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This issue contains documents officially
filed no later than April 5, 1978.

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 123rd item in the February, 1978, Register would be cited as WSR 78-02-123.

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the Code Reviser pursuant to chapter 28B.19 RCW 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
Acting 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.

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Distribution Date	First Agency Action Date ²	Closing Dates ¹		
			OTS ³ or 10 pages maximum (14 days)	Non-OTS and 11 to 29 pages (28 days)	Non-OTS and 30 pages or more (42 days)
78-1	Jan 18	Feb 7	Jan 4	— ⁴	— ⁴
78-2	Feb 15	Mar 7	Feb 1	Jan 18	Jan 4
78-3	Mar 15	Apr 4	Mar 1	Feb 15	Feb 1
78-4	Apr 19	May 9	Apr 5	Mar 22	Mar 8
78-5	May 17	Jun 6	May 3	Apr 19	Apr 5
78-6	Jun 21	Jul 11	Jun 7	May 24	May 10
78-7	Jul 19	Aug 8	Jul 5	Jun 21	Jun 7
78-8	Aug 16	Sep 5	Aug 2	Jul 19	Jul 5
78-9	Sep 20	Oct 10	Sep 6	Aug 23	Aug 9
78-10	Oct 18	Nov 7	Oct 4	Sep 20	Sep 6
78-11	Nov 15	Dec 5	Nov 1	Oct 18	Oct 4
78-12	Dec 20	Jan 9, 1979	Dec 6	Nov 22	Nov 8

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.

²"No proceeding shall 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(2) and 34.04.025(2). These dates represent the twentieth day after the distribution date of the immediately preceding Register.

³OTS is the acronym used for the Order Typing Service offered by the Code Reviser's Office which is briefly explained in WAC 1-12-220 and WAC 1-13-240.

⁴Material having this quantity of pages will not appear in Register No. 78-1 but will appear in Issue No. 78-2 if filed by the pertinent closing date for that issue.

WSR 78-03-078

EMERGENCY RULES

EASTERN WASHINGTON UNIVERSITY

[Resolution No. 78-01—Filed Feb. 28, 1978]

Be it resolved by the board of Trustees of the Eastern Washington University, acting at Cheney, Washington, that it does promulgate and adopt the annexed rules relating to amendments to Constitution of Associated Students, chapter 172-114 WAC.

We, the Board of Trustees of Eastern Washington University, 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 because the proposed amendments to the ASEWU Constitution will change the day of the Spring Quarter election, will add a new position to student government and make several changes in operating procedures for next year's student government, it is imperative that the proposed amendments be approved under emergency adoption.

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 Eastern Washington University as authorized in RCW 28B.40.120(11).

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 February 23, 1978.

By Bruce McPhaden
Chairman, Pro-Tem, Board of Trustees

Chapter 172-114 WAC

CONSTITUTION OF ASSOCIATED STUDENTS

WAC

172-114-010	Preamble.
172-114-020	Article I—Name, definitions, and membership.
172-114-030	Article II—Student rights and responsibilities.
172-114-040	Article III—Legislation.
172-114-050	Article IV—Executive.
172-114-060	Article V—Election.
172-114-070	Article VI—Judicial.
172-114-080	Article VII—Rescind, recall, initiative, referendum, and inspection of records.
172-114-090	Article VIII—Budgeting.
172-114-100	Parliamentary authority.
172-114-110	Amendments.

AMENDATORY SECTION (Amending Order 72-9, Filed September 20, 1972)

WAC 172-114-010 PREAMBLE. We, the Associated Students of Eastern Washington (~~(State College)~~) University, in order to develop in the students the concept of self government; an appreciation and understanding of democratic values and processes; to strengthen in the student the realization of his rights, responsibilities, and common interest with the community as a citizen, to represent student interests, needs and welfare; to develop in the students an understanding and appreciation of their personal, social, and vocational relationship to the society in which they live; develop in the students fellowship and understanding; and to provide a physical and social environment in which to achieve the above objectives do affirm and establish this Constitution subject to the authority vested in the Associated Students by the Board of Trustees of Eastern Washington (~~(State College)~~) University.

AMENDATORY SECTION (Amending Order 74-8, Filed October 1, 1974)

WAC 172-114-020 ARTICLE I—NAME, DEFINITIONS, AND MEMBERSHIP. (1) The name of this organization shall be the "Associated Students of Eastern Washington (~~(State College)~~) University", referred to herein as "A.S."

(2) When used in this Constitution, the following terms shall mean:

(a) "~~(College)~~ University" means Eastern Washington (~~(State College)~~) University and, collectively those responsible for its control and operation.

(b) "Student" includes all persons enrolled in any course at the (~~college~~) university.

(c) "Instructor" means all persons hired by the (~~college~~) university to conduct classroom activities. In certain situations a person may be both "student" and "instructor". Determination of his status in a particular situation shall be determined by the surrounding facts.

(d) "Legal compulsion" means a state or federal judicial or legislative order which requires some action by the person to whom it is directed.

(e) "Organization" means a number of persons who have complied with the formal requirements of (~~college~~) university recognition as in WAC 172-114-030(5).

(f) "Group" means members of the (~~college~~) university community who have not yet complied with the formal requirements for becoming an organization.

(g) "Student press" means either an organization whose primary purpose is to publish and distribute any publication on campus or a regular publication of a campus organization.

(h) "Shall" is used in the imperative sense.

(i) "May" is used in the permissive sense.

(j) All other terms have their natural meaning unless the context dictates otherwise.

(3) All students who are registered for one (1) credit hour or more at Eastern Washington (~~(State College)~~)

University shall be members of this organization for the period of time covered by the fee.

AMENDATORY SECTION (Amending Order 74-8, Filed October 1, 1974)

WAC 172-114-030 ARTICLE II—STUDENT RIGHTS AND RESPONSIBILITIES. (1) The following enumeration of rights shall not be construed to deny or disparage others retained by students in their capacity as members of the student body or as citizens.

(2) Access to higher education. Within the limits of its facilities and budget, the ((college)) university shall be open to all applicants who are qualified according to its admission requirements. No person once enrolled may be denied attendance or academic advancement except for disqualification on academic grounds or conviction of violating ((college)) university rules.

(3) Education.

(a) Students are free to pursue their educational goals within existing ((college)) university programs; appropriate opportunities for learning shall be provided by the state within its financial resources and the student's ability. This shall include the knowledge, imagination, and dedication of faculty and administrators through excellent teaching and readily available and adequate advice and counsel.

(b) Discussion and expression of all views relevant to the subject matter is permitted in the classroom subject only to the responsibility of the instructor to maintain order and to present course content. Students are responsible for learning the content of any course for which they are enrolled. Requirements of participation in classroom discussion and submission of written exercises are not inconsistent with this section.

(c) Academic evaluation of student performance shall be neither prejudicial nor capricious. Information about student views, beliefs, and political associations acquired by professors in the course of their work as instructors, advisers, and counselors, is confidential and is not to be disclosed to others unless under legal compulsion. Questions relating to intellectual or skills capacity are not subject to this section.

(4) Campus Expression.

(a) Free inquiry, expression, petition, and assembly are guaranteed to all students. Support of any cause by lawful means which do not disrupt the operation of the ((college)) university is permitted. Students, groups, and campus organizations may invite and hear any persons of their own choosing subject only to the requirements for use of ((college)) university facilities.

(b) The right of peaceful protest is granted within the ((college)) university community. The ((college)) university retains the right to assure the safety of individuals, the protection of property, and the continuity of the educational process.

(c) Orderly picketing and other forms of peaceful protest are permitted on ((college)) university premises. Interference with ingress to and egress from ((college)) university facilities, interruption of classes, or damage to property exceeds permissible limits. Even though remedies are available through local enforcement bodies,

the ((college)) university may choose to impose its own disciplinary sanctions.

(d) Every student has the right to be interviewed on campus by any legal organization desiring to recruit at the ((college)) university. Any student, group, or organization may protest against any such organization provided that protest does not interfere with any other student's right to have such an interview.

(5) Campus Organizations.

(a) Organizations and groups may be established within the ((college)) university for any legal purpose. Affiliation with an extramural organization shall not, in itself, disqualify the ((college)) university branch or chapter from ((college)) university privileges. Any organization which engages in illegal activities may have sanctions imposed against it including withdrawal of ((college)) university recognition for a period not exceeding one (1) year.

(b) A group shall become an organization when formally recognized by the ((college)) university. All groups that meet the following requirements shall be recognized:

(i) Submission of a list of officers and copies of the constitution and bylaws to the appropriate ((college)) university official or body. All changes and amendments shall be submitted within one (1) week after they become effective.

(ii) Where there is affiliation with an extramural organization, the organization's constitution and bylaws shall be filed with the appropriate ((college)) university official or body. All amendments shall be submitted within a reasonable time after they become effective.

(iii) All sources of outside funds shall be disclosed.

(c) Membership in all ((college)) university related organizations, within the limits of their facilities, shall be open to any member of the ((college)) university community who is willing to subscribe to the stated aims and meet the stated obligations of the organization.

(d) ((College)) University facilities shall be assigned to organizations, groups, and individuals within the ((college)) university community for regular business meetings, for social programs, and for programs open to the public; provided:

(i) Reasonable conditions may be imposed to regulate the timeliness of requests, to determine the appropriateness of the space assigned, to regulate time and use, and to insure proper maintenance.

(ii) Preference may be given to programs designed for audiences consisting primarily of members of the ((college)) university community.

(iii) Allocation of space shall be made based on priority of requests and the demonstrated needs of the organization, group, or individual.

(iv) The ((college)) university may delegate the assignment function to an administrative official or a student committee or organization.

(v) Charges may be imposed for any unusual costs for use of facilities.

(vi) Physical abuse of assigned facilities shall result in reasonable limitations on future allocation of space to offending parties and restitution for damages.

(vii) The individual, group, or organization requesting space must inform the ((college)) university of the names of outside speakers and indicated subject.

(e) No individual, group, or organization may use the ((college)) university name without the express authorization of the ((college)) university, except to identify the ((college)) university affiliation. ((College)) University approval or disapproval of any policy may not be stated or implied by any individual, group, or organization.

(6) Publications.

(a) A student, group, or organization may distribute written material on campus without prior approval providing such distribution does not disrupt the operations of the ((college)) university and the material clearly states the publisher.

(b) The student press is to be free of censorship. The editors and manager shall not be arbitrarily suspended because of student, faculty, administration, alumni, or community disapproval of editorial policy or content. Similar freedom is assured oral statements of views on a ((college)) university controlled and student-operated radio or television station. This editorial freedom entails a corollary obligation under the canons of responsible journalism and applicable regulations of the Federal Communications Commission.

(c) All student communications shall explicitly state on the editorial page or in broadcast that the opinions expressed are not necessarily those of the ((college)) university or its student body.

(7) ((College)) University Government.

(a) All constituents of the ((college)) university community are free, individually and collectively, to express their views on issues of ((college)) university policy and on matters of interest to the student body. Clearly defined means shall be provided for student expression on all ((college)) university policies affecting academic and student affairs.

(b) The role of student government and its responsibilities shall be made explicit. Student government actions reviewed by the ((college)) university shall only be reviewed through procedures agreed upon in advance.

(c) On questions of education policy, students are entitled to a participatory function. Faculty-student committees shall be created to consider questions of policy affecting student life. Students shall be designated as members of standing and special committees concerned with ((college)) university policy affecting academic and student affairs, including those concerned with curriculum discipline, admissions, and allocation of student fees.

(8) Privacy.

(a) The right of students to be secure in their persons, living quarters, papers, and effects against unreasonable searches and seizures is guaranteed. These rights of privacy extend to ((college)) university-owned housing. Nothing in the ((college)) university relationship or housing contract may expressly or by implication give the ((college)) university or housing officials authority to consent to a search of a student's room by police or other government officials, or anyone else.

(b) When the ((college)) university seeks access to a ((college)) university-owned student room to determine compliance with provisions of applicable multiple dwelling unit laws or for improvement or repairs, the occupant shall be notified of such action not less than twenty-four (24) hours in advance. There may be entry without notice in emergencies where imminent danger to life, safety, health, or property is reasonably feared.

(9) Student Records.

(a) The privacy and confidentiality of all student records shall be preserved. Official student academic records, supporting documents, and other student files shall be maintained only by full time members of the ((college)) university staff employed for that purpose. Separate files shall be maintained of the following: academic records, supporting documents, and general educational records; records of discipline proceedings; medical and psychiatric records; and financial aid records.

(b) No entry may be made on a student's academic record and no document may be placed in his file without actual or constructive notice to the student. All matters placed in a student's file in accordance with published customary and ordinary policies, procedures, and regulations, shall constitute constructive notice.

(c) Access to his official, institutional records and files is guaranteed every student subject only to reasonable regulations as to time, place, and supervision. A student may challenge the accuracy of any entry or the presence of any item by bringing the equivalent of an equitable action against the appropriate person.

(d) No information in any student file may be released to anyone except with the prior written consent of the student concerned or as stated below:

(i) Members of the faculty with administrative assignments may have access for internal educational purposes as well as routinely necessary administrative and statistical purposes.

(ii) The following data may be given any inquirer: school or division of the enrollment, periods of enrollment, degrees awarded, honors, and major field.

(iii) If any inquiry is made in person or by mail, the following information may be given in addition to that in subsection (ii) immediately above: address and telephone number, date of birth, and, unless the student has instructed the registrar's office not to release copies of his transcript without his written authorization, academic information from the transcript will be released when it is clear the institution is being cited as an educational reference.

(iv) Properly identified officials from federal, state, and local government agencies may be given the following information upon express request in addition to that in subsections (ii) and (iii) immediately above: name and address of parent or guardian if student is a minor, and any information required under legal compulsion.

(v) Unless under legal compulsion, personal access to a student's file shall be denied to any person making an inquiry.

(e) Upon graduation or withdrawal from the ((college)) university, the records and files of former

students shall continue to be subject to the provisions of this section.

(10) Procedural standards in disciplinary proceedings. Disciplinary proceedings must guarantee fundamental concepts of fair play (due process). The procedural requirements of due process may vary with the seriousness of the charge. In every proceeding in which a major disciplinary action is contemplated, the student shall have the rights of due process, including at least:

(a) The student shall be informed, in writing, of the reasons for the proposed disciplinary action, including charges with sufficient time to ensure opportunity to prepare for the hearing.

(b) The burden of proof shall rest upon the official bringing the charge.

(c) Upon request, the right to: closed proceedings, confrontation and cross examination of witnesses, be present, challenge any member hearing the case and witnesses, a record of the appeal at least one (1) step beyond the initial determination.

(d) All matters upon which the decision may be based must be introduced into evidence at the proceeding. The decision shall be based solely upon such matter. Illegally acquired evidence may not be admitted.

(e) No person who is otherwise interested in the particular case may sit in judgment during the proceeding.

(f) The decision shall be final subject only to the student's right of appeal.

(11) Procedural standards in student complaint proceedings. If students have complaints of infringement of their rights, they shall, on request, have a hearing. Minimum requirements of procedural due process for all persons should include those in WAC 172-114-030(10) and:

(a) The ((hearing committee)) University Disciplinary Committee should include both faculty and student members.

(b) The decision of the ((hearing committee)) University Disciplinary Committee should be final, subject only to the right of appeal by parties concerned.

(12) Dual Membership. Activities of students may upon occasion result in violation of law. Students who violate the law may incur penalties prescribed by civil authorities, but institutional authority should never be used merely to duplicate the function of general laws. Only where the institution's interest as an academic community are distinct and clearly involved should the special authority of the institution be asserted. The student who incidentally violates institutional regulations in the course of his off-campus activity, such as those relating to class attendance, should be subject to no greater penalty than would normally be imposed. Institutional action should be independent of community pressure.

AMENDATORY SECTION (Amending Order 75-8, Filed July 24, 1975)

WAC 172-114-040 ARTICLE III
LEGISLATION. (1) The legislative powers of the A.S. shall be vested in the Legislature and may not be transferred.

(2) All legislation shall include: the names of the sponsor(s), date of introduction, committee referred to—if any, disposition, and date of disposition, signatures of A.S. Speaker and A.S. President, take effect immediately upon ((passage, unless a later date is specified)) signature by the A.S. President or override of his veto by the A.S. Legislature, and shall continue in effect until five (5) years from the last date of ((passage)) signature or override or until rescinded.

(3) The voting members of the Legislature shall consist of fifteen (15) representatives known as legislators, elected by numbered, at-large positions for one (1) year terms. The legislators shall take office on the last day of the quarter in which they are elected, as follows: Positions 1 through 5, elected Fall Quarter, Positions 6 through 10, elected Winter Quarter, and Positions 11 through 15, elected Spring Quarter. Provided, that no person may hold more than one (1) voting seat in the Legislature, and the A.S. President and A.S. Vice President may not hold ((a)) voting ((seat)) seats in the Legislature.

(4) Candidates/members for/of the Legislature shall be members of the A.S. and have/maintain a two point (2.00) cumulative grade point average, be enrolled for and complete six (6) credit hours in the previous quarter (excluding summer quarter), and have at least one (1) quarter in residence. A legislator's office shall become vacant upon the incumbent's death, resignation, recall, withdrawal from membership in A.S. (excluding summer quarter), or declaration of non-performance of duties stated in this constitution, or violation of this constitution, by the A.S. Superior Court. ~~((Should there be a vacancy in a legislative position, the Student Welfare Committee, with the approval of the Legislature, shall recommend three (3) students to the A.S. President, who shall select one (1) of the three (3) to fill the vacancy.))~~ Legislators who miss three (3) full regularly scheduled consecutive meetings or four (4) full regularly scheduled meetings during a quarter shall have their seat declared vacant by the A.S. Speaker. All vacancies shall be filled for the balance of the term at the next regularly scheduled election.

(5) The Legislature shall be the judge of all of the A.S. election returns and of the qualifications of its legislators and a majority of its legislators shall constitute a quorum; ((it may compel the attendance of absent legislators in such manner and under such penalties as it may provide, and)) there shall be no proxy voting, and there shall be no secret balloting.

(6) The Legislature shall meet not less than ((twice)) once each month during Fall, Winter, and Spring Quarters, and at special meetings called by the Speaker, one-third (1/3) of its legislators, or by the presentation to the President of a petition signed by five per cent (5%) of the A.S. All meetings shall be open to the public, a record shall be kept of the votes taken therein, and copies of the minutes shall be available to any member of the ((college)) university community upon request.

(7) The Legislature shall have the following powers and duties:

(a) Be responsible for its own organization, election of legislative committees, the employment and supervision of those employees whom it deems necessary to assist it or individual legislators in the exercise of their legislative duties and powers, provided it budgets for same, and said salaries shall not exceed a cabinet member's salary.

(b) Elect an A.S. legislator to the position of Speaker the Third (3rd) meeting of Fall, Winter, and Spring Quarters, who shall serve one (1) quarter not counting Summer Quarter. Vacancies occurring in the Speaker's office shall be filled in the same manner for the balance of the unexpired term.

(c) Elect an A.S. legislator to the position of Speaker Pro-Tem the third (3rd) meeting of Fall, Winter, and Spring Quarters, who shall serve one (1) quarter not counting Summer Quarter. Vacancies occurring in the Speaker Pro-Tem's office shall be filled in the same manner for the balance of the unexpired term.

(d) The Legislature shall elect from among its members a Legislative Coordinator to serve during Summer Quarter who may receive a salary not to exceed that of a Cabinet Member.

((d)) (e) Shall enforce this Constitution.

((e)) (f) May remove a cabinet officer for nonperformance of duties or violation of this Constitution.

((f)) (g) May request the A.S. Superior Court to find the A.S. President guilty of nonperformance of duties stated in this Constitution or violation of this Constitution.

((g)) (h) Upon a two-thirds (2/3) vote of the A.S. Legislature, the A.S. President may be recalled as described in WAC 172-114-080(5).

((h)) (i) No legislative committee shall have the authority to delay presentation to the full Legislature legislation referred to it for more than two (2) meetings without permission of the sponsor.

((i)) (j) Budget and disbursement of all funds on behalf of A.S.

((j)) (k) Cause to have published an annual Financial Statement and Audit.

((k)) (l) Establish policies for and have supervision of all officials, budgets, committees, and organizations.

((l)) (m) Render advice upon and approve or reject all appointments made by officials of the Associated Students of Eastern Washington ((State College)) University.

((m)) (n) Publish the A.S. Committee Manual stating the membership, eligibility, purpose, and duties of each committee.

((n)) (o) Approve and remove persons to and from committees.

((o)) (p) Enact all legislation necessary (to ensure that its policies are enforced).

((p)) (q) Do anything else necessary or convenient to carry out this Constitution.

(r) By a two-thirds (2/3) vote of the A.S. Legislature, the A.S. Legislature may override a veto by the A.S. President.

(8) The Speaker shall have the following powers and duties: Prepare the agenda for and chair all meetings of the Legislature; call meetings of the Legislature; prepare a schedule of regular meetings at the beginning of Fall,

Winter, and Spring Quarters for the advice and consent of the A. S. Legislature; appoint a clerk and other assistants which may be beneficial to the performance of his office or the functioning of the Legislature, with its advice and consent, and to request salaries for the same, not to exceed a cabinet member's salary; shall be responsible for executing legislative decisions; all administrative matters of the Legislature; make all legislative appointments, except as otherwise provided in this Constitution, subject to the advice and consent of the Legislature; assume the duties of the Vice President during the Vice President's absence or disability or vacancy of the office of Vice President until the Vice Presidential vacancy is filled as provided for in Article ((H)) IV, Section 2 (WAC 172-114-((030)) 050(2); and to do all things necessary or convenient to carry out such duties not in conflict with this Constitution.

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 75-8, Filed July 24, 1975)

WAC 172-114-050 ARTICLE IV—EXECUTIVE. (1) The Executive power of the A.S. shall be vested in the A.S. President and A.S. Vice President and may not be transferred.

(2) Candidates for the ((office)) offices of and the A.S. President and A.S. Vice President shall be members of the A.S., shall have/maintain a two point (2.00) cumulative grade average, be enrolled for and complete six (6) credit hours in the previous quarter (excluding Summer Quarter for the A.S. Vice President), shall have a minimum of five (5) quarters as a full time student, at least ((two (2))) three (3) of which shall be in residence at the ((college)) university immediately prior to election for office. The A.S. President's and A.S. Vice President's office shall become vacant upon the incumbent's death, resignation, recall, withdrawal from membership in A.S. (excluding Summer Quarter for the A.S. Vice President), or declaration of nonperformance of duties states in this constitution or violation of this constitution, ((by a two thirds (2/3) vote of the A.S. Legislature. Vacancies occurring in the President's office shall be filled at the next regular election for the balance of the unexpired term.)) by the A.S. Superior Court. In case of vacancy in the office of the Presidency, the Vice President shall assume the Presidency for the balance of the unexpired term.

(3) The President and Vice President shall serve one (1) year terms, or until ((his)) a successor takes office, taking office on the ((sixth (6th) Wednesday)) ninth (9th) Thursday of the quarter in which ((he is)) they are elected, which shall be Spring Quarter.

(4) The President shall serve as the chief executive officer and representative of A.S.; shall enforce this Constitution; shall be responsible for executing legislative and judicial decisions; shall present to the Legislature, at its first meeting of each quarter, his executive request legislation; may veto any Legislative Bill or Supplemental Budget passed by the A.S. Legislature

within three (3) working days of passage, shall sign all Legislation within three (3) working days of passage or override of veto by the A.S. Legislature, may create cabinet positions and appoint cabinet officers with the advice and consent of the Legislature, who will serve at his pleasure except as provided for in Article III, Section (7) ((~~7~~)) (f) (WAC 172-114-040(7) ((~~7~~)) (f)), and request salaries for such cabinet officers not to exceed the limit in Article VIII, Section ((6)) 7 (WAC 172-114-090 ((~~6~~)) (7)); make all appointments in an expeditious manner, except as otherwise provided for in this Constitution, subject to the advice and consent of the Legislature, shall hold twice a month executive meetings with the A.S. Vice President, Cabinet, Speaker, and Speaker Pro-Tem while the university is in session; all administrative matters and programs of A.S. except as otherwise provided for in this Constitution; may request the A.S. Superior Court to find an A.S. legislator guilty of non-performance of his duties stated in this Constitution or violation of this Constitution; and do all things necessary or convenient to carry out such duties not in conflict with this Constitution.

(5) The Vice President shall assume the office of A.S. President upon that position being vacant as provided for in Article IV, Section 2 (WAC 172-114-050(2)); assume any duties delegated by the President; shall supervise all A.S. elections; shall be responsible for validating all petitions; and assume the duties of the President during the President's absence or disability.

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 75-8, Filed July 24, 1975)

WAC 172-114-060 ARTICLE V—ELECTION.

(1) There shall be a regular A.S. election on the ~~((fifth (5th) Wednesday))~~ eighth (8th) Thursday of Fall, Winter, and Spring Quarters, it shall be preceded by a primary election one (1) week prior, filing shall close one (1) week prior to the primary election and shall open one (1) week prior to closing.

(2) The positions of legislators, President, Vice President, and vacancies therein shall be filled through regular elections with a majority of ballots cast being required for election.

(3) All those candidates who filed in the A.S. office by 5:00 o'clock P.M. on the last day of filing and are qualified shall have their names entered on the primary election ballot. The two (2) candidates receiving the most votes for each office in the primary, who are qualified, shall have their names entered on the final election ballot; provided, however, that in case of a tie for the second most votes in the primary, the three (3) candidates receiving the most votes for that office who are qualified, shall have their names entered on the final election ballot.

(4) Should no candidate receive a majority in the final election, a run-off election shall be held one (1) week after the final election between the two (2) persons receiving the most votes in the final election, who are

qualified, and only ballots for those two (2) persons shall be counted; provided, however, that in case of a tie for the second most votes in the final election, the run-off election shall be between the three (3) candidates receiving the most votes for the office, and only ballots, for those three (3) persons shall be counted.

(5) Should no candidate receive a majority in a run-off election, the Legislature shall select the winner from between those entered on the run-off election ballot, by a majority of the legislators at its next meeting.

(6) All votes shall be cast by secret ballot. The names of the candidates shall appear on the ballot in the order in which filed. All ballots shall be kept under lock and key for six (6) months after each election.

(7) The polls shall be located at:

(a) Pence Union Building;

(b) Tawanka Commons; and

(c) As otherwise provided for by the Legislature.

The polls shall be open from 8:00 o'clock A.M. until 7:00 o'clock P.M., and members of A.S. shall be allowed to vote upon presentation of suitable identification, providing that they shall be allowed to vote but once in each election.

(8) Any member of A.S. may present an "Application of Absent Voter" form to the Office of A.S. ~~((Executive))~~ Vice President or his/her designees for an absentee voter ballot.

