

~~(c) Indian claim settlement per capita funds or funds held in trust under P.L. 93-134 or P.L. 94-114;~~

~~(d)) The income of a Supplemental Security Income recipient;~~

~~((e) Two thousand dollars per individual per calendar year received under the Alaska Native Claims Settlement Act or under P.L. 98-64;~~

~~(f)) (c) The monthly child support incentive payment from the office of support enforcement;~~

~~(d) AFDC benefits resulting from a court order modifying a department policy((;~~

~~(g) Veterans' Administration educational assistance for the student's educational expenses and child care necessary for school attendance;~~

~~(h) Housing and Urban Development (HUD) community development block grant funds that preclude use for current living costs;~~

~~(i) The monthly child support incentive payment from the office of support enforcement;~~

~~(j) A previous underpayment of assistance under WAC 388-33-195; and~~

~~(k) Restitution funds to individuals of Japanese ancestry interred during World War II under the Wartime Relocation of Civilians Act, P.L. 100-383); and~~

(e) Wages earned during the 1990 Federal Census Demonstration Project by a temporary census worker eligible for the exclusion.

(2) For AFDC and general assistance (GA), the department shall disregard as income and as a resource the following payments:

(a) Payment under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(b) The food coupon allotment under Food Stamp Act of 1977;

(c) Compensation to volunteers in ACTION programs established by Titles I, II, and III of P.L. 93-113;

(d) Benefits under women, infants and children program (WIC);

(e) Food service program for children under the National School Lunch Act; ~~((and))~~

(f) Energy assistance payments;

(g) Per capita judgment funds under Public Law (P.L.) 92-254 to members of the:

(i) Blackfoot Tribe of the Blackfoot Indian Reservation, Montana; and

(ii) Gros Ventre Tribe of the Fort Belknap Reservation, Montana.

(h) Indian claim settlement per capita funds or funds held in trust under P.L. 93-134 or P.L. 94-114;

(i) Two thousand dollars per individual per calendar year received under the Alaska Native Claims Settlement Act or under P.L. 98-64;

(j) Veterans' Administration educational assistance for the student's educational expenses and child care necessary for school attendance;

(k) Housing and Urban Development (HUD) community development block grant funds that preclude use for current living costs;

(l) Restitution payments made under the Wartime Relocation of Civilians Act, P.L. 100-383. The department shall disregard income and resources derived from restitution payments;

(m) A previous underpayment of assistance under WAC 388-33-195;

(n) Payment from the annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, made to a Puyallup Tribe member upon reaching twenty-one years of age.

(i) The purchases of real or personal property purchased directly with funds from the annuity fund payment up to the amount of the funds from the annuity fund payment hereafter referred to as the initial investments.

(ii) Income derived either from the annuity fund payment or the initial investments shall be treated as newly acquired income per WAC 388-28-482 and 388-28-484.

(iii) When the initial investments are nonexempt resources, appreciation in value shall be applied to the resource ceiling value as specified for the applicable program in WAC 388-28-430 (2)(a) or WAC 388-28-435(1). When appreciation is in excess of the applicable ceiling value, the department shall apply for AFDC WAC 388-28-438(2) and for GA-U WAC 388-28-450(2). The department shall determine appreciation in value at the time of eligibility review.

(iv) Proceeds from the transfer of the initial investments are treated according to WAC 388-28-471. After sixty days, if funds are in excess of the applicable ceiling value, the department shall apply for AFDC WAC 388-28-438(2) and for GA-U WAC 388-28-440 (3) and (4).

(o) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member, and

(p) Payments made from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims. Under P.L. 101-201, the effective date of the disregard is retroactive to January 1, 1989.

WSR 90-07-038

PERMANENT RULES

TACOMA COMMUNITY COLLEGE

[Filed March 16, 1990, 9:19 a.m.]

Date of Adoption: March 8, 1990.

Purpose: To establish rules governing loss of eligibility for athletes who violate chapter 69.41 RCW.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Pursuant to notice filed as WSR 90-03-094 on January 24, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 132V-400-040, wording in last sentence changed from "The order on review. . . ." to "The president's decision on appeal. . . ."

Effective Date of Rule: Thirty-one days after filing.

March 13, 1990

Carleton M. Opgaard
President

TACOMA COMMUNITY COLLEGE LOSS OF ELIGIBILITY - STUDENT ATHLETIC PARTICIPATION

NEW SECTION

WAC 132V-400-010 GROUNDS FOR INELIGIBILITY. Any student found to have violated Chapter 69.41 RCW, legend drugs, by virtue of a criminal conviction or by decision of the College's presiding officer, shall be disqualified from participation in any school-sponsored athletic events or activities.

NEW SECTION

WAC 132V-400-020 INITIATION OF INELIGIBILITY PROCEEDINGS. Any officer of the college or college staff shall have authority to request the commencement of athletic ineligibility hearing proceedings whenever he or she has reasonable cause to believe that the student has violated Chapter 69.41 RCW or upon receipt of notice from any source that the student has been convicted of violating Chapter 69.41 RCW. Requests to initiate athletic ineligibility hearing proceedings should be submitted to the Dean of Student Services within ten (10) instructional days of the date the person became aware of the alleged violation or conviction of RCW 69.41.

NEW SECTION

WAC 132V-400-030 INELIGIBILITY PROCEEDINGS. The President of the College shall designate a presiding officer who shall be a College officer who is not involved with the athletic program to conduct the brief adjudicative hearing. The presiding officer shall promptly conduct the hearing and permit the affected parties to explain both the College's view of the matter and the student's view of the matter. The brief adjudicative proceeding shall be conducted in accordance with the Administrative Procedure Act, RCW 34.05.482-494.

NEW SECTION

WAC 132V-400-040 DECISION. Within ten (10) calendar days of the conclusion of the brief adjudicative proceedings, the presiding officer shall give each party a written decision which shall include a brief statement of the reasons for the decision and, in the event of a decision adverse to the student, the period of loss of eligibility to participate in college-supervised athletic events or activities. Any party shall have the right to present, within five (5) calendar days of notification of the presiding officer's decision, a written request for review directed to the President of the College appealing the decision or the period of loss of eligibility. The request for review shall explain the party's view of the matter. The President's decision on the appeal will be in writing, including a brief statement of the reasons for the decision, and a notice that judicial review may be available.

WSR 90-07-039

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 90-19—Filed March 16, 1990, 1:14 p.m.]

Date of Adoption: March 13, 1990.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the

public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Test results show that adequate clams are available for limited digging. Limitation of harvest to odd-numbered days allows adequate monitoring to prevent over-harvest of existing resources.

Effective Date of Rule: 12:01 a.m., April 1, 1990.

March 13, 1990
Judith Merchant
Deputy
for Joseph R. Blum
Director

NEW SECTION

WAC 220-56-36000T RAZOR CLAMS—AREAS AND SEASONS. *It is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3 except as provided for in this section:*

(1) *Razor clam digging is allowed from 12:01 AM through 11:59 AM, on odd days only, April 1 through April 29, 1990.*

(2) *It is unlawful to dig for razor clams at any time in the Long Beach or Copalis Beach Clam Sanctuaries defined in WAC 220-56-372.*

WSR 90-07-040

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 90-21—Filed March 16, 1990, 1:15 p.m.]

Date of Adoption: March 12, 1990.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-55-010 and 220-55-015.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: In order to reduce the processing time for obtaining a razor clam license, and reducing the documentation from two instruments to one, the department is doing away with the razor clam stamp. There is inadequate time to promulgate this as a permanent regulation by the opening of razor clam season on April 1, 1990, but this is being proposed for permanent rule status.

Effective Date of Rule: Immediately.

March 12, 1990
Judith Merchant
Deputy
for Joseph R. Blum
Director

NEW SECTION

WAC 220-55-01000A RAZOR CLAM LICENSE — REQUIREMENTS. *Notwithstanding the provisions of WAC 220-55-010 and 220-55-015, effective immediately until further notice:*

(1) *A personal-use razor clamming license shall consist of a tag issued by the department on which is printed the razor clam license number. The razor clam license shall be provided with an opening for attachment or display on outer clothing and shall be color-coded to designate resident, nonresident, or juvenile-senior citizen.*

(2) *It shall be unlawful for any person to take or possess razor clams without having in possession a valid razor clam license. The razor clam license must be displayed on outer clothing while digging razor clams or in possession of razor clams on the digging beach.*

WSR 90-07-041

NOTICE OF PUBLIC MEETINGS SOUTH PUGET SOUND COMMUNITY COLLEGE

[Memorandum—March 15, 1990]

This is to notify your office of a change in the date of the regular April meeting of the Community College District Twenty-Four board of trustees. The April 5, 3:00 p.m. meeting has been scheduled for April 11, 3:00 p.m. in the South Puget Sound Community College boardroom.

WSR 90-07-042

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed March 16, 1990, 3:05 p.m.]

The Department of Agriculture is withdrawing the proposal, WSR 90-01-146, filed December 20, 1989. After reviewing the testimony submitted, the department has determined that further review of this matter is needed.

Art G. Losey
Assistant Director

WSR 90-07-043

PROPOSED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed March 16, 1990, 4:24 p.m.]

Original Notice.

Title of Rule: WAC 392-100-060 General definitions and rules of construction.

Purpose: To establish the definition of common terms used in Title 392 WAC and rules of construction applicable to Title 392 WAC.

Statutory Authority for Adoption: RCW 28A.03.030.

Statute Being Implemented: RCW 28A.03.030.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Old Capitol Building, Olympia, (206) 753-2298; Implementation: Jay Wood, Old Capitol Building, Olympia, (206) 753-2062; and Enforcement: Jan Carlson, Old Capitol Building, Olympia, (206) 753-1066.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Superintendent of Public Instruction, Old Capitol Building, Bruno Conference Room, Olympia, Washington 98504, on April 27, 1990, at 9:00 a.m.

Submit Written Comments to: Richard M. Wilson, Superintendent of Public Instruction, Legal Services, Olympia, Washington 98504, by April 24, 1990.

Date of Intended Adoption: May 2, 1990.

March 16, 1990
Judith A. Billings
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 87-4, filed 4/28/87)

WAC 392-100-060 OTHER ABBREVIATIONS. As used in Title 392 WAC, the abbreviation:

- (1) "FTE" means full-time equivalent;
- (2) ("~~RAP~~") "LAP" means (~~(remediation)~~) learning assistance program;
- (3) "VTI" means vocational-technical institute.

WSR 90-07-044

PROPOSED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed March 16, 1990, 4:26 p.m.]

Original Notice.

Title of Rule: WAC 392-168-125 Special service programs—Citizen complaint procedure for certain categorical federal programs.

Purpose: To ensure compliance by the state of Washington with 34 CFR 76.780 through 782, Department of Education regulations governing state-administered federal grant programs, and with the Hatch Amendment.

Statutory Authority for Adoption: RCW 28A.02.100.

Statute Being Implemented: RCW 28A.02.100.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Old Capitol Building, (206) 753-2298; Implementation: Robert LaGarde, Old Capitol Building, (206) 753-6735; and Enforcement: Bridget Cullerton, Old Capitol Building, (206) 586-6394.

Name of Proponent: Superintendent of Public Instruction, governmental.

Rule is necessary because of federal law, 34 CFR Section 76.780 through 782.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Bruno Conference Room, Superintendent of Public Instruction, Old Capitol Building, Olympia, Washington, on April 27, 1990, at 9:00 a.m.

Submit Written Comments to: Richard M. Wilson, Superintendent of Public Instruction, Legal Services, Olympia, Washington 98504, by April 24, 1990.

Date of Intended Adoption: May 2, 1990.

March 16, 1990
Judith A. Billings
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

WAC 392-168-125 DEFINITION—COMPLAINT. As used in this chapter, the term "complaint" means (~~(a-written)~~) an allegation, (~~(signed)~~) by the complainant, that the state, a local school district, an educational service district, or other subgrantee receiving federal funds has systematically violated a federal statute or regulation or a state regulation that applies to a federal program covered under this chapter.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

WAC 392-168-135 RIGHT TO REGISTER A COMPLAINT. Any individual, entity, or organization may register a complaint: PROVIDED, That a complaint filed pursuant to the Hatch Amendment may be filed only by a student or parent or guardian of a student directly affected by the alleged violation: PROVIDED FURTHER, That if a parent or adult student has also filed (~~(an individualized complaint which constitutes the basis in whole or in part for initiation of)~~) a request for a due process special education hearing pursuant to WAC 392-171-531, regarding the same issues, a citizen complaint by such person regarding (~~(systemic)~~) noncompliance shall be held in abeyance until the hearing has been concluded.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

WAC 392-168-140 CONTENTS OF COMPLAINT. A complaint filed under this chapter (~~(shall be in writing, signed by the complainant, and)~~) shall include:

- (1) A statement that the state, a local school district, an educational service district, or other subgrantee has violated one or more requirements of federal statutes or regulations or state regulations that apply to a federal program;
- (2) The facts on which the statement is based;
- (3) The name and address of the complainant; and
- (4) In the case of a complaint alleging a violation by an entity other than the state and filed directly with the superintendent of public instruction, the name and address of the allegedly offending entity.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

WAC 392-168-160 APPEAL TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION OF A LOCAL SCHOOL DISTRICT, EDUCATIONAL SERVICE DISTRICT, OR OTHER SUBGRANTEE DECISION. The complainant shall have the following right of appeal:

- (1) In the event a complainant remains aggrieved with the written decision of a local school district, an educational service district, or other subgrantee, or upon failure or refusal of such entity to respond to

a properly filed complaint, the complainant may, in writing, appeal the decision to the superintendent of public instruction or, in the case of a failure or refusal to respond, may register the complaint directly with the superintendent: PROVIDED, That upon the refusal of the local school district, educational service district, or other subgrantee to grant a request of the parent (or adult student) for a due process special education hearing made in conformance with WAC 392-171-531, the parent (or adult student) may register the complaint with the superintendent of public instruction.

(2) The ((written)) notice of appeal must be received by the superintendent of public instruction on or before the fifteenth day after the date the complainant received the written response of the local school district, educational service district, or other subgrantee pursuant to WAC 392-168-155; or in the case of a failure or refusal to respond to a complaint, a ((written)) notice registering the complaint must be received by the superintendent of public instruction on or before the thirty-fifth day after the citizen registered the complaint with the entity.

(3) In the case of a local school district, an educational service district, or other subgrantee's refusal to grant a request of a parent (or adult student) for a special education hearing made in conformance with WAC 392-171-531, a ((written)) notice registering the complaint must be received by the superintendent of public instruction on or before either the fifteenth day after the date the parent (or adult student) received notice of such entity's refusal to grant a hearing or on or before the fifteenth day after the expiration of the time period for rendering a final decision pursuant to a request for a hearing (i.e., forty-five days after the date of receipt of a request for a hearing), whichever occurs first.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

WAC 392-168-170 ACTIONS BY SUPERINTENDENT OF PUBLIC INSTRUCTION IN RESPONSE TO NOTICES OF APPEAL AND NOTICES REGISTERING COMPLAINTS. The superintendent of public instruction shall respond in the following manner to appeals and direct complaints:

(1) The superintendent of public instruction shall investigate the allegation(s) contained in a ((written)) notice of appeal or a ((written)) notice registering the complaint ((that is deemed to be of substance)) and make a decision no later than fifteen calendar days after the receipt of ((a-written)) an appeal or no later than sixty calendar days after receipt of a complaint registered directly with the superintendent of public instruction by a citizen. Investigations carried out pursuant to this section may be performed on-site as necessary.

(2) If the investigation reveals that there is merit to the allegation(s), the superintendent of public instruction shall provide for negotiations, or technical advice and assistance, or other remedial action in an attempt to ensure compliance with this chapter and/or state and/or federal laws and regulations: PROVIDED, That any corrective measures deemed necessary shall be instituted no later than ten calendar days following the decision of the superintendent of public instruction.

(3) If compliance by a local school district, educational service district, or other subgrantee is not achieved pursuant to subsection (2) of this section, the superintendent of public instruction shall initiate funding withholding, fund recovery, or any other sanction deemed appropriate.

(4) In the event a complainant, local school district, educational service district, or other subgrantee remains aggrieved with the decision of the superintendent of public instruction, either party may appeal the decision to the secretary, department of education.

WSR 90-07-045

PROPOSED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed March 16, 1990, 4:28 p.m.]

Original Notice.

Title of Rule: WAC 392-140-400 1990-91 Paraprofessional classroom assistants training program.

Purpose: To set forth policies and procedures for the operation of a paraprofessional classroom assistants training program including the allocation of state funds to school districts and educational service districts for the implementation of the training program.

Statutory Authority for Adoption: Section 517(5), chapter 19, Laws of 1989 1st ex. sess.

Statute Being Implemented: Section 517(5), chapter 19, Laws of 1989 1st ex. sess.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Old Capitol Building, (206) 753-2298; **Implementation:** Walter Hunt, Old Capitol Building, (206) 753-3222; and **Enforcement:** Ted Andrews, Old Capitol Building, (206) 753-3222.

Name of Proponent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Superintendent of Public Instruction, Old Capitol Building, Bruno Conference Room, Olympia, Washington 98504, on April 27, 1990, at 9:00 a.m.

Submit Written Comments to: Richard M. Wilson, Superintendent of Public Instruction, Legal Services, Olympia, Washington 98504, by April 24, 1990.

Date of Intended Adoption: May 2, 1990.

March 16, 1990

Judith A. Billings
Superintendent of
Public Instruction

1990-91 PARAPROFESSORIAL CLASSROOM ASSISTANTS TRAINING PROGRAM

NEW SECTION

WAC 392-140-400 1990-91 PARAPROFESSORIAL CLASSROOM ASSISTANTS TRAINING PROGRAM—AUTHORITY. The authority for this chapter is section 517(5), chapter 19, Laws of 1989 1st ex. sess. (uncodified), the 1989-91 Omnibus Appropriations Act, which provides for the training of paraprofessional classroom assistants and the classroom teachers to whom they are assigned.

NEW SECTION

WAC 392-140-401 1990-91 PARAPROFESSORIAL CLASSROOM ASSISTANTS TRAINING PROGRAM—PURPOSE. The purpose of this chapter is to set forth policies and procedures for the operation of a paraprofessional classroom assistants training program including the allocation of state funds to school districts and educational service districts for the implementation of the training program.

NEW SECTION

WAC 392-140-402 1990-91 PARAPROFESSORIAL CLASSROOM ASSISTANTS TRAINING PROGRAM—DEFINITION—PARAPROFESSORIAL CLASSROOM ASSISTANT. As used in this chapter, the term "paraprofessional classroom assistant" means those classified personnel who are employed by a school district to assist the classroom teacher in carrying out classroom supervisory, instructional, clerical, or other duties as assigned by the teacher, and are

identified on the superintendent of public instruction Form S-277, Classified Personnel Report, with activity code 27, and duty code 910.

NEW SECTION

WAC 392-140-403 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—DEFINITION—ASSIGNED TEACHER. As used in this chapter, the term "assigned teacher" means a certificated classroom teacher to whom a classified paraprofessional classroom assistant has been assigned by a school district for the 1990-91 academic year.

NEW SECTION

WAC 392-140-404 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—DEFINITION—TRAINING PROGRAM. As used in this chapter, the term "training program" means in-service training sessions sponsored or approved by a school district or an educational service district for the purpose of preparing paraprofessional classroom assistants in the methods and procedures of performing in the role of paraprofessional classroom assistant, and training classroom teachers to serve in the role of supervisor of paraprofessional classroom assistants.

NEW SECTION

WAC 392-140-405 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—DEFINITION—INDIRECT COSTS. As used in this chapter, "indirect costs" means those program costs such as support service, fiscal support, and maintenance of facilities not defined as direct costs.

NEW SECTION

WAC 392-140-406 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—DEFINITION—ONE-DAY TRAINING PROGRAM. As used in this chapter, "a one-day training program" means six contact hours of training.

NEW SECTION

WAC 392-140-407 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—DEFINITION—ONE CONTACT HOUR OR TRAINING. As used in this chapter, "one contact hour of training" means a minimum of fifty-five minutes of continuous instruction/training.

NEW SECTION

WAC 392-140-408 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—TASK FORCE. A task force composed of individuals representing each of the following professional roles shall make recommendations to the superintendent of public instruction regarding the implementation of the paraprofessional classroom assistants training program and the proposal selection process: Teachers, principals, school district administrators, community colleges, four-year colleges and universities, school directors, educational service districts, public school employees, and public school personnel administrators. The task force shall meet at least annually.

NEW SECTION

WAC 392-140-409 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—REQUIREMENTS—PROVIDERS. The training program shall consist of no less than twenty-five hours of training for paraprofessional classroom assistants and at least a one-day training program as defined in WAC 392-140-406 for the assigned teachers. As a minimum, two assigned teachers as specified in WAC 392-140-414, for every FTE paraprofessional classroom assistant as calculated under WAC 392-140-420, should be trained. The paraprofessional classroom assistants and the assigned teachers shall participate in at least one of the training sessions together. Individual districts or groups of school districts may provide training utilizing in-district personnel or may contract with an outside consultant, another school district, an educational service district, or a two-year or four-year college or university to conduct the necessary training for the paraprofessional classroom assistants and the assigned teachers.

NEW SECTION

WAC 392-140-410 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—DURATION. Training may be conducted during the summer vacation period prior to the commencement of the 1990-91 school year and/or during the first half of the 1990-91 school year, and need not be held on consecutive days. The training sessions may be held either before, during, or after school hours at the discretion of the school district or educational service district.

NEW SECTION

WAC 392-140-411 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—GRANT PROPOSAL—APPLICATION PROCESS. The superintendent of public instruction shall issue a request for proposals (RFP) to all interested school districts and educational service districts outlining the requirements to be met in each grant application. The application must be received by the superintendent of public instruction by 5:00 p.m., Monday, April 16, 1990, in order to be considered for review. The application shall require the superintendent of the school district or educational service district to provide assurances that all of the conditions specified in WAC 392-140-421 have been met.

NEW SECTION

WAC 392-140-412 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—GRANT PROPOSAL—SELECTION PROCESS. Educational service districts and school districts will be selected for funding on the basis of the quality of their grant proposal application as compared to other proposals submitted. Applications selected for funding shall represent a fair distribution across the state in terms of geographic region, size of district to be served, and the training needs of the classroom assistants and teachers. Proposals will be evaluated using criteria specified in WAC 392-140-413. Members of the paraprofessional classroom assistants task force will review, rank order, and recommend proposals for funding according to their rank order standing, until all available funding is awarded.

NEW SECTION

WAC 392-140-413 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—GRANT PROPOSAL—EVALUATION CRITERIA. Grant proposals submitted by the school districts and educational service districts will be evaluated by the paraprofessional classroom assistants training program task force members using the following criteria:

- (1) Statement of need.
- (2) Training goals and objectives.
- (3) Training activities.
- (4) Evaluation design.
- (5) Cost effectiveness of budget.

Each criterion will have equal value when being scored by the task force members.

NEW SECTION

WAC 392-140-414 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—ASSIGNED TEACHERS—SELECTION PROCESS. Two assigned teachers should be selected for training by the district for every one paraprofessional classroom assistant selected by the district for training. The assigned teachers selected for the training program do not have to be the actual teachers in the district to whom the paraprofessional classroom assistants selected for training are assigned.

NEW SECTION

WAC 392-140-415 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—SELECTION PROCESS. Any paraprofessional classroom assistants, regardless of the amount of time they work in a school district, may be selected by the district for the training program. Paraprofessional classroom assistants selected for the training program do not have to be serving as an assistant for one or any of the assigned teachers selected for the training program by the district.

NEW SECTION

WAC 392-140-416 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—REQUIRED TRAINING COMPONENTS. Training for paraprofessional classroom assistants shall include, as a minimum, instruction in the following five areas:

- (1) Team building skills.
- (2) School building and classroom discipline policies and procedures.
- (3) Rules and procedures of the school.
- (4) Psychology and development of children.
- (5) Operation of equipment.

NEW SECTION

WAC 392-140-417 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—SUGGESTED TRAINING COMPONENTS. School districts and educational service districts are encouraged, but not required, to offer training for paraprofessional classroom assistants in at least two additional areas, which may include:

- (1) Individualized instruction.
- (2) Small group instructional techniques.
- (3) Group dynamics.
- (4) Health/safety/first-aid training.
- (5) Human relations skills.
- (6) Communication skills.
- (7) Behavior management.
- (8) Planning and organizational skills.
- (9) Direct instruction.
- (10) Test administration and scoring.
- (11) Recordkeeping.
- (12) Computer skills.
- (13) The handicapped child.
- (14) Other components deemed by the school district or educational service district to be relevant and important to the training of paraprofessional classroom assistants.

NEW SECTION

WAC 392-140-418 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—ASSIGNED TEACHERS—TRAINING COMPONENTS. Training for the assigned teachers shall include instruction in one or more of the following areas:

- (1) Team building skills.
- (2) Communication skills.
- (3) Human relations skills.
- (4) Leadership skills.
- (5) Managerial skills.
- (6) Supervision of adults.
- (7) Other areas deemed by the school district or educational service district to be relevant and important to the training of teachers to whom paraprofessional classroom assistants are assigned.

NEW SECTION

WAC 392-140-419 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—DISTRIBUTION OF STATE MONEYS—MAXIMUM AMOUNT. For the 1990-91 school year the superintendent of public instruction shall allocate money to qualifying school districts and educational service districts in the form of competitive grant awards for the purpose of training paraprofessional classroom assistants and assigned teachers. The maximum amount of grant money available per proposal shall be determined by multiplying seven hundred dollars times the actual number of FTE paraprofessional classroom assistants to be trained in a district using the calculation process described in WAC 392-140-420. The amount generated by this calculation shall be the maximum amount of grant money available to the school district or educational service district to cover the cost of implementing their training program.

NEW SECTION

WAC 392-140-420 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—FTE PARAPROFESSIONAL CLASSROOM ASSISTANTS—CALCULATION FOR FUNDING PURPOSES. In order to determine the actual number of full time equivalent (FTE) paraprofessional classroom assistants in a district, the total number of hours worked by all paraprofessional classroom assistants in the school district, identified by activity code 27 and duty code 910 on the most recent superintendent of public instruction Form s-277—Classified Personnel Report, shall be totaled and divided by two thousand eighty hours. The resulting figure, rounded to the nearest whole number, shall represent the total number of actual FTE paraprofessional classroom assistants in the school district, and will be the figure used by the district to calculate the maximum amount available for its grant proposal, as specified in WAC 392-140-419.

NEW SECTION

WAC 392-140-421 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—ASSURANCES. Each school district that applies for a grant under this chapter shall assure the superintendent of public instruction that:

- (1) The school districts and educational service districts shall comply with section 517(5), chapter 19, Laws of 1989 1st ex. sess. (uncodified), and with the terms specified in WAC 392-140-400 through 392-140-423;
- (2) The school districts and educational service districts approved for funding under the paraprofessional classroom assistants training program shall keep records and provide information to the superintendent of public instruction regarding the program in such manner as required by the superintendent of public instruction.

NEW SECTION

WAC 392-140-422 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—CARRYOVER PROHIBITION. State moneys distributed to districts for the paraprofessional classroom assistants training program shall be subject to the carryover prohibition of WAC 392-122-900.

NEW SECTION

WAC 392-140-423 1990-91 PARAPROFESSIONAL CLASSROOM ASSISTANTS TRAINING PROGRAM—MAXIMUM CONTROL FACTOR—PRORATION. State moneys distributed to districts for the paraprofessional classroom assistants training program shall be subject to the proration provision of WAC 392-122-905 if the current appropriation to the superintendent of public instruction for the paraprofessional classroom assistants training program is adversely affected by action of the legislature after the commencement of the ensuing school year.

WSR 90-07-046**NOTICE OF PUBLIC MEETINGS****COMMISSION ON****HISPANIC AFFAIRS**

[Memorandum—March 15, 1990]

Please take note of the changes of our commission's meetings as follows:

May meeting will be held in Wenatchee, Saturday, May 19, instead of May 17-19, in Pasco.

September meeting will be held somewhere in the Tri-Cities area (probably Pasco) September 7-9, instead of September 8, in Wenatchee.

WSR 90-07-047
NOTICE OF PUBLIC MEETINGS
OLYMPIC COLLEGE
 [Memorandum—March 14, 1990]

Please consider this your official notification of a change in the date of the April board meeting at Olympic College. The date previously given to the code reviser's office was April 24, 1990. The board of trustees met on February 27, 1990, and changed the date to April 17, 1990. This is the only change to the regular board meetings.

WSR 90-07-048
NOTICE OF PUBLIC MEETINGS
CENTRALIA COLLEGE
 [Memorandum—March 14, 1990]

This is to notify you of a change in the date of the regular June meeting of the Community College District Twelve board of trustees. The June 14, 1990, meeting has now been scheduled for June 7, 1990. The time and location will be 4:30 p.m., Centralia College boardroom.

WSR 90-07-049
NOTICE OF PUBLIC MEETINGS
EVERETT COMMUNITY COLLEGE
 [Memorandum—March 15, 1990]

Please change the April 11, 1990, regular meeting date for the board of trustees to April 18, 1990, at 12:30 p.m.

WSR 90-07-050
PERMANENT RULES
PARKS AND RECREATION COMMISSION
 [Filed March 19, 1990, 4:48 p.m.]

Date of Adoption: March 16, 1990.

Purpose: The purpose of this chapter is to implement provisions of RCW 43.51.650 through 43.51.765, which require local governments, which have a portion of the seashore conservation area within their boundaries, to prepare recreation management plans for the ocean beaches designating at least forty percent of the beach for use by pedestrians and nonmotorized vehicles from April 15 to the day following Labor Day of each year.

Statutory Authority for Adoption: RCW 43.51.040.

Pursuant to notice filed as WSR 90-04-106 on February 7, 1990.

Effective Date of Rule: Thirty-one days after filing.

March 16, 1990
 Moyes Lucas
 Chairman

Chapter 352-37 WAC
 OCEAN BEACHES

NEW SECTION

WAC 352-37-010 PURPOSE. The purpose of this chapter is to implement the provisions of RCW 43.51-.650 through 43.51.765 which require local governments which have a portion of the Seashore Conservation Area within their boundaries to prepare recreation management plans for the ocean beaches designating at least forty percent of the beach for use by pedestrians and nonmotorized vehicles from April 15 to the day following Labor Day of each year.

This chapter sets forth those sections of the plans which the commission has adopted as rules.

NEW SECTION

WAC 352-37-020 DEFINITIONS. Whenever used in this chapter the following terms shall have the meanings herein defined unless the context clearly indicates otherwise:

(1) "Commission" shall mean the Washington state parks and recreation commission.

(2) "Director" shall mean the director of the Washington state parks and recreation commission or his/her designee.

(3) "Persons" shall mean all natural persons, firms, partnerships, or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

(4) "Ocean beaches" shall mean all lands fronting on the Pacific Ocean between Cape Disappointment and Leadbetter Point; between Toke Point and the south jetty on Point Chehalis; and between Damon Point and the Makah Indian Reservation, and occupying the area between the line of ordinary high tide and the line of extreme low tide, as these lines now are or may hereafter be located, and, where applicable, between the Seashore Conservation Line, as established by survey of the Washington state parks and recreation commission and the line of extreme low tide, as these lines now are or may hereafter be located, or as defined in RCW 43.51-.655, provided, that the ocean beaches shall not include any lands within the established boundaries of any Indian reservation.

(5) "Long Beach Peninsula" shall mean that area of the ocean beaches as defined in subsection (4) of this section lying between Cape Disappointment on the south and Leadbetter Point on the north.

(6) "South Beach" shall mean that area of the ocean beaches as defined in subsection (4) of this section lying between Toke Point on the south and the south jetty on Point Chehalis on the north.

(7) "North Beach" shall mean that area of the ocean beaches as defined in subsection (4) of this section lying between Damon Point on the south and Cape Flattery on the north.

(8) "Hard sand area" shall mean that area over which the tide ebbs and flows on a daily basis; and which is sufficiently hard or firm to support the weight of, and to provide unhindered traction for, an ordinary passenger vehicle.

(9) "Dry sand area" shall mean that area lying above and to the landward side of the hard sand area as defined in subsection (8) of this section.

(10) "Driveable beach" shall mean that area of the ocean beaches lying between the upper or landward limit of the hard sand area and the clam beds.

(11) "Motor vehicle" shall mean any self-propelled device capable of being moved upon a public highway, and in, upon, or by which any persons or property may be transported or drawn, and shall include, but not be limited to, automobiles, trucks, motorcycles, motor bikes, motor scooters, mopeds, jeeps, or similar type four-wheel drive vehicles, buses, camper trucks, motor homes, and other self-propelled recreational vehicles. A motor vehicle must have a means of propulsion associated or attached directly to the device, and not receive motive power from a source independent or outside of the device. A motor vehicle must be certificated and licensed according to the provisions of chapter 46.12 RCW (Certificates of ownership and registration), and chapter 46.16 RCW (Vehicle licenses).

(12) "Wind/sand sailer" shall mean a wheeled, wind-driven recreational conveyance.

(13) "Parasail" shall mean a parachute-type device attached to a rope pulled by a motor vehicle, resulting in the participant being lifted from the ground by the force of the wind.

(14) "Hovercraft" shall mean a powered vehicle supported by a cushion of air capable of transporting persons.

NEW SECTION

WAC 352-37-030 VEHICULAR TRAFFIC—WHERE PERMITTED—GENERALLY. Subject to the restrictions set forth in subsequent sections of this chapter, and except at the point of intersection of any access road and the beach, the use of motor vehicles on and along the ocean beaches shall be permitted only on that area between the extreme upper or landward limit of the hard sand area and the clam beds, and defined as the "driveable beach" in WAC 352-37-020. The operation, or parking, of any vehicle is prohibited above and on the landward side of the driveable beach. The provisions of this section shall not apply to official vehicles engaged in authorized law enforcement, maintenance, or sanitary patrol activities or emergency vehicles while engaged in the performance of any necessary service.

Areas identified within the Long Beach Peninsula, South Beach, and North Beach Recreation Management Plans as referenced in RCW 43.51.650 through 43.51.765, adopted by local governments located on the same beach and approved by the commission, identify those areas where the operation or parking of any vehicle is prohibited. Exceptions that allow for the use of any vehicles in these areas identified as exclusive pedestrian/nonmotorized use areas are found in WAC 352-37-070.

NEW SECTION

WAC 352-37-040 LONG BEACH PENINSULA.
(1) Leadbetter Point exclusive pedestrian/nonmotorized

vehicle use area is described as the area from the northern tip of Leadbetter Point to the north side of the Oysterville beach access road.

(a) Motor vehicles are not allowed year round in the area located between the northern tip of Leadbetter Point and the southern boundary of Leadbetter Point State Park.

(b) Motor vehicles are not allowed in the area located between the southern boundary of Leadbetter Point State Park to the north side of the Oysterville beach access road, from April 15 to the day following Labor Day of the same year.

(2) Long Beach/Seaview exclusive pedestrian/nonmotorized vehicle use area is described as the area from the south side of the Bolstad Avenue beach access road south to the north side of the Seaview beach access road at 38th Avenue.

Motor vehicles are not allowed from April 15 to the day following Labor Day of the same year.

(3) Ft. Canby unit exclusive pedestrian/nonmotorized vehicle use area is described as the area from the north jetty of the Columbia River located in Ft. Canby State Park to north head/south boundary of Beard's Hollow State Park.

Motor vehicles are not allowed on Benson Beach in front of Ft. Canby State Park for the entire year. Motor vehicles may not be used on the beach in front of the state park for any clam season at any time of the year.

NEW SECTION

WAC 352-37-050 SOUTH BEACH. (1) East North Cove exclusive pedestrian/nonmotorized vehicle use area is described as the beach on the Pacific County owned property described as the north half of the northeast quarter section of the southwest quarter section of the southwest quarter of Section 4, Township 14N, Range 11 WWM.

Motor vehicles are not allowed from April 15 to the day following Labor Day of the same year.

(2) The Willapa National Wildlife Refuge/Warrenton Cannery road beach access exclusive pedestrian/nonmotorized vehicle use area is described as the area south of the south edge of the Warrenton Cannery beach access road east to east boundary line of the Willapa National Wildlife Refuge.

(a) Part west of Willapa National Wildlife Refuge. In the portion of this area west of the west boundary line of the Willapa National Wildlife Refuge, motor vehicles are not allowed from April 15 to the day following Labor Day of the same year.

(b) Part within the Willapa National Wildlife Refuge. In the portion of this area within Willapa National Wildlife Refuge, motor vehicles are not allowed from April 15 to the day following Labor Day of the same year. Motor vehicles may not be used in the wildlife refuge during the portion of any clam season which is between April 15 and the day following Labor Day of the same year.

(3) Twin Harbors Gap road to the south jetty exclusive pedestrian/nonmotorized vehicle use area is described as that area from the northern edge of the Twin

Harbors beach access road to the south jetty on Point Chehalis.

(a) On the beach in front of the Westport Light State Park, motorized vehicles are not allowed from April 15 to the day following Labor Day of the same year. Motor vehicles may not be used on the beach in front of the state park during the portion of any clam season which is between April 15 and the day following Labor Day of the same year.

(b) On the beach in front of Westhaven State Park motorized vehicles are not allowed for the entire year. Motor vehicles may not be used on the beach in front of the state park for any clam season at any time of the year.

(c) In the balance of the area, motorized vehicles are not allowed from April 15 to the day following Labor Day of the same year.

NEW SECTION

WAC 352-37-060 NORTH BEACH. (1) North jetty to Marine View Drive beach access exclusive pedestrian/nonmotorized vehicle use area is described as that area from the south edge of the Marine View Drive beach access to the north jetty of the Chehalis River.

Motor vehicles will not be allowed in this area from April 15 to the day after Labor Day of the same year.

(2) Pacific Way to Chance A La Mer beach access exclusive pedestrian/nonmotorized vehicle use area is described as the area from the north edge of the Pacific Way beach access road north to the south edge of the Chance A La Mer beach access road.

Motor vehicles are not allowed April 15 to the day after Labor Day of the same year.

(3) Ocean City beach access north for 1.8 miles exclusive pedestrian/nonmotorized vehicle use area is described as that area from the northern edge of the Ocean City beach access road north for 1.8 miles.

Motor vehicles are not allowed in this area from April 15 to the day after Labor Day of the same year.

(4) Benner Gap road north to the north bank of the Copalis River exclusive pedestrian/nonmotorized vehicle use area is described as the area from the north edge of the Benner Gap beach access road north to the north bank of the Copalis River. If the Copalis River shifts south of the north boundary of Griffiths-Priday State Park, the north boundary of Griffiths-Priday State Park shall be the north boundary of this area.

Motor vehicles are not allowed in this area for the entire year.

(5) Copalis Rock north to Boone Creek exclusive pedestrian/nonmotorized vehicle use area is described as the area from the north edge of Copalis Rock north to the north bank of Boone Creek.

Motor vehicles are not allowed in this area from April 15 to the day following Labor Day of the same year.

(6) Roosevelt Beach Gap road north to Annelyde Gap road exclusive pedestrian/nonmotorized vehicle use area is described as the area from the north edge of the Roosevelt beach access road to the south edge of the Annelyde beach access road.

Motor vehicles are not allowed in this area from April 15 to the day following Labor Day of the same year.

(7) Moclips Gap road north to the south boundary of the Quinault Indian reservation. exclusive pedestrian/nonmotorized vehicle use area is described as the area from the north edge of the Moclips beach access road (Second Street) to the south boundary of the Quinault Indian reservation.

Motor vehicles are not allowed in this area from April 15 to the day following Labor Day of the same year.

NEW SECTION

WAC 352-37-070 CONDITIONS UNDER WHICH MOTOR VEHICLES MAY BE USED IN THE EXCLUSIVE PEDESTRIAN/NONMOTORIZED USE AREAS. Unless specifically excepted in the description of the times during which motor vehicles are not allowed for each exclusive pedestrian/nonmotorized vehicle use area, motor vehicles may be used in the pedestrian/nonmotorized vehicle use areas under the following circumstances:

(1) Motor vehicles may be used in the areas during any recreational razor clam digging seasons designated by the department of fisheries which take place partially or entirely during the period when motor vehicles are otherwise not allowed to use the area.

(2) Motor vehicles may also be used in the areas during special events approved by the commission as set forth in WAC 352-37-200 Special group recreation event permit, which specifically allows the use of motorized vehicles. The vehicle may be used for access or in the event.

(3) As provided by RCW 43.51.720, public vehicles operated in the performance of official duties and vehicles responding to an emergency can use the areas at any time.

(4)(a) Motor vehicles may be used to remove sand from a beach access, gap road, or other area provided that all required permits have been obtained and the removal complies with all applicable requirements.

(b) On the Long Beach Peninsula pursuant to RCW 4.24.210, 43.51.045(5), and 43.51.715(3), the Pacific County planning department and the city of Long Beach may issue permits for wood debris removal during any period of closure to vehicular traffic, in their respective jurisdictions, if in the opinion of said jurisdiction the amount, size, and location of such wood debris is determined to constitute a hazard to the general public and/or impede the movement of public vehicles on the ocean beach. Said permits shall be valid for twenty-four hours only. Persons seeking permits for removal of wood debris within the seashore conservation area must apply to the director or his designee for a wood debris removal permit.

(5)(a) Motor vehicles may be used to remove wood debris under RCW 4.24.210 and 43.51.045(5) provided that all required permits have been obtained and the removal complies with all applicable requirements.

(b) On the Long Beach Peninsula in accordance with RCW 43.51.715(4), the Pacific County planning department and the city of Long Beach may issue permits, on their respective jurisdictions, for the removal of sand on the ocean beach during periods of closure to vehicular

traffic. Said sand removal shall occur only on beach access roads and private property under the terms of a covenant, easement, or deed that allows such activity. The local jurisdictions shall exercise good judgment in setting the terms of such sand removal permits. Such terms should prohibit sand removal during weekends, holidays, festivals, and other occasions when and where there is increased use of the ocean beach by the public. The hours of sand removal shall also be specified and shall prohibit this activity from occurring too early or too late in the day in order to minimize disturbance of nearby businesses, residents, and visitors.

(6) In case of an emergency, motor vehicles may be used to maintain and construct erosion control devices, including bulkheads, provided that all required permits have been obtained and the operation of the vehicles and the construction complies with all applicable requirements.

NEW SECTION

WAC 352-37-080 EQUESTRIAN TRAFFIC. (1) Equestrian traffic shall be permitted on and along the ocean beaches within the seashore conservation area year round except where prohibited by this rule or other provision of statute or rule.

(2) Equestrian traffic shall be permitted only on that area between the extreme upper and landward limit of the hard sand area and the clam beds.

(3) Equestrian access shall be permitted at the point of intersection of any access road and the beach or any equestrian trail designated by the commission. Upland owners shall also be allowed equestrian access to and from their property, except for commercial purposes.

(4) Within the seashore conservation area, equestrian traffic shall yield the right of way to all pedestrian or vehicular traffic.

(5) Horses shall be ridden at a walk or led through areas of heavy pedestrian concentration.

(6) Equestrian traffic will not be permitted on the Long Beach Peninsula between Bolstad Avenue beach access road and 10th Street beach access road from April 15 to the day following Labor Day of the same year.

NEW SECTION

WAC 352-37-090 PEDESTRIANS TO BE GRANTED RIGHT OF WAY. Vehicular and equestrian traffic shall at all times yield the right of way to pedestrians on the ocean beaches.

NEW SECTION

WAC 352-37-100 PARKING. Parking of vehicles shall be permitted only in an area extending one hundred feet westerly from the upper or landward limit of the hard sand area, or where otherwise specifically designated by the Washington state parks and recreation commission. Beach parking shall only be allowed in areas open for beach driving.

NEW SECTION

WAC 352-37-110 OVERNIGHT PARKING OR CAMPING PROHIBITED. Overnight parking or camping shall be prohibited on any area of the ocean beaches.

NEW SECTION

WAC 352-37-120 OPERATOR'S LICENSE REQUIRED. No person shall operate any motor vehicle on or along the ocean beaches unless such person has in his or her possession a valid Washington state driver's license issued under the provisions of chapter 46.20 RCW: PROVIDED, That the following persons shall be exempt from the provisions of this section:

(1) Any person in the service of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, or in the service of the National Guard of this state or any other state, when furnished with a driver's license by such service and when operating an official motor vehicle in such service; or

(2) A nonresident who is at least sixteen years of age and who has in his possession a valid driver's license issued to him in his home state; or

(3) A nonresident who is at least sixteen years of age and who has in his possession a valid driver's license issued to him in his home country.

NEW SECTION

WAC 352-37-130 SPEED LIMITS. (1) No person shall operate any motor vehicle on or along any ocean beach at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, animal, vehicle or other conveyance on or entering the driveable beach in compliance with legal requirements in the duty of all persons to use due care.

(2) Except when a special hazard exists that requires lower speed for compliance with subsection (1) of this section, the maximum speed limit for operation of motor vehicles on the ocean beaches shall be twenty-five miles per hour.

(3) The driver of every motor vehicle operating on the ocean beaches shall, consistent with the requirements of subsection (1) of this section, drive at an appropriate reduced speed when approaching and crossing a beach access road, when approaching one or more parked vehicles, when approaching or traveling past or in the vicinity of a pedestrian or group of pedestrians, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or beach conditions.

NEW SECTION

WAC 352-37-140 CERTAIN PRACTICES PROHIBITED. The following practices while operating any motor vehicle on or along the ocean beaches are specifically prohibited:

- (1) Squirreling;
- (2) Circling;

- (3) Cutting figure eights;
- (4) Racing;
- (5) The operation of any motor vehicle in such a manner as to constitute a threat to the operator thereof, his or her passengers, pedestrians or equestrians using the beaches, animals or any other vehicle or other property.

NEW SECTION

WAC 352-37-150 RULES OF THE ROAD INCORPORATED. Except where otherwise obviously inapplicable to the use and operation of motor vehicles on the ocean beaches chapter 46.61 RCW, constituting the rules of the road, is herewith expressly incorporated herein, and the practices required or prohibited in that chapter are hereby expressly required or prohibited when operating any motor vehicles on and along the ocean beaches.

NEW SECTION

WAC 352-37-160 CERTAIN VEHICLE LIGHTING AND EQUIPMENT STANDARDS INCORPORATED. Except where otherwise obviously inapplicable to the use and operation of motor vehicles on the ocean beaches, chapter 46.37 RCW, constituting vehicle lighting and other equipment, is herewith expressly incorporated herein, and the requirements of that chapter are hereby expressly required when operating any motor vehicles on and along the ocean beaches.

NEW SECTION

WAC 352-37-170 AIRCRAFT. (1) On the North Beach airplanes may land and take off on the ocean beach in the area commencing at the Copalis River north to the "rocks."

(2) The use of the beach by aircraft shall be subject to the jurisdiction of the aeronautics commission and all state and federal laws applicable to aircraft and pilots. Except as specified in subsection (1) of this section, airplanes shall only be allowed to make emergency landings on the ocean beaches.

NEW SECTION

WAC 352-37-180 VIOLATIONS—PENALTY. In accordance with the provisions of RCW 43.51.180(7), and except where a higher penalty is specifically prescribed by law, the violation of any provision of this chapter shall constitute a misdemeanor, and shall be punishable as such.

NEW SECTION

WAC 352-37-190 EXCLUDED/LIMITED RECREATION ACTIVITIES. The following forms of public outdoor recreation activities or devices are prohibited on the ocean beaches unless specifically authorized by the director as a special recreation event.

- (1) Vehicles not licensed and certificated pursuant to chapters 46.12 and 46.16 RCW.
- (2) Wind/sand sailers.
- (3) Parasails.

- (4) Hovercraft.

NEW SECTION

WAC 352-37-200 SPECIAL GROUP RECREATION EVENT PERMIT. (1) Any person or group desiring to make use of a portion of the ocean beaches for a group recreation event which will require the closure of the area to certain conflicting recreational uses, may apply to the director for a special group recreation event permit. The director, or his/her designee, may issue such a permit after consultation with the appropriate local government, if the event does not unduly interfere with normal public recreation. Such authorization shall include the closure of the specified area to recreational activities, including motor vehicle traffic, which are determined to have the potential to interfere with the event or which could risk the safety of the recreating public or the special event participants. However, no such authorization may result in the unreasonable exclusion of pedestrian recreationists from the specified portion of the ocean beach; all events authorized under this permit shall be open to public participation and/or observation.

(2) In determining whether to issue the permit, the director or designee will review the proposal for consistency with established approval criteria developed by the agency, which are designed to ensure the appropriateness of the event to the ocean beaches, and the basis for any associated public recreation restrictions. The criteria are available upon request from the agency.

(3) A special group recreation event permit shall be issued only for recreational events where there is a reasonable expectation that a minimum of twenty persons will participate. The event must be oriented towards a recreational pursuit. Not more than three permits will be issued to a given applicant for the same event during a one-year period. The group recreation activity must be consistent with the seashore conservation area (RCW 43.51.650 through 43.51.685), and may include an activity otherwise excluded under this chapter. Special group recreation events shall not exceed three days or seventy-two hours.

(4) Persons or organizations that desire to conduct a special group recreation event on the ocean beaches shall submit a permit application provided by the director to the:

Washington State Parks and
Recreation Commission
7150 Cleanwater Lane KY-11
Olympia, WA 98504

Such application shall be submitted at least fifteen days in advance of the proposed date of the event, to allow for necessary internal review and analysis, consultation with local governments, public notice, establishment of permit conditions, and required agency preparations and coordination. The director or his/her designee shall approve or disapprove a permit application and establish the conditions for an approved application. The director or the designee shall determine the need for any fees necessary to cover costs incurred by the agency, as well as the need for any bond, damage deposit, or liability insurance arising from any potential hazards associated

with the character of the event. Any such fees, bond, damage deposit, or liability insurance shall be provided prior to the issuance of the permit.

(5) If additional costs are incurred by the commission resulting from the event, the applicant shall reimburse the commission for such costs in a timely manner. If the additional costs are not paid, the director may recover such costs from the bond or damage deposits provided if previously required. Any funds remaining from the bond or damage deposit shall be returned to the applicant.

NEW SECTION

WAC 352-37-210 SEVERABILITY CLAUSE. If any provision of these rules or their application to any person or circumstance is held invalid, the remainder of these rules, or their application to other persons or circumstances is not affected.

WSR 90-07-051

PERMANENT RULES

PARKS AND RECREATION COMMISSION

[Filed March 19, 1990, 4:51 p.m.]

Date of Adoption: March 16, 1990.

Purpose: The new rule will provide consistent standards for buoys, signs and markers on Washington's waterways.

Statutory Authority for Adoption: RCW 43.51.040.

Pursuant to notice filed as WSR 90-04-107 on February 7, 1990.

Effective Date of Rule: Thirty-one days after filing.

March 16, 1990

Moyes Lucas
Chairman

Chapter 352-66 WAC

UNIFORM WATERWAY MARKING SYSTEM

NEW SECTION

WAC 352-66-010 PURPOSE. (1) The purpose of this chapter is to establish a uniform waterway marking system of aids to navigation, including regulatory markers compatible with the United States lateral system of buoyage, to which all waterway markers owned by state, local government, or private parties shall conform. The uniform waterway marking system is designed to assist the recreational boater in safe navigation and to allow the state and its political subdivisions to provide uniform regulatory information regarding vessel operation on the waters of Washington state not serviced by a marking system administered by the federal government.

NEW SECTION

WAC 352-66-020 DEFINITIONS. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Buoy" is any waterway marker designed to float on the water while anchored in a fixed position so as to

be clearly visible to operators of an approaching vessel and used to convey an official message.

(2) "Lateral system" is a system of waterway markers prescribed in Title 33, Code of Federal Regulations, part 62, employing an arrangement of shapes, colors, numbers, and light characteristics to indicate to a vessel operator the preferred direction of travel for safe passage.

(3) "Sign" is any device designed to carry an official message which is attached to another object, such as a piling, buoy, pier, or the land itself.

(4) "Uniform state waterway marking system (USWMS)" means the system of aids to navigation including regulatory markers, buoys, and signs prescribed in Title 33, Code of Federal Regulations, subpart 66.10, which are used to provide vessel operators guidance for safe navigation and to identify water areas where vessel operation is restricted or controlled.

(5) "Vessel" means every watercraft used or capable of being used as a means of transportation on the water, other than a seaplane.

(6) "Waters of Washington state" means any waters within the territorial limits of Washington state.

NEW SECTION

WAC 352-66-030 GENERAL REGULATIONS.

(1) On the navigable waters of Washington state, marking to assist navigation is accomplished by a lateral system of buoyage for use with nautical charts. The lateral system is used by the United States Coast Guard in the marking of navigable waters of the United States as determined by the United States Coast Guard Commandant. The lateral system may be also used by the state and subdivisions thereof for private aids to navigation only when all applicable permits for private aids to navigation have been approved by the United States Coast Guard and other federal, state, or local authorities.

(2) The USWMS has been developed to provide a means to convey to the small vessel operator, in particular, adequate guidance to indicate safe boating channels by indicating the presence of either natural or artificial obstructions or hazards, marking restricted or controlled areas, and providing directions. The USWMS is suited to use on all waters of Washington state and is designed to satisfy the needs of all types of small vessels. It supplements and is generally compatible with the Coast Guard lateral system of aids to navigation.

(3) The USWMS consists of two categories:

- (a) A system of regulatory markers; and
- (b) A system of aids to navigation.

NEW SECTION

WAC 352-66-040 REGULATORY MARKERS.

Regulatory markers indicate to a vessel operator the existence of dangerous areas, as well as those areas which are restricted or controlled, such as speed zones and areas dedicated to a particular use, or to provide general information and directions:

(1) Each regulatory marker shall be colored white with international orange geometric shapes.

(2) When a buoy is used as a regulatory marker it shall be white with horizontal bands of international orange placed completely around the buoy circumference. One band shall be at the top of the buoy body, with a second band placed just above the water line of the buoy so that both international orange bands are clearly visible to approaching vessels. The area of the buoy body visible between the two bands shall be white.

(3) Geometric shapes shall be placed on the white portion of the buoy body and shall be colored international orange. The authorized geometric shapes and meanings associated with them are as follows:

(a) A vertical open faced diamond shape means danger.

(b) A vertical open faced diamond shape having a cross centered in the diamond means that a vessel is excluded from the marked area.

(c) A circular shape means that a vessel operated in the marked area is subject to certain operating restrictions.

(d) A square or rectangular shape with directions or information will have lettering on the inside.

(4) Where a regulatory marker consists of a square or rectangular shaped sign displayed from a structure, the sign shall be white with an international orange border. When a diamond or circular geometric shape associated with the meaning of the marker is included, it shall be centered on the signboard.

NEW SECTION

WAC 352-66-050 AIDS TO NAVIGATION. Aids to navigation used in the USWMS are an organized system of buoys with conspicuous shapes, colors, and markings primarily established to assist vessel operators by indicating position or the safe and proper course on which to proceed.

(1) Aids to navigation used in the lateral system indicate to a vessel operator the preferred direction of travel for safe passage principally by defining the port or left-hand side and the starboard or right-hand side of a route to be followed. Buoys used in the cardinal system indicate to a vessel operator the preferred direction of travel for safe passage through distinct colors which have meaning in relation to the cardinal points of the compass, north, east, south, and west.

(2) On a well-defined channel including a river or other relatively narrow natural or improved waterway, an aid to navigation shall normally be a solid colored buoy. A buoy which marks the left side of the channel viewed looking upstream or toward the head of navigation shall be colored all black. A buoy which marks the right side of the channel viewed looking upstream or toward the head of navigation shall be colored all red. On a well defined channel, solid colored buoys shall be established in pairs, one on each side of the navigable channel which they mark, and opposite each other to inform the user that the channel lies between the buoys and that he or she should pass between the buoys.

(3) On an irregularly defined channel, solid colored buoys may be used singly in staggered fashion on alternate sides of the channel provided they are spaced at sufficiently close intervals to inform the user that the

channel lies between the buoys and that he or she should pass between the buoys.

(4) Where there is no well-defined channel, or when a body of water is obstructed by objects whose nature or location is such that the obstruction can be approached by a vessel from more than one direction, supplemental aids to navigation having cardinal meaning may be used. The use of aids to navigation having cardinal meaning is discretionary provided that they are not used on waters considered navigable by the United States Coast Guard Commandant unless specifically permitted by the United States Coast Guard.

(5) Aids to navigation conforming to the cardinal system shall consist of three distinctly colored buoys.

(a) A white buoy with a red top may be used to indicate to a vessel operator that he or she must pass to the south or west of the buoy.

(b) A white buoy with a black top may be used to indicate to a vessel operator that he or she must pass to the north or east of the buoy.

(c) In addition, a buoy showing alternate vertical red and white stripes may be used to indicate to a vessel operator that an obstruction to navigation extends from the nearest shore to the buoy and that he or she must not pass between the buoy and the shore. The number of white and red stripes is discretionary, provided that the white stripes are twice the width of the red stripes.

NEW SECTION

WAC 352-66-060 SIZE, SHAPE, MATERIAL, AND CONSTRUCTION OF WATERWAY MARKERS. The size, shape, material, and construction of all waterway markers, both fixed and floating, shall be such as to be observable under normal conditions of visibility at a distance such that the significance of the waterway marker will be recognizable before the observer is endangered or is violating a restricted or controlled area.

NEW SECTION

WAC 352-66-070 NUMBERS, LETTERS, OR WORDS ON MARKERS. (1) Numbers, letters, or words on an aid to navigation or regulatory marker shall be placed in a manner to enable them to be clearly visible to an approaching and passing vessel. They shall be block style, well proportioned, and as large as the available space permits. Numbers and letters on red or black backgrounds shall be white; numbers and letters on white backgrounds shall be black.

(2) Odd numbers shall be used to identify solid colored black buoys or black topped buoys; even numbers shall be used to identify solid colored red buoys or red topped buoys. All numbers shall increase in an upstream direction or toward the head of navigation. The use of numbers to identify buoys is discretionary.

(3) Letters only may be used to identify regulatory markers and the white and red vertically striped obstruction markers. When used the letters shall follow alphabetical sequence in an upstream direction. The letters I and O shall be omitted to preclude confusion with numbers. The use of letters to identify regulatory markers and obstruction markers is discretionary.

NEW SECTION

WAC 352-66-080 REFLECTORS OR REFLECTIVE MATERIALS. (1) The use of reflectors or reflective materials shall be discretionary.

(2) When used on buoys having lateral significance, red reflectors or retroreflective materials shall be used on solid colored red buoys; green reflectors or retroreflective materials shall be used on solid colored black buoys; white reflectors or retroreflective materials only shall be used for all other buoys including regulatory markers, except that orange reflectors or retroreflective materials may be used on the orange portions of regulatory markers.

NEW SECTION

WAC 352-66-090 NAVIGATION LIGHTS. The use of navigational lights on state aids to navigation, including regulatory markers, is discretionary. When used, lights on solid colored buoys shall be regularly flashing, regularly occulting, or equal interval lights. For ordinary purposes the frequency of flashes may not be more than thirty flashes per minute (slow flashing). When it is desired that lights have a distinct cautionary significance, as at sharp turns or sudden constrictions in the channel or to mark wrecks or other artificial or natural obstructions, the frequency or flashes may not be less than sixty flashes per minute (quick flashing). When a light is used on a cardinal system buoy or a vertically striped white and red buoy it shall always be quick flashing. The colors of the lights shall be the same as for reflectors; a red light only on a solid colored red buoy; a green light only on a solid colored black buoy; a white light only for all other buoys including regulatory markers.

