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filed not later than January 20, 1982

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 pursuant to chapter 28B.19 or 34.04 RCW is available for public inspection during normal office hours. The Code Reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to noon and from 1 p.m. to 5 p.m. Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (206) 753-7470 (SCAN 234-7470).

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CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

WASHINGTON STATE REGISTER

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

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

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

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

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

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

3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATTER

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

- (a) In amendatory sections—
 - (i) underlined matter is new matter;
 - (ii) deleted matter is (~~lined out and bracketed between double parentheses~~);
- (b) Complete new sections are prefaced by the heading NEW SECTION;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading REPEALER.

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

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

5. EFFECTIVE DATE OF RULES

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

6. EDITORIAL CORRECTIONS

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

7. INDEX AND TABLES

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

1981 – 1982

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Action Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing/adoption on or after
81-20	Sep 9	Sep 23	Oct 7	Oct 21	Nov 10
81-21	Sep 23	Oct 7	Oct 21	Nov 4	Nov 24
81-22	Oct 7	Oct 21	Nov 4	Nov 18	Dec 8
81-23	Oct 21	Nov 4	Nov 18	Dec 2	Dec 22
81-24	Nov 4	Nov 18	Dec 2	Dec 16	Jan 5, 1982
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82-01	Nov 25	Dec 9	Dec 23, 1981	Jan 6, 1982	Jan 26
82-02	Dec 9	Dec 23, 1981	Jan 6, 1982	Jan 20	Feb 9
82-03	Dec 23, 1981	Jan 6	Jan 20	Feb 3	Feb 23
82-04	Jan 6	Jan 20	Feb 3	Feb 17	Mar 9
82-05	Jan 20	Feb 3	Feb 17	Mar 3	Mar 23
82-06	Feb 3	Feb 17	Mar 3	Mar 17	Apr 6
82-07	Feb 24	Mar 10	Mar 24	Apr 7	Apr 27
82-08	Mar 10	Mar 24	Apr 7	Apr 21	May 11
82-09	Mar 24	Apr 7	Apr 21	May 5	May 25
82-10	Apr 7	Apr 21	May 5	May 19	Jun 8
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82-12	May 5	May 19	Jun 2	Jun 16	Jul 6
82-13	May 26	Jun 9	Jun 23	Jul 7	Jul 27
82-14	Jun 9	Jun 23	Jul 7	Jul 21	Aug 10
82-15	Jun 23	Jul 7	Jul 21	Aug 4	Aug 24
82-16	Jul 7	Jul 21	Aug 4	Aug 18	Sep 7
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82-19	Aug 25	Sep 8	Sep 22	Oct 6	Oct 26
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82-21	Sep 22	Oct 6	Oct 20	Nov 3	Nov 23
82-22	Oct 6	Oct 20	Nov 3	Nov 17	Dec 7
82-23	Oct 20	Nov 3	Nov 17	Dec 1	Dec 21
82-24	Nov 3	Nov 17	Dec 1	Dec 15	Jan 4, 1983

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

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

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

WSR 82-03-001
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)
 [Order 150—Filed January 8, 1982]

Be it resolved by a majority of the Game Commission of the state of Washington, that we, the Game Commission, promulgate and adopt by conference call, as emergency rule of this governing body, the annexed rule relating to closure of Sekiu River, Sail River and Lake Washington system (includes areas 10B, 10C and 10D) to the taking of steelhead trout by treaty Indians, WAC 232-32-136.

We, the Game Commission, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest. A statement of facts constituting such emergency is data gathered by the Department of Game from information provided by fish buyers reporting sales of steelhead harvested by treaty Indian fishermen from the Sekiu River, Sail River and Lake Washington system (includes areas 10B, 10C, 10D) pursuant to the reporting system approved by the United States District Court in *United States vs. Washington* indicates that the treaty Indian share of harvestable steelhead for the areas noted above has been reached or will have been reached on the effective date of this order. Therefore, closure of the Sekiu River, Sail River and Lake Washington system (includes areas 10B, 10C, 10D) is necessary to assure non-Indian sport fishermen their right to take their share.

Such rule is therefore adopted as an emergency rule to take effect upon filing with the code reviser.

This rule is promulgated under the authority of the Game Commission as authorized in RCW 77.12.150.

The undersigned chairman hereby declares that the Game Commission has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), or the Administrative Procedure Act (chapter 34.04 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

This order, after being first recorded in the Order Register of this governing body, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED January 8, 1982.

By Archie U. Mills
 Chairman, Game Commission

NEW SECTION

WAC 232-32-136 CLOSURE OF SEKIU RIVER, SAIL RIVER AND LAKE WASHINGTON SYSTEM (INCLUDES AREAS 10B, 10C AND 10D) TO THE TAKING OF STEELHEAD TROUT BY TREATY INDIANS. *Effective 3:00 p.m., January 9, 1982: it is unlawful for treaty Indians to take, fish for or possess steelhead trout in the Sekiu River, Sail River and Lake Washington system (includes areas 10B, 10C and 10D).*

WSR 82-03-002
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 82-3—Filed January 8, 1982]

I, Rolland A. Schmitt, director of the State Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing rules.

I, Rolland A. Schmitt, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is this order is necessary to clarify the intent of the regulation as proposed.

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

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

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

APPROVED AND ADOPTED January 8, 1982.

By Gary C. Alexander
 for Rolland A. Schmitt
 Director

NEW SECTION

WAC 220-69-2400E CATCH REPORTING REQUIREMENTS—COMMERCIAL GEODUCK FISHERY. *Notwithstanding the provisions of WAC 220-69-240 and 220-69-241, effective immediately until further notice it is unlawful for any person, partnership, association, corporation, or similar entity receiving or purchasing geoducks from fishermen, firms, or individuals, regardless of whether or not the purchaser or receiver holds a license as required under Title 75 RCW, to fail to accurately and legibly complete the fish receiving ticket initiated on the harvest tract immediately upon the actual landing of geoducks onto the shore. This fish receiving ticket shall accompany the harvested geoducks from the Department of Natural Resources harvest tract to the point of landing.*

WSR 82-03-003
NOTICE OF PUBLIC MEETINGS
URBAN ARTERIAL BOARD
 [Memorandum—January 8, 1982]

Beginning at 9:30 a.m., Thursday, January 21, 1982.

1. Minutes from UAB meeting on October 15, 1981.
2. Report of chairman.

3. Identification and consideration of UATF underruns on authorized Urban Arterial projects.
4. Allocation of Urban Arterial Trust Funds to active projects for the first quarter of 1982.
5. Review proposed projects for authorization of Urban Arterial Trust Funds for the preliminary phase.
6. Review proposed projects for authorization of Urban Arterial Trust Funds for the construction phase.
7. Report on completed urban arterial project audits.
8. Report on increases in Urban Arterial Trust Funds authorized for a project by the chairman.

WSR 82-03-004

**NOTICE OF PUBLIC MEETINGS
CLARK COLLEGE**

[Memorandum—December 30, 1981]

In compliance with the Washington State Administrative Code regulations regarding the reporting of meeting dates of the board of trustees, we hereby submit the following dates on which the board of trustees of Clark Community College District No. 14 is scheduled to meet during 1982:

January 19	July 20
February 16	September 21
March 16	October 19
April 20	November 16
May 18	December 14
June 15	

WSR 82-03-005

**ATTORNEY GENERAL OPINION
Cite as: AGO 1982 No. 1**

[January 6, 1982]

REAL ESTATE—PRACTICE OF LAW—CLOSING REAL ESTATE TRANSACTIONS BY LICENSED REAL ESTATE AGENTS

The Washington Supreme Court's rulings in Hagan v. Kassler Escrow, Inc., 96 Wn.2d 443 (1981) and Bar Association v. Great Western Federal, 91 Wn.2d 48 (1978) do not preclude licensed real estate agents from doing any of the things which their licenses permit them to do in closing real estate transactions under the provisions of chapter 18.85 RCW; however, those authorized practices may not constitutionally be construed to include the selection and completion of form legal documents, or the drafting of such documents, including deeds, mortgages, deeds of trust, promissory notes, and agreements modifying those documents.

Requested by:

Honorable R. Ted Bottiger
St. Sen., 2nd District
8849 Pacific Avenue
Tacoma, WA 98444

WSR 82-03-006

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
NATURAL RESOURCES**

(Board of Natural Resources)

[Memorandum—January 8, 1982]

Regular meetings of the Department of Natural Resources, Board of Natural Resources, are held on the first Tuesday of each month in Room 301 of the Public Lands Building, Olympia, Washington, at 9 a.m.

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

WSR 82-03-007

**EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)**

[Order 151—Filed January 11, 1982]

Be it resolved by a majority of the Game Commission of the state of Washington, that we, the Game Commission, promulgate and adopt by conference call, as emergency rule of this governing body, the annexed rule relating to closure of Nisqually River system to the taking of steelhead trout by treaty Indians, WAC 232-32-137.

We, the Game Commission, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest. A statement of facts constituting such emergency is data gathered by the Department of Game from information provided by fish buyers reporting sales of steelhead harvested by treaty Indian fishermen from the Nisqually River system pursuant to the reporting system approved by the United States District Court in United States vs. Washington indicates that the treaty Indian share of harvestable steelhead for the Nisqually River system has been reached or will have been reached on the effective date of this order. Therefore, a closure of the Nisqually River system is necessary to assure non-Indian sport fishermen their right to take their share.

Such rule is therefore adopted as an emergency rule to take effect upon filing with the code reviser.

This rule is promulgated under the authority of the Game Commission as authorized in RCW 77.12.150.

The undersigned chairman hereby declares that the Game Commission has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), or the Administrative Procedure Act (chapter 34.04 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

This order, after being first recorded in the Order Register of this governing body, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED January 11, 1982.

By Archie U. Mills
Chairman, Game Commission

NEW SECTION

WAC 232-32-137 CLOSURE OF NISQUALLY RIVER SYSTEM TO THE TAKING OF STEEL-HEAD TROUT BY TREATY INDIANS. *Effective 4:00 p.m., January 12, 1982: it is unlawful for treaty Indians to take, fish for or possess steelhead trout in the Nisqually River system.*

WSR 82-03-008

NOTICE OF PUBLIC MEETINGS WASHINGTON STATE UNIVERSITY [Memorandum—January 8, 1982]

It has been necessary to cancel the regular meeting of the Washington State University Board of Regents, set for January 15, 1982, in Pullman, because of our severe winter weather.

The Board of Regents will have a special meeting at 9:00 a.m. on Friday, February 12, 1982, in the Junior Ballroom of the Wilson Compton Union Building on the Washington State campus.

WSR 82-03-009

NOTICE OF PUBLIC MEETINGS PUBLIC DISCLOSURE COMMISSION [Memorandum—January 8, 1982]

Pursuant to the requirement of section 12, chapter 240, Laws of 1977 1st ex. sess., I am herein reporting to you that the Public Disclosure Commission holds its regular meetings on the fourth Tuesday of each month except during November and December when the meetings are held on the third Tuesday (WAC 390-12-010). Meeting dates will be as follows: January 26, February 23, March 23, April 27, May 25, June 22, July 27, August 24, September 28, October 26, November 16 and December 21.

WSR 82-03-010

EMERGENCY RULES DEPARTMENT OF FISHERIES [Order 82-4—Filed January 11, 1982]

I, Rolland A. Schmitten, director of the State Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing rules.

I, Rolland A. Schmitten, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is the catch rates of herring in Marine Fish-Shellfish Reporting Areas 21A and 21B were lower than anticipated and survey data shows an increased quantity of harvestable herring.

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

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

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

APPROVED AND ADOPTED January 11, 1982.

By W. R. Wilkerson
for Rolland A. Schmitten
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 P.M., January 11, 1982.

WAC 220-49-02000B CLOSED AREA-HERRING (82-2)

WSR 82-03-011

EMERGENCY RULES BOARD OF HEALTH [Order 223—Filed January 12, 1982]

Be it resolved by the Washington State Board of Health, acting at Vancouver, Washington, that it does promulgate and adopt the annexed rules relating to required approval for occupancy after completion of new construction, repealing WAC 248-18-025.

We, the Washington State Board of Health, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is an

emergency exists due to budget shortages and personnel reductions. Inspections and written approvals of hospital construction are no longer available.

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

This rule is promulgated pursuant to RCW 70.41.030 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Washington State Board of Health as authorized in RCW 43.20.050.

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

APPROVED AND ADOPTED January 12, 1982.

By John A. Beare, M.D.
Secretary

REPEALER

The following section of the Washington Administrative Code is repealed:

(1) WAC 248-18-025 **REQUIRED APPROVAL FOR OCCUPANCY AFTER COMPLETION OF NEW CONSTRUCTION**

WSR 82-03-012

NOTICE OF PUBLIC MEETINGS DEPARTMENT OF GAME (Game Commission)

[Memorandum—January 11, 1982]

The Game Commission has elected to change the date of the April meeting in Port Angeles from April 5 to April 8, 1982.

WSR 82-03-013

PROPOSED RULES DEPARTMENT OF CORRECTIONS

[Filed January 13, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Corrections intends to adopt, amend, or repeal rules concerning guidelines for implementing the State Environmental Policy Act, chapter 137-58 WAC.

The formal adoption, amendment, or repeal of such rules will take place at 9:00 a.m., February 25, 1982, in the Department of Corrections, Capital Center Building, Olympia, Washington.

The authority under which these rules are proposed is RCW 43.21C.120.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to February 25, 1982.

Dated: January 8, 1982

By: Amos E. Reed
Secretary

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045 regarding the adoption of chapter 137-58 WAC, guidelines for implementing the State Environmental Policy Act.

These rule changes are necessary due to the establishment of the new Department of Corrections in chapter 136, Laws of 1981.

Statutory Authority: RCW 43.21C.120.

Summary of the Rule Changes: The rule sets forth department policy for implementing the State Environmental Policy Act.

Person Responsible for Drafting, Implementation and Enforcement is: John J. Sinclair, Administrator, Office of Contracts and Regulations, Division of Management and Budget, Mailstop FN-61, (206) 753-5770.

No person or organization other than the Department of Corrections has proposed these rules.

These rules are not necessary as a result of federal laws or federal or state court decisions.

NEW SECTION

WAC 137-58-010 PURPOSE. (1) The purpose of this chapter is to ensure department compliance with the State Environmental Policy Act, (SEPA), chapter 43.21C RCW, and the regulations promulgated thereto, chapter 197-10 WAC and to set forth department procedures in regards to SEPA requirements.

(2) These rules are supplemental to chapter 43.21C RCW and chapter 197-10 WAC and are not intended to provide a comprehensive description of the SEPA requirements therein listed.

NEW SECTION

WAC 137-58-020 DEFINITIONS. The definitions set forth in chapter 197-10 WAC are hereby incorporated by reference herein and should be referred to if necessary.

NEW SECTION

WAC 137-58-030 AGENCY RESPONSIBILITIES. (1) The secretary or his/her designee shall be responsible for making final decisions regarding threshold determinations, adequacy of draft EISs and adequacy of final EISs where the department is the lead agency.

(2) The department's office of capital programs, division of prisons, shall be responsible for submitting the necessary data set forth in WAC 137-58-040 to the secretary for his/her decision.

NEW SECTION

WAC 137-58-040 RESPONSIBILITIES, OFFICE OF CAPITAL PROGRAMS. The department's office of capital programs, division of prisons, shall be responsible for complying with the threshold determination procedures of WAC 197-10-300 through 197-10-390; and shall be responsible for the supervision, or actual preparation of draft EISs pursuant to WAC 197-10-400 through 197-10-495, including the circulation of such statements, and the conduct of any public hearing required by chapter 197-10 WAC. The office of capital programs shall also prepare or supervise the preparation of any required final EIS pursuant to WAC 197-10-550 through 197-10-695.

WSR 82-03-014
EMERGENCY RULES
DEPARTMENT OF CORRECTIONS
 [Order 82-2—Filed January 13, 1982]

I, Amos E. Reed, director of the Department of Corrections, do promulgate and adopt the annexed rules relating to guidelines for implementing the State Environmental Policy Act, chapter 137-58 WAC.

I, Amos E. Reed, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is the department presently has no rule for implementing the State Environmental Policy Act pursuant to RCW 72.66.080.

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

This rule is promulgated pursuant to RCW 72.66.080 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 8, 1982.

By Amos E. Reed
 Secretary

NEW SECTION

WAC 137-58-010 PURPOSE. (1) *The purpose of this chapter is to ensure department compliance with the State Environmental Policy Act, (SEPA), chapter 43.21C RCW, and the regulations promulgated thereto, chapter 197-10 WAC and to set forth department procedures in regards to SEPA requirements.*

(2) *These rules are supplemental to chapter 43.21C RCW and chapter 197-10 WAC and are not intended to provide a comprehensive description of the SEPA requirements therein listed.*

NEW SECTION

WAC 137-58-020 DEFINITIONS. *The definitions set forth in chapter 197-10 WAC are hereby incorporated by reference herein and should be referred to if necessary.*

NEW SECTION

WAC 137-58-030 AGENCY RESPONSIBILITIES. (1) *The secretary or his/her designee shall be responsible for making final decisions regarding threshold determinations, adequacy of draft EISs and adequacy of final EISs where the department is the lead agency.*

(2) *The department's office of capital programs, division of prisons, shall be responsible for submitting the*

necessary data set forth in WAC 137-58-040 to the secretary for his/her decision.

NEW SECTION

WAC 137-58-040 RESPONSIBILITIES, OFFICE OF CAPITAL PROGRAMS. *The department's office of capital programs, division of prisons, shall be responsible for complying with the threshold determination procedures of WAC 197-10-300 through 197-10-390, and shall be responsible for the supervision, or actual preparation of draft EISs pursuant to WAC 197-10-400 through 197-10-495, including the circulation of such statements, and the conduct of any public hearing required by chapter 197-10 WAC. The office of capital programs shall also prepare or supervise the preparation of any required final EIS pursuant to WAC 197-10-550 through 197-10-695.*

WSR 82-03-015
PROPOSED RULES
DEPARTMENT OF CORRECTIONS
 [Filed January 13, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Corrections intends to adopt, amend, or repeal rules concerning the adopting of chapter 137-60 WAC, furlough of prisoners in adult correctional facilities and repealing chapter 275-93 WAC.

Correspondence regarding this notice and attached rules should be addressed to:

John J. Sinclair, Administrator
 Office of Contracts and Regulations
 Division of Management and Budget
 Mailstop FN-61
 (206) 753-5770.

The formal adoption, amendment, or repeal of such rules will take place at 9:00 a.m., February 25, 1982, in the Department of Corrections, Office of the Secretary, Olympia, Washington.

The authority under which these rules are proposed is RCW 72.66.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to February 25, 1982.

Dated: January 8, 1982

By: Amos E. Reed
 Secretary

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045 in regards to the adoption of chapter 137-60 WAC regarding the furlough of state prisoners and the repeal of chapter 275-93 WAC, the old Department of Social and Health Services chapter.

These rule changes are necessary due to the establishment of the new Department of Corrections in chapter 136, Laws of 1981.

Statutory Authority: RCW 72.66.080.

Summary of the Rule Changes: The purpose of chapter 137-60 WAC is to set forth department policy for the implementing of prisoner release program (furlough), and the repeal of the former Department of Social and Health Services chapter regarding the same subject chapter 275-93 WAC.

The Person Responsible for the Drafting, Implementation and Enforcement is: John J. Sinclair, Administrator, Office of Contracts and Regulations, Division of Management and Budget, Mailstop FN-61, (206) 753-5770.

No person or organization other than the Department of Corrections has proposed these rules.

These rules are not necessary as a result of federal laws or federal or state court decisions.

Chapter 137-60 WAC
ADULT CORRECTIONAL INSTITUTIONS—RELEASE PROGRAMS—FURLOUGH

NEW SECTION

WAC 137-60-010 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—DEFINITIONS. (1) "Furlough" is an authorized unaccompanied leave of absence for an eligible inmate.

(2) "Furlough plan" is an inmate's statement in his or her application of the purpose, place, dates of duration, and sponsor of a single furlough or series of furloughs.

(3) "Furlough sponsor" is an approved adult who has agreed to assume the responsibilities set forth in WAC 137-60-070.

(4) "Emergency furlough" is a specially expedited furlough granted to an inmate to enable him or her to meet an emergency situation such as the death or critical illness of a member of his or her family.

(5) "Inmate" is a person convicted of a felony and serving a sentence for a term of confinement in a state correctional institution or facility, or a state approved work or training release facility.

(6) "Secretary" is the secretary of the department of corrections or his or her designee.

(7) "Furlough year" begins with the date of the first furlough and ends twelve months from that date. Subsequent furlough years count backward for the twelve month time period.

(8) "Furlough day" is any combination of two twelve-hour time segments.

NEW SECTION

WAC 137-60-020 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—SECRETARY'S AUTHORITY TO GRANT OR DENY. The institution superintendent, work/training release supervisor, or chief, classification and treatment, may grant or deny a furlough as authorized by chapter 72.66 RCW and subject to the rules in this chapter.

NEW SECTION

WAC 137-60-030 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—PURPOSES. A furlough may be authorized to enable the inmate:

(1) To meet an emergency situation, such as critical illness, death, emotional crisis, or similar situation experienced by members of his or her family;

(2) To obtain medical care not available in a facility maintained by the department;

(3) To seek employment or training opportunities;

(a) Provided specific job interviews have been arranged for the inmate, or

(b) When the inmate has been approved for work or training release status but his or her job or training placement has not been developed or concluded, or

(c) When necessary to prepare a parole plan for a parole hearing scheduled within one hundred twenty days of the commencement of the furlough;

(4) To make residential plans for parole which require his or her personal appearance in the community;

(5) To care for business affairs in person when the inability to do so could deplete the assets or resources of the inmate so seriously as to affect his or her family or his or her future economic security;

(6) To visit his or her family for the purpose of strengthening or preserving relationships, exercising parental responsibilities, or preventing family division or disintegration;

(7) To accomplish any other purpose deemed to be consistent with plans for rehabilitation of the inmate.

NEW SECTION

WAC 137-60-040 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—WHO MAY APPLY.

(1) Any inmate may apply for a furlough: PROVIDED, That

(a) He or she has minimum custody classification,

(b) His or her minimum term has been fixed by the board of prison terms and paroles,

(c) If he or she has a detainer pending, approval of the detaining agency must be secured. Other jurisdictions with detainers against a Washington state inmate may provide approval on a class of applicants; for example, all those otherwise approved by this state, in lieu of action on individual applications.

(2) Persons convicted of rape in the first degree shall not be eligible to participate in the furlough program at any time during the first three years of confinement.

(3) Persons convicted after July 1, 1981, of murder in the first degree, may not be granted furloughs.

NEW SECTION

WAC 137-60-045 MINIMUM TIME SERVED REQUIREMENT. A furlough shall not be granted to an inmate if the furlough would commence prior to the time the inmate has served the minimum amounts of time provided under this section and is within two years of his or her minimum term being served;

(1) If his or her minimum term of imprisonment is longer than twelve months, he or she shall have served at least six months of the term;

(2) If his or her minimum term of imprisonment is twelve months or less, he or she shall have served at least ninety days and shall have no longer than six months left to serve on his or her minimum term, or the mandatory term has been waived by the parole board;

(3) If he or she is serving a mandatory minimum term of confinement, he or she shall have served all but the last six months of such term subject to restrictions in WAC 137-60-040(2) and (3).

NEW SECTION

WAC 137-60-050 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—CONDITIONS IMPOSED. (1) The applicant must agree to abide by all terms and conditions of the approved furlough plan. Any violation may be cause for suspension or revocation of the furlough, and possible disciplinary action.

(2) The furlough plan will specify the residence address at which the applicant will reside during the period of furlough and will designate the names and relationships of the persons with whom he or she will live.

(3) Upon arrival at his or her destination the furloughed person will, when so required, report to a state probation and parole officer in accordance with instructions given prior to release on furlough. He or she shall report as frequently as may be required by the state probation and parole officer.

(4) The furloughed person shall abide by all local, state, and federal laws, ordinances, and statutes.

(5) With approval of either the designated state probation and parole officer, or institution staff, the furloughed person may accept temporary employment during a period of furlough. Earnings may be used to defray the costs of the furlough, including transportation, living expenses, family support, and incidental needs.

(6) Furloughed persons may not leave the state at any time while on furlough.

(7) Other limitations on movement within the state may be imposed as a condition of furlough. Unless it is part of the approved travel plan, travel outside the county to which furlough is granted must be approved in advance by the probation and parole officer in that county.

(8) A furlougee shall not drink, ingest, possess, or be under the influence of intoxicating beverages or nonprescribed drugs. All public taverns, bars, liquor stores, and cocktail lounges will be considered "off limits" to furlougees.

(9) A furlougee who drives a motor vehicle must:

(a) Have a valid Washington driver's license in his or her possession,
 (b) If unaccompanied by the owner, have the owner's written permission in his or her possession to drive any vehicle not his or her own or his or her spouse's,

(c) Have at least minimum personal injury and property damage liability coverage on the vehicle he or she is driving,

(d) Observe all traffic laws.

(10) Clothing issued for use during the furlough is to be returned to the institution at the completion of the furlough.

(11) Other conditions of furlough specific to the individual may be imposed in writing, prior to the inception of the furlough.

(12) All conditions of furlough, general and specific, shall be listed on the furlough order, and shall be discussed with the inmate by his or her counselor before he or she leaves the institution. The furlougee shall carry a copy of the furlough order and furlough identification card, with him or her at all times while on furlough. The furlough identification card will be issued to the inmate prior to departure from the institution, and returned at the end of the furlough.

(13) Willful failure to return from a furlough at the time specified in the furlough order constitutes an escape from confinement which is a violation of criminal law.

NEW SECTION

WAC 137-60-060 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—DURATION. (1) Furloughs may not exceed thirty days at a given time or a total of sixty days in any twelve-month period. The sixty day total is designed to permit a reasonable pattern of short releases over the course of a year, or an extended period of release for special placement on furlough status in preparation for work release, training release, parole planning, medical treatment not available in a state facility, or a combination of these reasons.

(2) First and second furloughs will not exceed five days absent unusual circumstances.

(3) Emergency furloughs will be limited to forty-eight hours plus travel time absent unusual circumstances.

(4) Any furlough may be extended by the institution superintendent or work/training release supervisor within the maximum time limits set by this section.

NEW SECTION

WAC 137-60-070 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—SPONSOR'S RESPONSIBILITIES. A furlough plan must designate a sponsor for the inmate while he or she is on furlough. The sponsor must sign a statement agreeing to:

(1) Provide the furlougee with appropriate living quarters for the duration of the furlough,

(2) Notify the institution immediately if the furlougee does not appear as scheduled, departs from the furlough plan at any time, becomes involved in serious difficulty during the furlough, or experiences problems that affect his or her ability to function appropriately,

(3) Assist the furlougee in other appropriate ways, such as discussing problems, providing transportation to job interviews, etc.,

(4) Assure that the furlougee returns to the institution on time.

NEW SECTION

WAC 137-60-080 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—CRITERIA FOR EVALUATING APPLICATION. (1) An application for furlough shall be considered with respect to:

(a) Consistency with the purposes described in WAC 137-60-030 and 137-60-040, and

(b) Adequacy of the furlough plan, and

(c) Possible risk to the community, and

(d) Findings of a field investigation.

(2) The application shall be evaluated without regard to the race, sex, color, national origin, or creed of the applicant.

NEW SECTION

WAC 137-60-090 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—APPLICATION FOR FURLOUGH. (1) An application for furlough must be made on forms prescribed by the secretary, must include a furlough plan, and must be submitted by the inmate to his or her counselor.

(2) An application for furlough, other than an emergency furlough, must be made at least seven weeks prior to the date of the furlough.

(3) Any inmate whose furlough application has been rejected may reapply after such period of time has elapsed as was determined by the superintendent, work/training release supervisor, or chief, classification and treatment, at the time of rejection, such time period being subject to modification by the persons listed in this section.

(4) A furlough plan shall specify in detail the purpose of the furlough and how it is to be achieved, the address at which the applicant would reside, the names of all persons residing at such address and the relationships of such persons to the applicant.

NEW SECTION

WAC 137-60-100 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—NOTIFYING INMATE OF DECISION ON APPLICATION. (1) The inmate and his or her sponsor shall both be notified promptly of the disposition of his or her application.

(2) If a furlough is authorized, a copy of the furlough order will be mailed to the sponsor.

NEW SECTION

WAC 137-60-110 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—ESCAPE. The department has the duty, as soon as possible, to notify the state patrol of the escape of a furlougee.

NEW SECTION

WAC 137-60-120 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—REVOCATION OR SUSPENSION. (1) Any employee of the department having knowledge of a furlough infraction shall report the facts to the superintendent or work/training release facility supervisor as appropriate. Upon verification, the superintendent or work/training release supervisor will cause the custody of the furlougee to be regained and, for this purpose, may cause a furlough suspension warrant to be issued.

(2) The superintendent or work/training release facility supervisor as appropriate will determine whether to suspend or revoke the furlough. If the furlough is suspended, the superintendent or work/training release supervisor will indicate when and under what circumstances the inmate may reapply.

NEW SECTION

WAC 137-60-130 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—LAW ENFORCEMENT OFFICERS TO BE NOTIFIED. (1) Appropriate law enforcement agencies will be notified of a planned furlough via the state patrol communications network at least forty-eight hours prior to the beginning of the furlough.

(2) In the event of an emergency furlough, the state patrol will be notified as early as possible but the forty-eight hour requirement will not apply.

NEW SECTION

WAC 137-60-140 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—EXCEPTIONS TO RULES. In emergency situations or as otherwise allowed by statute, the secretary may authorize exceptions to the rules in chapter 137-60 WAC: PROVIDED, That no exception may be made to WAC 137-60-040(1)(a), (b), (c), (2), and (3), 137-60-045, 137-60-050, 137-60-060, and 137-60-070.

REPEALER

The following sections of the Washington Administrative Code are repealed:

(1) WAC 275-93-005 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—DEFINITIONS.

(2) WAC 275-93-010 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—SECRETARY'S AUTHORITY TO GRANT OR DENY.

(3) WAC 275-93-020 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—PURPOSES.

(4) WAC 275-93-040 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—WHO MAY APPLY.

(5) WAC 275-93-050 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—CONDITIONS IMPOSED.

(6) WAC 275-93-060 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—DURATION.

(7) WAC 275-93-070 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—SPONSOR'S RESPONSIBILITIES.

(8) WAC 275-93-080 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—CRITERIA FOR EVALUATING APPLICATION.

(9) WAC 275-93-090 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—APPLICATION FOR FURLOUGH.

(10) WAC 275-93-100 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—NOTIFYING RESIDENT OF DECISION ON APPLICATION.

(11) WAC 275-93-110 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—ESCAPE.

(12) WAC 275-93-120 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—REVOCA-TION OR SUSPENSION.

(13) WAC 275-93-130 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—LAW ENFORCEMENT OFFICERS TO BE NOTIFIED.

(14) WAC 275-93-140 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—EXCEPTIONS TO RULES.

WSR 82-03-016

EMERGENCY RULES

DEPARTMENT OF CORRECTIONS

[Order 82-1—Filed January 13, 1982]

I, Amos E. Reed, director of the Department of Corrections, do promulgate and adopt at Olympia, Washington, the annexed rules relating to furlough of prisoners in adult correctional facilities, chapter 137-60 WAC and repealing chapter 275-93 WAC.

I, Amos E. Reed, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is the new rules will benefit the prison population at large and will add to the general welfare and safety of the inmate population and the public at large.

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

This rule is promulgated pursuant to RCW 72.66.080 and is intended to administratively implement that statute.

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

appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED January 8, 1982.

By Amos E. Reed
Secretary

Chapter 137-60 WAC

ADULT CORRECTIONAL INSTITUTIONS—RELEASE PROGRAMS—FURLOUGH

NEW SECTION

WAC 137-60-010 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—DEFINITIONS. (1) "Furlough" is an authorized unaccompanied leave of absence for an eligible inmate.

(2) "Furlough plan" is an inmate's statement in his or her application of the purpose, place, dates of duration, and sponsor of a single furlough or series of furloughs.

(3) "Furlough sponsor" is an approved adult who has agreed to assume the responsibilities set forth in WAC 137-60-070.

(4) "Emergency furlough" is a specially expedited furlough granted to an inmate to enable him or her to meet an emergency situation such as the death or critical illness of a member of his or her family.

(5) "Inmate" is a person convicted of a felony and serving a sentence for a term of confinement in a state correctional institution or facility, or a state approved work or training release facility.

(6) "Secretary" is the secretary of the department of corrections or his or her designee.

(7) "Furlough year" begins with the date of the first furlough and ends twelve months from that date. Subsequent furlough years count backward for the twelve month time period.

(8) "Furlough day" is any combination of two twelve-hour time segments.

NEW SECTION

WAC 137-60-020 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—SECRETARY'S AUTHORITY TO GRANT OR DENY. The institution superintendent, work/training release supervisor, or chief, classification and treatment, may grant or deny a furlough as authorized by chapter 72.66 RCW and subject to the rules in this chapter.

NEW SECTION

WAC 137-60-030 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—PURPOSES. A furlough may be authorized to enable the inmate:

(1) To meet an emergency situation, such as critical illness, death, emotional crisis, or similar situation experienced by members of his or her family;

(2) To obtain medical care not available in a facility maintained by the department;

(3) To seek employment or training opportunities;

(a) Provided specific job interviews have been arranged for the inmate, or

(b) When the inmate has been approved for work or training release status but his or her job or training placement has not been developed or concluded, or

(c) When necessary to prepare a parole plan for a parole hearing scheduled within one hundred twenty days of the commencement of the furlough;

(4) To make residential plans for parole which require his or her personal appearance in the community;

(5) To care for business affairs in person when the inability to do so could deplete the assets or resources of the inmate so seriously as to affect his or her family or his or her future economic security;

(6) To visit his or her family for the purpose of strengthening or preserving relationships, exercising parental responsibilities, or preventing family division or disintegration;

(7) To accomplish any other purpose deemed to be consistent with plans for rehabilitation of the inmate.

NEW SECTION

WAC 137-60-040 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—WHO MAY APPLY. (1) Any inmate may apply for a furlough: PROVIDED, That

(a) He or she has minimum custody classification,

(b) His or her minimum term has been fixed by the board of prison terms and paroles,

(c) If he or she has a detainer pending, approval of the detaining agency must be secured. Other jurisdictions with detainers against a Washington state inmate may provide approval on a class of applicants; for example, all those otherwise approved by this state, in lieu of action on individual applications.

(2) Persons convicted of rape in the first degree shall not be eligible to participate in the furlough program at any time during the first three years of confinement.

(3) Persons convicted after July 1, 1981, of murder in the first degree, may not be granted furloughs.

NEW SECTION

WAC 137-60-045 MINIMUM TIME SERVED REQUIREMENT. A furlough shall not be granted to an inmate if the furlough would commence prior to the time the inmate has served the minimum amounts of time provided under this section and is within two years of his or her minimum term being served;

(1) If his or her minimum term of imprisonment is longer than twelve months, he or she shall have served at least six months of the term;

(2) If his or her minimum term of imprisonment is twelve months or less, he or she shall have served at least ninety days and shall have no longer than six months left to serve on his or her minimum term, or the mandatory term has been waived by the parole board;

(3) If he or she is serving a mandatory minimum term of confinement, he or she shall have served all but the last six months of such term subject to restrictions in WAC 137-60-040(2) and (3).

NEW SECTION

WAC 137-60-050 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—CONDITIONS IMPOSED. (1) The applicant must agree to abide by all terms and conditions of the approved furlough plan. Any violation may be cause for suspension or revocation of the furlough, and possible disciplinary action.

(2) The furlough plan will specify the residence address at which the applicant will reside during the period of furlough and will designate the names and relationships of the persons with whom he or she will live.