(9) Two (2) election clerks shall be assigned to each polling place and they shall be solely responsible for supervising the ballots, ballot boxes, and voting at the polling place. They may not be, nor related to, any current student. They shall be employed through the office of the A.S. ~~((Executive))~~ Vice President.

AMENDATORY SECTION (Amending Order 72-9, Filed September 20, 1972)

WAC 172-114-070 ARTICLE VI—JUDICIAL.

(1) The judicial authority of the A.S. shall be vested in a Superior Court and such lesser courts as the A.S. Legislature may from time to time establish. The judges, both of the Superior and lesser courts, shall be members of the A.S., ~~((and))~~ have ~~((and))~~ maintain a two (2.00) cumulative grade average, and be enrolled for and complete six (6) credit hours in the previous quarter (excluding Summer Quarter). Members of the Superior Court and lesser courts shall serve until they resign, cease to be a member of A.S. (excluding Summer Quarter), ~~((have less than a two (2.00) cumulative grade average;))~~ or shall be impeached and convicted for cause brought by a petition signed by at least three-fourths (3/4) of the Legislators and tried by the ~~((college-hearing board))~~ University Disciplinary Committee.

(2) The Superior Court shall serve as a court of equity, the highest appellate court in the student judicial system, and shall have full powers of Judicial Review.

(3) No court may render an opinion, hear evidence, nor pass judgment in the absence of a quorum, which shall be a majority of the court.

(4) The Superior Court shall consist of seven (7) Justices who shall select from their members one (1) who shall serve as Chief Justice, the others serving as

Associate Justices. It shall be the duty of the Chief Justice to preside as chairman and chief officer at all meetings of the Superior Court and may appoint a court clerk and other assistants which may be beneficial to the functioning of the Superior Court, with the advice and consent of the Legislature, and to request salaries for the same, not to exceed a cabinet member's salary.

(5) The Justices of the Superior Court shall be appointed by the President with the advice and consent of the Legislature. Vacancies shall be filled in the same manner.

(6) The procedure of the judicial shall follow those principles of United States Law insofar as deemed practical and advisable by the bodies, and all proceedings of the judicial shall be recorded. All decisions shall be accompanied by a written opinion expressing the majority opinion and may be accompanied by dissenting or concurring written opinions. A copy of all Superior Court case records and court decisions and opinions shall be maintained in the ~~((College))~~ University Library.

(7) The Superior Court and lesser courts shall hear all cases and render opinions in as expeditious manner as is possible.

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 74-8, Filed October 1, 1974)

WAC 172-114-090 ARTICLE VIII—BUDGETING. (1) The budgeting authority of the A.S. shall be vested in the Legislature and may not be transferred.

(2) The budget shall include all funds, revenues, and reserves, shall be divided into programs, sub-programs, and objects of expense and shall include supporting data; shall indicate as to each program, sub-program, or object of expense the actual expenditures of the preceding two (2) fiscal years and requested appropriations for the next fiscal year, and shall include any proposed capital improvement program for the next six (6) fiscal years.

(3) Copies of the budget shall be delivered to each member of the Legislature and be available to any member of the ~~((college))~~ university community upon request.

(4) Unless otherwise provided by the appropriation legislation, all unexpended and unencumbered appropriations in the current expense appropriation legislation shall lapse at the end of the fiscal year. An appropriation in the capital budget appropriation legislation shall lapse when the project has been completed or abandoned or when no expenditure or encumbrance has been made for three (3) years.

(5) Any expenditures in excess of an appropriation shall be null and void; and any official, agent, or employee knowingly responsible shall be personally liable to anyone damaged by his action; providing the Legislature may permit the A.S. to enter into contracts requiring the

payment of funds from appropriations of subsequent fiscal years.

~~(6) ((The A.S. President and A.S. Legislature's Speaker shall receive salaries at a rate of Five Hundred Dollars (\$500.00) per quarter that they are enrolled and in office except the Speaker shall not be paid for Summer Quarter. Cabinet officers may be paid no more than one-half (1/2) of an elected officer's salary.))~~ Regular budgets shall be those budgets adopted during Spring Quarter for the following fiscal year. Supplemental budgets shall be all other budget requests made throughout the year.

(7) The A.S. President and A.S. Speaker shall receive quarterly salaries based upon the following formula: Quarterly cost of in-state tuition, double occupancy room and board, and \$100 for expenses. The A.S. Vice President shall receive a quarterly salary, except for Summer Quarter, based upon the following formula: Quarterly cost of in-state tuition and double occupancy room and board. Cabinet officers may be paid no more than one-half (1/2) of the A.S. President's salary.

AMENDATORY SECTION (Amending Order 74-5, Filed June 5, 1974)

WAC 172-114-110 AMENDMENTS. (1) This Constitution may be amended by a two-thirds (2/3) vote of those voting on the proposed modification at any regular election ~~((and))~~ provided that 15% of the members of A.S. vote in that election. ~~((if))~~ If adopted, it shall become effective upon approval, as prescribed under Administrative Procedures Act hearing rules, by the Board of Trustees.

(2) Proposed constitutional amendments shall be presented to the members of the A.S. for approval upon the request of at least two-thirds (2/3) of the voting members of the Legislature or upon petition of at least ten per cent (10%) of the A.S.

(3) The By-Laws may be amended by a two-thirds (2/3) vote of the voting members of the Legislature provided that previous written notice of such amendment has been given at the previous meeting, or by a majority of those voting on the proposed modification at any regular election and if so adopted shall become effective immediately.

(4) Proposed By-Laws amendments shall be presented to the members of the A.S. for approval upon the request of at least one-half (1/2) of the voting members of the Legislature or upon at least ten per cent (10%) of the members of the A.S.

(5) Approved constitutional and By-Laws amendments shall be incorporated into the article, section, and clause of the Constitution or By-Laws to which they refer.

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 78-04-001
EMERGENCY RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Order 78-4—Filed Mar. 2, 1978]

I, John C. Hewitt, director of the Department of Labor and Industries, do promulgate and adopt at Office of the Director, Olympia, Washington, the annexed rules relating to the amending of chapter 296-52 WAC, Possession, Handling and Use of Explosives to conform with requirements of OSHA, 29 CFR 1910.109.

I, John C. Hewitt, 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 rules unamended are not as effective as OSHA and as agreed in the State Plan, the State rules must be at least as effective as OSHA.

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

This rule is promulgated pursuant to RCW 49.17.040 and 49.17.240 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 March 2, 1978.

By John C. Hewitt
 Director

AMENDATORY SECTION (Amending Order 41, filed 12/19/75)

WAC 296-52-012 INCORPORATION OF STANDARDS OF NATIONAL ORGANIZATIONS AND FEDERAL AGENCIES. (1) ~~Whenever a provision of this chapter incorporates ((by reference a national code or portion thereof which has been adopted by and is currently administered by another state agency, compliance with those provisions adopted and administered by such other state agency, if from a more recent edition of such national code, will be deemed to be prima facie evidence of compliance with the provisions of this chapter.~~

~~(2) Whenever a provision of this chapter incorporates therein provisions of the Code of Federal Regulations (CFR) or any other regulations adopted by an agency of the federal government, that provision of this chapter shall be construed to mean that compliance with such regulations shall be prima facie evidence of compliance with the provisions of this chapter.~~

~~(3) Whenever a provision of this chapter incorporates therein provisions of the Code of Federal Regulations, the provisions so incorporated shall be those in effect on the date of effectiveness of this chapter, unless the content of the incorporating section specifies otherwise.)~~

therein provisions of the Code of Federal Regulations, the provisions so incorporated shall be those in effect on the date of effectiveness of this chapter, unless the content of the incorporating section specifies otherwise.

~~((4))~~ (2) The above referenced information is available for your review at all Labor and Industries' Service Locations.

AMENDATORY SECTION (Amending Order 4, filed 4/29/70)

WAC 296-52-020 PURPOSE. It is the purpose of this code to implement the Washington State Explosives Act, chapter 70.74 RCW, as amended by chapter 72, Laws of 1970 2nd ex. sess. ~~((The Explosives Act shall be attached to this code, and both the act and the code shall be read and enforced jointly.))~~

This code has been written by the Division of Industrial Safety and Health and promulgated by the Department of Labor and Industries in accordance with RCW 70.74.020 (Explosives Act), RCW 49.16.050, 49.16.060, 49.16.070 and 49.16.080 (Labor Regulations).

Advance notice was mailed as required by statute and public notice given as provided in RCW 42.32.010, on February 25, 1970.

A public hearing was conducted on March 26, 1970, at Olympia.

A copy of this code was filed with the Office of the Code Reviser on April 29, 1970, to become effective on May 29, 1970.

Chapter 88, Laws of 1972, shall apply.

AMENDATORY SECTION (Amending Order 41, filed 12/19/75)

WAC 296-52-030 DEFINITIONS. Definitions as used in this chapter, unless a different meaning is plainly required by the context:

(1) "Attend" shall mean the physical presence of an authorized person within the field of vision of explosives. The said attendant shall be awake, alert and not engaged in activities which may divert his attention so that in case of an emergency he can get to the explosives quickly and without interference, except for brief periods of necessary absence, during which absence simple theft of explosives is not ordinarily possible.

(2) "Authorized," "approved" or "approval" shall be held to mean authorized, approved, or approval by the Department of Labor and Industries or other approving agency or individual as specified by the provisions of this chapter.

(3) "Blaster" shall be held to mean that qualified person in charge of and responsible for the loading and firing of a blast.

(4) "Blasting agent" shall be held to mean and include any material or mixture consisting of a fuel and oxidizer, intended for blasting, not otherwise classified as an explosive, and in which none of the ingredients are classified as an explosive, provided that the finished

product, as mixed and packaged for use or shipment, cannot be detonated when unconfined by means of a No. 8 test blasting cap.

(5) "Day Box" shall denote a box which is not approved as a magazine for unattended storage of explosives. Such box may be used for storage of explosives during working hours on a job site, provided that it shall always be guarded against theft, particularly in inhabited areas, and shall either be attended, locked or secured against outright lifting, as the risk demands. Caps shall be safely separated from other explosives. Such day boxes shall be marked with the word "Explosives".

(6) "Dealer" shall be held to mean and include any person who purchases explosives or blasting agents for the sole purpose of resale, and not for use or consumption.

(7) "Department" shall denote the Department of Labor and Industries.

(8) "Detonating Cord" (fuse) shall mean a round, flexible cord containing an explosive core which can be initiated with a blasting cap.

(9) "Detonator" shall mean a blasting cap, an electric blasting cap or a delay electric blasting cap.

(10) "Director" shall denote the Director of the Department of Labor and Industries, or his designated representative.

(11) "Division" shall denote the Division of Industrial Safety and Health of the Department.

(12) "Efficient artificial barricade" shall be held to mean an artificial mound or properly revetted wall of earth of a minimum thickness of not less than three feet or such other artificial barricade as approved by the Department of Labor and Industries.

(13) "Explosive" (~~or "explosives" whenever used in this chapter shall be held to mean and include any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing, that an ignition by fire, by friction, by concussion, by percussion, or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb. In addition, the term "explosives" shall include all material which is classified as class A, class B, and class C explosives by the federal Department of Transportation; PROVIDED, That for the purposes of this chapter small arms ammunition, small arms ammunition primers, smokeless powder not exceeding fifty pounds, and black powder not exceeding five pounds shall not be defined as explosives. Classification of explosives shall include but not be limited to the following:)) any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified by the U.S. Department of Transportation; see 49 CFR Chapter I. The term "explosives" shall include~~

all material which is classified as Class A, Class B, and Class C explosives by the U.S. Department of Transportation, and includes, but is not limited to dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonant fuse, instantaneous fuse, igniter cord, igniters, small arms ammunition, small arms ammunition primers, smokeless propellant, cartridges for propellant-actuated power devices, and cartridges for industrial guns. Commercial explosives are those explosives which are intended to be used in commercial or industrial operations.

NOTE: Classification of explosives is described by the U.S. Department of Transportation as follows (see 49 CFR Chapter I):

((i)) (a) Class A Explosives((:)): Possessing, detonating, or otherwise maximum hazard((:)); such as dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, black powder (~~exceeding five pounds~~), blasting caps (~~in quantities of 1001 or more~~), and detonating primers.

((ii)) (b) Class B Explosives((:)): Possessing flammable hazard((:)), such as propellant explosives((:)) (including some smokeless propellants (exceeding fifty pounds)), photographic flash powder, and some special fireworks.

((iii)) (c) Class C Explosives(~~(:)~~ ~~Including~~): Includes certain types of manufactured articles which contain Class A or Class B explosives((:)) or both, as components but in restricted quantities(~~blasting caps in quantities of 1000 or less~~).

(14) "Explosive-actuated power devices" shall be held to mean any tool or special mechanized device which is actuated by explosives, but not to include propellant-actuated power devices.

(15) "Explosives manufacturing building" shall be held to mean and include any building or other structure (excepting magazines) containing explosives, in which the manufacture of explosives, or any processing involving explosives, is carried on, and any building where explosives are used as a component part or ingredient in the manufacture of any article or device.

(16) "Explosives manufacturing plant" shall be held to mean and include all lands, with the buildings situated thereon, used in connection with the manufacturing or processing of explosives or in which any process involving explosives is carried on, or the storage of explosives thereat, as well as any premises where explosives are used as a component part or ingredient in the manufacture of any article or device.

(17) "Factory building" shall denote the same as "Manufacturing Building".

(18) "Forbidden or not acceptable explosives" shall be held to mean and include explosives which are forbidden or not acceptable for transportation by common carriers by rail freight, rail express, highway, or water in accordance with the regulations of the federal Department of Transportation.

(19) "Fuel" shall be held to mean and include a substance which may react with the oxygen in the air or

with the oxygen yielded by an oxidizer to produce combustion.

(20) "Handling" shall denote any one or more of manufacturing, buying, selling, transporting, storing or using of explosives.

(21) "Handloader" shall be held to mean and include any person who engages in the noncommercial assembling of small arms ammunition for his own use, specifically the operation of installing new primers, powder, and projectiles into cartridge cases.

(22) "Handloader components" means small arms ammunition, small arms ammunition primers, smokeless powder not exceeding fifty pounds, and black powder as used in muzzle loading firearms not exceeding five pounds.

(23) "Highway" shall be held to mean and include any public street, public alley, or public road.

(24) "Inhabited building" shall be held to mean and include only a building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other building where people are accustomed to assemble, other than any building or structure occupied in connection with the manufacture, transportation, storage, or use of explosives.

(25) "Magazine" shall be held to mean and include any building or other structure, other than a factory building, used for the storage of explosives.

(26) "Motor vehicle" shall be held to mean and include any self-propelled automobile, truck, tractor, semi-trailer or full trailer, or other conveyance used for the transportation of freight.

(27) "Mudcap" shall be held to mean covering the required number of cartridges that have been laid on top of a boulder with a three or four inch layer of mud (free from rocks or other material which might constitute a missile hazard). Mudcapping is also commonly known as "bulldozing" and "dobyng".

(28) "Natural barricade" shall be held to mean and include any natural hill, mound, wall, or barrier composed of earth or rock or other solid material of a minimum thickness of not less than three feet.

(29) "Oxidizer" shall be held to mean a substance that yields oxygen readily to stimulate the combustion of organic matter or other fuel.

(30) ~~("Permanent magazines" shall denote magazines that are permanently fastened to a foundation and that are left unattended. The capacity of said permanent magazines shall not exceed the limits stated in RCW 70.74.040. Permanent magazines shall be approved and licensed.)~~

~~((31))~~ "Person" shall be held to mean and include any individual, firm, copartnership, corporation, company, association, joint stock association, and including any trustee, receiver, assignee, or personal representative thereof.

~~((32))~~ (31) "Person responsible", for an explosives magazine, shall mean the legal person who actually operates the magazine and who is responsible for the proper storage, protection and removal of the explosives. The responsible person may be the owner or the lessee or the authorized operator of the magazine.

~~((33)) "Portable magazines" also called "Field" magazines shall denote magazines that are designed to be unattended and that are not permanently fastened to a foundation. Said magazines shall be so constructed or secured that they can not be readily lifted and carried away by unauthorized persons. The capacity of said portable magazines shall be limited to the amount of explosives required for efficient operation. Portable magazines shall be approved and licensed.)~~

~~((34))~~ (32) "Possess" shall denote in this code the physical possession of explosives in one's hand, vehicle, magazine or building.

~~((35))~~ (33) "Primer" shall be held to mean a cartridge or container of explosives into which a detonator or detonating cord is inserted or attached and whose purpose is to initiate the main explosive charge.

~~((36))~~ (34) "Propellant-actuated power device" shall be held to mean and include any tool or special mechanized device or gas generator system which is actuated by a propellant or which releases and directs work through a propellant charge.

~~((37))~~ (35) "Public conveyance" shall be held to mean and include any railroad car, streetcar, ferry, cab, bus, airplane, or other vehicle which is carrying passengers for hire.

~~((38))~~ (36) "Public utility transmission system" shall mean power transmission lines over 10 KV, telephone cables, or microwave transmission systems, or buried or exposed pipelines carrying water, natural gas, petroleum, or crude oil, or refined products and chemicals, whose services are regulated by the utilities and transportation commission, municipal, or other publicly owned systems.

~~((39))~~ (37) "Purchaser" shall be held to mean any person who buys, accepts, or receives any explosives or blasting agents.

~~((40))~~ (38) "Pyrotechnics" shall be held to mean and include any combustible or explosive compositions or manufactured articles designed and prepared for the purpose of producing audible or visible effects which are commonly referred to as fireworks.

~~((41))~~ (39) "Railroad" shall be held to mean and include any steam, electric, or other railroad which carries passengers for hire.

~~((42))~~ (40) "Railroad freight car" shall denote cars that are built for and loaded with explosives and operated in accordance with DOT rules.

~~((43))~~ (41) "Semiconductive hose" means a hose with an electrical resistance high enough to limit flow of stray electric currents to safe levels, yet not so high as to prevent drainage of static electric charges to ground; hose of not more than 2 megohms resistance over its entire length and of not less than 5,000 ohms per foot meets the requirement.

~~((44))~~ (42) "Shall" means that the rule establishes a minimum standard which is mandatory. The Department welcomes better or higher standards than the minimums. If extenuating circumstances make even the minimum standard impractical, supporting evidence shall be submitted in writing to the Department for review and granting of a variance in accordance with WAC 296-52-025.

~~((45))~~ (43) "Small arms ammunition" shall be held to mean and include any shotgun, rifle, pistol, or revolver cartridge, and cartridges for propellant-actuated power devices and industrial guns. Military-type ammunition containing explosive bursting charges, incendiary, tracer, spotting, or pyrotechnic projectiles is excluded from this definition.

~~((46))~~ (44) "Small arms ammunition primers" shall be held to mean small percussion-sensitive explosive charges encased in a cup, used to ignite propellant powder ~~(and shall include percussion caps as used in muzzle loaders)~~.

~~((47))~~ (45) "Smokeless propellants": ~~((shall be held to mean and include solid chemicals or solid chemical mixtures in excess of fifty pounds which function by rapid combustion.))~~ Smokeless propellants—solid propellants, commonly called smokeless powders in the trade, used in small arms ammunition, cannon, rockets, propellant-actuated power devices, etc.

~~((48))~~ (46) "Special industrial explosive devices" means explosive-actuated power devices and propellant-actuated power devices.

~~((49))~~ (47) "Special industrial explosives materials" means shaped materials and sheet forms and various other extrusions, pellets, and packages of high explosives, which include dynamite, trinitrotolvene (TNT), pentaerythritol tetranitrate (PETN), hexahydro-1, 3, 5-trinitro-s-triazine (RDX), and other similar compounds used for high-energy-rate forming, expanding, and shaping in metal fabrication, and for dismemberment and quick reduction of scrap metal.

~~((50))~~ (48) "Trailer" shall denote semi-trailers or full trailers as defined by DOT, that are built for and loaded with explosives and operated in accordance with DOT rules.

~~((51))~~ (49) "Unclassified explosives" shall be held to mean any two components which, when mixed become capable of detonation by a No. 6 test blasting cap.

~~((52))~~ (50) "User" shall be held to mean and include any ~~((natural))~~ person, manufacturer, or blaster who acquires, purchases, or uses explosives as an ultimate consumer or who supervises such use.

~~((53))~~ (51) "Water gels or slurry explosives" comprise a wide variety of materials used for blasting. They all contain substantial proportions of water and high proportions of ammonium nitrate, some of which ~~((is))~~ are in solution in the water. Two broad classes of water gels are:

~~((i))~~ (a) Those which are sensitized by a material classed as an explosive, such as TNT or smokeless powder,

~~((ii))~~ (b) Those which contain no ingredient classified as an explosive; these are sensitized with metals such as aluminum or with other fuels. Water gels may be premixed at an explosives plant or mixed at the site immediately before delivery into the bore hole.

~~((54))~~ (52) "DOT specification" are regulations of the Department of Transportation published in 49 CFR Chapter I.

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 41, filed 12/19/75)

WAC 296-52-090 CONSTRUCTION OF MAGAZINES. (1) Construction of Permanent Storage Facilities. (a) Definition. A Class 1 storage facility shall be a permanent structure, a building, an igloo or Army-type structure, a tunnel, or a dugout. It shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and well ventilated.

(b) Buildings. All building type storage facilities shall be constructed of masonry, wood, metal, or a combination of these materials and shall have no openings except for entrances and ventilation. Ground around such storage facilities shall slope away for drainage.

(c) Masonry Wall Construction. Masonry wall construction shall consist of brick, concrete, tile, cement block, or cinder block and shall be not less than 6 inches in thickness. Hollow masonry units used in construction shall have all hollow spaces filled with well tamped coarse dry sand or weak concrete (a mixture of one part cement and eight parts of sand with enough water to dampen the mixture while tamping in place). Interior wall shall be covered with a non-sparking material.

(d) Fabricated Metal Wall Construction. Metal wall construction shall consist of sectional sheets of steel or aluminum not less than number 14 gauge, securely fastened to a metal framework. Such metal wall construction shall be either lined inside with brick, solid cement blocks, hardwood not less than 4 inches in thickness or material of equivalent strength, or shall have at least a 6 inch sand fill between interior and exterior walls. Interior walls shall be constructed of or covered with a non sparking material.

(e) Wood Frame Wall Construction. The exterior of outer wood walls shall be covered with iron or aluminum not less than number 26 gauge. An inner wall of nonsparking materials shall be constructed so as to provide a space of not less than 6 inches between the outer and inner walls, which space shall be filled with coarse dry sand or weak concrete.

(f) Floors. Floors shall be constructed of a nonsparking material and shall be strong enough to bear the weight of the maximum quantity to be stored.

(g) Foundations. Foundations shall be constructed of brick, concrete, cement block, stone, or wood posts. If piers or posts are used, in lieu of a continuous foundation, the space under the buildings shall be enclosed with metal.

(h) Roof. (i) Except for buildings with fabricated metal roofs, the outer roof shall be covered with no less than number 26-gauge iron or aluminum fastened to a 7/8 inch sheathing.

(ii) Where it is possible for a bullet to be fired directly through the roof and into the storage facility at such an angle that the bullet would strike a point below the top of inner walls, storage facilities shall be protected by one of the following methods:

(A) A sand tray shall be located at the tops of inner walls covering the entire ceiling area, except that necessary for ventilation, lined with a layer of building paper, and filled with not less than 4 inches of coarse dry sand.

(B) A fabricated metal roof shall be constructed of 3/16 inch plate steel lined with 4 inches of hardwood or material of equivalent strength (For each additional 1/16 inch of plate steel, the hardwood or material of equivalent strength lining may be decreased one inch).

(i) Doors. All doors shall be constructed of 1/4 inch plate steel and lined with 2 inches of hardwood or material of equivalent strength. Hinges and hasps shall be attached to the doors by welding, riveting or bolting (nuts on inside of door). They shall be installed in such a manner that the hinges and hasps cannot be removed when the doors are closed and locked.

(j) Locks. Each door shall be equipped with two mortise locks, or with two padlocks fastened in separate hasps and staples, or with a combination of mortise lock and a padlock, or with a mortise lock that requires two keys to open, or a three-point lock. Locks shall be five-tumbler proof. All padlocks shall be protected with 1/4 inch steel caps constructed so as to prevent sawing or lever action on the locks or hasps.

(k) Ventilation. Except at doorways, a 2 inch air space shall be left around ceilings and the perimeter of floors. Foundation ventilators shall be not less than 4 by 6 inches. Vents in the foundation, roof, or gables shall be screened and offset.

(l) Exposed Metal. No sparking metal construction shall be exposed below the top of walls in the interior of storage facilities, and all nails therein shall be blind-nailed or countersunk.

(m) Igloos, Army-type Structures, Tunnels and Dugouts. Storage facilities shall be constructed of reinforced concrete, masonry, metal or a combination of these materials. They shall have an earthmound covering of not less than 24 inches on the top, sides and rear. Interior walls and floors shall be covered with a nonsparking material. Storage facilities of this type shall also be constructed in conformity with the requirements of subsection (1), subdivisions (a),(b),(f),(i),(j),(k) and (l) of this section.

(2) Construction of Portable (Field) Storage Facilities. (a) Definition. A Class 2 storage facility shall be a box, a trailer, a semitrailer or other mobile facility. It shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and well ventilated. Except as provided in subsection ((3)) (4) of this section, hinges and hasps shall be attached to the covers or doors in the manner prescribed in subsection (1), subdivision (i) and the locking system shall be that prescribed in subsection (1) subdivision (j).

(b) Outdoor Storage Facilities. Outdoor storage facilities shall be at least 1 cubic yard in size and supported in such a manner so as to prevent direct contact with the ground. The sides, bottoms, tops and covers or doors shall be constructed of 1/4 inch steel and shall be lined with 2 inches of hardwood or material of equivalent strength. Edges of metal covers shall overlap sides at least one inch. The ground around such storage

facilities shall slope away for drainage. When unattended, vehicular storage facilities shall have wheels removed or shall be otherwise effectively immobilized by kingpin locking devices or other methods approved by the Division of Industrial Safety and Health.

(3) The following alternatives may be used in lieu of requirements of subsections (1) and (2) for magazines. (All steel and wood dimensions indicated are actual thicknesses. To meet the concrete block and brick dimensions indicated, the manufacturer's represented thicknesses may be used.)

(a) Exterior of 5/8-inch steel, lined with an interior of any type of non-sparking material.

(b) Exterior of 1/2-inch steel, lined with an interior of not less than 3/8-inch plywood.

(c) Exterior of 3/8-inch steel, lined with an interior of two inches of hardwood.

(d) Exterior of 3/8-inch steel, lined with an interior of three inches of softwood or 2-1/4 inches of plywood.

(e) Exterior of 1/4-inch steel, lined with an interior of three inches of hardwood.