NEW SECTION

WAC 352-66-100 MOORING (ANCHOR) BUOYS. (1) Mooring buoys for private aids to navigation shall be colored white and shall have a horizontal blue band around the circumference of the buoy centered midway between the top of the buoy and the water line.

(2) A lighted mooring buoy shall normally display a slow flashing white light. When its location in a waterway is such that it constitutes an obstruction to a vessel operated during hours of darkness, it shall display a quick flashing white light.

(3) A mooring buoy shall bear ownership identification provided that the manner and placement of the identification does not detract from the meaning intended to be conveyed by the color scheme or identification letter when assigned.

NEW SECTION

WAC 352-66-110 PLACEMENT TO CONFORM. No person, political subdivision, or agent of the state shall establish, erect, or place any new or replacement regulatory marker or aid to navigation after January 1, 1991, unless such device conforms to the provisions of this chapter.

NEW SECTION

WAC 352-66-120 ABUSE PROHIBITED. (1) No person shall damage, remove, interfere with, moor to, or otherwise obstruct the purpose of any regulatory marker or aid to navigation.

(2) When a vessel is involved with a violation of this chapter, violators shall be subject to the penalties set forth in RCW 88.02.110.

(3) Other violations of this chapter shall subject the violator to the penalties set forth in RCW 43.51.180.

WSR 90-07-052**PROPOSED RULES****DEPARTMENT OF PERSONNEL****(Personnel Board)**

[Filed March 20, 1990, 9:41 a.m.]

Original Notice.

Title of Rule: Amending WAC 356-46-060 Agencies—Personnel records.

Purpose: This rule provides guidelines for each agency to maintain personnel records for each employee.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: This proposal will add language to include intersystem movement when the personnel/payroll file should accompany the employee. It also includes the files will be open for inspection by the state auditor.

Reasons Supporting Proposal: This proposal will clarify the necessity for the transfer of the original personnel/payroll file when an employee transfers between state agencies.

Name of Agency Personnel Responsible for Drafting: Jill Schwenke, 521 Capitol Way South, 586-1769; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Lana Schmid, Area Personnel Manager, Department of Corrections, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule currently outlines the information that shall be maintained in the personnel file for each employee by each agency. It also outlines who these files may be open for inspection to and that these files will accompany each employee throughout their service career. This proposal will add the state auditor as one of the authorities able to open personnel files. It also specifies the file will follow the employee from agency to agency including intersystem movement.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on May 10, 1990, at 10:00 a.m.

Submit Written Comments to: Jill Schwenke, Department of Personnel, P.O. Box 1789, FE-11, Olympia, WA 98507, by May 8, 1990.

Date of Intended Adoption: May 10, 1990.

February 26, 1990

Dee W. Henderson
Secretary

AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-46-060 AGENCIES—PERSONNEL/PAYROLL RECORDS. (1) Each agency shall maintain a record of each employee showing the name, title, position held, organizational assignment, salary, changes of employment status, attendance, leaves, annual performance evaluations, and such other information as may be necessary for the administration of regulations. Personnel records shall be open to the inspection of the personnel board, state auditor, and the director of personnel or designee (~~(and, depending on the functional requirement of the content of each individual record,))~~). The original personnel/payroll file shall accompany the employee throughout his/her service career including inter-system movement.

(2) Agencies shall publish policies pertaining to the retention and confidentiality of personnel records in accordance with these rules and chapter 40.14 RCW which are consistent with the following requirements:

(a) Agencies shall designate the official depository and custodian of personnel records.

(b) Agencies shall ensure that employees have knowledge of all job performance information inserted into the personnel record pertaining to the employee.

(c) Employees and/or their representatives may review the employee's personnel records, subject to policies of the employing agency.

(d) Employees or their representatives contesting allegedly erroneous, prejudicial, or otherwise adverse information in the employee's personnel records may insert rebuttal or refuting documentation into their personnel records.

(e) Information in the personnel records relating to employee misconduct shall be destroyed in accordance with policies established in chapter 40.14 RCW in situations where the employee is exonerated or where the information is found to be false. The agency's record retention plan shall provide for the prompt destruction of this information.

(f) Information relating to employee misconduct committed in the performance of off-duty activities shall be placed in the personnel records and retained by the agency in accordance with policies established in chapter 40.14 RCW, only where said information has a reasonable bearing on the employee's job performance. Employees may request that such information be removed from their personnel record at the conclusion of the retention period. The information may be retained by the agency if it has a reasonable bearing on the efficient and effective management of the agency.

(g) Information relating to employee misconduct that is committed in the performance of state business shall be maintained by the agency for a minimum of six years or in accordance with policies established in chapter 40.14 RCW. Employees may request that such information be removed from their personnel record at the conclusion of the retention period. The information may be retained by the agency if it has a reasonable bearing on the efficient and effective management of the agency.

(h) Notwithstanding paragraphs (e), (f) and (g) of this section, agencies may retain information relating to employee misconduct or alleged misconduct if the employee requests that the information be retained or if agency management reasonably expects that the information will be needed in a pending or prospective legal action.

(3) The agency shall submit its policy relating to the retention and confidentiality of personnel records to the director of personnel for approval and filing.

Title of Rule: Repealing WAC 356-34-110 Personnel Board hearings—Procedure—Record; 356-34-113 Prehearings procedures—Exhibits and possible stipulations—Witnesses; 356-34-115 Statement of positions—Hearings; 356-34-117 Scheduling of hearings—Time allotted; 356-34-118 Hearings—Continuances; 356-34-119 Argument—Time limitation—Hearings; 356-34-130 Appearance by former officer of employee of the board; 356-34-140 Ethical conduct before the Personnel Board; 356-34-160 Service of process; 356-34-170 Filing of papers—Computation of time; 356-34-180 Subpoenas—Content—Service; 356-34-190 Witness fees; 356-34-200 Proof of subpoena service; 356-34-210 Quashing; 356-34-220 Orders for discovery; and 356-34-230 Proof of charges.

Purpose: This new chapter will establish general rules concerning the hearing process before the State Personnel Board.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: This request places into a separate chapter, rules dealing with the conduct of the hearings before the Personnel Board.

Reasons Supporting Proposal: The State Personnel Board no longer conducts hearings on appeals of disciplinary actions. Creation of a separate section will clarify that general procedures apply to other hearings conducted by the Personnel Board.

Name of Agency Personnel Responsible for Drafting: Marilyn Glenn, 521 Capitol Way South, 753-5699; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Marilyn Glenn, Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This will establish general rules concerning the hearing process before the State Personnel Board in a separate chapter. These rules deal with the conduct of hearings before the board. Chapter 356-37 WAC was adopted at the March 1990, State Personnel Board meeting. These repealers will be acted on at the April 1990, board meeting.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on April 12, 1990, at 10:00 a.m.

Submit Written Comments to: Marilyn Glenn, Department of Personnel, P.O. Box 1789, FE-11, Olympia, WA 98507, by April 10, 1990.

Date of Intended Adoption: April 12, 1990.

March 16, 1990

Dee W. Henderson
Secretary

WSR 90-07-053
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)

[Filed March 20, 1990, 9:42 a.m.]

Continuance of WSR 90-03-101.

WSR 90-07-054
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)

[Filed March 20, 1990, 9:43 a.m.]

Continuance of WSR 90-03-102.

Title of Rule: Amending WAC 356-14-240 Overtime compensation method; 356-15-060 Shift premium provisions and compensation; and 356-15-125 Assignment pay provisions.

Purpose: These rules currently govern shift and assignment pay for employees who choose to accept compensatory time in lieu of cash payment for overtime.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: This proposal will clarify that shift premium earned during overtime work will be either paid to the employee at the time earned, even when the overtime itself is credited as compensatory time and paid later when the employee may also receive shift premium for the same hours of compensatory time; or not paid at the time earned, leaving the employee's permanent shift assignment at the same time the compensatory time is utilized to be the basis of payment.

Reasons Supporting Proposal: The present rule does not give clear direction.

Name of Agency Personnel Responsible for Drafting: Gail Salisbury, 521 Capitol Way South, Olympia, 753-5383; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Arthur Morse, Personnel Manager, Department of Transportation, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These are alternative proposals to clarify the Personnel Board's intent. The present rules provide that employees receive those leave benefits with the shift premium, even though much of that paid leave eligibility may be accrued on day shift. Under the first proposal the shift premium (and any special assignment pay) earned on overtime hours would be paid immediately when earned—not credited when earned or payable with compensatory time when taken. Under the alternative proposal, an employee on night shift on assignment pay job earning overtime would not receive that shift or assignment pay at all if the overtime is credited as compensatory time. But any employee who is on a night shift or permanent "assignment pay assignment" would continue to get the present full pay with premium when utilizing accrued compensatory time.

Proposal Changes the Following Existing Rules: WAC 356-14-240 provides that assignment pay will be paid to any employee who utilized any compensatory time during permanent assignment to a "special assignment pay" job; and it provides that no credit or payment for overtime earned at assignment pay rates will be made if the overtime is credited as compensatory time.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on April 12, 1990, at 10:00 a.m.

Submit Written Comments to: Gail Salisbury, Department of Personnel, P.O. Box 1789, FE-11, Olympia, WA 98507, by April 10, 1990.

Date of Intended Adoption: April 12, 1990.

March 15, 1990
 Dee W. Henderson
 Secretary

WSR 90-07-055
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)

[Filed March 20, 1990, 9:44 a.m.]

Continuance of WSR 90-03-027 [90-05-027].

Title of Rule: Amending WAC 356-30-145, 356-30-180, 356-30-190 and 356-30-280.

Purpose: These rules within chapter 356-30 WAC, pertain to employee rights relating to transfers, within project, relocation, with the same class, probationary period and trial service period.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: In general, these proposals are housekeeping in nature and clarify the intent of the rule and also provide for uniform transfer rights to employees. This will allow employees to transfer within different status after having completed six months of their probationary periods.

Reasons Supporting Proposal: Department of Social and Health Services has several classes with 12-month probationary periods. It would be advantageous to the employee and the department to allow transfers after completion of six months of the probationary periods. This is also consistent with timeframes surrounding promotional eligibility.

Name of Agency Personnel Responsible for Drafting: Paul Peterson, 521 Capitol Way South, Olympia, 586-8354; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Bonni Parker, Department of Social and Health Services, Mailstop OB-14, 753-5184, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal will make transfers consistent with the timeframes surrounding promotional eligibility under current WAC's. It will provide uniform transfer rights to employees in project employment, relocating of positions with incumbent, within the same class, within a probationary period and for reversion of employees who fail to satisfactorily complete the trial service period. These proposals are also in part clarifying in nature to emphasize the intent of the rule.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on April 12, 1990, at 10:00 a.m.

Submit Written Comments to: Paul Peterson, Department of Personnel, 521 Capitol Way South, FE-11, Olympia, WA 98507, by April 10, 1990.

Date of Intended Adoption: April 12, 1990.

March 15, 1990
Dee W. Henderson
Secretary

WSR 90-07-056
PERMANENT RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)

[Order 341—Filed March 20, 1990, 9:45 a.m., effective May 1, 1990]

Date of Adoption: March 8, 1990.

Purpose: This rule gives a general description of the department and their locations.

Citation of Existing Rules Affected by this Order: WAC 356-07-030 Description and location of departmental organization.

Statutory Authority for Adoption: RCW 41.06.040 and 41.06.150.

Pursuant to notice filed as WSR 90-03-048 on January 16, 1990.

Effective Date of Rule: May 1, 1990.

March 15, 1990
Dee W. Henderson
Secretary

AMENDATORY SECTION (Amending Order 169, filed 4/12/82)

WAC 356-07-030 DESCRIPTION AND LOCATION OF DEPARTMENTAL ORGANIZATION. (1) The central office(~~{{s}}~~) of the Department of Personnel is located at (~~600 South Franklin Street~~) 521 Capitol Way S., Olympia, Washington.

(2) The staff is organized in six general areas:

(a) Operations division which provides for recruitment, examination, examination development, classification, hearings, certification, and agency services (~~and staffing review and affirmative action~~).

(b) Standards and surveys division which provides for salary surveys, compensation plan administration, research services, and special projects.

(c) Employee development and training division (located at (~~400 East Union~~) 600 South Franklin Street, Olympia, Washington) which provides consultation on human resource development activities to agencies, training which is interagency in scope, and guidelines for agency planning and evaluation of human resource development.

(d) (~~Insurance benefits division (located at 497 Tyce Drive, Tumwater, Washington) which provides for employee insurance programs and employee advisory services.~~) The employee advisory service offices are at the

following locations: (~~402 Security Building~~) 3400 Capitol Boulevard, Olympia, Washington; (~~444 NE Ravenna Boulevard, Suite 409~~) 613 - 19th Avenue E., Suite 101, Seattle, Washington; and at Suite 604, Northtown Office Building, Spokane, Washington.

(e) Administrative division which provides departmental fiscal management, facilities, word processing support, agency personnel services, affirmative action, and labor relations services.

(f) Information systems division (located at Building #1, Rowesix, Lacey, Washington) which administers the central personnel/ payroll and insurance eligibility computer systems.

WSR 90-07-057
PERMANENT RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)

[Order 342—Filed March 20, 1990, 9:46 a.m., effective May 1, 1990]

Date of Adoption: March 8, 1990.

Purpose: This new chapter will establish general rules concerning the hearing process before the State Personnel Board.

Citation of Existing Rules Affected by this Order: New sections WAC 356-37-010 Personnel Board hearings—Procedure—Record; 356-37-020 Prehearing procedures—Exhibits and possible stipulations—Witnesses; 356-37-030 Statement of position—Hearings; 356-37-040 Scheduling of hearings—Time allotted; 356-37-050 Hearings—Continuances; 356-37-060 Appearance by former officer of employee of the board; 356-37-070 Ethical conduct before the Personnel Board; 356-37-080 Service of process; 356-37-090 Filing of papers—Computation of time; 356-37-100 Subpoenas—Issuance—Content—Service; 356-37-110 Witness fees; 356-37-120 Proof of subpoena service; 356-37-130 Quashing; 356-37-140 Orders for discovery; and 356-37-150 Proof of charges.

Statutory Authority for Adoption: RCW 41.06.040 and 41.06.150.

Pursuant to notice filed as WSR 90-03-101 on January 24, 1990.

Effective Date of Rule: May 1, 1990.

March 15, 1990
Dee W. Henderson
Secretary

CHAPTER 356-37
HEARINGS—GENERAL PROCEDURES

NEW SECTION

WAC 356-37-010 PERSONNEL BOARD HEARINGS—PROCEDURE—RECORD. (1) Hearings before the personnel board shall be open to the public, except for cases in which the board determines there is substantial reason for not having an open hearing, or in cases where the appellant so requests. Hearings shall be informal with technical rules of evidence not applying to the proceedings, except for the rules of privilege recognized by law.

(2) Hearings may be conducted by only two members of the board, provided that if the two members cannot agree on a decision, a second hearing may be held in the presence of all three members of the board or the third member may review the record and participate in the decision.

(3) All parties may present and cross-examine witnesses, and give evidence before the board.

(4) The board may, and shall at the request of either party, issue subpoenas duces tecum. All testimony shall be on oath administered by a member of the board.

(5) The board shall keep an official record of the hearing, including all testimony recorded manually or by mechanical device, and exhibits.

NEW SECTION

WAC 356-37-020 PREHEARING PROCEDURES—EXHIBITS AND POSSIBLE STIPULATIONS—WITNESSES. (1) At any hearing before the personnel board when exhibits of a documentary character are offered into evidence, the party offering the exhibit shall provide a minimum of six copies: One each for the opposing parties, for the personnel board members, for the court reporter, if any, and for the personnel board's hearings coordinator.

(2) The parties shall arrive at the hearing location in sufficient time before the time scheduled for the hearing for the purpose of exchanging copies of exhibits to be introduced. Whenever practicable, the parties shall have the exhibits which they intend to offer into evidence premarked for identification by the personnel board's hearings coordinator before the scheduled time for commencement of the hearing.

(3) Whenever practicable, the parties should discuss the possibility of obtaining stipulations, admissions of facts and of documents prior to the hearing. If a particular matter appears from the file to be complex, or if the parties so request, the personnel board may request its hearings coordinator to meet with the parties prior to the day set for the hearing to discuss the possibility of obtaining stipulations, admissions of fact and of documents, and simplification of issues. The personnel board will not make such a request on its own motion unless all parties are appearing through representatives.

(4) Whenever practicable, the parties should exchange lists of witnesses prior to the day set for the hearing.

NEW SECTION

WAC 356-37-030 STATEMENT OF POSITION—HEARINGS. (1) Parties are encouraged to file prehearing statements of position with the personnel board. The statements should include a summary of the evidence the party intends to present; a listing of the rules, statutes, or contract provisions upon which the party intends to rely; a statement of the disposition requested; and an argument as to why the party is entitled to the requested disposition.

(2) If a party wishes to provide a prehearing statement of position, he or she must serve a copy of the statement on each opposing party, on each personnel board member, and on the personnel board's hearings

coordinator. Service shall be accomplished either personally or by mail. However service is made, it must be timed so that the statement will be received by the persons upon whom service is to be made at least three business days prior to the hearing.

(3) Statements of position filed at the time of the hearing will not be considered by the personnel board unless for good cause shown the personnel board directs otherwise.

NEW SECTION

WAC 356-37-040 SCHEDULING OF HEARINGS—TIME ALLOTTED. In all hearings before the personnel board, the personnel board's hearings coordinator will set the date of the hearing and the amount of time allotted to each party for the hearing. Prior to setting the matter, the hearings coordinator will consult with all parties as to available dates and length of hearing. At least twenty calendar days notice shall be given of the time and date of the hearing unless both parties agree to a shorter time.

NEW SECTION

WAC 356-37-050 HEARINGS—CONTINUANCES. Upon receipt of a notice of hearing, or as soon thereafter as circumstances necessitating a continuance come to its knowledge, any party desiring to continue the hearing to a later date shall make a request for continuance to the personnel board. All continuance requests shall be in writing and, in detail, shall specify the reasons the continuance is necessary. In passing upon a request for continuance, the personnel board shall consider whether the request was promptly and timely made. For good cause shown, the personnel board may grant a continuance and may at any time order a continuance on its own motion.

NEW SECTION

WAC 356-37-060 APPEARANCE BY FORMER OFFICER OR EMPLOYEE OF THE BOARD. No person who has served as an officer or employee of the board shall, within a period of two years after the termination of such service or employment, appear before the board or receive compensation for any services rendered on behalf of any person, firm, corporation, or association in relation to any case, proceeding, or application with respect to which such person was directly concerned and in which he personally participated during the period of his service or employment.

NEW SECTION

WAC 356-37-070 ETHICAL CONDUCT BEFORE THE PERSONNEL BOARD. All persons appearing in proceedings before the personnel board in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to these standards, the board may decline to permit such person to appear in a representative capacity.

NEW SECTION

WAC 356-37-080 SERVICE OF PROCESS. (1) The personnel board shall cause to be served all orders, notices, and other papers issued by the board, together with any other papers which the board is required by law to serve. Every other paper shall be served by the party filing the notice, document or paper.

(2) All notices, documents, or papers served by either the personnel board or any other party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Service of papers shall be made either personally or by first class or certified mail, or by electronic telefacsimile transmission and same-day mailing of copies.

(3) Service upon parties shall be regarded as complete when personal service has been accomplished; or by mail upon deposit in the United States mail properly stamped and addressed. Service by electronic telefacsimile transmission shall be regarded as complete upon production by the telefacsimile device of confirmation of transmission.

NEW SECTION

WAC 356-37-090 FILING OF PAPERS—COMPUTATION OF TIME. (1) Papers required to be filed with the state personnel board shall not be deemed filed until actual receipt of the papers by the department of personnel at the office of the director of personnel in Olympia, Washington. Papers must be filed between 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding designating holidays. The director of personnel or designee shall issue an acknowledgment stating the date filed.

(2) Periods of notice or periods of time within which acts are to be completed, as prescribed or allowed by these rules or by order of the board, shall be computed by excluding the first and including the last day unless specifically provided in these rules to the contrary. If the last day is a Saturday, Sunday or holiday, the act must be completed on the next business day, unless a period of notice is being computed and such Saturday, Sunday or holiday is a regularly scheduled workday for the employee. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

NEW SECTION

WAC 356-37-100 SUBPOENAS—ISSUANCE—CONTENT—SERVICE. (1) Subpoenas may be issued by any member of the board or its designee, or by the attorney of record of the party to the hearing in whose behalf the witness is required to appear, and shall be subscribed by the signature of the issuing person. Parties desiring subpoenas which are to be signed by the members of the board or its designee shall submit a written request to the board or its designee.

(2) Every subpoena shall name the board and the title of the proceedings, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under his control at a specified time and place.

(3) Service of subpoena shall be made by delivering a copy of the subpoena to such person and by tendering him on demand, where entitled to make such a demand, the fees for one day's attendance and the mileage allowed by law.

NEW SECTION

WAC 356-37-110 WITNESS FEES. Witnesses summoned before the board shall be paid by the party at whose instance they appear the same fees and mileage that are paid to witnesses in the superior courts of the state of Washington. State employees who remain in pay status shall be compensated for travel only.

NEW SECTION

WAC 356-37-120 PROOF OF SUBPOENA SERVICE. The person serving the subpoena shall make proof of service by filing the subpoena and if such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.

NEW SECTION

WAC 356-37-130 QUASHING. Upon motion promptly made by a party or by the person to whom the subpoena is directed and upon notice to the party who issued the subpoena, the personnel board may:

(1) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or

(2) Condition denial of the motion upon just and reasonable conditions.

NEW SECTION

WAC 356-37-140 ORDERS FOR DISCOVERY. The personnel board may issue orders for discovery by analogy to the superior court rules or the requirements of justice.

NEW SECTION

WAC 356-37-150 PROOF OF CHARGES. At any hearing before the personnel board, the party seeking relief or filing charges shall have the burden of proof.

WSR 90-07-058
PROPOSED RULES
YAKIMA VALLEY
COMMUNITY COLLEGE
 [Filed March 20, 1990, 2:46 p.m.]

Original Notice.

Title of Rule: Use of facilities at Yakima Valley Community College.

Purpose: To regulate use of campus facilities and specifically, to regulate use of alcohol on campus.

Statutory Authority for Adoption: RCW 28B.50.140 (1)(7).

Statute Being Implemented: RCW 28B.50.140 (1)(7).

Summary: Facilities use policy governs permitted uses of Yakima Valley Community College facilities and permitted activities on campus. Changes relate to use of alcohol on campus.

Reasons Supporting Proposal: There are occasions where uses of intoxicants on campus is appropriate and should be permitted with specific college approval.

Name of Agency Personnel Responsible for Drafting and Implementation: Lani-Kai Swanhart, Attorney General's Office, 120 South Third Street #100, Yakima, WA 98901, 575-2468; and **Enforcement:** Karen Judge, Dean of Administrative Services, 575-2584.

Name of Proponent: Yakima Valley Community College, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule governs use of facilities on Yakima Valley Community College's campus. Changes to rule would allow alcohol to be served on campus in those limited circumstances when college specifically authorizes such use. Change in practice is expected to be minimal.

Proposal Changes the Following Existing Rules: Rule is changed to allow alcohol use on campus when expressly authorized by college.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Yakima Valley Community College, South 16th Avenue and West Nob Hill Boulevard, 1016 South Nob Hill Boulevard, Yakima, WA 98902, on May 3, 1990, at 4:30 p.m.

Submit Written Comments to: Karen Judge, Dean of Administrative Services, P.O. Box 1647, Yakima, WA 98907, by May 2, 1990.

Date of Intended Adoption: May 3, 1990.

March 19, 1990
Lani-Kai Swanhart
Assistant Attorney General

AMENDATORY SECTION (Amending Order 72-2, filed 12/4/72)

WAC 132P-136-040 REGULATIONS (1) Custodians shall be present at all times when college facilities are used unless special arrangements have been made. The custodian's duties normally include the operation of lights, heat, ventilation, and such duties incidental to maintaining order the preventing persons from entering unauthorized parts of the building. When necessary in the larger buildings, a fireman shall be on duty. Other custodians in the building with regularly assigned cleaning areas are not to be considered as available for these duties.

(2) Elaborate decorations or adjustments in space should not be expected or planned by groups using buildings or grounds.

(3) The college does not have pianos located where they are readily available. Renting groups should not expect the college to move these pianos without charges for tuning and cost if damaged in moving. (A charge of \$25 will be made if a piano is moved.)

(4) Disorderly conduct (~~(or the use of intoxicants)~~) shall be prohibited within the college. Applicants must assume responsibility for compliance with these rules and for any damage which may be done to the property.

(5) Where partisan political meetings are requested, or discussions of initiatives, referendums, or other pending legislation, it is expected that such requests will be made by the county central committee of the party or by nonpartisan candidates. Such requests should come only during periods of political action of general interest to the public in Yakima.

(6) Improvement organizations, community clubs, service organizations and other such organizations shall meet all of the requirements and costs as stated.

(7) The advisor of any Yakima Valley College group of students may request the use of buildings or equipment to be placed under his charge for any student group functions or entertainment. Such events will be free of rental.

(8) The use of intoxicants shall be prohibited on campus unless expressly authorized by the college.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 90-07-059

PERMANENT RULES

INSURANCE COMMISSIONER

[Order R 90-4—Filed March 20, 1990, 3:30 p.m.]

Date of Adoption: March 16, 1990.

Purpose: To conform regulation of Medicare supplement insurance policies to changes in federal Medicare laws and the NAIC Model Act and rule; and to adopt certain unfair practices.

Statutory Authority for Adoption: RCW 48.02.060, 48.20.450, 48.20.460, 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130, 48.46.200, 48.66.041, 48.66.050 and 48.66.100.

Other Authority: RCW 48.66.110, 48.66.120, 48.66.130, 48.66.150 and 48.66.160.

Pursuant to notice filed as WSR 90-04-089 on February 7, 1990.

Changes Other than Editing from Proposed to Adopted Version: The following sections are changed from the proposed version, WAC 284-66-020, 284-66-030, 284-66-050, 284-66-060, 284-66-070, 284-66-080, 284-66-100, 284-66-110, 284-66-130, 284-66-210, 284-66-310 and 284-66-350.

Differences between the rule as proposed and the rule as adopted:

The following changes from the proposed Medicare supplement, chapter 284-66 WAC, were adopted on March 16, 1990, after review of the public testimony and consideration of all comments received in the office concerning the rules.

I. Risk sharing contracts—Sections regulating risk sharing contracts and competitive medical plans have been withdrawn for the time being. WAC 284-66-070 is reserved for future regulation of these plans. The following sections differ as adopted: WAC 284-66-020 Applicability and scope, removes references to risk sharing contracts; WAC 284-66-030 Definitions, the definitions "reasonable cost basis" and "risk sharing contract" have been deleted and definition #10 renumbered; WAC 284-66-060 Minimum benefit standards, references to risk sharing contracts have been deleted; WAC 284-66-070 Minimum benefit standards for risk sharing contracts, this section has been withdrawn for the present and the number reserved for future regulation of these plans; WAC 284-66-080 Outline of coverage required, amended to delete references to risk sharing contracts; WAC 284-66-100 Form of 1990 adjustment notice,

amended to delete references to risk sharing contracts; and WAC 284-66-130 Requirements for application forms and replacement of Medicare supplement insurance coverage, amended to delete references to risk sharing contracts.

A genuine question arose as to whether federal regulation of these plans so fills the field that there remains little room for regulation by the state, on the one hand, or that state regulation will result in serious conflicts between state and federal requirements, on the other.

The commissioner, however, remains concerned about the solvency of the insurers offering such plans, the lack of uniformity of minimum benefits available to consumers, and the fact that all consumer complaints must be handled in Washington, D.C. by the Secretary of Health and Human Services. The commissioner believes that a state agency can respond more quickly than a federal agency to consumer inquiries. In addition, the overall solvency of the insurer is ultimately tied to the success or failure of the risk sharing plans.

The commissioner, therefore, plans immediately to begin a dialogue with the Secretary of Health and Human Services and with the risk sharing and competitive medical plans authorized by the federal government to do business in this state to determine the most productive role for the states in regulating these plans. As a result, during 1990 enrollees of risk sharing and competitive medical plans will be able to receive limited assistance from the commissioner. Federal agencies will continue to resolve all issues.

Further, it has not been determined whether the Supplemental Health Insurance Panel will certify Washington state regulation of Medicare supplement insurance policies if minimum benefit standards for risk sharing and competitive medical plans are adopted. These issues must be resolved prior to adoption of standards.

II. Applicability and scope of minimum benefits—As originally written, these rules would have required all in-force guaranteed renewable Medicare supplement policies to meet the new minimum benefit standards. When it became apparent that the NAIC model required that only existing Medicare supplement policies sold during 1989 meet the 1990 minimum benefit standards, the following sections were changed.

WAC 284-66-020 Applicability and scope, a new subsection was added:

(2)(a) Medicare supplement insurance policies delivered prior to January 1, 1989, which are renewable solely at the option of the insured by the timely payment of premium shall be subject to the provisions of this chapter except with respect to WAC 284-66-060, 284-66-200, 284-66-210, 284-66-310 and 284-66-350. To the extent that the provisions of this chapter do not apply to such policies, chapter 284-55 WAC shall apply.

(b) Medicare supplement insurance policies delivered between January 1, 1989, and December 31, 1989, and which are renewable solely at the option of the insured by the timely payment of premium shall be governed by this chapter except with respect to the requirements of WAC 284-66-210 and 284-66-350.

WAC 284-66-060 Minimum benefit standards, amended as follows:

Except as permitted by WAC 284-66-050(3), effective January 1, 1990, no insurance policy (~~(;except a risk sharing contract;)~~) may be advertised, solicited, issued for delivery, or renewed in this state as a Medicare supplement policy unless it meets the following minimum standards. Further, all guaranteed renewable Medicare supplement insurance policies delivered to residents of this state during 1989 and which were subject to the minimum standards adopted by the commissioner pursuant to the Medicare Catastrophic Coverage Act shall be conformed to meet the minimum benefit standards of this section.

And finally, chapter 284-55 WAC will not be repealed. Except for those policies delivered during 1989, all in-force Medicare supplement policies that are guaranteed renewable will continue to be governed by the rules in place when those policies were originally delivered to residents of this state. It remains the policy of this state that insurance policies that are not guaranteed renewable must change their benefits at each renewal to reflect changes in the state law governing them. (See: AGO 63-64 No. 123, and *Tebb v. Continental Casualty*, 71 Wn.2d 710 (1976).)

The commissioner will review chapter 284-55 WAC and amend it as necessary to conform to the requirements of chapter 284-66 WAC.

III. Miscellaneous differences between the rule as proposed and adopted:

WAC 284-66-110 Buyers guide, changed to require that the guide be printed in a style and with a type character that is easily read by an average person eligible for Medicare supplement insurance. The commissioner has become aware that some insurers wish to reprint the buyer's guide in small type, inappropriate for the average Medicare supplement insurance consumer.

WAC 284-66-130 Requirements for application forms, amended to require that a true copy of the application for a Medicare supplement insurance policy issued by a health maintenance organization or health care service contractor for delivery to a resident of this state must be attached to or otherwise physically made a part of the policy when issued and delivered.

Authorized disability insurers are governed by the provisions of RCW 48.18.080 which sets a statutory standard for use of applications as evidence. As a result nearly all such insurers attach applications to policies when issued and delivered. Fraternal benefit societies are required by RCW 48.36A.190 to attach a copy of the application to all contracts delivered to residents of this state.

There is no statute applying similar evidentiary requirements to health maintenance organizations or health care service contractors. As a result, applications for insurance might be changed by agents and the insured would not be aware of any alteration until problems arise at claim time or after the insured's death. Incorporation of an application by reference is not sufficient; physical attachment is required. Every insured must have an opportunity to review the application for completeness during the free look period.

WAC 284-66-210 Policy reserves required, changes, made in response to public comment, are intended to make the reserve requirement more flexible.

WAC 284-66-350 Prohibited compensation arrangements, changed to require that commissions be paid on a level percentage of premium over the life of the policy; therefore, the remuneration the agent receives will increase as the premium is increased.

Considerable comment was received from agents about the imposition of level commissions for Medicare supplement insurance policies. After review of all comments and testimony, the commissioner determined that the only way to stop the repeated inappropriate replacement of Medicare supplement insurance policies for the sole benefit of the agent is to immediately adopt a level commission requirement. There is no way level commissions can be phased in over time without causing a mass rush to replace policies during the phase-in period. The commissioner recognizes that agents will suffer short-term income reductions, but agents will be better off in the long run. He is concerned that new agents will have a more difficult time than established agents, but it has been his experience with insurance companies that they will rise to meet this new challenge and devise appropriate compensation packages to aid starting agents.

Effective Date of Rule: Thirty-one days after filing.

March 16, 1990

Dick Marquardt

Insurance Commissioner

Chapter 284-66 WAC
WASHINGTON MEDICARE SUPPLEMENT IN-
SURANCE REGULATION

NEW SECTION

WAC 284-66-010 PURPOSE. The purpose of this chapter is to effectuate the provisions of RCW 48.20.450, 48.20.460 and 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130, 48.46.200, and to supplement the requirements of chapter 48.66 RCW, the Medicare Supplemental Health Insurance Act; to assure the orderly implementation and conversion of Medicare supplement insurance benefits and premiums due to changes in the federal Medicare program; to provide for the reasonable simplification and standardization of the coverage, terms, and benefits of Medicare supplement insurance policies, and to eliminate policy provisions which may duplicate Medicare benefits as the federal Medicare program changes; to facilitate public understanding and comparison of such policies and to eliminate provisions contained in such policies which may be misleading or confusing; to establish minimum standards for Medicare supplement insurance, an "outline of coverage" and other disclosure requirements; to prohibit the use of certain provisions in Medicare supplemental insurance policies; to define and prohibit certain acts and practices as unfair methods of competition or unfair or deceptive acts or practices; and to establish loss ratio requirements, policy reserves, filing and reporting procedures.

NEW SECTION

WAC 284-66-020 APPLICABILITY AND SCOPE. (1) Subject to subsection (2) of this section, except as provided by federal law, chapter 48.66 RCW, or as otherwise specifically provided by this chapter, this chapter shall apply to every group and individual policy of disability insurance and to every subscriber contract of an insurer, fraternal benefit society, health care service contractor, or health maintenance organization, which relates its benefits to Medicare, or which is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare by reason of age. All such policies or contracts are referred to in this chapter as "Medicare supplemental insurance" or "Medicare supplement insurance policy" or "Medicare supplement coverage."

(2)(a) Medicare supplement insurance policies delivered prior to January 1, 1989, which are renewable solely at the option of the insured by the timely payment of premium shall be subject to the provisions of this chapter except with respect to WAC 284-66-060, 284-66-200, 284-66-210, 284-66-310, and 284-66-350. To the extent that the provisions of this chapter do not apply to such policies, chapter 284-55 WAC shall apply.

(b) Medicare supplement insurance policies delivered between January 1, 1989, and December 31, 1989, and which are renewable solely at the option of the insured by the timely payment of premium shall be governed by this chapter except with respect to the requirements of WAC 284-66-210 and 284-66-350.

NEW SECTION

WAC 284-66-030 DEFINITIONS. For purposes of this chapter:

(1) "Applicant" means:

(a) In the case of an individual Medicare supplement insurance policy, the person who seeks to contract for insurance benefits; and

(b) In the case of a group Medicare supplement insurance policy, the proposed certificate holder.

(2) "Certificate" means any certificate issued under a group Medicare supplement insurance policy, which policy has been delivered or issued for delivery in this state.

(3) "Direct response insurer" means an insurer who, as to a particular transaction, is transacting insurance directly with a potential insured without solicitation by, or the intervention of, a licensed insurance agent.

(4) "Disability insurance" is insurance against bodily injury, disablement or death by accident, against disablement resulting from sickness, and every insurance appertaining thereto. For purposes of this chapter, disability insurance shall include policies or contracts offered by an insurer, fraternal benefit society, health care service contractor, or health maintenance organization.

(5) "Health care expense costs" means expenses of a health maintenance organization or health care service contractor associated with the delivery of health care services which are analogous to incurred losses of insurers. Such expenses shall not include home office and overhead costs, advertising costs, commissions and other

acquisition costs, taxes, capital costs, administrative costs, and "claims" processing costs.

(6) "Insurer" includes insurance companies, fraternal benefit societies, health care service contractors, and health maintenance organizations.

(7) "Policy" includes agreements or contracts issued by insurers, health maintenance organizations, health care service contractors, and fraternal benefit societies.

(8) "Premium" means all sums charged, received, or deposited as consideration for a Medicare supplement insurance policy or the continuance thereof. An assessment or a membership, contract, survey, inspection, service, or other similar fee or charge made by the insurer in consideration for such policy is deemed part of the premium. "Earned premium" shall mean the "premium" applicable to an accounting period whether received before, during or after such period.

(9) "Replacement" means any transaction in which new Medicare supplement coverage is to be purchased, and it is known or should be known to the proposing agent or other representative of the insurer, or to the proposing insurer if there is no agent, that by reason of such transaction, existing Medicare supplement coverage has been or is to be lapsed, surrendered or otherwise terminated.

NEW SECTION

WAC 284-66-040 POLICY DEFINITIONS AND TERMS. No insurance policy may be advertised, solicited, issued for delivery in this state or renewed as a Medicare supplement insurance policy unless such policy contains definitions or terms which conform to the requirements of this section.

(1) "Accident," "accidental injury," or "accidental means" shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words or description or characterization.

(a) The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

(b) Such definition may provide that injuries shall not include injuries for which benefits are provided under any workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless prohibited by law.

(2) "Convalescent nursing home," "extended care facility," or "skilled nursing facility" shall be defined in relation to its status, facilities and available services.

(a) A definition of such home or facility shall not be more restrictive than one requiring that it:

- (i) Be operated pursuant to law;
- (ii) Be approved for payment of Medicare benefits or be qualified to receive such approval, if so requested;
- (iii) Be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician;

(iv) Provide continuous twenty-four hours a day nursing service by or under the supervision of a registered graduate professional nurse (R.N.); and

(v) Maintain a daily medical record of each patient.

(b) The definition of such home or facility may provide that such term shall not be inclusive of:

(i) Any home, facility or part thereof used primarily for rest;

(ii) A home or facility for the aged or for the treatment of chemical dependency; or

(iii) A home or facility primarily used for the care and treatment of mental diseases or disorders, or custodial or educational care.

(3) "Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Health Care Organizations.

(a) The definition of the term "hospital" shall not be more restrictive than one requiring that the hospital:

(i) Be an institution operated pursuant to law; and

(ii) Be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of duly licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which charge is made; and

(iii) Provide twenty-four hour nursing services by or under the supervision of registered graduate professional nurses (R.N.'s).

(b) The definition of the term "hospital" may state that such term shall not be inclusive of:

(i) Convalescent homes, convalescent, rest, or nursing facilities;

(ii) Facilities primarily affording custodial, educational, or rehabilitative care;

(iii) Facilities for the aged or for the treatment of chemical dependency; or

(iv) Any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability exists for charges made to the individual for such services.

(4) For purposes of exclusions from coverage, "mental or nervous disorders" shall not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind.

(5) "Nurses" may be defined so that the description of nurse is restricted to a type of nurse, such as registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words "nurse," "trained nurse," or "registered nurse" are used without specific instruction, then the use of such terms requires the insurer to recognize the services of any individual who qualified under such terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of the state.

(6) "Physician" may be defined by including words such as "duly qualified physician" or "duly licensed physician." The use of such terms requires an insurer to recognize and to accept, to the extent of its obligation under the contract, all providers of medical care and treatment when such services are within the scope of the provider's licensed authority and are provided pursuant to applicable laws.

(7) "Sickness" shall not be defined to be more restrictive than the following: "Sickness means sickness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force." The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability, or similar law.

NEW SECTION

WAC 284-66-050 PROHIBITED POLICY PROVISIONS. (1) No policy may be advertised, solicited, issued for delivery, or renewed in this state as a Medicare supplement insurance policy unless such policy meets or exceeds the requirements for such policies imposed by chapter 48.66 RCW.

(2) No Medicare supplement policy or certificate in force in this state shall contain benefits which duplicate benefits provided by Medicare.

(3) No policy may be advertised, solicited, issued for delivery, or renewed in this state as a Medicare supplement policy if such policy limits or excludes coverage by type of illness, accident, treatment, or medical condition, except as follows:

(a) Foot care in connection with corn, calluses, flat feet, fallen arches, weak feet, chronic foot strain, or symptomatic complaints of the feet;

(b) Mental or emotional disorders and chemical dependency;

(c) Illness, treatment, or medical condition arising out of:

(i) War or act of war (whether declared or undeclared); participation in a felony, riot or insurrection; service in the armed forces or units auxiliary thereto;

(ii) Suicide (whether sane or insane), attempted suicide, or intentionally self-inflicted injury;

(iii) Aviation, other than as a fare-paying passenger on a scheduled or charter flight operated by a scheduled airline;

(d) Cosmetic surgery, except that "cosmetic surgery" shall not include reconstructive surgery when such service is incidental to or follows surgery resulting from trauma, infection, or other diseases of the involved part;

(e) Treatment provided in a governmental hospital; benefits provided under Medicare or other governmental program (except Medicaid), any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law; services rendered by employees of hospitals, laboratories, or other institutions; services performed by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance;

(f) Dental care or treatment;

(g) Eye glasses, hearing aids, and examination for the prescription or fitting thereof;

(h) Rest cures, custodial care, transportation, and routine physical examinations;

(i) Territorial limitations outside the United States: PROVIDED, That Medicare supplement insurance policies may not contain, when issued or renewed, limitations or exclusions of the type enumerated in (a), (b), (h) or (i) of this subsection, that are more restrictive than those of Medicare. Medicare supplement policies may exclude coverage for any expense to the extent of any benefit available to the insured under Medicare.

(4) A "noncancellable," "guaranteed renewable," or "noncancellable and guaranteed renewable" Medicare supplement insurance policy shall not provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium, or be cancelled or nonrenewed by the insurer solely on the grounds of deterioration of health.

(5) Termination of a Medicare supplement policy shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Any provision to the contrary is prohibited.

(6) No Medicare supplement insurance policy shall restrict, exclude or limit benefits for a sickness through use of a probationary, or similar, provision.

(7) No insurer shall require any person covered under a Medicare supplement insurance policy to purchase additional coverage in connection with the amendment thereof.

(8) The terms "Medicare supplement," "Medigap," or words of similar import shall not be used to describe an insurance policy unless such policy is issued in compliance with chapter 48.66 RCW and this chapter.

NEW SECTION

WAC 284-66-060 MINIMUM BENEFIT STANDARDS. Except as permitted by WAC 284-66-050(3), effective January 1, 1990, no insurance policy may be advertised, solicited, issued for delivery, or renewed in this state as a Medicare supplement policy unless it meets the following minimum standards. Further, all guaranteed renewable Medicare supplement insurance policies delivered to residents of this state during 1989 and which were subject to the minimum standards adopted by the commissioner pursuant to the Medicare Catastrophic Coverage Act shall be conformed to meet the minimum benefit standards of this section. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards:

(1) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(2) Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;

(3) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

(4) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional three hundred sixty-five days;

(5) Coverage under Medicare Part A for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B;

(6) Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible;

(7) Coverage under Medicare Part B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

NEW SECTION

WAC 284-66-070 RESERVED.

NEW SECTION

WAC 284-66-080 **OUTLINE OF COVERAGE REQUIRED.** (1) An agent or insurer initiating a sale of an individual or group Medicare supplement insurance policy in this state shall complete and sign a disclosure form, and deliver the completed form to the applicant not later than the time of application for the policy.

(2) The disclosure form to be used shall be the "outline of coverage," and shall be completed in substantially the form set forth in WAC 284-66-090. The form of outline of coverage shall be filed with the commissioner prior to use in this state.

(3) If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate must accompany such policy or certificate when it is delivered and contain the following statement, in no less than twelve point type, immediately above the company name: "NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

(4) Except for direct response insurers, an insurer shall obtain an acknowledgement of receipt of such outline from the applicant.

(5) Where inappropriate terms are used, such as "insurance," "policy," or "insurance company," a fraternal benefit society, health care service contractor, or health

maintenance organization shall substitute appropriate terminology.

NEW SECTION

WAC 284-66-090 **FORM FOR "OUTLINE OF COVERAGE."**

(COMPANY NAME)

OUTLINE OF MEDICARE SUPPLEMENT COVERAGE

(1) Read your policy carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you read your policy carefully.

(2) Medicare supplement coverage – Policies of this category are designed to supplement Medicare by covering some hospital, medical and surgical services which are partially covered by Medicare. Coverage is provided for hospital inpatient charges and some physician charges, subject to any deductibles and copayment provisions which may be in addition to those provided by Medicare, and subject to other limitations which may be set forth in the policy. The policy does not provide benefits for custodial care such as help in walking, getting in and out of bed, eating, dressing, bathing and taking medicine. (Delete if such coverage is provided.)

(3)(a) For insurers using agents:

Neither (insert company's name here) nor its agents are connected with Medicare.

(b) For direct response insurers:

..... (Insert company's name here) is not connected with Medicare.

(4) A brief summary of the most important medical benefit gaps in Medicare Parts A and B with a parallel description of supplemental benefits, including dollar amounts (with indexed copayments or deductibles, as appropriate) provided by the Medicare supplement insurance policy in the following order.

Service	This Policy Pays **	You Pay
I. Part A		
A. INPATIENT HOSPITAL SERVICES:		
Semi-private room & board		
Miscellaneous hospital services and supplies, such as drugs, X-rays, lab tests and operating room		
B. BLOOD		
II. Part B		
A. MEDICAL EXPENSE:		
Services of a physician/outpatient services		
B. BLOOD		
III. Miscellaneous		
A. HOME INTRAVENOUS (IV) THERAPY DRUGS		
B. IMMUNOSUPPRESSIVE DRUGS		

Service	This Policy Pays **	You Pay
IV. Additional Benefits		
A. PART A		
Part A Deductible		
Private Room		
In-hospital Private Nurses		
Skilled Nursing Facility Care		
B. PARTS A & B		
Home Health Services		
C. PART B		
Part B Deductible		
Medical supplies other than prescribed drugs		
Medical charges in excess of Medicare allowable expenses (percentage paid)		
D. MAMMOGRAPHY SCREENING		
E. OUT-OF-POCKET MAXIMUM		
F. PRESCRIPTION DRUGS		
G. MISCELLANEOUS		
Respite care benefits		
Expenses incurred in a foreign country		
H. OTHER		
TOTAL PREMIUM	\$	_____

IN ADDITION TO THIS OUTLINE OF COVERAGE, (INSURANCE COMPANY NAME) WILL SEND AN ANNUAL NOTICE TO YOU THIRTY DAYS PRIOR TO THE EFFECTIVE DATE OF MEDICARE CHANGES WHICH WILL DESCRIBE THESE CHANGES AND THE CHANGES IN YOUR MEDICARE SUPPLEMENT COVERAGE.

** If this policy does not provide coverage for a benefit listed above the insurer must state "no coverage" beside that benefit in the first column.

- (5) Statement that the policy does or does not cover the following:
- (a) Private duty nursing;
 - (b) Skilled nursing home care costs (beyond what is covered by Medicare);
 - (c) Custodial nursing home care costs;
 - (d) Intermediate nursing home care costs;
 - (e) Home health care above number of visits covered by Medicare;
 - (f) Physician charges (above Medicare's reasonable charge);
 - (g) Drugs and insulin (other than prescription drugs furnished during a hospital or skilled nursing facility stay);
 - (h) Care received outside of United States (and its territories);

(i) Dental care or dentures, checkups, routine immunizations, cosmetic surgery, routine foot care, examinations for or the cost of eyeglasses or hearing aids.

(6) An explanation of such terms as "usual and customary," "reasonable and customary," or words of similar import, if used in the policy.

(7) A description of any policy provisions which exclude, eliminate, resist, reduce, limit, delay, or in any other manner operate to qualify payments of the benefits described in subsection (4) of this section, including conspicuous statement:

(a) That the chart summarizing Medicare benefits only briefly describes such benefits; and

(b) That the Health Care Financing Administration or its Medicare publications should be consulted for further details and limitations.

(8) A description of policy provisions respecting renewability or continuation of coverage, including any reservation of rights to change premium.

(9) The amount of premium for this policy.

(Insurer's Name)

By

(Agent's or Officer's Signature)

NEW SECTION

WAC 284-66-100 FORM FOR 1990 ADJUSTMENT NOTICE TO ACCOMPANY OUTLINE OF COVERAGE. For policies or certificates providing Medicare supplement coverage to residents of this state during 1990, the following chart shall accompany the outline of coverage and the form thereof shall be filed with the commissioner prior to use in this state. Where inappropriate terms are used, such as "insurance," "policy," or "insurance company," a fraternal benefit society, health care service contractor, or a health maintenance organization may substitute appropriate terminology.

.....
(COMPANY NAME)
NOTICE OF CHANGES IN MEDICARE AND YOUR
MEDICARE SUPPLEMENT COVERAGE - 1990

THE FOLLOWING CHART BRIEFLY DESCRIBES THE MODIFICATIONS TO MEDICARE AND TO YOUR MEDICARE SUPPLEMENT COVERAGE. PLEASE READ THIS CAREFULLY!

(A BRIEF DESCRIPTION OF THE REVISIONS TO MEDICARE PARTS A & B WITH A PARALLEL DESCRIPTION OF SUPPLEMENTAL BENEFITS WITH SUBSEQUENT CHANGES, INCLUDING DOLLAR AMOUNTS, PROVIDED BY THE MEDICARE SUPPLEMENT COVERAGE IN SUBSTANTIALLY THE FOLLOWING FORMAT.)

SERVICE	MEDICARE BENEFITS		YOUR MEDICARE SUPPLEMENT COVERAGE	
	Medicare Paid in 1989	Effective 1-1-90, Medicare Will Pay	Your Coverage Paid in 1989	Effective 1-1-90, Your Coverage Will Pay

MEDICARE PART A: SERVICES AND SUPPLIES

Inpatient Hospital Services	Unlimited number of hospital days after \$560 deductible per Calendar year	All but \$592 first 60 days/benefit period		
Semi-Private Room & Board		All but \$148 a day for 61st - 90th day/benefit period		
Misc. Hospital Services & Supplies, such as Drugs, X-Rays, Lab Tests & Operating Room		All but \$296 a day for 91st - 150th days (if individual chooses to use 60 nonrenewable lifetime reserve days)		

BLOOD

Pays all costs except payment of deductible (equal to costs for first three pints) in each Calendar year Part A blood deductible reduced to the extent paid under Part B	Pays all costs except non-replacement fees (blood deductible) for first three pints in each calendar year
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SKILLED NURSING FACILITY CARE

There is no prior confinement requirement for this benefit	100% of costs for first 20 days (after a 3-day prior hospital confinement)/benefit period
First 8 days - All but \$25.50 a day	All but \$74.00 a day for 21st - 100th days/benefit period
9th through 150th day - 100% of costs	Beyond 100 days - Nothing
Beyond 150 days - Nothing	

MEDICARE PART B: SERVICES AND SUPPLIES

80% of allowable charges (after \$75.00 deductible)	80% of allowable charges (after \$75.00 deductible)
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SERVICE	MEDICARE BENEFITS		YOUR MEDICARE SUPPLEMENT COVERAGE	
	Medicare Paid in 1989	Effective 1-1-90, Medicare Will Pay	Your Coverage Paid in 1989	1-1-90, Your Coverage Will Pay
<u>PRESCRIPTION DRUGS</u>	Inpatient prescription drugs. 80% of allowable charges for immunosuppressive therapy drugs during the first year following covered transplant (after \$75 deductible)	Inpatient prescription drugs. 80% of allowable charges for immunosuppressive therapy drugs during the first year following a covered transplant (after \$75 deductible)		
<u>BLOOD</u>	80% of all costs except non-replacement fees (blood deductible) for first three pints (after \$75 deductible/ calendar year)	80% of costs except non-replacement fees (blood deductible) for first three pints (after \$75 deductible/ calendar year)		

(Any other policy benefits not mentioned in this chart should be added to the chart in the order prescribed by the outline of coverage. If there are corresponding Medicare benefits, they should be shown.)

(Describe any coverage provisions changing due to Medicare modifications.)

(Include information about premium adjustments that may be necessary due to changes in Medicare benefits or when premium information will be sent.)

THIS CHART SUMMARIZING THE CHANGES IN YOUR MEDICARE BENEFITS AND IN YOUR MEDICARE SUPPLEMENT (INSURANCE) PROVIDED BY (COMPANY), ONLY BRIEFLY DESCRIBES SUCH BENEFITS. FOR INFORMATION ON YOUR MEDICARE BENEFITS CONTACT YOUR SOCIAL SECURITY OFFICE OR THE HEALTH CARE FINANCING ADMINISTRATION. FOR INFORMATION ON YOUR MEDICARE SUPPLEMENT (POLICY) CONTACT: _____ (COMPANY NAME — OR NAME OF AGENT) (ADDRESS) (PHONE NUMBER) ____.

NEW SECTION

WAC 284-66-110 BUYER'S GUIDE. (1) Insurers issuing disability insurance policies or certificates that provide hospital or medical expense coverage on an expense incurred or indemnity basis, other than incidentally, to persons eligible for Medicare by reason of age must provide to all applicants a Medicare supplement "Buyer's Guide."

(2) The "Buyer's Guide" required to be provided is the pamphlet "Guide to Health Insurance for People with Medicare," developed jointly by the National Association of Insurance Commissioners and Health Care Financing Administration, or any reproduction or official

revision of that pamphlet. The guide shall be printed in a style and with a type character that is easily read by an average person eligible for Medicare supplement insurance. (Specimen copies may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C.)

(3) Delivery of the "Buyer's Guide" must be made whether or not such policies or certificates are advertised, solicited, or issued as Medicare supplement insurance policies.

(4) Except in the case of a direct response insurer, delivery of the "Buyer's Guide" must be made to the applicant at the time of application and acknowledgment of receipt of the "Buyer's Guide" must be obtained by the insurer. Direct response insurers must deliver the "Buyer's Guide" to the applicant upon request but not later than at the time the policy is delivered.

NEW SECTION

WAC 284-66-120 NOTICE REGARDING POLICIES WHICH ARE NOT MEDICARE SUPPLEMENT POLICIES. Any disability insurance policy or certificate (other than a Medicare supplement policy or certificate), disability income protection policy, basic or comprehensive or major medical expense policy, or other policy identified in RCW 48.66.020(1), whether issued on an individual or group basis, which policy purports to provide coverage to residents of this state eligible for Medicare by reason of age, shall notify policyholders or certificate holders that the policy is not a Medicare supplement insurance policy. Such notice shall be printed or attached to the first page of the outline of coverage or equivalent disclosure form, and shall be delivered to the

policyholder or certificate holder. Such notice shall be in no less than twelve point type and shall contain the following language: "This (policy, certificate or subscriber contract) is not a Medicare supplement (policy, certificate or subscriber contract). If you are eligible for Medicare, review the Medicare supplement Buyer's Guide available from the company."

NEW SECTION

WAC 284-66-130 REQUIREMENTS FOR APPLICATION FORMS AND REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE COVERAGE. (1) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement insurance policy or certificate in force or whether a Medicare supplement insurance policy or certificate is intended to replace any other policy or certificate of a health care service contractor, health maintenance organization, disability insurer, or fraternal benefit society presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions, may be used: PROVIDED, HOWEVER, That where the coverage is sold without an agent, the supplementary application shall be signed by the applicant.

(a) "Do you have another Medicare supplement insurance policy or certificate in force (including coverage provided under risk sharing or reasonable cost basis contracts)?"

(b) "Did you have another Medicare supplement policy or certificate in force during the last twelve months?"

(i) "If so, with which company?"

(ii) "If that policy lapsed, when did it lapse?"

(c) "Are you covered by Medicaid?"

(d) "Do you intend to replace any of your medical or health insurance coverage with this (policy, certificate or subscriber contract)?"

(2) Agents shall list any other medical or health insurance policies sold to the applicant.

(a) List policies sold which are still in force.

(b) List policies sold in the past five years which are no longer in force.

(3) Upon determining that a sale will involve replacement, an insurer, other than a direct response insurer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement insurance policy or certificate, a notice regarding replacement of Medicare supplement insurance coverage. One copy of such notice, signed by the applicant and the agent (except where the coverage is sold without an agent), shall be provided to the applicant and an additional signed copy shall be retained by the insurer. A direct response insurer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement insurance coverage.

(4) The notice required by subsection (3) of this section for an insurer, other than a direct response insurer, shall be provided in substantially the form set forth in WAC 284-66-140 and shall be filed with the commissioner prior to use in this state.

(5) The notice required by subsection (3) of this section for a direct response insurer shall be in substantially the form set forth in WAC 284-66-150 and shall be filed with the commissioner prior to use in this state.

(6) A true copy of the application for a Medicare supplement insurance policy issued by a health maintenance organization or health care service contractor for delivery to a resident of this state must be attached to or otherwise physically made a part of the policy when issued and delivered.

(7) Where inappropriate terms are used, such as "insurance," "policy," or "insurance company," a fraternal benefit society, health care service contractor or health maintenance organization may substitute appropriate terminology.

NEW SECTION

WAC 284-66-140 FORM FOR "REPLACEMENT NOTICE TO APPLICANT" FOR OTHER THAN DIRECT RESPONSE INSURERS.

NOTICE TO APPLICANT REGARDING REPLACEMENT OF
MEDICARE SUPPLEMENT INSURANCE

(Insurance Company's Name and Address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN
THE FUTURE!

According to (your application or information you have furnished), you intend to lapse or otherwise terminate existing Medicare supplement insurance and replace it with a policy to be issued by _____ (insurance company name) _____. Federal and state law provides thirty days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all medical or health coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT (BROKER OR OTHER REPRESENTATIVE): (Use additional sheets, as necessary)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

(1) Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods or probationary periods. The insurer will waive any time periods applicable

to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy for similar benefits to the extent such time was spent (depleted) under the original policy.

(3) If you are replacing existing Medicare supplement insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(4) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

(Signature of Agent, Broker or Other Representative)

(Typed name and Address of Agent or Broker)

The above "Notice to Applicant" was delivered to me on:

(Date)

(Applicant's Signature)

consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

(1) Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy for similar benefits to the extent such time was spent (depleted) under the original policy.

(3) If you are replacing existing Medicare supplement insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(4) (To be included only if the application is attached to the policy.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

(Company name)

NEW SECTION

WAC 284-66-150 FORM FOR "REPLACEMENT NOTICE TO APPLICANT" BY DIRECT RESPONSE INSURERS.

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE

(Insurance Company's Name and Address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE!