(3) Upon arrival at his or her destination the furloughed person will, when so required, report to a state probation and parole officer in accordance with instructions given prior to release on furlough. He or she shall report as frequently as may be required by the state probation and parole officer.

(4) The furloughed person shall abide by all local, state, and federal laws, ordinances, and statutes.

(5) With approval of either the designated state probation and parole officer, or institution staff, the furloughed person may accept temporary employment during a period of furlough. Earnings may be used to defray the costs of the furlough, including transportation, living expenses, family support, and incidental needs.

(6) Furloughed persons may not leave the state at any time while on furlough.

(7) Other limitations on movement within the state may be imposed as a condition of furlough. Unless it is part of the approved travel plan, travel outside the county to which furlough is granted must be approved in advance by the probation and parole officer in that county.

(8) A furloughed person shall not drink, ingest, possess, or be under the influence of intoxicating beverages or nonprescribed drugs. All public taverns, bars, liquor stores, and cocktail lounges will be considered "off limits" to furloughed persons.

(9) A furloughed person who drives a motor vehicle must:

(a) Have a valid Washington driver's license in his or her possession,

(b) If unaccompanied by the owner, have the owner's written permission in his or her possession to drive any vehicle not his or her own or his or her spouse's,

(c) Have at least minimum personal injury and property damage liability coverage on the vehicle he or she is driving,

(d) Observe all traffic laws.

(10) Clothing issued for use during the furlough is to be returned to the institution at the completion of the furlough.

(11) Other conditions of furlough specific to the individual may be imposed in writing, prior to the inception of the furlough.

(12) All conditions of furlough, general and specific, shall be listed on the furlough order, and shall be discussed with the inmate by his or her counselor before he or she leaves the institution. The furloughed person shall carry a copy of the furlough order and furlough identification

card, with him or her at all times while on furlough. The furlough identification card will be issued to the inmate prior to departure from the institution, and returned at the end of the furlough.

(13) Willful failure to return from a furlough at the time specified in the furlough order constitutes an escape from confinement which is a violation of criminal law.

NEW SECTION

WAC 137-60-060 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—DURATION. (1) Furloughs may not exceed thirty days at a given time or a total of sixty days in any twelve-month period. The sixty day total is designed to permit a reasonable pattern of short releases over the course of a year, or an extended period of release for special placement on furlough status in preparation for work release, training release, parole planning, medical treatment not available in a state facility, or a combination of these reasons.

(2) First and second furloughs will not exceed five days absent unusual circumstances.

(3) Emergency furloughs will be limited to forty-eight hours plus travel time absent unusual circumstances.

(4) Any furlough may be extended by the institution superintendent or work/training release supervisor within the maximum time limits set by this section.

NEW SECTION

WAC 137-60-070 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—SPONSOR'S RESPONSIBILITIES. A furlough plan must designate a sponsor for the inmate while he or she is on furlough. The sponsor must sign a statement agreeing to:

(1) Provide the furlougee with appropriate living quarters for the duration of the furlough,

(2) Notify the institution immediately if the furlougee does not appear as scheduled, departs from the furlough plan at any time, becomes involved in serious difficulty during the furlough, or experiences problems that affect his or her ability to function appropriately,

(3) Assist the furlougee in other appropriate ways, such as discussing problems, providing transportation to job interviews, etc.,

(4) Assure that the furlougee returns to the institution on time.

NEW SECTION

WAC 137-60-080 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—CRITERIA FOR EVALUATING APPLICATION. (1) An application for furlough shall be considered with respect to:

(a) Consistency with the purposes described in WAC 137-60-030 and 137-60-040, and

(b) Adequacy of the furlough plan, and

(c) Possible risk to the community, and

(d) Findings of a field investigation.

(2) The application shall be evaluated without regard to the race, sex, color, national origin, or creed of the applicant.

NEW SECTION

WAC 137-60-090 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—APPLICATION FOR FURLOUGH. (1) An application for furlough must be made on forms prescribed by the secretary, must include a furlough plan, and must be submitted by the inmate to his or her counselor.

(2) An application for furlough, other than an emergency furlough, must be made at least seven weeks prior to the date of the furlough.

(3) Any inmate whose furlough application has been rejected may reapply after such period of time has elapsed as was determined by the superintendent, work/training release supervisor, or chief, classification and treatment, at the time of rejection, such time period being subject to modification by the persons listed in this section.

(4) A furlough plan shall specify in detail the purpose of the furlough and how it is to be achieved, the address at which the applicant would reside, the names of all persons residing at such address and the relationships of such persons to the applicant.

NEW SECTION

WAC 137-60-100 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—NOTIFYING INMATE OF DECISION ON APPLICATION. (1) The inmate and his or her sponsor shall both be notified promptly of the disposition of his or her application.

(2) If a furlough is authorized, a copy of the furlough order will be mailed to the sponsor.

NEW SECTION

WAC 137-60-110 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—ESCAPE. The department has the duty, as soon as possible, to notify the state patrol of the escape of a furlougee.

NEW SECTION

WAC 137-60-120 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—REVOCATION OR SUSPENSION. (1) Any employee of the department having knowledge of a furlough infraction shall report the facts to the superintendent or work/training release facility supervisor as appropriate. Upon verification, the superintendent or work/training release supervisor will cause the custody of the furlougee to be regained and, for this purpose, may cause a furlough suspension warrant to be issued.

(2) The superintendent or work/training release facility supervisor as appropriate will determine whether to

suspend or revoke the furlough. If the furlough is suspended, the superintendent or work/training release supervisor will indicate when and under what circumstances the inmate may reapply.

NEW SECTION

WAC 137-60-130 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—LAW ENFORCEMENT OFFICERS TO BE NOTIFIED. (1) Appropriate law enforcement agencies will be notified of a planned furlough via the state patrol communications network at least forty-eight hours prior to the beginning of the furlough.

(2) In the event of an emergency furlough, the state patrol will be notified as early as possible but the forty-eight hour requirement will not apply.

NEW SECTION

WAC 137-60-140 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—EXCEPTIONS TO RULES. In emergency situations or as otherwise allowed by statute, the secretary may authorize exceptions to the rules in chapter 137-60 WAC: PROVIDED, That no exception may be made to WAC 137-60-040(1)(a), (b), (c), (2), and (3), 137-60-045, 137-60-050, 137-60-060, and 137-60-070.

REPEALER

The following sections of the Washington Administrative Code are repealed:

(1) **WAC 275-93-005 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—DEFINITIONS.**

(2) **WAC 275-93-010 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—SECRETARY'S AUTHORITY TO GRANT OR DENY.**

(3) **WAC 275-93-020 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—PURPOSES.**

(4) **WAC 275-93-040 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—WHO MAY APPLY.**

(5) **WAC 275-93-050 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—CONDITIONS IMPOSED.**

(6) **WAC 275-93-060 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—DURATION.**

(7) **WAC 275-93-070 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—SPONSOR'S RESPONSIBILITIES.**

(8) **WAC 275-93-080 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—CRITERIA FOR EVALUATING APPLICATION.**

(9) **WAC 275-93-090 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—APPLICATION FOR FURLOUGH.**

(10) **WAC 275-93-100 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—NOTIFYING RESIDENT OF DECISION ON APPLICATION.**

(11) **WAC 275-93-110 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—ESCAPE.**

(12) **WAC 275-93-120 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—REVOCATION OR SUSPENSION.**

(13) **WAC 275-93-130 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—LAW ENFORCEMENT OFFICERS TO BE NOTIFIED.**

(14) **WAC 275-93-140 FURLOUGH OF PERSON CONFINED IN STATE CORRECTIONAL INSTITUTION—EXCEPTIONS TO RULES.**

WSR 82-03-017

EMERGENCY RULES

DEPARTMENT OF GAME

(Game Commission)

[Order 152—Filed January 13, 1982]

Be it resolved by a majority of the Game Commission of the state of Washington, that we, the Game Commission, promulgate and adopt by conference call, as emergency rule of this governing body, the annexed rules relating to closure of marine waters to the taking of steelhead trout with gill nets and purse seines, WAC 232-28-60403 and closure of Hoko River, Skagit and Stillaguamish River systems and marine catch areas 8 and 8A, Sekiu River, Sail River and Lake Washington system (includes areas 10B, 10C and 10D), and the Nisqually River system to the taking of steelhead trout by treaty Indians, WAC 232-32-138.

We, the Game Commission, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest. A statement of the facts constituting such emergency for the closure of certain marine waters to the taking of steelhead trout with gill nets and purse seines is interception of steelhead trout by gill net and purse seine fisheries in most marine mixed stock areas should not be allowed because: The numbers, location and timing of each steelhead stock in such marine area is unknown; The Department of Game is unable to assign fish caught in these marine areas to rivers of origin which thereby creates uncertainty in determining safe and allowable harvests in terminal areas open to fisheries and could cause an overharvest of certain stocks later in the season; Steelhead stocks which are protected and not open to any fisheries, for research or conservation purposes, are likely to be present in mixed stock areas and should not be harvested in those areas; Gill nets and purse seines have

the potential of harvesting steelhead in substantial numbers; and Steelhead, unlike most salmon, are still in prime condition upon entering freshwater and therefore should be harvested only in terminal freshwater and marine areas. Therefore, an immediate closure of certain marine areas in which mixed stocks are found is necessary to insure the proper management and protection of steelhead stocks returning to rivers of origin. Some streams for which there should be no harvest of steelhead are: Snow and Salmon creeks (Strait of Juan de Fuca), Big Beef and Tarboo creeks (Hood Canal), Chambers Creek (Central Puget Sound) and Woodland Creek (Southern Puget Sound).

A statement of facts constituting such emergency for the closure of Hoko River, Skagit and Stillaguamish River systems and marine catch areas 8 and 8A, Sekiu River, Sail River and Lake Washington System (includes areas 10B, 10C and 10D), and the Nisqually River system to the taking of steelhead trout by treaty Indians is: Data gathered by the Department of Game from information provided by fish buyers reporting sales of steelhead harvested by treaty Indian fishermen from the Hoko River, Skagit and Stillaguamish River systems and marine catch areas 8 and 8A, Sekiu River, Sail River and Lake Washington System (including areas 10B, 10C and 10D), pursuant to the reporting system approved by the United States District Court in *United States vs. Washington* indicates that the treaty Indian share of harvestable steelhead for these waters has been reached or will have been reached on the effective date of this order. Therefore, a closure of Hoko River, Skagit and Stillaguamish River systems and marine catch areas 8 and 8A, Sekiu River, Sail River and Lake Washington System (includes areas 10B, 10C and 10D), and the Nisqually River system is necessary to assure non-Indian sport fishermen their right to take their share.

Such rule is therefore adopted as emergency rule to take effect upon filing with the code reviser.

This rule is promulgated under the authority of the Game Commission as authorized in RCW 77.12.150.

The undersigned chairman hereby declares that the Game Commission has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), or the Administrative Procedure Act (chapter 34.04 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

This order, after being first recorded in the Order Register of this governing body, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED January 13, 1982.

By Archie U. Mills
Chairman, Game Commission

NEW SECTION

WAC 232-28-60403 CLOSURE OF CERTAIN MARINE WATERS TO THE TAKING OF STEELHEAD TROUT WITH GILL NETS AND PURSE SEINES. Effective 4:00 p.m., January 13, 1982: it shall be unlawful for all persons to take, fish for or possess steelhead trout with gill net and purse seine gear in all marine areas inside of and including the Strait of Juan

de Fuca, the Strait of Georgia, and Puget Sound including Hood Canal (Washington State Department of Fisheries Reporting Areas 4B, 5*, 6, 6A, 6B, 6C, 6D*, 7, 7A, 7B*, 7C*, 8*, 9, 10, 10E, 11, 12, 12A, 12B, 12C, 12D, 13, 13A, and 13B* (a "*" denotes those areas which have exceptions described below).

The following portions of marine areas described below shall remain open to treaty Indian gill net and purse seine fisheries if tribal regulations have been legally adopted and filed with the Washington Departments of Game and Fisheries:

Area 5 (Pysht Bay) – That portion inside a line drawn from Pillar Point to 600 feet west on the mouth of Deep Creek.

Area 6D (Dungeness Harbor) – That portion inside a line running north from the private gun club house on the mainland to the nearest point of land on Dungeness Spit.

Area 7B (Bellingham Bay) – That portion north of a line drawn between Carter Point and Whiskey Rocks (on the north shore of Samish Bay).

Area 7C (Samish Bay) – That portion inside (southeast) of a line drawn from the mouth of Oyster Creek to William Point on Samish Island.

Area 8 (Skagit Bay) – That portion north of a line drawn from Rocky Point to Polnell Point.

Area 13B – (1) Oakland Bay northeast of a line drawn true north from the westernmost tip of Munson Point;

(2) Eld Inlet southwest of a line projected from Cooper Point to the outermost point on the southeast shore of Sanderson Harbor;

(3) Totton Inlet southwest of a line projected south from Arcadia to the northern tip of Steamboat Island (except that Skookum Inlet and all waters within one-half mile of its mouth are closed).

NEW SECTION

WAC 232-32-138 CLOSURE OF HOKO RIVER, SKAGIT AND STILLAGUAMISH RIVER SYSTEMS AND MARINE CATCH AREAS 8 AND 8A, SEKIU RIVER, SAIL RIVER AND LAKE WASHINGTON SYSTEM (INCLUDES AREAS 10B, 10C AND 10D), AND THE NISQUALLY RIVER SYSTEM TO THE TAKING OF STEELHEAD TROUT BY TREATY INDIANS. Effective 4:00 p.m., January 13, 1982: it is unlawful for treaty Indians to take, fish for or possess steelhead trout in Hoko River, Skagit and Stillaguamish River systems and marine catch areas 8 and 8A, Sekiu River, Sail River and Lake Washington System (includes areas 10B, 10C and 10D), and the Nisqually River system.

REPEALER

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

WAC 232-28-60317 CLOSURE OF CERTAIN MARINE WATERS TO THE TAKING OF STEELHEAD TROUT WITH GILL NETS AND PURSE SEINES

WAC 232-32-134 CLOSURE OF HOKO RIVER TO THE TAKING OF STEELHEAD TROUT BY TREATY INDIANS

WAC 232-32-135 CLOSURE OF THE SKAGIT AND STILLAGUAMISH RIVER SYSTEMS AND MARINE CATCH AREAS 8 AND 8A TO THE TAKING OF STEELHEAD TROUT BY TREATY INDIANS

WAC 232-32-136 CLOSURE OF SEKIU RIVER, SAIL RIVER AND LAKE WASHINGTON SYSTEM (INCLUDES AREAS 10B, 10C AND 10D) TO THE TAKING OF STEELHEAD TROUT BY TREATY INDIANS

WAC 232-32-137 CLOSURE OF NISQUALLY RIVER SYSTEM TO THE TAKING OF STEELHEAD TROUT BY TREATY INDIANS

WSR 82-03-018
EMERGENCY RULES
DEPARTMENT OF GAME
 (Game Commission)
 [Order 153—Filed January 14, 1982]

Be it resolved by a majority of the Game Commission of the state of Washington, that we, the Game Commission, promulgate and adopt by conference call, as emergency rule of this governing body, the annexed rule relating to closure of Samish River system and marine area 7C to the taking of steelhead trout by treaty Indians, WAC 232-32-139.

We, the Game Commission, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest. A statement of facts constituting such emergency is data gathered by the Department of Game from information provided by fish buyers reporting sales of steelhead harvested by treaty Indian fishermen from the Samish River system and marine area 7C pursuant to the reporting system approved by the United States District Court in United States vs. Washington indicates that the treaty Indian share of harvestable steelhead for the Samish River system and marine area 7C has been reached or will have been reached on the effective date of this order. Therefore, a closure of the Samish River system and marine area 7C is necessary to assure non-Indian sport fishermen their right to take their share.

Such rule is therefore adopted as an emergency rule to take effect upon filing with the code reviser.

This rule is promulgated under the authority of the Game Commission as authorized in RCW 77.12.150.

The undersigned chairman hereby declares that the Game Commission has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), or the Administrative Procedure Act (chapter 34.04 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

This order, after being first recorded in the Order Register of this governing body shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED January 14, 1982.

By Archie U. Mills
 Chairman, Game Commission

NEW SECTION

WAC 232-32-139 CLOSURE OF SAMISH RIVER SYSTEM AND MARINE AREA 7C TO THE TAKING OF STEELHEAD TROUT BY TREATY INDIANS. Effective 4:00 p.m., January 14, 1982: it is unlawful for treaty Indians to take, fish for or possess steelhead trout in the Samish River system and marine area 7C.

WSR 82-03-019
ADOPTED RULES
DEPARTMENT OF AGRICULTURE
 [Order 1752—Filed January 14, 1982]

I, M. Keith Ellis, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to brucellosis and the importation of animals, chapter 16-54 WAC.

This action is taken pursuant to Notice No. WSR 81-24-043 filed with the code reviser on November 30, 1981. Such rules shall take effect pursuant to RCW 34.04.020(2).

This rule is promulgated pursuant to chapters 16.36 and 16.40 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 14, 1982.

By M. Keith Ellis
 Director

AMENDATORY SECTION

WAC 16-54-082 DOMESTIC BOVINE ANIMALS. All domestic bovine animals (including bison) except those for immediate slaughter at a federally inspected establishment, or to a quarantined registered feed lot, or beef breed cattle or slaughter only dairy breed cattle consigned to a state-federal approved stockyard, shall be accompanied by a health certificate (WAC 16-54-030) and shall meet the following requirements:

(1) Tuberculosis. All beef and dairy cattle must originate from herds not under quarantine in a not less than modified accredited area.

(2) Brucellosis. Cattle originating from states other than Washington: All domestic bovine animals (including bison) moving into Washington, except those consigned to quarantined registered feed lots, or to federally inspected slaughter establishments for immediate slaughter, or beef breed cattle or slaughter only dairy breed cattle consigned to a state-federal approved stockyard, shall be moved on a permit issued by the animal health division of the department of agriculture and an official interstate health certificate, and shall meet the following requirements:

(a) All cattle must be negative to an official brucellosis test conducted within forty-five days prior to date of entry and will be quarantined on the premises of destination and kept separated from all other cattle for retest not less than thirty nor more than sixty days from the date of previous test, except that the following classes of cattle are exempt from these test requirements:

(i) Calves under six months of age.

(ii) Steers and spayed heifers.

(iii) Officially vaccinated dairy cattle under twenty months of age and officially vaccinated beef cattle under twenty-four months of age.

(iv) Immediate slaughter cattle going directly to a federally inspected slaughter establishment.

(v) Cattle consigned directly to a quarantined registered feed lot.

(vi) Cattle from certified brucellosis free herds.

(vii) Beef breed cattle eligible for brucellosis testing coming from contiguous states certified brucellosis free may be moved to state-federal approved livestock markets in Washington to meet entry health requirements. Cattle of the beef breeds from such equal status states and having the same import requirements as Washington are exempt from second test and quarantine requirements if found brucellosis negative on entry.

(b) After January 1, 1979, all female dairy cattle must be identified as official brucellosis calfhood vaccines before entry. Except the following classes of cattle are exempt from this requirement:

(i) Calves under four months of age.

(ii) Those cattle consigned directly to a federally inspected slaughter plant.

(iii) Those cattle consigned directly to a quarantined registered feed lot.

(iv) Spayed heifers.

(c) Herd owners desiring to move cattle into Washington for temporary grazing purposes must obtain a prior permit from the animal health division ~~((and))~~. All brucellosis test eligible cattle moving on a temporary grazing permit must be officially brucellosis tested negative within twelve months of entry into Washington. They must originate in a county or other political subdivision of equal status where brucellosis has not been diagnosed in the preceding twelve months, or officially brucellosis tested negative ((to brucellosis)) within thirty days ((of)) prior to entry.

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

WSR 82-03-020
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 14, 1982]

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

New	WAC 388-81-052	Receipt of resources without giving adequate consideration.
New	WAC 388-92-043	Transfer of resources without adequate consideration.
Amd	WAC 388-99-035	Resource standards.

These rules were adopted on an emergency basis on December 10, 1981.

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

David A. Hogan, Director
Division of Administration
Department of Social and Health Services
Mailstop OB-33C
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Washington, Phone (206) 753-7015, by February 11, 1982. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Friday, February 26, 1982, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, March 3, 1982, in William B. Pope's Office, 3rd Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to February 26, 1982, and/or orally at 10:00 a.m., Friday, February 26, 1982, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: January 13, 1982

By: David A. Hogan
Director, Division of Administration

STATEMENT OF PURPOSE

This statement is filed pursuant to chapter 324, Laws of 1981.

New WAC 388-81-052 and 388-92-043 and amending WAC 388-99-035.

The purpose of the rule or rule change is to implement chapter 3, Laws of 1981 2nd ex. sess.

Statutory Authority: RCW 74.08.090.

Summary of the Rule or Rule Change: These rules relate to transfer of resources without adequate consideration to qualify for medical assistance. The present rule provides for a two-year period of ineligibility. The new rule sets up a sliding scale of up to four years. In addition, the recipient of the resources is liable for a civil penalty and is guilty of a gross misdemeanor.

Person or Persons Responsible for the Drafting, Implementation and Enforcement of the Rule is: James Sparks, Program Coordinator, Division of Medical Assistance, Mailstop: LK-11, Phone: 3-7313.

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

NEW SECTION

WAC 388-81-052 RECEIPT OF RESOURCES WITHOUT GIVING ADEQUATE CONSIDERATION. Any person who knowingly and wilfully receives resources transferred or assigned for less than fair market value after December 1, 1981, to enable an applicant or recipient to qualify for assistance, is liable for a civil penalty and is guilty of a gross misdemeanor.

(1) The amount of the civil penalty shall be equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value.

(2) The civil penalty shall not exceed the cost of assistance rendered by the department to the recipient.

(3) Written notice of imposition of the civil penalty shall be provided by personal service or certified mail to the individual or entity subject to the civil penalty.

(4) The written notice is an order that shall become final twenty days after its service unless the transferee requests a hearing within said twenty-day period. If no hearing is so requested, the civil penalty becomes due on the thirtieth day after the notice of imposition.

(5) All hearings shall be in accordance with the administrative procedures contained in chapter 388-08 WAC.

(a) The person may rebut the presumption that the transfer or assignment was made for the purpose of enabling the applicant or recipient to qualify or continue to qualify for assistance.

(b) The prevailing party in such an action shall be awarded reasonable attorney fees.

(6) If a hearing is requested, any written order arising therefrom imposing a civil penalty shall become final thirty days after its entry, unless such order is stayed in accordance with the provisions of administrative procedures contained in chapter 388-08 WAC.

NEW SECTION

WAC 388-92-043 TRANSFER OF RESOURCES WITHOUT ADEQUATE CONSIDERATION. (1) This section is to implement Second Substitute House Bill No. 557 effective December 1, 1981.

(2) A person is ineligible for categorical medical assistance or the Limited Casualty Program for the Medically Needy for a period determined under this section if the person knowingly and wilfully assigns or transfers nonexempt resources at less than fair market value after December 1, 1981, for the purpose of qualifying or continuing to qualify for such medical care within two years preceding the date of application for such care.

(a) The voluntary transfer or assignment of resources between spouses is permitted.

(b) If the uncompensated fair market value of the resource assigned or transferred is:

(i) Twelve thousand dollars or less, the period of ineligibility shall be prorated up to twelve months from the date of transfer;

(ii) More than twelve thousand dollars but less than thirty thousand dollars, the period of ineligibility shall be prorated up to twenty-four months;

(iii) More than thirty thousand dollars but less than fifty thousand dollars, the period of ineligibility shall be prorated up to thirty-six months;

(iv) More than fifty thousand dollars, the period of ineligibility shall be forty-eight months.

(c) The period of ineligibility may be waived if it is determined that the application of the period of ineligibility shall cause undue hardship.

(3) At any fair hearing resulting from the application of this section, the department shall prove by a preponderance of the evidence that the person knowingly and wilfully assigned or transferred cash or other resources at less than fair market value for the purpose of qualifying or continuing to qualify for the benefits of care. If the prevailing party in such an action is the person, the person shall be awarded reasonable attorney fees.

(4) See WAC 388-81-052 for civil penalties to be applied to persons who have received nonexempt resources and did not give the recipient adequate consideration.

AMENDATORY SECTION (Amending Order 1684, filed 7/29/81)

WAC 388-99-035 RESOURCE STANDARDS. (1) To determine eligibility on the basis of resources, use the resource standards under AFDC or SSI, whichever is higher for a given resource. If applicant has resources in excess of the standards applied, the individual is not eligible and the application is denied.

(2) ~~(A medically needy applicant who has transferred assets at less than fair market value within twenty-four months prior to the month of application without adequate consideration is presumed to have disposed of the resource for the purpose of obtaining eligibility for medical assistance.~~

~~(a) The uncompensated value is to be considered an available resource.~~

~~(b) If uncompensated value is in excess of twelve thousand dollars, the application is to be denied.~~

~~(c) If less than twelve thousand dollars, consideration is to be given to disposition of resources.) See WAC 388-92-043 for regulations on transfer of resources without adequate consideration.~~

**WSR 82-03-021
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 14, 1982]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Fair hearings—Continuation of benefits pending, amending WAC 388-54-820.

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

David A. Hogan, Director
Division of Administration
Department of Social and Health Services
Mailstop OB-33C
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Washington, Phone (206) 753-7015, by February 11, 1982. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Friday, February 26, 1982, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, March 3, 1982, in William B. Pope's Office, 3rd Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to February 26, 1982, and/or orally at 10:00 a.m., Friday, February 26, 1982, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: January 12, 1982

By: David A. Hogan
Director, Division of Administration

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045. Amend WAC 388-54-820.

The purpose of the rule change is to clarify food stamp regulations.

Statutory Authority: RCW 74.04.510.

Summary of the Rule or Rule Change: Persons whose food stamp certification period expires while a fair hearing decision is pending can have their eligibility redetermined without regard to the matter at issue in the fair hearing.

Person or Persons Responsible for the Drafting, Implementation and Enforcement of the Rule is: Mick Determan, Program Manager, Division of Income Assistance, Mailstop: OB-31C, Phone: 3-4381.

The Person or Organization (if other than DSHS) who Proposed These Rules is: J. Dinnen Cleary, Puget Sound Legal Assistance Foundation.

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

AMENDATORY SECTION (Amending Order 1408, filed 6/25/79)

WAC 388-54-820 FAIR HEARINGS—CONTINUATION OF BENEFITS PENDING. (1) The household is entitled to continuation of benefits if:

(a) It requests a fair hearing within the period specified by the notice of adverse action;

(b) Its certification period has not expired;

(c) It has not waived continuation of benefits;

(d) A certification period expires and the household has made a timely application for a new certification period pending receipt of the official fair hearing decision. The department shall determine eligibility on the basis of all eligibility requirements without regard to the matter at issue in the fair hearing.

(2) If a hearing request is not made within the period provided by the notice of adverse action, benefits shall be reduced or terminated as provided in the notice, unless failure to make the request was for good cause. ~~((a))~~ Once continued or reinstated, benefits shall not be reduced or terminated prior to receipt of the hearing decisions unless:

~~((a))~~ (a) The certification period expires; the household may reapply and may be determined eligible for a new certification period with a benefit amount as determined by the department;

~~((b))~~ (b) The hearing examiner makes a preliminary determination in writing and at the hearing that it is a matter of policy;

~~((c))~~ (c) A change affecting the household's eligibility or basis of issuance occurs while the hearing decision is pending and the household fails to request a hearing after the subsequent notice of adverse action; or

~~((d))~~ (d) A mass change occurs while the hearing decision is pending.

(3) The CSO shall promptly inform the household in writing if benefits are reduced or terminated pending the hearing decision.

(4) When benefits are reduced or terminated due to a mass change, participation on the prior basis shall be reinstated only if the issue being contested is that food stamp eligibility or benefits were improperly

computed or that federal law or regulation is being misapplied or misinterpreted by the department.

(5) If the department's action is upheld by the hearing decision, a claim against the household shall be established for all overissuances.

(6) The department shall send an individual notice of the adverse action to each household that receives a reduction or termination in benefits during its certification period due to mass changes resulting from implementation of the Food Stamp Act of 1977. The notice of adverse action shall explain to the household that the change is the result of changes in federal law and that although the household has the right to request a fair hearing, benefits will be continued pending the fair hearing only if the household believes its eligibility or benefits level was computed incorrectly under the new law, or that the new law is being misapplied or misinterpreted.

WSR 82-03-022

ADOPTED RULES

DEPARTMENT OF LICENSING

(Board of Medical Examiners)

[Order PL 390—Filed January 14, 1982]

Be it resolved by the Washington State Board of Medical Examiners, acting at Seattle, Washington, that it does promulgate and adopt the annexed rules relating to the amending of WAC 308-52-135, 308-52-140 and 308-52-201.

This action is taken pursuant to Notice No. WSR 81-24-078 filed with the code reviser on December 2, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.71A-.020 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 8, 1982.

By M. N. Surtees Carlson, M.D.
Chairperson

AMENDATORY SECTION (Amending Order PL 317, filed 9/13/79)

WAC 308-52-135 PHYSICIAN((S)) ASSISTANT PRESCRIPTIONS. A physician((S)) assistant may issue written or oral prescriptions as provided herein when approved by the board and assigned by the supervising physician.

(1) Except for schedule two controlled substances as listed under federal and state controlled substances acts, a physician((S)) assistant may issue prescriptions for a patient who is under the care of the physician responsible for the supervision of the physician((S)) assistant.

(a) Written prescriptions shall be written on the blank of the supervising physician and shall include the name, address and telephone number of the physician. The prescription shall also bear the name and address of the patient and the date on which the prescription was written.

(b) The physician((~~s~~)) assistant shall sign such a prescription by signing his or her own name followed by the letters "P.A." and ((~~the~~)) registration number.

(2) A physician((~~s~~)) assistant employed or extended privileges by a hospital((~~f~~)) nursing home or other health care institution may, if permissible under the by-laws, rules and regulations of the institution, write medical orders, except those for schedule two controlled substances, for inpatients under the care of the physician responsible for his supervision.

(3) To be authorized to issue prescriptions for schedule three through five controlled substances, a physician((~~s~~)) assistant must be registered with the board of pharmacy and the drug enforcement administration.

(4) The registration of a physician((~~s~~)) assistant who issues a prescription in violation of these provisions shall be subject to revocation or suspension.

(5) Physician assistants may dispense prescriptive medications from office supplies provided the quantities dispensed are limited to treatment for forty-eight hours. The physician assistant shall comply with the state laws concerning prescription labeling requirements.

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

AMENDATORY SECTION (Amending Order PL 285, filed 3/14/78)

WAC 308-52-140 PHYSICIAN((~~s~~)) ASSISTANTS—UTILIZATION. (1) Limitations, Number.

(a) No physician shall supervise more than one graduate physician((~~s~~)) assistant categorized as type A or B without authorization by the board.

(b) The number of type C physician((~~s~~)) assistants who may be supervised by a single physician shall be set individually for each category established by the board.

(2) Limitations, Geographic.

(a) No physician((~~s~~)) assistant shall be utilized in a place geographically separated from the supervising physician's primary place for meeting patients without the express permission of the board. The "primary place for meeting patients" shall be defined to include the physician's office, the institution(s) in which his patients are hospitalized or the homes of patients for whom a physician-patient relationship has already been established.

(b) Special permission may be granted to utilize a type A physician((~~s~~)) assistant in a place remote from the physician's primary place for meeting patients if:

(i) There is a demonstrated need for such utilization.

(ii) Adequate provision for immediate communication between the physician and his physician((~~s~~)) assistant exists.

(iii) A mechanism has been developed to provide for the establishment of a direct patient-physician relationship between the supervising physician and patients who may be seen initially by the physician((~~s~~)) assistant.

(iv) The responsible physician spends at least one-half day per week in the remote office.

(v) The provisions of WAC 308-52-141(2) are met.

(vi) The waiting room, offices and examining rooms of all facilities approved as remote sites must have posted a printed announcement that the (named) sponsor is responsible for all care rendered, and that the (named) individual providing the care is a physician assistant. Identification of the clinic on the outside facade must include the names of the physician sponsor and the physician assistant.

(3) Limitations, Hospital Functions. A physician((~~s~~)) assistant working in or for a hospital, clinic or other health organization shall be registered and supervised by a supervising physician in the same manner as any other physician((~~s~~)) assistant and his functions shall be limited to those specifically approved by the board. His responsibilities, if any, to other physicians must be defined in the application for registration.

(4) Limitations, Trainees. An individual enrolled in a training program for physician((~~s~~)) assistants may function only in direct association with his preceptorship physician or a delegated alternate physician in the immediate clinical setting or, as in the case of specialized training in a specific area, an alternate preceptor approved by the program. They may not function in a remote location or in the absence of the preceptor.

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

AMENDATORY SECTION (Amending Order PL 368, filed 1/21/81)

WAC 308-52-201 GENERAL CONTINUING MEDICAL EDUCATION REQUIREMENTS. (1) All registered physician assistants will be required to show evidence of fifty credit hours of continuing medical education by their registration renewal date in 1982.

(2) In lieu of fifty hours of continuing medical education the board will accept a current certification with the ~~((American Academy of Physician Assistants))~~ National Commission for the Certification of Physician Assistants and will consider approval of other programs as they are developed.

(3) If a registered physician assistant fails to meet the requirements because of illness or other extenuating circumstances, each case will be considered by the board on an individual basis. When circumstances justify it, the board may grant an extension of time.

WSR 82-03-023

ADOPTED RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Order 82-1—Filed January 15, 1982]

I, Sam Kinville, director of the Department of Labor and Industries, do promulgate and adopt at the director's office, Olympia, Washington, the annexed rules relating to WAC 296-62-07109 minimal acceptable respirator program which is amended for clarification; 296-62-07107 is amended to delete the engineering

controls from the respiratory section; 296-62-07501 is amended to delete the reference to respiratory protection; 296-62-09011 is amended to delete references to hearing protection sections dealing with sound levels. Personal protective hearing equipment and sound levels will be covered in the new standard on hearing conservation; 296-62-14525(2) is amended to clarify maintaining communication with someone in a confined space; and 296-62-14533 is amended to implement the recordkeeping requirements dealing with access to employee exposure records. This satisfies the federal regulation requirements of cotton dust; new sections are proposed to chapter 296-62 WAC, general occupational health standard, WAC 296-62-09015 through 296-62-09061. These rules establish a hearing conservation program, including exposure monitoring, audiometric testing, and training for all employees who have occupational noise exposure equal to or exceeding an eight-hour time-weighted average of 85 dBA.

This action is taken pursuant to Notice Nos. WSR 81-19-131 and 82-01-044 filed with the code reviser on September 23, 1981 and December 16, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 49.17.040 and 49.17.050 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 15, 1982.

By Sam Kinville
Director

AMENDATORY SECTION (Amending Order 81-19, filed 7/27/81)

WAC 296-62-07107 PERMISSIBLE PRACTICE.

(1) In the control of those occupational diseases caused by breathing air contaminated with harmful dusts, fumes, sprays, mists, fogs, smokes, vapors, ~~((or))~~ gases, or other airborne contaminants, the primary objective shall be to prevent atmospheric contamination. ~~((This shall be accomplished as far as feasible by accepted engineering control measures (for example, enclosure or confinement of the operation general and local ventilation, and substitution of less toxic materials:))~~) When effective administrative or engineering controls are not feasible, or while they are being instituted or evaluated, appropriate respirators shall be used pursuant to the following requirements.

(2) Employer responsibility.

(a) Respirators shall be provided at no cost to an employee by the employer when such equipment is necessary to protect the health of the employee.

(b) The employer shall provide ~~((the))~~ respirators which are applicable and suitable for the purpose intended.

(c) The employer shall be responsible for the establishment and maintenance of a respiratory protection

program which shall minimally include the general requirements outlined in WAC 296-62-07109.

(3) Employee responsibility. The employee shall use the provided respiratory protection in accordance with instructions and training received. The employee shall notify a responsible person of any defect.