(f) Exterior of 1/4-inch steel, lined with an interior of five inches of softwood or 5-1/4 inches of plywood.

(g) Exterior of 1/4-inch steel, lined with an intermediate layer of two inches of hardwood and an interior lining of 1-1/2 inches of plywood.

(h) Exterior of 3/16-inch steel, lined with an interior of four inches of hardwood.

(i) Exterior of 3/16-inch steel, lined with an interior of seven inches of softwood or 6-3/4 inches of plywood.

(j) Exterior of 3/16-inch steel, lined with an intermediate layer of three inches of hardwood and an interior lining of 3/4-inch plywood.

(k) Exterior of 1/8-inch steel, lined with an interior of five inches of hardwood.

(l) Exterior of 1/8-inch steel, lined with an interior of nine inches of softwood.

(m) Exterior of 1/8-inch steel, lined with an intermediate layer of four inches of hardwood and an interior lining of 3/4-inch plywood.

(n) Exterior of any type of fire-resistant material which is structurally sound, lined with an intermediate layer of four inches solid concrete block or four inches solid brick or four inches of solid concrete, and an interior lining of 1/2-inch plywood placed securely against the masonry lining.

(o) Standard eight-inch concrete block with voids filled with well-tamped sand/cement mixture.

(p) Standard eight-inch solid brick.

(q) Exterior of any type of fire-resistant material which is structurally sound, lined with an intermediate six-inch space filled with well-tamped dry sand or well-tamped sand/cement mixture.

(r) Exterior of 1/8-inch steel, lined with a first intermediate layer of 3/4-inch plywood, a second intermediate layer of 3-5/8 inches well-tamped dry sand or sand/cement mixture and an interior lining of 3/4-inch plywood.

(s) Exterior of any type of fire-resistant material, lined with a first intermediate layer of 3/4-inch plywood, a second intermediate layer of 3-5/8-inch well-tamped dry sand or sand/cement mixture, a third

intermediate layer of 3/4-inch plywood, and a fourth intermediate layer of two inches of hardwood or 14-gauge steel and an interior lining of 3/4-inch plywood.

(t) Eight-inch thick solid concrete.

~~((3))~~ (4) (a) Class 3 Storage for 1,000 or Less Blasting Caps in a Locked Uninhabited Building. Storage facilities for blasting caps in quantities of 1,000 or less shall have sides, bottoms, and covers constructed of number 12 gauge metal and lined with a nonsparking material. Hinges and hasps shall be attached thereto by welding. A single five-tumble proof lock shall be sufficient for locking purposes.

(b) Magazines less than one cubic yard in size, used for storage of 50 pounds or less, shall be painted red and shall bear lettering in white, on all sides and top, at least three (3) inches high, "Explosives - Keep Fire Away."

~~((4))~~ (5) Construction of Blasting Agent Storage Facilities.

(a) A Class 4 storage facility may be a building, an igloo, or Army-type structure, a tunnel, a dugout, a box, a trailer, or a semi-trailer or other mobile facility and shall be fire-resistant, weather-resistant, theft-resistant, and ventilated. They shall be constructed of masonry, metal-covered wood, fabricated metal, or a combination of these materials. The walls and floors of such storage facilities shall be lined with a nonsparking material. The doors or covers shall be metal or solid wood covered with metal. The foundations, locks, lock protection, hinges, hasps, and interior shall be in conformity with the requirements of subsection (1), subdivisions (g), (i), (j), (k), and (l).

(b) Outdoor Storage Facilities. The ground around such storage facilities shall slope away for drainage. When unattended, vehicular storage facilities shall have wheels removed or otherwise effectively immobilized by kingpin locking devices or other methods approved by the Division of Industrial Safety and Health.

~~((5))~~ (6) Smoking and Open Flames. (a) Smoking, matches, open flames, and spark-producing devices shall not be permitted in, or within 50 feet of, any outdoor storage facility.

~~((6))~~ (7) Quantity and Storage Restrictions. (a) General. Explosive materials in excess of 300,000 pounds and blasting caps in excess of 20 million shall not be stored in one storage facility. Blasting caps shall not be stored with other explosive materials in the same storage facility.

~~((7))~~ (8) Construction of Day Box Storage Facilities. (a) A temporary storage facility shall be a "day-box" or other portable facility. It shall be constructed in the same manner prescribed for Class 2 outdoor storage facilities in subsection (2), except that it may be less than one cubic yard in size, and shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and well ventilated. Hinges, hasps, locks, and lock protection shall be in conformity with the requirements of subsection (1), subdivisions (i) and (j) of this section.

(b) The ground around such storage facilities shall slope away for drainage.

(c) No explosive materials shall be left in such facilities if unattended. The explosive materials

contained therein must be removed to licensed storage facilities for unattended storage.

(d) When used for temporary storage at a site for blasting operations, magazines shall be located away from neighboring inhabited buildings, railways, highways, and other magazines. A distance of at least one hundred and fifty (150) feet shall be maintained between magazines and the work in progress when the quantity of explosives kept therein is in excess of 25 pounds, and at least 50 feet when the quantity of explosives is 25 pounds, or less.

~~((8))~~ (9) Cap Day Box. (a) Temporary storage facilities for blasting caps in quantities of 100 or less shall have sides, bottoms and covers constructed of number 12 gauge metal and lined with a nonsparking material. Hinges and hasps shall be attached thereto by welding. A single five-tumbler proof lock shall be sufficient for locking purposes.

(b) No explosive materials shall be left in such facilities if unattended. The explosive materials contained therein must be removed to licensed storage facilities for unattended storage.

~~((9))~~ (10) Storage Within Magazines. (a) Packages of explosives shall be laid flat with top side up. Black powder when stored in magazines with other explosives shall be stored separately. Black powder stored in kegs shall be stored on ends, bungs down, or on side, seams down. Corresponding grades and brands shall be stored together in such a manner that brands and grade marks show. All stocks shall be stored so as to be easily counted and checked. Packages of explosives shall be piled in a stable manner. When any kind of explosive is removed from a magazine for use, the oldest explosive of that particular kind shall always be taken first.

(b) Packages of explosives shall not be unpacked or repacked in a magazine nor within 50 feet of a magazine or in close proximity to other explosives. Tools used for opening packages of explosives shall be constructed of nonsparking materials, except that metal slitters may be used for opening fiberboard boxes. A wood wedge and a fiber, rubber, or wood mallet shall be used for opening or closing wood packages of explosives. Opened packages of explosives shall be securely closed before being returned to a magazine.

(c) Magazines shall not be used for the storage of any metal tools nor any commodity except explosives, but this restriction shall not apply to the storage of blasting agents and blasting supplies.

(d) Magazine floors shall be regularly swept, kept clean, dry, free of grit, paper, empty used packages, and rubbish. Brooms and other cleaning utensils shall not have any spark-producing metal parts. Sweepings from floors of magazines shall be properly disposed of. Magazine floors stained with nitroglycerin shall be cleaned according to instructions by the manufacturer.

(e) When any explosive has deteriorated to an extent that it is in an unstable or dangerous condition, or if nitroglycerin leaks from any explosives, then the person in possession of such explosive shall immediately proceed to destroy such explosive in accordance with the instructions of the manufacturer. Only experienced

persons shall be allowed to do the work of destroying explosives.

(f) When magazines need inside repairs, all explosives shall be removed therefrom and the floors cleaned. In making outside repairs, if there is a possibility of causing sparks or fire the explosives shall be removed from the magazine. Explosives removed from a magazine under repair shall either be placed in another magazine or placed a safe distance from the magazine where they shall be properly guarded and protected until repairs have been completed, when they shall be returned to the magazine.

(g) Smoking, matches, open flames, spark-producing devices, and firearms (except firearms carried by guards) shall not be permitted inside of or within 50 feet of magazines. The land surrounding a magazine shall be kept clear of all combustible materials for a distance of at least 25 feet. Combustible materials shall not be stored within 50 feet of magazines.

(h) Magazines shall be in the charge of a competent person at all times who shall be at least 21 years of age, and who shall be held responsible for the enforcement of all safety precautions.

(i) Explosives recovered from blasting misfires shall be placed in a separate magazine until competent personnel has determined from the manufacturer the method of disposal. Caps recovered from blasting misfires shall not be reused. Such explosives and caps shall then be disposed of in the manner recommended by the manufacturer.

~~((10))~~ (11) Magazine heating systems requirements, NFPA Code No. 495, "Manufacture, Transportation, Storage and Use of Explosive Materials, 1973". The following will apply:

(a) Magazines requiring heat shall be heated by either hot water radiant heating within the magazine building, or air directed into the magazine building over either hot water or low pressure steam (15 psig) coils located outside the magazine building.

(b) The magazine heating systems shall meet the following requirements:

(i) The radiant heating coils within the building shall be installed in such a manner that the explosive materials or their containers cannot contact the coils and air is free to circulate between the coils and the explosive materials or their containers.

(ii) The heating ducts shall be installed in such a manner that the hot air discharge from the duct is not directed against the explosive materials or their containers.

(iii) The heating device used in connection with a magazine shall have controls which prevent the ambient building temperature from exceeding 130°F.

(iv) The electric fan or pump used in the heating system for a magazine shall be mounted outside and separate from the wall of the magazine and shall be grounded.

(v) The electric fan motor and the controls for electrical heating devices used in heating water or steam shall have overloads and disconnects, which comply with the National Electrical Code, (National Fire Protection Association, NFPA No. 70-1971). All electrical switch

gear shall be located a minimum distance of 25 feet from the magazine.

(vi) The heating source for water or steam shall be separated from the magazine by a distance of not less than 25 feet when electrical and 50 feet when fuel-fired. The area between the heating unit and the magazine shall be cleared of all combustible materials.

(vii) The storage of explosive materials and their containers in the magazine shall allow uniform air circulation so temperature uniformity can be maintained throughout the explosive materials.

~~((11))~~ (12) Lighting. No lighting shall be placed or used in a storage facility of Class 1, 2, 3 or 4 except battery-activated safety lanterns.

~~((12))~~ (13) Underground Storage. (a) Explosives and related materials shall be stored in approved facilities required under the applicable provisions of WAC 296-61-280(7),(8), Safety Standard Metal and Nonmetallic Mines, Quarries, Pits, and Crushing Operations.

(b) No explosives or blasting agents shall be permanently stored in any underground operation until the operation has been developed to the point where at least two modes of exit have been developed.

(c) Permanent underground storage magazines shall be at least 300 feet from any shaft, adit, or active underground working area.

(d) Permanent underground magazines containing detonators shall not be located closer than 50 feet to any magazine containing other explosives or blasting agents.

(e) Upon the approach of an electrical storm, unless a greater hazard would be created thereby, explosives at the adit or the top of any shaft leading to where persons are working shall be moved away from such location a distance equal to that required for inhabited buildings, as listed in the American table of distances for storage of explosive materials.

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 78-04-002

ADOPTED RULES

DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 1278—Filed Mar. 2, 1978]

I, Gerald E. Thomas, Deputy Secretary of the Department of Social and Health Services do promulgate and adopt at Olympia, Washington the annexed rules relating to the amending of chapter 275-25 WAC relating to county plans for mental health, drug abuse, developmental disabilities and alcoholism.

This action is taken pursuant to Notice No. WSR 78-01-037 filed with the code reviser on 1/4/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 71.20.030, 71.20.050 and 71.20.070, and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in chapter 71.20 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) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED March 1, 1978.

By Gerald E. Thomas
Deputy Secretary

AMENDATORY SECTION (Amending Order 1142, filed 8/12/76)

WAC 275-25-520 SERVICES—DEVELOPMENTAL DISABILITIES. (~~Developmental disabilities agencies~~) Counties may purchase and/or provide any or all of the services listed in chapter 71.20.060 and 71.20.070 RCW. However, only the following services are eligible for state funds whenever such services are purchased or provided ((to)) for developmentally disabled persons who are determined eligible by the department's bureau of developmental disabilities, case services, and in accordance with the approved county plans.

(1) Transportation: The movement of developmentally disabled persons to and from the places where they are receiving other services, when the person's disabilities and/or other circumstances prevent them from using public or family transportation.

(2) Information and Referral: A listing of all available resources for developmentally disabled persons for use by such persons, their families, professionals, and the general public.

~~((3) Diagnostic: Identification of the presence, cause, and complications of developmental disabilities.~~

~~(4) Evaluation: Assessment of the extent to which the disability limits the individual's daily living and work activities; the extent to which the disability can be removed or minimized by available services; and the type and extent of services needed, including service objectives and an individual program plan.~~

~~(5) Treatment: Services including but not limited to physical therapy, speech therapy, behavior modification, occupational therapy, etc., for the purpose of off-setting processes which cause or complicate developmental disabilities.~~

~~(6) Recreation: Planned and supervised activities of play, amusement, and relaxation designed to promote individual therapeutic needs, social interaction, constructive use of leisure time, and good health.~~

~~(7) Family Counseling: Professional advice to families with developmentally disabled members to aid them in understanding the developmentally disabled individual's capacities and limitations.~~

~~(8) Education: Provision of individual learning situations including practical academic subjects, basic skills, and skills for everyday living. Education services shall be provided only to developmentally disabled persons not eligible for public school services.~~

~~(9) Vocational Training: Activities involving occupational skill training, paid employment, and work adjustment.~~

~~(10) Medical and Dental: Medical services such as general medicine, pediatrics neurology, general surgery, orthopedics, and other specialties.~~

~~(11) Psychiatric: To be provided only when an existing community mental health center cannot meet the need:))~~

(3) Recreation: community recreation activities not included in the developmental center programs designed to:

(a) Help meet individual therapeutic needs in self-expression.

(b) Develop skills leading to enjoyable and instructive use of leisure time.

(c) Integrate the developmentally disabled individual into community sponsored recreational activities.

(4) Professional Services: the development and provision of local resources for professional treatment of families of developmentally disabled persons and developmentally disabled individuals. Professional services may include diagnosis, evaluation, family counseling, medical, dental, and psychiatric services when the developmentally disabled person is unable to obtain such services through private care or public resources available for such purposes.

(5) Program Evaluation: assessment of program quality and measurement of effectiveness.

(6) Planning and Administration: planning, organizing, coordinating, budgeting, staffing, and establishing the direction or controlling the policies, goals and objectives for the county developmental disabilities program with respect to and in conjunction with local, state, and federal policies, goals and objectives. Administration includes requirements for general administration regarding personnel, purchasing, filing, correspondence, clerical, etc.

(7) Consultation and staff development services: activities which provide professional information and improve skills of the developmental center staff and others providing services to developmentally disabled person.

(8) Developmental Center Services:

(a) Early childhood developmental services provided by a developmental center certified as required by chapter 275-27 WAC to developmentally disabled infants and young children.

(b) Social and living skills, prework, or specific job training to developmentally disabled adults provided by a developmental center certified as required by chapter 275-27 WAC to adults.

(c) Counties may continue to contract and receive funding for services from existing agencies without certification until September 30, 1978.

(9) Start-up and Emergency Needs: assistance in establishing new developmental disabilities programs and sustaining existing developmental disabilities programs in times of emergency.

(10) Alternative Living: the development of alternative living resources and assistance with

supplemental support services other than direct fiscal support to the client.

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:

- C (1) WAC 275-25-510 DEFINITION.
C (2) WAC 275-25-525 PROGRAM REQUIREMENT.

WSR 78-04-003
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 1277—Filed Mar. 2, 1978]

I, Gerald E. Thomas, Deputy Secretary of the Department of Social and Health Services do promulgate and adopt at Olympia, Washington the annexed rules relating to the amending of chapter 275-27 WAC relating to Bureau of Developmental Disabilities Case Services and Home Aid Resources.

This action is taken pursuant to Notice No. WSR 78-01-038 filed with the code reviser on 1/4/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 72.33.165, 72.33.800 and 72.33.810 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 72.01.090.

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

APPROVED AND ADOPTED March 1, 1978.

By Gerald E. Thomas
Deputy Secretary

NEW SECTION

C WAC 275-27-600 BUREAU CERTIFICATION OF DEVELOPMENTAL CENTERS. (1) An agency must be certified as a developmental center by the bureau to be eligible for state and/or federal funds provided through the bureau for either:

- (a) early childhood developmental service; or
(b) social and living skills, prework, or specific job training to developmentally disable adults. (Effective date of this subsection is October 1, 1978).

(2) In order to be certified as a developmental center, the agency must comply with all certification requirements contained in this chapter: PROVIDED, That the bureau may grant provisional certification to an agency which does not meet all requirements

contained in this chapter to enable such agency to start serving or continue to serve clients while taking necessary action to comply with all requirements contained herein. Limitations on provisional certification are as follows:

(a) Provisional certification is discretionary and not renewable.

(b) The bureau may specify conditions and time limitations for compliance with these rules as a prerequisite to provisional certification.

(c) Provisional certification cannot exceed six months.

(3) Bureau certification is for a period of two years.

(4) An agency may be certified as an early childhood developmental center and/or an adult developmental training center to provide one of the four options specified in WAC 275-27-680(2).

(5) Facilities certified or requesting certification shall be open to inspection by the bureau during periods of center operation.

NEW SECTION

C WAC 275-27-605 PROCEDURES FOR BUREAU CERTIFICATION, DENIAL, SUSPENSION OR REVOCATION—APPEALS.

(1) In order to be certified, an agency must apply on application forms provided by the bureau. Application for renewal shall be made no more than 90 nor less than 60 days prior to the date of expiration of the certificate.

(2) Failure to comply with any of the requirements of this chapter shall be grounds for denial, suspension, or revocation of certification.

(3) Bureau decisions to deny, suspend or revoke certification shall be subject to appeal to administrative hearing pursuant to chapter 34.04 RCW and rules and regulations promulgated thereunder.

NEW SECTION

C WAC 275-27-610 GOVERNING BOARD. (1) The center shall be the responsibility of a governing board consisting of at least three members. The board shall be responsible for the following:

(a) Determining and/or carrying out the corporate mission;

(b) Prioritizing short- and long-term goals and objectives;

(c) Hiring or designating a director;

(d) Approving the agency budget;

(e) Establishing policies and procedures;

(f) Orienting new members.

(2) The board shall maintain copies of and is responsible for carrying out laws, and rules and regulations that are relevant to the functioning of the agency including:

(a) Wage and hour regulations;

(b) Insurance coverage;

(c) Civil rights compliance;

(d) Section 504 of the Vocational Rehabilitation Act of 1973.

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 275-27-615 CENTER STRUCTURE AND MAINTENANCE. (1) Facilities shall meet applicable standards for fire, health, and safety.

(2) Facilities shall have at least an annual inspection by the appropriate local fire authority and shall submit a letter or report of compliance to the bureau upon request.

(3) The center structure, its component parts, facilities, equipment and furnishings shall be kept clean and in good repair and maintained in the interest of the clients' safety and well being. No hazard shall exist from structural conditions.

NEW SECTION

WAC 275-27-620 STAFF TRAINING. (1) Staff training and/or preparation time must be available for all trainers and supervisors at a minimum of one hour for each day of operation.

(2) All centers must have a staff training program.

NEW SECTION

WAC 275-27-630 CLIENT TRAINING. (1) Each developmental center shall complete a skills and needs assessment for each client within 30 days of attendance in the program and at least annually following the initial assessment. The Progress Assessment Chart is the required reporting tool which shall be submitted to the bureau.

(2) Each center must participate in the individual program plan process coordinated by the bureau for each client. The center's portion of the plan must be prepared within 30 days of attendance at the center, must be in writing, must be based on the client assessment and must include the goals and objectives for the client within the center's program. The center's portion of the plan must be reviewed every six months and rewritten at least annually.

(3) The training activities at a center will be conducted according to written training programs. The training programs must be based upon the assessment and individual program plan. They must be systematized in method of presentation, with a measurable step-by-step process to assist the client in the acquisition of skills and information.

NEW SECTION

WAC 275-27-635 REIMBURSEMENT OF CLIENTS. (1) Clients must be reimbursed for work performed while in prework or specific job training, when the agency benefits financially from the clients' involvement on contracts (or direct sales) for products and/or services. The center must obtain the appropriate certificates from the department of labor and/or labor and industries.

(2) Reimbursement of clients for work performed must be based on productivity measured against the established norm, and documentation must include each client's rate of production and earnings. Client rate shall be reassessed at least semi-annually.

(3) The center must maintain evidence of definitive time study procedures for all remunerative work as well as competitive bidding procedures for contract work.

NEW SECTION

WAC 275-27-640 PROTECTION OF CLIENT RIGHTS. Each developmental center must have comprehensive written policies to protect the rights of the developmentally disabled clients enrolled in the program and shall be responsible for the implementation and enforcement of all policies.

NEW SECTION

WAC 275-27-660 EARLY CHILDHOOD DEVELOPMENTAL CENTERS—SERVICES. (1) Mandatory minimum services must include educational services, therapeutic intervention, and parent education programs appropriate to the age and needs of infants and young children under six years of age.

(2) An early childhood developmental center shall provide a minimum of one hour training per day each day the child attends. The center must be open and provide a program a minimum of three days each week. Services may be delivered by center staff in the child's residence if an exception is obtained from the bureau.

NEW SECTION

WAC 275-27-665 EARLY CHILDHOOD DEVELOPMENTAL CENTER—STAFFING. The direct service staff (teachers and aides) ratio must be at a minimum of one staff to five children. Each child shall have one staff member responsible for the coordination of the individual training plan. In addition, for each of the therapy programs (speech, physical, occupational or recreation therapy), there must be at least one therapist for every 20 children who require that particular therapy.

NEW SECTION

WAC 275-27-680 ADULT DEVELOPMENTAL TRAINING CENTER—SERVICES. (1) An adult developmental training center shall provide a minimum of four hours training per day per client, unless exceptions are included in the individual program plan. The center must be open and provide training a minimum of three days a week. Services may be delivered by center staff at the adult's residence if an exception is obtained from the bureau.

(2) The four options for providing services in an adult developmental center are: living and social skills training only; prework training in conjunction with living and social skills training; specific job training only; and living and social skills training, prework training, and specific job training.

(a) Living and social skills training is a variety of self-help skills training services that will increase the individual's ability to function independently. The living and social skills training program must include training components appropriate to the needs of the client. Appropriate training components may include at least

the following: personal care and hygiene, independent living, functional academics, mobility, social behaviors, community awareness, sex education, speech and language development, and recreation training.

(b) Prework training is specialized services that will provide individual with acceptable work habits and attitudes to prepare them for employment or additional vocational training.

(i) The prework training component must be provided in conjunction with living and social skills training. When prework training constitutes the majority of a client's developmental center program, the length of time the client may spend in prework shall be limited to one year. Individual exceptions for additional prework training may be granted by the bureau.

(ii) Prework training must include: work orientation and/or work training and/or job readiness.

(c) Specific job training is vocational or work skill training that will prepare an individual for a particular job either in a workshop setting or in competitive employment.

(i) Specific job training must provide specialized training for a particular job, and may be provided by a center only when sufficient or appropriate DVR services are not available.

(ii) Specific job training shall be limited to one year or less for each client enrolled. Six-month extensions can be granted through the bureau according to the individual program plan.

NEW SECTION

WAC 275-27-685 ADULT DEVELOPMENTAL TRAINING CENTER—STAFFING. Each adult developmental training center must have a person who is responsible for program development (ratio 1 to 60). Each client shall have one staff member responsible for the coordination of the individual training plan. Living and social skills training and prework training shall have a minimum ratio of one to seven (direct service staff); and specific job training shall be provided at a one to nine ratio (direct service staff).

WSR 78-04-004
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 1276—Filed Mar. 2, 1978]

I, Gerald E. Thomas, Deputy Secretary of the Department of Social and Health Services do promulgate and adopt at Olympia, Washington the annexed rules relating to the amending of chapter 388-15 WAC relative to social services for families, children and adults.

This action is taken pursuant to Notice No. 7951 filed with the code reviser on December 29, 1977. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 43.20A.550.

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

APPROVED AND ADOPTED March 1, 1978.
By Gerald E. Thomas
Deputy Secretary

AMENDATORY SECTION (Amending Order #1238, filed 8/31/77)

WAC 388-15-020 ELIGIBLE PERSONS. (1) Individuals eligible for services are:

(a) Recipients of aid to families with dependent children (AFDC recipients).

(b) Individuals whose needs were taken into account in determining the needs of AFDC recipients.

(c) Recipients of supplemental security income or state supplementary payments related to age, blindness or permanent and total disability.

(d) Recipients of federal aid medical care only categorically related to Title XVI supplemental security income or AFDC, provided gross family income does not exceed 80% of the state median gross income for a family of four, adjusted for family size.

(e) Any individual or family regardless of age, blindness or disability, whose gross family income does not exceed 80% of the state median income for a family of four, adjusted for family size, except that:

(i) No individual or family is eligible for chore services, family planning or alcoholism services whose gross family income is in excess of 50% of the state median income for a family of four, adjusted for family size, except that a single individual may receive chore services if his median gross income does not exceed 57% of the state's median gross income for a family of four adjusted for family size.

(ii) No individual or family is eligible on a group basis for developmental disabilities, case services, developmental disabilities home-aid resources, developmental disabilities developmental centers or extended sheltered employment unless at least 75% of persons given these services are members of families whose gross monthly income do not exceed 90% of the state median income, adjusted for family size.

(iii) Information and referral services or protective service may be given to any individual regardless of the level of gross family income. Child protective services are provided without charge. Where ancillary services such as chore services or homemaker services are an integral but subordinate part of a protective service plan for children or adults, they may be provided without regard to the level of gross family income.

(2) Gross median income for a family of four in the state of Washington is \$16,818 (~~(\$15,401)~~). 80% = \$13,454 (~~(\$12,321)~~).

(a) Income tables for 80% gross median income:

Number in Family	Monthly Income	Annual Income
1	((533)) 583	((6,407)) 6,996
2	((698)) 762	((8,378)) 9,148
3	((862)) 942	((10,349)) 11,301
4	((1,026)) 1,121	((12,321)) 13,454
5	((1,191)) 1,300	((14,292)) 15,605
6	((1,355)) 1,480	((16,264)) 17,759

(b) Income tables for ~~((50%))~~ 57% gross median income~~((:))~~, one person family only.