According to (your application or information you have furnished), you intend to lapse or otherwise terminate existing Medicare supplement insurance and replace it with a policy to be issued by _____ (insurance company name) _____. Federal and state law provides thirty days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all medical or health coverage you now have, and terminate your present policy only if, after due

NEW SECTION

WAC 284-66-160 ADJUSTMENT NOTICE TO CONFORM EXISTING MEDICARE SUPPLEMENT POLICIES TO CHANGES IN MEDICARE.

(1) As soon as practicable, but no later than thirty days prior to the effective date of any Medicare benefit changes, every insurer providing Medicare supplement insurance coverage to a resident of this state shall notify its insureds of modifications it has made to Medicare supplement policies. The adjustment notice is intended to be informational only and for the sole purpose of informing policyholders and certificate holders about changes in Medicare benefits, indexed deductible and copayment provisions, premium adjustments, and the like. The form of an adjustment notice provided to residents of this state shall be filed with the commissioner prior to use.

(2) The form of such notice shall be substantially in the format prescribed by the commissioner for use in 1990 in WAC 284-66-100.

(a) The notice shall include a description of revisions to the Medicare program and a description of each

modification made to the coverage provided under the Medicare supplement insurance policy.

(b) The notice shall inform each covered person of the approximate date when premium adjustments due to changes in Medicare benefits will be made.

(c) The notice of benefit modifications and any premium changes shall be furnished in outline form and in clear and simple terms so as to facilitate comprehension.

(d) The notice shall not contain or be accompanied by any solicitation.

NEW SECTION

WAC 284-66-170 PROHIBITION AGAINST PREEXISTING CONDITIONS, WAITING PERIODS, ELIMINATION PERIODS, AND PROBATIONARY PERIODS IN REPLACEMENT POLICIES OR CERTIFICATES. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods and probationary periods in the new Medicare supplement policy to the extent that similar exclusions have been satisfied under the original policy.

NEW SECTION

WAC 284-66-180 CONTINUOUS RENEWABILITY REQUIRED. (1) Except as authorized by the commissioner, an insurer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

(2) If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in subsection (4) of this section, the insurer shall offer certificate holders an individual Medicare supplement policy, which policy form has been filed in accordance with all appropriate filing requirements of this state. The insurer shall offer the certificate holder at least the following choices:

(a) An individual Medicare supplement policy which provides for continuation of the benefits contained in the group policy; and

(b) An individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards.

(3) If membership in a group is terminated, the insurer shall:

(a) Offer the certificate holder such conversion opportunities as are described in subsection (2) of this section; or

(b) At the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.

(4) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the succeeding insurer shall offer coverage promptly to all persons covered under the old group policy, such coverage to be effective the date the preceding policy terminates. Coverage under the new

group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

NEW SECTION

WAC 284-66-190 OFFER OF REINSTITUTION OF COVERAGE. (1) Except as provided in subsection (2) of this section, in the case of an individual who had in effect, as of December 31, 1988, a Medicare supplemental policy with an insurer (as a policyholder or, in the case of a group policy, as a certificate holder) and the individual terminated coverage under such policy before the date of the enactment of the Medicare Catastrophic Coverage Repeal Act of 1989, the insurer shall:

(a) Provide written notice no earlier than December 15, 1989, and no later than January 30, 1990, to the policyholder or certificate holder (at that person's most recent available address) of the offer described below; and

(b) Offer the individual, during a period of at least sixty days beginning not later than February 1, 1990, reinstatement of coverage (with coverage effective as of January 1, 1990), under terms which:

(i) Do not provide for any waiting period with respect to treatment of preexisting conditions;

(ii) Provide for coverage which is substantially equivalent to coverage in effect before the date of such termination; and

(iii) Provide for classification of premiums on terms which are at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage never terminated.

(2) An insurer is not required to make the offer required by subsection (1)(b) of this section in the case of an individual who is a policyholder or certificate holder in another Medicare supplement insurance policy as of January 1, 1990, if the individual is not subject to a waiting period with respect to treatment of a preexisting condition under such other policy.

NEW SECTION

WAC 284-66-200 STANDARDS FOR LOSS RATIOS. Medicare supplement insurance policies shall return to policyholders in the form of aggregated benefits under such policy, for the entire period for which rates are computed to provide coverage, loss ratios not less than those set forth in this section. Such loss ratios shall be on the basis of incurred claims losses and earned premiums for such period in accordance with accepted actuarial principles. The loss ratio standards of this section are more stringent and more appropriate than those imposed by RCW 48.66.100, and are necessary for the protection of the public interest.

(1) Where coverage is provided on a service rather than reimbursement basis, such loss ratios shall be on the basis of incurred health care expenses and earned premiums for such period.

(2) All filings of rates and rating schedules shall demonstrate that actual and expected losses in relation to premiums comply with the requirements of this chapter

and are not excessive, inadequate or unfairly discriminatory.

(3) Every insurer providing Medicare supplement policies in this state shall annually file its rates, rating schedules, and supporting documentation including ratios of incurred losses to earned premiums demonstrating that it is in compliance with the applicable loss ratio standards and that the period for which the policy is rated is reasonable in accordance with accepted actuarial principles and experience. If the period for which the policy is initially rated is more than one year, ratios of incurred losses to earned premiums shall be filed by number of years of policy duration. Supporting documentation shall include the amounts of unearned premium reserve, policy reserves, and claim reserves and liabilities, both nationally and for this state. The form and instructions for filing this information are provided in WAC 284-66-220 through 284-66-230. This annual filing is in addition to filings made by insurers to establish initial rates or request rate adjustments required by WAC 284-66-240.

(4) Incurred losses shall include claims paid and the change in claim reserves and liabilities. Incurred losses shall not include policy reserves, home office or field overhead, acquisition and selling costs, taxes or other expenses, contributions to surplus, profit, or claims processing costs.

(5) The following criteria will be used to determine whether policy forms are in compliance with the loss ratio standards of this section:

(a) For the most recent year, the ratio of the incurred losses to earned premiums is greater than or equal to the applicable percentages contained in this section; and

(b) The expected losses in relation to premiums over the entire period for which the policy is rated complies with the requirements of this section, relying on the judgment of the pricing actuary and acceptable to the commissioner; and

(c) For issue age level premium rated policies, an expected loss ratio for the third policy year, which is greater than or equal to the applicable percentage, shall be demonstrated for policies or certificates in force fewer than three years. For community rated policies the applicable percentage shall be demonstrated for the three most recent accounting periods. The applicable percentage shall be as defined in subsections (6), (7), or (8) of this section.

(d) Similar policy forms shall be grouped together according to the rules set forth in WAC 284-60-040 and 284-66-240(6).

(e) The commissioner may consider additional criteria including, but not limited to:

(i) Equitable treatment of policyholders; and

(ii) The amount of policy reserves as defined for the insurer's statutory annual statement.

(6) Medicare supplement insurance policies issued by authorized disability insurers and fraternal benefit societies shall be expected to return to a policyholder in the form of aggregated loss ratios under the policy, at least sixty-five percent of the earned premiums in the case of

individual policies, and seventy-five percent in the case of group policies.

(7) The minimum anticipated loss ratio requirements for health maintenance organizations and health care service contractors shall be seventy percent for individual forms and eighty percent for group contract forms. The minimum anticipated loss ratios are deemed to be met if the health care expense costs of the health maintenance organization or health care service contractor are seventy percent or more of the earned premium charged individual subscribers, or eighty percent or more of the earned premium charged subscribers covered under a group contract.

NEW SECTION

WAC 284-66-210 POLICY RESERVES REQUIRED. This section shall apply to every group and individual policy of disability insurance and to every subscriber contract of an insurer, fraternal benefit society, health care service contractor, or health maintenance organization, which relates its benefits to Medicare. The term "policy reserve" is intended to apply to all types and forms of insurance equally, whether they are called policies, contracts, or certificates. For all forms which are issued on a level premium basis, policy reserves will be required. The policy reserve is in addition to claim reserves and premium reserves. The definition of the date of incurral must be the same for both claim reserves and policy reserves. Policy reserves shall be based upon the following minimum standards:

(1) Morbidity should be based upon a reasonable expectation of future claim costs for the benefits being provided. At time of policy issue this would be the morbidity assumptions used to price the contract. For later durations the morbidity should reflect the experience which emerges including the effects of inflation and utilization. All morbidity assumptions must be reasonable in the view of the commissioner.

(2) The interest rate used may not exceed the maximum rate permitted by statute in the valuation of whole life insurance issued on the same date as the Medicare supplement policy.

(3) Termination rates shall be on the same basis as the mortality table permitted by statute in the valuation of whole life insurance issued on the same date as the Medicare supplement policy or on another basis satisfactory to the commissioner.

(4) The minimum reserve is that calculated on the one-year full preliminary term method. This method produces a terminal reserve of zero at the first policy anniversary. The preliminary term method may be applied only in relation to the date of issue of a policy. Reserve adjustments introduced later as a result of rate increases, revisions in assumptions, or for other reasons, are to be applied immediately as of the effective date of adoption of the adjusted basis.

(5) Negative reserves on any benefit may be offset against positive reserves for other benefits in the same policy or contract, but the total policy reserve with respect to all benefits combined may not be less than zero.

NEW SECTION

WAC 284-66-220 MEDICARE SUPPLEMENT LOSS RATIO EXPERIENCE FORM REQUIRED. The form provided in WAC 284-66-230 shall be filed with the commissioner annually not later than June 30th of each calendar year beginning June 30, 1990. The form is to be filed in addition to the NAIC experience exhibit and not in lieu thereof.

The following instructions must be followed when completing the form:

(1) The data shall be furnished in the same format and order as that shown in WAC 284-66-230.

(2) The name of the insurer must be clearly shown at the top of each page.

(3) Separate data must be shown for each policy form number. For community rated policies, calendar year data for the most recent year should be furnished. For issue age level premium policies, data should be furnished separately for each policy duration of each form.

(4) The current filed rate schedule for each policy form number shall be attached to the experience form and shall show the policy form number for purposes of identification.

(5) Incurred losses shall include claims paid and the change in claim reserves and liabilities. A list of items that are not to be included in incurred losses is provided in WAC 284-66-200.

(6) The loss ratio shall be the ratio of incurred losses to earned premium.

(7) The experience form shall be certified by an officer of the insurer.

(8) Complete data is required for each policy form on both a national basis and for policies sold in the state of Washington.

(9) Policy reserves shall include:

(a) Active life reserves;

(b) Contingency and additional reserves; and

(c) Increased reserves which may be required by the commissioner.

NEW SECTION

WAC 284-66-230 FORM FOR REPORTING MEDICARE SUPPLEMENT LOSS RATIO EXPERIENCE. The following form for reporting Medicare supplement loss ratio experience shall be used by all insurers:

MEDICARE SUPPLEMENT LOSS RATIO EXPERIENCE

(SUMMARIZED BY POLICY YEAR)

Experience reported for January 1 to December 31 of 19____.

To be filed on or before June 30

of the _____

Address (City, State and Zip Code) _____

NAIC Group Code

NAIC Company Code

CIC Code

National Experience

<u>Form No.</u>	<u>No. of Contracts in Force</u>	<u>Policy Duration</u>	<u>Incurred Losses</u>	<u>Earned Premiums</u>	<u>Loss Ratio</u>	<u>Unearned Premium Reserve</u>	<u>Policy Reserves</u>	<u>Claim Reserves</u>
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Washington Experience

<u>Form No.</u>	<u>No. of Contracts in Force</u>	<u>Policy Duration</u>	<u>Incurred Losses</u>	<u>Earned Premiums</u>	<u>Loss Ratio</u>	<u>Unearned Premium Reserve</u>	<u>Policy Reserves</u>	<u>Claim Reserves</u>
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I hereby certify that I have supervised the preparation of this experience exhibit, that it is complete and accurate to the best of my knowledge, and it is in compliance with RCW 48.66.150, WAC 284.66.200, and WAC 284.66.240.

Signature of Officer

Date

Name and Title of Officer

Prepared by

Phone Number

NEW SECTION

WAC 284-66-240 FILING REQUIREMENTS AND PREMIUM ADJUSTMENTS. (1) Every insurer advertising, soliciting, renewing, or providing Medicare supplement insurance coverage in this state as of December 31, 1989, shall file with the commissioner, in accordance with the applicable filing procedures of this state:

(a) Policy forms, riders or endorsements required to accomplish the modifications necessary to eliminate benefit duplications with Medicare or to bring a Medicare supplement insurance policy form into conformity with amendments to this chapter, such forms providing a clear description of the Medicare supplement benefits provided by the policy; and

(b) Appropriate premium adjustments necessary to produce complying loss ratios originally anticipated for the applicable policies and such supporting documents necessary in the opinion of the commissioner to justify the adjustments, including the information set forth in WAC 284-66-200.

(2) All policy forms, riders, and rates filed for initial use on or after January 1, 1990, and any future rate adjustment thereto, shall demonstrate compliance with the loss ratio requirements of WAC 284-66-200 and policy reserve requirements of WAC 284-66-210. All filings of forms shall be accompanied by the proposed rate schedule and an actuarial memorandum completed and signed by a qualified actuary as defined in WAC 284-05-060. In addition to the actuarial memorandum, the following supporting documentation must be submitted to demonstrate to the satisfaction of the commissioner that rates are not excessive, inadequate, or unfairly discriminatory and otherwise comply with the requirements of this chapter. If any of the items listed below are inappropriate due to the pricing methodology utilized by the pricing actuary, the commissioner may waive the requirements upon request of the insurer.

(a) Filings of issue age level premium rates shall be accompanied by the following:

(i) Anticipated loss ratios stated on a policy year basis for the period for which the policy is rated. Filings of future rate adjustments must contain the actual policy year loss ratios experienced since inception;

(ii) Anticipated total termination rates on a policy year basis for the period for which the policy is rated. The termination rates should be stated as a percentage and the source of the mortality assumption must be specified. Filings of future rate adjustments must include the actual total termination rates stated on a policy year basis since inception;

(iii) Expense assumptions including fixed and percentage expenses for acquisition and maintenance costs;

(iv) Schedule of total compensation payable to agents and other producers as a percentage of premium, if any;

(v) Specimen copy of the compensation agreements or contracts between the insurer and its agents, brokers, general agents, or others whose compensation is based in whole or in part on the sale of Medicare supplement insurance policies, such agreements demonstrating compliance with WAC 284-66-350 (where appropriate);

(vi) Other data necessary in the reasonable opinion of the commissioner to substantiate the filing.

(b) Filings of community rated forms shall be accompanied by the following:

(i) Anticipated loss ratio for the accounting period for which the policy is rated. The duration of the accounting period must be stated in the filing, established based on the judgment of the pricing actuary, and must be reasonable in the opinion of the commissioner. Filings for rate adjustment must demonstrate that the actual loss ratios experienced during the three most recent accounting periods, on an aggregated basis, have been equal to or greater than the loss ratios required by WAC 284-66-200.

(ii) Expense assumptions including fixed and percentage expenses for acquisition and maintenance costs;

(iii) Schedule of total compensation payable to agents and other producers as a percentage of premium, if any;

(iv) Specimen copy of the compensation agreements or contracts between the insurer and its agents, brokers, general agents, or others whose compensation is based in whole or in part on the sale of Medicare supplement insurance policies, such agreements demonstrating compliance with WAC 284-66-350 (where appropriate);

(v) Other data necessary in the reasonable opinion of the commissioner to substantiate the filing.

(c) Filings of the rates for all risk sharing contracts shall include the following:

(i) All information filed with, and approved by, the Health Care Financing Administration;

(ii) Rate of per capita reimbursement by the Health Care Financing Administration;

(iii) Expense assumptions including fixed and percentage expenses for acquisition and maintenance costs;

(iv) Schedule of total compensation payable to agents and other producers as a percentage of premium, if any;

(v) Specimen copy of the compensation agreements or contracts between the insurer and its agents, brokers, general agents, or others whose compensation is based in whole or in part on the sale of Medicare supplement insurance policies, such agreements demonstrating compliance with WAC 284-66-350 (where appropriate);

(vi) Other data necessary in the reasonable opinion of the commissioner to substantiate the filing.

(3) Every insurer providing Medicare supplement coverage to residents of this state shall make such premium adjustments as are necessary to produce an expected loss ratio under such policy as will conform with the minimum loss ratio standards of WAC 284-66-200.

(4) No premium adjustment which would modify the loss ratio experience under the policy, other than the adjustments described in this section, may be made with respect to a policy at any time other than upon its renewal or anniversary date.

(5) Premium refunds or premium credits shall be made to the premium payer no later than upon renewal if a credit is given, or within sixty days of the renewal or anniversary date if a refund is provided.

(6) For purposes of rate making and requests for rate increases, all individual Medicare supplement policy forms of an insurer are considered "similar policy forms" including forms no longer being marketed.

NEW SECTION

WAC 284-66-250 FILING REQUIREMENTS FOR OUT-OF-STATE GROUP POLICIES. Every insurer providing group Medicare supplement insurance benefits to a resident of this state shall file with the commissioner, within thirty days of its use in this state, a copy of the master policy and any certificate used in this state, in accordance with the filing requirements and procedures applicable to Medicare supplement policies issued in this state.

NEW SECTION

WAC 284-66-260 RIDERS AND ENDORSEMENTS. (1) Effective January 1, 1990, subject to RCW 48.66.050(2), and except for riders or endorsements issued in accordance with subsection (2) of this section, no rider, endorsement, waiver, or any other means of modifying contractual benefits may be used by an insurer to exclude, limit, or reduce the coverage or benefits of a Medicare supplement insurance policy issued to a resident of this state. Only riders or endorsements which increase benefits or coverage may be used in this state.

(2) Effective January 1, 1990, except for riders or endorsements issued to bring a policy into compliance with changes to the minimum benefit standards or other contractual benefits required by this chapter or as hereafter amended:

(a) A Medicare supplement insurance policy amendment which increases the premium must be requested or accepted by the policyholder in writing; and

(b) Where separate additional premium is charged for a rider, endorsement or other amendment to the contractual benefits of a Medicare supplement insurance policy, the premium charged shall be set forth in the policy.

NEW SECTION

WAC 284-66-270 COMPLIANCE WITH OMNIBUS BUDGET RECONCILIATION ACT OF 1987. Every insurer to whom it applies shall certify to the commissioner on the Medicare supplement experience exhibit of its annual statement that it has complied with Section 4081 of the Omnibus Budget Reconciliation Act of 1987.

NEW SECTION

WAC 284-66-300 REQUIREMENTS FOR ADVERTISING. (1) At least thirty days prior to use in this state, every insurer who provides Medicare supplement insurance coverage to a resident of this state shall provide the commissioner with a copy of any Medicare supplement advertisement (as advertisement is defined in WAC 284-50-030) intended for use in this state. In the case of radio or television advertising, an audio cassette or VHS cassette shall be supplied on request of the commissioner.

(2) Advertising shall comply with the standards of the Washington disability advertising regulation (WAC 284-50-010 through 284-50-230), and shall set forth

the name in full of the insurer and the location of its home office or principal office in the United States (if an alien insurer).

NEW SECTION

WAC 284-66-310 ATTAINED AGE RATING PROHIBITED. With respect to Medicare supplement insurance policies initially sold to residents of this state on or after January 1, 1989, the commissioner has found and hereby defines it to be an unfair act or practice and an unfair method of competition, and a prohibited practice, for any insurer, directly or indirectly, to use the increasing age of an insured, subscriber, or participant as the basis for increasing premiums or prepayment charges. Accordingly, the rating practice commonly referred to as "attained age rating" is prohibited.

NEW SECTION

WAC 284-66-320 REPORTING OF MULTIPLE POLICIES. (1) On or before March 1st of each year, every insurer providing Medicare supplement insurance coverage in this state shall report to the commissioner the following information for every individual resident of this state for which the insurer has in force more than one Medicare supplement insurance policy or certificate:

(a) Policy and certificate number; and

(b) Date of issuance.

(2) The items set forth above must be grouped by individual policyholder.

NEW SECTION

WAC 284-66-330 STANDARDS FOR MARKETING. (1) Every insurer marketing Medicare supplement insurance coverage in this state, directly or through its producers, shall:

(a) Establish marketing procedures to assure that any comparison of policies or certificates by its agents or other producers will be fair and accurate.

(b) Establish marketing procedures to assure excessive insurance is not sold or issued.

(c) Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following:

"NOTICE TO BUYER: THIS (POLICY, CONTRACT OR CERTIFICATE) MAY NOT COVER ALL OF THE COSTS ASSOCIATED WITH MEDICAL CARE INCURRED BY THE BUYER DURING THE PERIOD OF COVERAGE. THE BUYER IS ADVISED TO REVIEW CAREFULLY ALL POLICY LIMITATIONS."

(d) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has disability insurance and the types and amounts of any such insurance.

(e) Every insurer marketing Medicare supplement insurance in this state shall establish auditable procedures for verifying compliance with this section.

(2) In addition to the acts and practices prohibited in chapter 48.30 RCW, chapters 284-30 and 284-50 WAC, and this chapter, the commissioner has found and hereby defines the following to be unfair acts or practices and unfair methods of competition, and prohibited

practices for any insurer, or their respective agents either directly or indirectly:

(a) Twisting. Making misrepresentations or misleading comparisons of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, or convert any insurance policy.

(b) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat whether explicit or implied, or otherwise applying undue pressure to coerce the purchase of, or recommend the purchase of, insurance.

(c) Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

NEW SECTION

WAC 284-66-340 APPROPRIATENESS OF RECOMMENDED PURCHASE AND EXCESSIVE INSURANCE. (1) In recommending the purchase or replacement of any Medicare supplement policy or certificate an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

(2) Any sale of Medicare supplement coverage which will provide an individual more than one Medicare supplement policy or certificate is prohibited: PROVIDED, HOWEVER, That additional Medicare supplement coverage may be sold if, when combined with that individual's coverage already in force, the combined coverages would insure, as to the individual, no more than one hundred percent of actual medical expenses. This subsection does not apply to forms of disability indemnity insurance, such as specified disease and hospital indemnity policies.

NEW SECTION

WAC 284-66-350 PROHIBITED COMPENSATION ARRANGEMENTS. (1)(a) The commissioner has found and hereby defines it to be an unfair act or practice and an unfair method of competition, and a prohibited practice, for any insurer, directly or indirectly, to provide commission to an agent or other representative for the solicitation, sale, servicing, or renewal of a Medicare supplement policy or certificate which is delivered or issued for delivery to a resident within this state unless the commission is identical as to percentage of premium for every policy year as long as the coverage under the policy or certificate remains in force with premiums being paid, or waived by the insurer, for such coverage.

(b) Each commission payment must be made by the insurer no later than sixty days following the date on which the applicable premiums, upon which the commission is calculated, were paid. Each such payment must be paid to either the producing agent who originally sold the policy or to a successor agent designated

by the insurer to replace the producing agent, or shared between them on some basis. The distribution of the commission payments shall be designated by the insurer in its various agents' commission agreements and it may not terminate, reduce or retain the commission payment as long as the policy or certificate remains in force with premiums being paid, or waived by the insurer, for the coverage thereunder.

(c) Where an insurer provides a portion of the total commission for the solicitation, sale, servicing, or renewal of a Medicare supplement policy or certificate to a general agent, sales manager, district representative or other supervisor who has marketing responsibilities (other than a producing or successor agent), while such portion of total commissions continues to be paid it shall be identical as to percentage of premium for every policy year as long as coverage under the policy or certificate remains in force with premiums being paid, or waived by the insurer, for such coverage.

(2) For purposes of this section, "commission" includes pecuniary or nonpecuniary remuneration of any kind relating to the solicitation, sale, servicing, or renewal of the policy or certificate, including but not limited to bonuses, gifts, prizes, advances on commissions, awards and finders fees.

(3) This section shall not apply to salaried employees of an insurer who have marketing responsibilities if the salaried employee is not compensated, directly or indirectly, on any basis dependent upon the sale of insurance being made, including but not limited to considerations of the number of applications submitted, the amount or types of insurance, or premium volume.

NEW SECTION

WAC 284-66-400 CHAPTER NOT EXCLUSIVE. Nothing contained in this chapter shall be construed to limit the authority of the commissioner to regulate a Medicare supplement insurance policy or certificate under other sections of Title 48 RCW.

WSR 90-07-060

PROPOSED RULES

TRANSPORTATION IMPROVEMENT BOARD

[Filed March 20, 1990, 3:36 p.m.]

Original Notice.

Title of Rule: Chapter 479-01 WAC, Description of organization; chapter 479-12 WAC, Submission of proposed projects to Transportation Improvement Board; chapter 479-13 WAC, Submission of six year transportation plans to Transportation Improvement Board; chapter 479-16 WAC, Requirement for urban arterial project development; chapter 479-20 WAC, Financial and payment requirements; and chapter 479-24 WAC, Rules and regulations pursuant to State Environmental Policy Act guidelines.

Purpose: To amend the rules in conformance with the changes made to chapter 47.26 RCW by the legislature in 1988 when it established the Transportation Improvement Board.

Other Identifying Information: Proposed modifications are primarily housecleaning in nature.

Statutory Authority for Adoption: Chapter 47.26 RCW.

Statute Being Implemented: Chapter 47.26 RCW.

Summary: These rules establish the procedures necessary to obtain funding from the urban arterial trust account.

Reasons Supporting Proposal: In 1988, the Transportation Improvement Board was formed and statutorily delegated the authority over the urban arterial trust account.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jerry M. Fay, Executive Director, Transportation Building, 753-7199.

Name of Proponent: Transportation Improvement Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These proposed amendments will bring all of the Transportation Improvement Board's rules in conformity with its enabling legislation. These proposed changes will not impact the established procedures for obtaining urban arterial trust account funds.

Proposal Changes the Following Existing Rules: The changes are primarily housecleaning in nature.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Transportation Building, Commission Board Room, Olympia, Washington 98504, on April 27, 1990, at 9:30 a.m.

Submit Written Comments to: Transportation Improvement Board, Transportation Building, KF-01, Olympia, Washington 98504, by April 20, 1990.

Date of Intended Adoption: April 27, 1990.

March 20, 1990

Jerry M. Fay

Executive Director

AMENDATORY SECTION (Amending Order 83-01, Resolution Nos. 770, 771 and 772, filed 10/26/83)

WAC 479-01-010 ORGANIZATION OF ~~((URBAN ARTERIAL))~~ ~~TRANSPORTATION IMPROVEMENT BOARD~~. The ~~((urban arterial))~~ transportation improvement board is a ~~((thirteen-member))~~ fifteen-member board, organized under the provisions of ~~((chapter 83, Laws of 1967 ex. sess.))~~ chapter 167, Laws of 1988 for the purpose of administering the urban arterial trust account program and the transportation improvement account program created and financed under the provisions contained therein. ~~((Ten))~~ Eleven members of the board are appointed by the secretary of transportation, with six being city officials and ~~((four))~~ five being county officials. The ~~((chairman of the county road administration board and the))~~ county road administration engineer, created by RCW ~~((36.78.030 and))~~ 36.78.060 ~~((respectively, are))~~ is an ex officio member~~((s))~~ of the ~~((urban arterial))~~ board. The state aid engineer for the department of transportation is an ex officio member ~~((and chairman of the urban arterial board))~~. The remaining ex officio members are the assistant secretary of the department of transportation whose primary responsibilities relate to planning and public transportation and the assistant secretary for highways of the department of transportation.

AMENDATORY SECTION (Amending Order 83-01, Resolution Nos. 770, 771 and 772, filed 10/26/83)

WAC 479-01-020 TIME AND PLACE OF MEETINGS. Regular public meetings of the ~~((urban arterial))~~ board shall be held beginning on the third Friday of ~~((the first month of each calendar quarter))~~ every month or the fourth Friday thereafter if that Friday is a holiday. Each such regular meeting shall be held at the offices of the ~~((urban arterial))~~ board in Olympia, Washington, and begin at the hour of 9:30 a.m. or at such time and place as designated by the board.

~~((Additional public meetings necessary to discharge business of the board shall be held beginning on the third Friday of each month at the offices of the urban arterial board in Olympia, Washington, and begin at the hour of 9:30 a.m. Further public meetings necessary to discharge business of the board may be called by the chairman at such time and place, within the state of Washington, as by him designated. Upon petition of three members of the board and pursuant to the provisions of the internal rules, the chairman shall call a meeting of the board at the offices of the board in Olympia.))~~ A special meeting of the board may be called by the chairperson or by a majority of the members of the board, by delivering personally or by mail written notice to all other members of the board at least twenty-four hours before the time of such meeting as specified in the notice. The notice calling a special meeting shall state the purpose for which the meeting is called and the date, hour, and place of such meeting and all provisions of chapter 42.30 RCW shall apply.

AMENDATORY SECTION (Amending Order 83-01, Resolution Nos. 770, 771 and 772, filed 10/26/83)

WAC 479-01-030 ADDRESS OF BOARD. Persons wishing to obtain information or to make submissions or requests of any kind shall address their correspondence to:

~~((Chairman, Urban Arterial Board))~~
Director, Transportation Improvement Board
Transportation Building
Olympia, Washington 98504.

NEW SECTION

WAC 479-01-040 DEFINITIONS. For purposes of implementing the requirements of RCW relative to the transportation improvement board, the following definitions shall apply:

- (1) Board - the transportation improvement board.
- (2) Director - the executive director of the transportation improvement board.
- (3) Eligible agencies - the urban arterial trust account eligible agencies are the counties with urban areas and all cities. The transportation improvement account eligible agencies are counties with urban areas, cities and transportation benefit districts.

Chapter 479-12 WAC

SUBMISSION OF PROPOSED URBAN ARTERIAL TRUST ACCOUNT PROJECTS TO ~~((URBAN ARTERIAL))~~ TRANSPORTATION IMPROVEMENT BOARD

AMENDATORY SECTION (Amending Order 458, filed 9/16/77)

WAC 479-12-010 DATA TO BE SUBMITTED ON PROPOSED URBAN ARTERIAL TRUST ACCOUNT PROJECTS. ~~((A prospectus statement of proposed projects shall be required to be submitted to the urban arterial board by cities and counties seeking allocation of funds from the urban arterial trust account. This prospectus shall include:~~

- ~~((1) The name of the city or county;~~
- ~~((2) The local name of the arterial street or road;~~
- ~~((3) The functional class of the proposed arterial improvement for those projects within federal urban areas. Projects outside the federal urban area leave blank;~~
- ~~((4) A detailed description of the project location, including its length in miles, supported by a vicinity sketch;~~
- ~~((5) For preliminary proposals, a description of the proposed work identifying major work items, accompanied by a typical roadway section. For construction projects, a detailed description of the proposed work, identifying major work items, accompanied by a typical roadway section and right of way map;~~
- ~~((6) For the preliminary proposal, a detailed description of the existing facility covering the following:~~

- (a) Its structural ability to carry loads imposed upon it;
- (b) Its capacity to move traffic at reasonable speeds without undue congestion;
- (c) Its adequacy of alignment and related geometrics;
- (d) Its accident experience; and
- (e) Its fatal accident experience.

For the construction project, the condition for which the project rated in the priority array for authorization and the manner in which the design of the proposed construction will alleviate the condition:

- (7) Existing traffic volume VPD (volume per day);
- (8) Estimated traffic volume for future 20-year period VPD (volume per day) and estimated design hour volume;
- (9) The project's item number on the city's or county's most recent six-year construction program;

(10) For preliminary proposals, a statement of the estimated completion date for work contained therein; For construction projects, a statement as to the estimated date of advertising for bids for construction;

(11) Estimate of project cost. For the preliminary proposal, an estimate of project costs for preliminary engineering, environmental impact analysis and right of way appraisals along with a preliminary estimate of costs associated with right of way acquisition and proposed project construction;

For the construction project, a summary of costs incurred in connection with the preliminary proposal and any remaining authorized but unobligated urban arterial trust funds and the amount of urban arterial trust funds requested for right of way acquisition and construction of the construction project;

(12) Established sources of locally collected matching funds and certification by the mayor or chairman of the board of county commissioners that locally collected matching funds are available to coordinate with the project's development;

(13) An explanation of types and amounts of funds other than urban arterial trust funds and locally collected matching funds associated with the project. Certification shall be given by the mayor or chairman of the board of county commissioners that such funds are committed for the project and are available to coordinate with the project's development;

(14) A certification by the mayor or chairman of the board of county commissioners, or their designee, that the proposed project has been reviewed by the legislative body of the administering agency or agencies, and is not inconsistent with the agency's comprehensive plan for community development and, for construction projects, that an environmental impact analysis of the proposed project has been conducted;

(15) A schedule of anticipated project expenditures on a quarterly basis;

(16) Identification of changes between the scope of work of the proposed construction project and the construction work contemplated in the current six-year construction program and the preliminary proposed prospectus and an explanation and justification of such changes:)) When requested by the board, applications for proposed projects shall be submitted to the board by cities and counties seeking allocation of funds from the urban arterial trust account. The application form will be provided by the board.

AMENDATORY SECTION (Amending Order 79-01, Resolution Nos. 596, 597, 598, filed 8/1/79)

WAC 479-12-020 TIME AND PLACE FOR SUBMISSION OF PROPOSED URBAN ARTERIAL TRUST ACCOUNT PROJECTS. All project prospectuses submitted by local governments shall be submitted to:

((Chairman, Urban Arterial Board))
 Director, Transportation Improvement Board
 ((Highway Administration)) Transportation Building
 Olympia, Washington 98504

Prospectuses for preliminary proposals shall be requested by the ((urban arterial)) board after:

(1) Projects contained in the local governments' current six-year ((construction)) transportation programs and scheduled to begin in the subsequent biennium, have been evaluated as to priority;

(2) The obligation status of the urban arterial trust account and legislative appropriation authority have been reviewed and capacity to authorize additional projects determined.

Prospectuses for preliminary proposals shall be received by the ((urban arterial)) board by the first day of the month preceding the month in which project authorization is proposed unless a later receipt date is

specified and permitted, in writing, by the ((chairman of the urban arterial board)) director.

Prospectuses for construction projects shall be received by the ((first day of the month)) twentieth day of the month preceding the month in which construction project authorization is proposed unless a later receipt date is specified and permitted, in writing, by the ((chairman of the urban arterial board)) director.

Chapter 479-13 WAC
SUBMISSION OF SIX-YEAR PLANS TO ((URBAN ARTERIAL TRUST ACCOUNT)) TRANSPORTATION IMPROVEMENT BOARD

AMENDATORY SECTION (Amending Order 84-01, Resolution Nos. 818 and 819, filed 5/9/84)

WAC 479-13-010 SIX-YEAR ((CONSTRUCTION)) TRANSPORTATION PROGRAMS FOR URBAN AREAS. The six-year ((construction)) transportation programs of urban area cities and counties required, respectively, by RCW 35.77.010 and 36.81.121, shall be divided into two sections:

(1) The basic six-year ((construction)) transportation program for the following six years based upon estimated revenues other than proposals for urban arterial trust account funds for new projects.

(2) A separate section of the six-year ((construction)) transportation program setting forth proposals, if any, for urban arterial trust account funds for new projects to begin in the following biennial period.

The separate section of the six-year ((construction)) transportation program setting forth proposed new projects utilizing urban arterial trust account funds shall be considered as supplemental to the basic six-year ((construction)) transportation program and shall not contain duplicate projects: PROVIDED, That the same project may appear in both the basic and supplemental six-year ((construction)) transportation programs if:

(1) The local agency intends to construct the project with other funds if urban arterial trust account funds are not approved.

(2) The total dollar amount of the basic six-year ((construction)) transportation program approximates estimated revenues available for construction for the following six-year period.

Upon ((urban arterial)) board approval of any new project for financial assistance from the urban arterial trust account, such project shall be amended into the basic six-year ((construction)) transportation program.

The separate portion of the six-year ((construction)) transportation program, setting forth new project proposals for urban arterial trust account funding, shall be listed in order of their priority in the following manner:

(1) Federal urban area cities and counties shall divide arterials by functional class and list in order of their priority as provided for by RCW 47.26.220.

(2) Nonfederal urban area cities shall list all proposals in order of their priority.

The local agency shall evaluate its arterials by utilizing the criteria outlined in RCW 47.26.220 which covers the following:

- (1) The structural ability to carry loads.
- (2) Capacity to move traffic.
- (3) Alignment and related geometrics.
- (4) Accident experience.
- (5) Fatal accident experience.

The ((urban arterial)) board will provide the agency with a listing of arterial deficiencies based on the information contained in the long-range plan as last updated by the agency. This information can be used to fulfill the requirement stipulated in RCW 47.26.220.

The requested urban arterial trust account funds to improve the project shall correct the deficiencies found on the section, considering design standards, project life, and unique local considerations.

((The following information shall be provided for each new project proposal for urban arterial trust account funding:

- (1) Local name of arterial;
- (2) Arterial number;
- (3) Local government's priority number. (Federal urban area cities and counties within functional class)
- (4) Length in miles;
- (5) Description of proposed work;
- (6) Estimate of total cost of project;
- (7) Status of urban arterial trust funds: (proposed or approved)
- (8) Total requested urban arterial trust funds for the project.

(9) Inventory data regarding existing geometric, structural, accident and traffic conditions.

(10) Written acknowledgement, from each adjacent city, county and department of highway district office, that it has had an opportunity to evaluate, prior to the public hearing thereon, the preparing agency's proposed six-year construction program requesting urban arterial trust funds for proposed new projects if such proposed new projects affect the specified unit of government. Such acknowledgement shall be for the purpose of proposing related arterial improvement projects, in order to contribute to the goal of an integrated and coordinated arterial and highway system and shall not indicate approval or disapproval of the preparing agency's six-year construction program. The preparing agency may provide evidence of delivery of a copy of its proposed six-year construction program by certified mail to each adjacent agency if written acknowledgement of evaluation by such adjacent agency cannot be obtained within fifteen days from the date of mailing.)

Inventory data for each proposed project shall be prepared under the supervision of a registered engineer in the state of Washington.

A copy of the basic six-year ((construction)) transportation program shall be submitted to the ((urban arterial)) board along with a copy of the resolution of the city or county adopting such program. The separate section of the six-year ((construction)) transportation program, setting forth new project proposals for urban arterial trust account funding, shall be submitted to the ((urban arterial)) board on forms provided by the board and shall be accompanied by a copy of the resolution of the city or county adopting the separate section of the six-year ((construction)) transportation program: PROVIDED, That if the city or county does not desire to propose new projects for urban arterial trust account fund assistance, the only submission to the ((urban arterial)) board shall be a written statement to that effect.

AMENDATORY SECTION (Amending Order 87-01, Resolution No. 955, filed 10/19/87)

WAC 479-13-035 VALUE ENGINEERING STUDY REQUIREMENTS. A value engineering (VE) study shall be required on all urban arterial ((board)) trust account projects whose total cost exceeds one million dollars as reflected in the six-year program. Upon request from a local agency, the board may grant a variance from this requirement. The board may also require a VE study for a project whose total cost is one million dollars or less upon a determination by the board that a VE study is warranted.

An agency that proposes to obtain a variance from the requirement shall submit justification to the board by the first day of the month preceding the month in which project authorization is proposed unless a later receipt date is specified and permitted, in writing, by the ((chairman)) director.

The board shall not authorize funds for a project until the VE study has been performed by an interagency study team ((approved)) in compliance with guidelines furnished by the board.

((The VE study shall be accomplished in accordance with the following requirements:

(1) The team will be jointly selected by the urban arterial board staff and the local agency and approved by the board. The team should consist of five to seven individuals, including a facilitator, with diverse backgrounds and carefully selected to assure a variety of creative input. The team should not include members who have had previous intimate involvement with the project. The local agency will designate the agency official who has the responsibility for considering and implementing the VE recommendations provided by the study team.

(a) At least one member should be a nonengineer to give greater objectivity to the VE study.

(b) The public works department and/or financial managers of the local agency should have representation on the team.

(c) At least one member must be from an outside governmental agency.

(d) Team members may be suitably qualified individuals from the community.

(e) The facilitator shall be selected from a list provided by the board staff. The facilitator shall be a person who has been formally trained in the value engineering process and whose primary responsibility is to assure completion of the study in a three to five working day time period.

(2) The preliminary and construction prospectus shall include an attachment relating to the implementation of the VE team's recommendation and justification for items not implemented.)

AMENDATORY SECTION (Amending Order 87-01, Resolution No. 955, filed 10/19/87)

WAC 479-13-060 ((ACCELERATED DEVELOPMENT URBAN ARTERIAL)) PROCEDURES FOR TWO-PHASE PROJECTS. Preliminary proposals and related construction projects initially authorized by the ((urban arterial)) board after the close of the 1977-1979 biennium and prior to July 1, 1987, for financial assistance from the urban arterial trust account shall be selected for authorization on the basis of the administering agency's projected ability to place the proposed project under contract for construction within eighteen months from the date of initial authorization. The scope of the preliminary or construction prospectus shall specifically address the type of improvement that will correct the deficiencies for which the project was selected. The prospectus shall also address the cumulative effect of other deficiencies considering design standards and project life. The board shall evaluate the project scope and may reduce the project scope if, in the board's opinion, the scope exceeds that necessary to improve the specific deficiencies, applicable design standards, and address unique local considerations. The following factors relative to each project, in addition to other factors required by law, shall be evaluated:

(1) Each project having an estimated total project cost of less than seven hundred fifty thousand dollars shall be evaluated on the basis of the following factors and any problems noted shall be resolved prior to project authorization:

(a) Availability and source of matching funds;

(b) Engineering capacity. Adequate in-house engineering capacity shall be available to permit each project authorized to be engineered without retarding development of other public works projects or the administering agency shall indicate that consulting engineering services will be obtained without delay;

(c) Right of way. Right of way acquisition required for each project authorized shall be minor in nature, or the administering agency shall provide a definitive plan for acquisition in order that all right of way or right of prior entry may be obtained prior to placing the project under contract for construction;

(d) Interrelationships with other agencies, railroads or utilities. Any interrelationships that, on the basis of previous experience may be expected to cause project delays, shall be evaluated and a definitive plan, including concurrence from the involved agency, railroad or utility, shall be available;

(e) Community reaction. Any community opposition, whether known or expected to materialize, shall be evaluated for its projected effect upon project development;

(f) Other factors. Other factors known to the agency that will affect the agency's ability to place the project under contract for construction within eighteen months from the date of project authorization.

(2) No urban arterial project which exceeds seven hundred fifty thousand dollars in total estimated project cost shall be considered for authorization by the board unless specifically requested by the administering local agency. The administering agency shall address itself to the same factors that are specified in subsection (1) of this section and which demonstrate that the project can be placed under contract for construction within eighteen months from the date of project authorization. The ((urban arterial)) board shall, in each case in which there is doubt concerning the ability of the local agency to place the project under contract for construction within eighteen months from the date of authorization, require preparation and submission of a detailed CPM or PERT time schedule reflecting scheduled development of the project.

The ((urban arterial)) board shall review the written reply concerning each proposed project and the verbal representations of an official of the administering agency, and shall not authorize any project if one or more of the factors listed above are not resolved so that the project cannot, in the ((urban arterial)) board's judgment, be placed under contract for construction within eighteen months from the date of authorization. Any project proposed to be developed in stages shall be capable of having at least seventy-five percent of the project, when evaluated in dollar terms, under contract for construction within the eighteen month period.

Each city or county administering an accelerated development project shall provide project development data on a monthly basis to the ((urban arterial)) board in such form as is requested to permit a continuing review of project progress.

Any preliminary proposal or construction project that is authorized for development as an accelerated development project shall be subject to immediate cancellation at any time, if actual development in the

judgment of the ((~~urban arterial~~)) board, falls behind the rate of development required to permit the project to be placed under contract for construction within eighteen months of the date of authorization.

(3) The project agreement for each preliminary proposal project authorized by the ((~~urban arterial~~)) board shall include a recognition and agreement on the part of the administering local agency or agencies that urban arterial trust funds provided by chapter 83, Laws of 1967 ex. sess., and section 13, chapter 317, Laws of 1977 ex. sess., chapter 5, Laws of 1979, as now or hereafter amended, have reached a status of total obligation and that:

(a) The full, normal ninety percent matching funds from the urban arterial trust account may not be available for all projects; and

(b) The administering local agency or agencies is/are required to plan and design each project in such a manner as to permit its development in phases with the first phase being a usable improvement as approved by the ((~~urban arterial~~)) board; and

(i) Able to be developed with available urban arterial trust account and local matching funds; or

(ii) That the administering local agency or agencies agree(s) to pay additional project costs with other funds and that such funds will be available for the construction of the project being developed with the available financial assistance from the urban arterial trust account.

(4) Prospectuses for construction projects that relate to preliminary proposals initially authorized by the ((~~urban arterial~~)) board for financial assistance from the urban arterial trust account shall be required to be accompanied by the following information demonstrating the readiness of the construction project to be placed under contract for construction.

(a) A certification from the legislative body or other designated responsible official, of the administering agency or agencies, that an environmental impact analysis has been conducted and an environmental impact statement or negative declaration of environmental impact, as appropriate, has been circulated pursuant to chapter 43.21C RCW, and that the results have been utilized in arriving at the decisions reflected in the prospectus for the construction project.

(b) A certification from the legislative body that the project is completely designed and ready to be advertised for bids for construction except as provided below:

(i) If the project is not completely designed and ready to be advertised, the legislative body may submit a time schedule detailing all significant items of work remaining to be accomplished, and an explanation of the feasibility of accomplishing such items of work in sufficient time to permit the construction project to be placed under contract for construction within eighteen months from the date of ((~~urban arterial~~)) board authorization of financial assistance from the urban arterial trust account for the related preliminary proposal.

(ii) If any right of way remains to be acquired, a statement of the extent of the time period to be allowed for right of way negotiations and a firm date, not more than fifteen months from the date of ((~~urban arterial~~)) board authorization of the preliminary proposal, by which condemnation authorization will be considered and approved by the legislative body. If more than fifteen months have elapsed since date of authorization of the related preliminary proposal by the ((~~urban arterial~~)) board, a condemnation ordinance must have been approved and passed by the legislative body of jurisdiction prior to submission of the prospectus for the construction project.

(c) The date when the project will be advertised for bids for construction.

(d) Each construction project prospectus shall identify changes between the scope of work of the proposed construction project and the construction work contemplated in the current six-year ((~~construction~~)) transportation program and the preliminary project prospectus and provide an explanation and justification for such changes.

(e) The amount of urban arterial trust account funds authorized in total for the preliminary proposal and the construction project shall normally be the amount requested for the total project in the current six-year ((~~construction~~)) transportation program.

(f) Requests for authorization of urban arterial trust account funds for construction projects in:

(i) Federal urban areas shall be considered in the sequence in which the construction projects within each functional class of arterial within each region are, as defined by ((~~urban arterial~~)) board rules, ready to be placed under contract for construction. In the event that two or more projects in the same functional class of arterial within the same region are proposed for construction project funding at the same ((~~urban arterial~~)) board meeting, the request for urban arterial trust funds

for the construction projects shall be considered in the priority sequence within functional class of arterial within region in which the related preliminary proposals were approved.

(ii) Rural incorporated cities shall be considered in the sequence in which the construction projects within each region are, as defined by ((~~urban arterial~~)) board rules, ready to be placed under contract for construction. In the event that two or more projects in the same region are proposed for construction project funding at the same ((~~urban arterial~~)) board meeting, the request for urban arterial trust account funds for the construction projects shall be considered in the priority sequence within region in which the related preliminary proposals were approved.

A specific, maximum amount of urban arterial trust account funds for each construction project shall be authorized by the ((~~urban arterial~~)) board and shall be added to any remaining authorization of urban arterial trust account funds for the preliminary proposal to establish the total authorized amount of urban arterial trust account funds for each total project.

(g) The ten percent, not to exceed fifty thousand dollars, increase in urban arterial trust account funds authorized to be approved by the ((~~chairman~~)) director by WAC 479-20-036 may be approved, for those projects for which financial assistance from the urban arterial trust account is provided in two phases, only after the construction proposal has been approved by the ((~~urban arterial~~)) board.

AMENDATORY SECTION (Amending Order 87-01, Resolution No. 955, filed 10/19/87)

WAC 479-13-070 PROCEDURES FOR TWO PHASE PROJECTS. After July 1, 1987, preliminary proposals and related construction projects authorized by the board for financial assistance from the account shall be selected for authorization based upon the ((~~board's approval of the local agencies project development schedule~~)) following factors:

The preliminary and construction prospectus shall specifically address the type of improvement that will correct the deficiencies for which the project was selected.

The board shall evaluate the project scope and may reduce the project scope if, in the board's opinion, the scope exceeds that necessary to improve the deficiencies.

The following factors relative to each project, in addition to other factors required by law, shall be evaluated:

(1) Each project shall be evaluated on the ((~~basis of the following factors and any problems noted shall be resolved prior to project authorization~~)):

~~(a))~~ availability and source of matching funds((:));

~~((b))~~ Engineering capacity. Adequate in-house engineering capacity shall be available to permit each project authorized to be engineered without retarding development of other public works projects or the administering agency shall indicate that consulting engineering services will be obtained without delay;

~~(c)~~ Right of way. Right of way acquisition required for each project authorized shall be minor in nature, or the administering agency shall provide a definitive plan for acquisition in order that all right of way and right of entry may be obtained prior to placing the project under contract for construction;

~~(d)~~ Interrelationships with other agencies, railroads, or utilities. Any interrelationships that, on the basis of previous experience may be expected to cause project delays, shall be evaluated and a definitive plan, including concurrence from the involved agency, railroad, or utility, shall be available;

~~(e)~~ Community reaction. Any community opposition, whether known or expected to materialize, shall be evaluated for its projected effect upon project development;

~~(f)~~ Other factors. Other factors known to the agency that will affect the agency's ability to place the project under contract for construction within the amount of time requested by the local agency.

(2) The board shall, in each case in which there is doubt concerning the ability of the local agency to place the project under contract for construction within the amount of time requested by the local agency, require preparation and submission of a detailed critical path time schedule.

The board shall review the written reply concerning each proposed project and the testimony by an official of the administering agency, and shall not authorize any project if one or more of the factors listed above are not resolved so that the project cannot, in the board's judgment, be placed under contract for construction within the amount of time approved by the board. Any project proposed to be developed in

~~stages shall be capable of having at least seventy-five percent of the project, when evaluated in dollar terms, under contract for construction within the approved time period.~~

~~Each city or county administering a project funded by the board, shall provide project development data on a quarterly basis to the board, in such form as is requested, to permit a continuing review of project progress.~~

~~Any preliminary proposal or construction project that is authorized for development shall be subject to immediate cancellation at any time, if actual development in the judgment of the board, falls behind the rate of development required to permit the project to be placed under contract for construction within the amount of time originally requested and approved.)~~

(2) Prospectuses for construction projects that relate to preliminary proposals initially authorized by the board for financial assistance from the account shall be required to be accompanied by the following information demonstrating the readiness of the construction project to be placed under contract for construction.

(a) A certification from the legislative body or other designated responsible official, of the administering agency or agencies, that an environmental impact analysis has been conducted and an environmental impact statement or negative declaration of environmental impact, as appropriate, has been circulated pursuant to chapter 43.21C RCW, and that the results have been utilized in arriving at the decisions reflected in the prospectus for the construction project.

(b) A certification that all right of way required for the project is available or if right of way remains to be acquired that the agency has obtained a possession and use agreement on the parcels in question.

(c) A certification from the legislative body that the project is completely designed and ready to be advertised for bids.

(d) The date the project will be advertised for bids.

(e) Each construction project prospectus shall identify changes between the scope of work of the proposed construction project and the construction work contemplated in the current six-year ~~(construction)~~ transportation program or the preliminary project prospectus and provide an explanation and justification for such changes.

(f) The board shall consider adjustments to the amount requested in the six-year transportation program in accordance with the board's rule on increases in urban arterial trust account funds.

(3) Requests for authorization of funds for construction projects in:

(a) Federal urban areas shall be considered in the sequence in which the projects within each functional class of arterial within each region are, as defined by board rules, ready to be placed under contract for construction. In the event that two or more projects in the same functional class within the same region are proposed for funding at the same board meeting, the request for funds shall be considered in the same priority sequence within each functional class and region in which the related preliminary proposals were approved.

If insufficient funds are available in the account to allow the board to fund the construction phase when requested, the board shall notify the agency that notice will be provided when funds are available to again proceed with the request. At that time the agency will resubmit their request and will be given priority within the appropriate region over all other requests for funding submitted after their original request for construction funds.

(b) Rural incorporated cities shall be considered in the sequence in which the projects within each region are, as defined by board rules, ready to be placed under contract for construction. In the event that two or more projects in the same region are proposed for funding at the same board meeting, the request for funds shall be considered in the same priority sequence within region in which the related preliminary proposals were approved.

If insufficient funds are available in the account to allow the board to fund the construction phase when requested, the board shall notify the agency that notice will be provided when funds are available to again proceed with the request. At that time the agency will resubmit their request and will be given priority within the appropriate region over all other requests for funding submitted after their original request for construction funds.

The board, when considering approval of the construction phase of a project that was previously approved for the preliminary engineering phase, shall take into consideration the current balance of available funds in the account and shall not authorize the construction phase if, in the board's opinion the total funding for construction will not be available within the ensuing twelve-month time period.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 479-13-040 1975-77 ACCELERATED DEVELOPMENT URBAN ARTERIAL PROJECTS.

WAC 479-13-050 1977-79 ACCELERATED DEVELOPMENT URBAN ARTERIAL PROJECTS.

AMENDATORY SECTION (Amending Order 80-02, Resolution No. 656, filed 10/27/80)

WAC 479-16-015 REGISTERED ENGINEER IN CHARGE. ~~((All urban arterial projects using funds from the urban arterial trust account shall be planned, designed and constructed under the supervision of a professional engineer registered in the state of Washington.~~

~~A city may be required, at a time or times specified by the chairman, to submit plans, specifications, estimates and change orders to the chairman for review and approval. On all such projects, construction engineering shall be performed by the consulting engineer. Prior to approving change orders whose effect would be to increase the cost of the project, the city shall notify and consult with the chairman of the urban arterial board. PROVIDED, HOWEVER, That this subsection shall not apply to county projects or to projects in cities which have access to a staff or consulting engineer designated pursuant to state law or local ordinance as the city engineer.~~

~~On projects where plans and specifications have been submitted to the chairman pursuant to the preceding subsection the chairman shall proceed as follows:~~

~~(1) If plans and specifications are in accordance with the design standards and the proposed improvement is within available funding, notify the local agency to proceed with construction.~~

~~(2) If plans and specifications are not in accordance with the design standards or the proposed improvement is not within available funding, the local agency shall be notified of the results of the review and recommended revisions to the plans and specifications. The chairman may require as many reviews as necessary prior to notification to proceed or may require a planned review and advertisement of the contract by the department of transportation if in his opinion it is necessary to assure proper construction of the project.) All projects using urban arterial trust account funds shall be planned, designed, and constructed under the supervision of a professional engineer registered in the state of Washington.~~

AMENDATORY SECTION (Amending Order 34, filed 2/6/68)

WAC 479-16-016 CERTIFICATION OF COMPLETION. Each voucher for payment of ~~((urban arterial trust))~~ board funds shall be accompanied by certification of the registered engineer in charge that the work has been completed in accordance with plans and specifications.

AMENDATORY SECTION (Amending Order 10, filed 9/12/67)

WAC 479-16-020 STANDARD SPECIFICATIONS ~~((FOR PUBLIC WORKS CONSTRUCTION CONTRACTS))~~. Either Standard Specifications for Municipal Public Works Construction, current edition, Washington state chapter, American Public Works Association, or Standard Specifications for Road and Bridge Construction, current edition, state of Washington, revised as to form to make reference to local governments, shall be included in any contract entered into by local governments using ~~((urban arterial trust account))~~ board funds.

AMENDATORY SECTION (Amending Order 160, filed 12/14/70)

WAC 479-16-030 UTILITY AND RAILROAD ADJUSTMENTS AND RELOCATIONS. Utility and railroad adjustments and relocations may be performed by negotiated contract with the ~~((utility or railroad whose))~~ owner of those facilities ~~((are required to be adjusted or relocated))~~. The administering ~~((county or city))~~ agency shall ~~((first obtain,))~~ review and approve a written statement ~~((of))~~ that includes the items of work and an estimate of cost ~~((stated))~~ prepared by the utility or railroad ~~((to be))~~ for the work required as a result of the arterial improvement. Updated statements of items of work and estimates of cost may be reviewed and approved by the administering agency. All costs of utility and railroad adjustments, as finally approved by the administering agency, shall be subject to audit. ~~((Each negotiated contract shall include the applicable provisions of~~

Bureau of Public Roads Policy and Procedure Memoranda 30-3 and 30-4 if federal aid highway funds are included in the project.) If federal aid highway funds are included in the project, the negotiated contract shall include the applicable provisions of federal highway administration policies and procedures prescribed in FHPM 1-4-3, FHPM 6-6-2-1, Code of Federal Regulations, 23 CFR 645 and 23 CFR 646.

AMENDATORY SECTION (Amending Order 95, filed 5/23/69)

WAC 479-16-035 UNDERGROUNDING UTILITIES. (~~Urban arterial trust~~) Board funds shall participate in the actual, necessary costs of relocating utility or other service facilities resulting from an approved urban arterial project when:

(1) The local agency administering the project directly incurs such costs (:) or

(2) The local agency administering the project is obligated by law or by previously established and documented policies and practices for such costs.

(~~Urban arterial trust~~) Board funds may participate in the costs of undergrounding service connections for street illumination and traffic signal services within the prescribed limits of the approved (~~urban arterial~~) project.

(~~Urban arterial trust~~) Board fund participation in the actual, necessary costs of relocating utility or other service facilities, other than service connections for street illumination and traffic signal services within the prescribed limits of the approved (~~urban arterial~~) project, shall be further limited as follows:

((~~†~~)) (a) Where a local agency requires that existing overhead facilities be placed underground, (~~urban arterial trust fund~~) board participation shall be limited to the agency's actual cost thereof or the cost which would be incurred in placing them overhead, whichever is the lesser.

((~~‡~~)) (b) If utility lines or other service facilities are already underground, (~~urban arterial trust~~) board funds may participate in the costs of replacing such facilities on an underground basis.

AMENDATORY SECTION (Amending Order 33, filed 2/6/68)

WAC 479-16-040 TRAFFIC CONTROL DEVICES. Traffic control devices included in a participating project may be installed by the employees and with the equipment and materials of the local governmental units: PROVIDED, That the basis for payment of (~~urban arterial trust account money~~) board funds is reimbursement of the appropriate portion of actual cost of such work, subject to appropriate audit.

AMENDATORY SECTION (Amending Order 233, filed 2/22/72)

WAC 479-16-045 (~~URBAN ARTERIAL~~) PROJECT PLANTINGS. (~~Urban arterial trust~~) Board funds may participate at the appropriate matching ratio in the cost of street tree plantings and the use of other plantings and supporting materials within the project right of way to a maximum of three percent of the total authorized project costs: PROVIDED, That requests for increases in the authorized amount of (~~urban arterial trust~~) board funds to cover street tree planting and related costs shall be considered jointly with other cost increases and approval of all such requests shall be limited to the amount authorized by WAC 479-20-036 to be approved by the (~~chairman of the urban arterial board~~) director. Erosion control treatment shall not be considered a part of street tree planting costs.