AMENDATORY SECTION (Amending Order 81-19, filed 7/27/81)

WAC 296-62-07109 MINIMAL ACCEPTABLE RESPIRATOR PROGRAM. (1) Standard operating procedures. Written standard operating procedures covering a complete respirator program shall be established and implemented in conformance with subsections (2) through (15) of this section. The employer shall, upon request, submit a copy of the written standard operating procedures to the director.

(2) Program administration. Responsibility and authority for the respirator program shall be assigned to a single person. This program administrator shall have sufficient knowledge of respiratory protection to properly supervise the respirator program.

(3) Physiological and psychological limitations for respirator wearers. ~~((Persons shall not be assigned to tasks requiring use of respirators unless it has been determined that they are physically able to perform the work and use the equipment. A physician with sufficient knowledge of respiratory protection shall determine what health and physical conditions are pertinent.))~~ The respirator program administrator or his or her designee, using guidelines established by ~~((the))~~ a physician, shall determine whether or not a person may be assigned to a task requiring the use of a respirator. ~~((The))~~ Persons with physical disabilities such as, but not limited to, respiratory impairments, or claustrophobia when wearing a respirator, shall not be assigned to tasks requiring the use of respirators unless it has been determined by a qualified physician that they are physically able to perform the work and use the equipment. All respirator user's medical status should be reviewed ((periodically (for instance, annually))) annually.

(4) Approved or accepted respirators shall be used. Any modification of an approved respirator that is not authorized by the ~~((approval))~~ approving agencies ((of an approved respirator)) voids the approval.

(5) Respirator selection. Respirators shall be selected on the basis of the hazards to which the worker is exposed. (See WAC 296-62-07113)

(6) Training. Each worker required to wear a respirator shall be given training such that he or she is knowledgeable and proficient with respect to the respirator to be worn. Refresher training shall be given at least annually.

(7) Respirator fit. Each respirator wearer shall be fitted in accordance with WAC 296-62-07113. Each wearer of a respirator equipped with a facepiece shall check the seal of the respirator by appropriate means. This may be done by using procedures recommended by the respirator manufacturer.

(8) Facial hair, contact lenses, and eye and face protective devices. A negative pressure respirator, any self-contained breathing apparatus, or any respirator which

is used in an atmosphere immediately dangerous to life or health (IDLH), equipped with a facepiece shall not be worn if facial hair comes between the sealing periphery of the facepiece and the face or if facial hair interferes with valve function. The wearer of a respirator (~~((equipped with a full facepiece, helmet, hood, or suit))~~) shall not be allowed to wear contact lenses if the risk of eye damage is increased by their use. If a spectacle, goggle, face shield, or welding helmet must be worn with a facepiece, it shall be worn so as not to adversely affect the seal of the facepiece to the face. (See WAC 296-62-07115(3).)

(9) Issue of respirators. The proper type of respirator for each respiratory hazard shall be listed in the written standard operating procedures.

(10) Respirator inspection. The respirator shall be inspected by the wearer prior to ~~((its))~~ each use to ensure that it is in proper working condition. Each respirator stored for emergency or rescue use shall be inspected at least once a month. (See WAC 296-62-07115 and 07117.)

(11) Monitoring respirator use. Supervisory personnel shall periodically monitor the use of respirators to ensure that they are worn properly. (See WAC 296-62-07115(7).)

(12) Evaluating respiratory hazard. Appropriate surveillance of work area conditions and degree of employee exposure or stress shall be maintained. (See WAC ~~((296-62-07113(4)))~~ 296-62-07115(8) and 07115(8).)

(13) Medical and bioassay surveillance. When ~~((applicable))~~ appropriate, medical surveillance, including bioassay, shall be carried out to determine if respirator wearers are receiving adequate respiratory protection. A physician shall determine the requirements of the surveillance program.

(14) Respirator maintenance. Respirator maintenance shall be performed regularly. Maintenance shall be carried out on a schedule which ensures that each respirator wearer is provided with a respirator that is clean and in good operating condition. Maintenance shall include: ~~((1))~~ (a) Washing, sanitizing, rinsing, and drying, ~~((2))~~ (b) inspection for defects, ~~((3))~~ (c) replacement of worn or deteriorated parts, ~~((4))~~ (d) repair if necessary, and ~~((5))~~ (e) storage to protect against dust, sunlight, excessive heat, extreme cold, excessive moisture, damaging chemicals, and physical damage. (See WAC 296-62-07117.)

(15) Respirator program evaluation. An appraisal of the effectiveness of the respirator program shall be carried out at least annually. Action shall be taken to correct defects found in the program.

AMENDATORY SECTION (Amending Order 81-20, filed 7/27/81)

WAC 296-62-07501 AIRBORNE CONTAMINANTS. (1) Permissible exposure limits (PELs) refer to airborne concentrations of substances without regard to the use of respiratory protection and represent conditions under which it is believed that nearly all workers may be repeatedly exposed day after day without adverse effect. Because of wide variation in individual susceptibility, however, a small percentage of workers may

experience discomfort from some substances at concentrations at or below the permissible limit, a smaller percentage may be affected more seriously by aggravation of a pre-existing condition or by development of an occupational illness.

(2) Permissible exposure limits refer to time-weighted concentrations for an 8-hour workday within a 40-hour workweek.

The time-weighted average exposure for an 8-hour work shift shall be computed as follows:

$$E = \frac{C_a T_a + C_b T_b + \dots + C_n T_n}{8}$$

where:

E is the equivalent exposure for the working shift.

C is the concentration during any period of time T where the concentration remains constant.

T is the duration in hours of the exposure at the concentration C.

The value of E shall not exceed the eight-hour time-weighted average limit in Tables 1, 2 or 3 (see WAC 296-62-07515), for the material involved.

(3) Methods of compliance:

(a) To achieve compliance with these standards, the employer shall determine and implement feasible administrative or engineering controls.

(b) When administrative or engineering controls are not feasible to achieve full compliance, they shall nonetheless be used to reduce exposures to the lowest levels achievable by these controls.

~~((c))~~ ~~((Whenever full compliance cannot be achieved by the use of feasible administrative or engineering controls, approved respiratory protection shall be provided at no cost to the employee and shall be used in accordance with WAC 296-62-07117.))~~

~~((d))~~ Any control equipment or technical measure utilized for the purpose of complying with WAC 296-62-07501(3) must be approved for each particular use by a competent industrial hygienist or other technically qualified person.

~~((e))~~ ~~((d))~~ Upon request, the employer shall prepare and submit a written compliance plan to the director. This plan must include a description of the manner in which compliance will be achieved with respect to cited violations of WAC 296-62-07501(3), and shall include proposed abatement methods, anticipated completion dates, and provision for progress reports to be sent to the department.

(4) An employee's exposure to any substance in Tables 1 and 3 (see WAC 296-62-07515), the name of which is not preceded by a "C," shall not exceed the excursion level limit which is computed by multiplying the appropriate factor below times eight-hour time-weighted average for the substance in the applicable table.

PEL > 0-1	(ppm or mg/M ³), Excursion Factor = 3
PEL > 1-10	(ppm or mg/M ³), Excursion Factor = 2
PEL > 10-100	(ppm or mg/M ³), Excursion Factor = 1.5
PEL > 100-1000	(ppm or mg/M ³), Excursion Factor = 1.25
PEL > 1000	(ppm or mg/M ³), Excursion Factor = 1

(5) Permissible limits are based on the best available information from industrial experience, from experimental human and animal studies, and, when possible, from a combination of the three. The basis on which the values are established may differ from substance to substance; protection against impairment of health may be a guiding factor for some, whereas reasonable freedom from irritation, narcosis, nuisance or other forms of stress may form the basis for others.

(6) The limits based on physical irritation shall be considered no less binding than those based on physical impairment. There is increasing evidence that physical irritation may initiate, promote or accelerate physical impairment through interaction with other chemical or biologic agents.

(7) In spite of the fact that serious injury is not believed likely as a result of exposure to the permissible limit concentrations, the best practice is to maintain concentrations of all atmospheric contaminants as low as is practical.

(8) These limits are intended for use in the practice of industrial hygiene and should be interpreted and applied only by a technically qualified person.

AMENDATORY SECTION (Amending Order 81-19, filed 7/27/81)

WAC 296-62-09011 OCCUPATIONAL NOISE EXPOSURE. (1) Workers shall be protected against the effects of exposure to noise which exceeds the permissible noise exposure shown in Table 7 of this section.

(2) Permissible exposure limits. These permissible exposure limits refer to sound pressure levels that represent conditions under which it is believed that nearly all workers may be repeatedly exposed without adverse effect on their ability to hear and understand normal speech. The medical profession has defined hearing impairment as an average hearing threshold level in excess of 25 decibels (ANSI S3.6-1969(R1973)) at 500, 1000, ~~((and))~~ 2000 and 3000 Hz, and the limits which are given have been established to prevent a hearing loss in excess of this value. These values shall be used as a standard in the control of noise exposure.

TABLE 7
Permissible Noise Exposures

Duration per day Hours	Sound Level dBA
16	85
8	90
6	92
4	95
3	97
2	100
1-1/2	102
1	105
3/4	107
1/2	110
1/4	115*

*Ceiling Value: No exposure in excess of 115 dBA.

(3) Continuous or intermittent. The sound level shall be measured with a sound level meter, conforming as a minimum to the requirements of the American National Standards Institute ANSI S1.4 1971 (R1976), Type 2, and set to an A-weighted slow meter response or with an audiodosimeter of equivalent accuracy and precision. The unit of measurement shall be decibels Re 20 micropascals A-weighted. Duration of exposure shall not exceed that shown in Table 7.

These values apply to total time of exposure per working day regardless of whether this is one continuous exposure or a number of short-term exposures but does not apply to impact or impulsive type of noises.

(4) Intermittent exposure. When the daily noise exposure is composed of two or more periods of noise exposure of different levels, their combined effect shall be considered, rather than the individual effect of each. If the sum of the following fractions:

$$\frac{C_1}{T_1} + \frac{C_2}{T_2} + \dots + \frac{C_n}{T_n}$$

exceeds unity, then, the mixed exposure shall be considered to exceed the permissible exposure limits, C₁ indicates the total time of exposure at a specified noise level, and T₁ indicates the total time of exposure permitted at that level. Noise exposures shall be established according to the criteria of Table 7.

(5) Impulsive or impact noise. Impulsive or impact noise shall be those variations in noise levels which involve maxima at intervals greater than one second. Where the intervals are less than (1) second, it shall be considered continuous. All impact and impulsive noise measurements should be made on the C-weighting network of a sound level meter in conjunction with an impact noise analyzer or oscilloscope. Exposure to impulsive or impact noise should not exceed 140 decibels peak sound pressure level (ceiling value).

(6) Methods of compliance. (a) When employees are subjected to sound levels exceeding those listed in Table 7, feasible administrative or engineering controls shall be utilized.

(b) Upon request, the employer shall prepare and submit a written compliance plan to the director. This plan must include a description of the manner in which compliance will be achieved with respect to cited violations of WAC 296-62-09011(6)(a) and shall include proposed abatement methods, anticipated completion dates, and provision for progress reports to the ~~((department))~~ director.

(7) Hearing protection.
~~((c))~~ (a) Personal hearing protective equipment shall be provided at no cost to the employee and shall be used whenever the sound levels prescribed in subsections (3), (4), or (5) of this section are exceeded.

~~((t))~~ (b) The employer shall assure that personal protective equipment is worn by each affected employee.

~~((ii))~~ Insert type protectors, other than self-fitted malleable plugs, shall be individually fitted by a trained person.

~~((iii))~~ Employees shall be instructed in the care and use of personal protective equipment.

~~(7) In all cases where the sound levels exceed the values shown in Table 7 of this section, it is recommended that workmen whose duties may subject them to these potentially harmful noise levels be provided with an audiometric examination at the time of employment and at reasonable intervals thereafter not exceeding an 18-month period.~~

~~(8) Workmen employed in areas where the sound level is above the level deemed to be safe should cooperate in an audiometric testing program. Workmen shall be informed of the test results by an authorized person.))~~

AMENDATORY SECTION (Amending Order 73-3, filed 5/7/73)

WAC 296-62-14525 ENTRY INTO CONFINED SPACE. After initial cleaning, vapor freeing, and evaluation of the atmosphere, the confined space may be entered to complete cleaning, repair or other work.

(1) Respiratory protective equipment shall be used when indicated.

(2) An observer capable of maintaining communication at all times shall be located outside the ~~((tank))~~ confined space. He shall have respiratory protection available when indicated.

(3) If the possibility of a highly toxic or flammable atmosphere, or oxygen deficiency exists or can develop, workers shall wear safety harness with lifeline attached and a means of rescue shall be provided.

(4) Fire extinguishing equipment shall be immediately available when indicated.

(5) Ventilation shall be maintained at all times when employees are in confined spaces except when the atmosphere has been purposely inerted to provide safer working conditions. All work shall stop and the area shall be evacuated if ventilation fails.

(6) All tools and equipment shall be available as required.

(7) Emergency lighting shall be available as required.

(8) The area shall be evacuated if any indication of ill effects such as dizziness, irritation or excessive odors are noted.

AMENDATORY SECTION (Amending Order 81-20, filed 7/27/81)

WAC 296-62-14533 COTTON DUST. (1) Scope and application.

(a) This section applies to the control of employee exposure to cotton dust in all workplaces, except as provided in subsection (1)(b) of this section.

(b) This section does not apply to:

(i) The harvesting of cotton;

(ii) The ginning of cotton (exposure to cotton dust in cotton ginning is covered by WAC 296-62-14531);

(iii) Maritime operations are covered by chapters 296-56 and 296-304 WAC;

(iv) The handling or processing of woven or knitted materials; and

(v) The handling or processing of washed cotton.

(c) This section provides mandatory requirements for the control of employee exposure to cotton dust. The mandatory nature of these requirements is not intended,

however, to discourage or inhibit the development of different, equally effective means of providing the required protection. The variance and procedure section, WAC 296-24-010, provides a mechanism for employers to obtain variances from the provisions of this section where the employer has developed alternative procedures which are "as safe and healthful as" those required by this section. As implemented by the procedural regulations in WAC 296-24-010, the variance provisions permit the flexibility which contributes to efficient compliance with the standard. To aid in the expeditious processing of variance applications, the procedures allow, where appropriate, for the grant of interim orders pending a decision on the merits of the variance as well as for the consideration of variances applicable to groups of employers. We encourage interested employers to utilize the variance provisions where equally safe and healthful protective means are available.

(2) Definitions applicable to this section:

(a) "Blow down" - the cleaning of equipment and surfaces with compressed air.

(b) "Cotton dust" - dust present in the air during the handling or processing of cotton, which may contain a mixture of many substances including ground-up plant matter, fiber, bacteria, fungi, soil, pesticides, noncotton plant matter and other contaminants which may have accumulated with the cotton during the growing, harvesting and subsequent processing or storage periods. Any dust present during the handling and processing of cotton through the weaving or knitting of fabrics, and dust present in other operations or manufacturing processes using new or waste cotton fibers or cotton fiber byproducts from textile mills are considered cotton dust.

(c) "Director" - the director of labor and industries or his authorized representative.

(d) "Lint-free respirable cotton dust" - particles of cotton dust of approximately 15 microns or less aerodynamic equivalent diameter.

(e) "Vertical elutriator cotton dust sampler" - a dust sampler which has a particle size cut-off at approximately 15 microns aerodynamic equivalent diameter when operating at the flow rate of 7.4 ± 0.2 liters per minute.

(f) "Yarn manufacturing" - all textile mill operations from opening to, but not including, slashing and weaving.

(g) "Washed cotton" - cotton which has been thoroughly washed in hot water and is known in the cotton textile trade as purified or dyed. Washed cotton does not include steamed, autoclaved cotton or cotton washed solely in solvents.

(3) Permissible exposure limits.

(a) The employer shall assure that no employee who is exposed to cotton dust in yarn manufacturing is exposed to airborne concentrations of lint-free respirable cotton dust greater than $200 \mu\text{g}/\text{m}^3$ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or a method of equivalent accuracy and precision.

(b) The employer shall assure that no employee who is exposed to cotton dust in the textile processes known

as slashing and weaving is exposed to airborne concentrations of lint-free respirable cotton dust greater than $750 \mu\text{g}/\text{m}^3$ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or a method of equivalent accuracy and precision.

(c) The employer shall assure that no employee who is exposed to cotton dust (except for exposures in yarn manufacturing and slashing and weaving covered by subsection (3)(a) and (b) of this section is exposed to airborne concentrations of lint-free respirable cotton dust greater than $500 \mu\text{g}/\text{m}^3$ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or a method of equivalent accuracy and precision.

(4) Exposure monitoring and measurement.

(a) General. (i) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(ii) The sampling device to be used shall be either the vertical elutriator cotton dust sampler or a method of equivalent accuracy and precision.

(iii) If an alternative to the vertical elutriator cotton dust sampler is used, the employer shall establish equivalency by demonstrating that the alternative sampling devices:

(A) Collect respirable particulates in the same range as the vertical elutriator (approximately 15 microns);

(B) Replicate exposure data in side-by-side field comparisons; and

(C) Are equivalent within an accuracy and precision range of plus or minus twenty-five percent for ninety-five percent of the samples over the range of 0.5 to 2 times the permissible exposure limit.

(b) Initial monitoring. Each employer who has a place of employment in which cotton dust is present, shall conduct monitoring by obtaining measurements which are representative of the exposure of all employees to airborne concentrations of lint-free respirable cotton dust over an eight-hour period. The sampling program shall include at least one determination during each shift for each work area.

(c) Periodic monitoring. (i) The employer shall repeat the measurements required by subsection (4)(b) of this section at least every six months.

(ii) Whenever there has been a production, process, or control change which may result in new or additional exposure to cotton dust, or whenever the employer has any other reason to suspect an increase in employee exposure, the employer shall repeat the monitoring and measurements required by subsection (4)(b) of this section for those employees affected by the change or increase.

(d) Employee notification. (i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of the exposure measurements which represent that employee's exposure.

(ii) Whenever the results indicate that the employee's exposure exceeds the applicable permissible exposure limit specified in subsection (3) of this section, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a

description of the corrective action taken to reduce exposure below the permissible exposure limit.

(5) Methods of compliance.

(a) Engineering and work practice controls. The employer shall institute engineering and work practice controls to reduce and maintain employee exposure to cotton dust at or below the permissible exposure limit specified in subsection (3) of this section, except to the extent that the employer establishes that such controls are not feasible.

(b) Whenever feasible engineering and work practice controls are not sufficient to reduce employee exposure to or below the permissible exposure limit, the employer shall nonetheless institute these controls to immediately reduce exposure to the lowest feasible level, and shall supplement these controls with the use of respirators which shall comply with the provisions of subsection (6) of this section.

(c) Compliance program. (i) Each employer shall establish and implement a written program sufficient to reduce exposures to or below the permissible exposure limit solely by means of engineering controls and work practices as required by subsection (5)(a) of this section.

(ii) The written program shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to cotton dust;

(B) Engineering plans and other studies used to determine the controls for each process;

(C) A report of the technology considered in meeting the permissible exposure limit;

(D) Monitoring data obtained in accordance with subsection (4) of this section;

(E) A detailed schedule for development and implementation of engineering and work practice controls, including exposure levels projected to be achieved by such controls;

(F) Work practice program; and

(G) Other relevant information.

(iii) The employer's schedule as set forth in the compliance program, shall project completion no later than March 27, 1984.

(iv) The employer shall complete the steps set forth in his program by the dates in the schedule.

(v) Written programs shall be submitted, upon request, to the director, and shall be available at the worksite for examination and copying by the director, and any affected employee or their designated representatives.

(vi) The written programs required under subsection (5)(c) of this section shall be revised and updated at least every six months to reflect the current status of the program and current exposure levels.

(d) Mechanical ventilation. When mechanical ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system to control exposure, such as capture velocity, duct velocity, or static pressure shall be made at least every six months. Measurements of the system's effectiveness to control exposures shall also be made within five days of any

change in production, process or control which may result in any increase in airborne concentrations of cotton dust.

(6) Use of respirators.

(a) General. Where the use of respirators is required under this section, the employer shall provide, at no cost to the employee, and assure the use of respirators which comply with the requirements of this subsection (6). Respirators shall be used in the following circumstances:

(i) During the time periods necessary to install or implement feasible engineering controls and work practice controls;

(ii) During maintenance and repair activities in which engineering and work practice controls are not feasible;

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limit;

(iv) In operations specified under subsection (7)(a) of this section; and

(v) Whenever an employee requests a respirator.

(b) Respirator selection. (i) Where respirators are required under this section, the employer shall select the appropriate respirator from Table I and shall assure that the employee uses the respirator provided.

TABLE I

Cotton dust concentration	Required respirator
Not greater than—	
(a) 5 x the applicable permissible exposure limit.	1. Any dust respirator, including single use.
(b) 10 x the applicable permissible exposure limit.	1. Any dust respirator, except single use or quarter mask; or 2. Any supplied air respirator; or 3. Any self-contained breathing apparatus.
(c) 100 x the applicable permissible exposure limit.	1. High efficiency particulate filter respirator with a full facepiece; or 2. Any supplied air respirator with full facepiece, helmet or hood; or 3. Any self-contained breathing apparatus with full facepiece.
(d) Greater than 100 x the applicable permissible exposure limit.	1. A powered air-purifying respirator with high efficiency particulate filter; or 2. A self-contained breathing apparatus with a full facepiece operated in pressure demand or other positive pressure mode; or 3. A type "C" supplied air respirator operated in pressure demand or other positive pressure mode; or 4. A combination respirator which includes a type "C" supplied-air respirator with a full facepiece operated in pressure or continuous-flow mode and an auxiliary self-contained breathing apparatus operated in pressure demand or other positive pressure mode.

(ii) The employer shall select respirators from those tested and approved for protection against dust by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

(iii) Whenever respirators are required by this section for concentrations not greater than 5 x the applicable permissible exposure limit, the employer shall provide

and permit the employee to use, at the employee's option, single use dust respirator in preference to any respirator specified in paragraph (a) of Table I.

(iv) Whenever respirators are required by this section for concentrations not greater than 100 x the applicable permissible exposure limit, the employer shall, upon the request of the employee, provide a powered air purifying respirator with a high efficiency particulate filter in lieu of the respirator specified in paragraphs (a), (b), or (c) of Table I.

(v) Whenever a physician determines that an employee is unable to wear any form of respirator, including a power air purifying respirator, the employee shall be given the opportunity to transfer to another position which is available or which later becomes available having a dust level at or below the PEL. The employer shall assure that an employee who is transferred due to an inability to wear a respirator suffers no loss of earnings or other employment rights or benefits as a result of the transfer.

(vi) Until September 27, 1980, the employer shall provide any dust respirator, including single use, to all employees exposed to cotton dust, unless the employer has conducted the monitoring required by subsection (4)(b) of this section or otherwise has monitored employee exposure. As soon as monitoring has been conducted, the employer shall select the appropriate respirator from Table I.

(c) Respirator program. The employer shall institute a respirator program in accordance with WAC 296-62-071.

(d) Respirator usage. (i) The employer shall assure that the respirator used by each employee exhibits minimum facepiece leakage and that the respirator is fitted properly.

(ii) The employer shall allow each employee who uses a filter respirator, to change the filter elements whenever an increase in breathing resistance is detected by the employee. The employer shall maintain an adequate supply of filter elements for this purpose.

(iii) The employer shall allow employees who wear respirators to wash their faces and respirator facepieces to prevent skin irritation associated with respirator use.

(7) Work practices. Each employer shall, regardless of the level of employee exposure, immediately establish and implement a written program of work practices, which shall minimize cotton dust exposure for each specific job. Where applicable, the following work practices shall be included in the work practices program:

(a) Compressed air "blow down" cleaning shall be prohibited, where alternative means are feasible. Where compressed air "blow down" is done, respirators shall be worn by the employees performing the "blow down", and employees in the area whose presence is not required to perform the "blow down" shall be required to leave the area during this cleaning operation.

(b) Cleaning of clothing or floors with compressed air shall be prohibited.

(c) Floor sweeping shall be performed with a vacuum or with methods designed to minimize dispersal of dust.

(d) Cotton and cotton waste shall be stacked, sorted, baled, dumped, removed or otherwise handled by mechanical means, except where the employer can show that it is infeasible to do so. Where infeasible, the method used for handling cotton and cotton waste shall be the method which reduces exposure to the lowest level feasible.

(e) The employer shall inspect, clean, maintain, and repair, all engineering control equipment and ventilation systems including power sources, ducts, and filtration units of the equipment.

(8) Medical surveillance.

(a) General. (i) Each employer who has a place of employment in which cotton dust is present shall institute a program of medical surveillance for all employees exposed to cotton dust.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician and are provided without cost to the employee.

(iii) Persons other than licensed physicians, who administer the pulmonary function testing required by this section shall complete a NIOSH approved training course in spirometry.

(b) Initial examinations. The employer shall provide each employee who is or may be exposed to cotton dust with an opportunity for medical surveillance. For new employees this examination shall be provided prior to initial assignment. The medical surveillance shall include at least the following:

(i) A medical history;

(ii) The standardized questionnaire contained in WAC 296-62-14537; and

(iii) A pulmonary function measurement, including a determination of forced vital capacity (FVC) and forced expiratory volume in one second (FEV_1), and the percentage that the measured values of FEV_1 and FVC differ from the predicted values, using the standard tables in WAC 296-62-14539. The predicted FEV_1 and FVC for blacks shall be multiplied by 0.85 to adjust for racial differences.

These determinations shall be made for each employee before the employee enters the workplace on the first day of the work week, following at least thirty-five hours after previous exposure to cotton dust. The tests shall be repeated during the shift, no sooner than four and no more than ten hours after the beginning of the work shift, and, in any event, no more than one hour after cessation of exposure.

(iv) Based upon the questionnaire results, each employee shall be graded according to Schilling's byssinosis classification system.

(c) Periodic examinations. (i) The employer shall provide annual medical surveillance for all employees exposed to cotton dust which shall include at least an update of the medical history and standardized questionnaire (the abbreviated questionnaire, App. B-III) and the pulmonary function measurements in subsection (8)(b) of this section.

(ii) Medical surveillance as required in subsection (8)(c)(i) of this section shall be provided every six months for all employees in the following categories:

(A) An FEV_1 of greater than eighty percent of the predicted value, but with an FEV_1 decrement of five percent or 200 ml. on a first working day;

(B) An FEV_1 of less than eighty percent of the predicted value; or

(C) Where, in the opinion of the physician, any significant change in questionnaire findings, pulmonary function results, or other diagnostic tests has occurred.

(iii) An employee whose FEV_1 is less than sixty percent of the predicted value shall be referred to a physician for a detailed pulmonary examination.

(iv) A comparison shall be made between the current examination results and those of previous examinations and a determination made by the physician as to whether there has been a significant change.

(d) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this regulation and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's exposure level or anticipated exposure level;

(iv) A description of any personal protective equipment used or to be used; and

(v) Information from previous medical examinations of the affected employee which is not readily available to the examining physician.

(e) Physician's written opinion. (i) The employer shall obtain and furnish the employee with a copy of a written opinion from the examining physician containing the following:

(A) The results of the medical examination and tests;

(B) The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of the employee's health from exposure to cotton dust;

(C) The physician's recommended limitations upon the employee's exposure to cotton dust or upon the employee's use of respirators including a determination of whether an employee can wear a negative pressure respirator, and where the employee cannot, a determination of the employee's ability to wear a powered air purifying respirator; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The written opinion obtained by the employer shall not reveal specific findings or diagnoses unrelated to occupational exposure.

(9) Employee education and training.

(a) Training program.

(i) The employer shall provide a training program for all employees in all workplaces where cotton dust is present, and shall assure that each employee in these workplaces is informed of the following:

(A) The specific nature of the operations which could result in exposure to cotton dust at or above the permissible exposure limit;

(B) The measures, including work practices required by subsection (7) of this section, necessary to protect the employee from exposures in excess of the permissible exposure limit;

(C) The purpose, proper use and limitations of respirators required by subsection (6) of this section;

(D) The purpose for and a description of the medical surveillance program required by subsection (8) of this section and other information which will aid exposed employees in understanding the hazards of cotton dust exposure; and

(E) The contents of this standard and its appendices.

(ii) The training program shall be provided prior to initial assignment and shall be repeated at least annually.

(b) Access to training materials. (i) Each employer shall post a copy of this section with its appendices in a public location at the workplace, and shall, upon request, make copies available to employees.

(ii) The employer shall provide all materials relating to the employee training and information program to the director upon request.

(iii) In addition to the information required by subsection (9)(a) of this section, the employer shall include as part of the training program, and shall distribute to employees, any materials, pertaining to the Washington Industrial Safety and Health Act, the regulations issued pursuant to that act, and this cotton dust standard, which are made available to the employer by the director.

(10) Signs. The employer shall post the following warning sign in each work area where the permissible exposure limit for cotton dust is exceeded:

WARNING

COTTON DUST WORK AREA

May Cause Acute or Delayed Lung Injury

(Byssinosis)

RESPIRATORS REQUIRED IN THIS AREA

(11) Recordkeeping.

(a) Exposure measurements. (i) The employer shall establish and maintain an accurate record of all measurements required by subsection (4) of this section.

(ii) The record shall include:

(A) A log containing the items listed in WAC 296-62-14535(4)(a), and the dates, number, duration, and results of each of the samples taken, including a description of the procedure used to determine representative employee exposures;

(B) The type of protective devices worn, if any, and length of time worn; and

(C) The names, social security number, job classifications, and exposure levels of employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least twenty years.

(b) Medical surveillance. (i) The employer shall establish and maintain an accurate medical record for each employee subject to medical surveillance required by subsection (8) of this section.

(ii) The record shall include:

(A) The name and social security number and description of the duties of the employee;

(B) A copy of the medical examination results including the medical history, questionnaire responses, results of all tests, and the physician's recommendation;

(C) A copy of the physician's written opinion;

(D) Any employee medical complaints related to exposure to cotton dust;

(E) A copy of this standard and its appendices, except that the employer may keep one copy of the standard and the appendices for all employees, provided that he references the standard and appendices in the medical surveillance record of each employee; and

(F) A copy of the information provided to the physician as required by subsection (8)(d) of this section.

(iii) The employer shall maintain this record for at least twenty years.

(c) Availability. (i) The employer shall make all records required to be maintained by subsection (11) of this section available to the director for examination and copying.

(ii) ~~((The employer shall make))~~ Employee exposure measurement records and employee medical records required by this ((section available to affected employees or their)) subsection shall be provided upon request to employees, designated representatives ((for examination and copying)), and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217.

~~((iii) The employer shall make all records indicating a former employee's own exposure to cotton dust available to the former employee or his designated representative for examination and copying.~~

~~(iv) The employer shall make an employee's medical records required to be maintained by this section, available to the affected employee or former employee or to a physician or other individual designated by such affected employee or former employees, for examination and copying.)~~

(d) Transfer of records. (i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by subsection (11) of this section.

(ii) Whenever the employer ceases to do business, and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the director.

(iii) At the expiration of the retention period for the records required to be maintained by this section, the employer shall notify the director at least three months prior to the disposal of such records and shall transmit those records to the director if he requests them within that period.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in WAC 296-62-05215.

(12) Observation of monitoring.

(a) The employer shall provide affected employees or their designated representatives an opportunity to observe any measuring or monitoring of employee exposure

to cotton dust conducted pursuant to subsection (4) of this section.

(b) Whenever observation of the measuring or monitoring of employee exposure to cotton dust requires entry into an area where the use of personal protective equipment is required, the employer shall provide the observer with and assure the use of such equipment and shall require the observer to comply with all other applicable safety and health procedures.

(c) Without interfering with the measurement, observers shall be entitled to:

(i) An explanation of the measurement procedures;

(ii) An opportunity to observe all steps related to the measurement of airborne concentrations of cotton dust performed at the place of exposure; and

(iii) An opportunity to record the results obtained.

(13) Effective date.

(a) General. This emergency rule is effective upon filing with the code reviser, except as otherwise provided below.

(b) Startup dates. (i) Initial monitoring. The initial monitoring required by subsection (4)(b) of this section shall be completed as soon as possible but no later than September 27, 1980.

(ii) Methods of compliance; engineering and work practice controls. Engineering and work practice controls required by subsection (5) of this section shall be implemented no later than March 27, 1984.

(iii) Compliance program. The compliance program required by subsection (5)(c) of this section shall be established no later than March 27, 1981.

(iv) Respirators. The respirators required by subsection (6) of this section shall be provided no later than April 27, 1980. Until September 27, 1980, the provisions of subsection (6)(b)(vi) of this section apply.

(v) Work practices. The work practices required by subsection (7) of this section shall be implemented no later than June 27, 1980.

(vi) Medical surveillance. The initial medical surveillance required by subsection (8) of this section shall be completed no later than March 27, 1981.

(vii) Employee education and training. The initial education and training required by subsection (9) of this section shall be completed as soon as possible but no later than June 27, 1980.

(14) Appendices.

(a) Appendix B, WAC 296-62-14537, Appendix C, WAC 296-62-14539 and Appendix D, WAC 296-62-14541 are incorporated as part of this chapter and the contents of these appendices are mandatory.

(b) Appendix A, WAC 296-62-14535 contains information which is not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

NEW SECTION

WAC 296-62-09015 HEARING CONSERVATION. The employer shall administer a continuing effective hearing conservation program, as described in WAC 296-62-09015 through 296-62-09053 whenever employee noise exposures equal or exceed an 8-hour

time-weighted average (TWA) sound level of 85 decibels (dB) measured on the A-scale slow response or, equivalently, a noise dose of fifty percent. For purposes of the hearing conservation program, employee noise exposures shall be computed without regard to any attenuation provided by the use of personal protective equipment.

NEW SECTION

WAC 296-62-09017 DEFINITIONS. These definitions apply to the following terms as used in WAC 296-62-09015 through 296-62-09053.

(1) Audiogram - A chart, graph, or table resulting from an audiometric test showing an individual's hearing threshold levels as a function of frequency.

(2) Audiologist - A professional, specializing in the study and rehabilitation of hearing, who is certified by the American Speech, Hearing, and Language Association or licensed by a state board of examiners.

(3) Baseline audiogram - The audiogram against which future audiograms are compared.

(4) Crest factor - Absolute value of the ratio of the peak value and the root-mean-square value measured over a specified time interval where both values are measured in reference to the arithmetic mean value of the wave.

(5) Criterion sound level - A sound level of 90 decibels.

(6) Decibel (dB) - Unit of measurement of sound level.

(7) Hertz (Hz) - Unit of measurement of frequency, numerically equal to cycles per second.

(8) Medical pathology - A disorder or disease. For purposes of this regulation, a condition or disease affecting the ear, which should be treated by a physician specialist.

(9) Noise dose - The ratio, expressed as a percentage, of (1) the time integral, over a stated time or event, of the 0.6 power of the measured SLOW exponential time-averaged, squared A-weighted sound pressure and (2) the product of the criterion duration (8 hours) and the 0.6 power of the squared sound pressure corresponding to the criterion sound level (90 dB).

(10) Noise dosimeter - An instrument that integrates a function of sound pressure over a period of time in such a manner that it directly indicates a noise dose.

(11) Otolaryngologist - A physician specializing in diagnosis and treatment of disorders of the ear, nose and throat.

(12) Representative exposure - Measurements of an employee's noise dose or 8-hour time-weighted average sound level that the employer deems to be representative of the exposure of other employees in the workplace.

(13) Significant threshold shift - A hearing level change, relative to the baseline audiogram, of 20 db or more at 500, 1000, 2000, 3000, 4000, or 6000 Hz, either ear.

(14) Sound level - Ten times the common logarithm of the ratio of the the square of the measured A-weighted sound pressure to the square of the standard reference pressure of 20 micropascals. Unit: decibels (dB). For use with this regulation, SLOW time response,

in accordance with ANSI S1.4-1971 (R1976), is required.