((Number in Family))	Monthly Income	Annual Income
((1))	((333)) 415.33	((4,004)) 4,984
((2))	((436))	((5,236))
((3))	((539))	((6,468))
((4))	((641))	((7,701))
((5))	((744))	((8,933))
((6))	((847))	((10,165))

(c) Income table for ~~((57%))~~ 52% gross median income~~((, one person family only))~~:

Family Size	Monthly Income	Annual Income
	((380))	((4,565))
2	497	5,947
3	612	7,346
4	729	8,745
5	845	10,145
6	962	11,544

(d) Income tables for ~~((38%))~~ 50% gross median income:

Family Size	Monthly Income	Annual Income
1	((253)) 364	((3,043)) 4,372
2	((331)) 477	((3,979)) 5,718
3	((409)) 589	((4,916)) 7,063
4	((487)) 701	((5,852)) 8,409
5	((565)) 813	((6,789)) 9,754
6	((643)) 925	((7,725)) 11,099

(e) Income tables for 38% gross median income:

Family Size	Monthly Income	Annual Income
1	277	3,323
2	362	4,345
3	447	5,368
4	533	6,390
5	618	7,413
6	703	8,435

~~((f))~~ (f) See WAC 388-28-100 for grant standards.

(3) Family means two or more persons related by blood, marriage or adoption, residing in the same household~~((:))~~, and may include a dependent residing in a separate household for whom support is paid.

(a) Husband and wife are considered a two-person family.

(b) Related adults residing together, other than spouses, are each considered a separate family.

(c) An individual living alone or with unrelated persons only is considered a one-person family. An individual living alone or with unrelated persons may include in his/her application a dependent living in a separate household for whom support is paid.

(d) Children living with non-legally responsible relatives, emancipated minors and children living under the

care of unrelated persons are also considered one person families.

(4) Persons applying to provide day care or foster care facilities or a person or persons applying to adopt a child are resources to our primary client, the child. Financial eligibility for these individuals is not required.

(5) Child welfare services may also be provided under Title IV-B of the Social Security Act.

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 #1238, filed 8/31/77)

WAC 388-15-120 ADULT PROTECTIVE SERVICES. (1) Adult protective services are those services provided to prevent, correct, improve or remedy the situations of adults who are neglected, abused or exploited or whose living conditions or life style is such that they are endangering their own health or safety or that of others.

(2) Services include counseling with the individuals and their friends and relatives; arranging for alternative living arrangements, assisting in the location of medical care, legal services and other community services, such as volunteer services. Homemaker or chore services ~~((or advocacy))~~ may be provided as appropriate or advocacy to assure receipt or preservation of rights and entitlements due to adults at risk.

(3) Goals for Adult Protective Services shall be limited to those specified in WAC 388-15-010(1)(c), (d), (e). Also see WAC 388-15-010(2).

AMENDATORY SECTION (Amending Order #1238, filed 8/31/77)

WAC 388-15-170 GENERAL AND SEASONAL DAY CARE SERVICES. (1) Day care services include providing care and protection and related services for a child under 15 years of age during that portion of the 24 hour day that the child's parents are unable to provide necessary care and supervision for the following reasons:

(a) parent is employed or seeking employment in accord with an approved case plan,

(b) parent is enrolled in an approved training program (not to exceed two years) leading toward employment,

(c) for school age parent to complete secondary education or attainment of G.E.D. (not to exceed two years), subject to approval by the department,

(d) for AFDC recipient to serve as a volunteer either on DSHS advisory board or to attain pre-employment skills, subject to approval by the department,

(e) for AFDC parent enrolled in a prevocational program subject to approval by the department,

(f) parent to keep physical or mental health appointment,

(g) child in need of day care as part of children's protective service case plan,

~~((h))~~ (h) ~~((refugees enrolled in English as a second language class, driver's education program or vocational education program;~~

(†)) provided as child welfare services by a professional or other mental health social service agency referral for the child or parents physical/emotional health or support to the family structure.

(2) Goals for General Day Care Services shall be limited to those specified in WAC 388-15-010(1)(a), (b), (c). Also see WAC 388-15-010(2). Also see WAC 388-75-203 through 388-75-396.

(3) Child care including ((migrant)) seasonal day care may be purchased for children or families who are:

(a) Individuals whose gross income is equal to or below 38 percent of the state median gross income for a family of four adjusted for family size. (See WAC 388-15-020(2)(d)).

(i) Exception: Residents on ((the following)) federally recognized Indian Reservations ((Colville, Tulalip, Makah, Quinault and Quileute)) whose gross income is equal to or below 80% of the state median income for a family of four adjusted for family size, shall be eligible for general child day care services ((effective April 1, 1976)).

((ii) Exception: Those refugees covered under the Refugee Assistance Act of 1975, who attend an approved English as a second language class, driver's education program or vocational education program are eligible for day care services whose gross family income is at or below 80% of the state median income for a family of four adjusted for family size.))

(b) In need of day care as an integral but subordinate part of a child protective service plan, regardless of the level of gross family income.

(4) Eligibility for Seasonal Day Care is:

(a) Both parents, or the single parent (in the case of the one-parent family) must be currently employed or seeking work in agriculturally related work or with agencies which serve migrant families; and

(b) Must derive at least 50% of its annual income from agriculturally related work; and

(c) must have more than one agricultural employer per year; and

(d) Must have a gross income for the past 12 months not to exceed 38% of the state median income adjusted for family size.

((†)) (5) Standards for in-home care

(a) In-home care is the care and supervision of a child in her or his own home by a relative or by an unrelated person during part of the 24-hour day while the child's parent(s) are temporarily absent from the home.

(b) When parents request in-home care, a service worker must determine that the caretaker meets the in-home care standards.

(c) Use of in-home care is appropriate when:

(i) There is a qualified caretaker available, and this type of child care is the parental choice,

(ii) The number of children in the family requiring child care is large enough to make it preferable for in-home care and/or,

(iii) A child's physical, mental or emotional problems make it necessary that he remain in his home.

(d) When in-home care is the approved child care plan for the child of a parent involved in basic

education, job training, work experience, or other program which DSHS is responsible for arranging, approving or paying, the caretaker must meet the following minimum qualifications and fulfill the following responsibilities:

(i) Be eighteen years of age or older,

(ii) Be free of communicable disease, including tuberculosis, as shown by tests within the year, and every two years thereafter,

(iii) Be of sufficient physical, emotional and mental health to meet the needs of the children in care,

(iv) Subject to the discretion of the worker, give written evidence from a medical authority that he or she is in sufficient physical, emotional and mental health to be a safe caretaker,

(v) Produce written references indicating that she or he is capable of handling children of the ages for whom she or he will be caring and has the ability to provide activities suitable to their ages and interests.

(vi) Be able to work with children without recourse to physical punishment or psychological abuse,

(vii) Be able to accept and follow instructions,

(viii) Maintain personal cleanliness,

(ix) Be prompt and regular in job attendance,

(x) Expect to be evaluated on the above items.

(e) Responsibilities of in-home caretaker - in-home caretaker shall:

(i) Consider her or his primary function that of child care,

(ii) Provide constant care and supervision of the children for whom she or he is responsible throughout the time she or he is on duty in accordance with their needs,

(iii) Provide appropriate activities for children in care.

((†)) (6) Payment standards for day care: The rate of payment for day care shall be the prevailing community rate, not to exceed the maximum rate established by the department.

(a) When the parent or parent surrogate is responsible for in-home care, that person will receive payment for the cost of child care and will pay the in-home care provider according to the amount specified in the approved child care plan.

(b) The in-home care provider must sign a receipt at the time that payment is received. The parent/surrogate must send this receipt with his or her statement of child care provided during the previous month to the ESSO before the next child care payment shall be authorized.

(c) If total payments to an individual providing in-home care are expected to be \$50 or more in any one quarter, the employer's share of the FICA tax must be added to the amount authorized for in-home care.

(d) Payment for child care by relative: Unless the performance of child care services by a relative of the parent keeps the relative from accepting or continuing in paid employment, no payment shall be allowed for child care services for the following relatives: father, mother, grandmother, grandfather, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew or niece. Child care will be considered as in-home care when care is provided in the house of the relative.

(e) Payment for child care to nonresponsible relative: Where a child receiving AFDC is living with a nonresponsible relative not on AFDC and day care is required to support the relative's employment, the child is eligible for day care.

AMENDATORY SECTION (Amending Order 1238, filed 8/31/77)

WAC 388-15-360 REFUGEE ASSISTANCE. (1) ~~((This service includes English as a Second Language (ESL), information and referral, employment oriented casework services, vocation training, and driver education and safety. ESL consists of basic literacy training in the English language, transportation costs and child care when needed. Employment oriented casework services include counseling and orientation, registration, job development, placement and follow-up of employable refugees. Vocational training includes any organized curriculum in a school or training unit or organized training plan under recognized sponsorship with a specific training objective, job development, and transportation costs and child care as approved by the Department, which reasonably will result in gainful employment.))~~

This service includes information and referral, employment oriented casework, job development, job placement, skills training, work setting training, counseling and orientation, English as second language training, and transportation to department approved training.

(2) Goals for Refugee Assistance shall be limited to those specified in WAC 388-15-010(1)(a), (b). Also see WAC 388-15-010(2). See also chapter 388-55 WAC.

WSR 78-04-005
EMERGENCY RULES
DEPARTMENT OF SOCIAL AND HEALTH
SERVICES
(Public Assistance)
[Order 1275—Filed Mar. 2, 1978]

I, Gerald E. Thomas, Deputy Secretary of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington the annexed rules relating to the amending of WAC 388-37-230 relating to noncontinuing general assistance—exempt and nonexempt resources and income.

I, Gerald E. Thomas 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 amendments will result in substantially improved services to clients.

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 secretary of 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) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED March 1, 1978.

By Gerald E. Thomas
Deputy Secretary

AMENDATORY SECTION (Amending Order 841, filed 8/9/73)

WAC 388-37-230 NONCONTINUING GENERAL ASSISTANCE—EXEMPT AND NONEXEMPT RESOURCES AND INCOME. ~~((†) An applicant for or recipient of noncontinuing general assistance shall be eligible for public assistance only when he has applied for and/or utilized any and all types of private nonexempt or public resources (other than general assistance) to the extent available.~~

~~(2) Any type of private or public resource shall be utilized to the full extent when available to meet need including any available employment, customary credit, contributions, donations, benefits, entitlements, compensation, etc., available from private welfare agencies, private organizations, firms or individuals, or public agencies other than the local office.))~~

(1) A person shall be eligible for GAN only when he has applied for and/or utilized to the full extent available any resources including but not limited to:

(a) employment and employment counseling and referral if the person is required to register with WSES as a condition of eligibility;

(b) benefits, entitlements, compensation.

(2) Failure to pursue and/or utilize such resources without good cause shall result in a 30-day period of ineligibility which shall begin the day after the current certification ends.

(a) The following conditions shall constitute good cause:

(i) Mental, physical, or emotional inability of the person to pursue and/or utilize such resources;

(ii) Inability of the person to get to and from the job, interview, counseling appointment, or application point for such resources without undue cost or hardship to him.

(3) The following types of property shall be considered nonexempt:

(a) Personal property

(i) Cash on hand or deposit,

(ii) The quick sale value of securities, mortgages and sales contracts,

(iii) The loan value on life insurance,

~~((iv) The equity in an automobile, boat, truck or any other type of conveyance to the extent it can be used to secure a loan.))~~

~~((†)) (iv) The quick sale value of all other personal property except~~

(A) A used and useful vehicle when needed for medical reasons or to seek or retain employment,

~~((†A)) (B) Used and useful household furnishings,~~

~~((B))~~ (C) Used and useful personal effects,
~~((C))~~ (D) Used and useful clothing,
~~((D))~~ (E) Tools and equipment used and useful in
the individual's occupation or trade,
~~((E))~~ (F) Livestock, the products of which are
consumed by the applicant and his dependents.

(b) Real property

The quick sale value of any real property other than
the home. The home is exempt.

(c) Net recurring or nonrecurring income

(i) The determination whether a resource is at hand to
meet need shall be governed by WAC 388-28-400, 388-
28-450 and 388-28-455. Seven days shall ordinarily be
considered a reasonable period to convert a resource in
the possession and control of an applicant into money or
its equivalent. An applicant furnishing satisfactory
evidence that a resource cannot be converted into cash in
seven days shall be granted a reasonable extension of the
time limit by the local office and made known to the
applicant.

(ii) WAC 388-28-420 shall apply in determining
whether real property is used as a home.

(iii) WAC 388-28-360 through 388-28-380 shall
apply in evaluating community, separate and joint
property as an available resource.

WSR 78-04-006

EMERGENCY RULES

**DEPARTMENT OF SOCIAL AND HEALTH
SERVICES**

(Public Assistance)

[Order 1273—Filed Mar. 2, 1978]

I, Gerald E. Thomas, Deputy Secretary of the
Department of Social and Health Services, do
promulgate and adopt at Olympia, Washington the
annexed rules relating to the amending of WAC 388-
37-030 relating to continuing general assistance—
eligible persons.

I, Gerald E. Thomas 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
amendments are necessary to implement an out of court
settlement in the case of Lytle v. McNutt.

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 secretary of 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) and the State Register Act
(chapter 34.08 RCW).

APPROVED AND ADOPTED March 1, 1978.

By Gerald E. Thomas
Deputy Secretary

AMENDATORY SECTION (Amending Order 1214,
filed 6/23/77)

WAC 388-37-030 CONTINUING GENERAL
ASSISTANCE—ELIGIBLE PERSONS. When
other eligibility has been established, continuing general
assistance shall be granted to

(1) Deleted

(2) Families ineligible for AFDC-E solely because the
father/stepfather does not meet the work quarters
requirement(s) and one parent/stepparent is regularly
attending a vocational ((or technical)) training course
approved by the ESSO ((see WAC 388-24-135 and
388-57-028. WIN registration does not apply.)) in
accordance with WAC 388-57-028.

~~((a) All training plans for persons receiving
continuing general assistance under these circumstances
shall be approved or disapproved according to the
criteria in WAC 388-57-028(4). The ESSO shall not
authorize or continue assistance to such an applicant or
recipient when a training plan has been disapproved.))~~

(a) Disapproval of a training plan shall make the
family ineligible for GAU.

(b) The ESSO shall approve no more than 24
continuous months of training per family.

(3) A person who at the time of attaining the age of
18 years is a recipient of public assistance and attending
a state approved high school or vocational or technical
institution.

(a) Assistance is continued while the person (if
otherwise eligible) continually attends school on a full-
time basis. Assistance is continued through the end of
the school year immediately following the person's 18th
birthday.

(b) If in the opinion of the ESSO administrator one
additional year of schooling will lead to completion of a
secondary education, assistance is continued for one
additional school year.

(4) Unemployable persons. As used in this section
unemployable means a person who is 65 years of age or
older or a person who is physically or mentally
incapacitated by a condition expected to continue for at
least 30 days from date of application. Unemployability
refers to the individual's capacity to earn income by
employment. It does not refer to the availability or lack
of job opportunities. Eligible individuals are

(a) An unemployable single adult,

(b) A married couple if both persons are
unemployable.

(c) The unemployable spouse in the case of a married
couple when only one person is employable. The income
and resources of the employable spouse shall be
considered as described in WAC 388-28-500(2)(a) and
(b).

(5) The spouse and children of a 65 year old
beneficiary of supplemental security income when
deprivation due to incapacity or unemployment cannot
be established.

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 78-04-007
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 1274—Filed Mar. 2, 1978]

I, Gerald E. Thomas, Deputy Secretary of the Department of Social and Health Services do promulgate and adopt at Olympia, Washington the annexed rules relating to the amending of chapter 388-54 WAC relating to food assistance programs.

I, Gerald E. Thomas, 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 amendments are necessary to comply with instructions received from the Food and Nutrition Services, U.S. Department of Agriculture. These instructions are presently in effect.

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

This rule is promulgated pursuant to RCW 74.04.510 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) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED March 1, 1978.

By Gerald E. Thomas
Deputy Secretary

AMENDATORY SECTION (Amending Order 1266, filed 1/19/78)

WAC 388-54-480 INCOME EXCLUSIONS. The following shall not be considered as income to the household:

(1) Income received as compensation for services as an employee or income from self-employment by a child residing in the household who is under 18 years of age and attending at least half time (as defined by the institution), a kindergarten or preschool, a grade school, high school, vocational school, technical school, training program college or university. This exclusion shall not apply if the student is an emancipated minor or living alone as he no longer can be considered a child residing in the household.

(2) Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970:

(a) Payments to persons displaced as a result of the acquisition of real property,

(b) Relocation payments to a displaced homeowner toward the purchase of a replacement dwelling provided the homeowner purchases and occupies a dwelling within one year following displacement,

(c) Replacement housing payments to displaced persons not eligible for a homeowner's payment.

(3) Payments made under the Domestic Volunteer Services Act of 1973 to volunteers participating in the ACTION program.

(4) Income which is received too infrequently or irregularly to be reasonably anticipated as available during a three-month period, provided such infrequent or irregular income of all household members shall not exceed \$30 in a three-month period.

(5) Any gain or benefit which is not in money, such as produce from a garden etc., except for shelter from an employer as described in WAC 388-54-475(1)(o).

(6) Payments in money for medical costs made on behalf of the household by a person other than a member of the household.

(7) All loans, except loans on which repayment is deferred until completion of the applicant's education.

(8) All property conveyed to Indian tribes and all receipts therefrom under Public Law 94-114, Section 6, shall not be considered as income nor resources.

(9) Monies received from insurance settlements, sale of property (except property related to self-employment as previously provided for), cash prizes, awards, and gifts (except those for support, maintenance, or the expense of education), inheritances, retroactive lump-sum social security and railroad retirement pension payments, income tax refunds, and similar nonrecurring lump-sum payments.

(10) Payments received under the women, infants and children (WIC) program.

(11) Payments which are reimbursements for expenses incurred in performing volunteer services for nonhousehold members.

(12) Any payments received by Alaska Natives under the terms of the Alaska Native Claims Settlement Act.

(13) Payments made to the representative payee who acts on behalf of beneficiaries who are unable to manage the payments. Only those representative payees who demonstrate the following conditions to the eligibility worker's satisfaction shall have the representative payments not included as income to their household:

(a) the beneficiary is not a member of the payee's household. (If the payee is a member of the beneficiary's household then the payment shall be counted once to the household).

(b) The payee uses the payment only for the beneficiary's care and maintenance.

(c) The payee cannot use the payment for any purpose other than the care of the beneficiary without legal liability.

(d) Representative payments shall be included, however, as income to the beneficiary's household.

(14) The thirty dollar weekly incentive allowance received only by CETA participants receiving public assistance or whose needs or income are taken into

account in determining the amount of public assistance payments to others. This subsection is effective retroactive to July 1, 1977(~~due to a court decision~~).

(15) Earnings received by any youth under The Youth Employment Demonstration Project of 1977 (CETA), as follows:

- (a) Youth incentive entitlement pilot projects;
- (b) Youth community conservation and improvement projects;
- (c) Youth employment and training programs.

AMENDATORY SECTION (Amending Order 660, filed 2/23/72)

WAC 388-54-535 ~~((CERTIFICATION—~~
~~CONTINUATION))~~ TRANSFER OF
CERTIFICATION AND LOST BENEFITS. (1) The certification of a household which moves from one project area to another shall remain valid for a period of sixty days after the date of its move provided that

- (a) The household membership does not change, and
- (b) The household is certified as eligible on the anticipated date of departure except under disaster eligibility standards or a sixty day continuation, and
- (c) Cooking facilities are available in the new residence which is not a boarding house or institution.

(2) A household that is entitled to restoration of lost benefits may have any remaining balance due them transferred to their new project area whether or not the household chooses to have its certification transferred.

AMENDATORY SECTION (Amending Order 1136, filed 7/29/76)

WAC 388-54-595 RETROACTIVE BENEFITS.
~~((1) Households certified to participate in the food stamp program shall be reimbursed when their food stamp benefits have been delayed, denied or terminated as a result of ESSO delay in processing an application (see WAC 388-54-405(4)) or as a result of any other administrative error.~~

~~(a) Reimbursement shall be provided through automatic forward adjustments to the purchase requirement of the household. No action will be required by either the household or a fair hearing authority.~~

~~(b) When the ESSO determines that a household is entitled to lost benefits as outlined under subsection (1), the household shall be notified in writing that a credit account has been established, the amount of the benefits to be restored, and the right to appeal to the fair hearing process if the household disagrees with the computation of the forward adjustment.~~

~~(c) If a fair hearing is requested, lost benefits will be restored as originally computed pending the fair hearing decision.~~

~~(2) Deleted~~

~~(3) If, as a result of a fair hearing decision, pursuant to WAC 388-54-527, a household is determined to be eligible for retroactive benefits, the benefits shall be made available by reducing its purchase requirement so that the reduction will, in the shortest time possible, equal the amount of the benefits lost. When an authority to purchase card is issued to such a household, the~~

~~reduction in the purchase requirement reflected on the card shall be considered retroactive benefits made available to the household whether or not the household negotiates the card.~~

~~(4) If a household which is entitled to retroactive benefits owes an unpaid balance on a claim see WAC 388-54-598.) (1) Households certified to participate in the food stamp program shall be reimbursed when their benefits have been delayed, denied or terminated as a result of ESSO delay in processing an application or as a result of any other administrative error.~~

~~Denials include, but are not limited to, instances where the household's application has been erroneously denied, or where a household attests, by signed statement, that it was unable to purchase all or part of its allotment because it was assigned an erroneously high purchase requirement.~~

~~(2) The length of time benefits were lost shall be calculated from the date the erroneous action took effect and end with either the date the error is corrected, the first month the household is found ineligible, or the first month the household reapplied and was determined eligible, whichever occurs first.~~

~~(3) If a household is determined to be eligible for retroactive benefits, the benefits shall be restored by reducing the purchase requirement so that the reduction will, in the shortest time possible, equal the amount of the benefits lost. When a food coupon authorization card is issued to such a household, the reduction in the purchase requirement reflected on the card shall be considered retroactive benefits made available to the household whether or not the household negotiates the card or purchases less than the full month's option.~~

~~(a) If a household is currently eligible to participate at the zero purchase level, the household's normal monthly coupon allowance shall be increased up to 50% for as many consecutive months as is necessary to restore the lost benefits, or until a purchase requirement is assigned.~~

~~(b) If a household is currently not eligible for participation in the food stamp program, the household will receive a credit for the amount of lost benefits. This credit shall be used if and when the household becomes eligible.~~

~~(4) When the ESSO determines that a household is entitled to lost benefits as outlined under subsection (1) of this section, the household shall be notified in writing: That a credit account has been established; the amount of benefits to be restored; of the right to appeal if the household disagrees with the computation of lost benefits.~~

~~(5) If a fair hearing is requested, lost benefits will be restored as originally computed pending the fair hearing decision.~~

~~If as a result of a fair hearing decision, the household is determined to be eligible for retroactive benefits, these benefits will be computed as set forth in (3) of this section.~~

~~(6) If a household, which is entitled to retroactive benefits, owes an unpaid balance on a claim, these retroactive benefits shall be applied against the unpaid balance.~~

WSR 78-04-008
EMERGENCY RULES
DEPARTMENT OF SOCIAL AND HEALTH
SERVICES
(Public Assistance)
 [Order 1272—Filed Mar. 2, 1978]

I, Gerald E. Thomas, Deputy Secretary of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the amending of chapter 388-17 WAC relating to the Senior Citizens Services Program.

I, Gerald E. Thomas, 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 amendments are necessary to comply with chapter 321, Laws of 1977 ex. sess., which is already in effect.

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

This rule is promulgated pursuant to RCW 74.38.030 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) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED March 1, 1978.

By Gerald E. Thomas
Deputy Secretary

AMENDATORY SECTION (Amending Order 1174, filed 11/30/76)

WAC 388-17-010 LEGAL BASIS FOR SENIOR CITIZENS SERVICES PROGRAM. ~~((The Senior Citizens Services Act authorizes the department of social and health services office on aging to develop and/or expand programs of alternative care services in order to more appropriately meet the care needs of senior citizens))~~ The following rules are adopted under the authority of chapter 74.38 RCW.

AMENDATORY SECTION (Amending Order 1174, filed 11/30/76)

WAC 388-17-020 DEFINITIONS. (1) All terms used in this chapter which are not defined herein shall have the same meaning as indicated in ~~((the Senior Citizens Services Act))~~ chapter 74.38 RCW.

(2) ~~((Alternative care = care designed to reduce the incidence of institutionalization by maximizing in-home care to assist individuals to reach and maintain the highest practical level of independence.~~

(3) ~~((Declaration = a signed statement, attesting to an individual's age, income, resources and need for services.~~

~~((4) Impairment = the presence of a physical, mental or other condition which reduces and individual's ability to function independently.~~

~~(5) Income = (see also WAC 388-17-160) = any appreciable gain in real or personal property (cash or kind) received by an applicant or recipient after applying for the senior citizens services program, which can be applied toward meeting the requirements of the applicant or recipient and the applicant's or recipient's dependents.~~

~~(6) Low income = income at or below forty percent of the state median income as determined by Title XX of the Social Security Act and resources at or below the amount specified in WAC 388-17-160.~~

~~(7) Need = financial = the difference between the cost of a service or services and the amount of payment, if any, to be made by a recipient, as determined by the fee schedule referred to in WAC 388-17-180.~~

~~(8) Resource = (see also WAC 388-17-160) = any real or personal property owned by or available to an applicant at the time of application for the senior citizens services program, which can be applied toward meeting the applicant's requirements, either directly or by conversion into money or its equivalent.)~~

(3) Household - applicants and recipients shall be considered to be single person households except:

(a) a husband and wife residing together are considered a two person household.

(b) an applicant or recipient which provides the majority of the support for a person(s) residing with the applicant or recipient shall be considered a member of a household which includes the applicant or recipient and the dependent person(s).

AMENDATORY SECTION (Amending Order 1174, filed 11/30/76)

WAC 388-17-100 RIGHTS AND RESPONSIBILITIES OF APPLICANTS AND RECIPIENTS. (1) Each applicant and/or recipient of the senior citizens services program shall have the following rights:

(a) Any individual wishing to do so shall have the right to apply for the senior citizens services program and have his or her eligibility determined within ten days. If an adverse decision is made regarding eligibility, the applicant will be provided written notice. The notice of eligibility shall include a statement of the reasons upon which an unfavorable decision is based and a statement of the individual's right to a hearing, and a statement of the individual's right to representation at the hearing by a friend, relative or other representative.

(b) An eligible individual shall be given the requested services, within the limits of available funds, which are offered by the area agency on aging in his or her geographic area.

(c) An applicant or recipient who feels aggrieved by a decision of the ((department,)) area agency or service provider regarding his or her eligibility for senior citizens services shall have the right ((to a fair hearing to be conducted in accordance with)) an informal hearing provided by the area agency. The hearing shall be held within thirty days of the date a request is made

and a written decision shall be rendered within fifteen days after the hearing. If the applicant or recipient is dissatisfied with the outcome of the informal hearing, he or she may request the department provide a fair hearing as specified in chapter 388-08 WAC. Any person who desires a ((fair)) hearing must within thirty days after receiving written notice of a decision regarding eligibility make written request for a hearing to the ((secretary of)) area agency or the department. ((The notice of eligibility shall include a statement of the reasons upon which an unfavorable decision is based and a statement of the individual's right to a hearing, and a statement of the individual's right to representation of the hearing by a friend, relative or other representative.))