The three percent limitation for street tree planting and related costs on a participating basis utilizing (~~urban arterial trust~~) board funds shall not affect the local government's authority to include street tree plantings and the use of other plantings or supporting materials in the urban arterial project in amounts that exceed the three percent of total authorized project cost provided they are paid for solely with funds other than (~~urban arterial trust~~) board supplied funds.

AMENDATORY SECTION (Amending Order 173, filed 4/28/71)

WAC 479-16-050 ACQUISITION OF RIGHTS OF WAY (~~BY CITIES AND COUNTIES~~). (~~The following standards and procedures for right of way acquisition shall be followed by the various cities and counties before any funds from the urban arterial trust account shall be approved for payment for right of way acquisition:~~

(~~†~~) The correct ownership of property shall be secured on all parcels of property to be purchased by obtaining a title report from a recognized title insurance company:

(~~2~~) All parcels to be purchased shall be appraised by one or more competent real estate appraisers, EXCEPT, appraisals or value findings are not required for parcels obtained for a purchase price of not to exceed five hundred dollars. The appraiser shall prepare a properly supported written appraisal containing the date of the appraisal, legal description and/or identification of the property, definition of the property rights to be acquired, estimate of compensation due, supporting documentation and a signed certificate that the appraiser has inspected the property and has no personal interest in the property either now or contemplated. Appraisers may be either independent fee appraisers or qualified staff appraisers.

(~~3~~) An internal system of checks and balances shall be established whereby the appraising, the negotiating and the final approval of a transaction shall each be by one or more separate individuals.

(~~4~~) Settlements shall, in general, be at the appraised compensation. In the case of a settlement above the appraised compensation, not including court awards, a written statement shall be prepared giving all the reasoning for payments in excess of the appraisal of each transaction consummated.

(~~5~~) Records shall be maintained and made available to the urban arterial board for a period of five years and shall include copies of title reports, appraisals, pertinent letters, maps, deeds, vouchers and any other material pertinent to the acquisition.

To carry out the intent of this resolution, the chairman of the urban arterial board shall from time to time check with the various cities and counties utilizing funds from the urban arterial trust fund to determine if the above standards and procedures are being adhered to:

If any city or county is found to be deficient in any of the above standards and procedures, the chairman of the urban arterial board shall immediately prepare and submit a written report on such deficiencies to the said city or county in question and to the urban arterial board for such action as it may deem proper and advisable.) Right of way for board funded projects shall be acquired in accordance with chapter 468-100 WAC.

AMENDATORY SECTION (Amending Order 81-03, Resolution No. 686, filed 8/4/81)

WAC 479-16-060 DESIGN STANDARDS FOR URBAN ARTERIAL(~~S~~) TRUST ACCOUNT PROJECTS. (~~Cities and counties within federal urban areas shall, in preparing and implementing their urban arterial programs, follow the design standards for urban arterials in the state of Washington dated July 30, 1981:~~

Incorporated cities outside federal urban areas shall, in preparing and implementing their urban arterial programs, follow the design standard "collector arterial" found in the design standards for urban arterials in the state of Washington dated July 30, 1981.

A copy of these standards shall be available upon request to the office of the urban arterial board. These standards shall be used for all projects presented for approval of urban arterial trust funds on July 30, 1981, and thereafter.) All urban arterial trust account funded projects shall be prepared using currently applicable design standards.

AMENDATORY SECTION (Amending Order 81-01, Resolution Nos. 666, 667 and 668, filed 1/29/81)

WAC 479-16-070 STANDARDS FOR FUNCTIONAL CLASSIFICATION OF URBAN ARTERIALS. All roads and streets of each county and city lying within or having within its boundaries a federal urban area shall be divided by the county or city into arterial roads or streets and access roads or streets. Arterial roads or streets shall be established and subdivided into three functional classes to be known as principal arterials, minor arterials, and collector arterials (~~in accordance with uniform standards established by the urban arterial board~~) in compliance with the (~~federal classification system~~) guidelines for amending functional classifications, and/or federal-aid systems as developed by the Washington department of transportation. Incorporated cities lying outside federal designated urban areas are not required to divide their roads and streets by functional class.

(~~All new roads or streets within federal urban areas that are under construction, have right of way acquired, or are definitely programmed for funding and construction shall be evaluated and functionally classified. New roads or streets planned for in regional comprehensive land use studies, and which represent the participation and joint planning efforts of all levels of government, shall be considered to approach a committed status and may be functionally classified. Projected routes~~

to meet future transportation requirements may be designated and functionally classified when:

- (1) Such routes are included in the transportation study relating to the comprehensive land use studies in regions where such plans exist;
- (2) Such routes are included in the comprehensive plan of the local agency of jurisdiction, have been reviewed by adjacent or other affected agencies, and are integrated with routes contained in the comprehensive plans of adjacent agencies.

All roads or streets within federal urban areas not classified as principal arterials, minor arterials, or collector arterials shall be identified as access roads or streets.

Each request that would change, add to or delete from the previously approved functionally classified arterial system shall be submitted to the district state aid engineer for processing through the department of transportation, planning division. The request shall also be accompanied by information indicating that the request has been reviewed and approved by the legislative body. A copy of the request shall be submitted to the urban arterial board for information purposes only.

All urban arterials within federal urban areas shall be functionally classified on the basis of type and volume of traffic accommodated by the road or street, hereafter referred to as street, and by the street's relative social and economic importance. Each street's traffic type is to be evaluated in terms of its local or through traffic carrying characteristics. The higher the proportion of through traffic carried by a given street, the higher it should normally be functionally classified.

To assist in identifying through traffic carrying characteristics of streets, aerial photographs should be evaluated to identify the hierarchy of traffic generators and traffic generating areas in each urban area. These traffic generators shall be considered to be the most important factor in determining the magnitude of through traffic and shall include, but shall not be limited to, business districts, industrial plants, shopping centers, schools, churches, parks and airports.

Transportation study data, traffic flow maps, master plans and other background data should also be considered, to the extent it is available, in identifying traffic generators.

Examples of other factors that may be considered in determining the proportion of through traffic carried by a street, in addition to actual field interviews, include street designation as "bypass routes," "truck routes" or high proportions of vehicles bearing out-of-state license plates.

The composition of traffic should also be considered in evaluating the through traffic carrying characteristics of streets. Bus transit routes often follow important arterial streets with only the extreme outward ends of bus routes normally making use of nonarterial streets. Similarly, any street which carries a significant number of truck trips is apt to be performing some level of arterial function insofar as such trips reflect a nearby traffic generator of significant economic importance.

Average daily traffic volume on streets shall be evaluated to determine the use currently being given to the street. Traffic volumes, in conjunction with the analysis of through versus local traffic, may be considered to be one of the most important single criterion determining the functional class of urban arterials. However, traffic volumes on streets shall also be considered in relation to the principle of concentrating major traffic flows on a selected system of arterials rather than permitting through traffic to diffuse through many parallel streets designed to a lesser level with resulting increased congestion and accident hazards.

Counties and cities within federal urban areas shall develop urban arterial classification plans so as to integrate with important adjacent rural and state highways. Each city or county preparing a functional classification plan shall coordinate its classifications with those of adjacent units of government to ensure smooth progression from one system to another regardless of trip length, purpose or other qualification. This necessary coordination may sometimes result in an urban arterial designation not otherwise justified.

Special consideration shall be given to streets connecting with freeway and expressway interchanges. Such interchanges should normally carry at least a collector arterial designation in recognition of the fact that:

- (1) Land development comes quickly at interchange areas and traffic volumes tend to grow more rapidly than in other areas.
- (2) Providing adequate on and off ramp facilities makes better utilization of the limited access facility avoiding back-ups at more "popular" ramps.

Off-set arterial intersections shall be avoided to the maximum extent possible to alleviate the need for additional signing, traffic signals and difficult turning movements for drivers.

Frontage roads serving as an integral part of a limited access facility and which serve a number of large, abutting trip generators should normally be considered to be not more than a secondary arterial. Those frontage roads with medium to high traffic volumes without significant abutting land use service would have collector arterial status while low traffic frontage roads without significant abutting land use service would have no arterial status.

"Relief valve" arterials of several blocks duration, often providing a crude kind of downtown by-pass, should not be designated directly parallel to an actual arterial street which is severely congested. Such designation tends to perpetuate the congestion on the actual arterial street by discouraging improvements thereon. If there is no way of improving the congested arterial street, one way operation of the facility should be considered to create a properly planned and engineered couplet. The two streets comprising such a couplet would be considered a single functional route for classification purposes. Such couplets would normally be required only for principal or minor arterials and both streets comprising the couplet would be considered to be of the same functional class.

Streets considered to be arterial in nature when evaluated in accordance with the above standards and instructions shall be further evaluated to determine their appropriate functional classification. This evaluation shall consider the following standards and instructions for principal, minor and collector arterials:

PRINCIPAL ARTERIALS. TRAFFIC SERVICE PROVIDED. Principal arterials provide for movement across and between large subparts of an urban region and serve predominately "through" trips with minimum direct service to abutting land uses.

GROUPING OF TRAFFIC GENERATORS. Principal arterial service is required by medium to large central business districts, most municipal airports, large shopping centers, large colleges and universities, large industrial plants, major governmental centers, large hospitals, important secondary business districts, major rail and seaport terminals and similar land uses which comprise the top layer of the hierarchy of trip generators.

SPACING. Principal arterials will seldom be closer than one mile apart in even the most densely developed urban regions. In practice, it is expected that for most federal urban areas in Washington, spacing of principal arterials will be wider. Moreover, spacing will vary within any given federal urban area with principal arterials being closest together in the vicinity of the central business district and becoming increasingly farther apart toward the suburban, rural boundary.

ROUTE CONTINUITY. Principal arterials shall form a closed, interconnected system linking together major traffic generators in federal urban areas. Stub end arterials are not normally classified as principal arterials.

MINOR ARTERIALS. TRAFFIC SERVICE PROVIDED. Minor arterials provide for movement within the large subparts prescribed by principal arterials. Minor arterials may also serve "through traffic" but provide very much more direct service to abutting land uses than do principal arterials.

GROUPING OF TRAFFIC GENERATORS. Minor arterial service is required by small central business districts and traffic generators as listed above for principal arterials except that such generators will be smaller, plus high schools and some grade schools, strip commercial development, parks, and low-use intensity recreational areas, warehousing areas, and similar land uses which comprise the middle layer of the trip generator hierarchy.

SPACING. Minor arterial streets will seldom be closer than one-half mile from another minor, or principal, arterial street. In practice, it is expected that for most federal urban areas in the state of Washington, the spacing of arterial streets will be wider. Moreover, spacing will vary within any given federal urban area with minor arterials being closest together in the vicinity of the central business district and becoming increasingly farther apart toward the suburban, rural boundary.

ROUTE CONTINUITY. Minor arterials shall, wherever possible, be long, continuous streets with direct rather than meandering alignments.

COLLECTOR ARTERIALS. TRAFFIC SERVICE PROVIDED. Collector arterials provide for movement within the smaller areas, which are often definable neighborhoods, and may be bounded by higher class arterials. Collector arterials serve very little "through" traffic, but serve a high proportion of local traffic requiring direct access to abutting land uses.

GROUPING OF TRAFFIC GENERATORS. Collector arterial service is required for the majority of the nonresidential land uses which generate

measurably important traffic volumes and which are not served by principal or minor arterials:

SPACING. Collector arterials will seldom be closer than one-fourth mile from any other arterial street. In practice, it is expected that for most federal urban areas in the state of Washington, the spacing of arterial streets will be wider. Moreover, spacing will vary within any given federal urban area with collector arterials being closest together in the vicinity of the central business district and becoming increasingly farther apart toward the suburban, rural boundary.

ROUTE CONTINUITY. Collector arterials need not be particularly long or continuous since this would tend to attract through trips in unduly high proportions:

When the classification is complete, arterials classified and designated and local streets identified, it is recommended that each city or county tabulate its street mileage by functional class. These tabulations should be compared with the following recommended tabulations for street mileage by system and vehicle miles traveled by system to serve as a general internal review procedure:

TEST FACTOR	FEDERAL URBAN AREA POPULATION		
	Under 50,000	50,000 to 500,000	Over 500,000
Street mileage by system			
Principal streets	12-15%	10-12%	8-10%
Minor streets	10-12	8-10	7-9
Collector streets	10-12	8-10	7-9
Local streets	68-61	74-68	78-72
Total	100-100%	100-100%	100-100%
Vehicle miles traveled by system			
Principal streets	30-40%	40-50%	50-60%
Minor streets	10-15	10-15	10-15
Collector streets	5-10	5-10	5-10
Local streets	55-35	45-25	35-15
Total	100-100%	100-100%	100-100%

Upon receipt of the classification plans from the cities and counties, the urban arterial board will tabulate total street mileage by system and vehicle miles traveled by system for all of the cities and counties. This information will be used by the board as a guide in its approval of arterial classifications and mileages:))

AMENDATORY SECTION (Amending Order 81-02, Resolution No. 669, filed 1/29/81)

WAC 479-16-072 CLASSIFICATION STANDARDS FOR ARTERIALS IN RURAL INCORPORATED AREAS. Incorporated areas outside federally designated urban areas shall be required to identify their streets as either arterials or local access. An arterial shall be defined by at least one of the following standards:

- (1) Serve as the logical extension of a county arterial into the corporate boundary; or
- (2) Serve as a route connecting local generators such as schools, medical facilities, social centers, recreational areas, commercial centers, or industrial sites within the corporate boundary; or
- (3) Act as a bypass or truck route to relieve the central core area.

Streets failing to qualify under these standards for arterials will not be considered to be eligible for ((UATF)) urban arterial trust account participation.

AMENDATORY SECTION (Amending Order 85-02, Resolution No. 886, filed 7/22/85)

WAC 479-16-080 RATES OF DEVELOPMENT OF FUNCTIONAL CLASSES ((OF URBAN ARTERIALS)) FOR URBAN ARTERIAL TRUST ACCOUNT PROJECTS. Urban arterial trust account funds apportioned to the five regions of the state within the federal urban areas shall be divided between functional classes of urban arterials. Beginning July 1, 1985, the ((urban arterial)) board at the start of each new biennium shall determine the distribution formula to apportion unobligated arterial trust funds to each functional class of arterial within a given urban region as set forth below. The distribution of funds within each region shall be administered so as to permit complete urban arterial trust account projects in each arterial classification to be authorized and funded.

- (1) By determining a ratio between functional classes of roadway within each region, based on the estimated cost of improvement for backlog and first biennium deficiencies, found in the current city and

county long range plan inventory for two-lane roadways. All improvement costs shall be attributable to those sections with average daily traffic greater than the average traffic weighted by section length for two-lane roadways established from the long range plan inventory for each functional class within region.

(2) The ratio determined by subsection (1) of this section shall be weighted by the following amount for each classification to assure that the urban arterial construction program shall provide for a more rapid rate of completion of the long range construction needs of principal arterial roads than for minor and collector arterial roads pursuant to RCW 47.26.200 and 47.26.210.

- (a) Principal arterial ratio weighted by three.
- (b) Minor arterial ratio weighted by two.
- (c) Collector arterial ratio weighted by one.

Urban arterial trust account funds apportioned to the five regions of the state outside the federal urban areas (incorporated cities) shall not be divided by functional class of arterial.

AMENDATORY SECTION (Amending Order 319, filed 4/22/74)

WAC 479-16-091 DEFINITIONS. The following definitions shall apply for purposes of designating and developing bicycle facilities in connection with the arterial street system in urban areas.

Bicycle. Bicycle means every device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than 20 inches in diameter, as defined in RCW 46.04.071, or a three-wheeled vehicle propelled by human power upon which any person may ride having wheels which are more than 20 inches in diameter.

Bikeway ((bicycle route)). Bikeway shall mean all routes that are specifically designated for bicycle travel. Arterial bikeway shall mean all bikeways that are designated on an arterial right of way or on an adjacent low motor vehicle volume street: PROVIDED, That no arterial bikeway shall be designated more than two city blocks or 500 feet, whichever is greater, from the arterial street.

((Exclusive)) Bikeway - Class I ((DOH)) WSDOT - bicycle path. A completely separated right of way designated for the exclusive use of bicycles. Crossflow by pedestrians and motorists are minimized. May be within or outside the right of way of the arterial or highway.

((Restricted)) Bikeway - Class II ((DOH)) WSDOT - bicycle lane. A restricted travelway for the use of bicycles. Use by motor vehicles or pedestrians is not allowed; vehicle parking or sidewalks may be adjacent to the bikeway. Cars or pedestrians may cross the bikeway to reach adjacent driveways or property. Separated from adjacent lanes of motorized traffic by stripes, fixed cones or physical barrier.

((Shared)) Bikeway - Class III ((DOH)) WSDOT - bicycle ((way)) route. A travelway shared with other traffic.

- (1) Bikeway designated by signing only on low traffic volume roadway or local access street. Has no physical separation from traffic.
- (2) Bikeway designated by signing only on sidewalk.

AMENDATORY SECTION (Amending Order 319, filed 4/22/74)

WAC 479-16-092 CONCEPTUAL APPROACH TO BIKEWAY SYSTEM DESIGNATION AND DEVELOPMENT. Bikeways should be planned and developed on an incremental basis with the initial selection of routes being limited to those with the largest amounts of existing bicycle traffic or the greatest expectation of additional bicycle traffic. As bicycle traffic increases, additional bikeways should be designated.

The sequence in which the different classes of bikeways should be considered for designation and development should be consistent with considerations of safety, from the lower cost and most easily developed facilities to the more desirable facilities which are higher cost and generally more difficult to develop as set forth below:

- (1) ((Shared)) Bikeway - Class III.
 - (a) Bikeway designated on low traffic volume roadway or local access street. Has no physical separation from traffic.
 - (b) Bikeway designated on sidewalk.
- (2) ((Restricted)) Bikeway - Class II.
- (3) ((Exclusive)) Bikeway - Class I.

In recognition of the varying physical conditions existing along potential bikeway corridors, bikeways may be comprised of a combination of bikeway classes.

As bicycle usage and safety requirements warrant, and funds are available for bikeway development, the class of bikeway designated and developed should be upgraded to provide for a restricted or exclusive bikeway.

AMENDATORY SECTION (Amending Order 368, filed 8/26/75)

WAC 479-16-096 DESIGN STANDARDS FOR BIKEWAYS. The following general design considerations should be observed in designating and developing bikeway systems:

(1) **Roadway surface.** The roadway surface of any bikeway should be adequate to support the wheel loads of bicycles and riders as well as maintenance vehicles or other types of vehicles which may use or cross the bikeway. The desirable surface should be smooth and consist of a material which is stable and traversable such as an asphaltic material or Portland cement concrete. Well keyed fine gravel or cinders may produce an adequate surface. Coarse graded crushed stone, gravel, or sand are unstable and do not provide a satisfactory roadway surface.

(2) **Traffic control devices.** Signing for traffic control shall conform to the requirements set forth in the current edition of the Manual on Uniform Traffic Control Devices with stenciled word and symbol messages placed on the surface of all lanes and paths at regular intervals.

Other signing for informational purposes, such as area wide bikeway maps posted at strategic traffic generating locations, may be designed to suit the locality and area in which such informational signs are placed.

(3) **Drainage grates.** Any bikeway designated on a roadway along which storm drainage grates, or similar hazards are encountered, should, as a minimum, include the painting of warning stripes around such grates. As soon as feasible, such grates should be modified, by the addition of welded cross strips or other means, so as to prevent the entrance or entrapment of bicycle wheels.

The design of new roadways should provide for storm drain grates located off the bikeway and designed or installed in such a manner as to prevent the entrance or entrapment of bicycle wheels. Use of Department of Highways Design Standard ~~((B-20-1))~~ b.2.a for drainage grates is recommended.

(4) **Curb ramp.** Any bikeway designated on a sidewalk along which curbs are encountered shall, except in those cases where continuation of the curb increases user safety, make curb modifications sufficient to permit bicycles to safely negotiate the curb without necessitating the stopping and lifting of the bicycle. Such curb ramps should be in accordance with the criteria established by RCW 35.68.075.

(5) **Design standards.** The design standards ~~((for bikeways, that shall apply for the period through November 1, 1974.))~~ for exclusive, restricted, or shared bikeways shall be those standards developed by the Washington state department of highways, pursuant to RCW 47-.30.060, as contained in Section ~~((3-30))~~ 3-37 Highway Design Manual.

AMENDATORY SECTION (Amending Order 319, filed 4/22/74)

WAC 479-16-098 EVALUATION AND APPROVAL OF DESIGNATED BIKEWAY SYSTEM. The bikeway plan of each urban city or county shall be submitted to the ~~((urban arterial))~~ board in map form along with the agency's verification that the plan has been:

(1) Integrated with existing "user designated," as well as officially designated bikeways.

(2) Integrated with bikeways of adjacent units and levels of government.

(3) Reviewed with, and approved by, the agency's legislative body.

The total bikeway plan of the agency shall identify separately arterial bikeways, as previously defined, that would be desired to be improved in conjunction with an arterial construction project.

The ~~((urban arterial))~~ board shall notify the submitting city or county of its concurrence in the bikeway plan after such plan has been reviewed and found to be reasonable in relation to the rules adopted by the board.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 479-16-061 DESIGN STANDARDS FOR URBAN ARTERIALS (COLLECTOR CLASS).

WAC 479-16-071 REVIEW OF FUNCTIONAL CLASSIFICATION PLANS.

NEW SECTION

WAC 479-20-007 MATCHING RATIOS FOR URBAN ARTERIAL TRUST ACCOUNT FUNDS. Urban arterial trust account moneys for city and county arterial projects originally authorized by

the board for either the design phase or the construction phase between May 20, 1971, and July 1, 1985, shall be matched from local funds by an amount not less than ten percent of the total cost of the construction for the life of the project.

Urban arterial trust account moneys for city and county arterial projects lying within federally designated urban areas authorized by the board on or after July 1, 1985, shall be matched by an amount not less than twenty percent of the total cost of the construction project.

Urban arterial trust account moneys for city arterial projects lying outside federally designated urban areas authorized by the board on or after July 1, 1985, shall be matched by not less than ten percent of the total cost of the construction project.

AMENDATORY SECTION (Amending Order 87-01, Resolution No. 955, filed 10/19/87)

WAC 479-20-010 REIMBURSABLE ~~((ARTERIAL PROJECT))~~ COSTS. Project costs eligible for reimbursement from the account shall be those proper and allowable costs incurred on a project after the project is authorized by the board except as provided by the following:

(1) In the case of two-phase project authorizations, approved by the board prior to July 1, 1987, the ~~((chairman of the board))~~ director may, after the administering agency has completed the environmental impact analysis, authorize right of way acquisition. Reimbursement from the account will be available for eligible right of way costs if and when the construction phase of the project is approved by the board. For projects approved by the board after July 1, 1987, reimbursement of right of way acquisition costs are eligible within the preliminary phase of the project. In the event the project is not built, those funds expended for right of way shall be refunded to the account.

(2) In the case where an agency is required to perform a value engineering study prior to authorization of the preliminary phase, those costs incurred prior to approval will be eligible for reimbursement if and when the project is approved for funding by the board.

(3) The eligible preliminary and construction engineering costs shall be limited to twenty-five percent of the original bid amount including adjustments for construction overruns, underruns, or agency force construction. Agency costs for the value engineering study and the right of way appraisals and acquisition costs will not be used to determine the amount subject to the limit.

AMENDATORY SECTION (Amending Order 87-01, Resolution No. 955, filed 10/19/87)

WAC 479-20-011 REIMBURSABLE COSTS FOR ENGINEERING. After July 1, 1987, preliminary and construction engineering costs eligible for reimbursement ~~((from the account))~~ shall be limited to twenty-five percent of the approved contract bid amount including adjustments for construction overruns ~~((or))~~, underruns, or agency force construction.

AMENDATORY SECTION (Amending Order 250, filed 5/31/72)

WAC 479-20-013 DIRECT COSTS. Direct costs eligible for ~~((urban arterial trust fund))~~ board participation are those costs which are directly attributable to a specific project and shall include:

(1) Direct labor (engineering and/or construction) including related employee benefits:

(a) Salaries and wages (at actual or average rates) covering productive labor hours of city and county employees (excluding the administrative organization of the operating unit involved) for periods of time, actively or incidentally engaged in (a) preliminary engineering, (b) construction engineering, (c) acquisition of rights of way, and (d) actual construction activities are considered a direct cost of construction projects. The cost of services rendered by employees generally classified as administrative are considered a direct cost only when such employees are assigned for short periods of time to perform on a full time basis the types of services described above and when similar procedures are followed for ~~((nonurban arterial board))~~ nonboard projects.

(b) Employee benefits relating to direct labor are considered a direct cost of construction projects. The following items may be ~~((includible))~~ included as employee benefits:

- (i) F.I.C.A. (Social Security) - employer's share
- (ii) Retirement benefits
- (iii) Hospital, health, dental and other welfare insurance
- (iv) Life insurance
- (v) Industrial and medical insurance

- (vi) Vacation
- (vii) Holiday
- (viii) Sick leave
- (ix) Military leave and jury duty

Employee benefits shall be calculated as a percentage of direct labor dollars. The computation of predetermined percentage rates to be applied to current labor costs shall be based upon the average of total employee benefits and total labor costs for the prior fiscal year and adjusted by known current year variations.

- (2) Contract engineering services
- (3) Right of way acquisition costs including:
 - (a) Purchase of land and easements acquired for and devoted to the project;
 - (b) Purchase of improvements;
 - (c) Adjustment or reestablishment of improvements;
 - (d) Salaries, expenses or fees of appraisers, negotiators or attorneys;
 - (e) Removal or demolition of improvement;
 - (f) Other direct costs in connection with the acquisition. Amounts received from the sale of excess real property or improvements and from any rentals shall be a reduction of the direct cost.
- (4) Contract construction work
- (5) Direct vehicle and equipment charges at the actual rental cost paid for the equipment or, in the case of city or county owned equipment, at the rental rates established by the city's or county's "equipment rental and revolving fund" following the methods prescribed by the division of municipal corporations: PROVIDED, That such costs shall be charged on a uniform basis to equipment used for all projects regardless of the source of funding. Cities with a population of 8,000 or less which may not use this type of fund shall be allowed the same rates as used by the department of highways.
- (6) Direct materials and supplies. The cost of materials used in projects shall be based upon methods prescribed for the "equipment rental and revolving fund" by the division of municipal corporations.
 - (a) An overhead rate or "loading factor" shall not be considered an appropriate additive to the actual cost of materials and supplies used on construction projects unless the factor is readily and properly supportable by the governmental unit's accounting records.
 - (b) The cost, or reasonable estimate thereof, of materials paid for as contract estimate items, but not used, shall be considered a reduction of direct costs. Any material which may be salvaged in connection with a project shall be assigned a reasonable value and considered a reduction of direct costs.
- (7) Interdepartmental charges for work performed by county or city departments, other than the road or street department, for the benefit of specific construction projects shall be limited to direct costs plus an allocation of indirect costs based upon 10% of direct labor dollars, excluding employee benefits. Such indirect costs shall be determined by a rate which is readily and properly supportable by the governmental unit's accounting records and shall be the same rate as applied to ((~~nonurban arterial board~~)) nonboard projects; however, this rate shall not exceed the indirect cost allocation rate established by the board. If individual units of government do not have such an internal indirect cost allocation rate, the rate predetermined by the board shall be used in determining the amount of indirect costs includible in the total interdepartmental charges.
- (8) Other direct costs incurred for materials or services acquired for a specific project shall be eligible for participation by ((~~urban arterial trust~~)) board funds and may include, but shall not be limited to, such items as:
 - (a) Telephone charges
 - (b) Reproduction and photogrammetry costs
 - (c) Computer usage
 - (d) Printing and advertising.

AMENDATORY SECTION (Amending Order 78, filed 1/21/69)

WAC 479-20-016 INDIRECT COSTS. Indirect costs incurred by a local government for common or joint objectives which include an authorized ((~~urban arterial~~)) board funded project, and which are not included in those direct costs set forth and defined in WAC 479-20-013, shall be eligible for urban arterial trust fund participation on a particular project at a rate not to exceed ten percent of direct labor costs, excluding employee benefits, expended by the local government on that project.

AMENDATORY SECTION (Amending Order 217, filed 1/19/72)

WAC 479-20-020 PARTIAL OR PROGRESS PAYMENTS FOR CONSTRUCTION PROJECT COSTS. Participation and payment of ((~~urban arterial trust~~)) board funds to counties and cities shall be governed by the following:

- (1) ((~~Urban arterial fund~~)) Board participation. ((~~Urban arterial~~)) Board funds shall not participate in any cost which is not incurred in conformity with all applicable federal and state law and the rules, regulations and procedures as may be prescribed by the ((~~urban arterial~~)) board promulgated in conformity with the statutes.
- (2) Project agreements. Projects for which ((~~urban arterial trust~~)) board funds are requested by the ((~~counties and cities~~)) eligible agencies and for which the ((~~urban arterial~~)) board has allocated funds will be the subject of a project agreement to be entered into by the ((~~county or city~~)) eligible agency with the ((~~urban arterial~~)) board evidencing acceptance of the conditions to payment of funds, as prescribed by laws and regulations, and the amount of funds to be obligated.
- (3) Changes in project work and cost. No material change in the termini, character, or scope of the work on an approved ((~~urban arterial~~)) project shall be made without prior concurrence in such changes by the ((~~urban arterial~~)) board.
- (4) Payments. ((~~Counties and cities~~)) Eligible agencies are to submit requests for payments of funds claimed to be due on approved projects. Such requests are to be in the form of vouchers as prescribed by the ((~~urban arterial~~)) board, and shall be certified and accompanied by supporting data as may be required by the board. Such vouchers may be submitted from time to time as the work progresses and shall be submitted promptly at the completion of work on each project. Claims shall at no time exceed the ((~~urban arterial trust account~~)) board's share of the costs of construction incurred to the date of the voucher covering such payment.
- (5) Compliance with laws and regulations. If ((~~a county or city~~)) an eligible agency has failed to comply with laws and regulations with respect to a project, payment of funds may be withheld on such projects, or approval of additional projects may be withheld until compliance or remedial action has been accomplished by the ((~~county or city~~)) eligible agency to the satisfaction of the ((~~urban arterial~~)) board.
- (6) Progress payments. Progress payments for project costs shall be limited to the ((~~urban arterial trust account~~)) board's percentage share of the costs for project development incurred to the date of the voucher: PROVIDED, That in all projects where the total project cost exceeds the amount of authorized ((~~urban arterial trust~~)) board funds, there shall be imposed a limitation on progress payments in order that the percentage of ((~~urban arterial trust~~)) board fund progress payments in relation to total progress costs as of each voucher date shall not exceed the percentage determined by dividing the total authorized amount of ((~~urban arterial trust~~)) board funds by the most recently determined total project cost.

AMENDATORY SECTION (Amending Order 79, filed 1/21/69)

WAC 479-20-025 RECORD REQUIREMENTS. All ((~~cities and counties~~)) eligible agencies requesting payment of ((~~urban arterial trust~~)) board funds on authorized ((~~urban arterial~~)) projects shall have procedures in effect that will provide adequate assurance that payments requested are proper and accurate:

- (1) Quantities of complete construction contract work shall be supported by all related source documents upon which payment to the contractor is based. These source documents shall include, but shall not be limited to, tickets for items measured on a weight or volume basis, cross section notes, inspector's diaries, engineering calculations for items measured in place, material tests, shipping invoices for steel, and all other field records normally developed by field engineers to support final quantities paid to contractors. The quantity field record should be summarized so that final pay estimates would lend themselves to comparison with supporting records.
- (2) All appraisal reports, record of negotiations with grantors including a negotiator's diary indicating dates of contracts, offers made, and final acceptance by grantor, title insurance documents, transfer documents such as warranty deeds, quit claim deeds, easements, contract and sale documents, shall be maintained.
- (3) Daily labor time records, equipment use records, requisitions for materials used, invoices for goods and services, and other invoices shall be maintained. Records shall also be maintained which support employee benefit percentages which are used in calculating amounts charged to construction projects.

(4) All records shall be retained in compliance with the requirements of the division of municipal corporations and until after audit by the ((urban arterial)) board designee.

AMENDATORY SECTION (Amending Order 321, filed 5/21/74)

~~WAC 479-20-027 AUDITS OF URBAN ARTERIAL PROJECT RECORDS. Project records for each project developed through the use of ((urban arterial trust)) board funds ((shall)) may be audited to determine that ((the amount of urban arterial trust)) funds paid ((in connection with the project)) can be attributed to the project and supported by project records. The audit ((shall)) will determine ((whether)) if there has been ((material)) compliance with the rules of the ((urban arterial)) board ((and whether any failures to comply are significant in amount)). Projects ((shall)) may be audited by the ((urban arterial)) board at the time of the project completion or at such additional times as may be directed by the ((chairman)) director.~~

~~((The chairman of the urban arterial board shall review each audit report to determine whether audit exceptions noted are sufficiently material in relation to urban arterial board rules or significant in amount to warrant institution of procedures for audit report review and potential recovery of urban arterial trust funds.)) The ((chairman)) director may, where the cumulative amount of audit exceptions ((on a project)) is less than \$250.00 in ((urban arterial trust)) board funds, ((provide the administering agency with a copy of the audit report indicating the audit exceptions and advise the agency that, due to the relatively small cumulative dollar amount of exceptions in relation to estimated costs, to both the urban arterial board and the administering agency, of further processing, explaining the audit exceptions and processing any ultimate repayment.)) advise the agency that no recovery of ((urban arterial trust)) funds is requested.~~

~~Audit ((reports containing)) exceptions which the ((chairman)) director considers to be ((sufficiently material)) significant in relation to ((urban arterial)) board rules or significant in amount to warrant ((institution of procedures for audit report review and)) potential recovery of ((urban arterial trust)) funds, shall be furnished to the administering agency ((and the administering agency shall be provided)) to allow an opportunity to respond in writing to the audit report ((findings within thirty days of the receipt of the audit report)).~~

~~((The chairman of the urban arterial board.)) After reviewing the written response ((of the administering agency to the audit report findings)), the director, shall advise the ((administering)) agency whether any recovery of ((urban arterial trust)) funds ((to the credit of the urban arterial trust account)) is indicated. ((The chairman may, where the cumulative amount of audit exceptions on a project is less than \$2,500.00 in urban arterial trust funds, accept alternative methods of project cost documentation based upon physical evidence that items of cost billed to the urban arterial trust account have been performed in connection with the project being audited.~~

~~In cases where the cumulative amount of audit exceptions on a project is equal to or exceeds \$2,500.00 in urban arterial trust funds, and the agency contests the exceptions contained in the audit report, the urban arterial board shall consider the audit exceptions and may accept alternative methods of project cost documentation based upon physical evidence that items of cost billed to the urban arterial trust account have been performed in connection with the project being audited or may require repayment of urban arterial trust funds to the credit of the urban arterial trust account.))~~

~~If recovery of ((urban arterial trust)) board funds is indicated, as determined by the ((chairman of the urban arterial board)) director, or by the ((urban arterial)) board, the ((administering)) agency shall be provided ((a period of)) ninety days from the date of the notice from the ((urban arterial)) board to make ((such)) repayment.~~

~~If repayment of ((urban arterial trust)) funds by the ((administering)) agency is not made within ninety days from the date of the notice from the ((urban arterial)) board, the subject shall be placed before the ((urban arterial)) board for review and action.~~

AMENDATORY SECTION (Amending Order 79-01, Resolution Nos. 596, 597 and 598, filed 8/1/79)

~~WAC 479-20-031 ((REVIEW OF PROJECT FUNDING DEMAND)) EXPENDITURE SCHEDULE OF URBAN ARTERIAL TRUST ACCOUNT AND TRANSPORTATION IMPROVEMENT ACCOUNT FUNDS. Each ((city or county)) eligible agency~~

having an approved ((urban arterial)) project shall, prior to the beginning of each quarter, submit an updated schedule of its estimated demand for ((urban arterial trust)) board funds to the ((urban arterial)) board. This schedule shall be on forms provided by the board and shall include the estimated demand for ((urban arterial trust)) board funds for the project for:

- (1) The next succeeding quarter;
- (2) Subsequent quarters until project completion.

Such estimates shall be differentiated between the preliminary engineering, right of way and construction stages of project development.

Additional information pertaining to estimated demands for ((urban arterial trust)) board funds by ((cities and counties)) eligible agencies may be requested by the ((chairman of the urban arterial board)) director as required to permit adequate funding of the ((urban arterial)) programs.

AMENDATORY SECTION (Amending Order 87-01, Resolution No. 955, filed 10/19/87)

~~WAC 479-20-033 PROCEDURE FOR REQUESTING AN INCREASE IN AUTHORIZED AMOUNT OF URBAN ARTERIAL TRUST FUNDS. Projects approved prior to July 1, 1987 for participation of urban arterial trust funds in urban arterial projects may be approved by the ((urban arterial)) board in amounts requested in the current separate section of the local government's six-year ((construction)) transportation program.~~

These amounts may be modified only as set forth in WAC 479-20-036.

An updated cost estimate on the project shall be submitted to the ((urban arterial)) board at the following stages of project development:

(1) At the time the project prospectus for preliminary engineering (phase 1) is submitted further defining the work to be accomplished which was outlined in the six-year ((construction)) transportation program;

(2) At any time during the preliminary engineering or right of way phase of the project when estimated total project cost is determined to exceed the amount authorized by the ((urban arterial)) board more than twenty-five percent, or \$75,000, whichever is the lesser;

(3) At the time the engineer's final estimates become available and the construction prospectus is submitted to the ((urban arterial)) board for approval;

(4) At the time contract bids are considered but prior to award of contract;

(5) At the time of contract completion but prior to final settlement on the project between the local government and the ((urban arterial)) board.

The submitting local government may request increased participation by urban arterial trust funds above the amount submitted in the agency's current six-year ((construction)) transportation program or the amount originally authorized by the board, as applicable, at the first, third and fifth stages in the project's development. All such requests shall be evaluated by the board in accordance with board rules.

AMENDATORY SECTION (Amending Order 87-01, Resolution No. 955, filed 10/19/87)

~~WAC 479-20-036 CONSIDERATION OF REQUESTS FOR AN INCREASE IN AUTHORIZED AMOUNT OF URBAN ARTERIAL TRUST FUNDS. For those projects approved prior to July 1, 1987, local agencies may request an increase in the participation of urban arterial trust funds over the amount set forth in the current six-year ((construction)) transportation program at the preliminary prospectus, construction prospectus or contract completion stage of a project in accordance with the following procedures:~~

(1) At the preliminary or construction prospectus stage all requests shall be reviewed by the ((chairman of the board)) director and he shall report his findings to the board for its review, consideration and final action. The board shall not grant a request for increase at these stages if:

(a) The original amount requested and approved by the board was not based upon reasonable engineering estimates;

(b) The requested increase is for funds to pay for an expansion of the scope of the work originally proposed;

(c) After a full investigation, the board determines that the project can be developed within the limits of the funds already approved;

(d) The project can be reduced in scope while retaining a usable and functional segment by:

(i) Reduction in termini of the project in such a manner that the improvement will continue to improve the conditions underlying the project's position of priority and will continue to connect to adjacent traffic facilities capable of handling traffic volumes at the point of intersection; or

(ii) Inclusion within the termini of the project only the following items of cost as required:

(A) Right of way (desirable minimum right of way widths as set forth in the ~~((urban arterial board))~~ board's design standards);

(B) Grading and paving;

(C) Structures;

(D) Drainage;

(E) Relocation of existing illumination and traffic control devices;

(e) The granting of the request will in any way adversely affect the construction program previously approved by the board. In deciding on projects in federal urban areas or nonfederal urban areas, the board shall endeavor to leave an amount equal to 10 percent of all approved projects or \$50,000, whichever is less, in reserve in the appropriate account to insure that the board has funds to deal with unanticipated cost overruns at the contract completion stage of those projects.

(2) Requests for increases in urban arterial trust funds submitted to the board at the contract completion stage shall be reviewed by the ~~((chairman of the board))~~ director. The ~~((chairman))~~ director may authorize increases above the amount originally approved by the board not to exceed 10 percent, or \$50,000, whichever is the lesser when:

(a) The additional funds are not requested because of an expansion in the scope of the work originally proposed to the board by the local agency for the project; and

(b) The request is substantiated with reasons for the increase and the ~~((chairman))~~ director determines that the increased funds should not have been anticipated by the local agency at the preliminary or construction prospectus stage of the project.

(3) If the board does not approve the request of a local agency for an increase at the preliminary prospectus, construction prospectus, or contract completion stage, the administering agency may:

(a) Proceed with the project, paying for any additional costs with local or other funds; or

(b) Withdraw the request for urban arterial trust fund participation; or, if applicable

(c) Within the original amount requested, and subject to approval by the ~~((chairman of the urban arterial board))~~ director, reduce the scope of the project while retaining a usable and functional segment through the use of techniques set out in subsection (1)(d) of this section.

AMENDATORY SECTION (Amending Order 87-01, Resolution No. 955, filed 10/19/87)

WAC 479-20-037 PROCEDURE TO REQUEST INCREASE IN ~~((TRUST))~~ BOARD FUNDS. The amount of funds approved by the board after July 1, 1987, will be based upon the amount requested in the current separate section of the local agency's six-year ~~((construction))~~ transportation program.

Local agencies may request an increase in the participation of funds over the amount set forth in the six-year ~~((construction))~~ transportation program at the preliminary prospectus, construction prospectus, bid opening or contract completion stage of a project in accordance with the following procedures:

(1) At the preliminary or construction prospectus stage all requests shall be reviewed by the ~~((chairman of the board))~~ director and he shall report his findings to the board for its review, consideration and final action. The board shall not grant a request for increase at these stages if:

(a) The requested increase is to pay for an expansion of the scope of the work originally proposed; or

(b) The granting of the request will in any way adversely affect authorized funds previously approved by the board including the reserve for the following:

(i) Increases at bid opening that will not exceed ten percent of the engineers estimate.

(ii) Increases for construction overruns at the amount equal to the account matching ratio multiplied by the sum of ten percent of the estimated contract amount up to one million dollars and five percent of the amount in excess of one million dollars for those projects which have been approved for the construction phase.

(2) Request for increases at bid opening shall not exceed ten percent of the engineers estimate submitted to the board at the time the construction phase was approved. Requests for increases at this stage will

take priority over preliminary and construction phase approvals. Such requests shall be reviewed by the ~~((chairman))~~ director and will not be approved if:

(a) The requested increase is to pay for an expansion of the scope of the work originally proposed; or

(b) If the request is not substantiated and the ~~((chairman))~~ director determines that the increased funds should have been anticipated by the local agency at the construction prospectus stage of the project.

(3) Requests for increases in funds submitted to the board at the contract completion stage shall not exceed the account matching ratio multiplied by the sum of ten percent of the original contract amount up to one million dollars and five percent of the amount in excess of one million dollars. Requests for increases at this stage will take priority over preliminary and construction phase approvals. Such requests shall be reviewed by the ~~((chairman))~~ director and will not be approved if:

(a) The requested increase is to pay for an expansion of the scope of the work originally proposed; or

(b) If the request is not substantiated and the ~~((chairman))~~ director determines that the increased funds should have been anticipated by the local agency at the preliminary or construction prospectus stage of the project.

(4) If the ~~((chairman))~~ director or the board, as the case may be, does not approve the request of a local agency for an increase at the preliminary prospectus, construction prospectus, bid opening or contract completion stage, the administering agency may:

(a) Proceed with the project, paying for any additional costs with local or other funds; or

(b) Withdraw the request for participation; or, if applicable

(c) Within the original amount requested, and subject to approval by the ~~((chairman of the board))~~ director, reduce the scope of the project while retaining a usable and functional improvement.

AMENDATORY SECTION (Amending Order 171, filed 4/28/71)

WAC 479-20-075 EMERGENT NATURE URBAN ARTERIAL TRUST ACCOUNT PROJECTS. An ~~((urban area city or county))~~ eligible agency may submit a request on the ~~((urban arterial))~~ board approved project prospectus form that the board consider a project for participation as a project of an emergent nature pursuant to the provisions of RCW 47.26.450.

A project will be considered by the board under this rule when the need for the improvement project has arisen unexpectedly or because of new developments in the area since the local agency prepared its six-year ~~((construction))~~ transportation program in the last preceding even-numbered year and when it can be clearly demonstrated that this need could not have been anticipated at the time that program was developed.

The local agency shall present evidence to the board concerning the emergent nature of the project and must demonstrate:

(1) That the need for the project has significantly increased since the six-year ~~((construction))~~ transportation program in the preceding even-numbered year was prepared and submitted; and

(2) That there has been a significant change in the location or development of traffic generators in the area of the project; and

(3) That the work proposed to be performed in the project is now necessary to avoid serious traffic congestion in the area of the project in the near future; and

(4) That the significant increase in the need for the project defined in the project prospectus could not have been reasonably anticipated at the time the six-year ~~((construction))~~ transportation program for the preceding even-numbered year was prepared and submitted.

Each application for board consideration of a project as being of an emergent nature shall be accompanied by supporting data including, but not limited to, the following:

~~((+))~~ (a) An analysis of all traffic generators served including ~~((+))~~ (i) applicable origin-destination studies and ~~((+))~~ (ii) other data relating to arterial usage in the area of the proposed project;

~~((2))~~ (b) An analysis of changes in traffic generators served by the proposed arterial project including ~~((+))~~ (i) changes in existing and projected traffic volume data and ~~((+))~~ (ii) changes in any other factors related to arterial usage in the area of the proposed project and ~~((+))~~ (iii) an explanation as to why changes in traffic generators and need for the project improvement were unable to be reasonably anticipated at the time the six year construction program for the preceding even-numbered year was prepared and submitted;

~~((3))~~ (c) All known commitments by public and/or private organizations to actions affecting traffic generators which affect the emergent nature and need for improvement of the particular proposed project.

Each such application shall be accompanied by the most current available data relating to the five priority rating factors specified in RCW 47.26.220 on forms provided by the ~~((urban arterial))~~ board. The ~~((urban arterial))~~ board shall evaluate projects proposed as emergent condition projects in relation to the priority array of projects developed by the ~~((urban arterial))~~ board in preparing its appropriation request for the current biennial period. No project shall be considered for authorization unless the project's priority is sufficiently high that the project would have been included in the ~~((urban arterial))~~ board's appropriation request for the current biennium if it had been available for rating at that time.

No project will be approved for participation as an emergent nature project if the funding of that project may adversely affect the funding of the ~~((urban arterial construction))~~ program as previously approved for participation by the board.

The ~~((urban arterial))~~ board shall consider projects submitted as being of an emergent nature at each quarterly allocation meeting at which time the city or county submitting the proposed project will be given an opportunity to make a presentation to the ~~((urban arterial))~~ board. All project prospectuses for emergent type projects must be received by the ~~((chairman of the urban arterial board))~~ director not later than the first of the months of September, December, March and June to be eligible for consideration at the following quarter's allocation meeting. If the first of the months of September, December, March and June falls on a Saturday, Sunday or a holiday, project prospectuses received on the next working day shall be eligible for consideration at the following quarter's allocation meeting.

AMENDATORY SECTION (Amending Order 217, filed 1/19/72)

WAC 479-20-086 REVIEW OF DELAYED PROJECTS (~~BY URBAN ARTERIAL BOARD~~). The ~~((chairman of the urban arterial board))~~ director shall contact, in writing, each local agency administering ~~((an urban arterial))~~ a board-funded project that appears to be delayed when evaluated in relation to the approved schedule for project development. Any agency that does not respond to the inquiry of the ~~((chairman))~~ director within twenty days explaining whether the project is delayed and, if so, the reasons therefore, ~~((shall automatically))~~ may be placed before the ~~((urban arterial))~~ board as a candidate for cancellation as a delayed project.

The written response of each administering agency shall be reviewed to determine the reason or reasons for each project's delay. Any project that appears to be delayed for an unacceptable reason (~~as defined by urban arterial board rule~~) shall be so advised by certified mail by the ~~((chairman of the board))~~ director. The letter from the ~~((chairman))~~ director shall advise the local agency that:

- (1) The project is delayed for an unacceptable reason;
- (2) The local government has a period of three months from the date of the ~~((chairman's))~~ director's letter to resolve the reason or reasons for delay and to provide evidence to the ~~((urban arterial))~~ board that the problems have been resolved. Such evidence shall, if requested by the ~~((chairman of the urban arterial board))~~ director, include a time schedule for project development (CPM schedule) which sets forth project development dates in sufficient detail to permit monthly monitoring of project progress.

- (3) If the reason or reasons for delay are not resolved within the specified time period, the project ~~((with))~~ may be placed before the ~~((urban arterial))~~ board as a candidate for cancellation.

The administering agency for any project placed before the ~~((urban arterial))~~ board as a candidate for cancellation shall be requested to appear before the ~~((urban arterial))~~ board to explain the status of the project.

AMENDATORY SECTION (Amending Order 217, filed 1/19/72)

WAC 479-20-089 RECOVERY OF URBAN ARTERIAL TRUST FUNDS ON CANCELED PROJECTS. Project development costs incurred by an administering local agency on behalf of an authorized ~~((urban arterial))~~ project that is subsequently canceled at the request of the administering agency, or by the ~~((urban arterial))~~ board, shall be eligible for participation by ~~((urban arterial trust))~~ board funds if, in the opinion of the ~~((urban arterial))~~ board, the agency has pursued the project's development in good faith with a reasonable expectation of completing the project: PROVIDED, That in all

projects where the total project cost exceeds the amount of authorized ~~((urban arterial trust))~~ board funds plus local matching funds, ~~((urban arterial trust))~~ board funds shall be recovered in sufficient amount that the percentage of nonrecovered ~~((urban arterial trust account))~~ payments in relation to total project costs to the date of cancellation or withdrawal shall not exceed the percentage determined by dividing the total authorized amount of ~~((urban arterial trust))~~ board funds by the most recently determined total project cost.

All ~~((urban arterial trust))~~ board funds previously paid to an administering agency on behalf of an authorized ~~((urban arterial))~~ project as a result of falsification, negligence, chicanery or deliberate misrepresentation on the part of the administering agency, in the opinion of the ~~((urban arterial))~~ board, shall be repaid to the ~~((urban arterial trust))~~ appropriate account, or a repayment agreement that is acceptable to the ~~((urban arterial))~~ board shall be executed between the local agency and the ~~((urban arterial))~~ board, within 90 days following cancellation of the specified project by request of the administering agency or by the ~~((urban arterial))~~ board.

AMENDATORY SECTION (Amending Order 356, filed 4/22/75)

WAC 479-20-095 IDENTIFICATION AND CONSIDERATION OF UNDERRUNS ON AUTHORIZED URBAN ARTERIAL TRUST ACCOUNT PROJECTS. Each project authorized for financial assistance from the urban arterial trust account shall be reviewed by the ~~((chairman of the urban arterial board))~~ director as of the last day of each quarter to identify probable underruns in project cost in relation to the previously authorized amount of urban arterial trust funds. Each agency administering a project on which there appears to be a probable underrun shall be contacted by certified mail and requested to review the project to:

- (1) Close the project by submitting a final voucher and summary cost documents if all work has been completed; or
- (2) Advise the ~~((urban arterial))~~ board of total costs to date, remaining costs necessary to complete the project, and the amount of estimated underrun, if any, on the project.

Each response shall be reviewed by the ~~((chairman))~~ director to determine whether the explanations appear reasonable and whether the agency appears to be pursuing the completion of the project at a reasonable rate. Any project where the administering agency does not appear to be pursuing the project to completion at a reasonable rate, or fails to submit a final voucher when all work appears to be completed, shall be referred by the ~~((chairman to the urban arterial board))~~ director.

Each agency administering a project that is not considered to be developing to completion at a reasonable rate, or fails to submit a final voucher when all physical work appears to be completed, shall be notified by the ~~((chairman))~~ director by certified mail that the project is being scheduled for a hearing before the ~~((urban arterial))~~ board at a specified time and place. The agency shall be requested to provide suitable representation to such ~~((urban arterial))~~ board meeting to explain the status of the previously authorized project, the reasons why the project has not been completed and finalized out, the amount of urban arterial trust funds estimated to be required to complete the project, and the resulting underrun in relation to previously authorized urban arterial trust funds.

Information presented by each agency regarding the status of each project upon which there appears to be an underrun in relation to the authorized amount of urban arterial trust funds shall be evaluated by the ~~((urban arterial))~~ board. If the administering agency does not respond to the ~~((urban arterial))~~ board's request for presentation to the board regarding the status of the project, or if the agency does not adequately substantiate its need to retain the originally authorized amount of urban arterial trust funds, the ~~((urban arterial))~~ board may reduce the remaining amount of authorized urban arterial trust funds to that amount reasonably necessary to complete the authorized urban arterial project.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 479-20-005 MATCHING RATIOS FOR CITIES AND COUNTIES.

WAC 479-20-060 ANNEXATIONS INVOLVING APPROVED URBAN ARTERIAL PROJECTS.

WAC 479-20-070 INCORPORATIONS INVOLVING APPROVED URBAN ARTERIAL PROJECTS.

WAC 479-20-080 URBAN ARTERIAL BOARD APPROVED SCHEDULE FOR PROJECT DEVELOPMENT.

WAC 479-20-083 UNACCEPTABLE REASONS FOR DELAY OF AUTHORIZED URBAN ARTERIAL PROJECTS.

AMENDATORY SECTION (Amending Order 405, filed 7/16/76)

WAC 479-24-010 PURPOSE. (1) The purpose of this chapter is to establish rules pertaining to the integration of the policies and procedures of the State Environmental Policy Act of 1971 (SEPA) into the programs, activities, and actions of the ~~((urban-arterial))~~ board ~~((board))~~. The rules contained herein are intended to implement and be consistent with the provisions and purposes of the SEPA guidelines (chapter ~~((197-10))~~ 197-11 WAC).

(2) These rules are intended to establish procedures for implementing SEPA in a manner which reduces duplicative and wasteful practices, establishes effective and uniform procedures, encourages public involvement, and promotes certainty with respect to the requirements of SEPA.

AMENDATORY SECTION (Amending Order 405, filed 7/16/76)

WAC 479-24-020 INCORPORATION OF THE SEPA GUIDELINES ADOPTED BY THE COUNCIL ON ENVIRONMENTAL POLICY. (1) The provisions of chapter ~~((197-10))~~ 197-11 WAC ~~((SEPA guidelines adopted by the council on environmental policy on December 12, 1975))~~ effective April 4, 1984, are hereby adopted by the board and are incorporated in and made a part of this chapter by reference herein, to the extent that the SEPA guidelines are applicable to the programs, activities, and actions of the board.

(2) The provisions of this chapter are intended to implement the provisions of chapter ~~((197-10))~~ 197-11 WAC, and to be consistent therewith.

AMENDATORY SECTION (Amending Order 405, filed 7/16/76)

WAC 479-24-030 TIMING OF THE EIS PROCESS. (1) As provided by WAC ~~((197-10-055))~~ 197-11-055, the EIS process shall be completed before the board is irrevocably committed to a particular course of action. At the same time, the EIS process should not be undertaken until a proposal is sufficiently definite to allow meaningful environmental analysis.

(2) The threshold determination or any required EIS for the board's action of a nonproject nature shall be completed prior to official adoption of the action in question.

(3) The threshold determination or any required EIS for board action of a project nature shall in all cases be completed prior to the determination to construct the project in question. While the board may tentatively affirm the choice of a particular location or design based upon completion of the draft EIS, final determination to construct shall not occur until a final threshold determination has been made or a final EIS has been prepared.

AMENDATORY SECTION (Amending Order 405, filed 7/16/76)

WAC 479-24-040 PROCEDURES WHEN CONSULTED. (1) When requests by another agency for comments or consultation are made pursuant to provisions of WAC ~~((197-10-500 through 197-10-540))~~ 197-11-502 through 197-11-570, such requests shall be referred for response to the ~~((executive secretary of the board))~~ director. The ~~((executive secretary))~~ director shall obtain such information which may be necessary, and supervise the transmittal of the requested information to the lead agency within the time period specified by WAC ~~((197-10-545))~~ 197-11-545.

(2) When a request for consultation is made by a local agency preparatory to a request for funding by the ~~((urban-arterial))~~ board of a construction project, the ~~((chairman of the urban-arterial board))~~ director shall investigate the likelihood of funding of the proposed construction project by the board and shall transmit such information to the local agency. Such transmittal shall be deemed total compliance with WAC ~~((197-10-510))~~ 197-11-550.

AMENDATORY SECTION (Amending Order 405, filed 7/16/76)

WAC 479-24-050 DESIGNATION OF RESPONSIBLE OFFICIAL. The responsible official shall be the ~~((chairman of the urban-arterial board))~~ director or his designee.

AMENDATORY SECTION (Amending Order 405, filed 7/16/76)

WAC 479-24-070 DESIGNATION OF LEAD AGENCY. Pursuant to WAC ~~((197-10-203 and 197-10-205))~~ 197-11-924 and 197-11-926, the local agency proposing a particular project for funding shall be designated the lead agency.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 479-24-060 DESIGNATION OF SEPA PUBLIC INFORMATION CENTER.

WSR 90-07-061

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 89-64—Filed March 20, 1990, 4:50 p.m.]

Continuance of WSR 90-01-094.

Title of Rule: WAC 173-19-220 Grays Harbor County.

Purpose: To continue the adoption date for a proposed revision to the shoreline master program for Grays Harbor regarding the Ocosta School District from March 20, 1990, to May 1, 1990.

Other Identifying Information: Adoption is being continued to consider late comments regarding the proposed revision.

Date of Intended Adoption: May 1, 1990.

March 20, 1990

Fred Olson

Deputy Director

WSR 90-07-062

PERMANENT RULES

PARKS AND RECREATION COMMISSION

[Filed March 20, 1990, 4:52 p.m.]

Date of Adoption: March 16, 1990.

Purpose: These rules will adjust moorage, camping, group day use and conference center fees. They also explain new types of permits and fees for parking and senior citizen passes. The purpose is to collect enough revenue to pay for operating and maintaining parks.

Citation of Existing Rules Affected by this Order: Amending WAC 352-12-020, 352-12-030, 352-20-010, 352-20-050, 352-32-045, 352-32-050, 352-32-250, 352-32-25001 and 352-32-252.

Statutory Authority for Adoption: RCW 43.51.040.

Pursuant to notice filed as WSR 90-04-108 on February 7, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 352-32-010 was not adopted; and WAC 352-32-250(15) will not be adopted as was stated in WSR 90-04-108, filed February 7, 1990.

Effective Date of Rule: Thirty-one days after filing.

March 16, 1990

Moyes Lucas

Chairman

AMENDATORY SECTION (Amending Order 103, filed 3/18/88, effective 5/15/88)

WAC 352-12-020 MOORAGE FEES. (1) Vessels moored between 3 p.m. and 8 a.m. at those facilities designated by the commission shall be charged a nightly moorage fee during the period May 1 through September 30, inclusive, according to the following schedule:

(a) Vessels twenty-six feet in length, and over, ~~\$(6.00)~~ 7.00 per night;

(b) Vessels under twenty-six feet in length, ~~\$(4.00)~~ 4.50 per night: PROVIDED, HOWEVER, This fee shall be applicable all year at Blake Island, Cornet Bay, Fort Worden, Jarrell Cove, and Mystery Bay State Parks: PROVIDED FURTHER, Vessels properly displaying a valid ~~((seasonal))~~ annual permit shall not be charged a nightly moorage fee: PROVIDED FURTHER, There shall be no moorage fee for dinghies, vessels moored to state park buoys, vessels moored to floats not attached to piers, or any vessel riding on its own anchor: PROVIDED FURTHER, There shall be no charge for temporary moorage for the purpose of loading or unloading a vessel, such temporary moorage shall be limited to thirty minutes.