(15) Sound level meter – An instrument for the measurement of sound level.

(16) Time-weighted average sound level – That sound level, which if constant over an 8-hour exposure, would result in the same noise dose as if measured.

NEW SECTION

WAC 296-62-09019 MONITORING. When reasonable information indicates that any employee's exposure may equal or exceed an 8-hour time-weighted average of 85 dBA, the employer shall obtain individual or representative exposure measurements for all employees who may be exposed at or above that level.

NOTE: Whenever an employer complies with the requirements of WAC 296-62-09015 through 296-62-09053, the monitoring requirements of this section shall be waived.

NEW SECTION

WAC 296-62-09021 METHOD OF NOISE MEASUREMENT. (1) Noise dosimeters which comply, as a minimum, with the provisions of subdivision (1)(a) of this section or sound level meters which comply, as a minimum, with the provisions of subdivision (1)(b) of this section shall be used whenever employee exposures are evaluated for the purpose of complying with WAC 296-62-09015 through 296-62-09053.

(a) Dosimeters. Dosimeters shall meet the Class 2A-90/85-5 requirements of the American National Standard Specification for Personal Noise Dosimeters, S1.25-1978.

(b) Sound level meters. Sound level meters shall meet the Type 2 requirements of the American National Standard Specification for Sound Level Meters, S1.4-1971 (R1976).

(2) All continuous, intermittent, and impulsive sound levels measured in accordance with subsection (1) of this section shall be integrated into the exposure computation.

NEW SECTION

WAC 296-62-09023 CALIBRATION OF MONITORING EQUIPMENT. Dosimeters and sound level meters used to monitor employee noise exposure shall be calibrated before and after each day's use.

NEW SECTION

WAC 296-62-09025 OBSERVATION OF MONITORING. The employer shall provide affected employees or their representatives with an opportunity to observe any measurements of employee noise exposure which are conducted pursuant to WAC 296-62-09019.

NEW SECTION

WAC 296-62-09027 AUDIOMETRIC TESTING PROGRAM. (1) The employer shall establish and maintain a mandatory audiometric testing program as

provided in this section for all employees whose exposures equal or exceed an 8-hour time-weighted average of 85 dBA.

(2) The program shall be provided at no cost to employees.

(3) Audiometric tests shall be performed by a licensed or certified audiologist, otolaryngologist, or other qualified physician, or by a technician who is certified by the Council of Accreditation in Occupational Hearing Conservation or who has satisfactorily demonstrated competence in administering audiometric examinations, obtaining valid audiograms, and properly using, maintaining and calibrating audiometers. A technician who performs audiometric tests must be responsible to an audiologist, otolaryngologist or other qualified physician.

(4) All audiograms obtained pursuant to this section shall meet the requirements of WAC 296-62-09047, Appendix A: Audiometric Measuring Instruments.

(5) Baseline audiogram.

(a) Prior to or within 180 days after an employee's first exposure to noise at or above a time-weighted average of 85 dBA, the employer shall establish for each employee so exposed a valid baseline audiogram against which subsequent audiograms can be compared.

(b) Testing to establish a baseline audiogram shall be preceded by at least 14 hours without exposure to workplace noise.

NOTE: This may be accomplished by use of hearing protectors; however, the employer should notify employees of the need to avoid high levels of non-occupational noise exposure during this 14-hour period.

(6) Annual audiogram.

(a) At least annually after obtaining the baseline audiogram, the employer shall obtain a new audiogram for each employee exposed at or above a time-weighted average of 85 dBA.

(b) Annual audiometric testing may be conducted at any time during the workshift.

(7) Evaluation of audiogram.

(a) Each employee's annual audiogram shall be compared to that employee's baseline audiogram to determine if the audiogram is valid and if a significant threshold shift has occurred.

(b) An audiologist, otolaryngologist or other qualified physician shall review audiograms which indicate a significant threshold shift to determine whether there is need for further evaluation. The employer shall provide to the person performing this evaluation the following information:

(i) A copy of the requirements for hearing conservation as set forth in WAC 296-62-09015 through 296-62-09053;

(ii) The baseline audiogram and most recent audiogram of the employee to be evaluated;

(iii) Measurements of background sound pressure levels in the audiometric test room as required in WAC 296-62-09049, Appendix B: Audiometric Test Rooms; and

(iv) Records of audiometer calibrations required by WAC 296-62-09029(5).

(8) Follow-up procedures. If a comparison of the annual audiogram to the baseline audiogram indicates a

significant threshold shift, the employer shall ensure that the following steps are taken:

(a) Employees not using hearing protectors shall be fitted with hearing protectors, trained in their use and care, and required to use them.

(b) Employees already using hearing protectors shall be refitted and retrained in the use of hearing protectors and provided with hearing protectors offering greater attenuation if necessary.

(c) Inform the employee in writing, within 21 days of the determination, of the existence of a significant threshold shift;

(d) Refer the employee, at no cost to the employee, for a clinical audiological evaluation or an otological examination, as appropriate, if additional testing is necessary or if the employer suspects that a medical pathology of the ear (as defined in WAC 296-62-09017) is caused or aggravated by the wearing of hearing protectors; and

(e) Inform the employee of the need for an otological examination if a medical pathology of the ear which is unrelated to the use of hearing protectors is suspected.

NEW SECTION

WAC 296-62-09029 **AUDIOMETRIC TEST REQUIREMENTS.** (1) Audiometric tests shall be pure tone, air conduction, hearing threshold examinations, with test frequencies including as a minimum 500, 1000, 2000, 3000, 4000, and 6000 Hz. Tests at each frequency shall be taken separately for each ear.

(2) Audiometric tests shall be conducted with equipment that meets the specifications of, and is maintained and used in accordance with, American National Standard Specification for Audiometers, S3.6-1969(R1973).

(3) Pulsed-tone and self-recording audiometers, if used, shall meet the requirements specified in WAC 296-62-09047, Appendix A: Audiometric Measuring Instruments.

(4) Audiometric examinations shall be administered in a room meeting the requirements listed in WAC 296-62-09049, Appendix B: Audiometric Test Rooms.

(5) Audiometer calibration.

(a) The functional operation of the audiometer shall be checked before each day's use by testing a person with known, stable hearing thresholds, and by listening to the audiometer's output to make sure that the output is free from distorted or unwanted sounds. Deviations of 10dB or greater shall require an acoustic calibration.

(b) Audiometer calibration shall be checked acoustically at least annually in accordance with WAC 296-62-09051, Appendix C: Acoustic Calibration of Audiometers. Test frequencies below 500 Hz and above 6000 Hz may be omitted from this check. Deviations of 15dB or greater necessitate an exhaustive calibration.

(c) An exhaustive calibration shall be performed at least every two years in accordance with sections 4.1.2; 4.1.3; 4.1.4.3; 4.4.1; 4.4.2; 4.4.3; and 4.5 of the American National Standard Specification for Audiometers, S3.6-1969(R1973). Test frequencies below 500 Hz and above 6000 Hz may be omitted from the calibration.

NEW SECTION

WAC 296-62-09031 **HEARING PROTECTORS.**

(1) Employers shall make hearing protectors available to all employees exposed to a time-weighted average of 85 dBA or greater at no cost to the employees. Hearing protectors shall be replaced as necessary.

(2) Employers shall ensure that hearing protectors are worn by all employees:

(a) Who are exposed to a time-weighted average of 85 dBA or greater and who have experienced a permanent significant threshold shift; or

(b) Who are required by WAC 296-62-09011(6)(c) to wear personal protective equipment.

(3) Employees shall be given the opportunity to select their hearing protectors from a variety of suitable hearing protectors provided by the employer.

(4) The employer shall provide training in the use and care of all hearing protectors provided to employees.

(5) The employer shall ensure proper initial fitting and supervise the correct use of all hearing protectors.

NEW SECTION

WAC 296-62-09033 **HEARING PROTECTOR**

ATTENUATION. (1) The employer shall evaluate hearing protector attenuation for the specific noise environments in which the protector will be used by one of the methods described in WAC 296-62-09053, Appendix D: Methods for Estimating the Adequacy of Hearing Protector Attenuation, or by other methods if approved by the director.

(2) Hearing protectors must attenuate employee exposure at least to a time-weighted average of 90 dBA as required by WAC 296-62-09011(6)(c).

(3) For employees who have experienced a significant threshold shift, hearing protectors must attenuate employee exposures to a time-weighted average of 85 dBA or below.

(4) The adequacy of hearing protector attenuation shall be re-evaluated whenever employee noise exposures increase to the extent that the hearing protectors provided may no longer provide adequate attenuation. The employer shall provide more effective hearing protectors where necessary.

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

NEW SECTION

WAC 296-62-09035 **TRAINING PROGRAM.**

(1) The employer shall institute a training program for all employees who are exposed to noise at or above a TWA of 85 dBA, and shall ensure employee participation in such program.

(2) The training program shall be repeated annually for each employee included in the hearing conservation program. Information provided in the training program shall be updated to be consistent with changes in protective equipment and work processes.

(3) The employer shall ensure that each employee is informed of the following:

(a) The effects of noise on hearing;

(b) The purpose of hearing protectors, the advantages, disadvantages, and attenuation of various types, and instructions on selection, fitting, use, and care; and

(c) The purpose of audiometric testing, and an explanation of the test procedures.

(d) The right to access to records as specified in WAC 296-62-09041(5).

NEW SECTION

WAC 296-62-09037 ACCESS TO INFORMATION AND TRAINING MATERIALS. (1) The employer shall make available to affected employees or their representatives copies of this standard and shall also post a copy in the workplace.

(2) The employer shall provide to affected employees any informational materials pertaining to this standard that are supplied to the employer by the director.

(3) The employer shall provide, upon request, all materials related to the employer's training and education program pertaining to this standard to the director.

NEW SECTION

WAC 296-62-09039 WARNING SIGNS. (1) Signs shall be posted at entrances to or on the periphery of all well defined work areas in which employees may be exposed at or above 115dBA.

(2) Warning signs shall clearly indicate that the area is a high noise area and that hearing protectors shall be required.

NEW SECTION

WAC 296-62-09041 RECORDKEEPING. (1) Exposure measurements. The employer shall maintain an accurate record of all employee exposure measurements required by this section.

(2) Audiometric tests.

(a) The employer shall retain all employee audiograms obtained pursuant to WAC 296-62-09027.

(b) This record shall include:

(i) Name and job classification of the employee;

(ii) Date of the audiogram;

(iii) The examiner's name; and

(iv) Date of the last acoustic or exhaustive calibration of the audiometer.

(3) Audiometric test rooms. The employer shall maintain accurate records of the measurements of the background sound pressure levels in audiometric test rooms.

(4) Record retention. The employer shall retain records required in this section for at least the following periods:

(a) Noise exposure measurement records shall be retained for two years.

(b) Audiometric test records shall be retained for the duration of the affected employee's employment.

(5) Access to records. All records required by this section shall be provided upon request to employees, former employees, representatives designated by the individual employee, and the director. The provisions of WAC 296-62-05201 through 296-62-05209 and WAC

296-62-05213 through 296-62-05217 apply to access to records under this section.

(6) Transfer of records. If the employer ceases to do business, the employer shall transfer to the successor employer all records required to be maintained by this section, and the successor employer shall retain them for the remainder of the period prescribed in WAC 296-62-09041(5).

NEW SECTION

WAC 296-62-09043 APPENDICES. WAC 296-62-09047, 296-62-09049, 296-62-09051, and 296-62-09053. Appendices A, B, C, and D are incorporated as part of this section and the contents of these Appendices are mandatory.

NEW SECTION

WAC 296-62-09045 EFFECTIVE DATES. (1) WAC 296-62-09015 through 296-62-09053 shall become effective 60 days after filing with the Code Reviser, unless otherwise noted below.

(2) Monitoring conducted pursuant to WAC 296-62-09019 shall be completed no later than 180 days from the effective date of the standard.

(3) Baseline audiograms required by WAC 296-62-09027 shall be completed no later than December 31, 1982.

NEW SECTION

WAC 296-62-09047 APPENDIX A: AUDIO-METRIC MEASURING INSTRUMENTS. (1) In the event that pulsed-tone audiometers are used, they shall have a tone on-time of at least 200 milliseconds.

(2) Self-recording audiometers shall comply with the following requirements:

(a) The chart upon which the audiogram is traced shall have lines at positions corresponding to all multiples of 10 dB hearing level within the intensity range spanned by the audiometer. The lines shall be equally spaced and shall be separated by at least 1/4 inch. Additional increments are optional. The audiogram pen tracings shall not exceed 2 dB in width.

(b) It shall be possible to set the stylus manually at the 10-dB increment lines for calibration purposes.

(c) The slewing rate for the audiometer attenuator shall not be more than 6 dB/sec except that an initial slewing rate greater than 6 dB/sec is permitted at the beginning of each new test frequency, but only until the second subject response.

(d) The audiometer shall remain at each required test frequency for 30 seconds (± 3 seconds). The audiogram shall be clearly marked at each change of frequency and the actual frequency change of the audiometer shall not deviate from the frequency boundaries marked on the audiogram by more than ± 3 seconds.

(e) It must be possible at each test frequency to place a horizontal line segment parallel to the time axis on the audiogram, such that the audiometric tracing crosses the line segment at least six times at the test frequency. At each test frequency the threshold shall be the average of the midpoints of the tracing excursions.

NEW SECTION

WAC 296-62-09049 APPENDIX B: AUDIO-METRIC TEST ROOMS. Rooms used for audiometric testing shall not have background sound pressure levels exceeding those in Table B-1 when measured by equipment conforming at least to the Type 2 requirements of American National Standard Specification for Sound Level Meters, S1.4-1971 (R1976), and to the Class II requirements of American National Standard Specification for Octave, Half-Octave, and Third-Octave Band Filter Sets, S1.11-1971 (R1976).

TABLE B-1 - Maximum Allowable Octave-Band Sound Pressure Levels for Audiometric Test Rooms.

Octave-band center frequency (Hz)	500	1000	2000	4000	8000
Sound pressure level (dB)	40	40	47	57	62

NEW SECTION

WAC 296-62-09051 APPENDIX C: ACOUSTIC CALIBRATION OF AUDIOMETERS. Audiometer calibration shall be checked acoustically, at least annually, according to the procedures described in this Appendix. The equipment necessary to perform these measurements is a sound level meter, octave-band filter set, and a National Bureau of Standards 9A coupler. In making these measurements, the accuracy of the calibrating equipment shall be sufficient to determine that the audiometer is within the tolerance permitted by American National Standard Specifications for Audiometers, S3.6-1969(R1973).

(1) Sound pressure output check.

(a) Place the earphone coupler over the microphone of the sound level meter and place the earphone on the coupler.

(b) Set the audiometer's hearing threshold level (HTL) dial to 70 dB.

(c) Measure the sound pressure level of the tones at each test frequency from 500 Hz through 6000 Hz for each earphone.

(d) At each frequency the readout on the sound level meter should correspond to the levels in Table C-1 or Table C-2, as appropriate, for the type of earphone, in the column entitled "sound level meter reading."

(2) Linearity check.

(a) With the earphone in place, set the frequency to 1000 Hz and the HTL dial on the audiometer to 70 dB.

(b) Measure the sound levels in the coupler at each 10-dB decrement from 70 dB to 10 dB, noting the sound level meter reading at each setting.

(c) For each 10-dB decrement on the audiometer the sound level meter should indicate a corresponding 10 dB decrease.

(d) This measurement may be made electrically with a voltmeter connected to the earphone terminals.

(3) Tolerances.

When any of the measured sound levels deviate from the levels in Table C-1 or Table C-2 by ± 3 dB at any test frequency between 500 and 3000 Hz, 4 dB at 4000 Hz, or 5 dB at 6000 Hz, an exhaustive calibration is advised. An exhaustive calibration is required if the deviations are greater than 10 dB at any test frequency.

Table C-1 - Reference Threshold Levels for Telephonics - TDH-39 Earphones

Frequency, Hz	Reference threshold for TDH-39 earphones, dB	Sound level levelmeter reading, dB
500	11.5	81.5
1000	7	77
2000	9	79
3000	10	80
4000	9.5	79.5
6000	15.5	85.5

TABLE C-2 - Reference Threshold Levels for Telephonics - TDH-49 Earphones

Frequency, Hz	Reference threshold for TDH-49 earphones, dB	Sound level levelmeter reading, dB
500	13.5	83.5
1000	7.5	77.5
2000	11	81.0
3000	9.5	79.5
4000	10.5	80.5
6000	13.5	83.5

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

NEW SECTION

WAC 296-62-09053 APPENDIX D: METHODS FOR ESTIMATING THE ADEQUACY OF HEARING PROTECTOR ATTENUATION. (1) For employees who have experienced a significant threshold shift, hearing protector attenuation must be sufficient to reduce employee exposure to a TWA of 85 dBA.

(2) The most convenient method is the Noise Reduction Rating (NRR) developed by the Environmental Protection Agency (EPA). According to EPA regulation, the NRR must be shown on the hearing protector package. The NRR is then related to an individual worker's noise environment in order to assess the adequacy of the attenuation of a given hearing protector. This Appendix

describes two methods of using the NRR to determine whether a particular hearing protector provides adequate protection within a given exposure environment. Selection between the two procedures is dependent upon the employer's noise measuring instruments.

(3) When using the NRR to assess hearing protector adequacy, one of the following methods must be used:

(a) When using a dosimeter that is capable of making A-weighted measurements:

(i) Convert the A-weighted dose to TWA.

(ii) Subtract 7 dB from the NRR.

(iii) Subtract the remainder from the A-weighted TWA to obtain the estimated A-weighted TWA under the ear protector.

(b) When using a sound level meter set to the A-weighting network:

(i) Obtain the employee's A-weighted TWA.

(ii) Subtract 7 dB from the NRR, and subtract the remainder from the A-weighted TWA to obtain the estimated A-weighted TWA under the ear protector.

WSR 82-03-024
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 15, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning State supplementary payments—Definitions, amending WAC 388-59-010.

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

David A. Hogan, Director
Division of Administration
Department of Social and Health Services
Mailstop OB-33C
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Washington, Phone (206) 753-7015, by February 11, 1982. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Friday, February 26, 1982, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, March 3, 1982, in William B. Pope's Office, 3rd Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this

agency prior to February 26, 1982, and/or orally at 10:00 a.m., Friday, February 26, 1982, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: January 13, 1982

By: David A. Hogan
Director, Division of Administration

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045. Amend WAC 388-59-010.

The purpose of the rule or rule change is to comply with federal requirements in the supplemental security income program.

Statutory Authority: RCW 74.08.090.

Summary of the Rule or Rule Change: "Intern assistance" and "SSI benefit payment" are defined.

Person or Persons Responsible for the Drafting, Implementation and Enforcement of the Rule is: Mick Determan, Program Manager, Division of Income Assistance, Mailstop: OB-31C, Phone: 3-4381.

These rules are necessary as a result of federal law, federal court decision or state court decision.

AMENDATORY SECTION (Amending Order 1379, filed 3/22/79)

WAC 388-59-010 STATE SUPPLEMENTARY PAYMENTS—DEFINITIONS. (1) "Supplemental security income (SSI) program" means the federal program of supplemental security income for the aged, blind, and disabled established by section 301 of the social security amendments of 1972, and subsequent amendments, and administered by the social security administration (SSA).

(2) "Supplementary payment" means the state money payment to individuals receiving benefits under Title XVI (or would but for their income be eligible for such benefits) as assistance based on need in supplementation of SSI benefits.

(3) "Interim assistance" means assistance payments provided by the department to SSI applicants to meet basic needs starting with the month the eligible individual applies to SSA and ending with the month the first SSI benefit payment is made.

(4) "SSI benefit payment" means a federal benefit(~~s~~^s means the money payment) and any state supplementary amount determined to be payable (~~as the SSI amount~~). Advance payment and payment based upon presumptive disability or presumptive blindness are not considered SSI benefit payments for interim assistance purposes.

~~((4))~~ (5) "Mandatory state supplement" means the state money payment with respect to individuals who, for December 1973, were recipients of money payments under the department's former programs of old age assistance, aid to the blind and disability assistance.

~~((5))~~ (6) "Optional state supplement" means the elected state money payment to individuals eligible for SSI benefits on or after January 1, 1974.

~~((6))~~ (7) "Eligible individual" means an aged, blind or disabled person as defined in Title XVI of the social security act. If two such persons are husband and wife (and have not been living apart for more than six months) only one of them may be considered an eligible individual. (See WAC 388-59-045).

~~((7))~~ (8) "Eligible spouse" means an aged, blind or disabled individual who is the husband or wife of an eligible individual and who has not been living apart from such eligible individual for more than six months. (See WAC 388-59-045).

~~((8))~~ (9) "Eligible couple" means an eligible individual and eligible spouse.

~~((9))~~ (10) "Essential person" means a person whose needs were taken into account in determining the need of an OAA, AB, or DA recipient for December 1973, who lives in the home of such recipient, and who is not an eligible individual or eligible spouse.

~~((10))~~ (11) "OAA, AB, DA" means the department's programs of old age assistance, aid to the blind and disability assistance under Titles I, X and XIV of the social security act and repealed by Public Law 92-603 effective January 1, 1974.

((+)) (12) "Grandfathering" means the process by which OAA, AB, and DA grants for December, 1973, were converted to SSI and state supplementary payments effective January 1, 1974.

((+)) (13) "Ineligible spouse" means the husband or wife of an eligible individual who is either not aged, blind or disabled or although aged, blind or disabled has not applied for SSI.

((+)) (14) "Living alone" designates an individual or couple who live in their own home or in one of the following alternate care situations: Congregate care, adult family home, foster family group home, or DD group home.

((+)) (15) "Living in household of another" designates an individual or couple who do not pay a pro rata share of the household expenses based on fair market value or when both board and room are supplied.

**WSR 82-03-025
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 15, 1982]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning maximum cost standards for funeral director's services and burial or cremation services, amending WAC 388-42-150.

It is the intention of the secretary to adopt these rules on an emergency basis prior to the hearing.

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

David A. Hogan, Director
Division of Administration
Department of Social and Health Services
Mailstop OB-33C
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Washington, Phone (206) 753-7015, by February 11, 1982. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Friday, February 26, 1982, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, March 3, 1982, in William B. Pope's Office, 3rd Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to February 26, 1982, and/or orally at 10:00 a.m., Friday, February 26, 1982, Auditorium,

Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: January 14, 1982

By: David A. Hogan
Director, Division of Administration

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Amend WAC 388-42-150.

The purpose of the rule or rule change is to increase cost standards for funerals.

The Reason(s) These Rules are Necessary is: To implement chapter 14, Laws of 1981 2nd ex. sess.

Statutory Authority: RCW 74.08.090.

Person or Persons Responsible for the Drafting, Implementation and Enforcement of the Rule is: Mick Determan, Program Manager, Division of Income Assistance, Mailstop: OB-31C, Phone: 3-7137.

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

AMENDATORY SECTION (Amending Order 1691, filed 8/12/81)

WAC 388-42-150 MAXIMUM COST STANDARDS FOR FUNERAL DIRECTOR'S SERVICES AND BURIAL OR CREMATION SERVICES. (1) Funeral director's services—Actual charges, but not to exceed

- (a) Minimum service
 - Adult or older child (casket 5 feet or larger) \$((232))250
 - Child (casket 2 feet 6 inches, less than 5 feet) \$((+))195
 - Child (casket less than 2 feet 6 inches) \$ ((87))94
- (b) Minimum standard service
 - Adult or older child (casket 5 feet or larger) \$((53+))573
 - Child (casket 2 feet 6 inches, less than 5 feet) \$((224))242
 - Child (casket less than 2 feet 6 inches) \$ ((87))94
- (2) Burial or cremation services
 - (a) Burial only \$((239))258
 - Burial in grave of another \$((239))258
 - Burial with lot included \$((269))290
 - (b) Cremation only \$((239))258
 - Cremation with burial place included \$((246))265
- (3) These standards include all applicable taxes.
- (4) These standards shall be effective ((July 1, 1980)) January 1, 1982.

**WSR 82-03-026
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 1750—Filed January 15, 1982]**

I, David A. Hogan, Director, Division of Administration of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to maximum cost standards for funeral director's services and burial or cremation services, amending WAC 388-42-150.

I, David A. Hogan, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is these rules are necessary to implement chapter 14, Laws of 1981 2nd ex. sess.

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

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

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

APPROVED AND ADOPTED January 14, 1982.

By David A. Hogan
Director, Division of Administration

AMENDATORY SECTION (Amending Order 1691, filed 8/12/81)

WAC 388-42-150 MAXIMUM COST STANDARDS FOR FUNERAL DIRECTOR'S SERVICES AND BURIAL OR CREMATION SERVICES. (1) Funeral director's services—Actual charges, but not to exceed

- (a) Minimum service
 - Adult or older child (casket 5 feet or larger) \$((232))250
 - Child (casket 2 feet 6 inches, less than 5 feet) \$((181))195
 - Child (casket less than 2 feet 6 inches) \$ ((87))94
- (b) Minimum standard service
 - Adult or older child (casket 5 feet or larger) \$((531))573
 - Child (casket 2 feet 6 inches, less than 5 feet) \$((224))242
 - Child (casket less than 2 feet 6 inches) \$ ((87))94
- (2) Burial or cremation services
 - (a) Burial only \$((239))258
 - Burial in grave of another \$((239))258
 - Burial with lot included \$((269))290
 - (b) Cremation only \$((239))258
 - Cremation with burial place included \$((246))265

- (3) These standards include all applicable taxes.
- (4) These standards shall be effective ((July 1, 1980))

January 1, 1982.

WSR 82-03-027
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 82-5—Filed January 15, 1982]

I, Rolland A. Schmitt, director of the state Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing rules.

I, Rolland A. Schmitt, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is this rule is adopted pursuant to the Columbia River Compact.

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

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

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

APPROVED AND ADOPTED January 15, 1982.

By Rolland A. Schmitt
Director

NEW SECTION

WAC 220-32-05700L SEASON—STURGEON. Notwithstanding the provisions of WAC 220-32-057, it is unlawful to take, fish for, or possess sturgeon for commercial purposes in Columbia River Management and Catch Reporting Areas 1F, 1G, and 1H, except those individuals possessing treaty fishing rights pursuant to the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish with setline gear effective immediately to 12:00 noon April 30, 1982 and from 12:00 noon August 1, 1982 to 12:00 noon January 15, 1983. Setline gear is limited to not more than 100 hooks per setline. Minimum hook size is 9/0 and treble hooks are prohibited.

NEW SECTION

WAC 220-32-02200F LAWFUL GEAR—STURGEON. (1) Notwithstanding the provisions of WAC 220-32-022 and WAC 220-32-040, it is unlawful to take, fish for or possess sturgeon taken with gillnet gear for commercial purposes except that it is lawful to retain sturgeon for commercial purposes taken incidental to any lawful commercial salmon fishery in Columbia River Management and Catch Reporting Area 1A, 1B, 1C, 1D and 1E.

(2) It is unlawful to retain any sturgeon not of lawful size, as provided in WAC 220-20-020 (1), and all sturgeon in transit must not have head or tail removed.

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

NEW SECTION

WAC 220-32-04000N STURGEON—SETLINE. Notwithstanding the provisions of WAC 220-32-040, it is unlawful to take, fish for or possess sturgeon for commercial purposes with setline gear in Columbia River Management and Catch Reporting Areas 1A, 1C, 1D, that portion of 1B south of a line projected from Grays Point light east to Harrington Point, and that portion of Area 1E downstream of a line projected due north from the mouth of Oneonta Creek on the Oregon side to a deadline marker on the Washington shore except at those times, with the gear and provisions designated below:

Immediately until 12:00 noon April 29, 1982 and 12:00 noon August 2, 1982 until 12:00 noon January 15, 1983.

Setline gear is limited to 4 lines with not more than 300 hooks per line.

Buoys must be marked on each end with the fishing license number.

It is unlawful to retain any sturgeon not of lawful size, as provided in WAC 220-20-020 (10).

Minimum hook size is 9/0 and treble hooks are prohibited.

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

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 220-32-05700K SEASON—STURGEON (81-223)
- WAC 220-32-02200E LAWFUL GEAR—STURGEON (81-223)
- WAC 220-32-0400M STURGEON—SETLINE (81-223)

WSR 82-03-028
NOTICE OF PUBLIC MEETINGS
COMMISSION FOR
VOCATIONAL EDUCATION
 [Memorandum, Ex. Director—January 8, 1982]

A regular meeting of the Commission for Vocational Education will be held in Olympia on February 4, 1982.

WSR 82-03-029
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
 [Filed January 18, 1982]

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

- Amd WAC 356-10-050 Positions—Reallocation upward, incumbents.
- Rep WAC 356-10-060 Allocation—Request for review;

that such agency will at 10:00 a.m., Thursday, February 11, 1982, in the Board Hearing Room, Department of Personnel, 600 South Franklin, Olympia, WA, conduct a hearing relative thereto.

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

The authority under which these rules are proposed is RCW 41.06.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to February 9, 1982, and/or orally at 10:00 a.m., Thursday, February 11, 1982, Board Hearing Room, Department of Personnel, 600 South Franklin, Olympia, WA.

This notice is connected to and continues the matter in Notice No. WSR 82-01-027 filed with the code reviser's office on December 14, 1981.

Dated: January 14, 1982
 By: Leonard Nord
 Secretary

WSR 82-03-030
ADOPTED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
 [Order 165—Filed January 18, 1982]

Be it resolved by the State Personnel Board, acting at 600 South Franklin, Olympia, WA 98504, that it does promulgate and adopt the annexed rules relating to:

- Amd WAC 356-06-010 Definitions.
- Amd WAC 356-30-280 Probationary period—(~~Period~~) Transfer (~~(=)~~), intraagency re-appointment to higher class.
- Amd WAC 356-30-290 Reassignment.

This action is taken pursuant to Notice No. WSR 82-01-027 filed with the code reviser on December 14, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 41.06.150(17) and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 14, 1982.
 By Leonard Nord
 Secretary

AMENDATORY SECTION (Amending Order 163, filed 11/16/81)

WAC 356-06-010 DEFINITIONS. The following definitions apply throughout these rules unless the context clearly indicates another meaning:

ACTING APPOINTMENT – An appointment of limited duration made from within the classified service to a supervisory or managerial position.

ADMINISTRATIVE PERSONNEL – Employees who regularly exercise discretion and independent judgment in the performance of: (1) Work related directly to management policy; or, (2) work providing direct assistance to executive or administrative personnel.

AGENCY – An office, department, board, commission, or other separate unit or division, however designated, of the state government and all personnel thereof. It includes any unit of state government established by law, the executive officer or members of which are either elected or appointed, upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature.

AGRICULTURAL PERSONNEL – Employees performing work which includes farming and all its branches, including cultivating the soil, or growing or harvesting crops, or raising livestock, bees, fur-bearing animals, or poultry; or doing any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations.

ALLIED REGISTER – A register for a class for which the duties and minimum or desirable qualifications are equivalent to or above those for another class.

ALLOCATION – The assignment of a position to a job classification.

ANNIVERSARY DATE – Original entry date into state service as adjusted by leave without pay or break in service.

APPOINTING AUTHORITY – A person or group of persons lawfully authorized to make appointments.

BARGAINING UNIT – The group of employees in positions determined by the personnel board to constitute a unit appropriate for collective bargaining purposes under these rules.

BASIC SALARY RANGE – The dollar amount of the step of the salary range to which the employee is entitled, before any deduction, and exclusive of additional compensation of any kind.

BOARD – The state personnel board.

BUMPING – The replacement of an incumbent by another employee subject to reduction-in-force, who has greater seniority.

CAREER PLANNING – A programmed process designed to assist employee career growth through job experience, training and/or continuing education.

CERTIFICATION – Providing an agency with the appropriate number of names of candidates who have passed the examination for a given class and are eligible to be considered for vacancies.

CLASS – Identification of a position, or a group of positions, sufficiently similar in duties so that the same requirements of training, experience, or skill and the same title, examination, and salary range may be applied.

CLASSIFIED SERVICE – All positions and employees in the state service subject to the provisions of chapter 41.06 RCW and these rules.

COLLECTIVE BARGAINING OR COLLECTIVE NEGOTIATION – The performance of the mutual obligation of the appointing authority, or designee, and the certified exclusive representative of a bargaining unit to meet in an attempt to reach an agreement on all personnel matters over which the appointing authority may lawfully exercise discretion.

COMPENSATORY TIME – Time off in lieu of cash payment for overtime.

COMPETITIVE SERVICE – All positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

DATE OF ELECTION – The date of election is the date the Director of Personnel certifies the results of the election.

DEMOTION – A change of a permanent employee from a position in one class to a position in another class having a lower maximum salary.

DESIRABLE QUALIFICATIONS – The levels of education and/or experience deemed desirable or preferable for admission to the examination in lieu of fixed minimum qualifications.

DIRECTOR – The director of the department of personnel.

DISABILITY – An employee's bodily inability to perform adequately the essential duties of the job class. (For purposes of WAC 356-35-010, this definition shall not include maternity.)

DISMISSAL – The termination of employment of a permanent employee (for cause) or of a probationary employee as specified in these rules.

EDUCATION LEAVE OF ABSENCE – An authorized leave of absence for educational purposes.

ELEVATION – Restoring an employee to the higher classification, with permanent status, which was held prior to being granted a demotion.

ELIGIBLE – An applicant whose name is on a register.

EMERGENCY APPOINTMENT – An appointment, for emergency reasons, not to exceed 60 calendar days.

EMPLOYEE – Any person employed under the jurisdiction of these rules.

EMPLOYEE ORGANIZATION – Any organization having the authority, as specified in WAC 356-42-010, to represent state employees on personnel matters.

EXECUTIVE PERSONNEL (As used in chapter 15 of these rules) – Employees who customarily and regularly exercise discretionary powers in directing and controlling program operations of an agency or division or customarily recognized subdivision thereof and personnel who are responsible for (1) hiring or firing or making substantial recommendation for same and (2) directing the work of and (3) regulating the working hours of two or more employees.

EXEMPT POSITION – Any position designated as exempt from the application of these rules as specified in WAC 356-06-020.

FULL TIME EMPLOYMENT – Regularly scheduled employment requiring an average of 40 hours of work per week. However, for certification from a register, work between 32 – 40 hours per week shall be considered full time.

HANDICAPPED – Persons with physical, mental or sensory impairments that would impede that individual in obtaining and maintaining permanent employment and promotional opportunities. The impairments must be material rather than slight; static and permanent in that they are seldom fully corrected by medical replacement, therapy or surgical means.

HOLIDAYS – Paid nonwork days for state employees as established by RCW 1.16.050.

HOUSED PERSONNEL – Employees whose duties require that they reside at the place of their employment or who otherwise spend a substantial portion of their work time subject to call and not engaged in the performance of active duties.

HUMAN RESOURCE DEVELOPMENT – The function of achieving agency goals by changing or enhancing employees' knowledges, skills, attitudes and behaviors.

INTERMITTENT EMPLOYMENT – Employment without any understanding of continuity, fitting no particular pattern and performed for no more than a total of (nine months) 1560 hours during any consecutive 12-month period.

INTERVENING SALARY STEPS – All increment steps in a salary range, except the lowest and highest.

LAW ENFORCEMENT PERSONNEL – Employees empowered by statute to enforce laws designed to maintain public peace and order, protect life and property, and detect and prevent crimes. Employees in these positions must have the power of arrest, and have been trained in rules of evidence, laws of arrest, search and seizure and legal rights of citizens.

MINIMUM QUALIFICATIONS – The training, experience, and other qualifications established for a given class and required of an applicant for admission to the examination for that class.

NONCOMPETITIVE POSITIONS – Positions designated by the board as not requiring a competitive examination.

ORIENTATION – An introduction to the organization and to tasks, jobs, procedures and other activities new to the employee.

OVERTIME – Work authorized and performed in accordance with WAC 356-15-030.