(d) Information obtained by the department, area agency or vendor ~~((concerning))~~ identifying any applicant or recipient of senior citizens services is confidential and privileged and may not be disclosed or used either directly or indirectly in any manner or for any purpose except for purposes directly related to the administration of the program, unless the applicant or recipient requests in writing that the information be disclosed.

(e) Each applicant and recipient shall be treated with dignity and courtesy and there shall be no discrimination against any individual because of race, sex, religious creed, political beliefs ~~((or))~~, national origin or handicap.

(f) Each applicant for services for which a fee may be charged shall be fully informed in writing of his or her rights and responsibilities in connection with the senior citizens services program.

(2) An applicant and/or recipient shall have the following responsibilities:

(a) Each applicant for services for which a fee may be charged shall provide complete and accurate information on an application form provided by the department and cooperate in establishing his or her eligibility for services.

(b) If services provided by the senior citizens services program are available at no cost to the applicant through other sources, the applicant shall apply for these services through the appropriate agency.

(c) Each recipient of services for which a fee may be charged shall promptly report any changes in income or resources in writing which may affect his or her eligibility or amount of fees to be paid for services.

AMENDATORY SECTION (Amending Order 1174, filed 11/30/76)

WAC 388-17-120 ELIGIBILITY FOR SENIOR CITIZENS SERVICES—APPLICATION. (1) An application for the senior citizens services program is a request in writing made by an individual on his or her own behalf or in behalf of another person on a form specified by the department.

(2) ~~((An application shall be accepted from anyone who wishes to apply and shall be acted upon within ten days.~~

~~((3)))~~ An application shall contain a signed declaration that the information contained in the application is true, correct and complete to the best of the applicant's knowledge.

~~((4)))~~ (3) Eligibility shall be determined on the basis of the declaration of circumstances contained in the application, in accordance with the rules of the department contained in this chapter.

~~((5)))~~ (4) Each applicant for services for which a fee may be charged shall be given a notice of eligibility.

AMENDATORY SECTION (Amending Order 1174, filed 11/30/76)

WAC 388-17-160 INCOME AND RESOURCES.

(1) An individual whose income is at or below forty percent of the state median income for a family of four adjusted for family size, as determined by ~~((Title XX of the Social Security Act,))~~ the secretary of H.E.W. and whose resources are at or below the limits specified in this section shall be eligible for services at no cost.

(a) The following shall be disregarded in determining the income and resources of an applicant or recipient:

(i) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(ii) The value of the coupon allotment under the Food Stamp Act of 1964, as amended, in excess of the amount paid for the coupons.

(iii) The value of the U.S. department of agriculture donated foods (surplus commodities).

(iv) Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended.

(v) Any compensation provided to volunteers in ACTION programs established by Titles I, II, and III of Public Law 93-113, the Domestic Volunteer Services Act of 1973.

(vi) Any payment received from a foster care agency for children in the home.

(vii) Garden produce[,] livestock and poultry used for home consumption.

(viii) Any real property held in trust for an individual Indian or Indian Tribe.

(ix) The benefits of a program which by its terms provides that its benefits are exempt from consideration of eligibility in needs programs.

(2) Effective October ~~((1976))~~ 1977, the state median income for a family of four is ~~\$(15,401))~~ 16,800. Forty percent is ~~\$(6,160))~~ 6,720.

~~((a))~~ Family means a single individual or two or more persons related by blood, marriage or adoption, residing in the same household.

~~((i))~~ Husband and wife are considered a two-person family.

~~((ii))~~ Related individuals residing together who are not dependent on the income of only one of the individuals are each considered a separate family.

~~((iii))~~ An individual living with unrelated persons only is considered a one-person family.

~~((b))~~ Income tables for forty percent of median income.

Number In Family Unit	Monthly Income	Annual Income
1	((266)) \$291	((203)) \$3,492
2	((348)) 381	((4189)) 4,572
3	((431)) 471	((5174)) 5,652
4	((513)) 560	((6160)) 6,720
5	((595)) 650	((7146)) 7,800
((6	677	8,132))

For each additional family household member, add \$15 for monthly income, or \$180 for annual income.

(3) Income means any real or personal property in cash or kind received by an applicant or recipient after applying for the senior citizens services program which is available to meet the requirements of the applicant or recipient and his or her dependents.

~~((a) Earned income means income in cash or kind earned as wages, salary, commissions or profit from activities in which an individual is engaged as a self-employed person or as an employee.~~

~~(b) Unearned income means all other income, including but not limited to, payments for maintenance or support, social security, supplemental security income, veterans' benefits, public assistance, pension, retirement benefits, military benefits, unemployment compensation, industrial accident payments, Indian payments, money from the sale of property, rentals, insurance payments, relatives or any other source.)~~

(4) Resources mean all real or personal property owned by or available to an applicant at the time of application which can be applied toward meeting the applicant's requirements, either directly or by conversion into money or its equivalent. Property that is available shall mean property over which the applicant has legal right of control.

(a) The following resources, regardless of value, shall not be considered in determining the value of an applicant's or recipient's resources:

(i) A home and lot normal for the community.

(ii) Used and useful household furnishings, personal clothing, and automobiles.

(iii) Personal property of great sentimental value.

~~(iv) ((Other)) Personal property((such as tools, machinery, livestock or business equipment)) used by the applicant or recipient to earn income or to rehabilitate himself/herself.~~

(v) One cemetery plot for each member of the family unit.

(vi) Cash surrender value of life insurance.

(b) The total value of all other resources including cash, marketable securities, and real or personal property shall not exceed \$10,000.00 for a single person or \$15,000.00 for a family of two. This maximum shall be increased by \$1,000.00 for each additional member of the ~~((family unit))~~ household.

AMENDATORY SECTION (Amending Order 1174, filed 11/30/76)

WAC 388-17-180 FEE SCHEDULE. (1) Eligible persons whose income and/or resources exceed the limits specified in WAC 388-17-160 for free services shall be responsible for payment of the total, or a percentage, of

the cost for each service provided as determined by the fee schedule((-)) published in DSHS Form 14-155(X) 9/77 which is incorporated by reference herein. For each size household the percentage of the cost of the service for which the department will make payment is based on the following formula:

$$\frac{100\% \text{ state median income (SMI)} - \text{Household Income}}{100\% \text{ SMI} - 40\% \text{ SMI}} \times 100$$

(2) Service providers shall be responsible for collecting fees owed by eligible persons and reporting to area agencies all such fees paid or owed by eligible persons.

~~(3) ((No fees will be charged for access services, nutrition services, counseling for the terminally ill or legal services.~~

~~(4)) Fees paid shall not exceed the cost of services provided.~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

(1) WAC 388-17-030 DESCRIPTION OF PROGRAM—PURPOSE.

(2) WAC 388-17-040 SCOPE.

(3) WAC 388-17-050 ADMINISTRATION.

(4) WAC 388-17-140 ELIGIBLE PERSONS.

(5) WAC 388-17-200 SERVICES PROVIDED BY THE SENIOR CITIZENS SERVICES PROGRAM.

(6) WAC 388-17-220 MENTAL HEALTH TRAINING PROGRAM.

(7) WAC 388-17-240 VOLUNTEER PROGRAMS.

WSR 78-04-009

PROPOSED RULES

CENTRAL WASHINGTON UNIVERSITY

[Filed Mar. 6, 1978]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030 and RCW 28B.40.120 that the Central Washington University intends to adopt, amend, or repeal rules concerning institution title change in the following WAC chapters:

106-08 Practice and Procedure; 106-72 Human Rights Policy; 106-112 Personnel Rules; 106-140 Business Enterprise and University Facilities; 106-156 Housing and Dining Hall Policy; 106-160 Admission and Registration Procedure; 106-164 Bond Bid Policies and Procedure; 106-168 Library Policies; 106-172 Student Records Policy; and 106-276 Pub. Records and Leb. Liaisons;

that such institution will at 1:30 p.m., Tuesday, June 13, 1978, in the Samuelson Union Building, room 207, of the CWU campus conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 1:30 p.m., Wednesday, June 14, 1978, in the President's Office, Barge Hall, room 301, of the CWU campus.

Notice
Let out of notice
106-140-053
106-156-020

The authority under which these rules are proposed is RCW 28B.40.120.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution prior to June 12, 1978, and/or orally at 1:30 p.m., Tuesday, June 13, 1978, in room 207, of the Samuelson Union Building, on the CWU campus.

Dated: March 2, 1978

By: Barbara A. Davis
Administrative Secretary

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

WAC 106-08-001 REGULAR MEETING TIME. The regular meetings of the Board of Trustees of Central Washington ((State College)) University shall be held on the second Friday of each month at 8:00 p.m. in rooms 204-205, Samuelson Union Building on the Central Washington ((State College)) University campus in Ellensburg, Washington.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

WAC 106-08-005 DEFINITIONS. As used herein, the term "agency" shall mean the Board of Trustees of Central Washington ((State College)) University or any duly appointed hearing officer or officers.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

WAC 106-08-080 NOTICE AND OPPORTUNITY FOR HEARING IN CONTESTED CASES. In any contested case, all parties shall be served with a notice at least ten days before the date set for the hearing. The notice shall be signed by the president of Central Washington ((State College)) University ((of)) or his designee and shall state the time, place, and issues involved, as required by RCW 28B.19.120.

AMENDATORY SECTION (Amending Order 3274, filed 12/6/71)

WAC 106-72-010 GENERAL POLICY. It shall be the policy of the Board of Trustees of Central Washington ((State College)) University, within the realm of their authority and in keeping with their responsibility to the public, to prohibit discrimination based on race, creed, ethnic origin, or sex. This prohibition applies to all aspects of the ((College's)) university's functions, program and activities, the utilization of its facilities and the official use of the ((College's)) university's name; the employment, housing, financial aid, and educational opportunities it provides.

The Board of Trustees, furthermore, affirms its intent and desire to establish practices consistent with those prescribed for other agencies of the state of Washington through the governor of the state and through this policy expresses its intent to modify any present practices of the ((College)) university to accomplish this end.

The Board of Trustees hereby directs the president of Central Washington ((State College)) University to establish administrative procedures, rules, and regulations which will fulfill this policy and which will provide him with means to monitor and maintain such rules and regulations. Furthermore, the president is directed to report, from time to time, to the Board of Trustees progress and problems related to the execution of this policy.

AMENDATORY SECTION (Amending Order 3274, filed 12/6/71)

WAC 106-72-100 PROCEDURES, RULES, AND REGULATIONS—EMPLOYMENT, JOB PLACEMENT, AND PROMOTION. It shall be the goal of this ((College)) university to employ all personnel solely on the basis of merit and without regard for race, religion, color, national origin, sex, age, or physical disability, except where sex, age or physical disability are bona fide occupational qualifications. Job placement, retention, and opportunities for promotion shall be based on such factors as relate to the demands of the position. It is, furthermore, a goal of this ((College)) university to establish contracts and supply agreements only with firms and individuals who support and implement the above stated goal.

AMENDATORY SECTION (Amending Order 3274, filed 12/6/71)

WAC 106-72-110 PROCEDURES, RULES, AND REGULATIONS—ACADEMIC PERSONNEL. All administrators who have authority to employ academic personnel shall work toward establishing a diverse faculty capable of providing for excellence in education and for the enrichment of the ((College)) university community. No appointment will be made until all candidates have been encouraged to apply.

AMENDATORY SECTION (Amending Order 3274, filed 12/6/71)

WAC 106-72-120 PROCEDURES, RULES, AND REGULATIONS—NONACADEMIC PERSONNEL. All those who have authority to employ nonacademic personnel (including part time personnel and students) shall work toward establishing a diverse work force capable of providing excellence in service to the ((College)) university. No appointment will be made until all candidates have been encouraged to apply.

AMENDATORY SECTION (Amending Order 3274, filed 12/6/71)

WAC 106-72-130 PROCEDURES, RULES, AND REGULATIONS—CONTRACTORS. Every department of the ((College)) university which awards contracts for the construction, alteration or repair of any building or other public work shall utilize procedures which will ensure that minority group persons are employed on all public works projects of the ((College)) university. This goal is to be sought whenever ((College)) university funds, from any source, are expended.

The ((College)) university shall include in the bid specifications for a public works contract a requirement that the prospective contractor and his subcontractors must agree to take affirmative action to employ minority group workers in the performance of the contract. The bid specifications shall express as precisely as possible what affirmative action a contractor will be obligated to take.

AMENDATORY SECTION (Amending Order 3274, filed 12/6/71)

WAC 106-72-140 PROCEDURES, RULES, AND REGULATIONS—SUPPLIERS. This ((College)) university is obligated as a bona fide state agency to abide by RCW 43.19.190 which is the statute describing state purchasing laws. This statute, in general, requires the ((College)) university to seek competitive bids for all purchases and requires the institution to accept the lowest bid which meets stated specifications. In addition, Central Washington ((State College)) University will stipulate in writing on all invitations to bid and on all purchase orders ((and)) an anti-discrimination clause. Such clauses will obligate any supplier to practice equal opportunity employment, and shall bind him to abide by an anti-discrimination action adopted by the division of purchasing for the state of Washington.

It shall not be obligatory for the ((College)) university to investigate each of its suppliers for conformity to the regulations but the ((College)) university will be obliged to investigate any supplier against whom a complaint has been filed related to discrimination.

AMENDATORY SECTION (Amending Order 3274, filed 12/6/71)

WAC 106-72-150 PROCEDURES, RULES, AND REGULATIONS—STUDENT EMPLOYMENT. Students employed by the ((College)) university on a part-time basis shall be hired first on the basis of qualifications to accomplish job specifications and secondly on the basis of need. A sincere effort, however, must be made by those employing such students that the student work force be composed of a significant number of minority students and members of both sexes. Job placement and opportunity for promotion shall be no different for one student than for another but shall be solely a matter of competence.

AMENDATORY SECTION (Amending Order 3274, filed 12/6/71)

WAC 106-72-200 PROCEDURES, RULES, AND REGULATIONS—STUDENT SERVICES. It is the goal of this ((College)) university to create and maintain all student services which are responsible to the needs and desires of all students and which reflect a policy of nondiscrimination. In all areas of student services, students are to be treated as individuals without regard for race, religion, color, national origin, sex, age, or physical disability.

AMENDATORY SECTION (Amending Order 3274, filed 12/6/71)

WAC 106-72-220 PROCEDURES, RULES, AND REGULATIONS—ACADEMIC PROGRAM. It shall be the goal of this ((College)) university to recruit and enroll a student body which reflects a significant number of minority group members. The test for significance shall be determined by the percentage of such minority groups in the population of the state. The ((College)) university shall, in the fulfillment of this goal, make special efforts within its financial resources to bring about this desired student mix.

No students are to be given special consideration in fulfilling graduation requirements at the ((College)) university, except as may be available for all students through established ((College)) university policy.

AMENDATORY SECTION (Amending Order 3274, filed 12/6/71)

WAC 106-72-230 PROCEDURES, RULES, AND REGULATIONS—COMMUNITY RELATIONS. The ((College)) university will work closely with, coordinate activities with, and cooperate with any governmental body established in the community or state whose purpose is to discourage and eliminate discrimination. (1) Community services. The ((College)) university is cognizant that the student body and employees of the ((College)) university must use the multiple services of the community. It is also cognizant that in the private sector of the community policy cannot be dictated or controlled. However, the ((College)) university shall, in keeping with its own policy of nondiscrimination, attempt in every way possible to maintain service arrangements only with those organizations and individuals who operate in a nondiscriminatory fashion.

(2) Community housing. The ((College)) University Housing Office will seek and maintain community housing listings for the use of students. However, it shall not knowingly list any apartment, dormitory, or house for rent for students and employees if it is known that the owner or landlord has previously acted in any discriminatory fashion in renting or leasing such facility. In addition, the ((College)) University Housing Office shall establish such procedures as to promote nondiscrimination in rental housing by private persons to ((College)) university students.

(3) Vendors. To the extent that it is able under state law, the ((College)) university shall not knowingly patronize or recommend any vendor or supplier in the community who has demonstrated or announced a policy of discrimination in employment or service.

(4) Government agencies. The ((College)) university will strive to create and maintain good relations with official governmental agencies in the Central Washington region so that both employees and students will be welcomed to use governmental services. Wherever it can be shown that such governmental services are in any way discriminatory, the ((College)) university will strive to correct this situation.

(5) Community organizations. The ((College)) university will not allow any of its divisions, departments, or special units, when such units represent themselves as affiliates of the ((College)) university, to rent or use free of charge the facilities of any organization which states a policy of discrimination or demonstrates discrimination through its procedures of operation.

AMENDATORY SECTION (Amending Order 3274, filed 12/6/71)

WAC 106-72-250 PROCEDURES, RULES, AND REGULATIONS—GOVERNMENT CONTRACTS. The ((College)) university will establish and maintain nondiscriminatory practices in the fulfillment of all its contracts with any governmental agency. It will fully comply with any federal, state, or local governmental regulations which request a policy or procedural statement on nondiscrimination.

In the case of federal contracts for research grants and awards, the Office of Research and Development will be charged with development and inclusion in any contract a statement of nondiscrimination in the fulfillment of such contract.

AMENDATORY SECTION (Amending Order 3274, filed 12/6/71)

WAC 106-72-260 PROCEDURES, RULES, AND REGULATIONS—IMPLEMENTATION AND ADMINISTRATION—HUMAN RIGHTS COMMISSION. The ((College)) university will establish and maintain for as long as is necessary a human rights commission whose responsibilities will be to

execute the human rights policy. Details of the commission are as follows:

(1) Membership. The membership of the commission shall include persons officially members of the ((College)) university community—faculty personnel, nonfaculty personnel, and students. The commission's membership shall total six members. Two members shall be appointed from the faculty personnel, two from nonfaculty personnel, and two from the student body. Faculty members shall be appointed by the faculty senate chairman, nonfaculty members by the ((College)) university president, and student members by the ASC president.

(2) Chairman. The chairman of the commission shall be designated by the members and shall be one of the members appointed.

(3) Responsibilities. The commission shall have responsibility to:

(a) Distribute and interpret the human rights policy to all segments of the campus and to community agencies and individuals as may be necessary.

(b) Review regularly (at least annually) all procedures established and executed by deans, department chairmen, and other administrators of operating units of the ((College)) university which have a relationship to the ((College)) university policy on nondiscrimination.

(c) Review and recommend procedural and regulatory statements as may be needed to update the ((College)) university policy on nondiscrimination.

(d) Become familiar with any new or modified governmental policy or procedure on nondiscrimination which may affect ((College)) university policy or procedure.

(e) Approve any proposed procedure or rule on nondiscrimination which may be written and distributed by anyone on campus for consumption by a ((College)) university-wide audience.

(f) Construct and maintain a procedure whereby complaints from individuals and/or groups may be heard if such complaints may be in violation of ((College)) university policy.

(g) Construct procedures which may be taken to investigate alleged or suspected discriminatory practices.

(h) Recommend to the president of the ((College)) university actions which may be taken to correct violations of this policy.

(i) Submit an annual, comprehensive report to the president of the ((College)) university. The report shall include:

(i) Recommendations for modification of policy statements.

(ii) Review and recommendations surrounding steps taken by various administrators to fulfill written procedure.

(iii) Summary of complaints together with subsequent action concerning such complaints.

(iv) Recommendations for further modification or strengthening of procedures to ensure nondiscrimination.

AMENDATORY SECTION (Amending Order 3274, filed 12/6/71)

WAC 106-72-270 PROCEDURES, RULES, AND REGULATIONS—GRIEVANCE PROCEDURE. The following procedures will be used in making a complaint about discrimination in violation of the human rights policy:

(1) Faculty and civil service exempt members. The complainant should discuss his grievance with his department chairman or immediate supervisor and attempt to gain mutual satisfaction through this process. If unsatisfied with the results of this procedure, the complainant may then present written complaint to the appropriate dean or administrator for consideration. Within ((+5)) fifteen days after receiving the written complaint, the dean or administrator shall reply to the complainant in writing recommending a resolution of the matter. If still unsatisfied, the complainant may redirect a written complaint to the vice president for academic affairs or the vice president for business affairs, whichever is appropriate. Within ((+5)) fifteen days after receipt of the written appeal, the appropriate vice president will present to the complainant and his dean or administrator, a written recommendation to resolve the problem. If the matter is then not resolved to the satisfaction of the complainant, he may write a further appeal to the chairman of the human rights commission. The commission, within ((+5)) fifteen days after receipt of the appeal, will meet with the complainant and make a written recommendation to the president of the ((College)) university, with a copy sent to the complainant, who will take whatever action he deems necessary.

(2) Staff member (civil service). The Board of Trustees of the ((College)) university adopted on May 1, 1970, the Central Washington ((State-College)) University Board of Trustees grievance procedure for classified, civil service employees. Within this set of

procedures is a process for grievances. Grievance procedures related to discrimination shall follow this established policy as written except that Step 4 shall be rewritten as follows:

(a) If the grievance is unsatisfactorily resolved by the Director of Staff Personnel within the seven (~~((7))~~) working day period as outlined in Step 3, the employee may within three (~~((3))~~) working days of such a decision request in writing that the (~~((College))~~) university vice president for business affairs coordinate the initiation of a hearing as a final grievance step. This hearing shall be conducted by the human rights commission.

(b) If anyone on the human rights commission is employed in the same office, department, or subdepartment as the aggrieved employee, that person shall excuse himself from the commission for that particular hearing.

The commission shall hear the grievance under procedures established by the chairman and will render a written recommendation to the president after the hearing is closed. Copies of the recommendation, including any dissenting opinions, if any, of members of the commission will go to both the president and the complainant. The president will take whatever action he deems necessary.

(3) Student. The complainant will discuss his complaint with the appropriate administrator or supervisor most closely related to the issue involved: (i.e., a housing problem should be discussed with the director of Housing, a food problem with the director of Food Services, an academic problem with the chairman of the appropriate department, etc.). The student should attempt to resolve his problem in this fashion. If unsatisfied with the results, the student may send a written complaint to the dean of students. Within (~~((15))~~) fifteen days after receiving the written complaint, the dean of students shall reply to the student in writing and recommend a resolution of the problem. If still unsatisfied, the complainant may redirect a written appeal to the chairman of the human rights commission. The commission within (~~((15))~~) fifteen days after receipt of the appeal, will meet with the student and make a written recommendation to the president of the (~~((College))~~) university, with a copy sent to the complainant. The president will take whatever action he deems necessary.

(4) Groups. Any group with a complaint should choose one of its number to represent its grievance and proceed as for a single individual.

(5) Complaints related to community. Any member of the (~~((College))~~) university community who has a complaint against any private individual, private establishment, public individual, or public agency, may present a written complaint directly to the chairman of the human rights commission. Within (~~((15))~~) fifteen days after receipt of the complaint, the commission will meet with the complainant and attempt to recommend a resolution of the problem. If the problem warrants investigation, the commission may decide to pursue such investigation on its own discretion and subsequently will present to the president recommendations for action. If legal matters pertaining to a violation of individual rights are involved, the commission will seek to apprise the complainant of his rights and to make recommendations as to how he may proceed to satisfy his complaint through legal channels.

In any complaint against the community, the commission will attempt to act in such a way as to maintain good communications with the government and the people. In any recommendations for resolution of a problem in the community, the commission shall meet with members of the Ellensburg human relations commission and seek their cooperation and assistance in correcting any wrong which may have (~~((occured))~~) occurred.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-112-010 STUDENT EMPLOYMENT PROCEDURES—REGULAR STUDENT EMPLOYMENT. To be eligible for (~~((college))~~) university student employment a person shall be enrolled in seven or more credit hours during the academic period he wishes to work at the (~~((College))~~) university, and subject to the following regulations:

(1) A student shall be admitted to Central Washington (~~((State College))~~) University before employment will be given to him. Admittance is determined by the (~~((CWSE))~~) CWU Admissions Office.

(2) Persons enrolled in six or less credit hours of classes in any given quarter will not be classified as student employees and will fall under the jurisdiction of the Staff Personnel Office.

(3) No student will be allowed to work more than an average of (~~((15))~~) fifteen hours per week when classes are in session.

(4) For employment purposes a student employee is limited to an average of (~~((15))~~) fifteen hours per week starting the first day of classes each quarter and until the last day of final tests.

(5) Vacations and registration are periods of time when a student may work up to (~~((8))~~) eight hours a day, (~~((40))~~) forty hours a week.

(6) No student employee shall work in more than one department on campus unless clearance is obtained through the Financial Aid Office.

(7) All job openings reported to the office of Financial Aid will be posted on the bulletin board outside the Financial Aid Office. Students interested in inquiring about any job posted will inquire with the secretary in charge of student employment in the Financial Aid Office. Applicants are considered on a first-come, first-served basis.

(8) The Financial Aid Office acts as a referral agency only. Final selection and hiring of any student employee on this campus will be made by the employing office.

(9) Student employment rating forms are furnished to each department. These forms may be sent to the Financial Aid Office for any of the following reasons:

(a) To denote outstanding work.

(b) When a student is doing below average or poor work (or no work at all).

(c) When a student completes, is fired from, or quits a job.

AMENDATORY SECTION (Amending Order 4073, filed 8/23/74)

WAC 106-112-100 POLICY ON NEPOTISM. In the appointment of its faculty, administrative officers and civil service staff, Central Washington (~~((State College))~~) University seeks to employ the best qualified men and women available. Therefore, members of the same family may be appointed to faculty and staff positions, and all appointments will be made without regard to race, creed, color, sex, age, national origin, marital status, or the presence of any sensory, physical or mental handicap, unless based upon a bona fide positional qualification.

The (~~((College))~~) university also extends equal employment opportunity to persons possessing criminal convictions, however, employment of a person possessing a criminal conviction will be contingent upon a thorough review of specific convictions and their relationship to the welfare of the (~~((College))~~) university. The (~~((College))~~) university precludes employment of persons possessing criminal convictions in the campus police department. Employees will receive all benefits associated with positions in which they are employed.

AMENDATORY SECTION (Amending Order 4073, filed 8/23/74)

WAC 106-112-101 POLICY ON NEPOTISM—EXCEPTIONS. Exceptions to this policy may be established by the president of the (~~((College))~~) university for specific positions where employment of consanguineal or affinal persons in these specific positions would compromise the (~~((College's))~~) university's obligation to maintain separation of responsibilities as required by sound financial management principles.

AMENDATORY SECTION (Amending Order 4073, filed 8/23/74)

WAC 106-112-105 DECISIONS ON RELATIVES. No member of the (~~((College's))~~) university's faculty, administrative or civil service staff shall vote, make recommendations, or in any other way participate in the decision of any matter which may directly affect the appointment, tenure, promotion, or other status or interest of such person's parent, child, spouse, sibling or in-law.