(2) A vessel rafted to another vessel shall be charged the appropriate moorage fee based on that vessel's own length.

AMENDATORY SECTION (Amending Order 59, filed 3/31/82)

WAC 352-12-030 ~~((SEASONAL))~~ ANNUAL MOORAGE PERMITS. (1) ~~((Seasonal))~~ Annual moorage permits may be obtained for the period ~~((May))~~ January 1 through ~~((Labor Day))~~ December 31, inclusive. Application for such permits may be obtained from most state park managers, or by writing to the Commission Headquarters, 7150 Cleanwater Lane, KY-11, Olympia, WA 98504.

(2) ~~((Seasonal))~~ Annual moorage permits will be issued for a particular vessel. The charge for such permits will be based upon the length of the vessel for which the permit is issued. ~~((Seasonal))~~ Annual permits for vessels twenty-six feet in length and over shall cost \$40.00; for vessels under twenty-six feet in length shall cost \$24.00: PROVIDED HOWEVER, Effective January 1, 1991, the permit for vessels twenty-six feet in length and over shall cost \$45.00 and for vessels under twenty-six feet in length shall cost \$27.00.

(3) ~~((Seasonal))~~ Annual permits shall be visible from outside the vessel, and permanently affixed to the lower left corner of the vessel's left (port) forward windshield, or if not equipped with a windshield, to the left (port) outside transom, or if a sailboat, on the forward portion of the left (port) cabin trunk.

AMENDATORY SECTION (Amending Order 9, filed 11/24/70)

WAC 352-20-010 PARKING. (1) No operator of any automobile, trailer, camper, boat trailer, or other vehicle, shall park such vehicle in any state park area,

except where the operator is using the area for a designated recreational purpose and the vehicle is parked either in a designated parking area, or in another area with the permission of a ranger.

(2) No person shall park, leave standing, or abandon a vehicle in any state park area after closing time, except when camping in a designated area, or with permission from the ranger.

(3) No person shall park, leave standing, or abandon a vehicle being used for commercial purposes in any state park area without written permission from the ranger.

(4) Any vehicle found parked in violation of subsection (1) ~~((or))~~, (2), or (3) of this section may be towed away at the owner's or operator's expense.

AMENDATORY SECTION (Amending Order 9, filed 11/24/70)

WAC 352-20-050 TRUCKS AND COMMERCIAL VEHICLES. No person shall cause a truck or other vehicle while being used for commercial purposes to enter upon, use, or traverse any portion of any state park area or any park road therein except in the service of the commission at the request of an employee or concessionaire of the commission, or by express permission of the director for a special activity not inconsistent with state park use: PROVIDED, That the provisions of this section shall not apply to county roads or state highways.

Any vehicle in violation of this section may be towed away at the owner's or operator's expense.

AMENDATORY SECTION (Amending Order 103, filed 3/18/88, effective 5/15/88)

WAC 352-32-045 RESERVATIONS FOR GROUP DAY USE. (1) All reserved group day use activities shall be arranged for only at those parks having identified group day use activity areas. A group is defined as 20 or more people engaged together and commonly in outdoor day use recreation at one park location.

(2) Such identified group day use activity areas shall have a predetermined use capacity. No group exceeding this capacity in number shall use these areas.

(3) Use of these activity areas shall be by reservation. Requests for reservations for groups of 20 to 250 shall be made 15 days in advance and for groups in excess of 250 shall be made 30 days in advance of the proposed use date, using the group use permit. All conditions outlined on the group use permit shall be binding on the group.

(4) A daily permit fee of ten dollars for groups of 20 to 50 persons, ~~((twenty))~~ twenty-five dollars for groups of 51 to 100 persons, ~~((forty))~~ fifty dollars for groups of 101 to 500 persons, and one hundred twenty-five dollars for groups of more than 500 persons shall be charged to reservations granted under this WAC. Payment of the fee must be made with the submission of the group use permit request. In those cases where the fee is submitted at a later date, it must be paid by certified check, bank money order, or postal money order. Refunds will be

made only to those groups which cancel their reservations thirty or more days before the effective date of the reservations.

(5) Reservation requests for groups of 20, but not exceeding 250, may be approved by the park manager of the park the group is requesting to use. Reservations for groups in excess of 250, but not exceeding 1,000, may be approved by the region supervisor for the region in which the park is located. Reservations for groups in excess of 1,000 may be approved by the assistant director for operations.

(6) A deposit shall be submitted with the request for reservation. In those cases where the deposit is submitted at a date later than the reservation request, it must be paid by certified check, bank money order, or postal money order. This deposit shall be held by the Washington state parks and recreation commission to encourage the cleanliness and good order of the group activity area. For groups of 20, but not exceeding 50, this deposit shall be \$35. For groups in excess of 50, but not exceeding 100, this deposit shall be \$75. For groups in excess of 100, but not exceeding 500, this deposit shall be \$150. For groups in excess of 500, this deposit shall be \$300. Refund of this deposit shall be determined after an inspection of the area by a ranger and the individuals responsible for the group.

(7) Reservations for all groups shall be made by a person of the age of majority, who must be in attendance during the group's activities.

(8) Any group wishing to sell or dispense alcoholic beverages must request and obtain all appropriate licenses and permits. In order to sell alcoholic beverages, the group must obtain a temporary concession permit from the headquarters office of the Washington state parks and recreation commission.

(9) It shall be within the authority of the park manager, or his representative, to rescind the rights of a reservation, and remove from the park, any or all members of the group whose behavior, at any time, is in conflict with any state laws, becomes detrimental to the health and safety of the group or other park users, or becomes so unruly as to affect the reasonable enjoyment of the park by other park users.

AMENDATORY SECTION (Amending Order 91, filed 2/25/86)

WAC 352-32-050 PARK PERIODS. The director shall establish for each state park area, according to existing conditions, times, and periods when it will be open or closed to the public. Such times and periods shall be posted at the entrance to the state park area affected and at the park office. No person shall enter or be present in a state park area after the posted closing time ~~except((when camping, in a designated campsite or camping area, who has paid the applicable camping fee; as a state parks employee, or as a guest of a state parks employee))~~:

- (1) Currently registered campers who are camping in a designated campsite or camping area;
- (2) Guests of a currently registered camper who may enter and remain until 10:00 p.m.;
- (3) Guests of a state park employee.

AMENDATORY SECTION (Amending Order 89-01, filed 3/7/89)

WAC 352-32-250 STANDARD FEES CHARGED. The following fees shall be charged in all parks operated by the Washington state parks and recreation commission:

(1) Overnight camping - standard campsite: ~~\$(7.00)~~ 7.50 per night;

(2) Overnight camping - utility campsite: ~~\$(7.00)~~ 7.50 per night plus a nightly fee of ~~\$(.50)~~ .75 for domestic water hookup, ~~\$(.50)~~ .75 for sewer hookup, and \$1.50 for electrical hookup. Payment for all utility hookups available to the site will be collected whether utility is actually used or not except when otherwise specified by a ranger;

(3) Overnight camping - primitive campsite: \$3.00 per night for nonmotorized vehicle and \$4.50 per night for motorized vehicle;

(4) Overnight camping - reservation fee: As specified in WAC 352-32-035;

(5) Overnight camping - multiple campsites: Where campsites are designated and posted as a "multiple campsite," an individual may rent the multiple campsite by paying the multiple campsite fee. The multiple campsite fee will be calculated by multiplying the standard utility or primitive campsite fee, as applicable, by the number of individual campsites to be used in the designated multiple campsite.

(6) Group camping area - certain parks: \$.50 per person per day and/or night; nonrefundable reservation fee - \$10.00. Recreational vehicle campers must pay the primitive campsite fee or other appropriate fee based on facilities available;

(7) Environmental learning center - overnight camping: \$3.40 per camper per night: PROVIDED, HOWEVER, The fee shall be \$3.65 per camper per night, effective June 15, 1989;

(a) Camp Wooten and Cornet Bay environmental learning centers during the season the swimming pools are operational: \$3.80 per camper per night: PROVIDED, HOWEVER, The fee shall be \$4.05 per camper per night, effective June 15, 1989;

(b) Environmental learning center - day use only: \$1.00 multiplied by the minimum capacity established for each environmental learning center or \$1.00 for each member of the group - whichever is higher;

(8) Hot showers: \$.25 for a minimum of six minutes shower time;

(9) Electric stoves: \$.25 for thirty minutes cooking time;

(10) Adirondacks - not to include those located in ELC areas: Same as fee charged for full utility campsite. Occupancy shall be limited to the number of built-in bunks provided;

(11) Extra vehicle charge: \$3.00 per night for each additional unhitched vehicle in excess of the one recreational vehicle allowed at each campsite: PROVIDED, An extra vehicle charge shall not be imposed when the recreational vehicle and the towed vehicle arrive at the park hitched together, and after the camper has registered for and occupied the assigned campsite either the

recreational vehicle or the towed vehicle remain parked at the campsite for the duration of the camper's stay;

(12) Marine park moorage facilities - see WAC 352-12-020 and 352-12-030;

(13) Overnight camping - emergency camp area: The fee shall be the standard campsite fee.

These fees do not apply in those circumstances set forth in WAC 352-32-280 and 352-32-285 as now or hereafter amended.

(14) Unattended vehicle overnight parking permit: Unoccupied vehicles parked overnight in designated areas must obtain a permit by registering and paying the \$3.00 per night permit fee. The permit must be prominently displayed in the vehicle.

AMENDATORY SECTION (Amending WSR 89-22-073, filed 10/31/89, effective 12/1/89)

WAC 352-32-25001 RECREATIONAL AND CONFERENCE CENTER HOUSING FEES AND MEETING ROOM FEES CHARGED. (1) The following fees shall be charged per day for recreational and conference center housing at Fort Worden State Park:

(a) Renovated housing

- Noncommissioned officers' row buildings—#331 and #332 (4 units, each with 2 bedrooms)..... \$ 64.25/unit
- Officers' row buildings—#5, #6, and #7 (6 units, each with 3.5 bedrooms)..... \$ 103.70/unit
- Officers' row buildings—#4 and #11 (4 units, each with 6 bedrooms)..... \$ 172.10/unit
- Charge for additional rollaway beds..... \$ 9.75 per bed

(b) Nonrenovated housing

- Officers' row building—#9, #10 and #16 (5 units, each with 3 bedrooms)..... \$ 79.75/unit
- Officers' row buildings—#15 (1 unit with 5 bedrooms)..... \$ 125.90/unit
- Charge for additional rollaway beds..... \$ 9.75 per bed
- Bliss vista building—#235 (1 unit with 1 bedroom)..... \$ 52.75/unit

A deposit equal to the cost of the first night's fee for each unit rented is required. A \$10.00 per unit cancellation fee is deducted from the deposit for any cancelled reservations, to cover processing costs. If the cancellation is made less than three weeks prior to the arrival date, the entire deposit is forfeited, unless the unit is re-rented.

Standard meal charges (meals optional for above-listed housing)

- Breakfast.....\$ 2.85
- Lunch..... \$ 3.95
- Dinner..... \$ 5.80
- Total..... \$ 12.60

Coffee service.....\$10.00 minimum charge for any group of 20 or less. 50¢ per person for additional persons.

(c) Dormitory housing (for group reservations only—meals included)

- 1 - 2 days.....\$ 22.60/person/day
- 3 - 13 days \$ 20.75/person/day
- 14 or more days..... \$ 19.20/person/day

- Dormitory linen and towel charge..... \$8.25
- Additional towel charges \$.75
- Additional towel set \$1.75

The parks and recreation commission has an agreement with the Centrum organization which provides for use of Fort Worden State Park dormitory facilities and services in conjunction with special group programs administered by Centrum. For further information, contact Centrum at Fort Worden State Park.

(d) Barracks-style housing (for group reservations only—meals included)

- 1 - 2 days.....\$ 20.80/person/day
- 3 - 13 days \$ 19.15/person/day
- 14 or more days..... \$ 17.45/person/day

All meals are served in the dining hall. Washington state sales tax is added to all charges.

(2) Meeting rooms are available at varying charges, depending on size, character of facility, and length of stay. Prices range between \$ 6.85 and \$ 34.65 for those residing in Fort Worden recreational housing, with increased charges for nonusers of recreational housing facilities. Additional cleaning fee is charged if food or beverages are consumed in the room. Theatre is available for performances—\$ 105.00 per day; for rehearsals—\$ 27.30 per night. For larger performances or events, the balloon hangar pavilion is available at the following rental rates:

Commercial events.....\$800 per day (plus \$100 or 10% of the net profit, whichever is greater)

Nonprofit or charitable events (with admission fee).....\$500 per day

Nonprofit or charitable events (without admission fee).....\$250 per day

Rehearsals.....\$50 per day

Pavilion rates apply to users except as otherwise provided under separate contracts pertaining to project funding. The kitchen shelter is available for the minimum fee of \$ 21.00 per day plus a refundable \$50.00 cleaning deposit.

(3) Where not covered by or not inconsistent with the agency's facility use agreement with the Centrum Foundation, groups or organizations of twenty-five or more wishing to reserve the Fort Worden State Park housing or meeting room facilities may make application for reservation up to two years in advance of the date of use by contacting the park. Confirmation of reservations is subject to the user group complying with the procedures specified in the group booking agreement, copies of which are available at the park.

(4) During the period from July 1 through Labor Day, conference center groups may reserve no more than twenty campsites per night in addition to other reserved conference center facilities.

AMENDATORY SECTION (Amending Order 106, filed 9/19/88)

WAC 352-32-252 OFF-SEASON SENIOR CITIZEN PASS—FEE. (1) Persons who are senior citizens,

are at least sixty-two years of age, and have been residents of Washington state for at least one year shall, upon application to the commission, receive an off-season senior citizen pass which entitles the holder and the holder's camping unit to thirty nights of camping at any camping areas made available by the commission, as well as use of agency mooring facilities, at no cost beyond the charges provided for in subsection (3) of this section, between the day following the Labor Day legal holiday and April 30. Each such pass shall be valid only during one off-season period and may be renewed after being used for thirty nights of camping.

(2) Applications for off-season senior citizen passes shall be made on forms prescribed by the commission and shall be accepted only after August 15 for the following off-season period.

(3) The fee for each off-season senior citizen pass and renewal shall be \$((+5.00)) 20.00. A surcharge equal to the fee for an electrical hookup established in WAC 352-32-250 shall be assessed for each night an off-season senior citizen pass holder uses a campsite with an electrical hookup.

(4) For pass holders who travel by car or recreational vehicle a camping unit shall include the pass holder and up to seven guests of the holder who travel with the holder and use one campsite or portion of a designated group camping or emergency area. One additional vehicle without built-in sleeping accommodations may be part of the camping unit of a holder at one campsite or portion of a designated group camping or emergency area, when in the judgment of a ranger, the constructed facilities so warrant and the total number of guests of the holder do not exceed seven.

(5) For pass holders who travel by a mode of transportation other than car or recreational vehicle a camping unit shall include the pass holder and up to five guests who travel with the holder and use one campsite or portion of a designated group camping or emergency area.

(6) If a pass holder changes residency to a place outside Washington state during the time period when a pass is valid, the pass holder shall return the pass to the commission.

WSR 90-07-063

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 89-65—Filed March 20, 1990, 4:53 p.m.]

Date of Adoption: March 20, 1990.

Purpose: Adoption of a revised shoreline master program into the state master program, chapter 173-19 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 173-19-4507 Sumas, city of.

Statutory Authority for Adoption: RCW 90.58.200.

Pursuant to notice filed as WSR 90-01-096 on December 20, 1989.

Effective Date of Rule: Thirty-one days after filing.

March 20, 1990

Fred Olson

Deputy Director

AMENDATORY SECTION (Amending Order DE 88-48, filed 1/6/89)

WAC 173-19-4507 SUMAS, CITY OF. City of Sumas master program approved September 29, 1975. Revision approved January 3, 1989. Revision approved March 20, 1990.

WSR 90-07-064

WITHDRAWAL OF PROPOSED RULES

PARKS AND RECREATION COMMISSION

[Filed March 20, 1990, 4:54 p.m.]

The Washington State Parks and Recreation Commission requests that you withdraw the notice of intent to file for WAC 352-32-010. Changes to this WAC section was filed in the Washington State Register, WSR 90-04-108 on February 7, 1990.

The commission will not make changes to this section at this time.

Nina Carter

WSR 90-07-065

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed March 21, 1990, 9:47 a.m.]

Original Notice.

Title of Rule: WAC 16-22-040 Custom farm slaughtering establishment—Special slaughter conditions.

Purpose: To exempt open class carcass contests where no sale of meat is involved from the requirement that the animal be slaughtered on the premises of the present or first preceding owner.

Statutory Authority for Adoption: Chapter 34.04 [34.05] RCW.

Summary: Adds open class carcass contests to exemption granted in 1989 to 4-H and FFA market stock sales concerning where the livestock are custom slaughtered.

Reasons Supporting Proposal: Requests for change from fair committees and some legislators in affected districts. Change will not adversely impact public health or sanitation.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dr. Robert W. Mead, 406 General Administration Building, AX-41, Olympia, 753-5040.

Name of Proponent: Food Safety/Animal Health Division, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Change addresses logistical problem that

the fair committees have had with obtaining uniform slaughter of entries.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Open carcass contests will be able to custom slaughter the animals entered in the contest at a common preapproved cite [site]. Approval for slaughter cite [site] must be approved by both county health department and Department of Agriculture.

Proposal Changes the Following Existing Rules: Adds open carcass contests to custom slaughter cite [site] exemptions.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Negligible small business impact.

Hearing Location: Food Safety/Animal Health, 2627-B Parkmont Lane S.W., Olympia, WA 98504, on April 24, 1990, at 2:00 p.m.

Submit Written Comments to: Dr. Robert W. Mead, Department of Agriculture, 406 General Administration Building, AX-41, Olympia, WA 98504, by April 23, 1990.

Date of Intended Adoption: April 27, 1990.

March 16, 1990
John Daly
Assistant Director

AMENDATORY SECTION (Amending Order 2011, filed 6/26/89)

WAC 16-22-040 CUSTOM FARM SLAUGHTERING ESTABLISHMENT—SPECIAL SLAUGHTER CONDITIONS. (1) A custom farm slaughterer may slaughter an animal only on the premises of the present or first preceding owner of such animal except as follows:

(a) An animal injured to such extent that immediate slaughter at the place of injury is necessary for humane reasons.

(b) If a federally inspected slaughter facility or custom slaughtering establishment is not available locally (approximately thirty miles by road), animals purchased for custom slaughter at any 4-H and FFA market stock sales and open class carcass contests where ownership of the carcass is retained by the entrant may be slaughtered by a custom farm slaughterer on any premise, except the point of sale, when such premise or premises are approved in advance by the local health district/department and the Washington department of agriculture.

(2) A mobile custom slaughtering establishment licensee may slaughter his own animal for his own consumption on any premises, farm, or ranch owned, rented or in any way controlled by him. No other animal may be slaughtered by the licensee on the premises, farm or ranch owned, rented or in any way controlled by him or by members of his immediate family. Licensees under these regulations that are "bona fide farmers" may slaughter more than one animal provided the animals are in his possession more than sixty days.

(3) Whenever a licensee believes that a meat food animal or meat food product is unwholesome, as defined in these regulations, he shall require an examination and declaration of wholesomeness by a licensed veterinarian before proceeding with slaughter or with processing of the carcass.

WSR 90-07-066

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed March 21, 1990, 9:49 a.m.]

Original Notice.

Title of Rule: Chapter 16-86 WAC, Rules relating to brucellosis and tuberculosis in cattle and goats.

Purpose: To establish the amount and conditions under which indemnity may be paid when the director of agriculture may order the destruction of any sheep or goats affected with or exposed to Scrapie.

Statutory Authority for Adoption: RCW 16.36.096.

Summary: Defines Scrapie infected flock and allows state indemnity to be paid if funds are available at 50% of the appraised value of infected or exposed sheep and goats to a limit of three hundred dollars per animal and will not exceed total federal indemnity available under a federal Scrapie program. No state indemnity would be paid unless there is a total flock depopulation.

Reasons Supporting Proposal: Federal Scrapie eradication plans have not been successful. The present bloodline program has resulted in an increase in Scrapie nationwide. Federal indemnity alone has not been sufficient to obtain complete flock depopulation in most areas.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dr. Robert W. Mead, 406 General Administration Building, AX-41, Olympia, WA, (206) 753-5040.

Name of Proponent: Food Safety/Animal Health Division, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Washington rendering companies are refusing to pick-up and process dead sheep and sheep offal because of the possibility of the Scrapie agent surviving the processing.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule defines Scrapie infected flock in sheep and goats and sets up the amount paid for indemnity and the conditions for payment. To protect the Washington sheep industry from Scrapie, a return to total flock depopulation must be established. Since any state indemnity is tied to a cooperative federal program, in the future, if there is no federal program, the state would not be obligated to operate its own eradication program.

Proposal Changes the Following Existing Rules: The title of the WAC has been changed to include the disease Scrapie and sheep to the list of animals. It defines Scrapie infected flock. Provides how the amount of indemnity is arrived at and the conditions for receiving indemnity. It provides rule for the disposal of destroyed animals.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Negligible impact on small business statewide.

Hearing Location: Food Safety/Animal Health Conference Room, 2627-B Parkmont Lane S.W., Olympia, WA 98502, on April 24, 1990, at 1:30 p.m.

Submit Written Comments to: Dr. Robert W. Mead, 406 General Administration Building, AX-41, Olympia, WA 98504, by April 23, 1990.

Date of Intended Adoption: April 27, 1990.

March 16, 1990
John Daly
Assistant Director

Chapter 16-86 WAC

~~((CATTLE, GOATS—))~~BRUCELLOSIS ~~((AND)),~~ TUBERCULOSIS, AND SCRAPIE IN CATTLE, GOATS, AND SHEEP

AMENDATORY SECTION (Amending Order 1917, filed 3/25/87)

WAC 16-86-005 DEFINITIONS. For purposes of this chapter:

(1) "Director" means the director of agriculture of the state of Washington or his duly authorized representative.

(2) "Department" means the Washington state department of agriculture.

(3) "Accredited veterinarian" means a veterinarian licensed to practice veterinary medicine, surgery, and dentistry in the state of Washington and approved by the United States Department of Agriculture veterinary services to participate in state-federal cooperative programs.

(4) "Official calfhood vaccinate" means a female bovine animal vaccinated between the ages of four and twelve months (one hundred twenty days to three hundred sixty-five days) for beef breed cattle and between the ages of four and eight months (one hundred twenty days to two hundred forty days) for dairy breed cattle with an approved brucella vaccine.

(5) "Approved brucella vaccine" means only those biological products that are approved by and produced under license of the United States Department of Agriculture for injection into cattle for the purpose of enhancing their resistance to brucellosis.

(6) "Registry tattoo" means a tattoo identifying the individual as a registered animal within the breed association.

(7) "Vaccination tattoo" means the United States registered shield and V preceded by a number indicating the quarter of the year and followed by a number corresponding to the last digit of the year in which vaccination was done.

(8) "Scrapie infected flock" means a flock of sheep or goats in which the disease scrapie has been diagnosed positive in one or more animals by the National Veterinary Service Laboratory (NVSL).

NEW SECTION

WAC 16-86-093 INDEMNITY FOR SCRAPIE INFECTED OR EXPOSED SHEEP OR GOATS. As provided under RCW 16-36.096, the director of agriculture may order the destruction of any sheep or goats affected with or exposed to scrapie. Subject to the availability of sufficient funds, the director may pay an indemnity for any scrapie infected flocks ordered destroyed.

(1) The indemnity paid may not exceed fifty percent of the appraised value of the sheep or goats up to a limit of three hundred dollars per animal.

(2) State indemnity will not be paid for any animal on which federal indemnity has been paid and state indemnity will not exceed the total federal indemnity available for an individual flock under a federal scrapie program.

(3) State indemnity funds will be paid to the owner or owners of a scrapie infected flock only under a total flock depopulation plan.

(4) All destroyed animals shall be disposed of in a manner prescribed by the Washington state veterinarian.

(5) The provision for payment of indemnity will not apply to animals which have been brought into this state for a period of less than six months and have been in this state for a period of less than six months before being ordered destroyed by the director of agriculture.

WSR 90-07-067**PROPOSED RULES****DEPARTMENT OF HEALTH****(Board of Dental Examiners)**

[Filed March 21, 1990, 12:30 p.m.]

Original Notice.

Title of Rule: New section WAC 308-40-115 Licensure—Persons licensed or qualified out-of-state who are faculty at school of dentistry—Conditions.

Purpose: To define RCW 18.32.195.

Statutory Authority for Adoption: RCW 18.32.035.

Statute Being Implemented: RCW 18.32.195.

Summary: RCW 18.32.035 provides that the board may adopt rules defining RCW 18.32.195 for faculty at the School of Dentistry conditions which must be met.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Mayo, Program Administrator, 1300 S.E. Quince Street, Olympia, WA 98504, (206) 753-2461.

Name of Proponent: Board of Dental Examiners, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will satisfy the legislative intent set forth in RCW 18.32.195 by defining faculty at the School of Dentistry.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: West Coast Sea-Tac Hotel, Seattle Room, 18220 Pacific Highway South, Seattle, WA 98188, on May 5, 1990, at 8:45 a.m.

Submit Written Comments to: Judy E. Mayo, 1300 S.E. Quince Street, Olympia, WA 98504, by April 28, 1990.

Date of Intended Adoption: May 5, 1990.

March 20, 1990

Judy E. Mayo

Program Administrator

NEW SECTION

WAC 308-40-115 LICENSES—PERSONS LICENSED OR QUALIFIED OUT-OF-STATE WHO ARE FACULTY AT SCHOOL OF DENTISTRY—CONDITIONS. (1) Definitions.

(a) Facility is defined as the building housing the School of Dentistry on the University of Washington campus, and other buildings, designated by the dean of the dental school and approved by the board.

(b) Clinics situated away from the School of Dentistry on the University of Washington campus, must be recommended by the dean in writing and approved by the board. The recommendation must list the rationale for including each location as a University of Washington School of Dentistry facility.

WSR 90-07-068**PROPOSED RULES****DEPARTMENT OF HEALTH****(Board of Dental Examiners)**

[Filed March 21, 1990, 12:32 p.m.]

Original Notice.

Title of Rule: New sections WAC 308-40-150 Licensure without examination for dentists—Eligibility; 308-40-151 Licensure without examination for dentists—application procedure; and 308-40-152 Licensure without examination—Licensing examination standards.

Purpose: To implement RCW 18.32.215.

Statutory Authority for Adoption: RCW 18.32.035.

Statute Being Implemented: RCW 18.32.215.

Summary: RCW 18.32.035 provides that the board may adopt rules implementing a process whereby applicants for dental licenses who hold a valid license in another state may apply for a license without examination, if certain other criteria are met.

Reasons Supporting Proposal: To implement RCW 18.32.215 for licensure without examination for dentists.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Mayo, Program Administrator, 1300 S.E. Quince Street, Olympia, WA 98504, (206) 753-2461.

Name of Proponent: Board of Dental Examiners, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will satisfy the legislative intent set forth in RCW 18.32.215 by addressing the eligibility requirements, application procedure, and licensing examination standards for licensure without examination for dentists.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: West Coast Sea-Tac Hotel, Seattle Room, 18220 Pacific Highway South, Seattle, WA 98188, on May 5, 1990, at 9:00 a.m.

Submit Written Comments to: Judy E. Mayo, 1300 S.E. Quince Street, Olympia, WA 98504, by April 28, 1990.

Date of Intended Adoption: May 5, 1990.

March 20, 1990

Judy E. Mayo

Program Administrator

NEW SECTION

WAC 308-40-150 LICENSURE WITHOUT EXAMINATION FOR DENTISTS—ELIGIBILITY. The Washington board of dental examiners may grant licensure without an examination to dentists licensed in other states who:

(1) Have graduated from an educational program approved by the board of dental examiners; provided that graduates of non-accredited schools must meet the requirements of WAC 308-40-110.

(2) Have successfully completed parts I and II of the National Dental Board Examination.

(3) Have been issued a non-limited license, registration or certificate in another state by successful completion of an examination, if the other state's current licensing standards are substantively equivalent to the licensing standards of the state of Washington. The board of dental examiners will determine if the other state's current licensing standards are substantively equivalent to licensing standards in this state, pursuant to WAC 308-40-152.

(4) Are currently engaged in the practice of dentistry in another state pursuant to WAC 308-40-151(11).

(5) Have completed the AIDS education requirement defined in WAC 308-40-107.

(6) Are certified as having been licensed by the state board(s) of dentistry in all the state(s) in which the applicant has held a dental license.

(7) Have completed the jurisprudence requirement as determined by the Washington board of dental examiners.

(8) Participate in a personal interview with the board, if requested by the Washington board of dental examiners.

(9) Have a current certification of Basic Life Support, obtained within the last two years.

NEW SECTION

WAC 308-40-151 LICENSURE WITHOUT EXAMINATION FOR DENTISTS—APPLICATION PROCEDURE. The applicant is responsible for obtaining and furnishing to the Washington board of dental examiners all materials required by the board to establish eligibility for a license without examination. Any fees for verification of requirements must be paid by the applicant.

A license issued based on the succeeding credentials, may be revoked upon evidence of misinformation or substantial omission.

The following must be submitted to the board:

(1) A completed application for licensure without examination to include the payment of the required non-refundable application fee. The application must be signed and notarized. A minimum of sixty days is required to process the application.

(2) A statement by the applicant as to whether he/she has been the subject of any disciplinary action in the state(s) of licensure and whether he/she has engaged in unprofessional conduct as defined in RCW 18.130.180.

(3) A statement by the applicant that he/she is not an impaired practitioner as defined in RCW 18.130.170.

(4) A certification by the state board(s) of dentistry (or equivalent authority) that, based on successful completion of an examination, the applicant was issued a non-limited license, registration, certificate or privilege to practice dentistry, and whether he/she has been the subject of final or pending disciplinary action.

(5) The licensing standards, examination content, process and grading criteria of the state(s) where the examination for licensure was completed. This is to be submitted directly to the Washington board by the state(s) where the examination(s) for licensure was completed.

(6) A certification from each state or jurisdiction where the applicant holds or has held a license to practice dentistry and whether he/she has been the subject of final or pending disciplinary action.

(7) An official dental school transcript showing the degree and date of graduation. This transcript shall be mailed from the school directly to the board.

(8) The national board scores certified by the Joint Commission on National Dental Examinations.

(9) A copy of advanced education certificate(s) showing completion of post-graduate program(s).

(10) Proof of completion of AIDS education as required by WAC 308-40-107.

(11) Proof that the applicant is currently engaged in the practice of dentistry in another state, and has been for at least five years, as demonstrated by the following information:

(a) Address of practice location(s);

(b) Length of time at the location(s);

(c) Certification of a minimum of twenty hours per week in dental practice;

(d) Type of practice, whether general dentistry or a specialty;

(e) The applicant's relationship to the practice. For example, sole practitioner, partner, associate, independent contractor, employee, etc.;

(f) Malpractice insurance carrier(s) and years when insured;

(g) Federal or state tax numbers;

(h) DEA number if any; and

(i) A copy of the applicant's current dental license.

Dentists serving in the military need not provide (a) through (h) above, but must provide documentation from their commanding officer regarding length of service, duties and responsibilities and a copy of their current license.

Dentists employed by a teaching institution need not provide (a) through (h) above, but must provide documentation from the dean or appropriate administrator of the institution regarding the length and terms of employment and their duties and responsibilities, and a copy of their current license.

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

NEW SECTION

WAC 308-40-152 LICENSURE WITHOUT EXAMINATION FOR DENTISTS—LICENSING EXAMINATION STANDARDS. The following factors will be used to determine whether the applicant's state's licensing standards are substantively equivalent to the standards in Washington state:

(1) Calibration of examiners. Dentists who administer the examination shall be calibrated. The calibration process shall consist of:

(a) Annual training sessions with reviews prior to the examination.

(b) Calibration training sessions from eight to ten hours in length. The sessions shall incorporate lecture and slide presentations as well as utilization and grading of duplicated and pre-graded models and grading of a series of pre-graded individual models.

(c) Calibration training sessions incorporating review of a candidate information booklet, examination training manual and examination procedures manual.

(d) Training sessions which include components to evaluate and confirm each examiner's ability to detect known errors on pre-graded models.

(2) Grading process. The practical examination must be graded anonymously and certain sections of the examination must be graded separately, as follows:

(a) All clinical portions of the examination shall be graded anonymously by calibrated dentists, utilizing established criteria.

(b) Portions of the examination listed in section (3)(a)-(h) must be graded separately and the candidate must pass each portion of the examination listed in section (3).

(3) Examination content. The state in which the applicant successfully passed the dental examination, must offer an examination, which, at a minimum includes:

(a) A written examination that covers dental ethics and infection control.

(b) An oral diagnosis and treatment planning examination which includes development by the candidate of a diagnosis and a sequenced treatment plan.

(c) A written prosthodontics examination which includes case design and preparation of a written work authorization form.

(d) The completion of a class 2 amalgam on a live patient utilizing acceptability and selection criteria. The restoration must be performed under a rubber dam on a vital tooth in occlusion and in proximal contact. Preparation must be based to ideal form and restoration polished. The preparation and final restoration must be graded independently and each must receive a passing grade.

(e) A cast gold class 2 (3 or more surfaces) up to and including 3/4 crown that is completed on a live patient utilizing acceptability and selection criteria. The restoration must be performed under a rubber dam on a vital tooth in occlusion and in proximal contact. The preparation must be based to ideal form and the restoration must be polished. Candidates are required to complete their own lab work which shall be graded. The preparation and final restoration are graded independently and each must receive a passing grade.

(f) A periodontal patient evaluation consisting of an intra-oral examination and periodontal charting done on another candidates' patient. Criteria for specific pocket depths and calculus deposits must be met.

(g) A clinical demonstration of periodontal scaling and root planing and the polishing of the surfaces of the assigned teeth, the scaling and root planning must be completed by hand instrumentation only. Criteria for specific pocket depths and calculus deposits must be met.

(h) An endodontics procedure, which is completed on an extracted tooth utilizing gutta percha fill.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 90-07-069
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Massage)

[Filed March 21, 1990, 12:34 p.m.]

Original Notice.

Title of Rule: WAC 308-51-120 Frequency and location of examinations; and 308-51-130 Reexamination.

Purpose: To revise massage examination regulations.

Statutory Authority for Adoption: RCW 18.108.025.

Statute Being Implemented: RCW 18.108.073.

Summary: Provides an opportunity for a candidate to reexamine the failed portion of the exam; and provides the department greater latitude in scheduling examinations.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Olivia S. Guebara, 1300 Quince Street, Olympia, (206) 753-3199.

Name of Proponent: Washington State Board of Massage, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-51-120 allows for the administration of the written and practical examinations during the same testing period. WAC 308-51-130 identifies the reexamination process and clarifies this process in conjunction with the proposed amendment to WAC 308-51-120.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Aladdin Motor Inn, 900 Capitol Way, Lakeside Room #2, Olympia, WA, on April 30, 1990, at 8:30 a.m. - 9:30 a.m.

Submit Written Comments to: Olivia S. Guebara, 1300 Quince Street, Olympia, WA 98501, by April 27, 1990.

Date of Intended Adoption: April 30, 1990.

March 20, 1990

John Breadstill

Chairman

AMENDATORY SECTION (Amending Order PL 448, filed 11/18/83)

WAC 308-51-120 FREQUENCY AND LOCATION OF EXAMINATIONS. (1) The board will normally conduct ~~((practical))~~ examinations ~~((in March and September of each))~~ twice a year.

(2) Written examinations will be conducted ~~((at least twenty days))~~ prior to ~~((scheduled))~~ the practical examinations. Applicants will be required to pass the written examination ~~((prior to being scheduled for))~~ and the practical examination.

(3) Written and practical examinations will be conducted at a location within the state as determined by the ~~((director, with due consideration to be given to the residential location of the examinees and the availability and costs of required facilities and services))~~ secretary.

(4) A notification will be sent to the residential address of record of each examination applicant at least fifteen days prior to each applicant's scheduled examination dates. Such notification will contain appropriate instructions or information and will reflect the time, date and location at which the applicant is expected to appear for examination. Examination fees are nonrefundable. Should an applicant fail to appear for examination at the designated time and place, he/she shall forfeit the examination fee unless he/she has notified the division of professional licensing of his/her inability to appear for the scheduled examination. Notification must reach the department of health at least five days before the designated time. With the required five days notice, a candidate may request to be rescheduled for examination any time within two years of the time ~~((they))~~ he/she submitted ~~((their))~~ his/her original application.

AMENDATORY SECTION (Amending Order PL 336, filed 3/10/80)

WAC 308-51-130 REEXAMINATION. An applicant who has failed to pass either or both portions of the examination may apply for reexamination, provided the required reexamination fee(s) is submitted ~~((An applicant must successfully complete the written examination or oral in lieu of written where appropriate, prior to being scheduled for the practical examination))~~ and current application requirements are met. An applicant must successfully complete both portions of the examination prior to licensure. If an applicant fails to successfully pass ~~((the practical))~~ either portion of the examination within two years of ~~((passing the written))~~ the date of the original examination, he/she must retake the ~~((written))~~ entire examination ~~((before being eligible to again attempt the practical examination)).~~

WSR 90-07-070
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER
 [Memorandum—March 20, 1990]

The Marketing Committee of the Washington State Convention and Trade Center will meet on Monday, March 26 at 1:30 p.m. in the fifth floor board room of the Convention and Trade Center, 800 Convention Place, Seattle.

The International Marketing Committee of the Washington State Convention and Trade Center will also meet on Monday, March 26, 1990, at 2:00 p.m. in the fifth floor board room of the Convention and Trade Center, 800 Convention Place, Seattle.

If you have any questions regarding these meetings, please call 447-5000.

WSR 90-07-071
PERMANENT RULES
COUNTY ROAD
ADMINISTRATION BOARD
 [Order 71—Filed March 21, 1990, 1:39 p.m.]

Date of Adoption: January 26, 1990.

Purpose: Changes all references to county commissioners to county legislative authority; minor editorial changes; and repeals WAC 136-01-040 concerning correspondence.

Citation of Existing Rules Affected by this Order: Repealing WAC 136-01-040; and amending WAC 136-01-010 and 136-01-030.

Statutory Authority for Adoption: RCW 36.78.070.

Pursuant to notice filed as WSR 90-01-026 on December 12, 1989.

Effective Date of Rule: Thirty-one days after filing.

March 21, 1990

Ernest Geissler
 Director

AMENDATORY SECTION (Amending Order 9, filed 10/22/68)

WAC 136-01-010 PURPOSE. The county road administration board is a nine member board, organized under the provision of RCW 36.78.010 through 36.78-.110 and 46.68.120 (~~((chapter 120, Laws of 1965 ex. sess.));~~) for the purpose of establishing and administering standards of good practice for county road administration within the several counties of the state. The nine members of the board shall be appointed by the executive committee of the Washington state association of ~~((county commissioners))~~ counties, and the composition of the board shall be six ~~((county commissioners))~~ members of county legislative authorities and three county engineers: PROVIDED, That three members of the board shall be from Class AA, Class A, or 1st class counties, four members shall be from counties of the 2nd, 3rd, 4th or 5th class and two members shall be from counties of the following classes: 6th, 7th, 8th, or

9th class: PROVIDED FURTHER, That not more than one member of the board shall be from any one county.

AMENDATORY SECTION (Amending Order 9, filed 10/22/68)

WAC 136-01-030 MEETINGS. Regular public meetings of the county road administration board shall be held quarterly at the call of the chairman and the annual meeting ~~((of the board))~~ shall be held during the first week in July of each year. Each such meeting shall be held at the offices of the county road administration board in Olympia, Washington, or at such other place in the state of Washington as designated by the board. Additional public meetings necessary to discharge the business of the board may be called from time to time by the chairman.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 136-01-040 CORRESPONDENCE.

WSR 90-07-072
PERMANENT RULES
COUNTY ROAD
ADMINISTRATION BOARD
 [Order 72—Filed March 21, 1990, 1:42 p.m.]

Date of Adoption: January 26, 1990.

Purpose: Changes all references to county commissioners to county legislative authority; and revises internal processing timetable.

Citation of Existing Rules Affected by this Order: Amending WAC 136-04-020, 136-04-030, 136-04-040 and 136-04-060.

Statutory Authority for Adoption: RCW 36.78.070.

Pursuant to notice filed as WSR 90-01-027 on December 12, 1989.

Effective Date of Rule: Thirty-one days after filing.

March 21, 1990

Ernest Geissler
 Director

AMENDATORY SECTION (Amending Order 24, filed 10/31/74)

WAC 136-04-020 INQUIRY BY THE BOARD. The county road administration engineer shall formulate a questionnaire for use by the counties designed to demonstrate to the board their level of compliance with pertinent laws and regulations. The proposed questionnaire shall be reviewed and approved by the board at its ~~((January))~~ first meeting of each calendar year and may be revised and modified from year to year to reflect changes in statutory and regulatory requirements. The approved questionnaire shall be distributed to all counties no later than ~~((January 31 each year))~~ fifteen days after said meeting.

AMENDATORY SECTION (Amending Order 65, filed 5/12/87)

WAC 136-04-030 **RESPONSE BY THE COUNTY.** (~~The~~) Each county engineer shall complete the questionnaire, certify as to its accuracy, have it approved by the (~~chairman of the board of county commissioners~~) county legislative authority or the county executive, and shall return it to the board no later than April 10.

AMENDATORY SECTION (Amending Order 24, filed 10/31/74)

WAC 136-04-040 **REVIEW BY THE BOARD.** The county road administration engineer shall receive the completed questionnaires and prepare a report for the board regarding the level of each county's compliance with pertinent laws and regulations. The board shall review the engineer's report at its second regular meeting (~~in April~~) of each calendar year.

AMENDATORY SECTION (Amending Order 31, filed 12/16/77)

WAC 136-04-060 **CONDITIONAL CERTIFICATE OF GOOD PRACTICE.** Whenever the board finds that a county has failed to be in reasonable compliance with provisions of law or standards of good practice, the board may transmit to the state treasurer on behalf of such county a conditional certificate, in the manner provided in WAC 136-04-080 and 136-04-090. Any such conditional certificate shall be issued subject to terms and conditions as deemed by the board to be appropriate, and will authorize continued distribution to such county of all or a designated portion of its share of motor vehicle fuel taxes. A copy of such conditional certificate shall be sent to the (~~board of county commissioners~~) legislative authority of the county on whose behalf it was issued. One of the conditions of such conditional certificate shall be a review by the board at a subsequent meeting of the situation which caused its issuance.

AMENDATORY SECTION (Amending Order 31, filed 12/16/77)

WAC 136-04-080 **NOTICE OF PENDING REVOCATION OR SUBSTITUTION.** The board shall not consider revocation of a certificate or substitution of a conditional certificate or adverse modification of a conditional certificate for any county unless written notice of hearing thereon shall have been given to the (~~chairman of the board of county commissioners~~) legislative authority or county executive at least two weeks prior to the board meeting at which such revocation, substitution or modification is to be considered. Such notice shall include an invitation for representation by the county at such hearing.

AMENDATORY SECTION (Amending Order 31, filed 12/16/77)

WAC 136-04-090 **HEARING ON REVOCATION OR SUBSTITUTION.** At the time appointed for the hearing, the board shall receive a report from the

county road administration engineer detailing those laws or regulations with which the county is not in reasonable compliance, or those terms and conditions of the conditional certificate which the county has failed to meet. The board shall provide opportunity for presentation of written and/or oral testimony on behalf of the county and may thereupon (a) continue or modify a conditional certificate (b) substitute a conditional certificate for a certificate or (c) revoke either the certificate or conditional certificate (~~cancel such certificate~~).

AMENDATORY SECTION (Amending Order 31, filed 12/16/77)

WAC 136-04-100 **REVOCATION OF CERTIFICATE.** Upon revocation of a certificate or a conditional certificate by the board, notice thereof shall be given to the state treasurer and to the (~~board of county commissioners~~) legislative authority or county executive of the affected county. If any certificate is revoked without a conditional certificate being substituted therefore, the board shall review the affected county's(ies) compliance with pertinent laws and regulations at each subsequent regularly scheduled board meeting until such time as the board finds that the county has reasonably complied or is diligently attempting to comply with such laws and regulations.

WSR 90-07-073
PERMANENT RULES
COUNTY ROAD
ADMINISTRATION BOARD
 [Order 73—Filed March 21, 1990, 1:45 p.m.]

Date of Adoption: January 26, 1990.

Purpose: Changes all references to county commissioners to county legislative authority; and adds requirement of written policy regarding accommodation of utilities on county road rights of way.

Citation of Existing Rules Affected by this Order: Amending WAC 136-10-010, 136-10-020, 136-10-030, 136-10-040, 136-10-050 and 136-10-060.

Statutory Authority for Adoption: RCW 36.78.070.

Pursuant to notice filed as WSR 90-01-028 on December 12, 1989.

Effective Date of Rule: Thirty-one days after filing.

March 21, 1990
 Ernest Geissler
 Director

AMENDATORY SECTION (Amending Order 6, filed 6/12/68)

WAC 136-10-010 **PURPOSE.** The laws of the state of Washington have established the powers and duties of the county (~~commissioners~~) legislative authority in relation to roads and bridges, and the qualifications and duties of the county road engineer. Their purpose is to designate the county road engineer as the chief administrative officer of the county road department. The formal relationship between the (~~board of county commissioners~~) legislative authority and its

county road engineer must be adequately defined to assure an efficient and productive road department operation.

AMENDATORY SECTION (Amending Order 6, filed 6/12/68)

WAC 136-10-020 DUTIES OF ~~((COMMISSIONERS))~~ COUNTY LEGISLATIVE AUTHORITY. Certain specific powers and duties are set forth in RCW 36.75.040, 36.75.050, 36.80.010, 36.81.121 and 36.81.130. In addition to specific statutory duties the ~~((commissioners, in their legislative and management capacity;))~~ legislative authority shall have the duty to develop written policies regarding county road department operation for the information and guidance of the engineer.

AMENDATORY SECTION (Amending Order 6, filed 6/12/68)

WAC 136-10-030 DUTIES OF THE COUNTY ROAD ENGINEER. The various duties and responsibilities of the engineer are set forth in chapter 36.80 RCW. In addition to these specifically defined duties the engineer shall be guided by written policies regarding county road department operation as promulgated by the ~~((board of county commissioners))~~ county legislative authority.

AMENDATORY SECTION (Amending Order 6, filed 6/12/68)

WAC 136-10-040 ORGANIZATION OF COUNTY ROAD DEPARTMENT. ~~((In order to implement various statutory requirements the county road engineer shall be recognized as the chief administrative officer of the county road department, responsible to the board of county commissioners for its entire operation.))~~ It shall be ~~((his))~~ the county road engineer's duty to organize the road department in accordance with ~~((board))~~ policy of the county legislative authority into such departments, divisions, districts or units as may be necessary to meet statutory requirements and to perform such additional services as may be directed by policy of the ~~((board))~~ legislative authority.

AMENDATORY SECTION (Amending Order 33, filed 1/3/79)

WAC 136-10-050 WRITTEN POLICY. In order to implement the requirements of this chapter, the county legislative authority shall develop and by resolution adopt written policy covering any matters relating to road department operation as they may see fit. Certain specific matters enumerated herein must be covered by such policy~~((f;))~~ to wit:

(1) Policy regarding organization. A chart or pictorial representation showing in detail the interrelationship of all positions in the road department from the ~~((board of~~

~~county commissioners down))~~ county legislative authority through all employees. The chart shall clearly show the complete line of command throughout the entire organization. Copies of such chart shall be prominently posted in the office of the county road engineer and road department shops in such a manner that it will be readily available to all road department employees and the general public.

(2) Policy regarding personnel practices. A complete written statement of all policy relating to the personnel of the road department including but not limited to recruitment, appointment, promotion, dismissal, hours of work, overtime, annual leave, sick leave, military leave, holidays, classification, union relationship where applicable, and general work rules. Copies of such statement shall be prominently posted in the office of the county road engineer and road department shops in such a manner that it will be readily available to all road department employees and prospective employees.

(3) Policy regarding handling of complaints. A written statement setting forth a method by which complaints from the general public related to any road department activity will be handled. The purpose is to assure that each county will have an orderly procedure to assure that citizen complaints receive prompt attention.

(4) Policy regarding approval of work for other public agencies and county departments~~((f;))~~. A written statement to supplement chapter 136-32 WAC including but not limited to the following:

(a) Statement of intent indicating whether or not the ~~((board))~~ legislative authority will accept requests for work for other public agencies or other county departments.

(b) Statement indicating procedures to be followed in processing such requests in accordance with statutes and chapter 136-32 WAC.

(c) Statement indicating any delegation of authority in processing such requests.

(5) Policy regarding accommodation of utilities on county road right of way. A written statement setting forth the county's administrative, procedural, and technical requirements regarding the installation, replacement, adjustment, relocation, and maintenance of all utilities in, on, or above the county road right of way.

AMENDATORY SECTION (Amending Order 10, filed 12/10/68)

WAC 136-10-060 FORWARDING OF WRITTEN POLICY. Each ~~((board of county commissioners))~~ county legislative authority shall submit to the office of the county road administration board one copy of each policy required in WAC 136-10-050, and any subsequent revisions thereto, adopted pursuant to this regulation. The county road administration board shall maintain a current file of all such adopted policies of all ~~((boards of county commissioners))~~ legislative authorities.

WSR 90-07-074
PERMANENT RULES
COUNTY ROAD
ADMINISTRATION BOARD
 [Order 74—Filed March 21, 1990, 1:46 p.m.]

Date of Adoption: January 26, 1990.

Purpose: Changes all references to county commissioners to county legislative authority; clarifies licensing requirements; and requires intercounty sharing for a road engineer to be in conformance with Interlocal Cooperation Act.

Citation of Existing Rules Affected by this Order: Amending WAC 136-12-010, 136-12-020, 136-12-030, 136-12-060, 136-12-070 and 136-12-080.

Statutory Authority for Adoption: RCW 36.78.080.

Pursuant to notice filed as WSR 90-01-029 on December 12, 1989.

Effective Date of Rule: Thirty-one days after filing.

March 21, 1990

Ernest Geissler
Director

AMENDATORY SECTION (Amending Order 13, filed 12/26/69)

WAC 136-12-010 PURPOSE. The laws of the state of Washington make detailed provisions in chapter 36.80 RCW, for the employment of a county road engineer in each county. This chapter specifies that he shall be employed full time: PROVIDED, That in eighth and ninth class counties he may be employed on a part-time basis and may be the county engineer of another county; that he shall be a registered and licensed professional civil engineer under the laws of this state; that he shall have supervision, under the direction of the ~~((board))~~ county legislative authority, of all activities related to the county roads of the county, including maintenance; that he shall certify to the ~~((board))~~ legislative authority all bills with respect to county roads; that he shall keep complete public records of all road department activities; that he shall prepare plans and specifications for all construction work on the county road system. Since it is unavoidable that vacancies will occur from time to time in the position of county road engineer, the following policy has been formulated to cover an interim period.

AMENDATORY SECTION (Amending Regulation 1, filed 12/13/67)

WAC 136-12-020 PROCEDURE DURING VACANCY. When a vacancy occurs in the office of county road engineer due to ~~((the))~~ resignation, retirement ~~((or))~~, death ~~((of a county road engineer))~~ or for any other reason, the ~~((board of county commissioners))~~ legislative authority shall take immediate steps to find a replacement, either by promotion from within the organization if a competent and eligible ~~((man))~~ person is available, or by advertisement for, and interview of, ~~((interested))~~ qualified applicants. The ~~((chairman of the board of county commissioners))~~ legislative authority

or county executive shall immediately notify the county road administration board of the vacancy, and of the procedure ~~((the county board intends to follow))~~ to be followed during the period of vacancy.

AMENDATORY SECTION (Amending Order 25, filed 1/27/75)

WAC 136-12-030 ACTING COUNTY ENGINEER. ~~((+))~~ If for any reason, it is impossible ~~((for the board))~~ to employ a new county road engineer immediately, the ~~((board))~~ county legislative authority shall designate, by resolution, the assistant county road engineer, or other road department employee, as the acting county road engineer for an interim period, not to exceed six months, except as provided in WAC 136-12-060. A copy of such resolution shall be forwarded to the county road administration board.

~~((2))~~ If the assistant county road engineer or other road department employee ~~((be))~~ is a Washington state licensed professional civil engineer and ~~((be))~~ is appointed as the acting county road engineer during the interim period, said acting county road engineer shall perform all the duties of the county road engineer as specified in chapter 36.80 RCW.

~~((3))~~ If the acting county road engineer or other road employee is not a licensed professional civil engineer, the ~~((board))~~ legislative authority shall designate a licensed professional civil engineer to perform all engineering services during the interim period as required by chapter 18.43 RCW, and the acting county road engineer shall perform only those functions of the office not requiring a professional civil engineer's license.

AMENDATORY SECTION (Amending Regulation 1, filed 12/13/67)

WAC 136-12-060 FAILURE TO COMPLY WITH RULING. When the ~~((board of county commissioners))~~ county legislative authority has made final arrangements for the employment of a new county road engineer meeting the requirements of chapter 36.80 RCW the county road administration board shall be notified accordingly. If no such notification is received within six months of the beginning of the vacancy, the matter of the vacancy will be considered at the next regular meeting of the county road administration board. The county road administration board may require that all day labor construction projects be shut down and/or that all distribution of gas tax funds to the county shall cease: PROVIDED HOWEVER, That ~~((the board))~~ it may grant reasonable extensions of the interim period in the event the affected county can give adequate proof ~~((to the board))~~ that a diligent effort has been made to secure the services of ~~((an))~~ a qualified engineer. If the vacancy continues to exist at the end of ~~((the))~~ an extended interim period, the suspension of funds and cessation of day labor projects shall become mandatory. The acting county road engineer shall continue to perform the duties of the county road engineer until such time as the vacancy is filled.

AMENDATORY SECTION (Amending Order 13, filed 12/26/69)

WAC 136-12-070 COUNTY ENGINEER IN EIGHTH AND NINTH CLASS COUNTIES. ~~((+))~~ When the ~~((board of county commissioners))~~ legislative authority of an eighth or ninth class county chooses to employ a county road engineer on a part-time basis the terms of such employment shall be set forth in a contract adopted by resolution of the ~~((board))~~ legislative authority. Such contract shall specify, but need not be limited to: Statement of legal responsibility, salary or wage arrangements, meetings with the ~~((board))~~ legislative authority, travel expenses~~((;))~~ and relationship with regular employees. A copy of such resolution and contract shall be forwarded to the office~~((s))~~ of the county road administration board.

~~((2))~~ When the ~~((board))~~ legislative authority chooses to contract with another county for services such contract shall be approved by resolution of both ~~((boards))~~ legislative authorities. Such contract shall specify, but need not be limited to: Statement of legal responsibility, salary or wage arrangements, meetings with the ~~((board))~~ legislative authority, travel expenses~~((;))~~ and relationship with regular employees. A copy of the contract and both resolutions shall be forwarded to the office~~((s))~~ of the county road administration board. ~~((No board of county commissioners shall contract directly with a county engineer employed by another board.))~~ Any such contract shall be in accordance with the procedures of the Interlocal Cooperation Act, chapter 39.34 RCW.

AMENDATORY SECTION (Amending Order 13, filed 12/26/69)

WAC 136-12-080 ASSISTANT COUNTY ENGINEER IN EIGHTH AND NINTH CLASS COUNTIES. When a ~~((board of county commissioners))~~ legislative authority of an eighth or ninth class county chooses to employ a licensed professional civil engineer on a part-time basis or contract with another county for the services of its licensed professional civil engineer, it shall designate by resolution a full time employee as assistant county engineer. In such cases, the designated assistant county engineer shall perform the day to day supervision of the road department under the county engineer in accordance with policies established by the ~~((board))~~ legislative authority.

WSR 90-07-075

PERMANENT RULES
COUNTY ROAD

ADMINISTRATION BOARD

[Order 75—Filed March 21, 1990, 1:47 p.m.]

Date of Adoption: January 26, 1990.

Purpose: Changes all references to county commissioners to county legislative authority; amends access road to local access road; corrects UAB reference to Transportation Improvement Board; removes original submittal date for submittal of priority programming

technique; and adds road inventory reference to chapter 136-60 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 136-14-010, 136-14-020, 136-14-030, 136-14-040, 136-14-050 and 136-14-060.

Statutory Authority for Adoption: RCW 36.78.070.

Pursuant to notice filed as WSR 90-01-030 on December 12, 1989.

Effective Date of Rule: Thirty-one days after filing.

March 21, 1990

Ernest Geissler

Director

AMENDATORY SECTION (Amending Order 16, filed 7/22/71)

WAC 136-14-010 PURPOSE. The requirement to develop and adopt both long range and short range programs as a prerequisite to road construction ~~((has long been))~~ is established by law. Numerous studies have shown that road construction needs far exceed available revenue. Priority programming is the development and application of techniques designed to rank any array of potential projects in order of importance to serve as a guide in assisting a county ~~((commissioners))~~ legislative authority in the formulation of road programs. Priority programming procedures for counties ~~((much))~~ must be adaptable to a wide variety of situations.

AMENDATORY SECTION (Amending Order 16, filed 7/22/71)

WAC 136-14-020 APPLICATION. Priority programming techniques shall be applied in the ranking of all potential projects on the arterial road system of each county. They may be applied to all arterial projects combined in a single group, or may be applied to individual functional classes of arterials and further subdivided into rural and urban systems if desired. Priority programming will not be required, but is recommended, for the local access road system.

AMENDATORY SECTION (Amending Order 3388, filed 4/7/72)

WAC 136-14-030 TECHNIQUE. Each county engineer will be required to develop a priority programming technique tailored to meet the overall roadway system development policy determined by his ~~((board))~~ legislative authority. Items to be included and considered in the technique for roads shall include, but need not be limited to the following:

- (1) Traffic volumes;
- (2) Roadway condition;
- (3) Geometrics;
- (4) Matters of significant local importance.

The manner in which these various items are treated may vary from county to county. A number of acceptable priority programming techniques have been developed and may be used in whole or in part as a county technique.

Examples are:

~~((+))~~ 1. Advance road programs manual – National Association of County Engineers.

~~((2))~~ 2. Administrative guide to priority programming for county roads - Automotive Safety Foundation, 1962.

~~((3))~~ 3. Priority array for urban arterials - ~~(Urban Arterial Board 1968)~~ Transportation Improvement Board.

~~((4))~~ 4. A study of the road system of Benton County - WSU, 1969.

Bridge priorities shall be established in accordance with WAC 136-20-060. Accident records may be considered where their use will make a legitimate contribution. A description of the priority programming technique to be used shall be submitted by each county engineer to the county road administration board (~~no later than April 1, 1972~~)).