PART TIME EMPLOYMENT – Work of less than 40 hours per week. However, for certification from registers, work of less than 32 hours per week shall be considered part time.

PERIODIC INCREMENT DATE – The date established in accordance with the Merit System Rule on which an employee is entitled to a salary increase within a salary schedule range as prescribed in the Merit System Rules.

PERMANENT EMPLOYEE – An employee who has successfully completed a probationary period and has had no break in service.

PERSONNEL RECORD – Such information having pertinence to the employment of an employee and which is retained in a specific location as required by WAC 356-46-060(2)A.

POSITION – A group of duties and responsibilities normally assigned to an employee. Such position may be filled or vacant, full-time or part-time, seasonal, temporary or permanent.

PREMIUM PAYMENT – Wage payment over and above the basic salary rate authorized by the board for extraordinary conditions of employment.

PROBATIONARY PERIOD – The trial period of employment following certification and appointment to, or reemployment in, the classified service and continuing for six months.

PROFESSIONAL PERSONNEL – Employees performing work which requires consistent exercise of independent judgment and is in a specialized field requiring advanced knowledge normally gained through achieving

a baccalaureate degree but which may be gained through equivalent experience.

PROJECT EMPLOYMENT – A program designated by the Director of Personnel as "Project Employment", that is separately financed by a grant, federal funds, or by state funds, or by a combination of funds to provide training or employment opportunities or expertise or additional employees to carry out a specific project or goal and which, either because of the nature of the project, funding requirements, or potential harmful impact on employment opportunities for regular Civil Service employees, cannot be facilitated through the regular Civil Service system. Such a program may last upward to two years and beyond, but has an end in sight.

PROMOTION – A change of a permanent employee from a position in one class to a position in a class having a higher maximum salary.

PROVISIONAL APPOINTMENT – An appointment to a position pending the establishment of a register for that class.

REDUCTION-IN-FORCE – A separation resulting from a lack of funds, lack of work, good faith reorganization for efficiency purposes, or from there being fewer positions than the employees entitled to the positions because of exercising their rights to return to the classified service. When a reduction-in-force occurs, it is a separation from service without cause on the part of the employee.

REDUCTION IN SALARY – Placement of an employee's salary at a lower step within the range as a result of a disciplinary action.

REEMPLOYMENT – An appointment, made from the reemployment register, of a former employee who had permanent status.

REGISTER – A list of eligible names established for employment or reemployment in a class.

REINSTATEMENT – Return of an employee to full employment rights by board action following appeal hearing.

RESIGNATION – A voluntary separation from employment.

REVERSION – Voluntary or involuntary movement of an employee during a six-month trial service period to the class which was held prior to the current trial service appointment.

SALARY RANGE – A sequence of minimum, intervening, and maximum dollar amounts designated by the board as the monthly compensation for a class.

SEASONAL EMPLOYMENT – Work that is cyclic in nature beginning and ending at approximately the same time every year and lasting for no more than nine months.

SENIORITY – A measure of the last period of unbroken time served in positions in the classified service under the jurisdiction of the State Personnel Board. Service in positions brought under the jurisdiction of the State Personnel Board by statute is counted as though it had previously been under the jurisdiction of the State Personnel Board. Leaves of absence granted by agencies and separations due to reduction-in-force are not considered a break in service. Time spent on leaves of absence without pay is not credited unless it is for

educational leaves, or statutes require it be credited; or it is taken at the specific request of an agency so employees may perform work specifically related to state work. Time spent off the state payroll due to reduction-in-force is not credited. Leaves without pay granted to reduce the effect of an agency reduction-in-force will be credited in accordance with WAC 356-18-140 and 356-18-220. Leaves of absence without pay granted to employees who are drawing worker's compensation because of injury or illness while employed by the state will be credited. Time spent in exempt appointments listed in RCW 41.06.070 will be credited and the service will not be regarded as broken when employees return from exempt service in accordance to RCW 41.06.070(22), WAC 356-06-055, 356-30-045 and 356-30-330. Time spent under the jurisdiction of the Higher Education Personnel Board will be added when the employee comes under the jurisdiction of the state personnel board through the provisions of WAC 356-06-055(4). The length of active military service of a veteran, not to exceed five years, shall be added to the state service for such veteran or his widow.

SERIES – A group of classes of positions to which the same kind of work is assigned but which is at different levels of difficulty and responsibility.

SUPERVISOR – Any individual having substantial responsibility on behalf of management regularly to participate in the performance of all or most of the following functions: Employ, promote, transfer, suspend, discharge or adjudicate grievances of other employees, if in connection with the foregoing, the exercise of such responsibility is not of a merely routine nature but requires the exercise of independent judgment.

SUSPENSION – An enforced absence without pay for disciplinary purposes.

TANDEM EMPLOYMENT – Any position filled by more than one employee as voluntarily agreed between management and employee(s) who jointly fulfill the responsibilities and duties of the position(s).

TEMPORARY EMPLOYMENT – Single or multiple periods of employment during the absence of a permanent employee on leave; or for work done at a workload peak and normally lasting for less than nine months and having an end in sight.

TERMINATION – Separation from employment for reasons beyond the control of the employee.

TRAINING – An organized learning process designed to provide needed changes in the skills, knowledges, attitudes or behaviors of employees.

TRANSFER – The change of an employee (~~who has gained permanent status in a class with no break in service~~) from one to another classified position having the same salary range number.

TRIAL SERVICE PERIOD – A six-month trial period of employment of a permanent employee beginning with the effective date of the promotion or demotion or appointment from the promotional register.

TUITION REIMBURSEMENT – A full or partial reimbursement to eligible employees by the employing agency for tuition paid to attend approved courses.

UNDERFILL – The filling of a position with an employee in a lower related class in the absence of an adequate eligible register for the classification.

UNION SHOP – A form of union security that requires that all employees within a bargaining unit become members of the certified bargaining representative within 30 calendar days of the union shop election or 30 calendar days from an employee's date of hire, whichever is later.

UNION SHOP FEE – The union shop fee, sometimes known as a representation fee, is the fee paid by an employee to a union shop representative in lieu of holding membership in that union. An employee who has been certified for nonmembership status because of bona fide religious tenets of a church or religious body of which the employee is a member, shall pay a fee equivalent to the regular monthly dues of the union shop representative minus any included monthly premiums for union sponsored insurance programs.

UNION SHOP REPRESENTATIVE – A union shop representative is an employee organization that is certified as exclusive bargaining representative for a bargaining unit and which has also been certified as union shop representative by the Director of Personnel. To be certified as union shop representative, a majority of all employees in the bargaining unit must vote in favor of having the petitioning employee organization as their union representative.

VETERAN – For the purpose of granting preference during layoffs and subsequent reemployment, any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge is given: **PROVIDED**, That the person has not voluntarily retired with 20 or more years of active military service and has military retirement pay in excess of \$500 per month.

VETERAN'S WIDOW – For the purpose of granting preference during layoffs and subsequent reemployment, the unmarried wife of a deceased veteran as defined in WAC 356-06-010 except that such veteran's one-year minimum length of active military service shall be disregarded.

VOLUNTEER EXPERIENCE – Work experience for which no salary was received, which may be credited toward meeting the minimum qualifications for a classification: Provided such experience is equivalent to and not prohibited by the minimum qualifications of the classification. Volunteer experience for which academic credit was granted may be used to satisfy either the educational or the experience requirements of a class, but may not be used for both.

WORK DAY – A 24-hour period beginning at a time determined by the appointing authority. For scheduled

standard work period positions the work day begins at the scheduled starting time of the employee.

WORK PERIOD DESIGNATION – Identification of each classification's and position's criteria for hours of work as defined in WAC 356-15-020 and qualifications for premium pay as defined in chapter 356-15 WAC.

WORK SCHEDULE – A series of workshifts and work days within the workweek.

WORKSHIFT – Scheduled working hours within the workday.

WORKWEEK – A regular recurring period of 168 hours beginning at a time determined by the appointing authority and continuing for seven consecutive 24-hour periods. For scheduled standard work period positions the workweek begins at the scheduled starting time of the first shift of the employee's uniform shifts.

Y-RATE – A salary amount which either exceeds the maximum step for the salary range of an employee's class or a salary amount that falls between the steps of a salary range of an employee's class.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71)

WAC 356-30-280 PROBATIONARY PERIOD—~~((PERIOD))~~—TRANSFER~~((=))~~INTRA-AGENCY RE-APPOINTMENT TO HIGHER CLASS. (1) An employee shall not be transferred or promoted during the probationary period except as provided in subparagraph (3) below; however, an employee certified from the open competitive or reemployment register may be re-appointed to a higher class within the employing agency while serving satisfactorily in a probationary period and shall begin a trial service period in the higher class.

(2) The employee, while serving in the higher class, shall complete the probationary period for and be granted permanent status in the lower class together with rights normally accruing to trial service for the remaining initial six-month period in the higher class, provided that:

(a) ~~((His-p))~~ Performance in the higher class is satisfactory.

(b) The higher and lower classes are in the same or a closely related field.

(3) An employee ~~((facing reduction-in-force may be transferred during))~~ in a probationary period may be transferred in lieu of reduction-in-force or for training purposes related to the probationary period and will continue to serve out ((his)) the probationary period.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71)

WAC 356-30-290 REASSIGNMENT. A probationary employee may be assigned to another position in the same class if both positions are ~~((under the same immediate supervisor))~~ in the same work unit and the agency shall notify the Director of Personnel of the change.

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

WSR 82-03-031

ADOPTED RULES

BOARD OF

INDUSTRIAL INSURANCE APPEALS

[Order 11—Filed January 18, 1982]

Be it resolved by the Board of Industrial Insurance Appeals, acting at Olympia, Washington, that it does promulgate and adopt the annexed rules relating to rules of practice and procedure relating to the processing of appeals and conduct of hearings before the Board of Industrial Insurance Appeals.

This action is taken pursuant to Notice No. WSR 81-22-025 filed with the code reviser on October 27, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Board of Industrial Insurance Appeals as authorized in RCW 51.52.020.

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

APPROVED AND ADOPTED January 18, 1982.

By Michael L. Hall
Chairman

Reviser's Note: The material contained in this filing will appear in a subsequent issue of the Register, as it was received after the applicable closing date for this issue for agency typed material exceeding the volume limitations of WAC 1-12-035 or 1-13-035, as appropriate.

WSR 82-03-032

EMERGENCY RULES

DEPARTMENT OF PERSONNEL

(Personnel Board)

[Order 166—Filed January 18, 1982]

Be it resolved by the State Personnel Board, acting at Department of Personnel, 600 South Franklin, Olympia, WA 98504, that it does promulgate and adopt the annexed rules relating to:

Amd	WAC 356-06-010	Definitions.
New	WAC 356-30-335	Reduction-in-force—Voluntary leave without pay—Return—Procedures.

We, the State Personnel Board, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is proposed in order to mitigate the impact on employees who have been or are facing reduction-in-force; and to clarify the status of those employees participating in the voluntary leave without pay program.

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

This rule is promulgated pursuant to RCW 41.06.150(17) and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 14, 1982.

By Leonard Nord
Secretary

AMENDATORY SECTION (Amending Order 163, filed 11/16/81)

WAC 356-06-010 **DEFINITIONS.** The following definitions apply throughout these rules unless the context clearly indicates another meaning:

ACTING APPOINTMENT – An appointment of limited duration made from within the classified service to a supervisory or managerial position.

ADMINISTRATIVE PERSONNEL – Employees who regularly exercise discretion and independent judgment in the performance of: (1) Work related directly to management policy; or, (2) work providing direct assistance to executive or administrative personnel.

AGENCY – An office, department, board, commission, or other separate unit or division, however designated, of the state government and all personnel thereof. It includes any unit of state government established by law, the executive officer or members of which are either elected or appointed, upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature.

AGRICULTURAL PERSONNEL – Employees performing work which includes farming and all its branches, including cultivating the soil, or growing or harvesting crops, or raising livestock, bees, fur-bearing animals, or poultry; or doing any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations.

ALLIED REGISTER – A register for a class for which the duties and minimum or desirable qualifications are equivalent to or above those for another class.

ALLOCATION – The assignment of a position to a job classification.

ANNIVERSARY DATE – Original entry date into state service as adjusted by leave without pay or break in service.

APPOINTING AUTHORITY – A person or group of persons lawfully authorized to make appointments.

BARGAINING UNIT – The group of employees in positions determined by the personnel board to constitute a unit appropriate for collective bargaining purposes under these rules.

BASIC SALARY RANGE – The dollar amount of the step of the salary range to which the employee is entitled, before any deduction, and exclusive of additional compensation of any kind.

BOARD – The state personnel board.

BUMPING – The replacement of an incumbent by another employee subject to reduction-in-force, who has greater seniority.

CAREER PLANNING – A programmed process designed to assist employee career growth through job experience, training and/or continuing education.

CERTIFICATION – Providing an agency with the appropriate number of names of candidates who have passed the examination for a given class and are eligible to be considered for vacancies.

CLASS – Identification of a position, or a group of positions, sufficiently similar in duties so that the same requirements of training, experience, or skill and the same title, examination, and salary range may be applied.

CLASSIFIED SERVICE – All positions and employees in the state service subject to the provisions of chapter 41.06 RCW and these rules.

COLLECTIVE BARGAINING OR COLLECTIVE NEGOTIATION – The performance of the mutual obligation of the appointing authority, or designee, and the certified exclusive representative of a bargaining unit to meet in an attempt to reach an agreement on all personnel matters over which the appointing authority may lawfully exercise discretion.

COMPENSATORY TIME – Time off in lieu of cash payment for overtime.

COMPETITIVE SERVICE – All positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

DATE OF ELECTION – The date of election is the date the Director of Personnel certifies the results of the election.

DEMOTION – A change of a permanent employee from a position in one class to a position in another class having a lower maximum salary.

DESIRABLE QUALIFICATIONS – The levels of education and/or experience deemed desirable or preferable for admission to the examination in lieu of fixed minimum qualifications.

DIRECTOR – The director of the department of personnel.

DISABILITY – An employee's bodily inability to perform adequately the essential duties of the job class. (For purposes of WAC 356-35-010, this definition shall not include maternity.)

DISMISSAL – The termination of employment of a permanent employee (for cause) or of a probationary employee as specified in these rules.

EDUCATION LEAVE OF ABSENCE – An authorized leave of absence for educational purposes.

ELEVATION – Restoring an employee to the higher classification, with permanent status, which was held prior to being granted a demotion.

ELIGIBLE – An applicant whose name is on a register.

EMERGENCY APPOINTMENT – An appointment, for emergency reasons, not to exceed 60 calendar days.

EMPLOYEE – Any person employed under the jurisdiction of these rules.

EMPLOYEE ORGANIZATION – Any organization having the authority, as specified in WAC 356-42-010, to represent state employees on personnel matters.

EXECUTIVE PERSONNEL (As used in chapter 15 of these rules) – Employees who customarily and regularly exercise discretionary powers in directing and controlling program operations of an agency or division or customarily recognized subdivision thereof and personnel who are responsible for (1) hiring or firing or making substantial recommendation for same and (2) directing the work of and (3) regulating the working hours of two or more employees.

EXEMPT POSITION – Any position designated as exempt from the application of these rules as specified in WAC 356-06-020.

FULL TIME EMPLOYMENT – Regularly scheduled employment requiring an average of 40 hours of work per week. However, for certification from a register, work between 32 – 40 hours per week shall be considered full time.

HANDICAPPED – Persons with physical, mental or sensory impairments that would impede that individual in obtaining and maintaining permanent employment and promotional opportunities. The impairments must be material rather than slight; static and permanent in that they are seldom fully corrected by medical replacement, therapy or surgical means.

HOLIDAYS – Paid nonwork days for state employees as established by RCW 1.16.050.

HOUSED PERSONNEL – Employees whose duties require that they reside at the place of their employment or who otherwise spend a substantial portion of their work time subject to call and not engaged in the performance of active duties.

HUMAN RESOURCE DEVELOPMENT – The function of achieving agency goals by changing or enhancing employees' knowledges, skills, attitudes and behaviors.

INTERMITTENT EMPLOYMENT – Employment without any understanding of continuity, fitting no particular pattern and performed for no more than a total of (nine months) 1560 hours during any consecutive 12-month period.

INTERVENING SALARY STEPS – All increment steps in a salary range, except the lowest and highest.

LAW ENFORCEMENT PERSONNEL – Employees empowered by statute to enforce laws designed to maintain public peace and order, protect life and property, and detect and prevent crimes. Employees in these positions must have the power of arrest, and have been trained in rules of evidence, laws of arrest, search and seizure and legal rights of citizens.

MINIMUM QUALIFICATIONS – The training, experience, and other qualifications established for a given class and required of an applicant for admission to the examination for that class.

NONCOMPETITIVE POSITIONS – Positions designated by the board as not requiring a competitive examination.

ORIENTATION – An introduction to the organization and to tasks, jobs, procedures and other activities new to the employee.

OVERTIME – Work authorized and performed in accordance with WAC 356-15-030.

PART TIME EMPLOYMENT – Work of less than 40 hours per week. However, for certification from registers, work of less than 32 hours per week shall be considered part time.

PERIODIC INCREMENT DATE – The date established in accordance with the Merit System Rule on which an employee is entitled to a salary increase within a salary schedule range as prescribed in the Merit System Rules.

PERMANENT EMPLOYEE – An employee who has successfully completed a probationary period and has had no break in service.

PERSONNEL RECORD – Such information having pertinence to the employment of an employee and which is retained in a specific location as required by WAC 356-46-060(2)A.

POSITION – A group of duties and responsibilities normally assigned to an employee. Such position may be filled or vacant, full-time or part-time, seasonal, temporary or permanent.

PREMIUM PAYMENT – Wage payment over and above the basic salary rate authorized by the board for extraordinary conditions of employment.

PROBATIONARY PERIOD – The trial period of employment following certification and appointment to, or reemployment in, the classified service and continuing for six months.

PROFESSIONAL PERSONNEL – Employees performing work which requires consistent exercise of independent judgment and is in a specialized field requiring advanced knowledge normally gained through achieving a baccalaureate degree but which may be gained through equivalent experience.

PROJECT EMPLOYMENT – A program designated by the Director of Personnel as "Project Employment", that is separately financed by a grant, federal funds, or by state funds, or by a combination of funds to provide training or employment opportunities or expertise or additional employees to carry out a specific project or goal and which, either because of the nature of the project, funding requirements, or potential harmful impact on employment opportunities for regular Civil Service employees, cannot be facilitated through the regular Civil Service system. Such a program may last upward to two years and beyond, but has an end in sight.

PROMOTION – A change of a permanent employee from a position in one class to a position in a class having a higher maximum salary.

PROVISIONAL APPOINTMENT – An appointment to a position pending the establishment of a register for that class.

REDUCTION-IN-FORCE – A separation resulting from a lack of funds, lack of work, good faith reorganization for efficiency purposes, or from there being fewer positions than the employees entitled to the positions because of exercising their rights to return to the classified service. When a reduction-in-force occurs, it is a separation from service without cause on the part of the employee.

REDUCTION IN SALARY – Placement of an employee's salary at a lower step within the range as a result of a disciplinary action.

REEMPLOYMENT – An appointment, made from the reemployment register, of a former employee who had permanent status.

REGISTER – A list of eligible names established for employment or reemployment in a class.

REINSTATEMENT – Return of an employee to full employment rights by board action following appeal hearing.

RESIGNATION – A voluntary separation from employment.

REVERSION – Voluntary or involuntary movement of an employee during a six-month trial service period to the class which was held prior to the current trial service appointment.

SALARY RANGE – A sequence of minimum, intervening, and maximum dollar amounts designated by the board as the monthly compensation for a class.

SEASONAL EMPLOYMENT – Work that is cyclic in nature beginning and ending at approximately the same time every year and lasting for no more than nine months.

SENIORITY – A measure of the last period of unbroken time served in positions in the classified service under the jurisdiction of the State Personnel Board. Service in positions brought under the jurisdiction of the State Personnel Board by statute is counted as though it had previously been under the jurisdiction of the State Personnel Board. Leaves of absence granted by agencies and separations due to reduction-in-force are not considered a break in service. Time spent on leaves of absence without pay is not credited unless it is for educational leaves, or statutes require it be credited; or it is taken at the specific request of an agency so employees may perform work specifically related to state work. Time spent off the state payroll due to reduction-in-force (is not) will be credited for that period of time the employee is on the RIF register (maximum three years). Leaves without pay granted to reduce the effect of an agency reduction-in-force will be credited in accordance with WAC 356-18-140 and 356-18-220. Leaves of absence without pay granted to employees who are drawing worker's compensation because of injury or illness while employed by the state will be credited. Time spent in exempt appointments listed in RCW 41.06.070 will be credited and the service will not be regarded as broken when employees return from exempt service in accordance to RCW 41.06.070(22), WAC 356-06-055, 356-30-045 and 356-30-330. Time spent under the jurisdiction of the Higher Education Personnel Board will be added when the employee comes under the jurisdiction of the state personnel board through the provisions of WAC 356-06-055(4). The length of active military service of a veteran, not to exceed five years, shall be added to the state service for such veteran or his widow.

SERIES – A group of classes of positions to which the same kind of work is assigned but which is at different levels of difficulty and responsibility.

SUPERVISOR – Any individual having substantial responsibility on behalf of management regularly to participate in the performance of all or most of the following functions: Employ, promote, transfer, suspend, discharge or adjudicate grievances of other employees, if in connection with the foregoing, the exercise of such responsibility is not of a merely routine nature but requires the exercise of independent judgment.

SUSPENSION – An enforced absence without pay for disciplinary purposes.

TANDEM EMPLOYMENT – Any position filled by more than one employee as voluntarily agreed between management and employee(s) who jointly fulfill the responsibilities and duties of the position(s).

TEMPORARY EMPLOYMENT – Single or multiple periods of employment during the absence of a permanent employee on leave; or for work done at a workload peak and normally lasting for less than nine months and having an end in sight.

TERMINATION – Separation from employment for reasons beyond the control of the employee.

TRAINING – An organized learning process designed to provide needed changes in the skills, knowledge, attitudes or behaviors of employees.

TRANSFER – The change of an employee who has gained permanent status in a class with no break in service from one to another classified position having the same salary range number.

TRIAL SERVICE PERIOD – A six-month trial period of employment of a permanent employee beginning with the effective date of the promotion or demotion or appointment from the promotional register.

TUITION REIMBURSEMENT – A full or partial reimbursement to eligible employees by the employing agency for tuition paid to attend approved courses.

UNDERFILL – The filling of a position with an employee in a lower related class in the absence of an adequate eligible register for the classification.

UNION SHOP – A form of union security that requires that all employees within a bargaining unit become members of the certified bargaining representative within 30 calendar days of the union shop election or 30 calendar days from an employee's date of hire, whichever is later.

UNION SHOP FEE – The union shop fee, sometimes known as a representation fee, is the fee paid by an employee to a union shop representative in lieu of holding membership in that union. An employee who has been certified for nonmembership status because of bona fide religious tenets of a church or religious body of which the employee is a member, shall pay a fee equivalent to the regular monthly dues of the union shop representative minus any included monthly premiums for union sponsored insurance programs.

UNION SHOP REPRESENTATIVE – A union shop representative is an employee organization that is certified as exclusive bargaining representative for a bargaining unit and which has also been certified as union shop representative by the Director of Personnel. To be certified as union shop representative, a majority of all employees in the bargaining unit must vote in favor

of having the petitioning employee organization as their union representative.

VETERAN – For the purpose of granting preference during layoffs and subsequent reemployment, any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge is given: **PROVIDED**, That the person has not voluntarily retired with 20 or more years of active military service and has military retirement pay in excess of \$500 per month.

VETERAN'S WIDOW – For the purpose of granting preference during layoffs and subsequent reemployment, the unmarried wife of a deceased veteran as defined in WAC 356-06-010 except that such veteran's one-year minimum length of active military service shall be disregarded.

VOLUNTEER EXPERIENCE – Work experience for which no salary was received, which may be credited toward meeting the minimum qualifications for a classification: Provided such experience is equivalent to and not prohibited by the minimum qualifications of the classification. Volunteer experience for which academic credit was granted may be used to satisfy either the educational or the experience requirements of a class, but may not be used for both.

WORK DAY – A 24-hour period beginning at a time determined by the appointing authority. For scheduled standard work period positions the work day begins at the scheduled starting time of the employee.

WORK PERIOD DESIGNATION – Identification of each classification's and position's criteria for hours of work as defined in WAC 356-15-020 and qualifications for premium pay as defined in chapter 356-15 WAC.

WORK SCHEDULE – A series of workshifts and work days within the workweek.

WORKSHIFT – Scheduled working hours within the workday.

WORKWEEK – A regular recurring period of 168 hours beginning at a time determined by the appointing authority and continuing for seven consecutive 24-hour periods. For scheduled standard work period positions the workweek begins at the scheduled starting time of the first shift of the employee's uniform shifts.

Y-RATE – A salary amount which either exceeds the maximum step for the salary range of an employee's class or a salary amount that falls between the steps of a salary range of an employee's class.

NEW SECTION

WAC 356-30-335 REDUCTION-IN-FORCE—VOLUNTARY LEAVE WITHOUT PAY—RETURN—PROCEDURES. (1) Upon written agreement

between an employee and the employing agency, an employee may voluntarily take leave without pay or reduced hours to reduce the effect of an agency reduction-in-force.

(2) An employee on leave without pay or reduced hours under the provisions of this rule may, after giving the employing agency 15 days written notice, return to full-time work.

(3) The employing agency may, upon giving an employee on leave without pay or reduced hours under the provisions of this rule 15 days written notice, return the employee to full-time work.

WSR 82-03-033

ADOPTED RULES

GAMBLING COMMISSION

[Order 116—Filed January 18, 1982]

Be it resolved by the Washington State Gambling Commission, acting at Olympia, Washington, that it does promulgate and adopt the annexed rules relating to the amending of WAC 230-08-010, 230-20-220 and 230-30-070. (Incorrect language was submitted under Administrative Order No. 115, filed December 18, 1981, WSR 82-01-065.)

This action is taken pursuant to Notice No. WSR 81-22-031 filed with the code reviser on October 29, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

WAC 230-08-010 is promulgated pursuant to RCW 9.46.070(8), WAC 230-20-220 is promulgated pursuant to RCW 9.46.070(11) and (14) and WAC 230-30-070 is promulgated pursuant to RCW 9.46.070(11) and 9.46.070(8) and is intended to administratively implement those statutes.

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

APPROVED AND ADOPTED December 18, 1981.

By Richard A. Finnigan
for Keith Kisor
Director

AMENDATORY SECTION (Amending Order 74, filed 8/17/77)

WAC 230-08-010 ((OPERATOR)) MONTHLY RECORDS. Every person or organization licensed to operate ((an)) any authorized gambling activity shall keep and maintain ((a set of)) permanent monthly records of all of the activities of the licensee related to ((conducting the)) each licensed activity. These records shall be kept separate for each month and shall include, but not necessarily be limited to, all details of the following ((, by month)):

(1) The gross receipts from the conduct of each of the activities licensed.

(2) Full details on all expenses related to each of the activities licensed.

(3) The total cost of all prizes paid out for each of the activities licensed.

(4) With respect to those licensees receiving such licenses as qualified bona fide charitable or bona fide non-profit organizations, except agricultural fairs, records which clearly show in detail how those proceeds from each licensed activity obtained by the licensee were used or disbursed by that licensee.

~~((5) With respect to operators of punchboards and pull tabs, the licensee shall record for each punchboard and series of pull tabs the following:~~

~~(a) The Washington state identification stamp number issued by the commission and placed thereon;~~

~~(b) The date placed out for play;~~

~~(c) The date removed from play;~~

~~(d) The gross receipts; and~~

~~(e) The cost of prizes paid.)~~

(5) In addition to any other requirement set forth in these rules, licensees for the operation of punchboards and pull tabs shall be required to prepare a detailed monthly record for punchboards and pull tab series removed from play during that month. This detailed monthly record shall be recorded in a standard format prescribed by the commission and shall disclose at minimum the following information:

(a) The name of the punchboard or pull tab series;

(b) The Washington State identification stamp number issued by the commission and placed thereon;

(c) The series number of each pull tab series or punchboard;

(d) The date placed out for play;

(e) The date removed from play;

(f) The total number of tabs in each pull tab series or the total number of punches in each punchboard;

(g) The number of pull tabs or punches remaining after removal from play;

(h) The number of pull tabs or punches played from the pull tab series or punchboard;

(i) The cost to the players to purchase one pull tab or one punch;

(j) The gross receipts as defined in WAC 230-02-110;

(k) The total prizes paid, including both cash and merchandise (calculated by the cost to the licensee) prizes;

(l) The net receipts (gross receipts less total prizes paid);

(m) Any difference between net receipts and the actual cash received as either over or (short);

(n) The actual cash received from the operation of each pull tab series or punchboard; and,

(o) The cost to the licensee of each pull tab series and each punchboard played.

(6) Copies of all additional financial data which support(s) tax reports to any and all governmental agencies.

Each of these records shall be maintained by the licensee for a period of not less than three years from the end of the fiscal year for which the record is kept unless the licensee is released by the commission from this requirement as to any particular record or records.

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

AMENDATORY SECTION (Amending Order 65, filed 1/7/77)

WAC 230-20-220 OPERATORS SHALL NOT PLAY. No operator shall allow a person who (~~manages, or~~) receives any compensation, directly or indirectly, for the operation of, any bingo game conducted by the operator to play in a bingo game conducted by that operator.

No operator shall allow any person who, without payment, assists in the operation of any bingo game conducted by that operator to play in any bingo game conducted by that operator on the same bingo occasion. However, ((Provided, That)) the second paragraph of this rule shall not apply to class A, ((and)) B, and C bingo licensees, or to games operating under the authority of RCW 9.46.030(3).

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

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

AMENDATORY SECTION (Amending Order 114, filed 10/15/81)

WAC 230-30-070 CONTROL OF PRIZES. (1) All prizes from the operation of ((P)) punchboards ((^)) and pull tabs ((^licensees)) shall be awarded ((all prizes)) in cash or in merchandise. Prizes may not involve the opportunity of taking an additional chance or chances on another punchboard or of obtaining another pull tab or pull tabs. Where the prize involves the opportunity to punch again on the same punchboard, a prize must be awarded for each such punch which is not less than the highest amount of money, or worth not less than the most valuable merchandise prize, which might otherwise have been won by the punch for which the opportunity to take the second punch was awarded. No punchboard which offers as a prize the opportunity to take another punch on that board shall be sold or placed out for play unless that particular style and type of step-up board has been approved in advance by the commission. Each such board must clearly indicate on its face the terms and conditions under which the opportunity to obtain the second, or step-up punch, may be obtained and the prizes which may be won by the step-up punch.

(2)(a) ((The licensee)) All prizes shall be displayed ((all prizes)) 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. ((When a prize is cash, then the money itself shall not be displayed, but a coupon designating the cash amount represented thereby available to be won shall be substituted therefor in any display which also includes merchandise prizes. The cash prizes to be awarded in connection with punchboards and pull tab

~~series in connection with which only cash prizes are awarded shall be clearly and fully described or represented by a coupon displayed upon the prize flare attached to the face of the punchboard or accompany the pull tab series and attached to the face or displayed in the immediate vicinity of the pull tab dispensing device.~~)

(b) When the prize is cash it shall be displayed as follows:

(i) If the punchboard or pull tab series contains the opportunity to win both cash and merchandise prizes, the money itself shall not be displayed, but a coupon designating the cash available to be won shall be substituted; and

(ii) If the only prizes which may be won are cash prizes, they shall be clearly and fully described or represented by a coupon displayed upon the prize flare attached to the face or displayed in the immediate vicinity of the pull tab dispensing device.

(c) The licensee shall display prizes so arranged that a customer can easily determine which prizes are available from any particular punchboard or pull tab series or device operated or located upon the premises.

(3) Upon a determination of a winner of a merchandise prize, the licensee shall immediately remove that prize from any display and present it to the winner.

Immediately upon determining the winner of any cash prize of five dollars or more, or of any merchandise prize with a retail value of five dollars or more, but prior to award of the prize, the licensee shall conspicuously delete all references to that prize being available to players from any flare, punchboard or pull tab dispensing device upon which such reference may appear, and from any other list, sign, or notice which may be posted, in such a manner that all future customers will know the prize is no longer available. The prize shall then be paid or delivered to the winner forthwith. The licensee must pay or award to the customer or player playing the punchboard or pull tab series all such prizes that have not been deleted from the flare of the punchboard or pull tab series when the punchboard or pull tab series is completely played out.

(4) No licensee shall offer to pay cash in lieu of merchandise prizes which may be won.

(5) When any person ~~((shall))~~ wins a cash prize of over twenty dollars ~~((in cash))~~ or wins a merchandise prize with a retail value of more than twenty dollars from ~~((the operation))~~ the play of any punchboard or pull tab ~~((device))~~ series, the licensee or licensee's representative shall make a record ~~((shall be made by the licensee))~~ 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: ~~((The record shall contain:))~~

(a) ~~((The full name of the winner))~~ The Washington State identification stamp number of the punchboard or pull tab series from which the prize was won;

(b) ~~((The current address of the winner))~~ The series number of the pull tab series or punchboard from which the prize was won;

(c) ~~((The date of the win))~~ The name of the punchboard or pull tab series;

(d) ~~((A description of the prize won))~~ The date the pull tab series or punchboard was placed out for play;

(e) ~~((If the prize is merchandise, its retail value))~~ The date the pull tab series or punchboard was removed from play;

(f) ~~((The commission identification stamp number of the punchboard or pull tab series from which the prize was won))~~ The month, day and year of the win;

(g) If the prize is cash, the amount of the prize won;

(h) If the prize is merchandise, a description of the prize won and its retail value;

(i) The printed full name of the winner;

(j) The current address of the winner which will include the street address, the city and the state.

It shall be the responsibility of the licensee to determine the identity of the winner and the licensee shall require such proof of identification as is necessary to properly establish the winner's identity. The licensee shall not pay out any prize unless and until the winner has fully and accurately furnished to the licensee all information required by this rule to be ~~((kept upon))~~ maintained in ~~((the records of))~~ the licensee's record of the win.

(6) Every licensee shall keep the record of all prizes awarded in excess of twenty dollars, containing all of the information required in subsection (5) above, and all winning pull tabs or punchboard punches of five dollars or more for a period of six months and shall display the same to any member of the public, representative of the commission or law enforcement officials upon demand.

~~((6))~~ (7) For the purposes of this rule, the retail value of a merchandise prize shall be the amount actually paid therefor by the licensed operator plus 50 percent of that actual cost.

~~((7))~~ (8) Spindle-type pull tab series which award only merchandise prizes valued at no more than five dollars, are hereby permitted to employ schemes whereby certain predesignated pull tabs are free or the player is otherwise reimbursed the actual cost of said pull tabs. Flares for spindle-type pull tabs operated in this manner shall designate the total number of pull tabs in the series and the total number of pull tabs designated as free or reimbursable. Free or reimbursable pull tabs in these types of pull tab series shall not constitute a prize or prizes nor shall monies collected and later reimbursed constitute revenue for the purposes of determining gross receipts.

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

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

WSR 82-03-034

**NOTICE OF PUBLIC MEETINGS
ENVIRONMENTAL HEARINGS OFFICE
(Pollution Control Hearings Board)
(Shorelines Hearings Board)
(Forest Practices Appeals Board)
[Memorandum—January 19, 1982]**

In keeping with the requirement of RCW 42.30.075 that state agencies which hold regular meetings shall file a schedule of the time and place on such meetings during January of each year for publication in the state register, the following is respectfully submitted:

The Pollution Control Hearings Board shall meet at its office, 4224 6th Avenue, Lacey, WA 98504, at 10:00 a.m. on the first Tuesday of each month. The Shorelines Hearings Board shall meet at its office, 4224 6th Avenue, Lacey, WA 98504, at 10:00 a.m. on the fourth Wednesday of each month. The Forest Practices Appeals Board shall meet at its office, 4224 6th Avenue, Lacey, WA 98504, at 9:30 a.m. on the first Friday of each month.