AMENDATORY SECTION (Amending Order 4075, filed 8/23/74)

WAC 106-112-300 PREGNANCY AND MATERNITY LEAVE POLICY—INTRODUCTION. Many women of childbearing age depend on their job for economic support. Practices such as terminating the employment of pregnant women without cause, refusing to grant leave or accrued sick pay for disabilities relating to pregnancy, or refusing to hire women for responsible jobs because they are, or may become, pregnant, impair the opportunity of women to obtain employment and to advance on the same basis as men. Such practices discriminate against women because of their sex and are prohibited at Central Washington (~~((State College))~~) University.

AMENDATORY SECTION (Amending Order 4075, filed 8/23/74)

WAC 106-112-310 HIRING PREGNANT WOMEN. Appointing authorities will not refuse to hire a qualified woman because of pregnancy unless the refusal would be reasonable in view of the necessity to conduct business in an orderly manner. If an appointing authority elects not to hire a qualified woman because of pregnancy, the burden shall be on that appointing authority to demonstrate that the decision was based upon justifiable facts concerning her individual ability to perform the job or upon justifiable facts concerning business requirements.

Arguments that may not be used to disqualify pregnant women from employment include, but are not limited to:

- (1) Pregnant women may not return to their former job after childbirth;
- (2) Time away from work required for childbearing may increase the ~~((College's))~~ university's cost;
- (3) The leave period for childbirth may be unreasonably long;
- (4) Pregnant women may be frequently absent from work due to illness; and
- (5) Clients, co-workers, or customers may object to having pregnant women on the job.

AMENDATORY SECTION (Amending Order 4075, filed 8/23/74)

WAC 106-112-330 LEAVE FOR PREGNANCY. Appointing authorities must provide a pregnant woman leaves of absence for sickness or incapacity associated with pregnancy and for childbirth.

Leave of absence for pregnant women may include both paid and unpaid leave. Leave of absence for maternity will commence upon the request of the employee and extend until the employee is able to return to work. In all instances in which an employee requests maternity leave, the appointing authority may require the employee to provide a statement from a second physician of the ~~((College's))~~ university's choice attesting to the need for, and duration of the leave. The ~~((College))~~ university will bear the cost of an examination by a ~~((college))~~ university-designated physician.

An employee is eligible to use earned sick leave credits during maternity leave. In those instances in which an employee's sick leave credits are exhausted prior to her return to work, the employee's status will automatically revert from sick leave to leave of absence without pay.

Employees returning from an authorized maternity leave of absence must be employed in the same position or in another position in the same class, in the same geographic area and organizational unit providing that such reemployment is not in conflict with rules relating to reduction in force.

AMENDATORY SECTION (Amending Order 4075, filed 8/23/74)

WAC 106-112-340 LEAVE BENEFITS FOR PREGNANT WOMEN. Illness or absence from work caused or contributed to by pregnancy, miscarriage, spontaneous, therapeutic or voluntary abortion, childbirth, and recovery therefrom are temporary disabilities and are treated as such under the ~~((College's))~~ university's sick leave policies provided that in the case of voluntary abortion care is administered prior to, during and after the abortion by a licensed physician.

AMENDATORY SECTION (Amending Order 4075, filed 8/23/74)

WAC 106-112-350 INSURANCE BENEFITS FOR PREGNANT WOMEN. Insurance contributions provided by the ~~((College))~~ university shall be equal for male and female employees.

AMENDATORY SECTION (Amending Order 4075, filed 8/23/74)

WAC 106-112-360 MARITAL STATUS AS RELATED TO PREGNANCY. Discrimination against pregnant women because of marital status is prohibited. The ~~((College's))~~ university's sick leave and disability policies including health insurance contributions, apply equally to married and unmarried pregnant women.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

WAC 106-140-001 BUSINESS ENTERPRISES POLICY. The provisions of WAC 106-140-001 through 106-140-099 shall constitute the business enterprises policy of Central Washington ~~((State College))~~ University.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

WAC 106-140-010 BUSINESS SALES. The soliciting, selling, exposing for sale, or offering to sell of any goods, services, articles, wares or merchandise of any nature whatsoever, within the boundaries of Central Washington ~~((State College))~~ University property is prohibited except by written permission of the Board of Trustees, president or his designee(~~;~~); PROVIDED, That this section shall not apply to private, personal, noncommercial sales between individuals where no general or public solicitation, exposure for sale or offer to sell is involved, or to the soliciting, selling, exposing for sale, or offering to sell of individual books, newspapers, magazines, pamphlets and similar published materials.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

WAC 106-140-011 BUSINESS SALES—RESTRICTIONS. Central Washington ~~((State College))~~ University property and facilities may not be used for the activities set forth in WAC 106-140-010 unless such activities serve the purposes and needs of the ~~((College))~~ university and are sponsored by a ~~((College))~~ university department, agency, or recognized organizations. Such activities should only be permitted where they complement the services provided by local businesses.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

WAC 106-140-020 ADVERTISING—ADVERTISING IN RECOGNIZED STUDENT AND FACULTY PUBLICATIONS. Advertising in the following listed publications of the ~~((College))~~ university and its recognized student or faculty organizations is permitted within the requirements of journalistic policies, prices, rules and regulations established by each listed publication:

- (1) Campus Crier
- (2) Hyakem
- (3) Student and faculty directory
- (4) Village Review
- (5) KCWS
- (6) Athletic programs

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

WAC 106-140-021 ADVERTISING—ADVERTISING ON BULLETIN BOARDS. Advertising in order of priority, by students, ~~((college))~~ university employees and recognized organizations thereof on bulletin boards is approved but shall be subject to regulation by the dean of student(~~s~~) development or his designated representative with respect to priority when there is a lack of space, and to the size and duration of the posting. This section applies to bulletin boards located at the following places:

Location	Users
(1) Samuelson Union Building Nature of advertisements: Activities of the sponsoring organizations only.	Student government activities Campus sponsored groups Campus sponsored events
(2) Mitchell Hall Nature of advertisements: Activities of the sponsoring organization only.	Student government activities Campus sponsored groups Campus sponsored events
(3) Bookstore Nature of advertisements: Activities of the sponsoring organization only.	All recognized campus organizations and students.
(4) Any additional ASC bulletin board space which may be provided by the ((College)) university or by a recognized organization. Nature of advertisements: Activities of the sponsoring organization only.	All recognized campus organizations.

Location	Users
(5) Residence Halls Nature of advertisements: Activities of the sponsoring organization only.	All recognized campus organizations.

Advertising by other than Central Washington ((State-College)) University affiliated or recognized groups is not permitted at any time on ((College)) university property and will be removed upon discovery.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

WAC 106-140-030 PUBLICITY AND LITERATURE. Use of ((College)) university bulletin boards and ((College)) university property for publicity activity and dissemination of literature shall be permitted in the manner set forth in the provisions of WAC 106-140-030 through 106-140-039.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

WAC 106-140-031 PUBLICITY AND LITERATURE—OUTDOOR SIGNS. These signs may include banners, posters, stick signs, sandwich boards, or other types of signs. Any sign causing destruction of property will be removed upon discovery.

(1) Student activity signs approved by the Scheduling ((Office)) Center may be placed anywhere on the major walkways or malls immediately adjacent to the Samuelson Union Building.

(2) Stick signs and banners or posters may be posted in the immediate area of Commons and Holmes dining hall entrances. Signs in these areas will be limited to ((2)) two feet by ((3)) three feet in size. Pep banners or any other large signs to be posted in the immediate area of Commons or Holmes dining hall entrances must receive specific approval of the Scheduling ((Office)) Center and the director of Food Services.

(3) For Central Washington ((State-College)) University student election campaigns, other areas such as the west end of Black Hall or the east end of Hertz Hall may be designated by the election committee subject to the approval of the ((College)) university official responsible for that area.

(4) All signs, banners, and posters on the physical property immediately surrounding dormitories must be approved by the Scheduling ((Office)) Center and housing manager.

(5) Signs shall not be posted on trees or doors anywhere on campus; any so placed may be removed and destroyed by Central Washington ((State-College)) University and Central Washington ((State-College)) University may charge the group or individual responsible for such sign placement for the labor required to restore the premises.

(6) Outdoor signs shall be removed within ((36)) thirty-six hours after an event.

(7) If signs and debris are not removed by the individuals or groups responsible for their erection within ((36)) thirty-six hours after an event, after warning the individual or group, the ((College)) university may take steps to remove the debris, litter or material and charge the group or individual responsible for such erection, installation or placement, for the labor required to restore the premises to the original condition.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

WAC 106-140-034 PUBLICITY AND LITERATURE—FREE DISSEMINATION OF LITERATURE. Individuals may use campus walkways to disseminate free literature, except commercial advertising; however, such dissemination shall not be permitted to interfere with individuals entering or leaving buildings or with building occupants. This privilege may be revoked if deemed necessary by the ((College)) university. Dissemination of literature within any buildings, limited or restricted use areas, including the stadium or tennis courts, is prohibited.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

WAC 106-140-036 PUBLICITY AND LITERATURE—COMMERCIAL ADVERTISING PROHIBITED. ((College)) University facilities and property shall not be used for commercial advertising by ((non-college)) nonuniversity groups or individuals.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

WAC 106-140-050 SOLICITING AND SELLING OF PUBLISHED MATERIALS. The personal, noncommercial soliciting, selling, exposing for sale, or offering to sell by an person or persons, of any books, newspapers, magazines, pamphlets and similar published materials shall be permitted within the boundaries of Central Washington ((State-College)) University property, provided that such published materials are not already available for sale at the ((College)) university, and shall be subject to regulation by the ((College)) university president or his designee as to the time, place, and manner thereof. Applications for permission to solicit or sell under this policy shall be submitted to the president or his designee ((24)) twenty-four hours prior to the time such use of the ((College)) university facilities is desired. The president or his designee shall establish the time, place and manner that such soliciting and selling shall occur within the boundaries of ((College)) university property. All rules and regulations, orders or directives adopted by the president or his designee pursuant to this section shall be promulgated.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-101 USE OF ((COLLEGE)) UNIVERSITY FACILITIES—BUSINESS OFFICE. The provisions of WAC 106-140-001 through 106-140-999 shall be reserved for policies on use of ((college)) university facilities under the supervision of the ((college)) University Business Office.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-110 TELEPHONE SERVICES—LONG DISTANCE CALLS. Personal long distance calls may not be charged to any ((college)) university telephone number; any individual doing so shall pay for the cost of the toll charge, plus an additional penalty charge established by the ((College)) university. Long distance telephone calls may be placed from college telephones by charging the call to a ((non-college)) nonuniversity telephone number or to a credit card.

Repeated violations of this section may result in disciplinary action.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-111 TELEPHONE SERVICES—REQUESTS FOR REPAIRS. All requests for repair of ((college)) university telephones are to be made with the ((college)) university telephone office.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-112 TELEPHONE SERVICES—APPROVAL OF INSTALLATIONS. Telephones may be installed on the Central Washington ((State-College)) University campus only with the approval of the director of Auxiliary Services or his designee.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-113 TELEPHONE SERVICES—RIGHT TO RESTRICT OR MODIFY SERVICES. The ((College)) university reserves the right at any time it deems necessary to restrict or change:

- (1) the telephone services,
- (2) access to controlled long distance networks,
- (3) the hours of having operators on duty,
- (4) the amounts and types of information it will make available to the public through the telephone office.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-120 MOTOR ((POOL-COLLEGE)) POOL-UNIVERSITY VEHICLES—((COLLEGE)) UNIVERSITY PERSONNEL. ((College)) University vehicles shall be utilized and operated only by ((college)) university employees, or students of Central Washington ((State-College)) University authorized by ((college)) university officials.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-140 BUSINESS OFFICE HOURS—CASHIER. The Central Washington ((State-College)) University Business ((Office)) Cashier's Office will be open for business during the hours posted by the ((college)) university controller or his designee.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-146 CHECK CASHING-CASHIER'S OFFICE—PARTIAL RETURN IN CASH. When payment is made on a ((college)) university account with a check from a third party and the ((College)) university is payee, for an amount equal to or less than the amount owed, the ((College)) university will not return any portion of the check to the holder unless authorization is received from the maker of the check. The ((College)) university reserves the right at all times to refuse to accept a check.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-150 ((COLLEGE)) UNIVERSITY BOOKSTORE—REFUNDS. The ((College)) University Bookstore will give a refund of the purchase price for only required text books for credited classes currently in session at Central Washington ((State College)) University and for defective merchandise, in the following manner:

- (1) Refunds shall be made only for the first five ((5)) days after the beginning of classes; and
- (2) Central Washington ((State College)) University Bookstore cash register sales receipt dated not more than seven ((7)) days from date of sale for the book or books shall be required; and
- (3) Books must be in new condition; unmarked and free of damage; and
- (4) Central Washington ((State College)) University identification card of current validation shall be required; and
- (5) No cash refunds shall be made for books purchased with a credit card; and
- (6) Defective merchandise is refundable only if returned within a reasonable time as determined by the ((College)) University Bookstore manager, or his designee, and a Central Washington ((State College)) University Bookstore sales receipt for that item and identification shall be required.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-151 ((COLLEGE)) UNIVERSITY BOOKSTORE—USED BOOK PURCHASES. The ((College)) University Bookstore shall purchase used books in the following manner:

- (1) No more than fifty percent ((50%)) of list price shall be paid for used books; and
- (2) Books shall be in saleable condition; and
- (3) Overmarked or damaged books shall not be purchased; and
- (4) Overstocked books and books not being used again the following quarter or session shall be purchased at market value; and
- (5) Central Washington ((State College)) University identification of current validation shall be required.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-152 ((COLLEGE)) UNIVERSITY BOOKSTORE—BOOKSTORE CHECK CASHING POLICY. The ((College)) University Bookstore shall cash personal checks in the following manner:

- (1) Current validated Central Washington ((State College)) University identification shall be required; and
- (2) Check shall be customer's own personal check with bank number printed on the check, except that payroll checks will be honored for a limited amount provided current validated Central Washington ((State College)) University identification is presented; and
- (3) Check shall be for the amount of purchase, except that a check for cash or over the amount of purchase may be accepted when cash is available, provided that the bookstore may establish minimum and maximum amount limits at management's discretion; and
- (4) Checks shall not be accepted from anyone with a history of writing checks that banks will not honor.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-153 ((COLLEGE)) UNIVERSITY BOOKSTORE—METHODS OF PURCHASE. All sales shall be paid by cash, check, or money order at the time of purchase, except under the following conditions:

- (1) When arrangement for payment has been made through the ((College)) university; or

(2) Sales to departments, residence halls, and campus organizations when purchase is made by authorized personnel; or

(3) ((Sales to college full time faculty and staff with Central Washington State College identification; or

(4)) Sales to holders of accepted credit cards, subject to the requirements and restrictions of the firm issuing the credit card.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-154 ((COLLEGE)) UNIVERSITY BOOKSTORE—BOOK ORDERS. The ((College)) University Bookstore may order books and other merchandise for customers when they are not currently available in the store; a deposit or the full purchase price in advance may be required for certain items depending on their nature and their cost; deposits paid for special orders may be subject to forfeiture if the order is cancelled or if the merchandise is not purchased within seven ((7)) days after receipt of merchandise in the ((College)) University Bookstore unless other arrangements have been approved by the bookstore manager.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-156 ((COLLEGE)) UNIVERSITY BOOKSTORE—PACKAGES. The public is required to leave all packages, books, supplies, packs, bags, large handbags, etc., outside the ((College)) University Bookstore sales display area, provided that those carried in shall be subject to search prior to leaving the sales display area.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-157 ((COLLEGE)) UNIVERSITY BOOKSTORE—ANIMALS PROHIBITED. No animals of any kind are allowed in the ((College)) University Bookstore.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-158 ((COLLEGE)) UNIVERSITY BOOKSTORE—SALES RESTRICTIONS. Only merchandise or items sold by the ((College)) University Bookstore as a part of its operation may be sold within the ((College)) University Bookstore premises.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-159 ((COLLEGE)) UNIVERSITY BOOKSTORE—HOURS. The hours that the ((College)) University Bookstore shall be open for business shall be those posted by the bookstore manager or his designee.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72)

WAC 106-140-160 USE OF ((COLLEGE)) UNIVERSITY MAILING AND STATIONERY SERVICES. No one may employ ((college)) university stationery, services (mail, duplicating, equipment, etc.) and supplies for personal use or for organizations not sponsored solely by the ((College)) university.

AMENDATORY SECTION (Amending Order 27, filed 4/22/76)

WAC 106-156-010 STUDENTS REQUIRED TO LIVE IN ((COLLEGE)) UNIVERSITY RESIDENCE HALLS. All full time single freshman and sophomore students of Central Washington ((State College)) University under ((21)) twenty-one years of age are required to live in ((College)) university residence hall facilities. Residence hall facilities do not include apartments for single or married students.

AMENDATORY SECTION (Amending Order 27, filed 4/22/76)

WAC 106-156-012 STUDENTS REQUIRED TO LIVE IN ((COLLEGE)) UNIVERSITY RESIDENCE HALLS—DEFINITIONS. Definitions of exceptions as stated in WAC 106-156-011 shall mean and are defined as follows:

- (1) Living with shall mean those whose domiciles are in the place of residence of a parent or relative and will be commuting from such under the place of residence on a daily basis.
- (2) Parents or relatives shall mean a parent, legal guardian, grandparent, brother, sister, aunt, uncle, or first cousin.

(3) Medical reason shall mean a medical problem that shall require a student to live in other than a ((college)) university residence hall. Written verification of the medical problem and the requirement not to live in a residence hall must be obtained and submitted from a licensed physician or licensed psychologist.

(4) Employment in ((non-college)) nonuniversity housing and housing and/or board is part of their overall compensation received shall mean employment for an established place of business or for an established family unit when a landlord/employer requires the student to reside where the work is performed and a substantial portion of the rent and/or room and board is reduced as a part of the overall compensation for the work performed for the landlord/employer at the place of the residence of the student.

(5) Completed six ((6)) quarters as a full time student shall mean enrollment in and completion of a minimum of ten ((10)) credit quarter hours of academic work in each of the six quarters.

AMENDATORY SECTION (Amending Order 27, filed 4/22/76)

WAC 106-156-013 STUDENTS REQUIRED TO LIVE IN ((COLLEGE)) UNIVERSITY RESIDENCE HALLS—VERIFICATION AND TIME REQUIREMENT. Acceptable written verification shall be provided to the ((College)) university for all exceptions at the time the request for an exception is made.

(1) A currently enrolled student wishing to apply for an exception to the ((College)) university housing policy as set forth in WAC 106-156-010 shall reduce such request to writing and file it as required by the director of Auxiliary Services no later than 5:00 p.m. on the last day of the fifth week of classes in the quarter preceding the quarter the exception is requested for.

(2) A newly admitted or reenrolling student who has not been enrolled as a student at Central the previous quarter wishing to apply for an exception to the ((College)) university housing policy as set forth in WAC 106-156-010 shall reduce such request to writing and file such request in the office of the director of Auxiliary Services as required by the director of Auxiliary Services within ((20)) twenty((3)) days after such student's acceptance to the ((College)) university; however, in no event later than 5:00 p.m. on the day following such student's day of registration.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-015 ELIGIBILITY FOR ((COLLEGE)) UNIVERSITY FAMILY HOUSING. Generally eligibility to lease and occupy ((College)) university family housing is limited to students, full time faculty, and full time staff members of the ((College)) university. A student is one who maintains a minimum of twelve ((12)) quarter hours as an undergraduate student or ten ((10)) quarter hours as a graduate student, exclusive of correspondence courses. Concurrent enrollment of husband and wife to maintain the minimum hours does not fulfill this requirement. This regulation applies to each quarter, with the exception of a tenant living in family housing during spring quarter who wishes to remain as a nonstudent during the summer. He may do so if he indicates in writing his intention to re-enroll fall quarter.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-016 ELIGIBILITY FOR ((COLLEGE)) UNIVERSITY FAMILY HOUSING—LOSS OF ELIGIBILITY GROUNDS FOR TERMINATION OF LEASE. Leases are terminable by the ((College)) university if the tenant ceases to be a student, as defined in WAC 106-156-015, a full time faculty, or a full time staff member of the ((College)) university.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-022 RESIDENCE HALL AND SINGLE STUDENT APPLICANTS RESPONSIBILITIES—ACCOMMODATION ASSIGNMENTS—RESIDENCE HALLS AND SINGLE STUDENT APARTMENTS. Assignments to all residence halls and single student apartments are determined by the date the deposit is received, the ((College)) university program for the facility, and according to age, sex, and ((College)) university status, and according to the following priority for students, faculty and staff:

(1) Students, faculty and staff who lived in the accommodations the previous quarter.

(2) Students, faculty and staff returning to the campus from an off-campus program.

(3) Students, faculty and staff the previous quarter who did not live in the accommodations.

(4) Those who were not students, faculty or staff the previous quarter.

The ((College)) university reserves the right to change the basis of assignments whenever the director of Housing deems necessary.

Contracts are terminable by the ((College)) university if the tenant ceases to be a student, as defined in WAC 106-156-015, a full time faculty, or a full time staff member of the ((College)) university.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-023 RESIDENCE HALL AND SINGLE STUDENT APPLICANTS RESPONSIBILITIES—HOUSING AND FOOD SERVICE RATES. All occupants of residence halls and single student apartments are required to pay rates that have been established by the Board of Trustees of Central Washington ((State College)) University. Rates for residence halls include room and board. Rates for single student apartments include room only. The published rental room and board rates do not include extra services or charges that may be requested by or assessed to the tenant, as previously established by the director of Auxiliary Services, or his designee.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-025 RESIDENCE HALL AND SINGLE STUDENT APPLICANTS RESPONSIBILITIES—EXTRA SERVICES. When extra services are provided by the ((College)) university there will be a previously established charge or a charge based upon the ((College's)) university's cost, for the service that must be paid by the person, persons, or group receiving these services. Items of this nature include, but are not limited to, rental refrigerators, rental of linen, rental of extra furniture, etc.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-026 RESIDENCE HALL AND SINGLE STUDENT APPLICANTS RESPONSIBILITIES—NONDISCRIMINATORY ASSIGNMENT. Assignment to all ((College)) university housing facilities are made without reference to race, creed, or color.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-027 RESIDENCE HALL AND SINGLE STUDENT APPLICANTS RESPONSIBILITIES—DEPOSIT REQUIRED. When applying for housing accommodations a completed application as well as a deposit must be submitted to the ((College)) university.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-030 CONFERENCES AND WORKSHOPS—PARTICIPANTS. To the extent that facilities are available, Central Washington ((State College)) University will accommodate conferences and workshops for a charge that has been previously established and as agreed to by the ((College)) university and those acting for the workshop or conference. Participants must abide by Central Washington ((State College's)) University's rules and regulations.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-040 PAYMENT—THIRD PARTY REQUIREMENTS. When payment on a contract, lease, or rental agreement is made with a check from a third party and the ((College)) university is payee, for an amount equal to or less than the amount owed, the ((College)) university will not return any portion of the check to the tenant unless authorization is received from the writer of the check.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-051 USE OF HOUSING FACILITIES—BICYCLES AND MOTORCYCLES. Motorbikes may not be stored or kept inside ((College)) university housing facilities, entry-ways, or passage-ways. Bicycles may not be stored or kept in entry-ways or passage-ways or other places designated by the director of Housing Services, or his designee.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-052 USE OF HOUSING FACILITIES—LAUNDRY FACILITIES. ((When)) Locks have been installed on the laundry rooms in ((College)) university housing facilities, the apartment or room key will unlock these facilities. Doors must be kept locked to enable only the residents of ((College)) university-owned housing to use the washers, dryers, and other laundry equipment, as this equipment is located within the facilities for the use of the occupants only. All residents are required to present identification to any housing employee at any time requested. Those who are not residents and who use laundry equipment and facilities and those residents who allow other((s)) than occupants to use laundry equipment and facilities are subject to a previously established charge.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-053 USE OF HOUSING FACILITIES—ROOM INSPECTION. (1) The ((College)) university reserves the right to have authorized personnel enter any unit for the purpose of inspection, repairs, and official business.

(2) "Official business" as used in subsection (1) above shall mean any situation where there is a reasonable cause to believe that an emergency or danger exists involving threat or injury to life, limb, or property.