AMENDATORY SECTION (Amending Order 25, filed 1/27/75)

WAC 136-14-040 APPLICATION OF TECHNIQUE. The technique for roads shall be applied by the county engineer to all potential arterial projects in the county, and to local access road projects if directed by the ~~((board of county commissioners))~~ legislative authority. The resulting priority array shall be updated not later than June 1 of each odd-numbered year and shall be consulted together with bridge priorities by the ~~((board of county commissioners))~~ legislative authority and county engineer during the preparation of the proposed six year program ~~((on which hearing is to be held prior to July 1 each year))~~.

AMENDATORY SECTION (Amending Order 25, filed 1/27/75)

WAC 136-14-050 CERTIFICATION. In order to assure that priority arrays were available and were consulted during the preparation of the proposed six year program each year, the resolution of adoption of such program by each ~~((board of county commissioners))~~ legislative authority shall include assurances to this effect. A copy of the adopting resolution shall be forwarded to the county road administration board together with the six year program.

AMENDATORY SECTION (Amending Order 16, filed 7/22/71)

WAC 136-14-060 INVENTORY RECORDS. Each priority programming technique will be based, at least in part, on existing road conditions. It is required, therefore, that in each county an adequate road inventory system be maintained. The inventory system shall be updated no later than ~~((March))~~ May 1 of each year to reflect work done and/or improvements made during the previous year, in accordance with requirements of chapter 136-60 WAC.

WSR 90-07-076

PERMANENT RULES

COUNTY ROAD

ADMINISTRATION BOARD

[Order 76—Filed March 21, 1990, 1:48 p.m.]

Date of Adoption: January 26, 1990.

Purpose: Changes all references to county commissioners to county legislative authority; corrects RCW reference; and removes requirement for environmental and shorelines management permit analysis.

Citation of Existing Rules Affected by this Order: Amending WAC 136-16-010, 136-16-018, 136-16-022, 136-16-042 and 136-16-050.

Statutory Authority for Adoption: RCW 36.78.070.

Pursuant to notice filed as WSR 90-01-031 on December 12, 1989.

Effective Date of Rule: Thirty-one days after filing.

March 21, 1990

Ernest Geissler

Director

AMENDATORY SECTION (Amending Order 29, filed 8/3/76)

WAC 136-16-010 SUBMISSION OF RECOMMENDED ANNUAL ROAD PROGRAM. The county engineer shall submit a recommended annual program to the ~~((board of county commissioners))~~ county legislative authority on the first meeting in July or at such other time as may be specified ~~((by the board))~~ pursuant to RCW ~~((36.40.070 which))~~ 36.40.071. The program shall include ~~((his))~~ recommendations for all construction projects and all equipment purchases for the ensuing year. The ~~((board))~~ legislative authority shall consider the recommended program ~~((;))~~ and make any revisions deemed necessary ~~((, and with the assistance of the county engineer identify those projects requiring a shorelines management permit, and make any necessary environmental analysis in accordance with local rules or ordinances and regulations or CEP guidelines))~~.

AMENDATORY SECTION (Amending Order 29, filed 8/3/76)

WAC 136-16-018 ADOPTION OF ANNUAL PROGRAM. The ~~((board))~~ legislative authority shall adopt a final annual program at any time prior to the adoption of the budget.

AMENDATORY SECTION (Amending Order 40, filed 10/29/80)

WAC 136-16-022 DAY LABOR LIMIT. The statutory day labor limit shall be computed in the following manner:

(1) When the sum of all construction costs is in excess of four million dollars the day labor limit is eight hundred thousand dollars or fifteen percent of said sum, whichever is greater.

(2) When the sum of all construction costs is in excess of one million five hundred thousand dollars and less ~~(([than] [then]))~~ than four million dollars the day labor

limit is five hundred twenty five thousand dollars or twenty percent of said((~~f~~)) sum, whichever is greater.

(3) When the sum of all construction costs is in excess of five hundred thousand dollars and less than one million five hundred thousand dollars the day labor limit is two hundred and fifty thousand dollars or thirty five percent of said sum, whichever is greater.

(4) When the sum of all construction costs is less than five hundred thousand dollars the day labor limit shall be two hundred and fifty thousand dollars, unless the legislative authority, by resolution, elects the alternate procedure. When such alternate procedure is chosen, an individual project limit of thirty-five thousand dollars shall apply, and each project shall be administered in accordance with chapter 136-18 WAC.

AMENDATORY SECTION (Amending Order 38, filed 7/22/80)

WAC 136-16-042 MODIFICATION OF PROGRAM. The adopted final program may not be changed((~~f~~)), revised or increased except by unanimous vote of the members of the legislative authority who are present when the vote is taken. Such modifications shall be by resolution of the legislative authority((~~f~~)) listing each ((~~changed, revised or~~)) changed, revised or added project. A copy of each such resolution shall be forwarded to the county road administration board ((~~within~~)) within thirty-days of its adoption.

AMENDATORY SECTION (Amending Order 38, filed 7/22/80)

WAC 136-16-050 ANNUAL CONSTRUCTION REPORT. At any time prior to April 1 of the year following the program year((~~f~~)), the county engineer shall submit an annual construction report to the county road administration board((~~f~~)). The construction report shall show actual expenditures for all construction work including construction engineering done during the previous budget year.

WSR 90-07-077

PERMANENT RULES

COUNTY ROAD

ADMINISTRATION BOARD

[Order 77—Filed March 21, 1990, 1:49 p.m.]

Date of Adoption: January 26, 1990.

Purpose: Removes all County Road Administration Board special requirements regarding road right of way acquisition.

Citation of Existing Rules Affected by this Order: Repealing chapter 136-36 WAC.

Statutory Authority for Adoption: RCW 36.78.070.

Pursuant to notice filed as WSR 90-01-032 on December 12, 1989.

Effective Date of Rule: Thirty-one days after filing.

March 21, 1990

Ernest Geissler

Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 136-36-010 PURPOSE.

WAC 136-36-020 TYPE OF CONVEYANCE.

WAC 136-36-030 SUPPLEMENTAL AGREEMENT.

WAC 136-36-040 RECORDING AND FILING.

WSR 90-07-078

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 21, 1990, 2:11 p.m.]

Original Notice.

Title of Rule: Agricultural labor, chapter 296-131 WAC.

Purpose: Implementing RCW 49.30.030.

Statutory Authority for Adoption: RCW 49.30.030.

Statute Being Implemented: RCW 49.30.030.

Summary: The proposed rules establish requirements for rest and meal periods for agricultural employees. The proposed rules also establish limitations on the employment of minors in agriculture.

Reasons Supporting Proposal: The proposed rules are based on recommendations of an advisory committee on agricultural labor established by RCW 49.30.030.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark M. McDermott, 406 Legion Way, Olympia, (206) 753-3487.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed regulations, summarized below, establish rules for employment of minors in agriculture in Washington. The rules are designed to improve educational opportunities and increase workplace safety for minors employed in agriculture, keeping in mind the crop cultural and harvest requirements of agriculture in Washington. The rules also establish requirements for rest and meal breaks for all agricultural employees. WAC 296-131-001 Applicability; 296-131-005 Definitions; 296-131-020 Meals and rest periods (requiring meal and rest periods for agricultural employees); 296-131-100 Permits to employ minors (requiring employers to obtain a permit to employ minors); 296-131-105 Parental and school authorization (requiring parental authorization for employment of a minor and school authorization for employment during the school year); 296-131-110 Posting (requiring posting of minor work permit and an informational poster); 296-131-115 Age of employment (establishing a minimum age for employment in agriculture); 296-131-120 Hours of work for minors in agriculture (establishing times of day during which minors may work in agriculture); 296-131-125 Prohibited and hazardous employment (prohibiting

employment of minors in certain hazardous occupations in agriculture and providing exceptions; 296-131-126 Lifting (requiring instructions be given on proper lifting techniques); 296-131-130 Recordkeeping (requiring employers maintain records of minor employees); 296-131-135 Revocation or denial of permits (standards for revocation or denial of minor work permits); and 296-131-140 Variances (standards for issuing variances to WAC 296-131-120).

Proposal Changes the Following Existing Rules: WAC 296-131-001 is amended to limit the applicability of some rules in this chapter.

Small Business Economic Impact Statement: The Administrative Procedure Act requires submittal of an economic impact statement with a notice of rule making, when applicable, RCW 34.05.320 (1)(k). In turn, the Regulatory Fairness Act requires that an agency prepare an economic impact statement "in the adoption of any rule . . . that will have an economic impact on more than twenty percent of all industries, or more than ten percent of any one industry.", RCW 19.85.030. "Industry" is defined to include all businesses "in any one three-digit standard industrial classification as published by the United States Department of Commerce.", RCW 19.85.020(3).

SUMMARY

The proposed rules for agricultural labor impact more than ten percent of several industries within agriculture in Washington. The department assumes that the agricultural industries affected by the proposed rules are those identified with standard industrial classification numbers 011 through 029, 072, 075, 076, 083 and 085.

Major Group 01.—AGRICULTURAL PRODUCTION—CROPS

The Major Group as a Whole

This major group includes establishments (e.g., farms, orchards, greenhouses, nurseries) primarily engaged in the production of crops, plants, vines, and trees (excluding forestry operations). This major group also includes establishments primarily engaged in the operation of sod farms, and cranberry bogs; in the production of mushrooms, bulbs, flower seeds, and vegetable seeds; and in the growing of hydroponic crops. Seeds of field crops are classified in the same industry as crops grown for other purposes.

An establishment primarily engaged in crop production (Major Group 01) is classified in the industry (four-digit) and industry group (three-digit) which accounts for 50 percent or more of the total value of sales for its agricultural production. If the total value of sales for agricultural products of an establishment is less than 50 percent from a single four-digit industry, but 50 percent or more of the value of sales for its agricultural products derives from the products of two or more four-digit industries within the same three-digit industry group, the establishment is classified in the miscellaneous industry of that industry group; otherwise, it is classified as a general crop farm in Industry 0191. Establishments that derive 50 percent or more of the value of sales from horticultural specialties of Industry Group 018 are classified in Industry 0181 or 0182 according to their primary activity.

Industry Group No.	Industry No.	
011		CASH GRAINS
	0111	Wheat
		Establishments primarily engaged in the production of wheat.
		Wheat farms
	0112	Rice
		Establishments primarily engaged in the production of rice.
		Rice farms
	0115	Corn
		Establishments primarily engaged in the production of field corn for grain or seed. Establishments primarily engaged in the production of sweet corn are classified in Industry 0161, and those producing popcorn are classified in Industry 0119.
		Corn farms, except sweet corn or popcorn
	0116	Soybeans
		Establishments primarily engaged in the production of soybeans.
		Soybean farms
	0119	Cash Grains, Not Elsewhere Classified
		Establishments primarily engaged in the production of cash grains, not elsewhere classified. Included in this industry are establishments primarily engaged in the production of dry field and seed peas and beans, safflowers, sunflowers, or popcorn. This industry also includes establishments deriving 50

Industry Group No.	Industry No.		
011	CASH GRAINS—Con.		
	0119 Cash Grains, Not Elsewhere Classified—Con.		
	percent or more of their total value of sales of agricultural products from cash grains (Industry Group 011), but less than 50 percent from products of any single industry.		
	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <ul style="list-style-type: none"> Barley farms Bean farms, dry field and seed Buckwheat farms Cowpea farms Flaxseed farms Grain farms: except wheat, rice, corn, and soybeans Lentil farms Milo farms </td> <td style="width: 50%; vertical-align: top;"> <ul style="list-style-type: none"> Mustard seed farms Oat farms Pea farms, dry field and seed Popcorn farms Rye farms Safflower farms Sorghum farms, except for syrup Sunflower farms </td> </tr> </table>	<ul style="list-style-type: none"> Barley farms Bean farms, dry field and seed Buckwheat farms Cowpea farms Flaxseed farms Grain farms: except wheat, rice, corn, and soybeans Lentil farms Milo farms 	<ul style="list-style-type: none"> Mustard seed farms Oat farms Pea farms, dry field and seed Popcorn farms Rye farms Safflower farms Sorghum farms, except for syrup Sunflower farms
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013	FIELD CROPS, EXCEPT CASH GRAINS		
	0131 Cotton		
	Establishments primarily engaged in the production of cotton and cottonseed.		
	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Cotton farms</td> <td style="width: 50%;">Cottonseed farms</td> </tr> </table>	Cotton farms	Cottonseed farms
Cotton farms	Cottonseed farms		
	0132 Tobacco		
	Establishments primarily engaged in the production of tobacco.		
	Tobacco farms		
	0133 Sugarcane and Sugar Beets		
	Establishments primarily engaged in the production of sugarcane and sugar beets.		
	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"> <ul style="list-style-type: none"> Beet farms, sugar Cane farms, sugar </td> <td style="width: 50%;"> <ul style="list-style-type: none"> Sugar beet farms Sugarcane farms </td> </tr> </table>	<ul style="list-style-type: none"> Beet farms, sugar Cane farms, sugar 	<ul style="list-style-type: none"> Sugar beet farms Sugarcane farms
<ul style="list-style-type: none"> Beet farms, sugar Cane farms, sugar 	<ul style="list-style-type: none"> Sugar beet farms Sugarcane farms 		
	0134 Irish Potatoes		
	Establishments primarily engaged in the production of potatoes, except sweet potatoes. Establishments primarily engaged in the production of sweet potatoes and yams are classified in Industry 0139.		
	<ul style="list-style-type: none"> Potato farms, Irish Potato farms, except sweet potato and yam 		
	0139 Field Crops, Except Cash Grains, Not Elsewhere Classified		
	Establishments primarily engaged in the production of field crops, except cash grains, not elsewhere classified. This industry also includes establishments deriving 50 percent or more of their total value of sales of agricultural products from field crops, except cash grains (Industry Group 013), but less than 50 percent from products of any single industry.		
	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <ul style="list-style-type: none"> Alfalfa farms Broomcorn farms Clover farms Grass seed farms Hay farms Hop farms </td> <td style="width: 50%; vertical-align: top;"> <ul style="list-style-type: none"> Mint farms " Peanut farms Potato farms, sweet Sweet potato farms Timothy farms Yam farms " </td> </tr> </table>	<ul style="list-style-type: none"> Alfalfa farms Broomcorn farms Clover farms Grass seed farms Hay farms Hop farms 	<ul style="list-style-type: none"> Mint farms " Peanut farms Potato farms, sweet Sweet potato farms Timothy farms Yam farms "
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016

VEGETABLES AND MELONS

0161 Vegetables and Melons

Establishments primarily engaged in the production of vegetables and melons in the open. Establishments primarily engaged in growing vegetables under glass or other protection are classified in Industry 0182; those producing dry field and seed beans and peas are classified in Industry 0119; those producing Irish potatoes are classified in Industry 0134, and those producing sweet potatoes and yams are classified in Industry 0139.

Asparagus farms	Lettuce farms
Bean farms, except dry beans	Market gardens
Beet farms, except sugar beet	Melon farms
Bok choy farms	Onion farms
Broccoli farms	Pea farms, except dry peas
Cabbage farms	Pepper farms, sweet and hot (vegetables)
Cantaloup farms	Romaine farms
Cauliflower farms	Snap bean farms (bush and pole)
Celery farms	Squash farms
Corn farms, sweet	Tomato farms
Cucumber farms	Truck farms
English pea farms	Vegetable farms
Green lima bean farms	Watermelon farms
Green pea farms	

017

FRUITS AND TREE NUTS

0171 Berry Crops

Establishments primarily engaged in the production of cranberries, bush berries, and strawberries.

Berry farms	Dewberry farms
Blackberry farms	Loganberry farms
Blueberry farms	Raspberry farms
Cranberry bogs	Strawberry farms
Currant farms	

0172 Grapes

Establishments primarily engaged in the production of grapes.

Grape farms	Vineyards
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0173 Tree Nuts

Establishments primarily engaged in the production of tree nuts.

Almond groves and farms	Pecan groves and farms
Filbert groves and farms	Pistachio groves and farms
Macadamia groves and farms	Walnut groves and farms

0174 Citrus Fruits

Establishments primarily engaged in the production of citrus fruits.

Citrus groves and farms	Lime groves and farms
Grapefruit groves and farms	Orange groves and farms
Lemon groves and farms	Tangerine groves and farms

0175 Deciduous Tree Fruits

Establishments primarily engaged in the production of deciduous tree fruits. Establishments primarily growing citrus fruits are classified in Industry 0174, and those growing tropical fruits are classified in Industry 0179:

Apple orchards and farms	Persimmon orchards and farms
Apricot orchards and farms	Plum orchards and farms
Cherry orchards and farms	Pomegranate orchards and farms
Nectarine orchards and farms	Prune orchards and farms
Peach orchards and farms	Quince orchards and farms
Pear orchards and farms	

Industry
Group
No.

Industry
No.

017 **FRUITS AND TREE NUTS—Con.**

0179 **Fruits and Tree Nuts, Not Elsewhere Classified**

Establishments primarily engaged in the production of fruits and nuts, not elsewhere classified. This industry also includes establishments deriving 50 percent or more of their total value of sales of agricultural products from fruit and tree nuts (Industry Group 017), but less than 50 percent from products of any single industry.

Avocado orchards and farms
Banana farms
Coffee farms
Date orchards and farms
Fig orchards and farms

Kiwi fruit farms
Olive groves and farms
Pineapple farms
Plantain farms
Tropical fruit farms

018

HORTICULTURAL SPECIALTIES

0181 **Ornamental Floriculture and Nursery Products**

Establishments primarily engaged in the production of ornamental plants and other nursery products, such as bulbs, florists' greens, flowers, shrubbery, flower and vegetable seeds and plants, and sod. These products may be grown under cover (greenhouse, frame, cloth house, lath house) or outdoors.

Bedding plants, growing of
Bulbs, growing of
Field nurseries: growing of flowers and shrubbery, except forest shrubbery
Florists' greens, cultivated: growing of
Flowers, growing of
Foliage, growing of
Fruit stocks, growing of
Greenhouses for floral products
Mats, preseeded: soil eromon—growing of

Nursery stock, growing of
Plants, ornamental: growing of
Plants, potted: growing of
Rose growers
Seeds, flower and vegetable: growing of
Shrubberies, except forest shrubbery: growing of
Sod farms
Vegetable bedding plants, growing of

0182 **Food Crops Grown Under Cover**

Establishments primarily engaged in the production of mushrooms or of fruits and vegetables grown under cover.

Bean sprouts grown under cover
Fruits grown under cover
Greenhouses for food crops
Hydroponic crops, grown under cover
Mushroom spawn, production of
Mushrooms, growing of

Rhubarb grown under cover
Seaweed grown under cover
Tomatoes grown under cover
Truffles grown under cover
Vegetables grown under cover

019

GENERAL FARMS, PRIMARILY CROP

0191 **General Farms, Primarily Crop**

Establishments deriving 50 percent or more of their total value of sales of agricultural products from crops, including horticultural specialties, but less than 50 percent from products of any single three-digit industry group.

Crop farms, general

AND ANIMAL SPECIALTIES

The Major Group as a Whole

This major group includes establishments (e.g., farms, ranches, dairies, feedlots, egg production facilities, broiler facilities, poultry hatcheries, apiaries) primarily engaged in the keeping, grazing, or feeding of livestock for the sale of livestock or livestock products (including serums), for livestock increase, or for value increase. Livestock, as used here, includes cattle, hogs, sheep, goats, and poultry of all kinds; also included in this major group are animal specialties, such as horses, rabbits, bees, pets, fish in captivity, and fur-bearing animals in captivity.

An establishment primarily engaged in the production of livestock or livestock products (Major Group 02) is classified in the industry (four-digit) or industry group (three-digit) which accounts for 50 percent or more of the total value of sales for its agricultural production. If the total value of sales for agricultural products of an establishment is less than 50 percent from a single four-digit industry, but 50 percent or more of the value of sales for its agricultural products derives from the products of two or more four-digit industries within the same three-digit industry group, the establishment is classified in the miscellaneous industry of that industry group; otherwise, it is classified as a general livestock farm in Industry 0291.

Industry Group No.	Industry No.
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021 LIVESTOCK, EXCEPT DAIRY AND POULTRY

0211 Beef Cattle Feedlots

Establishments primarily engaged in the fattening of beef cattle in a confined area for a period of at least 30 days, on their own account or on a contract or fee basis. Feedlot operations that are an integral part of the breeding, raising, or grazing of beef cattle are classified in Industry 0212. Establishments which feed beef cattle for periods of less than 30 days, generally in connection with their transport, are classified in Transportation, Industry 4789.

Cattle feeding farms Cattle feedlot operations Feedlots, cattle	Stockyards, exclusively for fattening cattle
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0212 Beef Cattle, Except Feedlots

Establishments primarily engaged in the production or feeding of beef cattle, except feedlots. Establishments primarily raising dairy cattle are classified in Industry 0241.

Beef cattle farms, except feedlots Cattle raising farms	Cattle ranches
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0213 Hogs

Establishments primarily engaged in the production or feeding of hogs on their own account or on a contract or fee basis.

Feedlots, hog	Hog farms
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Industry Group No.	Industry No.									
021		LIVESTOCK, EXCEPT DAIRY AND POULTRY—Con.								
	0214	Sheep and Goats Establishments primarily engaged in the production of sheep, lambs, goats, goats' milk, wool, and mohair, including the operation of lamb feedlots, on their own account or on a contract or fee basis. <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Feedlots, lamb</td> <td style="width: 50%;">Sheep feeding farms and ranches</td> </tr> <tr> <td>Goat farms</td> <td>Sheep raising farms and ranches</td> </tr> <tr> <td>Goats' milk production</td> <td>Wool production</td> </tr> <tr> <td>Mohair production</td> <td></td> </tr> </table>	Feedlots, lamb	Sheep feeding farms and ranches	Goat farms	Sheep raising farms and ranches	Goats' milk production	Wool production	Mohair production	
Feedlots, lamb	Sheep feeding farms and ranches									
Goat farms	Sheep raising farms and ranches									
Goats' milk production	Wool production									
Mohair production										
	0219	General Livestock, Except Dairy and Poultry Establishments deriving 50 percent or more of their total value of sales of agricultural products from livestock and livestock products classified in Industry Group 021, but less than 50 percent from products of any single industry.								
024		DAIRY FARMS								
	0241	Dairy Farms Establishments primarily engaged in the production of cows' milk and other dairy products and in raising dairy heifer replacements. Such farms may process and bottle milk on the farm and sell at wholesale or retail. However, the processing and/or distribution of milk from a separate establishment not on the farm is classified in manufacturing or trade. Establishments primarily producing goats' milk are classified in Industry 0214. <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Dairy farms</td> <td style="width: 50%;">Milk production, dairy cattle farm</td> </tr> <tr> <td>Dairy heifer replacement farms</td> <td></td> </tr> </table>	Dairy farms	Milk production, dairy cattle farm	Dairy heifer replacement farms					
Dairy farms	Milk production, dairy cattle farm									
Dairy heifer replacement farms										
025		POULTRY AND EGGS								
	0251	Broiler, Fryer, and Roaster Chickens Establishments primarily engaged in the production of chickens for slaughter, including those grown under contract. <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Broiler chickens, raising of</td> <td style="width: 50%;">Cornish hen farms</td> </tr> <tr> <td>Chicken farms or ranches, raising for slaughter</td> <td>Frying chickens, raising of</td> </tr> <tr> <td></td> <td>Roasting chickens, raising of</td> </tr> </table>	Broiler chickens, raising of	Cornish hen farms	Chicken farms or ranches, raising for slaughter	Frying chickens, raising of		Roasting chickens, raising of		
Broiler chickens, raising of	Cornish hen farms									
Chicken farms or ranches, raising for slaughter	Frying chickens, raising of									
	Roasting chickens, raising of									
	0252	Chicken Eggs Establishments primarily engaged in the production of chicken eggs, including table eggs and hatching eggs, and in the sale of cull hens. <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Chicken-egg farms</td> <td style="width: 50%;">Started pullet farms</td> </tr> </table>	Chicken-egg farms	Started pullet farms						
Chicken-egg farms	Started pullet farms									
	0253	Turkeys and Turkey Eggs Establishments primarily engaged in the production of turkeys and turkey eggs. <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Turkey egg farms and ranches</td> <td style="width: 50%;">Turkey farms and ranches</td> </tr> </table>	Turkey egg farms and ranches	Turkey farms and ranches						
Turkey egg farms and ranches	Turkey farms and ranches									
	0254	Poultry Hatcheries Establishments primarily engaged in operating poultry hatcheries on their own account or on a contract or fee basis. <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Chicken hatcheries</td> <td style="width: 50%;">Poultry hatcheries</td> </tr> <tr> <td>Egg hatcheries, poultry</td> <td></td> </tr> </table>	Chicken hatcheries	Poultry hatcheries	Egg hatcheries, poultry					
Chicken hatcheries	Poultry hatcheries									
Egg hatcheries, poultry										

Industry Group No.	Industry No.																	
025		POULTRY AND EGGS—Con.																
	0259	Poultry and Eggs, Not Elsewhere Classified Establishments primarily engaged in the production of poultry and eggs, not elsewhere classified. This industry also includes establishments deriving 50 percent or more of their total value of sales of agricultural products from poultry and eggs (Industry Group 025), but less than 50 percent from products of any single industry. <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Duck farms</td> <td style="width: 50%;">Pheasant farms</td> </tr> <tr> <td>Egg farms, poultry: except chicken and turkey</td> <td>Pigeon farms</td> </tr> <tr> <td>Geese farms</td> <td>Quail farms</td> </tr> <tr> <td></td> <td>Squab farms</td> </tr> </table>	Duck farms	Pheasant farms	Egg farms, poultry: except chicken and turkey	Pigeon farms	Geese farms	Quail farms		Squab farms								
Duck farms	Pheasant farms																	
Egg farms, poultry: except chicken and turkey	Pigeon farms																	
Geese farms	Quail farms																	
	Squab farms																	
027		ANIMAL SPECIALTIES																
	0271	Fur-Bearing Animals and Rabbits Establishments primarily engaged in the production of fur and fur-bearing animals and rabbits. <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Chinchilla farms</td> <td style="width: 50%;">Game farms (fur-bearing animals)</td> </tr> <tr> <td>Fox farms</td> <td>Mink farms</td> </tr> <tr> <td>Fur farms</td> <td>Rabbit farms</td> </tr> </table>	Chinchilla farms	Game farms (fur-bearing animals)	Fox farms	Mink farms	Fur farms	Rabbit farms										
Chinchilla farms	Game farms (fur-bearing animals)																	
Fox farms	Mink farms																	
Fur farms	Rabbit farms																	
	0272	Horses and Other Equines Establishments primarily engaged in the production of horses and other equines. <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Burro farms</td> <td style="width: 50%;">Mule farms</td> </tr> <tr> <td>Donkey farms</td> <td>Pony farms</td> </tr> <tr> <td>Horse farms</td> <td></td> </tr> </table>	Burro farms	Mule farms	Donkey farms	Pony farms	Horse farms											
Burro farms	Mule farms																	
Donkey farms	Pony farms																	
Horse farms																		
	0273	Animal Aquaculture Establishments primarily engaged in the production of finfish and shellfish, such as crustaceans and mollusks, within a confined space and under controlled feeding, sanitation, and harvesting procedures. Establishments primarily engaged in hatching fish and in operating fishing preserves are classified in Industry 0921. <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Catfish farms</td> <td style="width: 50%;">Minnow farms</td> </tr> <tr> <td>Crustacean farms</td> <td>Mollusk farms</td> </tr> <tr> <td>Finfish farms</td> <td>Tropical aquarium fish farms</td> </tr> <tr> <td>Fish farms, except hatcheries</td> <td>Trout farms</td> </tr> <tr> <td>Goldfish farms</td> <td></td> </tr> </table>	Catfish farms	Minnow farms	Crustacean farms	Mollusk farms	Finfish farms	Tropical aquarium fish farms	Fish farms, except hatcheries	Trout farms	Goldfish farms							
Catfish farms	Minnow farms																	
Crustacean farms	Mollusk farms																	
Finfish farms	Tropical aquarium fish farms																	
Fish farms, except hatcheries	Trout farms																	
Goldfish farms																		
	0279	Animal Specialties, Not Elsewhere Classified Establishments primarily engaged in the production of animal specialties, not elsewhere classified, such as pets, bees, worms, and laboratory animals. This industry also includes establishments deriving 50 percent or more of their total value of sales of agricultural products from animal specialties (Industry Group 027), but less than 50 percent from products of any single industry. <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Alligator farms</td> <td style="width: 50%;">Honey production</td> </tr> <tr> <td>Apiaries</td> <td>Kennels, breeding and raising own stock</td> </tr> <tr> <td>Aviaries (e.g., parakeet, canary, love birds)</td> <td>Laboratory animal farms (e.g., rats, mice, guinea pigs)</td> </tr> <tr> <td>Bee farms</td> <td>Rattlesnake farms</td> </tr> <tr> <td>Cat farms</td> <td>Silk (raw) production and silkworm farms</td> </tr> <tr> <td>Dog farms</td> <td>Worm farms</td> </tr> <tr> <td>Earthworm hatcheries</td> <td></td> </tr> <tr> <td>Frog farms</td> <td></td> </tr> </table>	Alligator farms	Honey production	Apiaries	Kennels, breeding and raising own stock	Aviaries (e.g., parakeet, canary, love birds)	Laboratory animal farms (e.g., rats, mice, guinea pigs)	Bee farms	Rattlesnake farms	Cat farms	Silk (raw) production and silkworm farms	Dog farms	Worm farms	Earthworm hatcheries		Frog farms	
Alligator farms	Honey production																	
Apiaries	Kennels, breeding and raising own stock																	
Aviaries (e.g., parakeet, canary, love birds)	Laboratory animal farms (e.g., rats, mice, guinea pigs)																	
Bee farms	Rattlesnake farms																	
Cat farms	Silk (raw) production and silkworm farms																	
Dog farms	Worm farms																	
Earthworm hatcheries																		
Frog farms																		

30

STANDARD INDUSTRIAL CLASSIFICATION

Industry
Group
No.

Industry
No.

029

**GENERAL FARMS, PRIMARILY LIVESTOCK AND ANIMAL
SPECIALTIES**

0291 General Farms, Primarily Livestock and Animal Specialties

Establishments deriving 50 percent or more of their total value of sales of agricultural products from livestock and animal specialties and their products, but less than 50 percent from products of any single three-digit industry group.

*Animal specialty and livestock farms,
general*

*Livestock and animal specialty farms,
general*

Major Group 07.—AGRICULTURAL SERVICES

The Major Group as a Whole

This major group includes establishments primarily engaged in performing soil preparation services, crop services, veterinary services, other animal services, farm labor and management services, and landscape and horticultural services, for others on a contract or fee basis. However, feedlots and poultry hatcheries operated on a contract or fee basis are included in Major Group 02.

Industry Group No.	Industry No.
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071 SOIL PREPARATION SERVICES

0711 Soil Preparation Services

Establishments primarily engaged in land breaking, plowing, application of fertilizer, seed bed preparation, and other services for improving the soil for crop planting. Establishments primarily engaged in land clearing and earth moving for terracing and pond and irrigation construction are classified in Construction, Industry 1629.

Chemical treatment of soil for crops
Fertilizer application for crops
Lime spreading for crops

Plowing
Seed bed preparation
Weed control, crop: before planting

072 CROP SERVICES

0721 Crop Planting, Cultivating, and Protecting

Establishments primarily engaged in performing crop planting, cultivating, and protecting services. Establishments primarily engaged in complete maintenance of citrus groves, orchards, and vineyards are classified in Industry 0762. Establishments providing water for irrigation, or providing both water and irrigation services, are classified in Transportation and Public Utilities, Industry 4971.

Aerial dusting and spraying
Bracing of orchard trees and vines
Citrus grove cultivation services
Cultivation services, mechanical and flame
Detasseling of corn
Disease control for crops, with or without fertilizing
Dusting crops, with or without fertilizing
Entomological service, agricultural
Hoing
Insect control for crops, with or without fertilizing
Irrigation system operation services (not providing water)
Orchard cultivation services

Planting crops, with or without fertilizing
Pollinating
Pruning of orchard trees and vines
Seeding crops, with or without fertilizing
Seeding of sprouts and twigs
Spraying crops, with or without fertilizing
Surgery on orchard trees and vines
Thinning of crops, mechanical and chemical
Trees, orchard: cultivation of
Trees, orchard: planting, pruning, bracing, spraying, removal, and surgery
Vineyard cultivation services
Weed control, crop: after planting

0722 Crop Harvesting, Primarily by Machine

Establishments primarily engaged in mechanical harvesting, picking, and combining of crops, and related activities, using machinery provided by the service firm. Farm labor contractors providing personnel for manual harvesting are classified in Industry 0761.

AGRICULTURE, FORESTRY, AND FISHING

Industry Group No. 075 Industry No. ANIMAL SERVICES, EXCEPT VETERINARY

0751 Livestock Services, Except Veterinary

Establishments primarily engaged in performing services, except veterinary, for cattle, hogs, sheep, goats, and poultry. Dairy herd improvement associations are also included in this industry. Establishments primarily engaged in the fattening of cattle are classified in Industry 0211. Establishments engaged in incidental feeding of livestock as a part of holding them in stockyards for periods of less than 30 days (generally in the course of transportation) are classified in Transportation and Public Utilities, Industry 4789. Establishments primarily engaged in performing services, except veterinary, for animals, except cattle, hogs, sheep, goats, and poultry are classified in Industry 0752.

Artificial insemination services: livestock
Breeding of livestock
Cattle spraying
Cleaning poultry coops
Dairy herd improvement associations
Livestock breeding services
Milk testing for butterfat

Pedigree record services for cattle, hogs, sheep, goats, and poultry
Sheep dipping and shearing
Showing of cattle, hogs, sheep, goats, and poultry
Slaughtering, custom: for individuals
Vaccinating livestock, except by veterinarians

0752 Animal Specialty Services, Except Veterinary

Establishments primarily engaged in performing services, except veterinary, for pets, equines, and other animal specialties. Establishments primarily engaged in performing services other than veterinary for cattle, hogs, sheep, goats, and poultry are classified in Industry 0751. Establishments primarily engaged in training racehorses are classified in Services, Industry 7948.

Animal shelters
Artificial insemination services: animal specialties
Boarding horses
Boarding kennels
Breeding of animals, other than cattle, hogs, sheep, goats, and poultry
Dog grooming
Dog pounds
Honey straining on the farm

Pedigree record services for pets and other animal specialties
Showing of pets and other animal specialties
Training horses, except racing
Training of pets and other animal specialties
Vaccinating pets and other animal specialties, except by veterinarians

076 FARM LABOR AND MANAGEMENT SERVICES

0761 Farm Labor Contractors and Crew Leaders

Establishments primarily engaged in supplying labor for agricultural production or harvesting. Establishments primarily engaged in machine harvesting are classified in Industry 0722.

Crew leaders, farm labor: contract

Farm labor contractors

0762 Farm Management Services

Establishments primarily engaged in providing farm management services, including management or complete maintenance of citrus groves, orchards, and vineyards. Such activities may include cultivating, harvesting, or other specialized activities, but establishments primarily engaged in performing such services without farm management services are classified in the appropriate specific industry within Industry Group 072.

Citrus grove management and maintenance, with or without crop services
Farm management services
Orchard management and maintenance, with or without crop services

Vineyard management and maintenance, with or without crop services

Major Group 08. —FORESTRY*The Major Group as a Whole*

This major group includes establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, and related activities such as reforestation services and the gathering of gums, barks, balsam needles, maple sap, Spanish moss, and other forest products.

Industry Group No.	Industry No.		
081	TIMBER TRACTS		
	0811 Timber Tracts		
	Establishments primarily engaged in the operation of timber tracts or tree farms for the purpose of selling standing timber. Establishments holding timber tracts as real property (not for sale of timber) are classified in Real Estate, Industry 6519; and logging establishments are classified in Manufacturing, Industry 2411.		
	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Christmas tree growing Timber tracts</td> <td style="width: 50%;">Tree farms</td> </tr> </table>	Christmas tree growing Timber tracts	Tree farms
Christmas tree growing Timber tracts	Tree farms		
083	FOREST NURSERIES AND GATHERING OF FOREST PRODUCTS		
	0831 Forest Nurseries and Gathering of Forest Products		
	Establishments primarily engaged in growing trees for purposes of reforestation or in gathering forest products. The concentration or distillation of these products, when carried on in the forest, is included in this industry.		
	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Balsam needles, gathering of Distillation of gums if carried on at the gum farm Distillation of turpentine and rosin if carried on at the gum farm Forest nurseries Gathering of forest products: (e.g., gums, barks, seeds) Ginseng, gathering of Huckleberry greens, gathering of</td> <td style="width: 50%;">Lac production Maple sap, gathering of Moss, gathering of Pine gum, extraction of Rubber plantations Spanish moss, gathering of Sphagnum moss, gathering of Teaberries, gathering of Tree seed gathering, extracting, and selling</td> </tr> </table>	Balsam needles, gathering of Distillation of gums if carried on at the gum farm Distillation of turpentine and rosin if carried on at the gum farm Forest nurseries Gathering of forest products: (e.g., gums, barks, seeds) Ginseng, gathering of Huckleberry greens, gathering of	Lac production Maple sap, gathering of Moss, gathering of Pine gum, extraction of Rubber plantations Spanish moss, gathering of Sphagnum moss, gathering of Teaberries, gathering of Tree seed gathering, extracting, and selling
Balsam needles, gathering of Distillation of gums if carried on at the gum farm Distillation of turpentine and rosin if carried on at the gum farm Forest nurseries Gathering of forest products: (e.g., gums, barks, seeds) Ginseng, gathering of Huckleberry greens, gathering of	Lac production Maple sap, gathering of Moss, gathering of Pine gum, extraction of Rubber plantations Spanish moss, gathering of Sphagnum moss, gathering of Teaberries, gathering of Tree seed gathering, extracting, and selling		
085	FORESTRY SERVICES		
	0851 Forestry Services		
	Establishments primarily engaged in performing, on a contract or fee basis, services related to timber production, wood technology, forestry economics and marketing, and other forestry services, not elsewhere classified, such as cruising timber, firefighting, and reforestation.		
	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Cruising timber Estimating timber Fire prevention, forest Firefighting, forest Forest management plans, preparation of</td> <td style="width: 50%;">Forestry services Pest control, forest Reforestation Timber valuation</td> </tr> </table>	Cruising timber Estimating timber Fire prevention, forest Firefighting, forest Forest management plans, preparation of	Forestry services Pest control, forest Reforestation Timber valuation
Cruising timber Estimating timber Fire prevention, forest Firefighting, forest Forest management plans, preparation of	Forestry services Pest control, forest Reforestation Timber valuation		

However, by requiring an economic impact statement the legislature intends that rules "affecting the business community not place disproportionately higher burdens on small businesses.", RCW 19.85.010. Since over 93 percent of agricultural businesses within the state are small businesses with fewer than fifty employees, the proposed rules impact small businesses almost exclusively. Employment data on Washington agricultural businesses compiled by the Department of Employment Security indicates that of over 1500 agricultural businesses, all but 108 were small businesses. The percentage of agricultural business that is small business would be even greater if data were available for the cash grains, livestock, and general farms industries, almost all of which are small businesses. The discussion that follows also will indicate that where the proposed rules impact business the impacts are proportionate to the size of business and that the impacts are minor.

The proposed rules implement RCW 49.30.030, directing the Department of Labor and Industries to adopt rules regarding employment of minors in agriculture and providing for rest and meal periods for agricultural employees. The proposed rules are based on the recommendations of an advisory committee on agricultural labor which met from October 1989 to January 1990 discussing employment standards for agricultural workers and soliciting public comment at six meetings across the state.

SECTION ONE

Description of the reporting, recordkeeping, and other compliance requirements of the rules: WAC 296-131-020, the proposed rule establishes requirements for meal and rest periods for agricultural employees; WAC 296-131-100, the proposed rule requires employers to obtain an annual permit to employ minors; WAC 296-131-105, the proposed rule requires parental authorization for employment of each minor and school authorization for employment of each minor during the school year. After obtaining the authorization the employer must keep it on file for one year; WAC 296-131-120, the proposed rule establishes times of day during which minors may work in agriculture and limits the number of hours per day and per week that minors may work. By placing limits on work hours, employers may be required to keep time records for minor employees not kept at present; WAC 296-131-125, the proposed rule restricts minors under 16 years of age from working in a variety of agricultural occupations and restricts all minors from working in three areas considered particularly hazardous. Because the restrictions on minors under 16 years of age already exist in federal law, there is no impact on business. The additional restrictions extend to minors 16 and 17 years of age the existing federal restrictions prohibiting minors under 16 years of age from using pesticides, blasting equipment and anhydrous ammonia. The proposed rule also prohibits minor employees from riding in or working near a vehicle being driven by someone under 16 or who does not possess a valid driver's license;

WAC 296-131-130, the proposed rule requires that employers maintain records of minor employees. As discussed above, authorization to work from the minor's parents and from the minor's school must be kept for one year. Proof of age also is required to be maintained in the employer's records; and WAC 296-131-140, the proposed rule sets forth a procedure by which an agricultural business can request a variance from the hours of work limitations in WAC 296-131-120. By requiring an employer to seek permission to employ minors during certain hours or in excess of daily or weekly limitations, some additional paperwork is created for those businesses which seek a variance.

SECTION TWO

The kinds of professional services needed by a small business in order to comply with the proposed rules: A typical small agricultural business would not, in the department's best judgment, require any outside professional services in order to comply with the proposed rules.

SECTION THREE

Analysis of the costs of compliance, including costs of equipment, supplies, labor, and increased administrative costs: WAC 296-131-020, the proposed rule establishes requirements for meal and rest periods for agricultural employees. Because employers already must maintain records of employee hours, no additional recordkeeping is required. Compliance costs for this proposed rule are limited to the additional labor costs to an employer of this requirement, if any. Although precise cost estimates cannot be calculated since labor costs vary due to a variety of factors (harvest quality and quantity, weather, workforce availability), it is assumed that variations in labor costs are not linked to the size of an employer. In determining the cost of compliance, the department assumes that most employees currently take rest breaks during the work day. If this assumption is correct, the proposed rules essentially establish in rule a practice that currently exists. If it were assumed that an employee did not currently take rest breaks and that an additional twenty minutes must be worked each day by an employee to accomplish the same amount of work, the additional labor cost to the employer (based on a minimum wage of \$4.25 an hour) would be \$1.42 per employee for every eight hours worked. This additional cost of compliance is a cost to the business on a per employee basis; WAC 296-131-100, the proposed rule requires employers to obtain an annual permit to employ minors. Although one permit will serve a business whether it has one minor employee or one hundred, the department estimates the permit form should take an employer less than 15 minutes to complete. This rule has a negligible impact on business operations; WAC 296-131-105, the proposed rule requires parental authorization for employment of each minor and school authorization for employment of each minor during the school year. The employer need only obtain the signed authorization(s) from each minor prior to employment and keep them on

file for one year. Maintaining a file of the required authorizations requires minimal labor and has a negligible impact on business operations; WAC 296-131-120, the proposed rule establishes times of day during which minors may work in agriculture and limitations on the number of hours per day and per week that minors may work. By placing limits on work hours, employers may be required to keep time records for minor employees not kept at present. Since minors will no longer be allowed to work an unlimited number of hours per day or per week, employers may also find it necessary to hire additional workers. No data is available to determine the costs of this rule. However, the costs will be proportionately spread across large and small businesses by nature of the larger businesses losing more hours by the limitations on minor work hours and needing to hire more additional workers than a small business with less current minor work hours; WAC 296-131-125, the proposed rule restricts minors under 16 years of age from working in a variety of agricultural occupations and restricts all minors from working in three areas considered extremely hazardous. Because the restrictions on minors under 16 years of age already exist in federal law, there is no impact on business. The additional restrictions extend to minors 16 and 17 years of age the existing federal restrictions prohibiting minors under 16 years of age from using pesticides, blasting equipment and anhydrous ammonia. Since minors will no longer be allowed to work in a limited number of extremely hazardous occupations, employers may also find it necessary to hire additional workers who are allowed to work in those occupations. No data is available to determine the additional labor costs, if any, which may result from these restrictions. However, the costs will be proportionately spread across large and small businesses by nature of the larger businesses losing more hours by the restrictions and needing to hire more additional workers than a small business with less current minor work hours; WAC 296-131-130, the proposed rule requires employers maintain records of minor employees. As discussed above, the requirement that parental and school authorization to work be kept for one year has a negligible impact on all agricultural businesses. The proof of age required to be kept already is required by the Fair Labor Standards Act and therefore has no economic impact; and WAC 296-131-140, the proposed rule sets forth a procedure by which an agricultural business can request a variance from the hours of work limitations in WAC 296-131-120. Although those businesses which seek a variance will have to prepare and submit a request for the variance, this rule does not require any additional activities by agricultural businesses.

SECTION FOUR

Comparison of the cost of compliance for small business and the cost of compliance with the ten percent of the businesses which comprise the largest businesses required to comply with the proposed rules: As indicated in the discussion above, the increased costs associated with these rule changes are dependent on the number of

employees each employer has; therefore, the smaller business with fewer employees will sustain proportionately less of an economic impact than the larger business with more employees. Although there are initial costs associated with understanding or adjusting to new regulations such as those proposed, the department has taken several measures to mitigate those impacts. First, the proposals are based on recommendations of a fourteen member Advisory Committee on Agricultural Labor which included four representatives from agriculture and a representative from Department of Agriculture. The recommendations, and the proposals based on those recommendations, were developed in such a way as to minimize impacts on the agricultural industry, especially small farmers unaccustomed to government regulation. Second, the department has conducted an internal review to minimize the impact of the proposed rules on small business. For instance, the department proposes that the records required under WAC 296-131-130 be kept for only one year, instead of three as other employee records. Third, the department has agreed to broadly educate agricultural industry about the rules on an ongoing basis. The rules provide that the department annually publicize the requirements through departmental publications and other means designed to assist employers in complying. In addition, the department plans to conduct informational seminars on the rules after their adoption in June.

CONCLUSION

In drafting rules as directed by RCW 49.30.030, the department has eliminated "disproportionately higher burdens" on small businesses, limited the impact of most rules to an impact that is minor or negligible, and has mitigated the impacts on small agricultural business in many ways.

Hearing Location: Wenatchee Valley College Media Center, Wenatchee, on April 24, at 2:00 p.m.; and at the Eisenhower High School Little Theatre, Yakima, on April 25, at 3:00 p.m.; and at the Columbia Basin Community College Library Building, L102, Pasco, on April 26, at 3:00 p.m.; and at Spokane Community College, Conference Room A, Spokane, on April 27, at 2:00 p.m.; and at the General Administration Building Auditorium, Olympia, on April 30, at 9:00 a.m.; and at the Skagit County Courthouse, Mt. Vernon, on April 30, at 5:00 p.m.

Submit Written Comments to: Mark M. McDermott, Assistant Director, 406 Legion Way, HC-710, Olympia, WA 98501, by May 15, 1990.

Date of Intended Adoption: May 31, 1990.

March 21, 1990
Joseph A. Dear
Director

AMENDATORY SECTION (Amending Order 89-15, filed 10/24/89, effective 11/24/89)

WAC 296-131-001 APPLICABILITY. These standards, adopted pursuant to sections 83 through 86, chapter 380, Laws of 1989, shall apply to persons employed in agricultural labor as defined in RCW 50.04.150. The standards in this chapter beginning at WAC 296-131-100 shall apply only to minors employed in agricultural labor.

NEW SECTION

WAC 296-131-005 DEFINITIONS. For the purpose of these rules:

(1) A "minor" is a person of either sex who is under the age of eighteen years.

(2) "Agricultural labor" is defined as services performed:

(a) On a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or

(b) In packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as incident to ordinary farming operations.

"Agricultural labor" does not include employment in commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing with respect to services performed in connection with the cultivation, raising, harvesting and processing of oysters or raising and harvesting of mushrooms or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(3) "Department" means the department of labor and industries.

(4) "Employ" means to engage, suffer, or permit to work in agricultural labor.

(5) "Employee" means any person employed by an employer, except those who are members of the immediate family of an employer.

(6) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity that engages in any agricultural activity in this state and employs one or more employees.

NEW SECTION

WAC 296-131-020 MEALS AND REST PERIODS. (1) Every employee employed more than five hours shall receive a meal period of at least thirty minutes. Employees working eleven or more hours in a day shall be allowed at least one additional thirty-minute meal period.

(2) Every employee shall be allowed a rest period of at least ten minutes, on the employer's time, in each four-hour period of employment. For purposes of computing the minimum wage on a piecework basis, the time allotted an employee for rest periods shall be included in the number of hours for which the minimum wage must be paid.

NEW SECTION

WAC 296-131-100 PERMITS TO EMPLOY MINORS. (1) Within three days after the commencement of employment of one or more minors, an employer shall file with the department an application for a permit to employ minors. When validated by the supervisor of employment standards, this permit will authorize the employer to employ for one year any number of minor workers at the workplace specified in accordance with the conditions of the permit and the regulations established in this chapter.

(2) An employer shall at all times employ minors in accordance with the regulations established in this chapter, regardless whether the employer has filed with the department an application for a permit to employ minors as required in subsection (1) of this section.

(3) The department shall annually publicize the requirements of this chapter through departmental publications and other appropriate means designed to assist employers in complying with the law.

NEW SECTION

WAC 296-131-105 PARENTAL AND SCHOOL AUTHORIZATION. (1) An employer of a minor shall be required to annually obtain written authorization from a minor's parent before employing the minor.

(2) Minors attending school may not be employed during the school year without obtaining authorization from their school, except when performing intermittent weekend work. School authorization is not required for high school graduates.

(3) The parental and school authorization required by this chapter shall be on forms supplied by the department and shall be kept on file by the employer.

(4) Neither parent nor school authorization is required for minors who are emancipated by court order.

(5) For purposes of this section, "intermittent weekend work" is defined as work during the weekend arranged to be performed after the end of the preceding school week. Work performed after the beginning of the next school day is not considered to be intermittent weekend work and requires school authorization. Work during more than two weekends per quarter is not considered to be intermittent weekend work.

NEW SECTION

WAC 296-131-110 POSTING. (1) At least one copy of a valid permit to employ minors shall be posted in a conspicuous place at the workplace specified in the permit.

(2) When made available by the department, an informational poster describing in English and Spanish the rights of agricultural employees under this chapter also shall be posted in a conspicuous place at the workplace specified in the permit.

NEW SECTION

WAC 296-131-115 AGE OF EMPLOYMENT. No minor under the age of fourteen shall be employed in agriculture at any time with the exception of the hand harvest of berries. Minors twelve and thirteen years of age may be employed in the hand harvest of berries during weeks when school is not in session.

NEW SECTION

WAC 296-131-120 HOURS OF WORK FOR MINORS IN AGRICULTURE. (1) Minors attending school may not be employed during school hours except by special permission from school officials as provided in RCW 28A.27.010 and 28A.27.090.

(2)(a) Minors under the age of sixteen may work up to three hours a day and up to twenty-one hours a week during weeks when school is in session. Minors under the age of sixteen may work up to eight hours a day and up to forty hours a week during weeks when school is not in session.

(b) During weeks when school is in session, minors under the age of sixteen may not be employed before 5:00 a.m. nor after 8:00 p.m. During weeks when school is not in session, minors under the age of sixteen may not be employed before 5:00 a.m. nor after 9:00 p.m.

(3)(a) Minors who are sixteen and seventeen years of age may work up to thirty-eight hours a week, up to six hours a day on school days and up to eight hours a day on nonschool days during weeks when school is in session. Minors who are sixteen and seventeen years of age may work up to eight hours per day and up to forty-eight hours per week during weeks when school is not in session.

(b) Minors who are sixteen and seventeen years of age may not be employed before 5:00 a.m. nor after 10:00 p.m. Minors who are sixteen and seventeen years of age may not work later than 9:00 p.m. on more than two consecutive nights preceding a school day.

(4) Except for minors employed in dairy or livestock production, in the production of hay, or whose employment in crop production requires daily attention to irrigation, no minor shall be employed more than six days in any one week.

(5) The provisions of this section shall not apply to minors sixteen years of age and older who are emancipated by court order or to minors fifteen years of age and older who no longer are legally required to attend school and present the employer with a certificate from the school superintendent as provided in RCW 28A.27.010, excusing the child from attendance and setting forth the reasons for the excuse.

NEW SECTION

WAC 296-131-125 PROHIBITED AND HAZARDOUS EMPLOYMENT. (1) Employment in the following occupations in agriculture is prohibited to minors under the age of sixteen:

(a) Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.

(b) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

(i) Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner;

(ii) Feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a nongravity-type self-unloading wagon or trailer; or

(iii) Power post-hole digger, power post driver, or nonwalking type rotary tiller.

(c) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

(i) Trencher or earthmoving equipment;

(ii) Fork lift;

(iii) Potato combine; or

(iv) Power-driven circular, band, or chain saw.

(d) Working on a farm in a yard, pen, or stall occupied by a:

(i) Bull, boar, or stud horse maintained for breeding purposes; or

(ii) Sow with suckling pigs, or cow with newborn calf (with umbilical cord present).

(e) Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than six inches.

(f) Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over twenty feet.

(g) Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.

(h) Working inside:

(i) A fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere;

(ii) An upright silo within two weeks after silage has been added or when a top unloading device is in operating position;

(iii) A manure pit; or

(iv) A horizontal silo while operating a tractor for packing purposes.

(2) Employment in the following occupations in agriculture is prohibited to all minors:

(a) Handling, mixing, loading or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) as Category I of toxicity, identified by the word "poison" and the "skull and crossbones" on the label; or Category II of toxicity, identified by the word "warning" on the label.

(b) Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord.

(c) Transporting, transferring, or applying anhydrous ammonia.

(3) The employment prohibited by subsection (1) of this section shall not apply to the employment of any minor as a vocational agriculture student-learner in any of the occupations described in subsection (1)(a), (b), (c), (d), (e), or (f) of this section when each of the following requirements are met:

(a) The student-learner is enrolled in a vocational education training program in agriculture under a recognized state or local educational authority, or in a substantially similar program conducted by a private school;

(b) Such student-learner is employed under a written agreement which provides that the work of the student-learner is incidental to his training; that such work shall be intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced person; that safety instruction shall be given by the school and correlated by the employer with on-the-job training; and that a schedule of organized and progressive work processes to be performed on the job have been prepared;

(c) Such written agreement contains the name of the student-learner, and is signed by the employer and by a person authorized to represent the educational authority or school; and

(d) Copies of each such agreement are kept on file by both the educational authority or school and by the employer.

(4) The employment prohibited by subsection (1) of this section shall not apply to the employment of any minor in those occupations for which the minor has successfully completed one or more federal extension service training programs described in 29 C.F.R. section 570.72(b) and who has been instructed by the employer in the safe and proper operation of the specific equipment to be used, who is continuously and closely supervised by the employer where feasible or, where not feasible, in work such as cultivating, whose safety is checked by the employer at least at midmorning, noon, and midafternoon, or during the first and second halves of the workday, whichever is more frequent.

(5) The employment prohibited by subsection (1) of this section shall not apply to the employment of any minor in those occupations for which the minor has successfully completed one or more of the vocational agriculture training programs described in 29 C.F.R. section 570.72(c) and who has been instructed by the employer in the safe and proper operation of the specific equipment to be used, who is continuously and closely supervised by the employer where feasible or, where not feasible, in work such as cultivating, whose safety is checked by the employer at least at midmorning, noon, and midafternoon, or during the first and second halves of the workday, whichever is more frequent.

(6) No minor shall be permitted to ride in or work in the vicinity of a vehicle driven by a minor who is under the age of sixteen or who does not possess a valid driver's license.

(7) No minor shall be employed in agriculture in the harvest of any crop to which agricultural chemicals have been applied prior to the expiration of the preharvest interval or within fourteen days after the application, if no preharvest interval has been established.

(8) If, upon inspection or investigation, the director or the director's designee believes that an employer is violating this section creating a danger from which there is a substantial probability that death or serious physical harm could result to a minor employee, the director or the director's designee may issue an order under RCW 34.05.479 immediately restraining the condition, practice, method, process, or means creating the danger and suspend the employer's permit authorizing employment of minors until action is taken to avoid, correct, or remove the danger.

(9) A copy of the federal regulations referenced in subsections (4) and (5) of this section may be obtained from the department upon request.

NEW SECTION

WAC 296-131-126 LIFTING. Where weights in excess of twenty pounds are to be lifted, carried, pushed, or pulled as a normal part of an employee's responsibility, the employer shall instruct minors on correct weight lifting techniques and display a poster developed by the department illustrating correct weight lifting techniques.

NEW SECTION

WAC 296-131-130 RECORDKEEPING. In addition to the records required under WAC 296-131-017, an employer is responsible for obtaining and keeping on file for one year the following information concerning each minor employee:

(1) Proof of age by means of a copy of one of the following: Birth certificate; driver's license; baptismal record; Bible record; insurance policy at least one year old indicating the date of birth; or witnessed statement of the parent or guardian;

(2) Parental authorization required by WAC 296-131-105;

(3) School authorization required by WAC 296-131-105.

Every employer shall make the records described in this section available to the director or the director's authorized representative at any time for inspection and transcription or copying.

NEW SECTION

WAC 296-131-135 REVOCATION OF PERMITS. (1) The department may revoke any employer's permit to employ minors upon a showing that the conditions of its issuance are not being met, or that other conditions exist which are detrimental to the health, safety, or welfare of the minor.

(2) The department may refuse to issue or renew a permit to employ minors. If the department refuses to issue or renew a permit, it shall send the employer a notice of denial. The notice of denial shall explain the grounds for denial of the permit. The department may refuse to renew a permit if the conditions of its initial issuance are not being met.

(3) Any employer aggrieved by any action taken by the department under this section may appeal the action or decision by filing notice of the appeal with the director within thirty days of the department's action or decision. Upon receipt of an appeal, a hearing shall be held in accordance with chapter 34.05 RCW. The director shall issue all final orders after the hearing. Final orders are subject to appeal in accordance with chapter 34.05 RCW. Orders not appealed within the time period specified in chapter 34.05 RCW are final and binding.

NEW SECTION

WAC 296-131-140 VARIANCES. (1) Upon written application from an employer or an organization representing employers, a variance permitting employment of minors otherwise prohibited under WAC 296-131-120 may be granted for good cause shown. The employer or the organization representing employers shall give written notice to the employees so that they may submit their views to the department on any variance request.

(2) The department may afford the applicant and any involved employee, or employee representatives, the opportunity for oral presentation whenever circumstances of the particular application warrant.

(3) "Good cause" shall mean, but not be limited to, those situations in which the employer demonstrates that (a) adult workers are not available to perform the task for which the variance is requested; (b) the granting of the variance would not have a deleterious effect on school attendance or the academic performance of minors; (c) the granting of the variance would not have a harmful effect upon the health, safety, or welfare of the minor employees involved; and (d) compliance with these regulations would cause severe economic disruption to the employer or employers.

WSR 90-07-079
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed March 21, 1990, 2:18 p.m.]

Original Notice.

Title of Rule: WAC 388-49-410 Resources—Exempt.