WSR 82-03-035

**EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)
[Order 154—Filed January 19, 1982]**

Be it resolved by a majority of the Game Commission of the state of Washington, that we, the Game Commission, promulgate and adopt by conference call, as emergency rule of this governing body, the annexed rule relating to the closure of Morse Creek and the Pysht and Nooksack Rivers and Marine Area 7B to the taking of steelhead trout by treaty Indians, WAC 232-32-140.

We, the Game Commission, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest. A statement of facts constituting such emergency is data gathered by the Department of Game from information provided by fish buyers reporting sales of steelhead harvested by treaty Indian fishermen from Morse Creek, Pysht River, Nooksack River and Marine Area 7B pursuant to the reporting system approved by the United States District Court in *United States vs. Washington* indicates that the treaty Indian share of harvestable steelhead for Morse Creek, Pysht River, Nooksack River and Area 7B has been reached or will have been reached on the effective date of this order. Therefore, a closure of Morse Creek, Pysht River, Nooksack River and Area 7B is necessary to assure non-Indian sport fishermen their right to take their share.

Such rule is therefore adopted as an emergency rule to take effect upon filing with the Code Reviser.

This rule is promulgated under the authority of the Game Commission as authorized in RCW 77.12.150.

The undersigned chairman hereby declares that the Game Commission has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), or the Administrative Procedure Act (chapter 34.04 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

This order, after being first recorded in the Order Register of this governing body, shall be forwarded to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED January 19, 1982.

By Archie U. Mills
Chairman, Game Commission

NEW SECTION

WAC 232-32-140 CLOSURE OF MORSE CREEK AND THE PYSHT AND NOOKSACK RIVERS AND MARINE AREA 7B TO THE TAKING OF STEELHEAD TROUT BY TREATY INDIANS. *Effective 12:00 noon, January 20, 1982: it is unlawful for treaty Indians to take, fish for or possess steelhead trout in Marine Area 7B and the Nooksack and Pysht River systems. Effective 4:00 p.m., January 22, 1982: it is unlawful for treaty Indians to take, fish for or possess steelhead trout in the Morse Creek system.*

WSR 82-03-036

**NOTICE OF PUBLIC MEETINGS
TRANSPORTATION COMMISSION
[Memorandum—January 15, 1982]**

Pursuant to the requirements of RCW 42.30.075, we are submitting to you for publication in the Washington State Register, the following schedule of meetings of the Washington State Transportation Commission:

The regular meetings of the Washington State Transportation Commission will be held on the second Tuesday of each month in Room 1D2, Highway Administration Building, Olympia, Washington, at 9:30 a.m.

WSR 82-03-037

**PROPOSED RULES
DEPARTMENT OF AGRICULTURE
(Noxious Weed Control Board)
[Filed January 19, 1982]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Noxious Weed Control Board intends to amend rules concerning proposed noxious weed list, by adding rye, *secale cereale* L., to the list, WAC 16-750-010. Other weeds may be either added to or deleted from the list at the hearing;

that such agency will at 1:00 p.m., Thursday, February 25, 1982, in the State Office Building #2 Auditorium, Olympia, Washington, conduct a hearing relative thereto.

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

The authority under which these rules are proposed is chapter 17.10 RCW.

Interested persons may submit, data, views, or arguments to this agency in writing to be received by this agency prior to February 25, 1982, and/or orally at 1:00 p.m., Thursday, February 25, 1982, State Office Building #2 Auditorium, Olympia, Washington.

Dated: January 18, 1982

By: G. David Kile
Assistant Director

STATEMENT OF PURPOSE

Title: Amend WAC 16-750-010.

Description of Purpose: Amend proposed noxious weed list.

Statutory Authority: RCW 17.10.080.

Summary of Rule: Proposed list may be amended by adding rye, *secale cereale* L., to the list. Other weeds may be either added to or deleted from the list at the hearing.

Reasons Supporting Proposed Action: RCW 17.10.080 states that the State Noxious Weed Control Board shall each year or more often, following a hearing, adopt a list comprising the names of those plants which it finds to be injurious to crops, livestock, or other property. At such hearing any county noxious weed control board may request the inclusion of any plant to the list to be adopted by the state board. So far, the Grant County Noxious Weed Control Board has requested the inclusion of rye on the list.

Agency Personnel Responsible for Drafting: Donald D. Tapio, Noxious Weed Control Coordinator, Agricultural Development Division, Washington State Department of Agriculture, 406 General Administration Building, Olympia, WA 98504, (206) 753-5046; Implementation and Enforcement: Each activated county Noxious Weed Control Board.

Persons Proposing Rule: State Noxious Weed Control Board.

Agency Comments or Recommendations: None.

Rule is not necessary as a result of federal law or federal or state court action.

AMENDATORY SECTION (Amending Order 12, Resolution 12, filed 3/13/81)

WAC 16-750-010 PROPOSED NOXIOUS WEED LIST. In accordance with RCW 17.10.080, a proposed noxious weed list comprising the names of those plants which the Noxious Weed Control Board finds to be injurious to crops, livestock, or other property is hereby adopted as follows:

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Perennial weeds	
Baby's Breath	Gypsophila paniculata
Bindweed, field	Convolvulus arvensis
Blue Lettuce	Lactuca pulchella
Blueweed, Texas	Helianthus ciliaris
Bracken, western	Pteridium aquilinum
Canada Thistle	Cirsium arvense
Dalmation Toadflax	Linaria dalmatica
Gorse	Ulex europaeus
Hoary Cress or White Top	Cardaria draba
Johnsongrass	Sorghum halepense
Knapweed, diffuse	Centaurea diffusa

ENGLISH OR COMMON NAME

Knapweed, Russian
Leafy Spurge
Lupine
Nightshade, bitter
Nutsedge, yellow
Oxeye Daisy
Pepperweed, perennial
Rush Skeletonweed
St. Johnswort
Scotch Broom
Sowthistle, perennial
Tansy, common
Waterhemlock, western
Watermilfoil, Eurasian
Wormwood, Absinthe
Yellow Toadflax

BOTANICAL OR SCIENTIFIC NAME

Centaurea repens
Euphorbia esula
Lupinus spp.
Solanum dulcamara
Cyperus esculentus
Chrysanthemum leucanthemum
Lepidium latifolium
Chondrilla juncea
Hypericum perforatum
Cytisus scoparius
Sonchus arvensis
Tanacetum vulgare
Cicuta douglasii
Myriophyllum spicatum
Artemisia absinthium
Linaria vulgaris

Biennial Weeds

Bull Thistle
Houndstongue
Knapweed, spotted
Musk Thistle
Plumeless Thistle
Poison Hemlock
Scotch Thistle
Tansy Ragwort

Cirsium vulgare
Cynoglossum officinale
Centaurea maculosa
Carduus nutans L.
Carduus acanthoides
Conium maculatum
Onopordum acanthium
Senecio jacobaea

Annual Weeds

Cocklebur
Dodder
Goatgrass, jointed
Hemp (Marijuana)
Kochia
Medusahead
Puncturevine
Rye
Sandbur, longspine
Yellow Starthistle

Xanthium spp.
Cuscuta spp.
Aegilops cylindrica
Cannabis sativa
Kochia scoparia
Taeniatherum asperum
Tribulus terrestris
Secale cereale L.
Cenchrus longispinus
Centaurea solstitialis

**WSR 82-03-038
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)**

[Filed January 19, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning nursing services, amending WAC 248-14-260.

It is the intention of the secretary to adopt these rules on an emergency basis prior to the hearing.

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

David A. Hogan, Director
Division of Administration
Department of Social and Health Services
Mailstop OB-33C
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Washington, Phone (206) 753-7015, by February 11, 1982. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Friday, February 26, 1982, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, March 3, 1982, in William B. Pope's Office, 3rd Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to February 26, 1982, and/or orally at 10:00 a.m., Friday, February 26, 1982, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: January 18, 1982

By: David A. Hogan
Director, Division of Administration

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045. Amend WAC 248-14-260.

The purpose of the rule or rule change is to reduce required registered nurse coverage in nursing homes from 24 hours a day to 16.

The Reason(s) These Rules are Necessary is: To implement chapter 14, Laws of 1981 2nd ex. sess.

Statutory Authority: RCW 74.42.620.

Person or Persons Responsible for the Drafting, Implementation and Enforcement of the Rule: Sharon Morrison, Legal Affairs Coordinator, Bureau of Nursing Home Affairs, Mailstop: OB-31, Phone: 4-1643.

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

AMENDATORY SECTION (Amending Order 1509, filed 5/28/80)

WAC 248-14-260 NURSING SERVICES. (1) There shall be organized nursing services with adequate administrative space and a sufficient number of qualified nursing personnel to meet the total nursing needs of all patients.

(a) Nursing services shall be under the direction of a full-time registered nurse.

(b) When any patient requires skilled nursing care, there shall be a registered nurse on duty (~~on each shift~~) a minimum of sixteen continuous hours per day.

(c) When all residents in the facility require intermediate nursing care or care for mental retardation or related conditions, there shall be at least one licensed nurse on duty eight hours every day and additional licensed staff on any shifts if indicated.

(d) Sufficient trained support staff shall be available and assigned only to duties consistent with ~~(their)~~ the trained support staff's education, ~~(their)~~ experience, and the current standards of nursing practice.

(2) Nursing input into the health record shall include:

(a) History and continuing assessments.

(b) Current comprehensive written care plans.

(c) Nursing orders.

(d) Ongoing documentation of delivery of appropriate services.

(e) Progress notes evaluating problems, approaches, goals, and resident responses.

(3) No form of restraint may be applied or utilized for the primary purpose of preventing or limiting independent mobility or activity, see chapter ~~(309, Laws of 1977 (chapter))~~ 11.92 RCW ((~~h~~)), except that a restraint may be used in a bona fide emergency situation when necessary to prevent an individual from inflicting injury upon self or others. A physician's order for proper treatment which would resolve the emergency situation and eliminate the cause for the restraint must be

obtained as soon as possible. If the problem cannot be resolved in seventy-two hours, timely transfer to a certified evaluation and treatment facility must be initiated.

(a) In other situations, protective restraints or support may be necessary for individuals with acute or chronic physical impairments. ~~((This))~~ The intervention must be related to a specific problem identified in the treatment plan. The plan shall be designed to diminish or eliminate the use of restraints.

(b) Any patient (~~(who is)~~) physically restricted shall be released at intervals not to exceed two hours to provide for ambulation, exercise, elimination, food and fluid intake, and socialization as independently as possible.

(c) Appropriate individualized safety measures shall be identified in the treatment plan and implemented.

(d) A restraint may be used as a time-out device within the context of a planned behavior modification program only in a certified IMR:

(i) When the program is approved by the human rights committee,

(ii) During conditioning sessions,

(iii) In the presence of a qualified trainer, and

(iv) For periods of less than one hour.

(4) Resident call lights shall be responded to promptly.

WSR 82-03-039

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health)

[Order 1751—Filed January 19, 1982]

I, David A. Hogan, Director, Division of Administration of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to nursing services, amending WAC 248-14-260.

I, David A. Hogan, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is these rules are necessary to implement chapter 14, Laws of 1981 2nd ex. sess.

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

This rule is promulgated pursuant to RCW 74.42.620 which directs that the Department of Social and Health Services has authority to implement the provisions of chapter 74.42 RCW.

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

APPROVED AND ADOPTED January 18, 1982.

By David A. Hogan
Director, Division of Administration

AMENDATORY SECTION (Amending Order 1509, filed 5/28/80)

WAC 248-14-260 NURSING SERVICES. (1) *There shall be organized nursing services with adequate administrative space and a sufficient number of qualified*

nursing personnel to meet the total nursing needs of all patients.

(a) Nursing services shall be under the direction of a full-time registered nurse.

(b) When any patient requires skilled nursing care, there shall be a registered nurse on duty (~~on each shift~~) a minimum of sixteen continuous hours per day.

(c) When all residents in the facility require intermediate nursing care or care for mental retardation or related conditions, there shall be at least one licensed nurse on duty eight hours every day and additional licensed staff on any shifts if indicated.

(d) Sufficient trained support staff shall be available and assigned only to duties consistent with ((their)) the trained support staff's education, ((their)) experience, and the current standards of nursing practice.

(2) Nursing input into the health record shall include:

(a) History and continuing assessments.

(b) Current comprehensive written care plans.

(c) Nursing orders.

(d) Ongoing documentation of delivery of appropriate services.

(e) Progress notes evaluating problems, approaches, goals, and resident responses.

(3) No form of restraint may be applied or utilized for the primary purpose of preventing or limiting independent mobility or activity, see chapter ((309, Laws of 1977 (chapter)) 11.92 RCW ((?))), except that a restraint may be used in a bona fide emergency situation when necessary to prevent an individual from inflicting injury upon self or others. A physician's order for proper treatment which would resolve the emergency situation and eliminate the cause for the restraint must be obtained as soon as possible. If the problem cannot be resolved in seventy-two hours, timely transfer to a certified evaluation and treatment facility must be initiated.

(a) In other situations, protective restraints or support may be necessary for individuals with acute or chronic physical impairments. ((This)) The intervention must be related to a specific problem identified in the treatment plan. The plan shall be designed to diminish or eliminate the use of restraints.

(b) Any patient ((who is)) physically restricted shall be released at intervals not to exceed two hours to provide for ambulation, exercise, elimination, food and fluid intake, and socialization as independently as possible.

(c) Appropriate individualized safety measures shall be identified in the treatment plan and implemented.

(d) A restraint may be used as a time-out device within the context of a planned behavior modification program only in a certified IMR:

(i) When the program is approved by the human rights committee,

(ii) During conditioning sessions,

(iii) In the presence of a qualified trainer, and

(iv) For periods of less than one hour.

(4) Resident call lights shall be responded to promptly.

WSR 82-03-040
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed January 19, 1982]

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

Amd	WAC 388-24-107	Eligibility conditions applicable to AFDC-registration for WIN/Employment and Training.
Amd	WAC 388-38-110	Applications—Time limit for disposal.
New	WAC 388-57-095	Intensive applicant employment services—Departmental authority.

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

David A. Hogan, Director
 Division of Administration
 Department of Social and Health Services
 Mailstop OB-33C
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Washington, Phone (206) 753-7015, by February 11, 1982. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Friday, February 26, 1982, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Tuesday, March 2, 1982, in William B. Pope's Office, 3rd Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to February 26, 1982, and/or orally at 10:00 a.m., Friday, February 26, 1982, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: January 19, 1982

By: David A. Hogan
 Director, Division of Administration

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045. Amend WAC 388-24-107 and 388-38-110 and adding new 388-57-095.

The purpose of the rule or rule change is to implement a high-priority work demonstration project identified as Intensive Applicant Employment Services.

The Reason(s) These Rules are Necessary is: To implement Department of Health and Human Services grant #11-P-98083-10-01.

Statutory Authority: RCW 74.08.090.

Summary of the Rule or Rule Change: Applicants for AFDC living in areas covered by the demonstration project will be required to engage in intensive job search unless they meet certain criteria.

Person or Persons Responsible for the Drafting, Implementation and Enforcement of the Rule is: Mick Determan, Program Manager, Division of Income Assistance, Mailstop: OB-31C, Phone: 3-4381.

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

AMENDATORY SECTION (Amending Order 1728, filed 12/4/81)

WAC 388-24-107 ELIGIBILITY CONDITIONS APPLICABLE TO AFDC—REGISTRATION FOR WIN/EMPLOYMENT AND TRAINING. (1) As a condition of eligibility for AFDC, every individual shall register for the WIN or employment and training (E&T) program unless such individual is:

(a) Under age sixteen or age sixteen but not yet ~~((eighteen who))~~ nineteen and is enrolled as, or has been accepted for enrollment as, a full-time student for the next school term, in a secondary school, or the equivalent level of vocational or technical training.

(b) A person who is ill, incapacitated, or sixty-five years of age or older. Cost of a physical or psychiatric examination is authorized when the examination is to determine employability for registration or participation in the WIN/E&T program.

(i) Temporary illness or incapacity (a condition lasting not more than ninety days) provides WIN/E&T exemption only for the period of a documented condition of unemployability. Exemption terminates when the condition ceases.

(ii) Persons who have been determined to be exempt from registration on the basis of permanent incapacity shall be referred for services under the vocational rehabilitation program.

(c) A person residing outside a WIN/E&T area or at a location so remote from a WIN/E&T project that ~~((his/her))~~ his or her effective participation is precluded.

(d) A person whose presence in the home is required because of illness or incapacity of another member of the household.

(e) A parent or other needy caretaker relative of a child under the age of six who is personally providing care for the child, with only brief and infrequent absences from the child~~((:))~~. In areas subject to the intensive applicant employment services work demonstration project where applicants are required to participate unless exempted, exemption is allowed only to a parent or other needy caretaker relative of a child under the age of three who is caring for the child.

(f) A mother of an unborn child.

(2) Any applicant or recipient has a right to a fair hearing to contest a determination of nonexempt status and shall be considered as exempt until ~~((his/her))~~ his or her status is finally determined. (See WAC 388-57-090).

(3) The requirements of any individual who fails to register as required under subsection (1) of this section shall not be taken into account in determining the requirements of the assistance unit and the amount of assistance, and assistance will be granted to the eligible members of the assistance unit.

(4) An exempt parent caretaker of a child or unborn child ~~((under the age of six))~~ shall be advised of ~~((her/his))~~ his or her option to register if ~~((she/he))~~ he or she so desires, and of the fact that child care will be provided if needed. Other exempted individuals may volunteer to register, subject to acceptance of such registration by DES.

(5) When an AFDC recipient ~~((who has been))~~ classified as exempt from WIN/E&T registration reports any change which affects the exempt status, ~~((he/she))~~ he or she shall be registered within thirty days after the report. If a change is not reported, exempt or nonexempt status will be determined at the next review unless the department becomes aware that an AFDC recipient's exempt status has changed. Then the recipient shall be notified that ~~((he/she))~~ he or she shall be registered within thirty days.

(6) The department's ~~((income maintenance unit (IMU)))~~ financial service unit shall determine which AFDC ~~((applicants/recipients))~~ applicants or recipients are exempt from registration and which are required to register as a condition of eligibility.

(7) Persons who are employed at least thirty hours per week are exempt from registration.

AMENDATORY SECTION (Amending Order 1693, filed 8/12/81)

WAC 388-38-110 TIME LIMIT FOR DISPOSAL. (1) Each application shall be acted upon as quickly as possible, and within thirty days unless exceptional circumstances in an individual case require a longer period of time. Although no type of application will necessarily require more than thirty days, it may not be possible to reach a decision in certain circumstances such as:

(a) Cases ~~((in which))~~ where eligibility decisions depend on medical reports and there is delay in obtaining such reports from the examining doctor or in securing medical information;

(b) Cases ~~((in which))~~ where eligibility decisions depend upon state office action and a delayed decision is caused by the state office not having sufficient or adequate information ~~((upon which))~~ to make a decision;

(c) Cases ~~((in which))~~ where eligibility depends upon extensive property appraisals;

(d) Cases ~~((in which))~~ where determination of eligibility requires out-of-state or intercity contacts and where the delaying factor is such correspondence.

(2) Applications for medical assistance will be disposed of in accordance with WAC 388-84-105 and 388-84-110.

(3) For applications submitted in intensive applicant employment services demonstration project areas by persons not exempt from participation under WAC 388-57-095 and otherwise eligible for AFDC, the date of authorization is determined by project staff in conjunction with CSO financial service technician, but shall be no later than thirty days after the date of application unless subsection (1) (a) through (d) of this section is applicable.

NEW SECTION

WAC 388-57-095 INTENSIVE APPLICANT EMPLOYMENT SERVICES—DEPARTMENTAL AUTHORITY. The intensive applicant employment services demonstration project is authorized under specific approval of the secretary of the department of health and human services through section 1115, social security act, grant number 11-P-98083-10-01.

(1) This project has the following objectives:

(a) To assist applicants for aid to families with dependent children (AFDC) to secure unsubsidized employment prior to authorization of the assistance grant;

(b) To provide certain applicants with preschool children age three years or over applying for AFDC and having previously been excluded from employment programs to participate in such programs;

(c) To provide AFDC applicants with sufficient social and financial supports during the application period to enable the applicants to conduct intensive job search;

(d) To determine the extent AFDC applicants will secure employment if required to participate in a job search program;

(e) To determine the extent AFDC applicants will secure employment through voluntary participation in a job search program;

(f) To determine the extent young applicants with small children can be assisted to become self-supporting as compared to applicants with school-age children.

(2) Applicants for AFDC residing in an area subject to the intensive applicant employment services demonstration project shall participate in this project to engage in job search unless exempted under the following conditions:

(a) Application is made in offices where project participation is voluntary;

(b) A child under age sixteen or attending school full time;

(c) A person is ill, incapacitated, or of advanced age;

(d) A person is so remote from a CSO that his or her effective participation is precluded;

(e) A person whose presence in the home is required because of illness or incapacity;

(f) Applicants with children under age three years; and

(g) Persons working in unsubsidized employment at least thirty hours per week.

(3) If an applicant fails or refuses without good cause to participate in the intensive applicant employment services demonstration project, his or her needs shall not be taken into account in determining the family's need for assistance and grant amount. This sanction shall be consistent with the WIN sanction process in WAC 388-57-064. An applicant adversely affected shall have the opportunity for administrative review.

WSR 82-03-041
ATTORNEY GENERAL OPINION
Cite as: AGLO 1982 No. 1
 [January 18, 1982]

**DISTRICTS—SCHOOLS—EMPLOYEES—RETIREMENT—
 REIMBURSEMENT FOR UNUSED SICK LEAVE**

In order to receive reimbursement for unused sick leave, pursuant to RCW 28A.58.097, at the time of separation from school district employment due to retirement, an employee must have separated from such employment and have been granted a retirement allowance under the laws governing the Teachers' Retirement System or the Public Employees' Retirement System, whichever applies; however, it is not necessary that the employee have actually filed for retirement prior to the date of his or her separation so long as the application is thereafter filed within a reasonable period of time and without the occurrence of any intervening covered employment.

Requested by:

Honorable E. R. Whitmore, Jr.
 Chelan County Prosecuting Attorney
 P. O. Box 2596
 Wenatchee, Washington 98801

WSR 82-03-042
ADOPTED RULES
DEPARTMENT OF ECOLOGY
 [Order DE 81-45—Filed January 19, 1982]

I, John F. Spencer, deputy director of the Department of Ecology, do promulgate and adopt at the Department of Ecology, Lacey, Washington, the annexed rules relating to Bremerton, City of, amending WAC 173-19-2601.

This action is taken pursuant to Notice Nos. WSR 81-23-056 and 82-02-076 filed with the code reviser on November 18, 1981 and January 6, 1982. Such rules shall take effect 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 he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED January 19, 1982.

By John F. Spencer
 Deputy Director

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

WAC 173-19-2601 BREMERTON, CITY OF. City of Bremerton master program approved January 9, 1978. Revision approved March 3, 1978. Revision approved June 28, 1978. Revision approved August 22,

1978. Revision approved October 24, 1978. Revision approved January 19, 1982.

WSR 82-03-043
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed January 19, 1982]

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

Amd WAC 173-19-2601 Bremerton, City of.
 Amd WAC 173-19-420 Thurston County.
 Amd WAC 173-19-450 Whatcom County;

that such agency will at 2:00 p.m., Thursday, February 25, 1982, in the Hearings Room, Department of Ecology, Air and Land Offices, Rowsix, 4224 Sixth Avenue S.E., Lacey, WA, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 11:00 a.m., Thursday, March 4, 1982, in Room 273, Department of Ecology Headquarters, Abbott Rafael Hall, St. Martin's College Campus, Lacey, Washington.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to March 1, 1982, and/or orally at the above hearing.

Dated: January 19, 1982

By: John F. Spencer
 Deputy Director

STATEMENT OF PURPOSE

Title: Amending WAC 173-19-2601 Bremerton, City of; WAC 173-19-420 Thurston County; and WAC 173-19-450 Whatcom County.

Description of Purpose: Adoption of revised shoreline master programs into the state master program, chapter 173-19 WAC.

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendments adopt revisions to shoreline master programs for the City of Bremerton, Thurston County and Whatcom County.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local government and submitted to the Department of Ecology for approval. The programs do not become effective until adopted by the department in accordance with the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michael Rundlett, Department of Ecology, Mailstop PV-11, Olympia, WA 98504, 459-6276.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government, local government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

AMENDATORY SECTION (Amending Order DE 81-45, filed 1/19/82)

WAC 173-19-2601 BREMERTON, CITY OF. City of Bremerton master program approved January 9, 1978. Revision approved March 3, 1978. Revision approved June 28, 1978. Revision approved August 22, 1978. Revision approved October 24, 1978. Revision approved January 19, 1982. Revision approved March 4, 1982.

AMENDATORY SECTION (Amending Order DE 81-26, filed 9/24/81)

WAC 173-19-420 THURSTON COUNTY. Thurston County master program approved May 21, 1976. Revision approved August 27, 1976. Revision approved August 7, 1979. Revision approved September 23, 1981. Revision approved March 4, 1982.

AMENDATORY SECTION (Amending Order DE 81-49, filed 1/6/82)

WAC 173-19-450 WHATCOM COUNTY. Whatcom County master program approved August 27, 1976. Revision approved April 11, 1977. Revision approved August 11, 1978. Revision approved December 22, 1981. Revision approved January 5, 1982. Revision approved March 4, 1982.

WSR 82-03-044
PROPOSED RULES
FOREST PRACTICES BOARD
[Filed January 19, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Forest Practices Board of the state of Washington intends to adopt, amend, or repeal rules concerning the conduct of forest practices, Title 222 WAC.

The formal adoption, amendment, or repeal of such rules will take place at 10:00 a.m., Wednesday, June 30, 1982, in Conference Room 301, Department of Natural Resources, Public Lands Building, Olympia, Washington 98504.

The authority under which these rules are proposed is RCW 76.09.040 and 76.09.050 which directs that the Forest Practices Board has the authority to implement the provisions of chapter 76.09 RCW.

This notice is connected to and continues the matter in Notice No. WSR 81-20-067 filed with the code reviser's office on October 6, 1982.

Dated: January 14, 1982
By: Eugene P. Nielsen
Executive Secretary

WSR 82-03-045

ADOPTED RULES
DEPARTMENT OF FISHERIES
[Order 82-6—Filed January 19, 1982]

I, Rolland A. Schmitt, director of the State Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing rules and commercial shellfish rules.

This action is taken pursuant to Notice No. WSR 81-22-056 filed with the code reviser on November 3, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

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

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

APPROVED AND ADOPTED December 22, 1981.

By Rolland A. Schmitt
Director

NEW SECTION

WAC 220-16-132 SCALLOP DREDGE. "Scallop dredge" is defined as a specialized type of beam trawl with interlocking metal ring meshes, which is legal gear for harvest of scallops.

AMENDATORY SECTION (Amending Order 1105, filed 12/28/73)

WAC 220-16-315 GENERAL DEFINITIONS—NET MESH MEASUREMENT. The size of a mesh of any net shall be defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh when the mesh is stretched vertically, while wet, by using a tension of ten (10) pounds on any three (3) consecutive meshes, then measuring the middle mesh of the three while under tension (~~(; provided that)~~), except when measuring mesh used in otter trawl and shrimp trawl nets, the size of a mesh shall be defined as the distance between the inside of one knot to the inside of the opposite vertical knot.

AMENDATORY SECTION (Amending Order 81-3, filed 1/7/81)

WAC 220-44-030 COASTAL BOTTOMFISH GEAR. (1) It (~~shall be~~) is unlawful to take, fish for, possess, transport through the waters of the state or land in any Washington State ports, bottomfish taken for commercial purposes in coastal or Pacific Ocean waters with any gear except as provided in subsection (8) of this section or as follows:

- (a) Otter trawl and beam trawl.
- (b) Set lines.
- (c) Hand line jig gear.
- (d) Troll lines.

(e) Bottomfish pots.

(2) In fishing with hand line jig gear within state waters, it ~~((shall be))~~ is unlawful to use more than three hooks per license with a maximum of six hooks per vessel.

(3) In fishing with set lines within state waters, it ~~((shall be))~~ is unlawful to use more than three lines and more than 500 hooks per line.

(4) It ~~((shall be))~~ is unlawful for the operator of set lines to leave such gear unattended unless marked as provided in WAC 220-20-010(5).

(5) It ~~((shall be))~~ is unlawful to take, fish for or possess any species of shellfish taken with lawful bottomfish gear except as provided in WAC 220-52-053, 220-52-063, 220-52-066, 220-52-069, and 220-52-071.

(6) It ~~((shall be))~~ is unlawful to take, fish for or possess salmon while fishing for bottomfish with troll line gear under authority of a bottomfish troll license, provided; in any coastal waters it ~~((shall be))~~ is lawful to retain for commercial purposes any species of bottomfish taken with commercial salmon gear incidental to a lawful salmon fishery.

(7) It ~~((shall be))~~ is unlawful to use, operate, or carry aboard any fishing vessel, otter trawl gear having meshes measuring less than 3 inches, except that it ~~((shall be))~~ is lawful to use otter trawl nets having a minimum mesh size of 2-1/2 inches when fishing for Pacific hake.

(8) It ~~((shall be))~~ is lawful in any coastal waters to retain for commercial purposes any species of bottomfish taken with shrimp trawl or scallop dredge gear incidental to a lawful shrimp or scallop fishery.

AMENDATORY SECTION (Amending Order 80-123, filed 9/17/80)

WAC 220-52-050 SHRIMP FISHERY—LAWFUL AND UNLAWFUL. (1) It ~~((shall be))~~ is unlawful ~~((for any commercial shrimp fisherman))~~ to land or possess ~~((any quantity of))~~ shrimp exceeding ~~((ten percent by weight or number which is undersized or unmarketable. Unmarketable or undersized shrimp shall be defined as including any size or species of shrimp unacceptable to the market for human consumption))~~ an average of 160 whole shrimp per pound in or from the coastal waters of the state of Washington and the adjoining waters of the Pacific Ocean. The count must average no more than 160 shrimp per pound for a minimum of two samples increasing at a rate of one sample per one thousand pounds landed or in possession up to a maximum requirement of twenty samples. Such samples shall consist of at least one pound each of whole unbroken shrimp taken at random from throughout the individual load landed or in possession. This subsection applies only to loads of 3,000 pounds of shrimp or more.

(2) It ~~((shall be))~~ is unlawful for any person to take or fish for shrimp for commercial purposes in Puget Sound with more than 100 shellfish pots, and it ~~((shall be))~~ is unlawful for any group of persons using the same vessel to take or fish for shrimp for commercial purposes in Puget Sound with more than 100 shellfish pots except:

(a) It ~~((shall be))~~ is unlawful for any person, or for any group of persons using the same vessel, to take or

fish for shrimp for commercial purposes with more than 75 shellfish pots in Puget Sound Marine Fish-Shellfish Area 28B as described in WAC 220-22-400.

(b) It ~~((shall be))~~ is unlawful for any person to take or fish for shrimp for commercial purposes in that portion of Marine Fish-Shellfish Catch Reporting Area 23 inside and westerly of a line projected from the tip of Ediz Hook to the ITT Rayonier Dock with more than 10 shellfish pots.

(3) It ~~((shall be))~~ is unlawful to operate, set or have in the water any baited or unbaited shellfish pots for taking of shrimp for commercial purposes in any area or at any time that it is unlawful to take or fish for shrimp for commercial purposes therein.

AMENDATORY SECTION (Amending Order 79-6, filed 1/30/79)

WAC 220-52-053 SHRIMP FISHERY—SEASONS—AREAS AND GEAR. (1) It ~~((shall be))~~ is lawful during the period May 15 through September 15 of each year to take, fish for and possess shrimp taken for commercial purposes with shellfish pot gear in the waters of Puget Sound: PROVIDED, That all waters of Hood Canal southerly of the Hood Canal floating bridge and Carr Inlet inside and northerly of a line projected from Penrose Point to Green Point ~~((shall remain))~~ are closed except as specifically provided for by emergency regulation.

(2) It ~~((shall be))~~ is lawful during the period April 15 through October 15 of each year to take, fish for and possess shrimp taken for commercial purposes with beam trawl gear in any Puget Sound marine fish-shellfish area described in WAC 220-22-400 except in Puget Sound marine fish-shellfish areas 27A, 27B, 27C, 28A, 28B, 28C, 28D, and other waters when closed to otter and beam trawling as provided in WAC 220-48-090.

(3) It ~~((shall be))~~ is unlawful at any time to take or fish for shrimp for commercial purposes with otter trawl gear in the waters of Puget Sound.

(4) It ~~((shall be))~~ is lawful during the ~~((entire))~~ period April 1 through October 31 of each year to take, fish for ~~((and)),~~ land, or possess shrimp for commercial purposes taken with shrimp trawl~~((;))~~ or beam trawl ~~((or shellfish pot))~~ gear in or from the coastal waters of the state of Washington and the adjoining waters of the Pacific Ocean.

(5) ~~((It shall be unlawful to possess for commercial purposes in the state of Washington any fresh shrimp taken from the waters of the Pacific Ocean off the Oregon coast from October 16 through March 31 of the following year.))~~ It is lawful the entire year to take, fish for, land, or possess shrimp for commercial purposes taken with shellfish pot gear in or from the coastal waters of the state of Washington and the adjoining waters of the Pacific Ocean.

(6) ~~((Effective with the beginning of the 1979 Hood Canal shrimp season,))~~ It ~~((shall be))~~ is unlawful to take, fish for, or possess shrimp taken for commercial purposes with shellfish pot gear in the waters of Hood Canal southerly of the Hood Canal floating bridge unless such gear meets the following requirements:

(a) The top, bottom and at least one-half of the area of the sides of the shellfish pots shall have the minimum mesh size defined below.

(b) The minimum mesh size for shrimp pots is defined as a square or rectangular mesh such that the inside distance between any knot or corner and each adjacent knot or corner shall be no less than 7/8 of an inch provided that the shortest inside diagonal of each mesh shall be no less than 1-1/8 inches.

AMENDATORY SECTION (Amending Order 80-123, filed 9/17/80)

WAC 220-52-054 SHRIMP FISHERY—UNLAWFUL GEAR. (1) It ~~((shall be))~~ is unlawful to take, fish for, land or possess shrimp for commercial purposes taken in the coastal waters of the state of Washington or the Pacific Ocean with the following types of shrimp trawl gear:

(a) Shrimp trawl gear having a mesh size greater than two inches or smaller than one and one-half inches in the intermediate or codend (stretch measurement including one knot), provided that it ~~((shall be))~~ is lawful to have net mesh larger than two inches in the wings and/or body of the trawl.

Effective April 1, 1987, shrimp trawl gear having a mesh size smaller than one and three-eighths inches as measured by a twenty-gauge stainless steel tapered gauge of one and three-eighths inches maximum width. At least seventy-five percent of meshes measured randomly throughout the net must fit on the gauge for compliance.

(b) Shrimp trawl gear having a double-layered codend (liner).

(c) Shrimp trawl gear employing an additional layer of webbing (lifting bag) over the codend section which has a mesh size smaller than three inches or a circumference smaller than the shrimp trawl codend at its greatest circumference.

(d) Shrimp trawl gear employing additional layers of protective webbing (chafing gear) over the codend of the shrimp trawl unless such webbing is attached at only one strip around the circumference of the codend, trails freely therefrom and has a minimum mesh size of three inches.

(2) It ~~((shall be))~~ is unlawful to have aboard a commercial shrimp vessel in the waters of the state of Washington or the Pacific Ocean any shrimp trawl gear described in subsection (1) of this section while any shrimp are on board the vessel.