(3) "Authorized personnel" as used in subsection (1) above shall include emergency personnel, ambulance personnel, firemen, doctors and nurses, campus security, and the following groups of ((College)) university employees: maintenance men, housing personnel, head residents, and resident assistants.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-056 USE OF HOUSING FACILITIES—ASSOCIATE MEMBERS. An associate member of a residence hall is a student of Central Washington ((State-College)) University who does not live in a residence hall, who has applied, and has been approved by the director of Housing Services for associate membership in a particular residence hall. The associate member may participate in residence hall activities. An associate member may use the common use areas within the residence hall; however, the associate member may not use the laundry facilities; or may not use a student's room unless invited as a guest by the person assigned to that room. The associate member must sign a residence hall associate member application which indicates the acceptance of the individual to abide by and support the rules and regulations as set forth by Central Washington ((State-College)) University. The ((College)) university reserves the right to terminate the associate membership if the associate member is proven to be in violation of these rules and regulations.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-060 FAMILY HOUSING APPLICANTS. Applications for family housing will be accepted from students who have not yet been officially admitted to Central Washington ((State College)) University, but who have indicated an intent to attend during the dates listed on their applications. Family housing applications may be obtained at the Central Washington ((State College)) University Family Housing Office. The application, together with the required deposit, are to be submitted to the Office of the Housing and Food Service cashier.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-061 FAMILY HOUSING APPLICANTS—ACCOMMODATION ASSIGNMENTS—FAMILY HOUSING. Apartments are assigned on the basis of the date the ((College)) university receives the deposit, and the size of the family. Accommodations are provided for only immediate family: Husband, wife, their children, or others who are declared dependents for income tax purposes.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-063 FAMILY HOUSING APPLICANTS—MARRIAGE CERTIFICATE. A valid marriage certificate shall be furnished to the ((College)) university upon request.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-064 FAMILY HOUSING APPLICANTS—FAMILY HOUSING DEPOSIT REQUIREMENTS. Those who have applied for family housing are required, in addition to the payment of the deposit at the time of application, to pay to the ((College)) university a previously established additional deposit of their rent in the amount and by the time required by the ((College)) university. Failure of the applicant to pay the additional deposit either in the amount or by the time required by the ((College)) university will result in the applicant being by-passed when the ((College)) university is assigning family housing accommodations. The ((College)) university may at its option extend the payment date to a later time of its option when there is a need of the applicant to pay at a later date. When an applicant cancels his application after paying the deposits, all losses in rent income up to the amount paid will be deducted before any refund, if any, will be made.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-065 FAMILY HOUSING APPLICANTS—LEASE REQUIRED. All tenants of Central Washington ((State College)) University family housing are required to sign a lease, rental agreement or contract. By the signing of the lease, rental agreement or contract, the individual agrees to abide by and support any and all existing or future rules as set forth by Central Washington ((State College)) University. The ((College)) university reserves the right to terminate any lease, rental agreement, or contract if the resident is proven to be in violation of any rules and regulations or found withdrawn from classes or cancelled registration.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-066 FAMILY HOUSING APPLICANTS—FAMILY HOUSING RATES. All tenants of family housing are required to pay rent that has been established by the Board of Trustees of Central Washington ((State-College)) University. The published rental and room and board rates do not include extra services or charges that may be requested by or assessed to the tenant.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-075 FOOD SERVICES—PERSONS ELIGIBLE TO PURCHASE AN OFF-CAMPUS MEAL TICKET. Students, faculty and staff not living in ((College)) university residence halls may purchase an off-campus meal ticket. Those wishing to purchase an off-campus meal ticket must sign a contract. The person agrees to pay the amount specified for the meal plan contracted for at the time of purchase. Prices for off-campus meal tickets are previously established by the director of Auxiliary Services. The services provided by the meal ticket are not transferrable to any other person. This contract is for a full quarter or the remaining part thereof. Payment for the off-campus meal ticket shall be in accordance with a payment schedule. If a payment is not made according to the payment schedule, a previously established additional charge is assessed, plus another previously established charge is added per additional business week. If payment or arrangement for late payment is not made by the first day of the following month, the student's registration is subject to cancellation.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-076 FOOD SERVICES—CHOICE OF SERVINGS AND SECONDS. Those eating in the dining hall may generally choose one serving from each of the items offered in the serving area, for example entrees, salads, desserts, etc. They may later, during that meal period, obtain additional servings at the place designated in the dining facility. An unlimited number of additional servings are generally available provided the previous serving has been eaten and provided the procedures as required in the dining hall are followed. The ((College)) university reserves the right to restrict items available for seconds.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-001 ADMISSION AND REGISTRATION PROCEDURES AND CATALOG REQUIREMENTS. The provisions of WAC 106-160-001 through 106-160-099 shall contain

admission and registration procedures and catalog requirements of Central Washington ((State-College)) University.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-002 **ADMISSION AND REGISTRATION PROCEDURES AND CATALOG REQUIREMENTS—CHANGES IN CATALOG.** The Board of Trustees reserves the right of the Board of Trustees or president to make changes in any of the provisions of the ((College's)) university's catalogs without prior notice. When changes are made, the changes shall be filed in the office of the president and other appropriate ((College)) university offices and placed with the appropriate catalog in the reference area of the library.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-005 **FINANCES.** Each applicant for admission to Central Washington ((State-College)) University must pay the tuition and fees as established by the Board of Trustees or the president prior to the dates for payment as designated by the Board of Trustees or the president.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-006 **FINANCES—TUITION REFUND SCHEDULE.** The prepayment is a nonrefundable fee. (1) A student will receive a 50% refund of his tuition and general fees (less prepayment) if his withdrawal from the ((College)) university occurs by the last day of the "Change of Schedule" period as designated by the Board of Trustees or the president of the ((College)) university.

(2) A student will receive a 25% refund of his tuition and general fees (less prepayment) if his withdrawal from ((College)) university occurs between the end of the "Change of Schedule" period and the time established for such final withdrawal as designated by the Board of Trustees or president and published in the catalog.

(3) There is no refund of tuition and general fees after the final date for withdrawal as established by the Board of Trustees or the president.

(4) Students may receive a full refund (less prepayment) only if notification of withdrawal from ((College)) university is received by the ((College)) university prior to the first day of classes.

(5) Part time students are not eligible for a refund (less prepayment) of tuition unless they cancel their registration before the first day of classes or unless they show extenuating circumstances.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-007 **FINANCES—SANCTIONS.** Admission to or registration with the ((College)) university, conferring of degrees and issuance of academic transcripts may be withheld for failure to meet financial obligations to the ((College)) university.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-010 **GRADUATING STUDENTS.** Students shall submit their applications for the appropriate degrees on or before the date designated for that purpose by the Board of Trustees or the president, which shall be published in the appropriate ((College)) university catalog. No application shall be accepted after the designated dates, provided that the president or his designee may waive this requirement.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-015 **REGISTRATION.** Currently enrolled students and all other individuals desiring to enroll in Central Washington ((State-College)) University shall do so on or before the preregistration or registration dates designated by the Board of Trustees or president, which shall be published in the appropriate ((College)) university catalog. No registration or preregistration shall be accepted after the designated dates(,); PROVIDED, That the registrar may, whenever possible, waive this requirement within the time designated by the Board of Trustees or president for late registration.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-016 **REGISTRATION—DEADLINES.** All students registering with the ((College)) university must meet those

deadlines as established by the Board of Trustees or the president for registration.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-017 **REGISTRATION—CHANGES IN REGISTRATION AND WITHDRAWAL.** Students who wish to change their registration or withdraw from a particular course or the ((College)) university after having completed their registration must do so on or before the dates established for such changes or withdrawal by the Board of Trustees or president and by the completion of the "Change in Registration" or "Withdrawal" forms maintained by the ((College)) university. Students who leave the ((College)) university and do not withdraw shall receive failing grades for work not completed.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-020 **ADMISSION REQUIREMENTS—TO FRESHMAN STANDING.** Applicants who have had no ((college)) university work may apply for admission under one of the following provisions:

(1) Applicants who have graduated from a Washington state high school and whose records show a cumulative high school grade point average which meets the minimum requirements for admission as established by the ((College)) university will be considered for admission to the ((College)) university. These applicants may apply for admission to the ((College)) university under the "Early Admissions Plan" at the close of their sixth semester if their records show a cumulative high school grade point average at or above the minimum established and required by the ((College)) university for admission. The "Uniform Application for Admission to colleges and universities in the state of Washington" should be filed with the office of Admissions at the close of the sixth semester but not before that date occurring in the applicant's senior year as established by the Board of Trustees or the president after which applications for admission will be accepted by the ((College)) university. An applicant under the "Early Admissions Plan" is not officially admitted to the ((College)) university until his graduation records are on file with the office of Admissions and indicate that he has fulfilled the general requirements for admission to the ((College)) university. Applicants whose cumulative grade point average is below that required by the ((College)) university for admission may be considered for admission to the ((College)) university only if space and facilities permit. Such applicants are encouraged to file the "Uniform Application for Admission to colleges and universities in the state of Washington" at the close of their sixth semester but not before that date occurring in their senior year as specified by the Board of Trustees or president after which applications for admission to the ((College)) university will be accepted.

(2) Applicants who have graduated from a high school in other states must meet the standards of admission as established by the Board of Trustees or the president as published in the appropriate ((College)) university catalog and may be considered for admission to the ((College)) university only if space and facilities permit and must file their application for admission on or after the date established under subsection (1) above.

(3) Applicants who have not graduated from a high school may be considered for admission to the ((College)) university on the basis of the results of the "General Education Development Examination" which they may be required to take after having conferred with the appropriate ((College)) university officials, provided they are at or over the age established by the Board of Trustees or president for admission of such applicants; all other applicants are encouraged to complete high school requirements before applying for admission.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-021 **ADMISSION REQUIREMENTS—PROSPECTIVE STUDENTS.** All prospective students applying for admission to the ((College)) university or to any program of the ((College)) university must file appropriate applications for admission and other required documents not later than the established deadline. Applicants must be officially admitted to the ((College)) university to enroll in classes.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-023 ADMISSION REQUIREMENTS—ADMISSION OF INTERNATIONAL STUDENTS. (1) All international students applying for admission to Central Washington ((State-College)) University must submit those forms and meet the requirements established by the Board of Trustees or president for admission of international students to Central Washington ((State-College)) University to the office of Admissions.

(2) All international students applying for admission to Central Washington ((State-College)) University for whom English is not a native tongue are required to demonstrate proficiency in the English language by submitting the results of the "Test of English as a Foreign Language" to the office of Admissions.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-024 ADMISSION REQUIREMENTS—READMISSION OF FORMER STUDENTS. A student previously enrolled in the ((College)) university, planning to return after an absence of one or more quarters (not including summer session), must file a reenrollment application with the ((College)) university office of Admissions not later than the established deadline.

AMENDATORY SECTION (Amending Order 30, filed 8/12/76)

WAC 106-160-026 ADMISSION REQUIREMENTS—ADMISSION OF NONMATRICULATED STUDENTS. A nonmatriculated student is one who is authorized to enroll for study but does not intend to pursue a degree or certificate program. Each student will be required to sign a statement indicating that published admission criteria to the ((college)) university have been met. Enrollment may not exceed nine credits a quarter. Subject to approval, up to forty-five quarter credits earned with nonmatriculated status may later be applied to a baccalaureate degree should formal admission to the ((college)) university be granted.

High school students may enroll with nonmatriculated status only if they have a signed release from their school principal.

Students wishing to audit courses may enroll with nonmatriculated status.

Nonmatriculated students will be enrolled on a space available basis.

AMENDATORY SECTION (Amending Order 21, filed 7/11/75)

WAC 106-160-027 ADMISSION REQUIREMENTS—ADMISSION OF VETERANS. Central Washington ((State-College)) University has established an open enrollment policy to the ((College)) university regarding eligible veterans, war widows, war orphans, and others drafted for alternative services. This preferential treatment will be given to those academically qualified above-mentioned persons regardless of any enrollment limitations set by this institution.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-030 ADMISSION REQUIREMENTS—APPLICATION FOR STUDY LEADING TO A MASTER'S DEGREE. Applicants for admission to graduate study must make application on the "((College)) University Admission Form" and the "Application for Admission to Graduate Study" provided by Central Washington ((State-College)) University. Both forms must be returned to the office of Admissions prior to the dates established by the Board of Trustees or president for such application. Each applicant for graduate study is required to have two ((2)) official transcripts of all undergraduate and graduate study sent directly to the office of Admissions. Three ((3)) letters of recommendation should be sent to the Graduate Office directly from the persons making the recommendations. Two of the letters should come from instructors familiar with the applicant's academic preparation. Scores on the aptitude test and appropriate advanced test of the graduate record examination must be submitted to the Graduate Office before admission to graduate study will be considered.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-031 ADMISSION REQUIREMENTS—APPLICATION FOR FIFTH YEAR OR NONDEGREE STUDY. The "((College)) University Admission Form" and the "Application for Admission to Graduate Study" supplied by the ((College))

University must be filed with the office of Admissions prior to the deadlines as established by the Board of Trustees or the president for the submission of such applications for admission to the ((College)) university. In addition to the filing of the application, two ((2)) official transcripts of all undergraduate and graduate study must be sent directly to the office of Admissions.

(1) An applicant for fifth year certification must contact the office of Teacher Education ((Advisement)) and Certification to organize an approved program.

(2) Admission to nondegree study is subject to the approval of the Graduate Office.

(3) An applicant admitted to nondegree study desiring to apply for degree study must reapply for admission to graduate study.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-032 ADMISSION REQUIREMENTS—ADMISSION PROCEDURE. Applicants for graduate study may not be admitted where they have not completed all the application requirements. Admission to master's degree study is determined by the Graduate Office upon the recommendation of the department involved. A formal letter of admission will be directed to the student from the Graduate Office. Applicants not meeting the scholastic requirements may be admitted on probation provided the department to which admission is requested recommends admission to master's degree study. If admitted, the student must meet those requirements as established by the ((College)) university for his progress in the ((College)) university. Upon the recommendation of the appropriate department, applicants may be admitted to masters' programs with additional conditions stipulated.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-035 ADMISSION REQUIREMENTS—ADMISSION TO CREDENTIAL PROGRAM. Admission to the ((College)) university as a student does not constitute admission to the teacher education program. Students who plan to work toward a teaching certificate must apply to the director of Teacher Education ((Advisement)) and Certification.

AMENDATORY SECTION (Amending Order 3, filed 2/28/72)

WAC 106-160-040 SUMMER SESSION ADMISSION AND REGISTRATION PROCEDURES. Students registering for summer session must pay all fees and complete registration on or before the dates indicated on the calendar as published in the summer session bulletin. Students planning to attend the entire summer session, the first or second term only must complete admission procedures by the date so specified and register on the date so specified by the Board of Trustees or president for such purposes, as published in the summer session bulletin. All summer session students must pay fees and tuition to the appropriate ((College)) university office as established by the Board of Trustees or the president, as published in the summer session bulletin.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

WAC 106-164-901 BOND BID POLICIES AND PROCEDURES. The provisions of WAC 106-164-901 through 106-164-999 shall constitute the bond bid policy and procedure of Central Washington ((State-College)) University.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

WAC 106-164-910 BOND BID PROCEDURES AND REQUIREMENTS. The Board of Trustees shall authorize the sale of bonds. A notice of bond sale shall be prepared by bond legal counsel and be forwarded to the ((College)) university for authorization and signature. Bond counsel shall then submit this notice of bond sale to bond buyers via bond advertising media.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

WAC 106-164-912 BOND BID PROCEDURES AND REQUIREMENTS—TIME OF FILING AND LATE BIDS. The date and hour specified for the receipt of the bids by the ((College)) university shall be strictly observed; no late bids shall be accepted. A "late bid" shall be one that is tendered any time after the designated time for receipt of bids.

AMENDATORY SECTION (Amending Order 9, filed 10/16/72)

WAC 106-168-001 CENTRAL WASHINGTON ((STATE COLLEGE)) UNIVERSITY LIBRARY. The library at Central Washington ((State College)) University exists first and foremost to serve the students and faculty. It also serves the rest of the ((college)) university community, the regional needs of central Washington and the general scholarly community.

AMENDATORY SECTION (Amending Order 9, filed 10/16/72)

WAC 106-168-002 PRIORITIES OF SERVICE. Policies are designed to serve the greatest number as fully as possible while maintaining some flexibility to meet individual needs. In serving students and faculty, the library gives the first priority to student learning and faculty teaching activities directly related to the instructional program of the ((college)) university; second priority to faculty research; third priority to informal learning experiences for students and student services; and fourth priority to general resources and services appropriate to some segment of the population served. Decisions regarding library services and resources will reflect the foregoing priorities. Any necessary cutbacks will affect the lower priority items first. Determinations of instructional use shall be made by library administrators.

AMENDATORY SECTION (Amending Order 9, filed 10/16/72)

WAC 106-168-005 PRIORITIES OF SERVICE—SELECTION OF SERVICES, PERSONNEL, RESOURCES. It is the policy of the Central Washington ((State College)) University library to select on the basis of what is best and most suitable whether the choice involves staff members, library materials and equipment and services. The library expressly rejects any form of negative selection based on censorship of materials or prejudicial considerations based upon race, religion, sex, national origin or political viewpoint.

AMENDATORY SECTION (Amending Order 9, filed 10/16/72)

WAC 106-168-040 GIFTS. The library welcomes the donations of books and other library materials as well as money to be used for the library. Valuation of gifts for tax purposes will be based upon information available in the library and assessment of value incurs no liability of proof by the library. Gifts become library property when accepted and received, and their disposition is a library matter. The ((College)) university through the Board of Trustees or the dean of library services reserves the right to reject, refuse to accept or return to the donor any gift made available to the Central Washington ((State College)) University library.

AMENDATORY SECTION (Amending Order 9, filed 10/16/72)

WAC 106-168-050 LIBRARY BORROWERS. Use of the library as part of a state public institution is the right of any resident of the state; however, borrowing privileges and other services may be limited in order to serve first the primary clientele of students and faculty. Use of the library may be denied to anyone for continuing abuse of library services and resources. Library materials may be circulated to the following:

- (1) Regularly enrolled students either full time or part time including those student teaching.
- (2) Graduate students on continuous registration.
- (3) Faculty members including special categories as visiting professors, and emeriti faculty.
- (4) Faculty members of public higher education institutions of Washington state.
- (5) Administrative staff (civil service exempt).
- (6) Civil service staff members.
- (7) Spouses of faculty and staff members.
- (8) Friends of Library - Life members.
- (9) Trustees of Central Washington ((State College)) University.
- (10) Libraries and individuals through libraries using interlibrary loans.
- (11) Extension and correspondent students with special library cards.
- (12) Individuals who pay an annual or semi annual fee.
- (13) School districts, ((colleges)) universities and other responsible agencies, groups and individuals may borrow films on a rental basis. Equipment may be rented if not needed on campus and not otherwise available in Ellensburg.

AMENDATORY SECTION (Amending Order 35, filed 7/13/77)

WAC 106-172-700 PURPOSE. The purpose of WAC 106-172-700 through 106-172-799 is to set forth the policies of Central Washington ((State College)) University regarding the legitimate and appropriate use of official student records developed and used throughout the various offices of the ((College)) university. Moreover, the guidelines implement the general policy and respond to the requirements of Public Law 93-380, The Family Educational Rights and Privacy Act of 1974.

AMENDATORY SECTION (Amending Order 35, filed 7/13/77)

WAC 106-172-711 DEFINITIONS. The following definitions shall apply for the interpretation of these regulations:

(1) The "((College)) university" means Central Washington ((State College)) University or any office, department, or any unit thereof which maintains "educational records."

(2) "Directory information" means the student's name, hometown address, ((college)) university address and telephone number, date of birth, participation in officially recognized activities and sports, dates of attendance, class, previous institutions attended, major field of study, awards, honors (including honor roll), degrees conferred (including dates), and other similar information. The ((College)) university may release directory information concerning a student to the public unless the student submits a signed request in writing, within two weeks after the first day of classes for the fall quarter. Requests for nondisclosure will be sent to the ((College)) university Information Office, who will record the request and forward it to the Registrar's Office, where the information to prevent disclosure will be entered in the computer. Authorization to withhold directory information must be filed annually since the request for nondisclosure will be honored by the ((College)) university for only one academic year. The ((College)) university may disclose directory information of a student no longer in attendance (i.e., alumni) without meeting any of the requirements noted above.

(3) "Eligible student" means any person who is or has been officially registered at this ((College)) university and who has reached the age of ((18)) eighteen.

(4)(a) "Education records" mean those records which:

- (i) are directly related to a student, and
- (ii) are maintained by the ((College)) university or by a party acting for the ((College)) university.

(b) The term education record does not include the following:

- (i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker of the record and which are not accessible or revealed to any other person except a temporary substitute;
- (ii) records of the campus police which are maintained separately and solely for law enforcement officials of the same jurisdiction—provided that education records maintained by the ((College)) university are not disclosed to the law enforcement unit;
- (iii) records of someone employed by the ((College)) university, which are made in the normal course of business, related exclusively to the person as an employee, and are not used for any other purpose;
- (iv) records made by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional directly related to the treatment of a student, and not disclosed to anyone other than individuals providing treatment provided records can be reviewed by a physician or other appropriate professional of the student's choice;
- (v) records of a person after he or she is no longer in attendance (i.e., information maintained by the ((College)) university concerning the accomplishments of its alumni).

(5) "Personally identifiable" means that the data or information includes:

- (a) the name of a student, the student's parent, or other family member,
- (b) the address of the student,
- (c) a personal identifier, such as the student's social security number or student number,
- (d) a list of personal characteristics which would make the student's identity easily traceable, or
- (e) other information which would make the student's identity easily traceable.

(6) "Record" means information or data recorded in any medium including but not limited to: handwriting, print, tapes, film, microfilm, and microfiche.

(7) "Financial aid" means a payment of funds provided to an individual which is conditioned on the individual's attendance at an educational agency or institution.

(8) "dean of student development" means the dean of student development or his/her designee.

AMENDATORY SECTION (Amending Order 35, filed 7/13/77)

WAC 106-172-721 NOTIFICATION BY EDUCATIONAL INSTITUTION. (1) The ((College)) university shall inform eligible students, annually, of the following:

(a) the types of education records and information contained therein which are maintained by the institution;

(b) the titles and addresses of official responsible for the maintenance of each type of record, the persons who have access to those records, and the purposes for which they have access;

(c) the policies and procedures of the ((College)) university for reviewing and expunging those records, and for challenging the accuracy of them;

(d) the procedures for gaining access to the educational records;

(e) the cost, as approved by the Board of Trustees, which will be charged to the eligible student for reproducing single copies of records, provided that the cost shall not exceed the actual cost of reproducing the record;

(f) the categories of information which the ((College)) university has designated as directory information.

(2) Notice of the existence of this policy and the availability of the information described in (1)(a) through (1)(f) above may be published in any official ((College)) university print medium publication having general circulation among students. This may be a special publication for this purpose only, or included in another publication. Students may consult the office of the dean of student development for the information described.

AMENDATORY SECTION (Amending Order 35, filed 7/13/77)

WAC 106-172-731 ACCESS TO ((EWSE)) CWU EDUCATION RECORDS. The ((College)) university shall provide each student access to his/her education records except as otherwise limited according to WAC 106-172-733.

The right of access shall include:

(1) The right to inspect and review the content of education records in the presence of appropriate ((College)) university personnel.

(2) The right to obtain single copies of each record, at the expense of the eligible student but not to exceed the actual cost to the ((College)) university of reproducing such copies.

(3) The right to a response from the ((College)) university to reasonable requests for explanations and interpretations of those records.

(4) The right of an opportunity for a hearing to challenge the content and accuracy of those records according to WAC 106-172-761.

(5)(a) Students wishing access under provisions of this policy to education records maintained by the ((College)) university should address a request in writing to the person in charge of maintenance of that record. If copies are requested, copies may be supplied at no more than the cost of making the copy, including supplies and staff time.

(b) The individual responsible for maintenance of any record shall respond to written requests only, and provide copies as requested, within twenty ((20)) working days. The ((College)) university registrar is not prohibited from providing a student with a copy of the student's academic transcript from ((C.W.S.E.)) CWU, but is prohibited from providing a student with a copy of the student's official academic transcripts from other institutions.

(6) The office of the dean of student development will maintain a file showing what education records are maintained by any department or entity of the ((College)) university and the title and address of the official responsible for maintenance of each record.

AMENDATORY SECTION (Amending Order 35, filed 7/13/77)

WAC 106-172-733 LIMITATIONS ON ACCESS TO CENTRAL WASHINGTON ((STATE COLLEGE)) UNIVERSITY EDUCATION RECORDS. (1) Central Washington ((State College)) University shall not make available to a student the following types of materials:

(a) Financial records and statements provided by parents "or any information contained therein."

(b) Confidential letters and statements of recommendation or evaluation which were provided to the ((College)) university, with written assurance of a "documented understanding of confidentiality," prior to January 1, 1975, provided such letters or statements are not used for purposes other than those for which they were specifically intended.

(c) Post-1974 confidential recommendations involving possible admission, employment, or honor—but only if the student has signed a waiver of the right to inspect them. Such a waiver shall apply to recommendations only if:

(i) the student is upon request, notified of the names of all persons making confidential recommendations and

(ii) such recommendations are used solely for the purpose for which they were specifically intended.

AMENDATORY SECTION (Amending Order 35, filed 7/13/77)

WAC 106-172-735 EXCEPTION TO CONSENT REQUIREMENTS AND RECORD OF ACCESS. (1) The ((College)) university may disclose personally identifiable information from the education records of a student without the written consent of the student if the disclosure is to:

(a) ((College)) University officials, including faculty members, when the information is required for a legitimate educational purpose,

(b) Officials of another school in which the student seeks or intends to enroll, providing a reasonable attempt has been made to notify the student of the transfer of the records at the last known address of the student — except when the transfer of the records is initiated by the student;

(c) Federal or state officials requiring access to education records in connection with the audit or evaluation of federally or state supported educational programs. Such surveys must be administered in a manner which will not permit personal identification of students by individuals other than those conducting the study, and such information will be destroyed when no longer needed for the purposes for which it was provided;

(d) Agencies requesting information in connection with a student's application for, or receipt of, financial aid;

(e) Accrediting organizations in order to carry out their accrediting functions;

(f) Any personal subpoena and/or subpoena duces tecum, when lawfully prepared and served upon the ((College)) university or an appropriate administrator of the ((College)) university. The ((College)) university will notify the student by certified or registered mail to the address or addresses on file with the ((College)) university of any such subpoena. Such a notice will be sent to the student in advance of compliance with the subpoena.

(2) Any student may grant permission for use of information about himself/herself by giving specific permission in writing, signed and dated by the student giving such consent to include:

(a) A specification by title of the records released;

(b) The reasons for such release;

(c) The names of the parties to whom such records will be released; and

(d) A written statement indicating that the information cannot subsequently be released in a personally identifiable form to any other party without the written consent of the student involved.

(3) The ((College)) university shall maintain a record which will indicate all parties, other than those parties specified in WAC 106-172-735(1)(a), who have been granted access to a student's education records. The record will:

(a) Indicate specifically the legitimate interest that each such party has in obtaining the information.

(b) be available only to the student, to the employees of the ((College)) university responsible for maintaining the records, and to the parties identified under WAC 106-172-735(1)(a) and (d).

AMENDATORY SECTION (Amending Order 23, filed 7/31/75)

WAC 106-172-740 INFORMATION NOT TO BE REQUIRED. (1) The ((College)) university shall not require from any student the following information, for purposes of record:

(a) religious affiliations or religious/ethical value systems;

(b) political affiliations or views;

(c) membership status in any organization not directly connected with recognized educational functions of the ((College)) university;

(d) ethnic background.

(2) The ((College)) university shall enable the student to record this information if he or she should desire.

AMENDATORY SECTION (Amending Order 35, filed 7/13/77)

WAC 106-172-750 TIMELY DISPOSAL OF RECORDS. (1) Provisions of the laws and regulations of the state of Washington regarding the time during which records must be maintained will be complied with.

(2) Except as required in subsection (1) above, records will be maintained only during the minimum time in which they may ordinarily be expected to be useful or valid. Each record keeping entity of the ((College)) university shall make periodic review of its records to insure compliance with this provision.

(3) Records of disclosure shall be maintained as long as the record itself is maintained.

AMENDATORY SECTION (Amending Order 35, filed 7/13/77)

WAC 106-172-761 RIGHT TO A HEARING. (1) The ((College)) university shall provide students an opportunity for a hearing in order to challenge the content of a student's education records to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students.

(2) A student shall have the right, in accordance with the procedures set forth in WAC 106-172-763 and 106-172-765, to:

(a) correct or delete inaccurate, misleading, or otherwise inappropriate data contained within education records;

(b) challenge the release of education records to specific persons as contrary to the provisions of this chapter; and

(c) challenge a decision by the ((College)) university to deny the student access to particular types of records.

(3) A student shall not be permitted under this chapter to contest grades given in academic courses, except on the grounds that, as a result of clerical error, the records fail to accurately reflect the grades actually assigned by an instructor.