Purpose: To amend food stamp program rules to exclude as resources payments received under the Puyallup Tribe of Indians Settlement Act of 1989, Public Law 101-41.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: The department shall exclude all payments received under Public Law 101-41 as consideration as resources for the food stamp program. The department shall exclude the first investments or purchases made with payments from the annuity fund portion of the settlement.

Reasons Supporting Proposal: This rule is necessary to implement provisions of Public Law 101-41 which exclude the payments as resources for federally assisted program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Randall Francom, Income Assistance, 753-4918.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Public Law 101-41.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on April 24, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health

Services, Mailstop OB-33H, Olympia, Washington 98504, by April 24, 1990.

Date of Intended Adoption: May 3, 1990.

March 19, 1990

Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2857, filed 8/29/89, effective 9/29/89)

WAC 388-49-410 RESOURCES—EXEMPT. (1) The department shall exempt the following resources:

(a) An occupied home and surrounding property not separated by intervening property owned by others;

(b) An unoccupied home and surrounding property if:

(i) The household intends to return to the home; and

(ii) The house is unoccupied due to:

(A) Employment;

(B) Training for future employment;

(C) Illness; or

(D) Uninhabitability due to casualty or natural disaster.

(c) A piece of land where the household is building or intends to build a permanent home, if the household does not own another home. The land must not be separated by intervening property owned by others;

(d) Personal effects;

(e) Household goods;

(f) One burial plot per household member;

(g) Cash value of:

(i) Life insurance policies; and

(ii) Pension funds.

(h) Vehicles as provided under WAC 388-49-430;

(i) That portion of real or personal property directly related to the maintenance or use of a vehicle excluded under WAC 388-49-430 (1)(a), (b), and (f);

(j) Property annually producing income consistent with its fair market value, even if only used on a seasonal basis;

(k) Rental homes used by household for vacation purposes during the year if the property annually produces income consistent with its fair market value;

(l) Property essential to the employment or self-employment of a household member. Property excluded under this provision because the property is used by a self-employed farmer shall retain its exclusion for one year from the date the household member terminates self-employment from farming;

(m) Resources held separately by nonhousehold members, a person disqualified for noncompliance with work registration requirements, or an ineligible student;

(n) Indian lands:

(i) Held jointly with the tribe; or

(ii) Sold only with the approval of the Bureau of Indian Affairs.

(o) Resources prorated as income for self-employed persons or eligible students. These funds, if commingled in an account with nonexcluded funds, shall retain their exclusion for the period of time they are prorated as income;

(p) Cash value of resources not accessible to the household;

(q) Funds in a trust and the income produced by that trust, to the extent they are not available;

(r) Resources excluded by express provision of federal law from consideration in the food stamp program;

(s) Installment contracts or agreements for the sale of land or other property when it is producing income consistent with its fair market value;

(t) Value of the property sold under an installment contract;

(u) The value of property held for security if the purchase price is consistent with fair market value;

(v) Real or personal property when:

(i) Secured by a lien as a result of obtaining a business loan; and

(ii) The security or lien agreement prohibits the household from selling the asset or assets.

(w) Governmental payments designated for restoration of a home damaged in a disaster. The household must be subject to legal sanction if the funds are not used as intended;

(x) Energy assistance payments or allowances made under federal, state, or local laws; ((and))

(y) Resources of persons residing in shelters for battered women and children if:

(i) The resources are jointly owned with members of the former household; and

(ii) Access to the resources depends on the agreement of the joint owner.

(z) Payments received under the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, as follows:

(i) Payments from the annuity fund established by P.L. 101-41 made to a Puyallup Tribe member upon reaching twenty-one years of age;

(ii) The investments or purchases made directly with the annuity payment up to the amount from the annuity fund payment; and

(iii) Payments from the trust fund established by P.L. 101-41 made to a Puyallup Tribal member.

(2) Exempt funds commingled in an account with nonexempt funds shall continue to be exempt for up to six months from the date they are commingled.

WSR 90-07-080
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed March 21, 1990, 2:22 p.m.]

Original Notice.

Title of Rule: WAC 388-49-590 Monthly reporting.

Purpose: To exclude a household in which all members are homeless individuals or a seasonal farmworker household from the mandatory monthly reporting requirement.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: The WAC rule currently specifies that certain households with earned income are required to return a completed monthly report by the fifth day of the month describing household circumstances during the budget month. The rule, revised by the Hunger Prevention Act, a migrant or seasonal farmworker household; and a household in which all members are homeless individuals.

Reasons Supporting Proposal: This rule is necessary to bring state rules into compliance with the final rule of the Code of Federal Regulations and with the Hunger Prevention Act of 1988. The identified categories of households will not have to complete a monthly report.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mick Determan, Assistance Programs/Income Assistance, 753-4005.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Code of Federal Regulations CFR 273.21(b).

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on April 24, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by April 24, 1990.

Date of Intended Adoption: May 1, 1990.

March 19, 1990
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-590 MONTHLY REPORTING. (1) The department shall require the following households to return a completed monthly report by the fifth day of the process month describing the household circumstances during the budget month:

(a) A household((:)) with earned income or with a recent work history except a:

(i) Migrant or seasonal farm worker household((, with earned income)); or

(ii) Household in which all members are homeless individuals; or
(iii) Household with no earned income in which all adult members are elderly or disabled.

(b) ((A household with a recent work history; and
(c)) An AFDC household subject to ((mandatory)) monthly reporting.

(2) A household with a recent work history shall report for two months:

(a) Beginning the month following the month of opening at initial application, or

(b) After the last month of earnings during the certification period.

(3) The department shall require a household reporting monthly to verify information necessary to:

(a) Determine the household's eligibility, and

(b) Compute the household's benefits.

(4) The department shall notify a household if:

(a) Its monthly report is late,

(b) Its monthly report is incomplete, or

(c) Additional information is needed.

(5) If the household furnishes a completed report to the department by the end of the process month, the department shall:

(a) Accept the monthly report, and

(b) Continue benefits if the household remains eligible.

(6) The department shall terminate a household failing to return a completed report by the end of the process month.

(7) The department shall not require a household that reports monthly to report changes ~~((prior to))~~ before reporting on the monthly report.

WSR 90-07-081
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed March 21, 1990, 2:25 p.m.]

Original Notice.

Title of Rule: WAC 388-28-575 Disregard of income and resources.

Purpose: To implement Puyallup Tribe of Indians Settlement Act of 1989, Public Law 101-41; Public Law 101-201 establishing a disregard for agent orange settlement; to simplify the programs by adopting current AFDC disregards for GA-U under RCW 74.04.005(ii); and for AFDC, disregards income earned taking the census.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: For AFDC and GA, disregards as income and as a resource the Puyallup Indian Tribe annuity payment. Disregards the initial investment of the annuity payment. Treats the transfer of the initial investment as transfer of exempt property. Treats the income from the initial investment as newly acquired income. Disregards payments from the trust fund established by the Puyallup settlement. Disregards agent orange settlements. Makes disregards in WAC 388-28-575 (1)(b), (c), (d), (e), (g), (h), (j) and (k) applicable to GA-U by moving them to WAC 388-28-575 (2)(g), (h), (i), (j), (k) and (l). For AFDC, disregard wages earned as a temporary census worker for United States Department of Commerce.

Reasons Supporting Proposal: Congress enacted Public Law 101-41 (hereafter referred to as the act) to authorize the actions and appropriations necessary to implement the provisions of the Puyallup settlement agreement. The act exempts for all federal programs, payments from the annuity fund established by the act. The act exempts for all federal, state, and local programs payments from the trust fund established by the act. Congress enacted Public Law 101-201 to establish a disregard for all federal programs for settlements made from the agent orange settlement fund or any other fund established to settle agent orange claims. For AFDC, disregard wages earned taking the census.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Patricia Hague, Income Assistance, 753-3177.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Public Law 101-41.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on April 24, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by April 24, 1990.

Date of Intended Adoption: May 3, 1990.

March 19, 1990
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2848, filed 8/8/89, effective 9/8/89)

WAC 388-28-575 DISREGARD OF INCOME AND RESOURCES. (1) For aid to families with dependent children (AFDC), the department shall disregard as income and as a resource the following payments:

- (a) Grants, loans, or federal work study to an undergraduate student insured by the Secretary of Education, U.S. Department of Education;
- (b) ~~((Per capita judgment funds under Public Law (P.L.) 92-254 to members of the:~~
 - ~~(i) Blackfoot Tribe of the Blackfoot Indian Reservation, Montana; and~~

- ~~(ii) Gros Ventre Tribe of the Fort Belknap Reservation, Montana;~~
 - ~~(c) Indian claim settlement per capita funds or funds held in trust under P.L. 93-134 or P.L. 94-114;~~
 - ~~(d)) The income of a Supplemental Security Income recipient;~~
 - ~~((c) Two thousand dollars per individual per calendar year received under the Alaska Native Claims Settlement Act or under P.L. 98-64;~~
 - ~~(f)) (c) The monthly child support incentive payment from the office of support enforcement;~~
 - ~~(d) AFDC benefits resulting from a court order modifying a department policy(;~~
 - ~~(g) Veterans' Administration educational assistance for the student's educational expenses and child care necessary for school attendance;~~
 - ~~(h) Housing and Urban Development (HUD) community development block grant funds that preclude use for current living costs;~~
 - ~~(i) The monthly child support incentive payment from the office of support enforcement;~~
 - ~~(j) A previous underpayment of assistance under WAC 388-33-195; and~~
 - ~~(k) Restitution funds to individuals of Japanese ancestry interred during World War II under the Wartime Relocation of Civilians Act, P.L. 100-383); and~~
 - ~~(e) Wages earned during the 1990 Federal Census Demonstration Project by a temporary census worker eligible for the exclusion.~~
- (2) For AFDC and general assistance (GA), the department shall disregard as income and as a resource the following payments:
- (a) Payment under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
 - (b) The food coupon allotment under Food Stamp Act of 1977;
 - (c) Compensation to volunteers in ACTION programs established by Titles I, II, and III of P.L. 93-113;
 - (d) Benefits under women, infants and children program (WIC);
 - (e) Food service program for children under the National School Lunch Act; ~~(and)~~
 - (f) Energy assistance payments;
 - (g) Per capita judgment funds under Public Law (P.L.) 92-254 to members of the:
 - (i) Blackfoot Tribe of the Blackfoot Indian Reservation, Montana; and
 - (ii) Gros Ventre Tribe of the Fort Belknap Reservation, Montana.
 - (h) Indian claim settlement per capita funds or funds held in trust under P.L. 93-134 or P.L. 94-114;
 - (i) Two thousand dollars per individual per calendar year received under the Alaska Native Claims Settlement Act or under P.L. 98-64;
 - (j) Veterans' Administration educational assistance for the student's educational expenses and child care necessary for school attendance;
 - (k) Housing and Urban Development (HUD) community development block grant funds that preclude use for current living costs;
 - (l) Restitution payments made under the Wartime Relocation of Civilians Act, P.L. 100-383. The department shall disregard income and resources derived from restitution payments;
 - (m) A previous underpayment of assistance under WAC 388-33-195;
 - (n) Payment from the annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, made to a Puyallup Tribe member upon reaching twenty-one years of age.
 - (i) The purchases of real or personal property purchased directly with funds from the annuity fund payment up to the amount of the funds from the annuity fund payment hereafter referred to as the initial investments.
 - (ii) Income derived either from the annuity fund payment or the initial investments shall be treated as newly acquired income per WAC 388-28-482 and 388-28-484.
 - (iii) When the initial investments are nonexempt resources, appreciation in value shall be applied to the resource ceiling value as specified for the applicable program in WAC 388-28-430(2)(a) or WAC 388-28-435(1). When appreciation is in excess of the applicable ceiling value, the department shall apply for AFDC WAC 388-28-438(2) and for GA-U WAC 388-28-450(2). The department shall determine appreciation in value at the time of eligibility review.
 - (iv) Proceeds from the transfer of the initial investments are treated according to WAC 388-28-471. After sixty days, if funds are in excess of the applicable ceiling value, the department shall apply for AFDC WAC 388-28-438(2) and for GA-U WAC 388-28-440(3) and (4).
 - (o) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member; and

(p) Payments made from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims. Under P.L. 101-201, the effective date of the disregard is retroactive to January 1, 1989.

WSR 90-07-082
PERMANENT RULES
DEPARTMENT OF LABOR AND INDUSTRIES
(Board of Boiler Rules)

[Filed March 21, 1990, 2:39 p.m.]

Date of Adoption: March 20, 1990.

Purpose: WAC 296-104-015, will allow flexibility of meeting dates for compatibility with board members' schedules.

Citation of Existing Rules Affected by this Order: Amending WAC 296-104-015 Board meetings.

Statutory Authority for Adoption: RCW 70.79.050.

Pursuant to notice filed as WSR 90-04-065 on February 5, 1990.

Effective Date of Rule: Thirty-one days after filing.

March 20, 1990

Robert E. Reid

Chairman

AMENDATORY SECTION (Amending Order 85-26, filed 12/19/85)

WAC 296-104-015 BOARD MEETINGS. The board of boiler rules shall hold its regular meetings (~~on the third Tuesday of~~) in January, March, May, September and November of each year(;-). The time (~~and~~), place, and date of each regular meeting (~~to~~) shall be set by the chairman of the board. Special meetings may be called by the chairman when considered necessary by the board.

WSR 90-07-083
PROPOSED RULES
BUILDING CODE COUNCIL

[Filed March 21, 1990, 3:00 p.m.]

Original Notice.

Title of Rule: Permit exemption guideline.

Purpose: The rule would provide a guideline for permit exemptions to certain construction and alteration activities in Group R-3 and M-1 occupancy buildings.

Statutory Authority for Adoption: Chapter 19.27 RCW.

Statute Being Implemented: RCW 19.27.060 (7)(b).

Summary: The rule would provide a guideline for permit exemptions to certain construction and alteration activities in Group R-3 and M-1 occupancy buildings.

Reasons Supporting Proposal: RCW 19.27.060 (7)(b).

Name of Agency Personnel Responsible for Drafting: Donna J. Voss, Ninth and Columbia Building, Olympia, Washington, (206) 586-8999; Implementation: Linda Ramsey, Ninth and Columbia Building, Olympia, Washington, (206) 586-3423; and Enforcement: Local governments.

Name of Proponent: Washington State Building Code Council, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule provides a building permit exemption for minor construction and alteration activities to Group R-3 and M-1 occupancies, which have a valuation of less than \$1500. The rules provides local governments a guideline for adoption should they chose to adopt the exemption. The guideline is optional for local government adoption. The purpose is to allow property owners to do limited construction to their homes and accessory buildings without obtaining a building permit.

Proposal Changes the Following Existing Rules: If adopted by a local jurisdiction, then the proposal would delete the current requirement for a building permit for limited construction activities to single family residential dwellings and limited accessory structures.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The council has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reason: The rule would potentially reduce the costs to small contractor businesses for building permits for construction and alteration permits to single family homes and their accessory structures. A building permit for a project of \$1500 valuation would typically cost:

Building Permit Fee*	\$35.00
Building Code Council Fee	4.50
Total Fee	\$39.50

* Based upon permit fee schedule in 1988 Uniform Building Code.

If the exemption is enacted, then no building permit or fee would be required.

Hearing Location: Spokane City Council Chambers, Spokane City Hall, West 808 Spokane Falls Boulevard, Spokane, WA, on May 11, 1990, at 9:00 a.m.; and at the Angel Lake Fire Hall, 2929 200th Street South, Seattle, WA, on June 8, 1990, at 9:00 a.m.

Submit Written Comments to: Marc Sullivan, Chair, State Building Code Council, Ninth and Columbia Building, Olympia, Washington 98504, by May 10, 1990.

Date of Intended Adoption: June 8, 1990.

March 16, 1990

Marc J. Sullivan

Chair

AMENDATORY SECTION (Amending Order 88-11, filed 12/1/88, effective 7/1/89)

WAC 51-16-080 ((~~IMPLEMENTATION~~)) PERMIT EXEMPTIONS GUIDELINE. ((~~The uniform codes adopted by WAC 51-16-030 through 51-16-060 of this chapter shall become effective in all counties and cities of this state on July 1, 1989, unless local amendments have been approved by the state building code council.~~)) Cities and counties are permitted the option of adopting a one thousand five hundred dollar building permit exemption for certain construction and alteration activities for Group R, Division 3 and Group M, Division 1 occupancies. To adopt the permit exemption guideline, the following

section of the 1988 Uniform Building Code shall be amended as follows:

(1) Section 301 (b) of the Uniform Building Code shall be amended to read as follows:

(b) Exempted work. A building permit shall not be required for the following:

1. One-story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the projected roof area does not exceed one hundred twenty square feet.

2. Fences not over six feet high.

3. Oil derricks.

4. Movable cases, counters, and partitions not over five feet nine inches high.

5. Retaining walls which are not over four feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or III-A liquids.

6. Water tanks supported directly upon grade if the capacity does not exceed five thousand gallons and the ratio of height to diameter or width does not exceed two to one.

7. Platforms, walks, and driveways not more than thirty inches above grade and not over any basement or story below.

8. Painting, papering, and similar finish work.

9. Temporary motion picture, television, and theater stage sets and scenery.

10. Window awnings supported by an exterior wall of Group R, Division 3, and Group M Occupancies when projecting not more than fifty-four inches.

11. Prefabricated swimming pools accessory to a Group R, Division 3 Occupancy in which the pool walls are entirely above the adjacent grade and if the capacity does not exceed five thousand gallons.

12. Minor construction and alteration activities to Group R, Division 3 and Group M, Division 1 occupancies, as determined by the building official, which the total valuation, as determined in Section 304 (b) or as documented by the applicant to the satisfaction of the building official, does not exceed one thousand five hundred dollars in any twelve-month period: PROVIDED, That the construction and/or alteration activity does not affect any structural components, or reduce existing egress, light, air, and ventilation conditions. This exemption does not include electrical, plumbing, or mechanical activities.

Unless otherwise exempted, separate plumbing, electrical, and mechanical permits will be required for the above exempted items.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

The adoption of an ordinance or resolution by cities and counties for the purpose to provide for a permit exemption as outlined in this section, shall not be considered a local government residential amendment requiring approval by the state building code council.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 51-16-090 SUBMITTAL OF PROPOSED CITY OR COUNTY AMENDMENTS.

WSR 90-07-084

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

(Apprenticeship and Training Council)

[Filed March 21, 1990, 4:30 p.m.]

Supplemental Notice to WSR 90-06-103.

Title of Rule: Apprenticeship committees, WAC 296-04-001 and 296-04-160.

Purpose: Establish additional guidelines for approval and operation of apprenticeship committees.

Statutory Authority for Adoption: RCW 49.04.010.

Statute Being Implemented: RCW 49.04.010, 49.04-030 and 49.04.040.

Summary: WAC 296-04-001, expressing council policy regarding the operation of apprenticeship committees; and WAC 296-04-160, if existing committees refuse to provide access to all employers, council shall act to remove restrictions to access.

Reasons Supporting Proposal: Increasing numbers of employers seeking to train employees through apprenticeship programs. The proposed rule clarify criteria used by the council in determining whether to approve a new program or require the training to occur in an existing program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark M. McDermott, 406 Legion Way S.E., Olympia, (206) 753-3487.

Name of Proponent: Washington State Apprenticeship and Training Council, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed revisions clarify council policy regarding the operation and establishment of apprenticeship committees. This clarification should assist employers who seek to provide apprenticeship training in determining whether to propose a new program or whether to seek training through an existing program. Because existing programs are required to offer training opportunities to all employers on an equal basis, those that fail to do so may be decertified by the council.

Proposal Changes the Following Existing Rules: [No information supplied by agency.]

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

These rules clarify the operating standards for existing apprenticeship committees and set forth criteria used by the council in determining whether to approve new committees. The rules will assist all sponsors of new programs in understanding criteria for council approval. There is no economic impact to business and no additional paperwork required by this rule.

Hearing Location: April 19, 1990, 1:30 p.m., Holiday Inn, Yakima, Nine North Ninth Street, Yakima, WA 98901; and on May 8, 1990, 9:00 a.m., Tacoma Sheraton, 1320 Broadway Plaza, Tacoma, WA 98402.

Submit Written Comments to: Mark M. McDermott, Supervisor of Apprenticeship, by May 18, 1990.

Date of Intended Adoption: July 19, 1990.

Harold G. Wilson

WSR 90-07-085

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

(Apprenticeship and Training Council)

[Filed March 21, 1990, 4:31 p.m.]

Supplemental Notice to WSR 90-06-104.

Title of Rule: Apprenticeship council voting.

Purpose: Establish a tie-breaking procedure for council meetings.

Statutory Authority for Adoption: RCW 49.04.010.

Statute Being Implemented: RCW 49.04.010.

Summary: A tie-breaking committee is established in case of a tie vote on proposed apprenticeship standards at a council meeting.

Reasons Supporting Proposal: State law requires a tie-breaking procedure.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark M. McDermott, 406 Legion Way S.E., Olympia, (206) 753-3487.

Name of Proponent: Washington State Apprenticeship and Training Council, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule is proposed to comply with RCW 49.04.010 requiring that a procedure be established in case an impasse occurs. Even with a seven-member council a tie vote may occur when a member is absent. This rule establishes a tie-breaking procedure to resolve an impasse within thirty days of the tie vote.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The proposed rule only affects council operations and has no impact on business.

Hearing Location: April 19, 1990, 1:30 p.m. Holiday Inn, Yakima, Nine North Ninth Street, Yakima, WA 98901; and on May 8, 1990, 9:00 a.m., Tacoma Sheraton, 1320 Broadway Plaza, Tacoma, WA 98402.

Submit Written Comments to: Mark M. McDermott, Supervisor of Apprenticeship, by May 18, 1990.

Date of Intended Adoption: July 19, 1990.

Harold G. Wilson

WSR 90-07-086
PROPOSED RULES
LOTTERY COMMISSION
 [Filed March 21, 1990, 4:43 p.m.]

Original Notice.

Title of Rule: WAC 315-11-550 Definitions; 315-11-551 Criteria; 315-11-552 Ticket validation requirements for Instant Game No. 55; 315-08-010 Expenditure and transfer limits—State Lottery account; 315-08-020 Revenue projections by commission; 315-08-030 State Lottery account—Director's responsibilities; 315-08-040 Director's quarterly report to the commission; 315-06-080 Certain purchases of tickets, gratuities and certain winning of prizes prohibited; and 315-04-132 Change of business structure, ownership or officers.

Purpose: To establish the game play rules and criteria for determining winners of Instant Game No. 55; to establish chapter 315-08 WAC, Financial management; and to amend WAC 315-06-080 and 315-04-132.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

Reasons Supporting Proposal: To establish rules for Instant Game No. 55; to establish rules regarding financial management of the State Lottery account; to amend WAC 315-06-080 regarding prohibited acts and WAC 315-04-132 regarding licensing.

Name of Agency Personnel Responsible for Drafting: Jeff Burkhardt, Contracts Specialist, Olympia, 586-6583; Implementation and Enforcement: Evelyn Y. Sun, Director, Olympia, 753-3330.

Name of Proponent: Washington State Lottery Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 315-11-550, 315-11-551 and 315-11-552, for each game certain terms must be defined in order to provide consistency in the game play rules. The play criteria will explain how the game functions to licensed retailers and players. Rigid validation requirements are set forth which will prevent the Lottery from paying out prize money on invalid tickets; WAC 315-08-010, 315-08-020, 315-08-030 and 315-08-040, RCW 67.70.230 establishes the State Lottery account to be managed and controlled by the Lottery Commission. These rules specify the duties of the commission and the director regarding this account; and WAC 315-06-080 and 315-04-132 amendment, see below.

Proposal Changes the Following Existing Rules: WAC 315-06-080, amendment changes the word "gratuities" to "thing of economic value" in subsection (3); and WAC 315-04-132, amendment changes the definition of "substantial change of ownership" in subsection (2) and clarifies in subsections (4) and (5) that the change referred to is a substantial change of ownership, not a change of officers.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The lottery has considered whether this rule is subject to the Regulatory Fairness Act, chapter 19.85 RCW, and has determined that it is not for the following reasons: The rules have no economic impact on business' cost of equipment, supplies, labor or administrative costs. The rules are designed to establish rules and procedures for the playing of instant lottery games; and the rules will have a negligible impact on business because they are interpretive. They have been promulgated for the purpose of stating policy, procedure and practice and do not include requirements for forms, fees, appearances or other actions by business.

Hearing Location: Washington State Lottery, Regional Office, 5963 Corson Avenue South #106, Seattle, WA 98108, on May 4, 1990, at 10:00 a.m.

Submit Written Comments to: Judith Giniger, Lottery, P.O. Box 9770, Olympia, WA 98504, by May 3, 1990.

Date of Intended Adoption: May 4, 1990.

March 19, 1990
 Evelyn Y. Sun
 Director

NEW SECTION

WAC 315-11-550 DEFINITIONS FOR INSTANT GAME NUMBER 55 ("JACKPOT"). (1) Play symbols: The following are the "play symbols": "☼"; "☆"; "⊙"; "△"; "♯"; and "▢". One of these play symbols appears in each of the nine play spots in the playfield under the scratch-off material covering the game play data. The nine play spots shall be arranged in three rows, with three play spots to each row.

(2) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 55, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
☼	CHRY
☆	STAR
△	BELL
⊙	LEMN
♯	SVEN
▢	BARR

(3) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex covering.

(4) Pack-ticket number: The eleven-digit number of the form 05500001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 55 constitute the "pack number" which starts at 05500001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(5) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25 and less. For Instant Game Number 55, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE
ONE	\$1.00
TWO	\$2.00
FIV	\$5.00
EGT	\$8.00
TEN	10.00
TLV	12.00
TWY	20.00

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

NEW SECTION

WAC 315-11-551 CRITERIA FOR INSTANT GAME NUMBER 55. (1) The price of each instant game ticket shall be \$1.00.

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

(a) The bearer of a ticket having three identical play symbols in the same game (horizontal row) shall win the prize which corresponds with that set of identical play symbols. Play symbols in different games (horizontal rows) may not be combined to win a prize. The ticket shall bear a legend which lists each set of identical play symbols and its corresponding prize:

Three ☼ play symbols - Win	\$ 1.00
Three ☆ play symbols - Win	\$ 2.00
Three ⊙ play symbols - Win	\$ 5.00
Three △ play symbols - Win	\$ 10.00
Three ♯ play symbols - Win	\$ 50.00
Three ▢ play symbols - Win	\$ 20,000

(b) The bearer of a ticket having winning play symbols in more than one game (horizontal row) shall win the total amount of the prizes won in each game.

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 55 set forth in WAC 315-11-552, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

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

(a) Vary the length of Instant Game Number 55 and/or

(b) Vary the number of tickets sold in Instant Game Number 55 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-552 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 55. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 55, all of the following validation requirements apply.

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

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

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

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

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

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-550(1) and each of the captions must be exactly one of those described in WAC 315-11-550(2).

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

**CHAPTER 315-08 WAC
FINANCIAL MANAGEMENT**

WAC 315-08-010	EXPENDITURE AND TRANSFER LIMITS - STATE LOTTERY ACCOUNT
WAC 315-08-020	REVENUE PROJECTIONS BY COMMISSION
WAC 315-08-030	STATE LOTTERY ACCOUNT - DIRECTOR'S RESPONSIBILITIES
WAC 315-08-040	DIRECTOR'S QUARTERLY REPORT TO THE COMMISSION

NEW SECTION

WAC 315-08-010 EXPENDITURE AND TRANSFER LIMITS - STATE LOTTERY ACCOUNT. (1) At the outset of fiscal year 1991, and at the outset of each biennium after fiscal year 1991, the Commission shall determine by resolution the following: (a) The total amount of monies which may be transferred from the state lottery account to the state's general fund and to the lottery administrative account, pursuant to legislative appropriation; and

(b) The total amount of monies which may be expended from the state lottery account for each of the following purposes:

(i) Payment of retailer compensation;

(ii) Payment of prizes (which shall not be less than 45 percent of gross annual revenue of the Lottery);

(iii) On-line vendor payments;

(iv) On-line telecommunications payments;

(v) Instant game vendor payments;

(vi) Promotion/advertising; and

(vii) Any other purposes required by law.

(2) The Commission may amend by resolution the amounts determined under this section based on changes in the revenue stream and/or program requirements.

(3) The director may exceed approved totals when necessary for sales volume-related expenses provided that such expenditures are reported at the next regularly scheduled commission meeting.

NEW SECTION

WAC 315-08-020 REVENUE PROJECTIONS BY COMMISSION. The director shall present to the Revenue Forecast Council periodic revenue projections made by the Commission consistent with the executive budget.

NEW SECTION

WAC 315-08-030 STATE LOTTERY ACCOUNT - DIRECTOR'S RESPONSIBILITIES. The director may transfer and expend monies as he/she deems appropriate within the totals determined pursuant to WAC 315-08-010 and shall perform all functions necessary for the administration and operation of the state lottery account.

NEW SECTION

WAC 315-08-040 DIRECTOR'S QUARTERLY REPORT TO THE COMMISSION. The director shall provide quarterly to the Commission a full and complete statement of fund transfer and expenditure activity for the preceding quarter.

AMENDATORY SECTION (Amending Order 83, filed 12/16/85)

WAC 315-06-080 CERTAIN PURCHASES OF TICKETS, GRATUITIES, AND CERTAIN WINNING OF PRIZES PROHIBITED. Certain purchases of tickets, certain winning and sharing of prizes, and gratuities are prohibited as follows:

(1) A ticket shall not be purchased by, and a prize shall not be paid to any member or employee of the commission or to any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any member or employee of the commission, or to any assistant attorney general assigned to advise the commission or director.

(2) A prize claimed by a holder of a winning ticket shall not be shared with any member or employee of the commission or any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any member or employee of the commission.

(3) No ((gratuities)) thing of economic value offered by prize winners, vendors, contractors, or others conducting business with the lottery, may be accepted by lottery retailers or by any member or employee of the commission or any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any member or employee of the commission.

(4) A ticket shall not be purchased by, and a prize shall not be paid to any CPA accounting firm, or its employees, retained by the director of financial management pursuant to sections 31 and 32, chapter 7, Laws of 1982 2nd ex. sess. or any employee of the director of financial management performing a management review or audit of the commission or director.

(5) A ticket shall not be sold to or purchased by any person under the age of eighteen. Nothing in this section shall prohibit the purchase of a ticket for the purpose of making a gift by a person eighteen years of age or older to a person less than that age.

(6) A ticket shall not be purchased with food stamps or coupons and a lottery retailer shall not accept as consideration for a ticket food stamps or coupons.

AMENDATORY SECTION (Amending Order 97, filed 12/16/86)

WAC 315-04-132 CHANGE OF BUSINESS STRUCTURE, OWNERSHIP, OR OFFICERS. (1) Every change of business structure of a person to whom a license has been issued must be reported to the lottery prior to the change. A change of business structure shall mean the change from one form of business organization to another, such as from sole proprietorship to partnership or corporation.

(2) Every substantial change of ownership of a person to whom a license has been issued must be reported to the lottery prior to the change. A substantial change of ownership shall mean the transfer of

ten percent or more equity, or the addition or deletion of an owner of ten percent or more of the person.

(3) Every change of officers of a person to whom a license has been issued must be reported to the lottery not later than ten days following the effective day of the change.

(4) If ((such)) the substantial change of ownership involves the addition or deletion of one or more owners or officers, the lottery retailer shall submit a license application reflecting the change(s) and any other documentation the director may require.

(5) If ((such)) the substantial change of ownership involves the addition of one or more owners or officers who does not have on file with the lottery current "personal history information" and "criminal history information" forms, each such owner or officer shall submit the required forms.

WSR 90-07-087

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed March 21, 1990, 4:54 p.m.]

Original Notice.

Title of Rule: Amending WAC 458-20-107 Selling price—Advertised prices including sales tax—Warranties, maintenance agreements, service contracts.

Purpose: To repeal warranty, maintenance agreements, service contracts subject matter from rule and to reformat for clarity.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Title 82 RCW.

Summary: Repeal warranty, maintenance agreements, service contracts from rule. This subject matter is placed in new WAC 458-20-257.

Name of Agency Personnel Responsible for Drafting: Steve Zagelow, 711 Capitol Way #205, Olympia, (206) 586-4291; Implementation: Les Jaster, 711 Capitol Way #400, Olympia, (206) 586-7150; and Enforcement: Ed Faker, 711 Capitol Way #400, Olympia, (206) 753-5579.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment repeals the subject matter of warranties, maintenance agreements, service contracts from this rule. This subject matter is to be contained in its separate rule, WAC 458-20-257. The rule is reformatted for clarity.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

A small business economic impact statement is not required for the following reasons: No economic impact. This rule change has no identifiable administrative impact. Negligible impact. This rule requires no action on the part of any small business.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA 98504, on April 25, 1990, at 11:00 a.m.

Submit Written Comments to: Stephen Zagelow, Administrative Law Judge, Department of Revenue, Interpretations and Appeals, 415 General Administration

Building, AX-02, Olympia, WA 98504, by April 25, 1990.

Date of Intended Adoption: May 2, 1990.

March 21, 1990
Edward L. Faker
Assistant Director

AMENDATORY SECTION (Amending Order ET 86-1, filed 1/7/86)

WAC 458-20-107 SELLING PRICE - ADVERTISED PRICES INCLUDING SALES TAX (~~WARRANTIES, MAINTENANCE AGREEMENTS, SERVICE CONTRACTS~~). (1) Selling Price. Under the provisions of RCW 82.08.020 the retail sales tax is to be collected and paid upon retail sales, measured by the "selling price."

(a) The term "Selling price" means the consideration, whether money, credits, rights, or other property except trade-in property of like kind, expressed in the terms of money paid or delivered by a buyer to a seller without any deduction on account of the cost of tangible personal property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes other than taxes imposed under this chapter if the seller advertises the price as including the tax or that the seller is paying the tax, or any other expenses whatsoever paid or accrued and without any deduction on account of losses; . . ." (See RCW 82.08.010(1)).

(b) Concerning the tax liabilities and benefits in connection with "trade-in" transactions, see WAC 458-20-247.

(c) RCW 82.08.050 specifically requires that the retail sales tax must be stated separately from the selling price on any sales invoice or other instrument of sale, i.e., contracts, sales slips, and/or customer billing receipts. (For an exception covering restaurant receipts of Class H liquor licensees, see WAC 458-20-119). This is required even though the seller and buyer may know and agree that the price quoted is to include state and local taxes, including the retail sales tax. The law creates a "conclusive presumption" that, for purposes of collecting the tax and remitting it to the state, the selling price quoted does not include the retail sales tax. This presumption is not overcome or rebutted by any written or oral agreement between seller and buyer. However, selling prices may be advertised as including the tax or that the seller is paying the tax and, in such cases, the advertised price shall not be considered to be the taxable selling price under certain prescribed conditions explained in this (~~rule~~) section. Even when prices are advertised as including the sales tax, the actual sales invoices, receipts, contracts, or billing documents must list the retail sales tax as a separate charge. Failure to comply with this requirement may result in the retail sales tax due and payable to the state being computed on the gross amount charged even if it is claimed to already include all taxes due.

(2) ADVERTISING PRICES INCLUDING TAX.

(a) The law provides that a seller may advertise prices as including the sales tax or that the seller is paying the sales tax under the following conditions:

((+)) (i) The words "tax included" are stated immediately following the advertised price in print size at least half as large as the advertised price print size, unless the advertised price is one in a listed series;

((+)) (ii) When advertised prices are listed in series, the words "tax included in all prices" are placed conspicuously at the head of the list in the same print size as the list;

((+)) (iii) If the price is advertised as including tax, the price listed on any price tag shall be shown in the same way; and

((+)) (iv) All advertised prices and the words "tax included" are stated in the same medium, whether oral or visual, and if oral, in substantially the same inflection and volume.

(b) If these conditions are satisfied, as applicable, then price lists, reader boards, menus, and other price information mediums need not reflect the item price and separately show the actual amount of sales tax being collected on any or all items.

(c) The scope and intent of the foregoing is that buyers have the right to know whether retail sales tax is being included in advertised prices or not and that the tax is not to be used for the competitive advantage or disadvantage of retail sellers.

(3) See: Wac 458-20-257 for Warranties (Guarantees) and Maintenance Agreements (Service Contracts).

~~(WARRANTIES, MAINTENANCE AGREEMENTS, AND SERVICE CONTRACTS)~~

For purposes of this rule, the following definitions apply:

~~Warranties, sometimes referred to as guarantees, are agreements which call for the replacement or repair of tangible personal property with no additional charge for parts or labor, or both, based upon the happening of some unforeseen occurrence, e.g., the property breaks down.~~

~~Maintenance agreements, sometimes referred to as service contracts, are agreements which require the specific performance of repairing, cleaning, altering, or improving of tangible personal property on a regular or periodic basis to ensure its continued satisfactory operation.~~

~~Manufacturer's warranties are generally included within the retail selling price of the property and no additional charge is made. However, when any additional charge is made for any warranty protecting tangible personal property sold, additional tax liability is incurred depending on how the warranty is sold. If it is sold by the retail seller of the property protected by the warranty and concomitant with the sale of that property, the entire charge, including the charge for the warranty, is subject to retailing business tax and retail sales tax. This is so even though the warranty charge may be separately billed or separately itemized on any billing. Such warranty sales are deemed to be "for labor and services rendered in respect to . . . installing, repairing, cleaning, altering, imprinting, or improving tangible personal property of or for consumers . . ." and therefore they are "retail sales" under RCW 82.04.050.~~

~~Warranties which are sold by any person who was not the seller of the property protected by the warranty or which are purchased subsequent to and distinct from the original warranty purchased concomitant with the property, are deemed to be services rather than retail sales. Charges for such warranties are subject to the service business tax and are not subject to retail sales tax.~~

MAINTENANCE AGREEMENTS

~~Maintenance agreements and service contracts require the periodic specific performance of inspecting, cleaning, physical servicing, altering, and/or improving of tangible personal property. Therefore, charges for contracts or agreements of this nature are retail sales, subject to retailing business tax and retail sales tax under all circumstances.~~

~~In the cases of both warranties and maintenance agreements, any actual additional charge made to the consumer because of the providing of materials or the performance of actual labor pursuant to such agreements is separately taxable under the retailing business tax and retail sales tax. This includes so-called "deductible" amounts not covered by the warranty or service agreement.~~

~~Moreover, if an agreement contains warranty provisions but also requires the actual specific performance of inspection, cleaning, servicing, altering, or improving the property on a regular or periodic basis, without regard to the operating condition of the property, such agreements are fully taxed as service agreements, not warranties.)~~

WSR 90-07-088

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed March 21, 1990, 4:55 p.m.]

Original Notice.

Title of Rule: New section WAC 458-20-257 Warranties and maintenance agreements.

Purpose: This rule describes the taxation of warranties and maintenance agreements, correcting the portions of WAC 458-20-107 held invalid by a court.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Title 82 RCW.

Summary: A court has ruled that WAC 458-20-107 concerning extended warranties is invalid. This new rule corrects the invalidity and provides clarification of the taxation of warranties and maintenance agreements in a separate rule.

Reasons Supporting Proposal: *Sound Hyundai v. State of Washington*, Thurston Co. No. 88-2-02100-4.

Name of Agency Personnel Responsible for Drafting: Steve Zagelow, 711 Capitol Way #205, Olympia, (206) 586-4291; Implementation: Les Jaster, 711 Capitol Way #400, Olympia, (206) 586-7150; and Enforcement: Ed Faker, 711 Capitol Way #400, Olympia, (206) 753-5579.

Name of Proponent: Department of Revenue, governmental.

Rule is necessary because of state court decision, *Sound Hyundai v. State of Washington*, Thurston Co. No. 88-2-02100-4.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule covers the subject of warranties and maintenance agreements previously contained in WAC 458-20-107. This rule corrects the invalidity of a portion of WAC 458-20-107 dealing with extended warranties held invalid by a court. The rule is intended to provide comprehensive guidelines for the retail sales, business and occupation and use taxation of warranties and maintenance agreements.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

A small business economic impact statement is not required for the following reasons: Negligible impact. This rule has no identifiable administrative impact. Interpretative rule. This rule is for the purpose of tax application and requires no action on the part of any business.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA 98504, on April 25, 1990, at 9:30 a.m.

Submit Written Comments to: Stephen Zagelow, Administrative Law Judge, Department of Revenue, Interpretations and Appeals, 415 General Administration Building, AX-02, Olympia, WA 98504, by April 25, 1990.

Date of Intended Adoption: May 2, 1990.

March 21, 1990
Edward L. Faker
Assistant Director

NEW SECTION

WAC 458-20-257 WARRANTIES AND MAINTENANCE AGREEMENTS. (1) DEFINITIONS. For the purposes of this section, the following terms will apply:

(a) Warranties. Warranties, sometimes referred to as guarantees, are agreements which call for the replacement or repair of tangible personal property with no additional charge for parts or labor, or both, based upon the happening of some unforeseen occurrence, e.g., the property needs repair within the warranty period.

(b) Warrantor. The warrantor is the person obligated, as specified in the warranty agreement, to perform labor and/or provide materials to the owner of the personal property to which the warranty agreement relates.

(c) Maintenance Agreements. Maintenance agreements sometimes referred to as service contracts, are agreements which require the specific performance of repairing, cleaning, altering, or improving of tangible personal property on a regular or periodic basis to ensure its continued satisfactory operation.

(2) B&O TAX.

(a) Manufacturer's warranties included in the retail selling price of the article being sold.

(i) When a manufacturer's warranty is included in the retail selling price of the property sold and no additional charge is made, the value of the warranty is a part of the selling price. The value of the warranty

is included in the "gross proceeds of sale" of the article sold and reported under the appropriate classification, e.g. retailing, wholesaling, etc.

(ii) When a repair is made by the manufacturer-warrantor under the warranty, the value of the labor and or parts provided are not subject to B&O tax.

(iii) When a person other than the manufacturer-warrantor makes a repair for the manufacturer-warrantor, the person making the repair is making a wholesale sale of the repair service to the manufacturer-warrantor. The person doing the repair is B&O taxable under the wholesaling classification on the value of the parts and labor provided.

(b) Non-Manufacturer's warranties and manufacturer's warranties not included in the retail selling price of the article being sold.

(i) When a warranty is sold for a charge separate from the charge of the product, e.g., a warranty extending the manufacturer's warranty, the charge is reported in the service and other activities classification of the B&O tax.

(ii) When a repair is made by the warrantor under a separately stated warranty, the value of the labor and or parts provided are not subject to B&O tax.

(iii) When a person other than the warrantor makes a repair for the warrantor, the person making the repair is making a retail sale of the repair service to the warrantor. The person making the repair is B&O taxable under the retailing classification.

(c) Maintenance Agreements.

(i) Maintenance agreements (service contracts) require the periodic specific performance of inspecting, cleaning, physical servicing, altering, and/or improving of tangible personal property. Charges for maintenance agreements are retail sales, subject to retailing B&O tax and retail sales tax under all circumstances.

(d) Amounts received as a commission or other consideration for selling a warranty or maintenance agreement of a third-party warrantor or provider are generally subject to B&O tax under the service and other activities classification. However, if the seller of the warranty is licensed under chapter 48.17 RCW with respect to this selling activity, the commission is subject to B&O tax under the insurance agent classification.

(e) In the event a warrantor purchases an insurance policy to cover the warranty, amounts received by the warrantor under the insurance policy are insurance claim reimbursements not subject to B&O tax.

(3) RETAIL SALES TAX.

(a) Manufacturer's warranties included in the retail selling price of the article being sold.

(i) When a manufacturer's warranty is included in the retail selling price of the property sold and no additional or separate charge is made, the value of the warranty is a part of the selling price and retail sales tax applies to the entire selling price of the article being sold.

(ii) When a repair is made by the manufacturer-warrantor under the warranty, the repair performed is not a retail sale and no retail sales tax is collected.

(iii) When a person other than the manufacturer-warrantor makes a repair for the manufacturer-warrantor, the person making the repair is making a wholesale sale of the repair service to the manufacturer-warrantor. No retail sales tax is collected from the manufacturer-warrantor.

(b) Non-Manufacturer's warranties and manufacturer's warranties not included in the retail selling price of the article being sold.

(i) When a warranty is sold for a charge separate from the charge of the product, e.g., a warranty extending the manufacturer's warranty, the sale is not a retail sale and no retail sales tax is collected on the amount charged.

(ii) When a repair is made by the warrantor under its own separately stated warranty, the value of the labor and/or parts provided is not a retail sale and no retail sales tax is collected.

(iii) When a person other than the warrantor makes a repair for the warrantor, the person making the repair is making a retail sale of the repair service to the warrantor. Retail sales tax is collected from the warrantor measured by the labor and materials provided.

(c) Maintenance Agreements are sales at retail and subject to retail sales tax under all circumstances.

(i) Parties sub-contracting to the party selling the maintenance agreement are making sales at wholesale, and are required to take from their customer (maintenance seller) a resale certificate as provided in WAC 458-20-102.

(4) USE TAX.

(a) Manufacturer's warranties included in the retail selling price of the article being sold.

(i) When a manufacturer-warrantor makes repairs required under its warranty, the value of the parts used in making the repairs is not subject to use tax.

(ii) Where a third party makes repairs for a manufacturer-warrantor, the transaction is a wholesale sale and the parts used in the repair are not subject to use tax.

(b) Non-Manufacturer's warranties and manufacturer's warranties not included in the retail selling price of the article being sold.

(i) When a repair is made by the warrantor under a separately stated warranty, the warrantor is the consumer of the parts and the parts are subject to use tax measured by the warrantor's cost.

(ii) When a person other than the warrantor makes a repair for the warrantor, the person making the repair is making a retail sale to the warrantor. Retail sales tax, not use tax, is collected.

(c) Maintenance Agreements.

(i) Persons performing services under the requirements of maintenance agreements sold by them, are not subject to use tax or retail sales tax on materials which become a part of the required repairs or services.

(5) ADDITIONAL SERVICE - DEDUCTIBLE. In the event services are provided in addition to any warranty or maintenance agreement, such services are separately taxable as retail sales, subject to retail sales tax and retailing B&O tax. This includes so-called "deductible" amounts not covered by a warranty or maintenance agreement.

(6) MIXED AGREEMENTS. If an agreement contains warranty provisions but also requires the actual specific performance of inspection, cleaning, servicing, altering, or improving the property on a regular or periodic basis, without regard to the operating condition of the property, such agreements are fully taxable as maintenance agreements, not warranties.

(7) EXAMPLES:

(a) An automobile dealer sells a vehicle to a customer for selling price of \$15,000 cash and the selling price includes a manufacturer's limited warranty for 5 years or 50,000 miles. The owner of the vehicle has \$600 (\$200 parts and \$400 labor) warranty work, paying no deductible, performed by the dealer who is not the manufacturer-warrantor. The tax liability of the dealer is as follows:

(i) Retail sales tax is collected on the \$15,000 selling price.

(ii) The \$15,000 selling price is reported under the retailing B&O tax classification. The \$600 repair is reported under the Wholesaling B&O tax classification.

(iii) The \$200 of parts used in the repair are not subject to use tax.

(b) The automobile dealer in example (a) also sells its own extended warranty to the customer for \$200. The dealer insures itself with an insurance carrier and under the policy, claims are paid on the retail value of the repairs. In addition to the repairs in example (a), the customer has the dealer complete \$500 of repairs under the dealer's extended warranty. The customer paid the \$100 deductible and the dealer received \$400 from his insurance carrier. In completing the repair, the dealer installed parts from its inventory which had a cost to the dealer of \$150 and subcontracted part of the repair to an electrical shop which charged the dealer \$200. The tax liability to the dealer and the subcontractor are as follows:

(i) The dealer reports the \$200 sale of the warranty under the service and other activities classification of B&O tax. No retail sales tax is collected on the sale.

(ii) The \$100 deductible received by the dealer is a retail sale subject to retail sales tax and retailing B&O tax.

(iii) The \$400 received by the dealer from the insurance company is a non-taxable insurance claim reimbursement.

(iv) The dealer is the consumer of the parts removed from its inventory and used in the repair. The \$150 dealer cost of the parts taken from inventory is subject to use tax.

(v) The subcontractor is making a retail sale to the dealer subject to retail sales tax and retailing B&O.

Title of Rule: Amending WAC 458-20-197 When tax liability arises.

Purpose: To identify when tax liability arises under cash, accrual and completed contract accounting methods.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Title 82 RCW.

Summary: This rule amendment reformats, clarifies the accrual method, adds a three prong test to determine when tax liability arises for contractors using the completed contract method, and deletes year-end adjustments.

Reasons Supporting Proposal: The three prong tests for completion of contract method of accounting is added to prevent abuse.

Name of Agency Personnel Responsible for Drafting: Steve Zagelow, 711 Capitol Way #205, Olympia, (206) 586-4291; Implementation: Les Jaster, 711 Capitol Way #400, Olympia, (206) 586-7150; and Enforcement: Ed Faker, 711 Capitol Way #400, Olympia, (206) 753-5579.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule is amended to clarify the accrual accounting method, prevent abuse by adding a three prong test to the completed contract method and delete year-end adjustments. The anticipated effect is to clarify the accrual method, to prevent abuse by contractors using the completed contract method of accounting while not effecting the small contractor and to remove from the rule year-end adjustments disallowed by 1982 legislation.

Proposal does not change existing rules.

Small Business Economic Impact Statement: Required because it affects more than 10 percent of one industry (SIC 152). This rule change impacts about 14,000 general contractors.

Cost analysis: Actual data on interest income on expense relating to the payment of sales tax before it is received is not available. After review of the current business practices used by the industry, the department finds the impact is negligible.

Action taken to lessen impact on small businesses: The changes proposed only effect contractors who use the completed contract method. The provision of "60 days after the facility is substantially complete" eliminates any impact on small custom home builders.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA 98504, on April 25, 1990, at 2:00 p.m.

Submit Written Comments to: Stephen Zagelow, Administrative Law Judge, Department of Revenue, Interpretations and Appeals, 415 General Administration Building, AX-02, Olympia, WA 98504, by April 25, 1990.

Date of Intended Adoption: May 2, 1990.

March 21, 1990
Edward L. Faker
Assistant Director

WSR 90-07-089

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed March 21, 1990, 4:56 p.m.]

Original Notice.

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/78 [5/29/70])

WAC 458-20-197 WHEN TAX LIABILITY ARISES. (1) Gross proceeds of sales and gross income shall be included in the return for the period in which the value proceeds or accrues to the taxpayer. For the purpose of determining tax liability of persons making sales of tangible personal property, a sale takes place when the goods sold are delivered to the buyer in this state. With respect to leases or rentals of tangible personal property, liability for retail sales tax arises as of the time the rental payments fall due (see WAC 458-20-211).

(2) ACCRUAL BASIS.

(a) When returns are made upon the accrual basis, value ~~((proceeds or))~~ accrues to a taxpayer ~~((as of))~~ at the time:

(i) the taxpayer ~~((actually receives;))~~ becomes legally entitled to receive the consideration, or,

(ii) in accord with the system of accounting regularly employed, enters as a charge against the purchaser, customer, or client the amount of the consideration agreed upon, whether payable immediately or at a definitely determined future time.

(b) ~~((As to a))~~ Amounts actually received ~~((, however, such amounts))~~ do not constitute value ~~((proceeding))~~ accruing to the taxpayer in the period in which received if the ~~((gross proceeds of sales or gross income of the contract or transaction by virtue of which such amounts are received, pursuant to the foregoing, constitute))~~ value ~~((accruing))~~ accrues to the taxpayer during another period. It is immaterial ~~((whether))~~ if the act or service ~~((out of))~~ for which the consideration ~~((proceeds or))~~ accrues is performed or rendered, in whole or in part, during a period other than the one for which return is made ~~((;))~~. ~~((t))~~ The controlling factor ~~((in this case being))~~ is the time ~~((as of which))~~ when the taxpayer is entitled to receive ~~((d))~~, or takes credit for, the ~~((agreed))~~ consideration.

(3) CASH RECEIPTS BASIS.

(a) When returns are made upon cash receipts and disbursements basis, value proceeds ~~((or accrues))~~ to a taxpayer ~~((as of))~~ at the time the taxpayer receives the payment, either actually or constructively ~~((; the consideration promised))~~. It is immaterial that the contract is performed, in whole or in part, during a period other than the one in which payment is received.

(b) ~~((But s))~~ See: WAC 458-20-199 for limitation as to persons who may report on the cash receipts basis. ~~((t))~~

(4) SPECIAL APPLICATION, CONTRACTORS. ((In the case of building and construction contractors value proceeds or accrues to the taxpayer as follows:))

~~((t))~~ ((When the taxpayer)) Value accrues for a building or construction contractor who maintains his accounting records on the accrual basis, as of the time the contractor becomes entitled to compensation under the contract ~~((;))~~.

~~((a))~~ If by the terms of the contract the taxpayer becomes entitled to compensation only upon the completion of the work, value accrues thereunder as of the time of completion;))

~~((b))~~ (a) If by the terms of the contract the taxpayer becomes entitled to compensation upon estimates as the work progresses, value, to the extent of such estimates, accrues as of the time that each estimate is made and the balance at the time of the completion of the work or of the final estimate.

(b) If by the terms of the contract the taxpayer becomes entitled to compensation only upon the completion of the work, value accrues as of the earlier of the completion of the work, or, any use of the facilities being constructed, or, 60 days after the facility is substantially complete.

(i) Example: A contractor agrees to build two buildings for a buyer. Under the terms of the contract, payment is to be made only upon completion of both buildings. One building is substantially completed and occupied on April 15, 1991, the other building is substantially completed on May 15, 1991 and occupied on July 1, 1991. The work on both buildings is completed under the contract on June 15, 1991. Value accrues for the first building on April 15, 1991, the date it was used. Value accrues for the remainder of the contract on June 15, 1991, the date the work was completed.

(ii) Example: A contractor agrees to build a building for a buyer. Under the terms of the contract, the buyer is to make payment for the building only upon completion of the building. The building is completed, except for minor alterations, and available for planned occupancy on August 15, 1990. However, because of a contract dispute between the buyer and his tenant for the building, the buyer is unable to pay the contractor until February 25, 1991 when the building is finally occupied. The building is completed under the contract on November

15, 1990. Value accrues on the building for sales tax and B&O tax purposes on October 14, 1990, 60 days after August 15, 1991, the date the building was substantially complete.

~~((2))~~ When the taxpayer maintains his accounting records on the cash receipts basis, as of the time that the consideration or compensation is received, but provided that the contractor shall make an annual adjustment of accounts receivable according to the procedure set forth in method three of WAC 458-20-199, accounting methods;))

(5) WAREHOUSEMEN. In the case of warehousemen value proceeds or accrues to the taxpayer as follows:

~~((t))~~ (a) When the taxpayer is reporting upon the accrual basis ~~((whether the consideration for storage is at a fixed rate per unit per month or other period or at a flat charge regardless of the length of time and whether payable periodically or at the time of withdrawal))~~, value accrues at ~~((as of))~~ the time the charge is entered against the owner of the goods stored in accordance with the terms of the contract between the parties and the regular system of accounting employed by the taxpayer.

(i) Value accrues when the charge is entered whether the consideration for storage is at a fixed rate per unit per month or other period, or, at a flat charge regardless of the length of time, or, whether payable periodically or at the time of withdrawal.

(ii) Thus, where a warehouseman, keeping books on accrual basis, customarily enters as a charge to the owner of the goods and a credit to storage income the full amount of a flat storage charge as of the time the goods are received, even though the time for payment is deferred until withdrawal of the goods, value accrues as of the time the goods are received. However, if the warehouseman customarily does not enter such charge until the time of withdrawal, value accrues as of such later date.

~~((2))~~ (b) When the taxpayer is reporting upon a cash receipts basis, value proceeds ~~((or accrues as of))~~ at the time the ~~((consideration or compensation))~~ payment for storage is received.