AMENDATORY SECTION (Amending Order 807, filed 1/2/69, effective 2/1/69)

WAC 220-52-069 SCALLOP FISHERY. (1) It ~~((shall be))~~ is lawful at any time to take or fish for scallops for commercial purposes with otter trawl or beam trawl or scallop dredge gear, provided that it ~~((shall be))~~ is unlawful at any time to take or possess rock scallop of the species Hinnites multriugosus.

(2) It is unlawful to take or fish for scallops for commercial purposes in any waters of the state of

Washington or the Pacific Ocean with scallop dredges having a ring size less than three inches inside diameter.

AMENDATORY SECTION (Amending Order 81-31, filed 5/11/81)

WAC 220-52-075 SHELLFISH HARVEST LOGS. It is unlawful for any vessel operator engaged in commercial crawfish, ~~((geoduck,))~~ sea cucumber, sea urchin, scallop, and shrimp fisheries and operators of mechanical clam digging devices to fail to obtain and accurately maintain the appropriate harvest log available from the Washington department of fisheries. The harvest log must be kept aboard the vessel while the vessel is engaged in harvest or has crawfish, ~~((geoducks,))~~ sea cucumbers, sea urchins, shrimp, scallops or clams aboard. The vessel operator must submit the log book for inspection upon request by authorized department of fisheries representatives. The department's copies of the completed harvest log must be submitted to the department for each calendar month in which fishing activity occurs. State copies must be received within ten days following any calendar month in which fishing occurred and by the tenth day following the termination of commercial fishing activity, whichever occurs first. Vessel operators engaged in commercial harvest of:

(1) Shrimp and crawfish with shellfish pot or ring net gear must record the vessel identity, number of pots or ring nets pulled, date pulled, soak times and gear location before leaving the catch area where taken and weights must be recorded upon landing or sale.

(2) Shrimp with beam trawl or shrimp trawl gear must record the vessel identity, date, location, duration and estimated weight of shrimp caught for each tow before leaving the catch area where taken.

(3) Sea urchins, or sea cucumbers must record the vessel identity, date, location and approximate number of ~~((geoducks,))~~ sea urchins or sea cucumbers before leaving the catch area where taken and the exact weight must be recorded upon landing or sale.

(4) Clams with mechanical digging devices must record the vessel identity, location and date of harvest before the end of each days' fishing and the weights by clam species must be recorded upon landing or sale.

(5) Scallops with dredge or trawl gear must record the vessel identity, date, location, and duration of harvest and estimated weight of scallops caught for each tow before leaving the catch area where taken.

WSR 82-03-046

ADOPTED RULES

DEPARTMENT OF LICENSING

[Order 668 DOL—Filed January 19, 1982]

I, John Gonzalez, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to licensing of drivers and formal hearings re suspensions, amending WAC 308-100-010, 308-100-020, 308-100,050, 308-100-060, 308-102-012, 308-102-210, 308-102-260, 308-102-290, 308-104-015, 308-104-025, 308-104-

040, 308-104-050, 308-104-100, adopting as new rules, WAC 308-104-150, 308-104-160, 308-104-170, 308-104-180, 308-104-058 and repealing WAC 308-100-070, 308-102-013, 308-104-020 and 308-104-030.

This action is taken pursuant to Notice No. WSR 81-22-077 filed with the code reviser on November 4, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Licensing as authorized in RCW 46.01.110.

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

APPROVED AND ADOPTED January 19, 1982.

By John Gonzalez
Director

AMENDATORY SECTION (Amending Order 106 MV, filed 8/17/71)

WAC 308-100-010 VEHICLES REQUIRING ENDORSEMENT FOR THEIR OPERATION. The director of the department of ~~((motor vehicles))~~ licensing hereby finds that all motor trucks having three axles; truck-tractors having three axles; for-hire vehicles having three or more axles or designed to carry nine or more passengers; crew busses having three or more axles or designed to carry nine or more passengers; state, private and civic organization busses having three or more axles or designed to carry nine or more passengers; school busses; auto stages designed to carry nine or more passengers; and private carrier busses, require special operating skills by the drivers of those vehicles. All persons driving such vehicles must secure from the department of ((motor vehicles)) licensing an endorsement on their driver's license designated as INTERMEDIATE.

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

AMENDATORY SECTION (Amending Order 106 MV, filed 8/17/71)

WAC 308-100-020 COMBINATION MOTOR VEHICLES REQUIRING AN ENDORSEMENT FOR THEIR OPERATION. The director of the department of ~~((motor vehicles))~~ licensing hereby finds that all motor trucks and truck-tractors operated in combination with any semi-trailers or trailers, when such trailers are in excess of 5,000 pounds gross weight, require special operating skills by the drivers of those combination vehicles. All persons driving such combination vehicles must secure from the department of ~~((motor vehicles))~~ licensing an endorsement on their driver's licenses designated as COMBINATION.

AMENDATORY SECTION (Amending Order 691101, filed 11/26/69)

WAC 308-100-050 FEES. The basic fee for the obtaining of an endorsement shall be five dollars or such lesser sum as the director may from time to time require. The examination fee for any person seeking an endorsement, without a waiver, shall be ~~((two))~~ three dollars, which is in addition to the basic five dollar fee. These fees are in addition to the regular drivers' licensing fees.

AMENDATORY SECTION (Amending Order 691101, filed 11/26/69)

WAC 308-100-060 WAIVER APPLICATIONS AND FORMS. An application for a waiver from examination must be submitted on forms supplied by the department of ~~((motor vehicles))~~ licensing. ~~((The forms shall be substantially as follows:~~

~~1. Waiver Certificate by Employer or Union Dispatcher-Classified Driver's License:~~

~~The undersigned employer or dispatcher of a union is required upon notice to furnish qualified and competent drivers, upon information and belief hereby certifies that~~

~~.....
(Name of Employee)~~

~~CHECK ONE OF THE FOLLOWING:~~

~~(1)Is well qualified by previous driving experience to operate the type of vehicle or vehicles covered by the special endorsement for which he has applied.~~

~~(2)Has satisfactorily completed a training course given by this employer or union dispatcher, which course has been approved by the director of motor vehicles. When was the course taken? Where? By whom was it given?~~

~~This certification is made for the purpose of complying with RCW 46.20.460 and in no way warrants that the above-named employee will operate the vehicle or vehicles to which his endorsement applies with due care.~~

~~Dated this day of, 19...~~

~~.....
(Name and title of person authorized to sign on behalf of employer or union)~~

~~2. Waiver Certificate by Self-employed - Classified Driver's License:~~

~~I,
(Print name Driver's License No.)~~

~~hereby certify that I am self-employed, and that the following statements I have checked are true and correct:~~

~~(CHECK ALL STATEMENTS WHICH APPLY)~~

~~(1)I have been engaged in driving a vehicle or vehicles for a minimum of one year on the public highways:~~

~~(2) I have completed an approved driver training course or examination. When was the course or examination given? Where was the course or examination given?~~

~~By whom was the course or examination given?~~

~~I am applying for the following endorsement:~~

~~Dated this day of, 19.~~

~~(Signature of Applicant))~~

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

REPEALER

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

(1) WAC 308-100-070 EFFECTIVE DATE FOR ENDORSEMENT REQUIREMENTS

AMENDATORY SECTION (Amending Order 228, filed 12/31/74)

WAC 308-102-012 AMOUNT OF SECURITY - EFFECT OF COMPARATIVE NEGLIGENCE. The department (~~shall~~) may determine the percentage of negligence attributable to any person claiming injury or damage in twenty-five percentile units and then (~~shall~~) may reduce the amount of security in proportion to that percentage: PROVIDED, That the department shall not require security if the person claiming injury or damage is ninety percent or more negligent.

AMENDATORY SECTION (Amending Order MV-302, filed 3/31/75)

WAC 308-102-210 FORMAL HEARING - TIME AND PLACE. If a timely request for a formal hearing is made, the department shall notify the licensee of the time and place of such hearing in writing, and mail such notice to the last address of record, at least twenty (20) days in advance of the hearing date. (~~Such~~) The hearing shall be held ((in the county where the licensee resides)) within a reasonable distance of the county wherein the licensee resides or, if the licensee is a nonresident of Washington, in the county where the accident occurred.

AMENDATORY SECTION (Amending Order 466-DOL, filed 12/30/77)

WAC 308-102-260 HEARING OFFICER - DUTIES. The hearing officer, in making his/her decision at the formal hearing, shall consider:

- (1) Sworn oral testimony offered by the licensee.
- (2) Sworn oral testimony offered by witnesses on behalf of the licensee.

(3) Sworn oral testimony offered by the individual(s) who sustained the loss.

(4) Sworn oral testimony offered by witnesses on behalf of the individual (s) who sustained the loss or offered by the representative of the insurance carrier who has a subrogated interest therein.

(5) Court records of convictions or bail forfeitures submitted to the Department of Licensing and arising out of the accident in question.

(6) ((Any other evidence related to the issues before the hearing.)) Traffic collision reports completed by a police officer who investigated the accident, all reports and other information submitted to the department by the individual(s) who sustained the loss or the insurance carrier who has a subrogated interest therein, records and documents in the possession of the department of which it desires to avail itself, repair estimates, repair and medical bills, towing bills and any other reasonable accounting of a loss proximately arising from an accident or photocopies thereof.

(7) Any other evidence related to the issues before the hearing which have probative value commonly accepted by reasonable, prudent persons in the conduct of their affairs.

AMENDATORY SECTION (Amending Order MV-349, filed 1/28/76)

WAC 308-102-290 FORMAL HEARINGS - FINDINGS, CONCLUSIONS AND DECISIONS. At the conclusion of the formal hearing, the hearing officer shall, as soon as practical, make and enter findings of fact, conclusions of law and an order. They shall either affirm, rescind or modify the terms of the previous departmental order concerning the deposit of security or suspension. If the hearing officer is not authorized to make final determinations, the director or his /her authorized representative(s) shall review the recommendations together with the transcript or recording of the hearing and all evidence of record, and shall enter a final order which affirms, rescinds or modifies the departmental order of suspension. Copies of the findings of fact, conclusions of law and order so entered shall be sent to the licensee.

If the order of the department is affirmed, the department shall suspend the driver's license or nonresident driving privilege of the licensee, but the order of suspension shall carry an effective date of thirty (30) days after the date of mailing, during which time the licensee may comply with the terms of the order.

If the order of the department is reversed, the department shall cancel its previous order.

If the order of the department is modified, the department shall nonetheless (~~suspend~~ ~~[suspend]~~) suspend the driver's license or nonresident driving privilege of the licensee ((for failure to post the required security and file proof of financial responsibility for the future)), but the order of suspension shall carry an effective date of thirty (30) days after the date of mailing, during which time the licensee may comply with the terms of the order.

REPEALER

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

(1) WAC 308-102-013 AMOUNT OF SECURITY - EXEMPTION BECAUSE OF AGE OF DAMAGED VEHICLE

NEW SECTION

WAC 308-104-015 ALCOHOLISM TREATMENT. Whenever the department suspends the driving privilege of a person, pursuant to RCW 46.20.291, for the reasons set forth in RCW 46.20.031(4), reinstatement shall be contingent upon the department receiving a report confirming that the person has participated for at least sixty (60) days in an alcoholism treatment program meeting the requirements of WAC 275-15-020(2) or WAC 275-15-020(5). Said report shall be provided by an approved and accredited facility as defined in either WAC 275-15-030(9) or WAC 275-15-030(10).

The treatment report must be completed by an administrator or alcoholism counselor as defined in WAC 275-15-030, on a form provided by the department.

The department may waive the sixty-day treatment requirement in whole or in part upon a showing that the full sixty days of treatment would not be in the best interests of the person's recovery progress.

NEW SECTION

WAC 308-104-025 EFFECT OF ACCUMULATION OR TRAFFIC OFFENSES. Whenever the official records of the department show that a person has committed at least three traffic offenses within a one-year period, or at least four traffic offenses within a two-year period, the department may require the person to appear for a driver improvement interview, as provided in Chapter 46.20, RCW; PROVIDED, That when a person has committed fewer traffic offenses than set forth in this section, the department may require the person to appear for a driver improvement interview or suspend the person's driving privilege when such action appears to be in the interest of the safety of other persons on the highways.

For purposes of this section "traffic offense" means a conviction as defined in RCW 46.20.270, or a finding that a traffic infraction has been committed as defined in RCW 46.63.020.

AMENDATORY SECTION (Amending Order 468-DOL, filed 12/30/77)

WAC 308-104-040 DRIVER'S LICENSES ((NOT VALID)) FOR IDENTIFICATION AND IDENTICARDS. No identicard shall be issued, nor shall any Washington state driver's license be issued, ((except that the same be marked "not valid for identification") unless the applicant therefor shall have satisfied the ((examiner)) department regarding his/her identity. In no event shall an applicant be deemed to have satisfied identity requirements of this rule, unless he/she displays or provides the ((examiner)) department with at least two of the following:

(1) ((A department of licensing pre-bill; (2))) An expired or expiring driver's license which contains the signature and/or a photograph of the applicant;

((3)) (2) A valid Washington State identicard;

((4)) (3) A nationally or regionally known credit card containing the signature and/or photograph of the applicant;

((5)) (4) An identification card issued by the United States, any state, or any agency of either((;)) of a kind commonly used to identify the members or employees of such government agencies, (including military I.D. Cards) and which contain the signature and/or the photograph of the applicant;

((6)) (5) Any certificate or other document issued by any governmental agency commonly used for the purpose of establishing identities;

((7)) (6) An affidavit of the applicant, or in case the applicant is a minor, an affidavit of his parent or guardian;

((8)) (7) Such other documentary evidence as in the opinion of the ((examiner)) department clearly establishes the identity of the applicant.

AMENDATORY SECTION (Amending Order 468-DOL, filed 12/30/77)

WAC 308-104-050 WAIVER OF DRIVER EDUCATION REQUIREMENT - WHEN GRANTED. No waiver of the traffic safety education course requirement for applicants under the age of 18 years shall be issued unless:

(1) The parent, guardian, or other person having the care, custody and control of the applicant certifies that the applicant ((was)) is:

(a) Unable to take or successfully complete a traffic safety education course and the reasons therefor((e)), and

(b) That there exists an immediate need to operate a motor vehicle. The immediate need shall be set forth in as much detail as possible. For the purpose of meeting this requirement, "an immediate need exists" shall be construed to mean that the capability to drive will reduce or help eliminate the negative consequences of the situation that created the immediate need to drive. If operating a motor vehicle does not reduce the hardship which was created by the situation, "an immediate need" does not exist; and

(2) The waiver is approved by a majority of a three member committee consisting of two department of licensing members which shall include any two of the following: The assistant director for driver services, ((the financial responsibility manager)) the administrator of driver control, the administrator of ((the)) driver improvement ((section)), the administrator or assistant administrator(s) for driver ((examining)) operations, and one member ((of which)) who shall be the supervisor of driver and safety education in the office of the superintendent of public instruction or his/her designee. The committee shall have the power to set definite restrictions as to hours of the day and routes or areas of travel permitted under the waiver until the applicant has

completed a driver education course or has reached the age of 18 years.

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

NEW SECTION

WAC 308-104-058 CONVICTIONS - COURT RECOMMENDATIONS. The department shall suspend or revoke the license or permit to drive or any nonresident driving privilege of any person convicted of the violation named in RCW 46.61.502 or the violation named in RCW 46.61.504, notwithstanding a court's recommendation to the contrary pursuant to RCW 46.61.515(5)(a), when the department's record shows any one of the following:

(1) The person has within the five years immediately preceding the current conviction:

(a) A previous conviction of driving while under the influence of intoxicating liquor or drugs;

(b) A previous conviction of being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs;

(c) A previous license or permit to drive revocation or nonresident's driving privilege revocation imposed, pursuant to RCW 46.20.308, for refusal to submit to a chemical test or tests to determine alcoholic content of blood;

(d) Been previously placed in a deferred prosecution program for either the offense of driving while under the influence of intoxicating liquor or drugs or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs.

(2) The person was at the time of the arrest for the offense within the terms of a driver improvement probation imposed, pursuant to RCW 46.20.335.

AMENDATORY SECTION (Amending Order MV 349, filed 1/28/76)

WAC 308-104-100 OCCUPATIONAL DRIVER'S LICENSE - PERSON ELIGIBLE. The department shall issue an occupational driver's license to any person who has had his/her driver's license suspended or revoked because of a conviction ((of)) or bail forfeiture for any offense relating to motor vehicles, other than negligent homicide ((or manslaughter)), provided, (1) the person is eligible pursuant to the provisions of ((RCW 46.20.390)) RCW 46.20.380 and RCW 46.20.391, (2) the person had an unexpired Washington driver's license on the date of conviction for said offense, (3) the person did not have his/her resident driver's license suspended or revoked for any reason on the date of conviction for said offense, (4) the person had not been required on the date of conviction to surrender his/her Washington driver's license to the department for ((the)) failure to maintain the filing of proof of financial responsibility for the future ((on the date of conviction)) for said offense, or (5) the person has not within a one-year period been convicted of the violation named in

RCW 46.61.502 or the violation named in RCW 46.61.504 regardless of the court's recommendation pursuant to RCW 46.61.515(5)(a).

NEW SECTION

WAC 308-104-150 ADDRESS REQUESTS - TERMS AND FEES. The department may respond to written requests for addresses of persons whose driving records are maintained by said department. The individual or agency requesting the address must supply the department with the full name and the driver's license number or date of birth of each person whose address is requested. The department may deny address information to any person or agency when it has reason to believe that releasing such information could result in harm to the safety or well-being of the person whose address has been requested.

The department shall collect in advance a fee of two dollars for each address requested in a single listing up to and including ten addresses, and fifteen cents for each additional address on that single listing: PROVIDED, That the addresses will be provided all governmental agencies without charge.

NEW SECTION

WAC 308-104-160 NONMOVING VIOLATION DEFINED. (1) A "non-moving violation" as used in RCW 46.65.020 shall mean any violation or traffic infraction in Title 46 RCW, other than those included in the following list:

- (a) Driving while under the influence of intoxicants or drugs
- (b) Reckless driving
- (c) Hit and run (occupied vehicle)
- (d) Negligent homicide
- (e) Driving while driving privilege suspended or revoked
- (f) Eluding police vehicle
- (g) Racing
- (h) Embracing
- (i) Manslaughter
- (j) Speed too fast for conditions
- (k) Speed 1 to 14 MPH excess
- (l) Speed 15 to 29 MPH excess
- (m) Speed over 29 MPH excess
- (n) Failure to stop
- (o) Disobey road sign
- (p) Improper lane change
- (q) Improper lane travel
- (r) Prohibited turn
- (s) Unnecessary noise
- (t) Negligent driving
- (u) Wrong way on one-way street
- (v) Driving over center line
- (w) Drive wrong side of road
- (x) Straddling centerline
- (y) Failure to yield right of way
- (z) Disobey signalman
- (aa) Disobey school patrol
- (bb) Driving without lights
- (cc) Failure to dim lights

- (dd) Following too closely
- (ee) Improper turn
- (ff) Failure to signal or improper signal
- (gg) Passing stopped school bus
- (hh) Driving on shoulder or sidewalk
- (ii) Violating license restriction(s)
- (jj) Carrying passenger improperly
- (kk) In physical control of vehicle while under the influence of alcohol or drugs.
- (ll) Failure to use due care
- (mm) Crossing fire hose
- (nn) Carry passengers outside vehicle
- (oo) Improper backing
- (pp) Obstructed vision or control
- (qq) Following emergency equipment
- (rr) Crossing divider
- (ss) Inattention
- (tt) Improper mirrors
- (uu) Illegal vehicle equipment
- (vv) Handle bars over height
- (ww) Illegal lights
- (xx) Defective equipment (lights, brakes, tires, steering, windshield wipers)
- (yy) Violation, RCW 46.20.336
- (zz) No goggles, windshield or face shield
- (aaa) Improper overtaking or passing
- (bbb) Hit and run (unattended vehicle)
- (ccc) Impeding traffic
- (ddd) More persons than provided for on motorcycle
- (eee) Operating moped on freeway
- (fff) Wearing earphones.

(2) For the purposes of RCW 46.65.020(1)(c), the department shall consider convictions of driving while driving privilege suspended only if the violation actually occurred prior to eligibility date of license reinstatement and the department would normally have imposed a like period of resuspension of the driving privilege.

NEW SECTION

WAC 308-104-170 ALCOHOLISM TREATMENT PROGRAM. (1) For the purposes of Title 46 RCW, a person shall be deemed to have undertaken and followed a course of treatment for alcoholism on a program approved by the department of social and health services if he or she has been under said program for at least sixty days: PROVIDED, That the department may accept a shorter treatment term upon a showing that the full sixty days of treatment would not be in the best interests of the person's recovery progress.

(2) The term "program approved by the department of social and health services," as used in Title 46 RCW, shall mean an alcoholism treatment program meeting the requirements of WAC 275-15-020(5).

NEW SECTION

WAC 308-104-180 STAY OF HABITUAL TRAFFIC OFFENDER REVOCATION. When a person's driving privilege has been revoked as the result of a hearing pursuant to chapter 46.65 RCW, the department shall stay the effective date of the revocation only:

(1) When, not more than thirty days after the effective date of the revocation, there is a showing of good cause; or

(2) When the department receives from a superior court an order to stay the effective date of the revocation.

PROVIDED, That in either case above, the person must give and maintain proof of financial responsibility as provided in chapter 46.29 RCW, and pay a ten dollar reinstatement fee as provided in RCW 46.20.311.

REPEALER

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

(1) WAC 308-104-020 POINT SYSTEM.

(2) WAC 308-104-030 EFFECT OF POINT ACCUMULATION.

WSR 82-03-047
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
 [Filed January 20, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Criminal Justice Training Commission intends to adopt, amend, or repeal rules concerning requirement of training for fire marshals, new section WAC 139-50-010;

that such agency will at 10:00 a.m., Thursday, March 11, 1982, in the Criminal Justice Training Center, 2450 South 142nd, Seattle, WA, conduct a hearing relative thereto.

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

The authority under which these rules are proposed is RCW 43.101.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to March 10, 1982, and/or orally at 10:00 a.m., Thursday, March 11, 1982, Criminal Justice Training Center, 2450 South 142nd, Seattle, WA.

Dated: January 14, 1982

By: James C. Scott
 Executive Director

STATEMENT OF PURPOSE

Rule: New section WAC 139-50-010, Requirement of training for fire marshals.

Agency: Washington State Criminal Justice Training Commission.

General Purpose of Rule: This rule prescribes state-wide basic training of deputy state and resident fire marshals in accordance with statutory mandate.

Description, Summary, and Statutory Authority for Rule: RCW 48.48.060 (2) provides that, prior to their exercise of police powers to enforce the laws of this state, deputy state and resident fire marshals must, inter alia, complete a course of training prescribed by the

Washington State Criminal Justice Training Commission. This rule prescribes training and training standards which are responsive to and necessitated by such mandate.

The Following Personnel of the Washington State Criminal Justice Training Commission have Responsibility for Drafting, Implementing, and Enforcing this Rule: James C. Scott, Executive Director, and Garry E. Wegner, Assistant Director, Washington State Criminal Justice Training Commission, Mailstop PW-11, Olympia, WA 98504, Phone (206) 459-6342, Scan 585-6342.

November 19 (in Spokane)
December 10

WSR 82-03-049
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed January 20, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning retail sales tax collection schedules, WAC 458-20-237;

that such agency will at 10:30 a.m., Wednesday, February 24, 1982, in the Department of Revenue Conference Room, 415 General Administration Building, Olympia, Washington 98504, conduct a hearing relative thereto.

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

The authority under which these rules are proposed is RCW 82.32.300 and 82.08.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to February 24, 1982, and/or orally at 10:30 a.m., Wednesday, February 24, 1982, Department of Revenue Conference Room, 415 General Administration Building, Olympia, Washington 98504.

Dated: January 20, 1982

By: Don R. McCuiston
Director, Interpretation and Appeals

STATEMENT OF PURPOSE

Title: WAC 458-20-237 Retail sales tax collection schedules.

Statutory Authority: RCW 82.32.300 and 82.08.060.

Summary: This rule provides schedules for the collection of retail sales tax required to be collected by a seller from a buyer. On December 4, 1981, the Washington State Legislature increased the retail sales tax from 4.5% to 5.5%.

Drafters of the Rule: Don R. McCuiston, Director, Interpretation and Appeals Division, 4th Floor, General Administration Building, Olympia, Washington 98504, Telephone: (206) 753-5525. Department of Revenue, 415 General Administration Building, Olympia, Washington 98504, Telephone: (206) 753-5540.

AMENDATORY SECTION (Amending Order 80-5, filed 12/23/80)

WAC 458-20-237 ((RULE 237))) RETAIL SALES TAX COLLECTION SCHEDULES. ((By its terms the proviso of RCW 82.08.020 setting the state retail sales tax rate at 4.6% expired June 30, 1979, thereby reinstating the previous rate of 4.5% effective July 1, 1979.)) Under the provisions of Chapter 8, Laws of 1981, 2nd Special Session, the state retail sales tax was increased to 5.5% effective December 4, 1981. RCW 82.14.030 authorizes counties and cities to levy a local sales and use tax of .5%, such local tax to be collected along with the ((4.5))5.5% state tax, making a total combined tax of ((5))6% in areas imposing the local tax. By RCW 82.14.045 all cities and counties, after voter approval, are authorized to levy an additional sales and use tax of .1%, .2%, or .3%, and, in the case of a class AA county, .4%, .5%, or .6%, to finance public transportation systems,

NEW SECTION

WAC 139-50-010 REQUIREMENT OF TRAINING FOR FIRE MARSHALS. (1) As a pre-condition of any exercise of police powers to enforce the laws of this state, deputy state fire marshals and resident fire marshals shall:

(a) if hired on or after July 26, 1981, possess the Washington State Criminal Justice Training Commission's basic law enforcement certificate or basic equivalency certificate, or in the alternative, successfully complete a training program of at least 244 hours and which shall include:

- (i) Introduction to Law Enforcement, 14 hours
- (ii) Criminal Procedure, 30 hours
- (iii) Evidence Law, 16 hours
- (iv) Criminal Law, 32 hours
- (v) Communication Skills, 24 hours
- (vi) Criminal Investigations, 72 hours
- (vii) Self-defense, 16 hours

(viii) at least 40 hours of firearms training, involving both classroom and range activity in the development of firearms proficiency, and instruction in the legality and liabilities of the use of deadly force; or

(b) if hired prior to July 26, 1981, meet the training requirement described in subsection (1) (a) above, or have completed a previous training program or programs deemed the equivalent thereof by the State Fire Marshal; and

(c) notwithstanding date of hire, successfully complete an eight-hour firearms requalification course at least annually, in addition to any other in-service training program otherwise required by the State Fire Marshal.

(2) It shall be the responsibility of the State Fire Marshal to effect and ensure personnel compliance herein, and to provide necessary records and information upon request of the Training Commission's Board on Law Enforcement Training Standards and Education, to which said Marshal shall be accountable for purposes of compliance.

WSR 82-03-048
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—January 18, 1982]

Be it resolved that the regular meetings of the board of regents be held on the following dates in 1982, subject to change, providing that due notice is given by the secretary of the board in accordance with the bylaws of the board of regents:

February 19
March 19
April 9
May 21
June 11
July 16
August 20
September 17
October 15

which tax is also to be collected along with the state tax, making a total combined tax of ((5.1%, 5.2%, 5.3%, 5.4%, 5.5%, or 5.6%)) 6.1%, 6.2%, 6.3%, 6.4%, 6.5%, or 6.6%.

Under the authority of RCW 82.08.060 and 82.14.070, and in accordance with chapter 34.04 RCW, the department of revenue has adopted the following ((4.5%, 5%, 5.1%, 5.2%, 5.3%, 5.4%, 5.5%, and 5.6%)) 5.5%, 6.0%, 6.2%, 6.3%, 6.4%, and 6.6% schedules to govern the collection of retail sales tax on all retail sales.

((RETAIL SALES TAX COLLECTION SCHEDULE

July 1, 1979

4.5 Percent

SALE	TAX
.12	.01
.34	.02
.56	.03
.78	.04
1.00	.05
1.23	.06
1.45	.07
1.67	.08
1.89	.09
2.12	.10
2.34	.11
2.56	.12
2.78	.13
3.00	.14
3.23	.15
3.45	.16
3.67	.17
3.89	.18
4.12	.19
4.34	.20
4.56	.21
4.78	.22
5.00	.23
5.23	.24
5.45	.25
5.67	.26
5.89	.27
6.12	.28
6.34	.29
6.56	.30
6.78	.31
7.00	.32
7.23	.33
7.45	.34
7.67	.35
7.89	.36
8.12	.37
8.34	.38
8.56	.39
8.78	.40
9.00	.41
9.23	.42
9.45	.43
9.67	.44
9.89	.45

RETAIL SALES TAX COLLECTION SCHEDULE

July 1, 1979

5.0 Percent

SALE	TAX
.10	.01
.30	.02
.50	.03
.70	.04
.90	.05
1.10	.06
1.30	.07
1.50	.08
1.70	.09
1.90	.10

2.10	2.29	.11
2.30	2.49	.12
2.50	2.69	.13
2.70	2.89	.14
2.90	3.09	.15
3.10	3.29	.16
3.30	3.49	.17
3.50	3.69	.18
3.70	3.89	.19
3.90	4.09	.20
4.10	4.29	.21
4.30	4.49	.22
4.50	4.69	.23
4.70	4.89	.24
4.90	5.09	.25
5.10	5.29	.26
5.30	5.49	.27
5.50	5.69	.28
5.70	5.89	.29
5.90	6.09	.30
6.10	6.29	.31
6.30	6.49	.32
6.50	6.69	.33
6.70	6.89	.34
6.90	7.09	.35
7.10	7.29	.36
7.30	7.49	.37
7.50	7.69	.38
7.70	7.89	.39
7.90	8.09	.40
8.10	8.29	.41
8.30	8.49	.42
8.50	8.69	.43
8.70	8.89	.44
8.90	9.09	.45
9.10	9.29	.46
9.30	9.49	.47
9.50	9.69	.48
9.70	9.89	.49
9.90	10.09	.50

RETAIL SALES TAX COLLECTION SCHEDULE

July 1, 1979

5.1 Percent

SALE	TAX
.10	.01
.30	.02
.50	.03
.69	.04
.89	.05
1.08	.06
1.28	.07
1.48	.08
1.67	.09
1.87	.10
2.06	.11
2.26	.12
2.46	.13
2.65	.14
2.85	.15
3.04	.16
3.24	.17
3.44	.18
3.63	.19
3.83	.20
4.02	.21
4.22	.22
4.42	.23
4.61	.24
4.81	.25
5.00	.26
5.20	.27
5.40	.28

5.59	5.78	.29
5.79	5.98	.30
5.99	6.17	.31
6.18	6.37	.32
6.38	6.56	.33
6.57	6.76	.34
6.77	6.96	.35
6.97	7.15	.36
7.16	7.35	.37
7.36	7.54	.38
7.55	7.74	.39
7.75	7.94	.40
7.95	8.13	.41
8.14	8.33	.42
8.34	8.52	.43
8.53	8.72	.44
8.73	8.92	.45
8.93	9.11	.46
9.12	9.31	.47
9.32	9.50	.48
9.51	9.70	.49
9.71	9.90	.50
9.91	10.09	.51

7.99	8.17	.42
8.18	8.36	.43
8.37	8.55	.44
8.56	8.74	.45
8.75	8.94	.46
8.95	9.13	.47
9.14	9.32	.48
9.33	9.51	.49
9.52	9.71	.50
9.72	9.90	.51
9.91	10.09	.52

RETAIL SALES TAX COLLECTION SCHEDULE

July 1, 1979

5.2 Percent

SALE	TAX
.10	.28 .01
.29	.48 .02
.49	.67 .03
.68	.86 .04
.87	1.05 .05
1.06	1.24 .06
1.25	1.44 .07
1.45	1.63 .08
1.64	1.82 .09
1.83	2.01 .10
2.02	2.21 .11
2.22	2.40 .12
2.41	2.59 .13
2.60	2.78 .14
2.79	2.98 .15
2.99	3.17 .16
3.18	3.36 .17
3.37	3.55 .18
3.56	3.74 .19
3.75	3.94 .20
3.95	4.13 .21
4.14	4.32 .22
4.33	4.51 .23
4.52	4.71 .24
4.72	4.90 .25
4.91	5.09 .26
5.10	5.28 .27
5.29	5.48 .28
5.49	5.67 .29
5.68	5.86 .30
5.87	6.05 .31
6.06	6.24 .32
6.25	6.44 .33
6.45	6.63 .34
6.64	6.82 .35
6.83	7.01 .36
7.02	7.21 .37
7.22	7.40 .38
7.41	7.59 .39
7.60	7.78 .40
7.79	7.98 .41

RETAIL SALES TAX COLLECTION SCHEDULE

July 1, 1979

5.3 Percent

SALE	TAX
.10	.28 .01
.29	.47 .02
.48	.66 .03
.67	.84 .04
.85	1.03 .05
1.04	1.22 .06
1.23	1.41 .07
1.42	1.60 .08
1.61	1.79 .09
1.80	1.98 .10
1.99	2.16 .11
2.17	2.35 .12
2.36	2.54 .13
2.55	2.73 .14
2.74	2.92 .15
2.93	3.11 .16
3.12	3.30 .17
3.31	3.49 .18
3.50	3.67 .19
3.68	3.86 .20
3.87	4.05 .21
4.06	4.24 .22
4.25	4.43 .23
4.44	4.62 .24
4.63	4.81 .25
4.82	4.99 .26
5.00	5.18 .27
5.19	5.37 .28
5.38	5.56 .29
5.57	5.75 .30
5.76	5.94 .31
5.95	6.13 .32
6.14	6.32 .33
6.33	6.50 .34
6.51	6.69 .35
6.70	6.88 .36
6.89	7.07 .37
7.08	7.26 .38
7.27	7.45 .39
7.46	7.64 .40
7.65	7.83 .41
7.84	8.01 .42
8.02	8.20 .43
8.21	8.39 .44
8.40	8.58 .45
8.59	8.77 .46
8.78	8.96 .47
8.97	9.15 .48
9.16	9.33 .49
9.34	9.52 .50
9.53	9.71 .51
9.72	9.90 .52
9.91	10.09 .53

RETAIL SALES TAX COLLECTION SCHEDULE

January 1, 1981

5.4 Percent

SALE	TAX
.10	.01
.28	.02
.47	.03
.65	.04
.84	.05
1.02	.06
1.21	.07
1.39	.08
1.58	.09
1.76	.10
1.95	.11
2.13	.12
2.32	.13
2.50	.14
2.69	.15
2.88	.16
3.06	.17
3.25	.18
3.43	.19
3.62	.20
3.80	.21
3.99	.22
4.17	.23
4.36	.24
4.54	.25
4.73	.26
4.91	.27
5.10	.28
5.28	.29
5.47	.30
5.65	.31
5.84	.32
6.02	.33
6.21	.34
6.39	.35
6.58	.36
6.76	.37
6.95	.38
7.13	.39
7.32	.40
7.50	.41
7.69	.42
7.88	.43
8.06	.44
8.25	.45
8.43	.46
8.62	.47
8.80	.48
8.99	.49
9.17	.50
9.36	.51
9.54	.52
9.73	.53
9.91-10.09	.54))