For effect of rate changes, see WAC 458-20-235.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

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

Table of WAC Sections Affected

KEY TO TABLE

Symbols:

- AMD = Amendment of existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- REP = Repeal of existing section
- REAFF = Order assuming and reaffirming rules
- REMOV = Removal of rule pursuant to RCW 34.04.050(5)
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule
- STMT = Statement regarding previously adopted rule

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- S = Supplemental notice
- W = Withdrawal of proposed action
- No suffix means permanent action

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WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

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16-230-861	NEW-P 90-04-109	16-400-100	AMD-P 90-05-065	51-06-020	AMD 90-02-108
16-230-862	NEW-P 90-04-109	16-400-210	AMD-E 90-03-034	51-06-030	REP 90-02-108
16-230-863	NEW-P 90-04-109	16-400-210	AMD-P 90-05-065	51-06-040	REP 90-02-108
16-316-285	AMD-P 90-03-090	16-403-142	AMD-E 90-03-035	51-06-050	REP 90-02-108
16-316-285	AMD-W 90-06-105	16-403-142	AMD-W 90-03-036	51-06-060	REP 90-02-108
16-316-290	AMD-P 90-03-090	16-403-142	AMD-P 90-05-066	51-06-070	AMD 90-02-108
16-316-290	AMD-W 90-06-105	16-403-155	AMD-P 90-05-067	51-06-080	REP 90-02-108
16-317-040	AMD 90-04-003	16-403-155	AMD-W 90-03-036	51-06-090	REP 90-02-108
16-317-050	AMD 90-04-003	16-403-155	AMD-P 90-05-066	51-06-100	REP 90-02-108
16-317-060	AMD 90-04-003	16-403-190	AMD-E 90-03-035	51-06-110	REP 90-02-108
16-317-090	REP 90-04-003	16-403-190	AMD-W 90-03-036	51-06-120	AMD 90-02-108
16-318-040	AMD 90-03-026	16-403-190	AMD-P 90-05-066	51-08-010	AMD 90-02-108
16-318-065	NEW 90-03-026	16-403-190	AMD-P 90-05-067	51-10	AMD 90-02-110
16-318-200	NEW 90-03-026	16-403-220	AMD-W 90-03-036	51-12-201	AMD-P 90-05-064
16-318-205	NEW 90-03-026	16-403-220	AMD-P 90-05-066	51-12-202	AMD-P 90-05-064
16-318-210	NEW 90-03-026	16-403-280	AMD-W 90-03-036	51-12-204	AMD-P 90-05-064
16-318-215	NEW 90-03-026	16-403-280	AMD-P 90-05-066	51-12-220	AMD 90-02-110
16-318-220	NEW 90-03-026	16-462-060	NEW-P 90-06-050	51-12-403	AMD 90-02-110
16-318-225	NEW 90-03-026	16-494-001	AMD-P 90-03-090	51-12-404	AMD 90-02-110
16-318-230	NEW 90-03-026	16-494-001	AMD-W 90-06-105	51-12-411	AMD-P 90-05-064
16-318-235	NEW 90-03-026	16-494-010	AMD-P 90-03-090	51-12-426	AMD 90-02-110
16-318-240	NEW 90-03-026	16-494-010	AMD-W 90-06-105	51-12-601	AMD 90-02-110
16-318-300	NEW 90-03-026	16-555-010	AMD-P 90-05-059	51-12-602	AMD-P 90-05-064

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132S-40-150	NEW	90-07-006	136-14-060	AMD	90-07-075	173-19-360	RE-AD	90-07-026
132S-40-155	NEW-P	90-03-082	136-16-010	AMD	90-07-076	173-19-3601	AMD-P	90-05-075
132S-40-155	NEW	90-07-006	136-16-018	AMD	90-07-076	173-19-390	RE-AD	90-07-025
132T-104-010	REP	90-03-065	136-16-022	AMD	90-07-076	173-19-3910	RE-AD	90-07-028
132T-104-020	REP	90-03-065	136-16-042	AMD	90-07-076	173-19-420	AMD-C	90-05-077
132T-104-030	REP	90-03-065	136-16-050	AMD	90-07-076	173-19-4201	AMD-P	90-05-076
132T-104-040	REP	90-03-065	136-36-010	REP	90-07-077	173-19-4202	AMD-P	90-05-076
132T-104-060	REP	90-03-065	136-36-020	REP	90-07-077	173-19-4203	AMD-P	90-05-076
132T-104-070	REP	90-03-065	136-36-030	REP	90-07-077	173-19-4204	AMD-P	90-05-076
132T-104-080	REP	90-03-065	136-36-040	REP	90-07-077	173-19-4205	AMD-P	90-05-076
132T-104-090	REP	90-03-065	139-05-925	NEW-P	90-03-085	173-19-4206	AMD-P	90-05-076
132T-104-100	REP	90-03-065	139-05-925	NEW	90-07-012	173-19-4507	AMD	90-07-063
132T-104-110	REP	90-03-065	154-04-035	REP-P	90-02-086	173-50-010	RE-AD	90-07-017
132T-104-120	REP	90-03-065	154-04-035	REP	90-05-078	173-50-020	RE-AD	90-07-017
132T-104-121	REP	90-03-065	154-04-041	NEW-P	90-02-086	173-50-030	RE-AD	90-07-017
132T-104-130	REP	90-03-065	154-04-041	NEW	90-05-078	173-50-040	RE-AD	90-07-017
132T-104-200	REP	90-03-065	154-04-110	REP-P	90-02-086	173-50-050	RE-AD	90-07-017
132T-104-210	REP	90-03-065	154-04-110	REP	90-05-078	173-50-060	RE-AD	90-07-017
132T-104-240	REP	90-03-065	154-08-050	AMD-P	90-02-086	173-50-070	RE-AD	90-07-017
132T-104-250	REP	90-03-065	154-08-050	AMD	90-05-078	173-50-080	RE-AD	90-07-017
132T-104-260	REP	90-03-065	154-12-010	AMD-P	90-02-086	173-50-090	RE-AD	90-07-017
132T-104-265	REP	90-03-065	154-12-010	AMD	90-05-078	173-50-100	RE-AD	90-07-017
132T-104-270	REP	90-03-065	154-12-015	AMD-P	90-02-086	173-50-110	RE-AD	90-07-017
132T-104-280	REP	90-03-065	154-12-015	AMD	90-05-078	173-50-120	RE-AD	90-07-017
132U-03-010	NEW	90-05-043	154-12-030	AMD-P	90-02-086	173-50-130	RE-AD	90-07-017
132U-03-020	NEW	90-05-043	154-12-030	AMD	90-05-078	173-50-140	RE-AD	90-07-017
132U-03-030	NEW	90-05-043	154-12-050	AMD-P	90-02-086	173-50-150	RE-AD	90-07-017
132U-108-010	NEW	90-05-043	154-12-050	AMD	90-05-078	173-50-160	RE-AD	90-07-017
132U-108-020	NEW	90-05-043	154-12-070	AMD-P	90-02-086	173-50-170	RE-AD	90-07-017
132U-108-021	NEW	90-05-043	154-12-070	AMD	90-05-078	173-50-180	RE-AD	90-07-017
132U-108-030	NEW	90-05-043	154-12-080	AMD-P	90-02-086	173-50-190	RE-AD	90-07-017
132U-116-030	AMD	90-05-043	154-12-080	AMD	90-05-078	173-50-200	RE-AD	90-07-017
132U-400-010	NEW	90-05-043	154-12-085	AMD-P	90-02-086	173-50-210	RE-AD	90-07-017
132V-400-010	NEW-P	90-03-094	154-12-085	AMD	90-05-078	173-158-030	RE-AD	90-06-059
132V-400-010	NEW	90-07-038	154-12-086	AMD-P	90-02-086	173-158-060	RE-AD	90-06-059
132V-400-020	NEW-P	90-03-094	154-12-086	AMD	90-05-078	173-160-215	RE-AD	90-07-016
132V-400-020	NEW	90-07-038	154-12-087	AMD-P	90-02-086	173-166	AMD-P	90-02-096
132V-400-030	NEW-P	90-03-094	154-12-087	AMD	90-05-078	173-166	AMD-C	90-05-048
132V-400-030	NEW	90-07-038	154-12-090	AMD-P	90-02-086	173-166	AMD-C	90-06-010
132V-400-040	NEW-P	90-03-094	154-12-090	AMD	90-05-078	173-166-010	AMD-P	90-02-096
132V-400-040	NEW	90-07-038	154-12-107	REP-P	90-02-086	173-166-020	AMD-P	90-02-096
132Y-108-010	NEW-P	90-02-062	154-12-107	REP	90-05-078	173-166-030	AMD-P	90-02-096
132Y-108-020	NEW-P	90-02-062	154-12-110	AMD-P	90-02-086	173-166-040	AMD-P	90-02-096
132Y-108-030	NEW-P	90-02-062	154-12-110	AMD	90-05-078	173-166-050	AMD-P	90-02-096
132Y-108-040	NEW-P	90-02-062	154-24-010	AMD-P	90-02-086	173-166-060	AMD-P	90-02-096
132Y-108-050	NEW-P	90-02-062	154-24-010	AMD	90-05-078	173-166-070	AMD-P	90-02-096
132Y-108-060	NEW-P	90-02-062	154-32-010	AMD-P	90-02-086	173-166-080	NEW-P	90-02-096
132Y-108-070	NEW-P	90-02-062	154-32-010	AMD	90-05-078	173-166-090	NEW-P	90-02-096
132Y-108-080	NEW-P	90-02-062	154-32-020	AMD-P	90-02-086	173-166-100	NEW-P	90-02-096
132Y-133-020	NEW-P	90-02-063	154-32-020	AMD	90-05-078	173-166-110	NEW-P	90-02-096
136-01-010	AMD	90-07-071	154-40	AMD-P	90-02-086	173-166-120	NEW-P	90-02-096
136-01-030	AMD	90-07-071	154-40	AMD	90-05-078	173-166-130	NEW-P	90-02-096
136-01-040	REP	90-07-071	154-40-010	AMD-P	90-02-086	173-221A-010	NEW-P	90-06-071
136-04-020	AMD	90-07-072	154-40-010	AMD	90-05-078	173-221A-020	NEW-P	90-06-071
136-04-030	AMD	90-07-072	154-44-010	AMD-P	90-02-086	173-221A-030	NEW-P	90-06-071
136-04-040	AMD	90-07-072	154-44-010	AMD	90-05-078	173-221A-100	NEW-P	90-06-071
136-04-060	AMD	90-07-072	154-64-050	AMD-P	90-02-086	173-221A-150	NEW-P	90-06-071
136-04-080	AMD	90-07-072	154-64-050	AMD	90-05-078	173-224-015	RE-AD	90-07-015
136-04-090	AMD	90-07-072	173-06-030	RE-AD	90-07-014	173-224-020	RE-AD	90-07-015
136-04-100	AMD	90-07-072	173-18-090	AMD-C	90-02-107	173-224-030	RE-AD	90-07-015
136-10-010	AMD	90-07-073	173-18-090	AMD	90-06-068	173-224-040	RE-AD	90-07-015
136-10-020	AMD	90-07-073	173-18-090	AMD-E	90-06-069	173-224-050	RE-AD	90-07-015
136-10-030	AMD	90-07-073	173-18-200	AMD-C	90-02-107	173-224-060	RE-AD	90-07-015
136-10-040	AMD	90-07-073	173-18-200	AMD	90-06-068	173-224-070	RE-AD	90-07-015
136-10-050	AMD	90-07-073	173-18-200	AMD-E	90-06-069	173-224-080	RE-AD	90-07-015
136-10-060	AMD	90-07-073	173-19-1104	AMD	90-02-105	173-224-090	RE-AD	90-07-015
136-12-010	AMD	90-07-074	173-19-220	AMD-P	90-03-112	173-224-100	RE-AD	90-07-015
136-12-020	AMD	90-07-074	173-19-220	AMD-C	90-07-061	173-224-110	RE-AD	90-07-015
136-12-030	AMD	90-07-074	173-19-240	RE-AD	90-07-027	173-224-120	RE-AD	90-07-015
136-12-060	AMD	90-07-074	173-19-2401	RE-AD	90-07-027	173-303	PREP	90-06-002
136-12-070	AMD	90-07-074	173-19-2505	AMD	90-06-067	173-306-010	NEW-P	90-02-088
136-12-080	AMD	90-07-074	173-19-2512	AMD	90-02-106	173-306-050	NEW-P	90-02-088
136-14-010	AMD	90-07-075	173-19-2519	AMD	90-02-101	173-306-100	NEW-P	90-02-088
136-14-020	AMD	90-07-075	173-19-2520	AMD-P	90-05-074	173-306-150	NEW-P	90-02-088
136-14-030	AMD	90-07-075	173-19-3514	AMD-P	90-03-110	173-306-200	NEW-P	90-02-088
136-14-040	AMD	90-07-075	173-19-360	AMD-P	90-03-111	173-306-300	NEW-P	90-02-088

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180-75-033	REP	90-02-073	180-87-045	NEW	90-02-075	220-56	AMD-C	90-06-025
180-75-034	REP	90-02-073	180-87-050	NEW	90-02-075	220-56-105	AMD-P	90-02-112
180-75-035	REP	90-02-073	180-87-055	NEW	90-02-075	220-56-105	AMD	90-06-026
180-75-037	REP	90-02-073	180-87-060	NEW	90-02-075	220-56-115	AMD-P	90-02-112
180-75-038	REP	90-02-073	180-87-065	NEW	90-02-075	220-56-115	AMD	90-06-026
180-75-039	REP	90-02-073	180-87-070	NEW	90-02-075	220-56-125	AMD-P	90-02-112
180-75-040	REP	90-02-073	180-87-080	NEW	90-02-075	220-56-125	AMD	90-06-026
180-75-042	REP	90-02-073	180-87-085	NEW	90-02-075	220-56-126	AMD-P	90-02-112
180-75-043	REP	90-02-073	180-87-090	NEW	90-02-075	220-56-126	AMD	90-06-026
180-75-044	REP	90-02-073	180-87-095	NEW	90-02-075	220-56-127	NEW-P	90-02-112
180-75-045	AMD	90-02-073	182-12-115	AMD-P	90-04-087	220-56-127	NEW	90-06-026
180-75-081	AMD	90-02-073	196-08-030	REP	90-06-071	220-56-128	AMD-P	90-02-112
180-75-084	REP	90-02-073	196-24-090	AMD	90-05-071	220-56-128	AMD	90-06-026
180-75-086	REP	90-02-073	196-24-092	NEW	90-05-071	220-56-156	AMD-C	90-06-081
180-75-199	REP	90-02-073	196-26-020	AMD	90-03-028	220-56-160	AMD-P	90-02-112
180-78-191	AMD	90-02-074	196-26-020	AMD-E	90-04-010	220-56-160	AMD	90-06-026
180-78-191	AMD	90-02-104	196-27-020	AMD	90-05-071	220-56-165	AMD-P	90-02-112
180-78-192	REP	90-02-074	204-36-030	AMD-P	90-04-023	220-56-165	AMD	90-06-026
180-78-192	REP	90-02-104	204-36-030	AMD	90-07-034	220-56-175	AMD-P	90-02-112
180-78-193	REP	90-02-074	204-36-040	AMD-P	90-04-023	220-56-175	AMD	90-06-026
180-78-193	REP	90-02-104	204-36-040	AMD	90-07-034	220-56-180	AMD-P	90-02-112
180-78-194	REP	90-02-074	204-36-050	AMD-P	90-04-023	220-56-180	AMD	90-06-026
180-78-194	REP	90-02-104	204-36-050	AMD	90-07-034	220-56-190	AMD-P	90-02-112
180-78-195	REP	90-02-074	204-36-060	AMD-P	90-04-023	220-56-190	AMD	90-06-026
180-78-195	REP	90-02-104	204-36-060	AMD	90-07-034	220-56-195	AMD-P	90-02-112
180-78-197	REP	90-02-074	204-44-010	AMD	90-06-055	220-56-195	AMD	90-06-026
180-78-197	REP	90-02-104	204-44-030	AMD	90-06-055	220-56-197	AMD-P	90-02-112
180-78-198	REP	90-02-074	204-88-030	AMD	90-06-056	220-56-197	AMD	90-06-026
180-78-198	REP	90-02-104	212-17-300	AMD-P	90-04-097	220-56-205	AMD-P	90-02-112
180-78-199	REP	90-02-074	212-17-305	AMD-P	90-04-097	220-56-205	AMD	90-06-026
180-78-199	REP	90-02-104	212-17-310	AMD-P	90-04-097	220-56-230	NEW-P	90-02-112
180-86-003	NEW	90-02-076	212-17-315	AMD-P	90-04-097	220-56-230	NEW	90-06-026
180-86-005	NEW	90-02-076	212-17-317	NEW-P	90-04-097	220-56-235	AMD-P	90-02-112
180-86-010	NEW	90-02-076	212-17-325	AMD-P	90-04-097	220-56-235	AMD	90-06-026
180-86-012	NEW	90-02-076	212-17-330	AMD-P	90-04-097	220-56-240	AMD-P	90-02-112
180-86-015	NEW	90-02-076	212-17-335	AMD-P	90-04-097	220-56-240	AMD	90-06-026
180-86-020	NEW	90-02-076	220-12-01000B	NEW-E	90-06-058	220-56-282	AMD-P	90-02-112
180-86-030	NEW	90-02-076	220-16	AMD-C	90-06-025	220-56-282	AMD	90-06-026
180-86-035	NEW	90-02-076	220-16-410	AMD	90-03-068	220-56-307	NEW-P	90-02-112
180-86-040	NEW	90-02-076	220-16-420	NEW	90-03-068	220-56-307	NEW	90-06-026
180-86-050	NEW	90-02-076	220-16-430	NEW-C	90-07-002	220-56-310	AMD-P	90-02-112
180-86-055	NEW	90-02-076	220-16-430	NEW	90-07-003	220-56-310	AMD	90-06-026
180-86-065	NEW	90-02-076	220-16-440	NEW-P	90-02-112	220-56-320	AMD-P	90-02-112
180-86-070	NEW	90-02-076	220-16-440	NEW	90-06-026	220-56-320	AMD	90-06-026
180-86-075	NEW	90-02-076	220-16-450	NEW-P	90-02-112	220-56-330	AMD-P	90-02-112
180-86-085	NEW	90-02-076	220-16-450	NEW	90-06-026	220-56-330	AMD	90-06-026
180-86-090	NEW	90-02-076	220-20	AMD-C	90-06-043	220-56-350	AMD-P	90-02-112
180-86-095	NEW	90-02-076	220-20-010	AMD-P	90-06-079	220-56-350	AMD	90-06-026
180-86-097	NEW	90-02-076	220-20-020	AMD-P	90-02-111	220-56-35000I	NEW-E	90-06-058
180-86-100	NEW	90-02-076	220-20-020	AMD	90-06-045	220-56-36000T	NEW-E	90-07-039
180-86-105	NEW	90-02-076	220-20-020	AMD-C	90-07-002	220-56-380	AMD-P	90-02-112
180-86-110	NEW	90-02-076	220-20-020	AMD	90-07-003	220-56-380	AMD	90-06-026
180-86-115	NEW	90-02-076	220-20-025	AMD-P	90-02-111	220-56-38000F	NEW-E	90-03-007
180-86-120	NEW	90-02-076	220-20-025	AMD	90-06-045	220-56-38000F	REP-E	90-03-027
180-86-130	NEW	90-02-076	220-22-020	AMD	90-03-068	220-56-38000G	NEW-E	90-03-027
180-86-135	NEW	90-02-076	220-28-41303	NEW-E	90-02-065	220-56-38000G	REP-E	90-04-041
180-86-140	NEW	90-02-076	220-32-05100X	REP-E	90-04-046	220-56-38000H	NEW-E	90-04-041
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180-86-150	NEW	90-02-076	220-32-05700E	NEW-E	90-03-006	220-56-400	AMD	90-06-026
180-86-155	NEW	90-02-076	220-33-01000L	REP-E	90-05-008	220-57	AMD-C	90-06-025
180-86-160	NEW	90-02-076	220-33-01000M	NEW-E	90-05-008	220-57	AMD-C	90-06-042
180-86-165	NEW	90-02-076	220-33-01000M	REP-E	90-05-030	220-57-140	AMD-P	90-02-112
180-86-170	NEW	90-02-076	220-33-01000N	NEW-E	90-05-030	220-57-140	AMD	90-06-026
180-86-175	NEW	90-02-076	220-44-050	AMD-P	90-06-080	220-57-160	AMD-P	90-02-112
180-86-180	NEW	90-02-076	220-44-05000B	REP-E	90-04-047	220-57-160	AMD	90-06-026
180-86-185	NEW	90-02-076	220-44-05000C	NEW-E	90-04-047	220-57-220	AMD-P	90-02-112
180-86-200	NEW	90-02-076	220-44-05000C	REP-E	90-07-031	220-57-220	AMD	90-06-026
180-87-001	NEW	90-02-075	220-44-05000D	NEW-E	90-07-031	220-57-242	NEW-P	90-02-112
180-87-003	NEW	90-02-075	220-48-01500D	NEW-E	90-06-001	220-57-260	AMD-P	90-02-112
180-87-005	NEW	90-02-075	220-49-063	NEW-C	90-07-002	220-57-260	AMD	90-06-026
180-87-010	NEW	90-02-075	220-49-063	NEW	90-07-003	220-57-270	AMD-P	90-02-112
180-87-015	NEW	90-02-075	220-49-064	NEW-C	90-07-002	220-57-270	AMD	90-06-026
180-87-020	NEW	90-02-075	220-49-064	NEW	90-07-003	220-57-290	AMD-P	90-02-112
180-87-025	NEW	90-02-075	220-52-07300H	NEW-E	90-03-067	220-57-290	AMD	90-06-026
180-87-030	NEW	90-02-075	220-55-01000A	NEW-E	90-07-040	220-57-315	AMD-P	90-02-112
180-87-035	NEW	90-02-075	220-55-086	AMD	90-03-068	220-57-31500S	NEW-E	90-07-032

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220-57-328	NEW-P	90-02-112	232-28-61803	NEW-E	90-02-068	248-08-510	REP	90-06-018
220-57-465	AMD-P	90-02-112	232-28-61803	NEW-P	90-04-102	248-08-515	NEW	90-06-018
220-57-465	AMD	90-06-026	232-28-61804	NEW-E	90-02-069	248-08-520	REP	90-06-018
220-57-497	NEW-P	90-02-112	232-28-61804	NEW-P	90-04-103	248-08-525	NEW	90-06-018
220-57-497	NEW	90-06-044	232-28-61805	NEW-E	90-02-066	248-08-530	REP	90-06-018
220-57-505	AMD-P	90-02-112	232-28-61805	NEW-P	90-04-104	248-08-535	NEW	90-06-018
220-57-505	AMD	90-06-026	232-28-61806	NEW-P	90-06-086	248-08-540	REP	90-06-018
220-57-50500R	NEW-E	90-07-032	232-28-61807	NEW-P	90-06-087	248-08-545	NEW	90-06-018
220-57-515	AMD-P	90-02-112	232-28-712	REP	90-03-083	248-08-550	REP	90-06-018
220-57-51500E	NEW-E	90-07-032	232-28-713	NEW	90-03-083	248-08-560	REP	90-06-018
220-57-530	NEW-P	90-02-112	232-28-811	REP-P	90-04-105	248-08-565	NEW	90-06-018
220-57A	AMD-C	90-06-025	232-28-812	NEW-P	90-04-105	248-08-570	REP	90-06-018
220-57A-080	AMD-P	90-02-112	246-09-060	NEW-P	90-04-030	248-08-575	NEW	90-06-018
220-57A-080	AMD	90-06-026	248-06-385	AMD	90-06-019	248-08-580	REP	90-06-018
220-57A-180	AMD-P	90-02-112	248-08-001	REP	90-06-018	248-08-590	REP	90-06-018
220-57A-180	AMD	90-06-026	248-08-010	REP	90-06-018	248-08-700	REP	90-06-018
220-69-220	AMD	90-03-068	248-08-020	REP	90-06-018	248-08-705	REP	90-06-018
220-69-237	AMD	90-03-068	248-08-030	REP	90-06-018	248-08-710	REP	90-06-018
220-69-238	AMD	90-03-068	248-08-040	REP	90-06-018	248-08-715	REP	90-06-018
220-69-260	AMD	90-03-068	248-08-050	REP	90-06-018	248-08-720	REP	90-06-018
220-69-264	AMD	90-03-068	248-08-060	REP	90-06-018	248-08-725	REP	90-06-018
220-140-001	NEW	90-04-026	248-08-070	REP	90-06-018	248-08-730	REP	90-06-018
220-140-010	NEW	90-04-026	248-08-075	REP	90-06-018	248-08-735	REP	90-06-018
220-140-020	NEW	90-04-026	248-08-080	REP	90-06-018	248-08-740	REP	90-06-018
220-140-030	NEW	90-04-026	248-08-090	REP	90-06-018	248-08-750	REP	90-06-018
224-12-090	AMD-P	90-03-091	248-08-100	REP	90-06-018	248-08-755	REP	90-06-018
230-02-010	AMD	90-03-064	248-08-110	REP	90-06-018	248-08-760	REP	90-06-018
230-02-022	AMD-P	90-05-034	248-08-120	REP	90-06-018	248-08-765	REP	90-06-018
230-04-020	AMD	90-03-064	248-08-130	REP	90-06-018	248-08-770	REP	90-06-018
230-04-190	AMD	90-03-064	248-08-140	REP	90-06-018	248-08-775	REP	90-06-018
230-04-270	AMD	90-03-064	248-08-150	REP	90-06-018	248-08-780	REP	90-06-018
230-08-120	AMD-P	90-05-034	248-08-160	REP	90-06-018	248-08-785	REP	90-06-018
230-08-125	AMD-P	90-05-034	248-08-170	REP	90-06-018	248-08-790	REP	90-06-018
230-20-064	AMD-P	90-05-034	248-08-180	REP	90-06-018	248-08-800	REP	90-06-018
230-20-325	AMD	90-05-032	248-08-190	REP	90-06-018	248-08-805	REP	90-06-018
230-20-698	NEW	90-05-033	248-08-200	REP	90-06-018	248-08-810	REP	90-06-018
230-30-052	NEW-P	90-05-034	248-08-210	REP	90-06-018	248-08-815	REP	90-06-018
230-30-070	AMD	90-05-032	248-08-220	REP	90-06-018	248-08-820	REP	90-06-018
230-30-070	AMD-E	90-06-020	248-08-230	REP	90-06-018	248-08-825	REP	90-06-018
230-30-070	AMD-P	90-06-021	248-08-240	REP	90-06-018	248-08-830	REP	90-06-018
230-40-010	AMD	90-05-032	248-08-250	REP	90-06-018	248-08-835	REP	90-06-018
230-40-120	AMD	90-05-032	248-08-260	REP	90-06-018	248-08-840	REP	90-06-018
230-40-125	NEW	90-05-032	248-08-270	REP	90-06-018	248-08-845	REP	90-06-018
230-40-125	AMD-E	90-07-019	248-08-280	REP	90-06-018	248-14-070	AMD-C	90-04-015
230-40-125	AMD-P	90-07-022	248-08-290	REP	90-06-018	248-14-070	AMD	90-04-071
230-50-012	AMD-P	90-03-060	248-08-300	REP	90-06-018	248-15-110	AMD	90-06-019
230-50-012	AMD-E	90-03-061	248-08-310	REP	90-06-018	248-16-031	AMD	90-06-019
230-50-012	AMD	90-07-018	248-08-320	REP	90-06-018	248-17-060	AMD	90-06-019
230-60-010	AMD	90-03-064	248-08-330	REP	90-06-018	248-17-230	AMD	90-06-019
230-60-020	REP	90-03-064	248-08-340	REP	90-06-018	248-18-015	AMD	90-06-019
230-60-025	AMD	90-03-064	248-08-350	REP	90-06-018	248-19-220	AMD	90-02-093
230-60-100	NEW	90-05-032	248-08-360	REP	90-06-018	248-19-480	AMD	90-06-019
232-12-011	AMD-P	90-04-098	248-08-370	REP	90-06-018	248-21-005	AMD	90-05-038
232-12-017	AMD-P	90-06-084	248-08-380	REP	90-06-018	248-22-005	AMD	90-06-019
232-12-019	AMD-P	90-06-085	248-08-390	REP	90-06-018	248-23-010	AMD	90-06-019
232-12-047	AMD-P	90-06-091	248-08-400	REP	90-06-018	248-25-010	AMD	90-06-019
232-12-051	AMD-P	90-06-092	248-08-410	AMD	90-06-018	248-26-020	AMD	90-06-019
232-12-054	AMD	90-03-092	248-08-413	NEW	90-06-018	248-27-025	AMD	90-06-019
232-12-177	AMD-P	90-06-089	248-08-420	REP	90-06-018	248-27-035	AMD	90-06-019
232-12-184	RE-AD-P	90-06-090	248-08-425	NEW	90-06-018	248-27-045	AMD	90-06-019
232-12-187	RE-AD-P	90-06-090	248-08-428	NEW	90-06-018	248-27-055	AMD	90-06-019
232-12-191	AMD-P	90-06-088	248-08-430	REP	90-06-018	248-29-020	AMD	90-06-019
232-12-251	RE-AD-P	90-06-090	248-08-431	NEW	90-06-018	248-31-025	AMD	90-06-019
232-12-254	RE-AD-P	90-06-090	248-08-434	NEW	90-06-018	248-31-035	AMD	90-06-019
232-12-297	NEW-P	90-04-099	248-08-437	NEW	90-06-018	248-31-045	AMD	90-06-019
232-28-022	NEW-P	90-04-100	248-08-440	AMD	90-06-018	248-31-055	AMD	90-06-019
232-28-218	REP-P	90-04-100	248-08-446	NEW	90-06-018	248-33-040	AMD	90-05-038
232-28-219	NEW-P	90-06-093	248-08-449	NEW	90-06-018	248-33-060	REP	90-05-038
232-28-220	NEW-P	90-06-094	248-08-450	REP	90-06-018	248-33-080	REP	90-05-038
232-28-221	NEW-P	90-06-095	248-08-452	NEW	90-06-018	248-36-025	AMD	90-06-019
232-28-222	NEW-P	90-06-096	248-08-460	REP	90-06-018	248-36-035	AMD	90-06-019
232-28-223	NEW-P	90-06-097	248-08-461	NEW	90-06-018	248-36-045	AMD	90-06-019
232-28-61728	NEW	90-02-070	248-08-464	NEW	90-06-018	248-36-055	AMD	90-06-019
232-28-61729	NEW	90-02-071	248-08-470	AMD	90-06-018	248-55-220	AMD	90-06-019
232-28-61730	NEW-E	90-03-072	248-08-480	REP	90-06-018	248-55-230	REP	90-06-019
232-28-61802	NEW-E	90-02-067	248-08-490	REP	90-06-018	248-55-235	NEW	90-06-019
232-28-61802	NEW-P	90-04-101	248-08-500	REP	90-06-018	248-55-240	AMD	90-06-019

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248-55-250	REP	90-06-019	248-170-001	NEW	90-04-082	275-56-085	AMD	90-03-113
248-55-260	REP	90-06-019	248-170-020	NEW	90-04-082	275-56-087	NEW	90-03-113
248-58-085	NEW	90-06-049	248-170-100	NEW	90-04-082	275-56-088	NEW	90-03-113
248-59-030	AMD	90-06-019	248-170-130	NEW	90-04-082	275-56-089	NEW	90-03-113
248-59-040	REP	90-06-019	248-170-160	NEW	90-04-082	275-56-090	AMD	90-03-113
248-59-050	REP	90-06-019	248-170-200	NEW	90-04-082	275-56-095	AMD	90-03-113
248-59-060	REP	90-06-019	248-170-300	NEW	90-04-082	275-56-095	AMD-C	90-04-019
248-59-070	REP	90-06-019	248-170-320	NEW	90-04-082	275-56-095	AMD-W	90-04-069
248-59-080	REP	90-06-019	248-180-010	NEW	90-03-052	275-56-100	AMD	90-03-113
248-63-025	AMD	90-06-049	248-180-020	NEW	90-03-052	275-56-105	AMD	90-03-113
248-91-060	AMD	90-06-019	248-320-340	NEW	90-06-018	275-56-110	AMD	90-03-113
248-97-130	AMD	90-06-049	248-320-350	NEW	90-06-018	275-56-115	AMD	90-03-113
248-97-135	NEW	90-06-049	248-320-360	NEW	90-06-018	275-56-120	REP	90-03-113
248-98-001	AMD-P	90-02-072	248-320-370	NEW	90-06-018	275-56-125	REP	90-03-113
248-98-001	AMD	90-07-010	248-320-400	NEW	90-06-018	275-56-130	REP	90-03-113
248-98-003	NEW-P	90-02-072	248-320-410	NEW	90-06-018	275-56-135	AMD	90-03-113
248-98-003	NEW	90-07-010	248-320-500	NEW	90-06-018	275-56-140	REP	90-03-113
248-98-005	NEW-P	90-02-072	248-554-030	AMD-C	90-04-016	275-56-145	REP	90-03-113
248-98-005	NEW	90-07-010	248-554-030	AMD	90-04-072	275-56-150	AMD	90-03-113
248-98-010	AMD-P	90-02-072	250-20-001	AMD	90-04-067	275-56-155	REP	90-03-113
248-98-010	AMD	90-07-010	250-20-011	AMD	90-04-067	275-56-160	REP	90-03-113
248-98-015	NEW-P	90-02-072	250-20-015	AMD	90-04-067	275-56-165	REP	90-03-113
248-98-015	NEW	90-07-010	250-20-021	AMD	90-04-067	275-56-170	AMD	90-03-113
248-98-020	AMD-P	90-02-072	250-20-031	AMD	90-04-067	275-56-175	AMD	90-03-113
248-98-020	AMD	90-07-010	250-20-037	NEW	90-04-067	275-56-180	AMD	90-03-113
248-98-025	NEW-P	90-02-072	250-20-041	AMD	90-04-067	275-56-185	AMD	90-03-113
248-98-025	NEW	90-07-010	250-20-051	AMD	90-04-067	275-56-190	REP	90-03-113
248-98-030	AMD-P	90-02-072	250-20-071	AMD	90-04-067	275-56-195	AMD	90-03-113
248-98-030	AMD	90-07-010	250-69-010	NEW-P	90-04-068	275-56-200	AMD	90-03-113
248-98-035	NEW-P	90-02-072	250-69-020	NEW-P	90-04-068	275-56-205	AMD	90-03-113
248-98-035	NEW	90-07-010	250-69-030	NEW-P	90-04-068	275-56-210	AMD	90-03-113
248-98-040	AMD-P	90-02-072	250-69-040	NEW-P	90-04-068	275-56-215	AMD	90-03-113
248-98-040	AMD	90-07-010	250-69-050	NEW-P	90-04-068	275-56-220	AMD	90-03-113
248-98-045	NEW-P	90-02-072	250-69-060	NEW-P	90-04-068	275-56-225	AMD	90-03-113
248-98-045	NEW	90-07-010	250-69-070	NEW-P	90-04-068	275-56-230	AMD	90-03-113
248-98-050	AMD-P	90-02-072	250-69-080	NEW-P	90-04-068	275-56-235	AMD	90-03-113
248-98-050	AMD	90-07-010	250-69-090	NEW-P	90-04-068	275-56-240	AMD	90-03-113
248-98-060	AMD-P	90-02-072	250-69-100	NEW-P	90-04-068	275-56-245	AMD	90-03-113
248-98-060	AMD	90-07-010	250-69-110	NEW-P	90-04-068	275-56-250	REP	90-03-113
248-98-080	AMD-P	90-02-072	251-04-040	AMD	90-06-023	275-56-255	REP	90-03-113
248-98-080	AMD	90-07-010	251-09-085	NEW-W	90-06-082	275-56-260	AMD	90-03-113
248-98-085	NEW-P	90-02-072	251-09-090	AMD-C	90-06-083	275-56-265	REP	90-03-113
248-98-085	NEW	90-07-010	251-09-092	NEW-C	90-06-083	275-56-270	REP	90-03-113
248-98-090	AMD-P	90-02-072	251-09-094	NEW-C	90-06-083	275-56-275	AMD	90-03-113
248-98-090	AMD	90-07-010	275-16-055	AMD-C	90-04-019	275-56-280	REP	90-03-113
248-98-095	NEW-P	90-02-072	275-16-055	AMD	90-04-075	275-56-285	AMD	90-03-113
248-98-095	NEW	90-07-010	275-19-050	AMD-C	90-04-017	275-56-290	AMD	90-03-113
248-98-098	NEW-P	90-02-072	275-19-050	AMD	90-04-073	275-56-295	AMD	90-03-113
248-98-098	NEW	90-07-010	275-20-080	AMD-C	90-04-018	275-56-300	AMD	90-03-113
248-98-100	AMD-P	90-02-072	275-20-080	AMD	90-04-074	275-56-305	AMD	90-03-113
248-98-100	AMD	90-07-010	275-26-022	AMD-C	90-04-018	275-56-310	REP	90-03-113
248-98-102	NEW-P	90-02-072	275-26-022	AMD	90-04-074	275-56-315	REP	90-03-113
248-98-102	NEW	90-07-010	275-27-500	AMD-C	90-04-018	275-56-320	REP	90-03-113
248-98-104	NEW-P	90-02-072	275-27-500	AMD	90-04-074	275-56-325	REP	90-03-113
248-98-104	NEW	90-07-010	275-36-310	AMD-C	90-04-018	275-56-330	REP	90-03-113
248-98-110	AMD-P	90-02-072	275-36-310	AMD	90-04-074	275-56-335	AMD	90-03-113
248-98-110	AMD	90-07-010	275-38-960	AMD-C	90-04-018	275-56-340	AMD	90-03-113
248-98-120	AMD-P	90-02-072	275-38-960	AMD	90-04-074	275-56-345	REP	90-03-113
248-98-120	AMD	90-07-010	275-56-005	AMD	90-03-113	275-56-350	REP	90-03-113
248-98-130	NEW-P	90-02-072	275-56-010	AMD	90-03-113	275-56-355	AMD	90-03-113
248-98-130	NEW	90-07-010	275-56-015	AMD	90-03-113	275-56-360	REP	90-03-113
248-98-135	NEW-P	90-02-072	275-56-016	NEW	90-03-113	275-56-365	AMD	90-03-113
248-98-135	NEW	90-07-010	275-56-017	NEW	90-03-113	275-56-370	REP	90-03-113
248-98-998	NEW-P	90-02-072	275-56-020	AMD	90-03-113	275-56-375	REP	90-03-113
248-98-998	NEW	90-07-010	275-56-025	AMD	90-03-113	275-56-380	REP	90-03-113
248-98-999	REP-P	90-02-072	275-56-030	REP	90-03-113	275-56-385	AMD	90-03-113
248-98-999	REP	90-07-010	275-56-035	AMD	90-03-113	275-56-390	REP	90-03-113
248-100-016	AMD-P	90-02-095	275-56-040	AMD	90-03-113	275-56-395	REP	90-03-113
248-100-016	AMD	90-07-033	275-56-042	NEW	90-03-113	275-56-400	AMD	90-03-113
248-100-021	AMD-P	90-06-063	275-56-043	NEW	90-03-113	275-56-405	REP	90-03-113
248-100-086	AMD-P	90-06-063	275-56-050	AMD	90-03-113	275-56-410	REP	90-03-113
248-100-217	NEW-P	90-06-063	275-56-055	AMD	90-03-113	275-56-415	REP	90-03-113
248-106-001	NEW	90-02-094	275-56-060	AMD	90-03-113	275-56-420	REP	90-03-113
248-106-010	NEW	90-02-094	275-56-065	AMD	90-03-113	275-56-425	AMD	90-03-113
248-106-020	NEW	90-02-094	275-56-070	AMD	90-03-113	275-56-430	REP	90-03-113
248-140-200	AMD	90-05-038	275-56-075	AMD	90-03-113	275-56-435	REP	90-03-113
248-144-031	AMD	90-06-049	275-56-080	AMD	90-03-113	275-56-440	REP	90-03-113

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308-124H-330	NEW-C	90-05-072	308-175-140	AMD	90-04-094	316-55-030	AMD	90-06-047
308-124H-340	NEW-C	90-05-072	308-175-200	AMD-E	90-06-004	316-55-050	AMD-P	90-03-039
308-124H-510	NEW-C	90-05-072	308-177-110	AMD	90-04-094	316-55-050	AMD	90-06-047
308-124H-520	NEW-C	90-05-072	308-180-120	AMD-P	90-05-053	316-55-070	AMD-P	90-03-039
308-124H-530	NEW-C	90-05-072	308-180-260	AMD	90-04-094	316-55-070	AMD	90-06-047
308-124H-540	NEW-C	90-05-072	308-190-010	AMD	90-04-094	316-55-090	RE-AD-P	90-03-039
308-124H-550	NEW-C	90-05-072	308-310-010	AMD	90-04-094	316-55-090	RE-AD	90-06-047
308-124H-560	NEW-C	90-05-072	308-320-010	NEW	90-02-060	316-55-110	AMD-P	90-03-039
308-124H-570	NEW-C	90-05-072	308-320-010	NEW-E	90-02-061	316-55-110	AMD	90-06-047
308-124H-580	NEW-C	90-05-072	308-320-020	NEW	90-02-060	316-55-120	NEW-P	90-03-039
308-124I-010	NEW-P	90-02-102	308-320-020	NEW-E	90-02-061	316-55-120	NEW	90-06-047
308-124I-020	NEW-P	90-02-102	308-320-030	NEW	90-02-060	316-55-130	RE-AD-P	90-03-039
308-124I-030	NEW-P	90-02-102	308-320-030	NEW-E	90-02-061	316-55-130	RE-AD	90-06-047
308-124I-040	NEW-P	90-02-102	308-320-040	NEW	90-02-060	316-55-150	RE-AD-P	90-03-039
308-124I-050	NEW-P	90-02-102	308-320-040	NEW-E	90-02-061	316-55-150	RE-AD	90-06-047
308-124I-060	NEW-P	90-02-102	308-320-050	NEW	90-02-060	316-55-160	AMD-P	90-03-039
308-124I-070	NEW-P	90-02-102	308-320-050	NEW-E	90-02-061	316-55-160	AMD	90-06-047
308-124I-080	NEW-P	90-02-102	308-320-060	NEW	90-02-060	316-55-170	RE-AD-P	90-03-039
308-124I-090	NEW-P	90-02-102	308-320-060	NEW-E	90-02-061	316-55-170	RE-AD	90-06-047
308-124I-100	NEW-P	90-02-102	308-320-070	NEW	90-02-060	316-55-500	AMD-P	90-03-039
308-124I-110	NEW-P	90-02-102	308-320-070	NEW-E	90-02-061	316-55-500	AMD	90-06-047
308-124I-120	NEW-P	90-02-102	308-320-080	NEW	90-02-060	316-55-505	AMD-P	90-03-039
308-124I-130	NEW-P	90-02-102	308-320-080	NEW-E	90-02-061	316-55-505	AMD	90-06-047
308-124I-140	NEW-P	90-02-102	308-320-090	NEW	90-02-060	316-55-510	RE-AD-P	90-03-039
308-124J-010	NEW-P	90-02-102	308-320-090	NEW-E	90-02-061	316-55-510	RE-AD	90-06-047
308-124J-020	NEW-P	90-02-102	308-400-042	AMD	90-04-051	316-55-515	AMD-P	90-03-039
308-124J-030	NEW-P	90-02-102	308-400-095	AMD	90-04-051	316-55-515	AMD	90-06-047
308-124J-040	NEW-P	90-02-102	314-16-170	AMD-P	90-03-088	316-55-517	NEW-P	90-03-039
308-124J-050	NEW-P	90-02-102	314-20-025	NEW-P	90-03-089	316-55-517	NEW	90-06-047
308-124J-060	NEW-P	90-02-102	314-60-040	AMD	90-02-109	316-55-520	REP-P	90-03-039
308-124J-070	NEW-P	90-02-102	315-04-132	AMD-P	90-07-086	316-55-520	REP	90-06-047
308-124J-080	NEW-P	90-02-102	315-06-080	AMD-P	90-07-086	316-55-525	AMD-P	90-03-039
308-127-010	REP-P	90-04-088	315-08-010	NEW-P	90-07-086	316-55-525	AMD	90-06-047
308-127-010	REP	90-07-023	315-08-020	NEW-P	90-07-086	316-55-600	RE-AD-P	90-03-039
308-127-020	REP-P	90-04-088	315-08-030	NEW-P	90-07-086	316-55-600	RE-AD	90-06-047
308-127-020	REP	90-07-023	315-08-040	NEW-P	90-07-086	316-55-700	NEW-P	90-03-039
308-127-030	REP-P	90-04-088	315-11-480	AMD	90-03-023	316-55-700	NEW	90-06-047
308-127-030	REP	90-07-023	315-11-490	AMD	90-03-023	316-55-710	NEW-P	90-03-039
308-127-035	NEW-P	90-04-088	315-11-491	AMD	90-03-023	316-55-710	NEW	90-06-047
308-127-035	NEW	90-07-023	315-11-530	NEW-P	90-03-109	316-55-730	NEW-P	90-03-039
308-127-040	AMD-P	90-04-088	315-11-530	NEW	90-06-060	316-55-730	NEW	90-06-047
308-127-040	AMD	90-07-023	315-11-531	NEW-P	90-03-109	316-85-001	NEW-P	90-03-040
308-127-100	REP-P	90-04-088	315-11-531	NEW	90-06-060	316-85-001	NEW	90-06-046
308-127-100	REP	90-07-023	315-11-532	NEW-P	90-03-109	316-85-010	NEW-P	90-03-040
308-127-105	NEW-P	90-04-088	315-11-532	NEW	90-06-060	316-85-010	NEW	90-06-046
308-127-105	NEW	90-07-023	315-11-540	NEW-P	90-03-109	316-85-020	NEW-P	90-03-040
308-127-110	AMD-P	90-04-088	315-11-540	NEW	90-06-060	316-85-020	NEW	90-06-046
308-127-110	AMD	90-07-023	315-11-541	NEW-P	90-03-109	316-85-030	NEW-P	90-03-040
308-127-120	AMD-P	90-04-088	315-11-541	NEW	90-06-060	316-85-030	NEW	90-06-046
308-127-120	AMD	90-07-023	315-11-542	NEW-P	90-03-109	316-85-040	NEW-P	90-03-040
308-127-130	AMD-P	90-04-088	315-11-542	NEW	90-06-060	316-85-040	NEW	90-06-046
308-127-130	AMD	90-07-023	315-11-550	NEW-P	90-07-086	316-85-050	NEW-P	90-03-040
308-127-140	AMD-P	90-04-088	315-11-551	NEW-P	90-07-086	316-85-050	NEW	90-06-046
308-127-140	AMD	90-07-023	315-11-552	NEW-P	90-07-086	316-85-060	NEW-P	90-03-040
308-127-155	REP-P	90-04-088	315-33-010	NEW-P	90-03-109	316-85-060	NEW	90-06-046
308-127-155	REP	90-07-023	315-33-010	NEW	90-06-060	316-85-070	NEW-P	90-03-040
308-127-160	NEW-P	90-04-088	315-33-020	NEW-P	90-03-109	316-85-070	NEW	90-06-046
308-127-160	NEW	90-07-023	315-33-020	NEW	90-06-060	316-85-080	NEW-P	90-03-040
308-127-200	AMD-P	90-04-088	315-33-030	NEW-P	90-03-109	316-85-080	NEW	90-06-046
308-127-200	AMD	90-07-023	315-33-030	NEW	90-06-060	316-85-090	NEW-P	90-03-040
308-127-210	AMD-P	90-04-088	315-33-040	NEW-P	90-03-109	316-85-090	NEW	90-06-046
308-127-210	AMD	90-07-023	315-33-040	NEW	90-06-060	316-85-100	NEW-P	90-03-040
308-127-220	REP-P	90-04-088	315-33-050	NEW-P	90-03-109	316-85-100	NEW	90-06-046
308-127-220	REP	90-07-023	315-33-050	NEW	90-06-060	326-30-030	AMD	90-06-040
308-127-225	NEW-P	90-04-088	315-33-060	NEW-P	90-03-109	326-30-03902	NEW	90-06-041
308-127-225	NEW	90-07-023	315-33-060	NEW	90-06-060	332-30-166	AMD	90-02-085
308-127-300	AMD-P	90-04-088	315-33-070	NEW-P	90-03-109	332-130-030	AMD-P	90-03-066
308-127-300	AMD	90-07-023	315-33-070	NEW	90-06-060	332-130-030	AMD	90-06-028
308-128B-060	REP	90-03-098	316-55-001	AMD-P	90-03-039	332-130-070	AMD-P	90-03-066
308-128B-080	AMD	90-03-099	316-55-001	AMD	90-06-047	332-130-070	AMD	90-06-028
308-138-080	AMD	90-04-094	316-55-005	NEW-P	90-03-039	332-130-080	AMD-P	90-03-066
308-152-030	AMD	90-04-094	316-55-005	NEW	90-06-047	332-130-080	AMD	90-06-028
308-171-001	AMD-P	90-04-096	316-55-010	AMD-P	90-03-039	332-130-090	AMD-P	90-03-066
308-171-010	AMD-P	90-04-096	316-55-010	AMD	90-06-047	332-130-090	AMD	90-06-028
308-171-020	AMD-P	90-04-096	316-55-020	AMD-P	90-03-039	352-12-020	AMD-P	90-04-108
308-171-041	NEW-P	90-04-096	316-55-020	AMD	90-06-047	352-12-020	AMD	90-07-062
308-173-130	AMD	90-04-094	316-55-030	AMD-P	90-03-039	352-12-030	AMD-P	90-04-108

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352-20-010	AMD-P	90-04-108	352-37-150	NEW-P	90-04-106	356-22-120	AMD	90-05-029
352-20-010	AMD	90-07-062	352-37-150	NEW-E	90-06-006	356-30-145	AMD-C	90-03-045
352-20-050	AMD-P	90-04-108	352-37-150	NEW	90-07-050	356-30-145	AMD-C	90-05-027
352-20-050	AMD	90-07-062	352-37-160	NEW-P	90-04-106	356-30-145	AMD-C	90-07-055
352-32-010	AMD-P	90-04-108	352-37-160	NEW-E	90-06-006	356-30-180	AMD-C	90-03-045
352-32-010	AMD-W	90-07-064	352-37-160	NEW	90-07-050	356-30-180	AMD-C	90-05-027
352-32-045	AMD-P	90-04-108	352-37-170	NEW-P	90-04-106	356-30-180	AMD-C	90-07-055
352-32-045	AMD	90-07-062	352-37-170	NEW-E	90-06-006	356-30-190	AMD-C	90-03-045
352-32-050	AMD-P	90-04-108	352-37-170	NEW	90-07-050	356-30-190	AMD-C	90-05-027
352-32-050	AMD	90-07-062	352-37-180	NEW-P	90-04-106	356-30-190	AMD-C	90-07-055
352-32-235	AMD	90-04-025	352-37-180	NEW-E	90-06-006	356-30-280	AMD-C	90-03-045
352-32-250	AMD-P	90-04-108	352-37-180	NEW	90-07-050	356-30-280	AMD-C	90-05-027
352-32-250	AMD	90-07-062	352-37-190	NEW-P	90-04-106	356-30-280	AMD-C	90-07-055
352-32-25001	AMD-P	90-04-108	352-37-190	NEW-E	90-06-006	356-30-320	AMD-C	90-03-045
352-32-25001	AMD	90-07-062	352-37-190	NEW	90-07-050	356-30-320	AMD	90-05-028
352-32-251	AMD	90-04-024	352-37-200	NEW-P	90-04-106	356-34-110	REP-P	90-03-101
352-32-252	AMD-P	90-04-108	352-37-200	NEW-E	90-06-006	356-34-110	REP-C	90-07-053
352-32-252	AMD	90-07-062	352-37-200	NEW	90-07-050	356-34-113	REP-P	90-03-101
352-32-270	AMD-P	90-06-108	352-37-210	NEW-P	90-04-106	356-34-113	REP-C	90-07-053
352-36-010	REP-P	90-06-109	352-37-210	NEW-E	90-06-006	356-34-115	REP-P	90-03-101
352-36-020	REP-P	90-06-109	352-37-210	NEW	90-07-050	356-34-115	REP-C	90-07-053
352-36-025	REP-P	90-06-109	352-64-020	AMD	90-04-064	356-34-117	REP-P	90-03-101
352-36-030	REP-P	90-06-109	352-64-030	AMD	90-04-064	356-34-117	REP-C	90-07-053
352-36-040	REP-P	90-06-109	352-64-040	AMD	90-04-064	356-34-118	REP-P	90-03-101
352-36-050	REP-P	90-06-109	352-64-050	AMD	90-04-064	356-34-118	REP-C	90-07-053
352-36-060	REP-P	90-06-109	352-64-060	AMD	90-04-064	356-34-119	REP-P	90-03-101
352-36-070	REP-P	90-06-109	352-64-070	AMD	90-04-064	356-34-119	REP-C	90-07-053
352-36-080	REP-P	90-06-109	352-64-080	AMD	90-04-064	356-34-130	REP-P	90-03-101
352-36-090	REP-P	90-06-109	352-66-010	NEW-P	90-04-107	356-34-130	REP-C	90-07-053
352-36-100	REP-P	90-06-109	352-66-010	NEW	90-07-051	356-34-140	REP-P	90-03-101
352-36-110	REP-P	90-06-109	352-66-020	NEW-P	90-04-107	356-34-140	REP-C	90-07-053
352-36-115	REP-P	90-06-109	352-66-020	NEW	90-07-051	356-34-160	REP-P	90-03-101
352-36-120	REP-P	90-06-109	352-66-030	NEW-P	90-04-107	356-34-160	REP-C	90-07-053
352-36-130	REP-P	90-06-109	352-66-030	NEW	90-07-051	356-34-170	REP-P	90-03-101
352-36-140	REP-P	90-06-109	352-66-040	NEW-P	90-04-107	356-34-170	REP-C	90-07-053
352-37-010	NEW-P	90-04-106	352-66-040	NEW	90-07-051	356-34-180	REP-P	90-03-101
352-37-010	NEW-E	90-06-006	352-66-050	NEW-P	90-04-107	356-34-180	REP-C	90-07-053
352-37-010	NEW	90-07-050	352-66-050	NEW	90-07-051	356-34-190	REP-P	90-03-101
352-37-020	NEW-P	90-04-106	352-66-060	NEW-P	90-04-107	356-34-190	REP-C	90-07-053
352-37-020	NEW-E	90-06-006	352-66-060	NEW	90-07-051	356-34-200	REP-P	90-03-101
352-37-020	NEW	90-07-050	352-66-070	NEW-P	90-04-107	356-34-200	REP-C	90-07-053
352-37-030	NEW-P	90-04-106	352-66-070	NEW	90-07-051	356-34-210	REP-P	90-03-101
352-37-030	NEW-E	90-06-006	352-66-080	NEW-P	90-04-107	356-34-210	REP-C	90-07-053
352-37-030	NEW	90-07-050	352-66-080	NEW	90-07-051	356-34-220	REP-P	90-03-101
352-37-040	NEW-P	90-04-106	352-66-090	NEW-P	90-04-107	356-34-220	REP-C	90-07-053
352-37-040	NEW-E	90-06-006	352-66-090	NEW	90-07-051	356-34-230	REP-P	90-03-101
352-37-040	NEW	90-07-050	352-66-100	NEW-P	90-04-107	356-34-230	REP-C	90-07-053
352-37-050	NEW-P	90-04-106	352-66-100	NEW	90-07-051	356-37-010	NEW-P	90-03-101
352-37-050	NEW-E	90-06-006	352-66-110	NEW-P	90-04-107	356-37-010	NEW	90-07-057
352-37-050	NEW	90-07-050	352-66-110	NEW	90-07-051	356-37-020	NEW-P	90-03-101
352-37-060	NEW-P	90-04-106	352-66-120	NEW-P	90-04-107	356-37-020	NEW	90-07-057
352-37-060	NEW-E	90-06-006	352-66-120	NEW	90-07-051	356-37-030	NEW-P	90-03-101
352-37-060	NEW	90-07-050	352-75-010	NEW-P	90-06-110	356-37-030	NEW	90-07-057
352-37-070	NEW-P	90-04-106	352-75-020	NEW-P	90-06-110	356-37-040	NEW-P	90-03-101
352-37-070	NEW-E	90-06-006	352-75-030	NEW-P	90-06-110	356-37-040	NEW	90-07-057
352-37-070	NEW	90-07-050	352-75-040	NEW-P	90-06-110	356-37-050	NEW-P	90-03-101
352-37-080	NEW-P	90-04-106	352-75-050	NEW-P	90-06-110	356-37-050	NEW	90-07-057
352-37-080	NEW-E	90-06-006	352-75-060	NEW-P	90-06-110	356-37-060	NEW-P	90-03-101
352-37-080	NEW	90-07-050	352-75-070	NEW-P	90-06-110	356-37-060	NEW	90-07-057
352-37-090	NEW-P	90-04-106	352-75-080	NEW-P	90-06-110	356-37-070	NEW-P	90-03-101
352-37-090	NEW-E	90-06-006	352-75-090	NEW-P	90-06-110	356-37-070	NEW	90-07-057
352-37-090	NEW	90-07-050	356-05-210	AMD	90-03-044	356-37-080	NEW-P	90-03-101
352-37-100	NEW-P	90-04-106	356-07-030	AMD-C	90-03-048	356-37-080	NEW	90-07-057
352-37-100	NEW-E	90-06-006	356-07-030	AMD	90-07-056	356-37-090	NEW-P	90-03-101
352-37-100	NEW	90-07-050	356-14-240	AMD-P	90-03-102	356-37-090	NEW	90-07-057
352-37-110	NEW-P	90-04-106	356-14-240	AMD-C	90-07-054	356-37-100	NEW-P	90-03-101
352-37-110	NEW-E	90-06-006	356-15-060	AMD-P	90-03-102	356-37-100	NEW	90-07-057
352-37-110	NEW	90-07-050	356-15-060	AMD-C	90-07-054	356-37-110	NEW-P	90-03-101
352-37-120	NEW-P	90-04-106	356-15-125	AMD-P	90-03-102	356-37-110	NEW	90-07-057
352-37-120	NEW-E	90-06-006	356-15-125	AMD-C	90-07-054	356-37-120	NEW-P	90-03-101
352-37-120	NEW	90-07-050	356-22-010	AMD-C	90-03-047	356-37-120	NEW	90-07-057
352-37-130	NEW-P	90-04-106	356-22-010	AMD	90-05-029	356-37-130	NEW-P	90-03-101
352-37-130	NEW-E	90-06-006	356-22-11001	REP-C	90-03-047	356-37-130	NEW	90-07-057
352-37-130	NEW	90-07-050	356-22-11001	REP	90-05-029	356-37-140	NEW-P	90-03-101
352-37-140	NEW-P	90-04-106	356-22-111	NEW-C	90-03-047	356-37-140	NEW	90-07-057
352-37-140	NEW-E	90-06-006	356-22-111	NEW	90-05-029	356-37-150	NEW-P	90-03-101

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356-42-056	NEW-P	90-03-103	388-08-525	NEW	90-04-076
356-46-060	AMD-P	90-07-052	388-08-535	NEW-C	90-04-020
360-10-050	AMD-P	90-03-053	388-08-535	NEW	90-04-076
360-15-010	NEW	90-03-054	388-08-540	REP-C	90-04-020
360-15-020	NEW	90-03-054	388-08-540	REP	90-04-076
360-15-030	NEW	90-03-054	388-08-545	NEW-C	90-04-020
360-15-040	NEW	90-03-054	388-08-545	NEW	90-04-076
360-15-050	NEW	90-03-054	388-08-550	REP-C	90-04-020
360-15-060	NEW	90-03-054	388-08-550	REP	90-04-076
360-15-070	NEW	90-03-054	388-08-555	NEW-C	90-04-020
360-16A-010	NEW	90-03-055	388-08-555	NEW	90-04-076
360-16A-020	NEW	90-03-055	388-08-560	REP-C	90-04-020
360-16A-030	NEW	90-03-055	388-08-560	REP	90-04-076
360-16A-040	NEW	90-03-055	388-08-565	NEW-C	90-04-020
360-16A-060	NEW	90-03-055	388-08-565	NEW	90-04-076
360-16A-070	NEW	90-03-055	388-08-575	NEW-C	90-04-020
360-16A-080	NEW	90-03-055	388-08-575	NEW	90-04-076
360-16A-090	NEW	90-03-055	388-08-580	REP-C	90-04-020
360-16A-100	NEW	90-03-055	388-08-580	REP	90-04-076
365-110-020	AMD-P	90-03-017	388-08-590	REP-C	90-04-020
365-110-030	REP-P	90-03-017	388-08-590	REP	90-04-076
365-110-035	AMD-P	90-03-017	388-09-010	REP-C	90-04-020
365-110-040	REP-P	90-03-017	388-09-010	REP	90-05-020
365-110-050	REP-P	90-03-017	388-09-020	REP-C	90-04-020
365-110-060	REP-P	90-03-017	388-09-020	REP	90-05-020
365-110-080	REP-P	90-03-017	388-09-030	REP-C	90-04-020
388-08-00201	REP-C	90-04-020	388-09-030	REP	90-05-020
388-08-00201	REP	90-04-076	388-09-040	REP-C	90-04-020
388-08-00401	REP-C	90-04-020	388-09-040	REP	90-05-020
388-08-00401	REP	90-04-076	388-11-100	AMD-C	90-04-021
388-08-006	REP-C	90-04-020	388-11-100	AMD	90-04-077
388-08-006	REP	90-04-076	388-11-105	REP-C	90-04-021
388-08-00601	REP-C	90-04-020	388-11-105	REP	90-04-077
388-08-00601	REP	90-04-076	388-11-180	AMD-C	90-04-021
388-08-010	REP-C	90-04-020	388-11-180	AMD	90-04-077
388-08-010	REP	90-04-076	388-11-185	REP-C	90-04-021
388-08-405	REP-C	90-04-020	388-11-185	REP	90-04-077
388-08-405	REP	90-04-076	388-13-050	AMD-C	90-04-021
388-08-406	REP-C	90-04-020	388-13-050	AMD	90-04-077
388-08-406	REP	90-04-076	388-13-060	AMD-C	90-04-021
388-08-409	REP-C	90-04-020	388-13-060	AMD	90-04-077
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