RETAIL SALES TAX COLLECTION SCHEDULE

((January 1, 1981)) December 4, 1981

5.5 Percent

SALE	TAX
.10	.01
.28	.02
.46	.03
.64	.04
.82	.05
1.00	.06
1.19	.07
1.37	.08
1.55	.09

SALE TAX

1.73- 1.90	.10
1.91- 2.09	.11
2.10- 2.27	.12
2.28- 2.45	.13
2.46- 2.63	.14
2.64- 2.81	.15
2.82- 2.99	.16
3.00- 3.18	.17
3.19- 3.36	.18
3.37- 3.54	.19
3.55- 3.72	.20
3.73- 3.90	.21
3.91- 4.09	.22
4.10- 4.27	.23
4.28- 4.45	.24
4.46- 4.63	.25
4.64- 4.81	.26
4.82- 4.99	.27
5.00- 5.18	.28
5.19- 5.36	.29
5.37- 5.54	.30
5.55- 5.72	.31
5.73- 5.90	.32
5.91- 6.09	.33
6.10- 6.27	.34
6.28- 6.45	.35
6.46- 6.63	.36
6.64- 6.81	.37
6.82- 6.99	.38
7.00- 7.18	.39
7.19- 7.36	.40
7.37- 7.54	.41
7.55- 7.72	.42
7.73- 7.90	.43
7.91- 8.09	.44
8.10- 8.27	.45
8.28- 8.45	.46
8.46- 8.63	.47
8.64- 8.81	.48
8.82- 8.99	.49
9.00- 9.18	.50
9.19- 9.36	.51
9.37- 9.54	.52
9.55- 9.72	.53
9.73- 9.90	.54
9.91-10.09	.55

((RETAIL SALES TAX COLLECTION SCHEDULE

January 1, 1981

5.6 Percent

SALE	TAX
.09	.01
.27	.02
.45	.03
.63	.04
.81	.05
.99	.06
1.17	.07
1.34	.08
1.52	.09
1.70	.10
1.88	.11
2.06	.12
2.24	.13
2.42	.14
2.59	.15
2.77	.16
2.95	.17
3.13	.18
3.31	.19
3.49	.20
3.67	.21
3.84	.22

4.02	4.19	.23
4.20	4.37	.24
4.38	4.55	.25
4.56	4.73	.26
4.74	4.91	.27
4.92	5.08	.28
5.09	5.26	.29
5.27	5.44	.30
5.45	5.62	.31
5.63	5.80	.32
5.81	5.98	.33
5.99	6.16	.34
6.17	6.33	.35
6.34	6.51	.36
6.52	6.69	.37
6.70	6.87	.38
6.88	7.05	.39
7.06	7.23	.40
7.24	7.41	.41
7.42	7.58	.42
7.59	7.76	.43
7.77	7.94	.44
7.95	8.12	.45
8.13	8.30	.46
8.31	8.48	.47
8.49	8.66	.48
8.67	8.83	.49
8.84	9.01	.50
9.02	9.19	.51
9.20	9.37	.52
9.38	9.55	.53
9.56	9.73	.54
9.74	9.91	.55
9.92	10.08	.56)

<u>SALE</u>	<u>TAX</u>
5.75- 5.91	.35
5.92- 6.08	.36
6.09- 6.24	.37
6.25- 6.41	.38
6.42- 6.58	.39
6.59- 6.74	.40
6.75- 6.91	.41
6.92- 7.08	.42
7.09- 7.24	.43
7.25- 7.41	.44
7.42- 7.58	.45
7.59- 7.74	.46
7.75- 7.91	.47
7.92- 8.08	.48
8.09- 8.24	.49
8.25- 8.41	.50
8.42- 8.58	.51
8.59- 8.74	.52
8.75- 8.91	.53
8.92- 9.08	.54
9.09- 9.24	.55
9.25- 9.41	.56
9.42- 9.59	.57
9.60- 9.74	.58
9.75- 9.91	.59
9.92-10.08	.60

RETAIL SALES TAX COLLECTION SCHEDULE
December 4, 1981

6.0 Percent

<u>SALE</u>	<u>TAX</u>
.09- .24	.01
.25- .41	.02
.42- .58	.03
.59- .74	.04
.75- .91	.05
.92- 1.08	.06
1.09- 1.24	.07
1.25- 1.41	.08
1.42- 1.58	.09
1.59- 1.74	.10
1.75- 1.91	.11
1.92- 2.08	.12
2.09- 2.24	.13
2.25- 2.41	.14
2.42- 2.58	.15
2.59- 2.74	.16
2.75- 2.91	.17
2.92- 3.08	.18
3.09- 3.24	.19
3.25- 3.41	.20
3.42- 3.58	.21
3.59- 3.74	.22
3.75- 3.91	.23
3.92- 4.08	.24
4.09- 4.24	.25
4.25- 4.41	.26
4.42- 4.58	.27
4.59- 4.74	.28
4.75- 4.91	.29
4.92- 5.08	.30
5.09- 5.24	.31
5.25- 5.41	.32
5.42- 5.58	.33
5.59- 5.74	.34

RETAIL SALES TAX COLLECTION SCHEDULE
December 4, 1981

6.2 Percent

<u>SALE</u>	<u>TAX</u>
.09- .24	.01
.25- .40	.02
.41- .56	.03
.57- .72	.04
.73- .88	.05
.89- 1.04	.06
1.05- 1.20	.07
1.21- 1.37	.08
1.38- 1.53	.09
1.54- 1.69	.10
1.70- 1.85	.11
1.86- 2.01	.12
2.02- 2.17	.13
2.18- 2.33	.14
2.34- 2.49	.15
2.50- 2.66	.16
2.67- 2.82	.17
2.83- 2.98	.18
2.99- 3.14	.19
3.15- 3.30	.20
3.31- 3.46	.21
3.47- 3.62	.22
3.63- 3.79	.23
3.80- 3.95	.24
3.96- 4.11	.25
4.12- 4.27	.26
4.28- 4.43	.27
4.44- 4.59	.28
4.60- 4.75	.29
4.76- 4.91	.30
4.92- 5.08	.31
5.09- 5.24	.32
5.25- 5.40	.33
5.41- 5.56	.34
5.57- 5.72	.35
5.73- 5.88	.36
5.89- 6.04	.37
6.05- 6.20	.38
6.21- 6.37	.39
6.38- 6.53	.40
6.54- 6.69	.41
6.70- 6.85	.42

<u>SALE</u>	<u>TAX</u>
6.86-7.01	.43
7.02-7.17	.44
7.18-7.33	.45
7.34-7.49	.46
7.50-7.66	.47
7.67-7.82	.48
7.83-7.98	.49
7.99-8.14	.50
8.15-8.30	.51
8.31-8.46	.52
8.47-8.62	.53
8.63-8.79	.54
8.80-8.95	.55
8.96-9.11	.56
9.12-9.27	.57
9.28-9.43	.58
9.44-9.59	.59
9.60-9.75	.60
9.76-9.91	.61
9.92-10.08	.62

<u>SALE</u>	<u>TAX</u>
7.70-7.85	.49
7.86-8.01	.50
8.02-8.17	.51
8.18-8.33	.52
8.34-8.49	.53
8.50-8.65	.54
8.66-8.80	.55
8.81-8.96	.56
8.97-9.12	.57
9.13-9.28	.58
9.29-9.44	.59
9.45-9.60	.60
9.61-9.76	.61
9.77-9.92	.62
9.93-10.07	.63

RETAIL SALES TAX COLLECTION SCHEDULE
December 4, 1981

6.6 Percent

<u>SALE</u>	<u>TAX</u>
.08-.22	.01
.23-.37	.02
.38-.53	.03
.54-.68	.04
.69-.83	.05
.84-.98	.06
.99-1.13	.07
1.14-1.28	.08
1.29-1.43	.09
1.44-1.59	.10
1.60-1.74	.11
1.75-1.89	.12
1.90-2.04	.13
2.05-2.19	.14
2.20-2.34	.15
2.35-2.49	.16
2.50-2.65	.17
2.66-2.80	.18
2.81-2.95	.19
2.96-3.10	.20
3.11-3.25	.21
3.26-3.40	.22
3.41-3.56	.23
3.57-3.71	.24
3.72-3.86	.25
3.87-4.01	.26
4.02-4.16	.27
4.17-4.31	.28
4.32-4.46	.29
4.47-4.62	.30
4.63-4.77	.31
4.78-4.92	.32
4.93-5.07	.33
5.08-5.22	.34
5.23-5.37	.35
5.38-5.53	.36
5.54-5.68	.37
5.69-5.83	.38
5.84-5.98	.39
5.99-6.13	.40
6.14-6.28	.41
6.29-6.43	.42
6.44-6.59	.43
6.60-6.74	.44
6.75-6.89	.45
6.90-7.04	.46
7.05-7.19	.47
7.20-7.34	.48
7.35-7.49	.49
7.50-7.65	.50
7.66-7.80	.51
7.81-7.95	.52
7.96-8.10	.53

RETAIL SALES TAX COLLECTION SCHEDULE
DECEMBER 4, 1981

6.3 Percent

<u>SALE</u>	<u>TAX</u>
.08-.23	.01
.24-.39	.02
.40-.55	.03
.56-.71	.04
.72-.87	.05
.88-1.03	.06
1.04-1.19	.07
1.20-1.34	.08
1.35-1.50	.09
1.51-1.66	.10
1.67-1.82	.11
1.83-1.98	.12
1.99-2.14	.13
2.15-2.30	.14
2.31-2.46	.15
2.47-2.61	.16
2.62-2.77	.17
2.78-2.93	.18
2.94-3.09	.19
3.10-3.25	.20
3.26-3.41	.21
3.42-3.57	.22
3.58-3.73	.23
3.74-3.88	.24
3.89-4.04	.25
4.05-4.20	.26
4.21-4.36	.27
4.37-4.52	.28
4.53-4.68	.29
4.69-4.84	.30
4.85-4.99	.31
5.00-5.15	.32
5.16-5.31	.33
5.32-5.47	.34
5.48-5.63	.35
5.64-5.79	.36
5.80-5.95	.37
5.96-6.11	.38
6.12-6.26	.39
6.27-6.42	.40
6.43-6.58	.41
6.59-6.74	.42
6.75-6.90	.43
6.91-7.06	.44
7.07-7.22	.45
7.23-7.38	.46
7.39-7.53	.47
7.54-7.69	.48

SALE	TAX
8.11- 8.25	.54
8.26- 8.40	.55
8.41- 8.56	.56
8.57- 8.71	.57
8.72- 8.86	.58
8.87- 9.01	.59
9.02- 9.16	.60
9.17- 9.31	.61
9.32- 9.46	.62
9.47- 9.62	.63
9.63- 9.77	.64
9.78- 9.92	.65
9.93-10.07	.66

Note: Brackets are repetitive above \$10.

Revised November 19, 1980

WSR 82-03-050
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed January 20, 1982]

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

- New WAC 388-08-435 Separate hearing regarding disclosure of investigative and intelligence files.
- Amd WAC 388-320-220 Exemptions to public records disclosure.

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

David A. Hogan, Director
 Division of Administration
 Department of Social and Health Services
 Mailstop OB-33C
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Washington, Phone (206) 753-7015, by February 11, 1982. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Friday, February 26, 1982, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Tuesday, March 2, 1982, in William B. Pope's Office, 3rd Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to February 26, 1982, and/or orally at 10:00 a.m., Friday, February 26, 1982, Auditorium,

Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: January 20, 1982

By: David A. Hogan

Director, Division of Administration

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Amend WAC 388-320-220 and adding new WAC 388-08-435.

The purpose of the rule or rule change is to provide disclosure of intelligence and investigative information in specified circumstances during contested case hearings and to describe the procedure for that disclosure.

The Reason These Rules are Necessary is: To enable a person to prepare his or her contested case for presentation.

Statutory Authority: RCW 74.08.070.

Summary of the Rule or Rule Change: Same as purpose of rule or rule change.

Person or Persons Responsible for the Drafting, Implementation and Enforcement of the Rule is: David L. Henry, Chief, Office of Hearings, Mailstop OB-43, Phone: (206) 753-3898.

The Person or Organization (if other than DSHS) who Proposed These Rules is: N/A.

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

NOTE: This issue is in litigation. The agency believes adoption of these rules will meet the suit.

NEW SECTION

WAC 388-08-435 SEPARATE HEARING REGARDING DISCLOSURE OF INVESTIGATIVE AND INTELLIGENCE FILES. (1) In the event that a fair hearing is being conducted under chapter 388-08 WAC, and the appellant seeks disclosure of any data maintained by the department which is the subject of the exemption contained in WAC 388-320-220(3), the following process shall be followed to determine whether, on a case-by-case basis, such disclosure shall be ordered:

(a) A written request shall be filed with the office of special investigation at its main offices in Olympia, and with either the secretary of the department or the hearing examiner, if one has been appointed, no later than fifteen days prior to the hearing, by the person requesting the fair hearing.

(b) The request must identify the type of information sought.

(c) The request shall further state the reasons why the requestor believes that disclosure of the information is necessary.

(3) Within ten days of receipt of a properly filed request, the office of special investigation shall determine what documents, if any, are the subject of the request for disclosure, and which the office believes are within the exemptions from disclosure listed in WAC 388-320-220(3)(a). Such documents, if any, shall be sealed in an envelope clearly designated as confidential documents of the office of special investigation. These documents shall then be placed in the office of special investigation file. Within the ten-day period, the entire office of special investigation file shall be made available for inspection by the person who is the subject of the fair hearing. The investigative files will be made available at the appropriate local community service office or office of special investigation field office, as designated by the appellant. In no event shall the investigative file leave the physical control of the designated office of special investigation records custodian: PROVIDED, That appellant may copy, at the expense of the appellant, all documents not sealed in an envelope as confidential material.

(3) If the appellant thereafter seeks further disclosure, that person shall file a motion therefor to the hearing examiner.

(4) If no motion pursuant to WAC 388-08-435(3) is filed properly, the issue of disclosure will be regarded as moot. If, however, an

amended request for disclosure has properly been filed, the hearing examiner shall schedule a separate, in camera hearing to be held for the purpose of determining whether and to what extent disclosure of information contained in the exemptions contained in WAC 388-320-220(3) should be allowed.

(5) The following procedures shall apply to the hearing conference:

(a) The appellant shall have the burden of proving necessity for disclosure.

(b) Either party may offer witnesses to testify on the issue of the necessity of disclosure. In the event that the appellant calls witnesses from the state, or investigative, law enforcement, or penology agencies, as adverse witnesses, he or she may ask leading questions.

(c) In the event that the appellant testifies, that testimony cannot be used to incriminate the appellant if he or she chooses to testify at a later hearing or trial. However, if at a later hearing the appellant testifies, that testimony may be used for impeachment purposes.

(d) Attendance shall be limited to the parties, the parties' attorneys, the hearing examiner, and any witnesses that are to be called.

(e) In determining whether any information should be disclosed to the appellant, the hearing examiner shall review the information, but shall not disclose it to the appellant.

(6) At the conclusion of the hearing, the hearing examiner shall enter his or her written findings and conclusions.

(a) If the information sought to be disclosed is admissible and positively material to establishing a defense; and

(b) If, based upon the evidence and argument of the parties, the hearing examiner concludes that specific investigative or intelligence information is not clearly necessary to protect any vital governmental function or individual's right of privacy; and

(c) If the hearing examiner is convinced that, when weighing the public interest in protecting the flow of information against the individual's right to prepare his or her defense, it is necessary that particular intelligence or investigative information be disclosed; and

(d) If, upon a showing that the files sought by the appellant do not contain information, which information comes within the exemptions contained in WAC 388-320-220(3)(a), and which information is not pertinent to an ongoing criminal investigation;

(e) Then the hearing examiner shall write an initial decision pursuant to WAC 388-08-408 providing for disclosure of specific information consistent with the requirements of chapters 10.97 and 42.17 RCW pertaining to the times and methods for inspection and copying of documents. In no event shall such decision compel the release of original documents, but, rather, where release is compelled by the circumstances, certified copies shall be provided. Unless subsections (6) (a), (b), (c), and (d) are fully met to the satisfaction of the hearing examiner, an initial decision denying disclosure shall be entered. In the event that information is sought which is pertinent to any ongoing criminal investigation, disclosure shall only be ordered by the courts of this state pursuant to the superior court rules of criminal procedure.

(7) Either party may petition the review examiner, pursuant to WAC 388-08-409, for review of the initial decision. There shall be no disclosure pursuant to an initial decision until all review proceedings have been terminated.

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

AMENDATORY SECTION (Amending Order 1609, filed 2/19/81)

WAC 388-320-220 EXEMPTIONS TO PUBLIC RECORDS DISCLOSURE. Nondisclosable records are those exempted by law, including:

(1) Personal information in any files concerning a client to the extent required by RCW 42.17.310(1)(a) and/or 74.04.060, including departmental evaluations of information received from providers of services, is exempt from disclosure to the general public. However, disclosure may be made to the client or the client's representative, except as otherwise prohibited by these rules;

(2) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss, as required by RCW 42.17.310(1)(h);

(3) Data (including information revealing the identity of persons who file complaints, except as the complainant may authorize) contained in intelligence, investigative, and other related files compiled by

investigative, law enforcement or penology agencies, and state agencies vested with the responsibility to discipline members of any profession (~~This data is nondisclosable to the extent required by RCW 42.17.310(1)(d) and (e), RCW 10.97.080, chapter 446-20 WAC, and 28 C.F.R. 20, but disclosable to the extent required by 45 C.F.R. 205.10(a)(13)(i) and RCW 74.08.070;~~); PROVIDED, That pursuant to the rules set forth in chapter 388-08 WAC, the hearing examiner may make determinations as to whether the circumstances of a particular case, when weighing the public interest in protecting the flow of information against the individual's right to prepare his or her defense, compels disclosure of particular intelligence or investigative information. As used in these regulations, intelligence and investigative information includes the following:

(a) Allegations or complaints of suspected criminal activity;

(b) Identification of informants, complainants, any person whose life or limb may be endangered by such disclosure, and potential witnesses regarding alleged criminal activity;

(c) Identification of and reports concerning criminal suspects other than the person who is the subject of the fair hearing;

(d) Assessments, reports, notes, or voice recordings of law enforcement officials or officials of a criminal justice agency, as defined in RCW 10.97.030, concerning the person who is the subject of the fair hearing, informants, or potential witnesses;

(e) Criminal history information relating to persons or organizations other than that person or persons who are the subject of the fair hearing.

(4) Vocational rehabilitation records to the extent required by 45 C.F.R. 1361.47 and WAC 490-500-550;

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

(6) Records of the state registrar of vital statistics to the extent required by RCW 70.58.095;

(7) Alcohol and drug abuse patient records to the extent required by 42 C.F.R. Chapter I Part II or other federal law or regulation;

(8) Office of support enforcement information regarding location of parents to the extent required by RCW 74.20.280;

(9) Adoption and voluntary termination of parent-child relationship records to the extent required by chapter 26.32 RCW, and financial information received from adoptive parents to the extent required by RCW 74.13.121;

(10) Mental illness and inebriacy records to the extent required by RCW 71.05.390;

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

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

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

(14) The central registry of reported cases of child abuse or abuse of developmentally disabled persons to the extent required by RCW 26.44.070;

(15) Records of patients and inmates of state institutions to the extent required by RCW 72.01.290;

(16) Records concerning applicants or recipients of support enforcement activities, as required by 45 C.F.R. 302.18;

(17) Nursing home records, to the extent required by RCW 18.51.190 and 70.124.010;

(18) Competitive contract procurement instruments, such as a request for proposals or an invitation for bids, prior to ((their)) the release to potential bidders; proposals and bids received in response to competitive contract procurement instruments until either the public opening of bids or, for proposals, the contractor and the department have signed the contract, pursuant to RCW 43.20A.050.

WSR 82-03-051
PROPOSED RULES
OIL AND GAS
CONSERVATION COMMITTEE
 [Filed January 20, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Oil and Gas Conservation Committee intends to adopt, amend, or repeal rules concerning implementation, administration and enforcement of the oil and gas conservation laws, amending and adding new sections to chapter 344-12 WAC;

that such agency will at 4:00 p.m., Tuesday, March 23, 1982, in the Commissioner's Board Room, Room 420, Yakima Courthouse, Yakima, Washington, and at 7:00 p.m., Thursday, March 25, 1982, in the Department of Social and Health Services Auditorium, Office Building No. 2, Olympia, Washington, conduct hearings relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 10 a.m., Wednesday, April 7, 1982, in the Conference Room of the Division of Geology and Earth Resources, 4224 Sixth Avenue S.E., Rowesix, Lacey, WA 98504.

The authority under which these rules are proposed is RCW 78.52.050 and chapter 34.04 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 5, 1982, and/or orally at 4:00 p.m., Tuesday, March 23, 1982, in the Commissioner's Board Room, Room 420, Yakima Courthouse, Yakima, Washington, and at 7:00 p.m., Thursday, March 25, 1982, in the Department of Social and Health Services Auditorium, Office Building No. 2, Olympia, Washington.

Dated: January 20, 1982

By: David W. Stevens
 Chairman

STATEMENT OF PURPOSE

Purpose and Implementation: The purpose of these rules is to amend, repeal and add new sections to chapter 344-12 WAC which implements the administration and enforcement of the Oil and Gas Conservation Act, chapter 78.52 RCW. The proposed rules result from a comprehensive review of existing regulations due to the changing economy, technology and environmental concerns.

Adopting Agency: Oil and Gas Conservation Committee.

Statutory Authority: RCW 78.52.050 and chapter 34.04 RCW.

Summary of Rules and Reasons Therefore: These rules amend, repeal and add new sections to chapter 344-12 WAC which implement the Oil and Gas Conservation Act, chapter 78.52 RCW. It is a comprehensive rewrite of the rules in chapter 344-12 WAC implementing the administration and enforcement of the act. The rules deal with all facets of the act including regulation of drilling and production, issuance of permits, rule making, and administrative and procedural provisions. These regulations attempt to modernize the

rules consistent with present day conditions, concerns and laws.

Agency Personnel Responsible for Drafting: Ted Livingston, Oil and Gas Supervisor, Supervisor, Geology and Earth Resources, Department of Natural Resources, Rowesix, 459-6372; Don Ford, Deputy Supervisor, Geology and Earth Resources, Department of Natural Resources, Rowesix, 459-6372; **Implementation:** Oil and Gas Conservation Committee, Ted Livingston, Supervisor, Oil and Gas Conservation Committee, Don Ford, Deputy Supervisor, Geology and Earth Resources, Department of Natural Resources; and **Enforcement:** Above and subordinate personnel of the Geology and Earth Resources division.

Proponents or Opponents: The proposed rules were initiated by the Oil and Gas Conservation Committee and the Oil and Gas Supervisor. No opponents are known.

Agency Comments: These rules are necessary for the efficient and up-to-date implementation of the Oil and Gas Conservation Laws.

Reviser's Note: The material contained in this filing will appear in a subsequent issue of the Register, as it was received after the applicable closing date for this issue for agency typed material exceeding the volume limitations of WAC 1-12-035 or 1-13-035, as appropriate.

WSR 82-03-052
PROPOSED RULES
HORSE RACING COMMISSION
 [Filed January 20, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Horse Racing Commission intends to adopt, amend, or repeal rules concerning the amending of WAC 260-12-200 relating to the number of races permitted per day; WAC 260-32-110 relating to protective helmet; WAC 260-70-040 relating to the testing of horses; WAC 260-88-010 relating to appeals; and adopting WAC 260-88-020 relating to costs on appeal;

and that the adoption, amendment, or repeal of such rules will take place at 10 a.m., Saturday, February 27, 1982, in the Maple Leaf Ballroom, Holiday Inn, 9 North 9th Street, Yakima, WA.

The authority under which these rules are proposed is RCW 67.16.020 and 67.16.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to February 22, 1982, and/or orally at 10 a.m., Saturday, February 27, 1982, Maple Leaf Ballroom, Holiday Inn, 9 North 9th Street, Yakima, WA.

Dated: January 20, 1982

By: George McIvor
 Executive Secretary

STATEMENT OF PURPOSE

In the matter of amending WAC 260-12-200, 260-32-110, 260-70-040, 260-88-010 and adopting WAC 260-88-020 relating to the rules of horse racing.

WAC 260-12-200, 260-32-110, 260-70-040 and 260-88-010 are proposed for amendment and WAC

260-88-020 for adoption, as indicated in the notice of intention to amend and adopt rules filed this date with the code reviser.

This rule amendment and the new section are proposed pursuant to RCW 67.16.020 and 67.16.040 under the general rule-making authority of the Washington Horse Racing Commission. The proposed amendment to WAC 260-12-200 is intended to establish the number of races permitted per day. The proposed amendment to WAC 260-32-110 is intended to include the weight of a protective helmet in a jockey's weight for certain purposes. The proposed amendment to WAC 260-70-040 is intended to provide for the testing of horses in a trifacta race and to clarify specified language. The proposed amendment to WAC 260-88-010 is intended to clarify and add to the rule for appeals to the commission. The proposed new section, WAC 260-88-020 is to establish for the assessment of costs on appeal to the commission under certain circumstances.

George McIvor, Executive Secretary, Suites B and C, 210 East Union Avenue, Olympia, Washington 98504, phone (206) 753-3741 and members of his staff were responsible for the drafting of the proposed rule amendment and new rule and are to be responsible for implementation and enforcement of the rules.

The proponent of these rules is the Washington Horse Racing Commission.

There are no comments or recommendations being submitted inasmuch as these rules are being proposed pursuant to existing statutory authority.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Secretary of the Senate and to the Chief Clerk of the House of Representatives.

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

WAC 260-12-200 NUMBER OF RACES PER DAY. The total number of races and the number of exotic races (i.e., daily double, quinella, exacta and trifacta) allowed per day at all tracks (~~shall be~~) shall be subject to the approval of the commission.

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

WAC 260-32-110 PROTECTIVE HELMET. ((+)) It shall be mandatory that jockeys wear a protective helmet (~~which shall be~~) approved by the commission.

~~((2) The weight of the protective helmet shall not be included in the jockey's weight.~~

NOTES:

Safety helmets:
exercising horses, to be worn when. WAC 260-12-180;
jockey's weight, not included in. WAC 260-44-060;
trainer responsible. WAC 260-28-230;
type, approval of. WAC 260-28-230.)

AMENDATORY SECTION (Amending Order 74.1, filed 5/22/74, effective 7/1/74)

WAC 260-70-040 HORSES TO BE TESTED. Stewards may at any time order the taking of a blood, urine, or saliva specimen from any horse (~~entered~~) on the grounds of an association. Any owner or trainer may at any time request that a specimen be taken from a horse he owns or trains by the ((state)) commission veterinarian (~~or the test barn veterinarian~~) to be tested by the ((state)) commission chemist, providing the costs of such testing are borne by the owner or trainer requesting such test. In the absence of any such order or request, the

~~((test barn))~~ commission veterinarian or his assistant shall take a urine sample ~~((from and the state chemist shall test the same;))~~ for testing by the commission chemist from all horses which: Finish first in any race; finish first or second in any quinella or exacta race; finish first ((or)), second or third in any trifacta or stake race; any horse whose performance in a race, in the opinion of the stewards, may have been altered by a prohibited drug. ~~((Every horse on the grounds or entered to race in any race is subject to such tests, and))~~ No owner ((or)), trainer or other person owning ((or)), in charge of, or having the care of a horse on the grounds may refuse to submit such a horse for testing when directed by ((the)) a steward((;)) or the commission veterinarian (~~or the test barn veterinarian~~).

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

WAC 260-88-010 APPEAL TO THE COMMISSION. ~~((When a person or persons are penalized or disciplined under the law or under the rules, he may request a hearing before the commission. (1) A final appeal in the case of any person penalized or disciplined by the stewards of an association racing under a license issued by the commission; may be taken to the commission.))~~ (1) Any person against whom a ruling is made by the stewards may appeal the ruling to the commission.

(2) Such an appeal must be made in writing at the office of the commission within five days of the date of ~~((said penalty or imposition of said discipline))~~ the stewards' ruling.

(3) The ~~((request))~~ appeal shall be signed by the person making it and must set forth ~~((his reason for believing he is entitled to a hearing))~~ the alleged errors in the stewards' ruling.

(4) Any ~~((applicant for a hearing))~~ person bringing an appeal will be heard in person((;)) or by counsel(~~or he~~). A person bringing an appeal may submit his case entirely in writing.

(5) All ~~((complaints and requests))~~ communications to the commission with respect to an appeal must be in writing, and all papers filed with the commission shall be the property of the commission.

(6) An appeal from a decision of a racing official to the commission shall not affect such decision until the appeal has been acted upon by the commission, unless otherwise ordered by the commission or by a court of competent jurisdiction. Upon a showing of good cause, the commission may stay the effect of any ruling of the stewards pending commission review of the ruling. The granting of such a stay shall carry no presumption as to the validity of the stewards' ruling. The commission may lift such a stay pending appeal if appropriate.

~~((NOTES:~~

~~Practice and procedure: Chapter 260-08 WAC.))~~

NEW SECTION

WAC 260-88-020 COSTS ON APPEAL. Before consideration of an appeal from a ruling of the stewards, the person bringing the appeal shall deposit with the commission the amount of \$100.00. If the commission rules in favor of the person bringing the appeal the deposit will be refunded. If the commission upholds the ruling of the stewards the deposit will be retained to offset the costs of processing the appeal. If an appeal is found to be frivolous the commission may penalize the party bringing the appeal the actual cost to the commission of hearing the appeal.

WSR 82-03-053

ADOPTED RULES

HORSE RACING COMMISSION

[Order 82-01—Filed January 20, 1982]

Be it resolved by the Washington Horse Racing Commission, acting at Seattle, Washington, that it does promulgate and adopt the annexed rules relating to the amending of WAC 260-70-021 relating to medication standards and WAC 260-70-100 relating to penalties for misuse of permitted medication.

This action is taken pursuant to Notice No. WSR 81-24-082 filed with the code reviser on December 2, 1981.

Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington Horse Racing Commission as authorized in RCW 67.16.020 and 67.16.040.

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

APPROVED AND ADOPTED January 15, 1982.

By Will Bachofner
Chairman

AMENDATORY SECTION (Amending Order 79-02, filed 12/24/79)

WAC 260-70-021 MEDICATION STANDARDS. (1) No horse shall have in its body any prohibited drug while participating in a race.

(2) No person shall administer, attempt to administer, or aid or abet in the administration of, any medication or drug to a horse on the day of a race in which the horse is entered prior to the race except in accordance with this rule.

(3) Subject to the provisions of this rule, medication calculated to improve or protect the health of a horse may be administered to a horse in training.

(4) The administration of medication to any horse on race day, except as hereinafter provided, is prohibited. For the purpose of this rule, the day of the race shall be deemed to commence at 9:00 p.m. on the day preceding the race.

(5) Nutritional aids, administered orally only, will be permitted at any time.

(6) ~~((Only lasix (furosemide), and/or conjugated estrogens, will be permitted on race day for the treatment only of horses which have been confirmed as "bleeders" by a state veterinarian. For purposes of this rule a "bleeder" is a horse which has bled on the track or immediately thereafter. Lasix and/or conjugated estrogens shall not be administered within four hours of the published post time for the race in which the horse is entered. No horse shall race with any diuretic other than lasix in its body. Horses treated with lasix and/or conjugated estrogens will be subject to blood, as well as urine testing.~~

~~((7))~~ Approved nonsteroidal ~~((anti-inflammatory))~~ anti-inflammatory drugs (NSAIDs) may be administered to a horse, but not on race day. No more than one of the NSAIDs may be used on or carried in a horse's body at any one time.

~~((8))~~ (7) Notwithstanding any other provision of this rule, no two-year old horse shall carry in its body while participating in a race any medication, including medications defined in WAC 260-70-010 (1) through (4). Vitamins are permitted, however. ~~((The provisions of subsection (6) of this section authorizing the stewards to grant permission for use of an approved medication on~~

~~bleeders shall not be applicable to any two-year old horse.))~~ The finding of any medication prohibited herein in a two-year old horse participating in a race shall disqualify the owner of such horse from participating in the purse distribution; and in addition the stewards may take any authorized action they may consider necessary to preserve the integrity of racing.

~~((9))~~ (8) In the case of delayed-release substances, the time of administration shall be deemed that time at which such medication, drug, or substance is released within the body of a horse.

AMENDATORY SECTION (Amending Order 79-03, filed 5/7/80)

WAC 260-70-100 PENALTIES RELATING TO MISUSE OF PERMITTED MEDICATION. Should the laboratory analysis of urine or blood taken from a horse, other than a two-year old, show the presence of more than one approved nonsteroidal anti-inflammatory drug (NSAID) in violation of WAC 260-70-021, or the presence of phenylbutazone in excess of the quantities authorized by WAC 260-70-090 the stewards shall levy the following penalties against each person found responsible:

(1) For a first offense within any calendar year, a fine of \$200;

(2) The second offense, within any calendar year, \$500;

(3) For a third offense, within any calendar year, license suspension for one year.

If laboratory analysis of urine or blood taken from a horse shows misuse of permitted medication as specified above the owner of such horse shall not participate in the purse distribution of the race wherein the violation occurred, and shall be denied or shall promptly return any portion of the purse, or sweepstakes, and any trophy in such race and the same shall be distributed as in the case of a disqualification.

If any NSAID or other permitted medication is found in the body of a horse which alone or in combination with a second ~~((NSAID))~~ medication is of such a quantity so as to interfere with the testing process the penalties for use of a prohibited drug or medication shall apply irrespective of the provisions of this rule. The finding of any diuretic, including Lasix (furosemide), in the body of a horse shall constitute the presence of an interfering substance and the penalties for use of a prohibited drug or medication shall apply.

WSR 82-03-054

EMERGENCY RULES

EMPLOYMENT SECURITY DEPARTMENT

[Order 1-82—Filed January 20, 1982]

I, Norward J. Brooks, Commissioner of the Employment Security Department, do promulgate and adopt at 212 Maple Park, Olympia, WA, the annexed rules relating to limitations on transacting business with friends, relatives or co-workers.

I, Norward J. Brooks, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is due to curtailment of federal funds the Employment Security Department is instituting an emergency reduction-in-force with effective dates commencing January 31, 1982. In view of the large number of employees affected by the action it would be practically impossible to strictly comply with the provisions of WAC 192-18-050(1) and (2).

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

This rule is promulgated under the general rule-making authority of the Employment Security Department as authorized in RCW 50.12.010 and 50.12.040.

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

APPROVED AND ADOPTED January 20, 1982.

By Norward J. Brooks
Commissioner

AMENDATORY SECTION (Amending Order 2-80, filed 6/12/80)

WAC 192-18-050 LIMITATIONS ON TRANSACTING BUSINESS WITH FRIENDS, RELATIVES OR CO-WORKERS. In order to assure objectivity to the highest degree and to avoid any appearance of conflict of interest in claimstaking, adjudication of issues, and tax functions, the following policy is to take effect immediately.

Agency personnel will not perform the following acts for friends, relatives or co-workers:

~~((1) Acceptance or processing of initial or continued claims;~~

~~(2) Factfinding interviews or drafting of nonmonetary or overpayment determinations on claims.~~

~~(3)) (1) Acceptance of cash, personal checks, bank drafts, money orders, or endorsed warrants to liquidate overpayments; negotiation of contracts for repayment of overpayments or recommending approval of offers of compromise for such individuals; or issuance of cash receipts;~~

~~((4)) (2) Determination of tax liability or collection of taxes;~~

~~((5)) (3) Auditing of employer accounts or initiation or processing of tax refunds.~~

WSR 82-03-055

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF NATURAL RESOURCES
(Forest Fire Advisory Board)**

[Memorandum, Manager—January 20, 1982]

This is to advise that a meeting of the Forest Fire Advisory Board is scheduled at 10:00 a.m., on Thursday, February 18, 1982, in the Forest Sciences Laboratory conference room, 3625 93rd Avenue S.W., Tumwater, Washington.

Table of WAC Sections Affected

KEY TO TABLE

Symbols:

- AMD = Amendment of existing section
- NEW = New section not previously codified
- REP = Repeal of existing section
- AM/DE = Amendment and Decodification of existing section
- RECOD = Recodification of previously codified section
- REMOV = Removal of rule pursuant to RCW 34.04.050(5)
- RES = Restoration of section to previous form
- REVIEW = Review of previously adopted rule

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- W = Withdrawal of proposed action
- No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

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