AMENDATORY SECTION (Amending Order 35, filed 7/13/77)

WAC 106-172-763 INFORMAL PROCEEDINGS. (1) Whenever possible the ((College)) university shall attempt to settle disputes regarding requests to amend education records through informal proceedings.

(2) A student who wishes to exercise the rights set forth in WAC 106-172-761(2) shall:

(a) first, attempt a resolution with the ((College)) university official who has custody of the education records; and

(b) second, discuss with the dean of student development or his/her designee the nature of the corrective action recommended by the student.

AMENDATORY SECTION (Amending Order 35, filed 7/13/77)

WAC 106-172-765 CONDUCT OF THE HEARING. (1) If informal proceedings fail to resolve the complaint of a student, the student may file with the dean of student development a written request for the hearing before a hearing officer of the ((College)) university to be designated by the dean of student development, and who does not have a direct interest in the outcome of the hearing.

(2) The hearing shall be held within a reasonable time (not to exceed twenty working days) after the ((College)) university has received the request and the student shall be given notice of the date, place and time reasonably in advance of the hearing.

(3) The student shall be given an opportunity to present evidence relevant to the issues raised in WAC 106-172-761(2) and may be represented by any person (including an attorney) of the student's choosing at his or her expense.

(4) A decision in writing shall be prepared within a reasonable period of time (not to exceed ten working days), which decision shall be based solely upon the evidence presented, and which includes a summary of the evidence and the reasons for the decision.

(5) If, as a result of the hearing, the decision is:

(a) to amend the record, the ((College)) university must do so accordingly and give notice to the student.

(b) not to amend, the student must be allowed to place a written comment or explanation in the student's file, and it must be kept in the file as long as the file itself is kept. If the contested portion of the file is disclosed to anybody, the student's statement must also be disclosed.

(6) The designated hearing officer shall be advised by the assistant attorney general representing the ((College)) university.

AMENDATORY SECTION (Amending Order 23, filed 7/31/75)

WAC 106-172-772 RELEASE OF INFORMATION FOR HEALTH OR SAFETY EMERGENCIES. (1) The ((College)) university (president or his designee, dean of student development) may release information from education records to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other persons.

(2) The factors which should be taken into account in determining whether records may be released shall include:

(a) the seriousness of the threat to the health or safety of the student or other persons;

(b) the need for such records to meet the emergency;

(c) whether the persons to whom such records are released are in a position to deal with the emergency; and

(d) the extent to which time is of the essence in dealing with the emergency.

AMENDATORY SECTION (Amending Order 23, filed 7/31/75)

WAC 106-172-775 LIMITATION ON LIABILITY. The ((College)) university shall not be liable for student records when information available only from the student is not provided initially or kept up to date by the student. This provision shall apply when the ((College)) university has made adequate provision for supplying the information.

AMENDATORY SECTION (Amending Order 11, filed 2/27/73)

WAC 106-276-001 PUBLIC RECORDS POLICY. The provisions of WAC 106-276-001 through 106-276-199 shall constitute the public records policy of Central Washington ((State College)) University, adopted in compliance with Initiative 276 enacted by the voters of the state of Washington on November 7, 1972.

AMENDATORY SECTION (Amending Order 11, filed 2/27/73)

WAC 106-276-005 DEFINITIONS. As used in the provisions of this chapter, the following definitions shall apply wherever the following words are used:

(1) "Request for a public record" means a written request submitted on a proper ((C.W.S.E.)) CWU public records request form for a public record, a review of public records or a copy or reproduction of a public record.

(2) "Students in public schools" means all past, present and future students enrolled at Central Washington ((State College)) University.

(3) "Vital governmental interest" includes, but is not limited to, matters affecting national security; the selection of a site or the purchase of real estate when publicity regarding such consideration would cause a likelihood of increased price.

(4) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds; or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

AMENDATORY SECTION (Amending Order 11, filed 2/27/73)

WAC 106-276-010 DEFINITION OF PUBLIC RECORD. (1) A public record includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by Central Washington ((State College)) University, regardless of the physical form or characteristics; provided, however, that in accordance with section 31 of Initiative 276, the following personal and other records are exempt from the definition of public record:

(a) Personal information in any files maintained for students in public schools and the information, data and records subject to the student records policy, WAC 106-172-700 through 106-172-799.

(b) Personal information in any files maintained for patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers or parolees.

(c) Personal information in files maintained for employees, appointees or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(d) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.

(e) Specific intelligence information and specific investigative files compiled by investigative, law enforcement and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(f) Information revealing the identity of persons who file complaints with investigative, law enforcement or penology agencies, except as the complainant may authorize.

(g) Test questions, scoring keys, and other examination data used to administer a license, employment or academic examination.

(h) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition of property, until the project is abandoned or until such time as all of the property has been acquired, but in no event shall disclosure be denied for more than three years after the appraisal.

(i) 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.

(j) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(k) Records which are relevant to a controversy to which an agency 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.

(2) The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interest, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

AMENDATORY SECTION (Amending Order 11, filed 2/27/73)

WAC 106-276-030 DESCRIPTION OF CENTRAL AND FIELD ORGANIZATION AT CENTRAL WASHINGTON ((STATE COLLEGE)) UNIVERSITY. (1) Central Washington ((State College)) University is located on a campus in and near the city of Ellensburg, Washington. This campus comprises the central headquarters for all operations of the ((college)) university; any "field" activities of the ((college)) university are directed and administered by personnel located on the campus at Ellensburg. The ((college)) university is governed by a board of trustees appointed by the governor; such board normally meets at least once every calendar month, as provided in WAC 106-08-001. The board employs a president, his assistants, members of the faculty and other employees. It establishes such divisions, schools or departments necessary to carry out the purposes of the ((college)) university, provides the necessary property, facilities and equipment and promulgates such rules, regulations and policies as are necessary to the administration of the ((college)) university.

(2) The Board of Trustees, either directly or by delegation, has caused to be created various administrative, academic and support divisions to enable the ((college)) university to discharge its obligations. Academic matters and student affairs are the concern of the vice president for academic affairs; business and physical planning functions are the concern of the vice president for business and financial affairs; ((college)) university services are the concern of the executive assistant to the president. These offices report to the president of the ((college)) university.

AMENDATORY SECTION (Amending Order 11, filed 2/27/73)

WAC 106-276-040 GENERAL COURSE AND METHOD OF DECISION-MAKING. (1) The formal procedures for decision-making at the ((college)) university are governed by the Board of Trustees through rules promulgated by it in accordance with the requirements of chapter 28B.19 RCW, the Higher Education Administrative Procedure(s) Act (HEAPA). Accordingly, all rules,

orders or directives, or regulations of the ((college)) university which affect the relationship of the general public with the institution, or the relationship of particular segments of the ((college)) university, such as students, faculty, or other employees, with the ((college)) university or with each other,

(a) the violation of which subjects the person to a penalty or administrative sanction; or

(b) which establishes, alters, or revokes any procedures, practice, or requirement relating to institutional hearings; or

(c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law;

are implemented through the procedures of the HEAPA and appear in Title 106 WAC, provided, however, that in accordance with RCW 28B.19.020(2), the ((college)) university reserves the right to promulgate as internal rules not created or implemented in accordance with the HEAPA, the following: rules, regulations, orders, statements, or policies relating primarily to the following: standards for admissions; academic advancement, academic credits, graduation and the granting of degrees; tuition and fees, scholarships, financial aids, and similar academic matters; employment relationships; fiscal processes; or matters concerning only the internal management of an institution and not affecting private rights or procedures available to the general public; and such matters need not be established by rule adopted under HEAPA unless otherwise required by law. Internal rules and regulations to the extent not already set forth in the ((college's)) university's published catalogs and handbooks shall be collected in a general ((college)) university handbook, a copy of which shall be maintained on file in the ((college)) university library and be available to the public.

AMENDATORY SECTION (Amending Order 11, filed 2/27/73)

WAC 106-276-050 INFORMAL PROCEDURES REGARDING THE GENERAL COURSE AND METHODS OF DECISION. Informal procedures regarding the methods and general course of operations at the ((college)) university are, for the purposes of these rules, either:

(1) Decisions made by persons authorized by board resolution, the president, or any designee to make a decision within the scope of responsibility assigned to such person; or

(2) Methods of human persuasion utilized by any member of the ((college's)) university's constituencies or of the public to attempt to influence one in power to make decisions within that person's scope of responsibility.

AMENDATORY SECTION (Amending Order 11, filed 2/27/73)

WAC 106-276-060 DESIGNATION OF PUBLIC RECORDS OFFICERS. (1) In accordance with the requirements of Initiative 276, insofar as such initiative requires state agencies to adopt and enforce reasonable rules and regulations to provide full public access to official records while yet protecting the same from damage and to prevent excessive interference with essentials of the agency, all public records at the ((college)) university shall be in the charge of persons holding positions as records officers.

(2) Overall responsibility for coordinating responses to requests for examination of public records shall be the responsibility of the person known as the "public records officer." The person holding such position will be headquartered in Mitchell Hall at the ((college)) university; his exact location and name may be determined by inquiry at the office of the president of the ((college)) university. The public records officer shall also be responsible for compiling and maintaining the index required by Initiative 276.

(3) For purposes of this chapter, the custody of the ((college's)) university's records shall be deemed divided into the following divisions:

(a) Office of the president;

(b) Office of the vice president for academic affairs;

(c) Office of the vice president for business and financial affairs;

(d) Office of the executive assistant to the president. The above-designated division head shall be deemed custodian of the records in the possession or control of agencies, departments, officers and employees of his division and responsible for the care and custody of records within his division even though such person is not in actual possession or control of such records. Such division heads shall be known as the ((college)) university "records custodians."

(4) In any cases where a question arises as to whether a given public record is a responsibility of one records custodian or another, the determination of such ministerial responsibility shall for the purposes of this chapter be made by the public records officer, or the president of the ((college)) university.

AMENDATORY SECTION (Amending Order 11, filed 2/27/73)

WAC 106-276-070 AVAILABILITY FOR PUBLIC INSPECTION AND COPYING OR REPRODUCTION OF PUBLIC RECORDS. (1) Public records shall be available for inspection, copying and reproduction during the customary office hours of the ((college)) university. For the purposes of this chapter, the customary office hours shall be from 9 a.m. to noon and from 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays, unless the person making the request and the ((college)) university, acting through the public records officer or a records custodian, agree on a different time.

AMENDATORY SECTION (Amending Order 11, filed 2/27/73)

WAC 106-276-080 REQUESTS FOR PUBLIC RECORDS. In accordance with the Initiative 276 requirements that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records are only obtainable by members of the public when those members of the public comply with the following procedures:

(1) A request shall be made in writing upon a form which shall be available at the office of the public records officer and shall be presented to the public records officer or any other of the persons designated by this chapter as a custodian of certain ((college)) university records, per WAC 106-276-060. Such request shall include the following:

- (a) the name of the person requesting the record;
- (b) the time of day and calendar date on which the request was made; and
- (c) if the matter requested is referenced within the current index maintained by the ((college)) university records officer, a reference to the requested record as it is described in such current index;
- (d) if the requested matter is not identifiable by reference to the ((college)) university records current index, a statement that succinctly describes the record requested;
- (e) A verification that the records requested shall not be used to compile a commercial sales list.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the ((college)) university "public records officer" or records custodian, or that individual's designee, to assist the member of the public in succinctly identifying the public record requested.

AMENDATORY SECTION (Amending Order 11, filed 2/27/73)

WAC 106-276-090 CHARGES FOR COPYING OR REPRODUCTION. (1) No fee shall be charged for inspection of public records. The ((college)) university may impose a reasonable charge for providing copies or reproductions of public records and for the use by any person of agency equipment to copy or reproduce public records; such charges shall not exceed the amount necessary to reimburse the ((college)) university for its actual costs incident to such copying or reproduction.

(2) No record shall be copied by photostatic process or otherwise reproduced until and unless the person requesting the copying or reproduction of the public record has tendered payment for such copying or reproduction to the records official from whom the public record was obtained, or to any person designated by such records official.

AMENDATORY SECTION (Amending Order 11, filed 2/27/73)

WAC 106-276-100 DETERMINATION REGARDING EXEMPT RECORDS. (1) The ((college)) university reserves the right to determine that a public record requested in accordance with the procedures of this chapter is exempt under the provisions of section 31 of Initiative 276. Such determination may be made in consultation with any of the records officers of the ((college)) university, president of the ((college)) university, or an assistant attorney general assigned to the ((college)) university.

(2) Responses to requests for records must be made promptly. For the purpose of these rules, a prompt response occurs if the person requesting the public record is notified within one ((++)) business day as to whether or not his request for a public record will be granted or denied.

(3) No denial of a request for public records shall be valid unless accompanied by a written statement, signed by the public records officer or his designee, specifying the specific reasons therefor.

AMENDATORY SECTION (Amending Order 11, filed 2/27/73)

WAC 106-276-110 REVIEW OF DENIALS OF PUBLIC RECORDS REQUESTS. (1) Any person who objects to the denial of a request for a public record or his duly authorized representative shall petition for prompt review of such decision by tendering to the president's office a written request for a review of such denial. Such written request by a person or his duly authorized representative demanding prompt review shall specifically reference the written statement by the ((college)) university denying that person's request for a public record.

(2) Within two ((2)) business days after receiving the written request by a person or his duly authorized representative petitioning for prompt review of a decision denying a public record, the president of the ((college)) university or any of his designees, which for the purposes of this section may include the public records officer or the records custodians, shall consider such petition.

(3) During the course of the two business days in which the president or his designee reviews the decision of the public records officer denying the request for a public record, the president or his designee may conduct an informal hearing. During the course of such informal hearing, the president or his designee may require that the person requesting the public record or his duly authorized representative appear at a reasonable time and place located on the campus and further explain and identify the exact nature of the public record he is seeking. Failure by the person requesting the review hearing or his duly authorized representative to appear at such informal hearing shall be deemed a waiver of that person's right to insist upon completion of the review of his request within two ((2)) business days. If the petitioner requesting review or his duly authorized representative does appear at such informal hearing, then the period for review by the ((college)) university shall be extended to a period not exceeding twenty-four ((24)) hours after such person requesting review or his duly authorized representative has appeared before the president or his designee.

(4) During the course of the informal hearing conducted by the president or his designee under this section, the hearing officer shall consider the obligations of the ((college)) university fully to comply with the intent of Initiative 276 insofar as it requires providing public access to official records, but shall also consider the exemptions provided in section 31 of Initiative 276 and the requirement of section 29 of that same initiative insofar as it requires the ((college)) university to protect public records from damage or disorganization, prevent excessive interference with essential functions of the agency, and to prevent any unreasonable invasion of personal privacy by deleting identifying details.

AMENDATORY SECTION (Amending Order 11, filed 2/27/73)

WAC 106-276-200 LEGISLATIVE LIAISON POLICY. The provisions of WAC 106-276-200 through WAC 106-276-299 shall constitute the legislative liaison policy of Central Washington ((State College)) University.

AMENDATORY SECTION (Amending Order 11, filed 2/27/73)

WAC 106-276-210 DESIGNATION. In accordance with the implementation of Initiative 276, passed by the voters of the state of Washington on November 7, 1972, and effective January 1, 1973, those persons holding the following positions at Central Washington ((State College)) University are designated legislative liaisons for Central Washington ((State College)) University:

- (1) Members of the Board of Trustees;
- (2) The president;
- (3) All vice presidents;
- (4) Legislative liaisons;
- (5) Director, office of ((College)) University Information;
- (6) All those persons designated in writing by the president, which writing shall be made available among the records maintained by the

office of the president of Central Washington ((State-College)) University.

AMENDATORY SECTION (Amending Order 11, filed 2/27/73)

WAC 106-276-220 RESPONSIBILITY. Such persons designated in WAC 106-276-210 shall be responsible for making available through official channels recommendations regarding legislation or seeking such appropriations as the ((college)) university may deem necessary for the official conduct of its business.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

WAC 106-140-053 SOLICITING AND SELLING OF PUBLISHED MATERIALS—TIME, PLACE AND MANNER OF SOLICITING AND SELLING OF PUBLISHED MATERIALS. Activity within the scope of WAC 106-140-050 shall be permitted subject to the following restrictions and limitations:

- (1) 8:00 a.m. – 8:00 p.m. Monday – Friday

Area bounded by the Samuelson Union Building, Wildcat Shop, Walnut Street Mall and 9th Avenue Mall

Personal solicitation which does not interfere with classes in session or obstruct the free flow of traffic, and which is carried on without shouting, voice amplification or other noise louder than normal conversation, and without deliberate provocation, harassment or disturbance of persons in the area; or any breach of the peace; and subject to the premises being restored to their original conditions is permitted. A registration permit is required and shall be issued by the Scheduling ((Office)) Center in the Samuelson Union Building and shall be in open view during the period of activity.

- (2) 8:00 a.m. – 8:00 p.m. Monday – Friday

9th Avenue Mall

Personal solicitation which does not interfere with classes in session or obstruct the free flow of traffic is permitted. Voice amplification is also permitted providing amplifiers are used in a manner which does not materially and substantially interfere with the normal educational processes and do not collide with the rights of others. In no instance may amplifiers interfere with classes or the ongoing program of Central Washington ((State College)) University, nor shall there be any interference with other concurrently meeting groups. Deliberate provocation, harassment or disturbance of persons in the area, or any breach of the peace is prohibited. Once the solicitation has ceased, the premises shall be restored to their original condition. A registration permit is required and shall be issued by the Scheduling ((Office)) Center in the Samuelson Union Building and shall be in open view during the period of activity.

- (3) Additional facilities may be designated by the president or his designee upon specific request.

AMENDATORY SECTION (Amending Order 7, filed 8/18/72)

WAC 106-156-020 RESIDENCE HALL AND SINGLE STUDENT APPLICANTS RESPONSIBILITIES. The applicant for residence hall or single student apartment accommodations shall acknowledge by signature at the time of application that he has read and does understand the "Terms and Conditions of Residence" and if accepted for admission by Central Washington ((State-College)) University agrees to abide by the rules and regulations of Central Washington ((State-College)) University, and by the terms and conditions of residence. Applications for residence hall or single student apartment accommodations will be accepted from those who have not yet been officially admitted or employed by Central Washington ((State-College)) University, but who have indicated an intent to attend or be employed by the ((College)) university during the dates listed on the application. Residence hall and single student apartment applications and the contract with its "Terms and Conditions of Residence" may be obtained at the Central Washington ((State-College)) University Housing Office. The application for accommodations, together with the required deposit, are to be submitted to the Office of the Housing and Food Service Cashier.

WSR 78-04-010

PROPOSED RULES

EASTERN WASHINGTON UNIVERSITY

[Filed Mar. 8, 1978]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030 that the Eastern Washington University intends to adopt, amend, or repeal rules concerning chapter 172-114 WAC Constitution of Associated Students;

and that the adoption, amendment, or repeal of such rules will take place at 6:00 p.m., Thursday, May 25, 1978, in the Pence Union Building Council Chambers, Eastern Washington University, Cheney, WA.

The authority under which these rules are proposed is RCW 28B.40.120(11).

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution prior to May 25, 1978, and/or orally at 6:00 p.m., Thursday, May 25, 1978, Pence Union Building Council Chambers, EWU, Cheney, WA.

By: H. George Frederickson
President

Chapter 172-114 WAC
CONSTITUTION OF ASSOCIATED STUDENTS.

WAC

172-114-010	Preamble.
172-114-120	Article I: Name, Definitions, and Membership
172-114-030	Article II: Student Rights and Responsibilities
172-114-040	Article III: Legislation
172-114-050	Article IV: Executive
172-114-060	Article V: Elections
172-114-070	Article VI: Judicial
172-114-080	Article VII: Rescind, Recall, Initiative, Referendum and Inspection of Records
172-114-090	Article VIII: Budgeting
172-114-100	Parliamentary Authority
172-114-110	Amendments

Reviser's Note: The above reference to WAC 172-114-120 appears to be in error and should refer to WAC 172-114-020, but is displayed herein exactly as filed by the agency pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 72-9, Filed September 20, 1972)

WAC 172-114-010 PREAMBLE. We, the Associated Students of Eastern Washington ((State-College)) University, in order to develop in the students the concept of self government; an appreciation and understanding of democratic values and processes; to strengthen in the student the realization of his rights, responsibilities, and common interest with the community as a citizen, to represent student interests, needs and welfare; to develop in the students an understanding and appreciation of their personal, social, and vocational relationship to the society in which they live; develop in the students fellowship and understanding; and to provide a physical and social environment in which to achieve the above objectives do affirm and establish this Constitution subject to the authority vested in the Associated Students by the Board of Trustees of Eastern Washington ((State-College)) University.

AMENDATORY SECTION (Amending Order 74-8, Filed October 1, 1974)

WAC 172-114-020 ARTICLE I: NAME, DEFINITIONS, AND MEMBERSHIP. (1) The name of this organization shall be the "Associated Students of Eastern Washington ((State-College)) University", referred to herein as "A.S."

(2) When used in this Constitution, the following terms shall mean:

(a) "~~((College))~~ University" means Eastern Washington (~~(State College))~~ University and, collectively those responsible for its control and operation.

(b) "Student" includes all persons enrolled in any course at the ~~((college))~~ university.

(c) "Instructor" means all persons hired by the ~~((college))~~ university to conduct classroom activities. In certain situations a person may be both "student" and "instructor". Determination of his status in a particular situation shall be determined by the surrounding facts.

(d) "Legal compulsion" means a state or federal judicial or legislative order which requires some action by the person to whom it is directed.

(e) "Organization" means a number of persons who have complied with the formal requirements of ~~((college))~~ university recognition as in WAC 172-114-030(5).

(f) "Group" means members of the ~~((college))~~ university community who have not yet complied with the formal requirements for becoming an organization.

(g) "Student press" means either an organization whose primary purpose is to publish and distribute any publication on campus or a regular publication of a campus organization.

(h) "Shall" is used in the imperative sense.

(i) "May" is used in the permissive sense.

(j) All other terms have their natural meaning unless the context dictates otherwise.

(3) All students who are registered for one (1) credit hour or more at Eastern Washington (~~(State College))~~ University shall be members of this organization for the period of time covered by the fee.

AMENDATORY SECTION (Amending Order 74-8, Filed October 1, 1974)

WAC 172-114-030 ARTICLE II: STUDENT RIGHTS AND RESPONSIBILITIES. (1) The following enumeration of rights shall not be construed to deny or disparage others retained by students in their capacity as members of the student body or as citizens.

(2) Access to higher education. Within the limits of its facilities and budget, the ~~((college))~~ university shall be open to all applicants who are qualified according to its admission requirements. No person once enrolled may be denied attendance or academic advancement except for disqualification on academic grounds or conviction of violating ~~((college))~~ university rules.

(3) Education.

(a) Students are free to pursue their educational goals within existing ~~((college))~~ university programs; appropriate opportunities for learning shall be provided by the state within its financial resources and the student's ability. This shall include the knowledge, imagination, and dedication of faculty and administrators through excellent teaching and readily available and adequate advice and counsel.

(b) Discussion and expression of all views relevant to the subject matter is permitted in the classroom subject only to the responsibility of the instructor to maintain order and to present course content. Students are responsible for learning the content of any course for which they are enrolled. Requirements of participation in classroom discussion and submission of written exercises are not inconsistent with this section.

(c) Academic evaluation of student performance shall be neither prejudicial nor capricious. Information about student views, beliefs, and political associations acquired by professors in the course of their work as instructors, advisers, and counselors, is confidential and is not to be disclosed to others unless under legal compulsion. Questions relating to intellectual or skills capacity are not subject to this section.

(4) Campus Expression.

(a) Free inquiry, expression, petition, and assembly are guaranteed to all students. Support of any cause by lawful means which do not disrupt the operation of the ~~((college))~~ university is permitted. Students, groups, and campus organizations may invite and hear any persons of their own choosing subject only to the requirements for use of ~~((college))~~ university facilities.

(b) The right of peaceful protest is granted within the ~~((college))~~ university community. The ~~((college))~~ university retains the right to assure the safety of individuals, the protection of property, and the continuity of the educational process.

(c) Orderly picketing and other forms of peaceful protest are permitted on ~~((college))~~ university premises. Interference with ingress to and egress from ~~((college))~~ university facilities, interruption of classes, or damage to property exceeds permissible limits. Even though

remedies are available through local enforcement bodies, the ~~((college))~~ university may choose to impose its own disciplinary sanctions.

(d) Every student has the right to be interviewed on campus by any legal organization desiring to recruit at the ~~((college))~~ university. Any student, group, or organization may protest against any such organization provided that protest does not interfere with any other student's right to have such an interview.

(5) Campus Organizations.

(a) Organizations and groups may be established within the ~~((college))~~ university for any legal purpose. Affiliation with an extramural organization shall not, in itself, disqualify the ~~((college))~~ university branch or chapter from ~~((college))~~ university privileges. Any organization which engages in illegal activities may have sanctions imposed against it including withdrawal of ~~((college))~~ university recognition for a period not exceeding one (1) year.

(b) A group shall become an organization when formally recognized by the ~~((college))~~ university. All groups that meet the following requirements shall be recognized:

(i) Submission of a list of officers and copies of the constitution and bylaws to the appropriate ~~((college))~~ university official or body. All changes and amendments shall be submitted within one (1) week after they become effective.

(ii) Where there is affiliation with an extramural organization, the organization's constitution and bylaws shall be filed with the appropriate ~~((college))~~ university official or body. All amendments shall be submitted within a reasonable time after they become effective.

(iii) All sources of outside funds shall be disclosed.

(c) Membership in all ~~((college))~~ university related organizations, within the limits of their facilities, shall be open to any member of the ~~((college))~~ university community who is willing to subscribe to the stated aims and meet the stated obligations of the organization.

(d) ~~((College))~~ University facilities shall be assigned to organizations, groups, and individuals within the ~~((college))~~ university community for regular business meetings, for social programs, and for programs open to the public; provided:

(i) Reasonable conditions may be imposed to regulate the timeliness of requests, to determine the appropriateness of the space assigned, to regulate time and use, and to insure proper maintenance.

(ii) Preference may be given to programs designed for audiences consisting primarily of members of the ~~((college))~~ university community.

(iii) Allocation of space shall be made based on priority of requests and the demonstrated needs of the organization, group, or individual.

(iv) The ~~((college))~~ university may delegate the assignment function to an administrative official or a student committee or organization.

(v) Charges may be imposed for any unusual costs for use of facilities.

(vi) Physical abuse of assigned facilities shall result in reasonable limitations on future allocation of space to offending parties and restitution for damages.

(vii) The individual, group, or organization requesting space must inform the ~~((college))~~ university of the names of outside speakers and indicated subject.

(e) No individual, group, or organization may use the ~~((college))~~ university name without the express authorization of the ~~((college))~~ university, except to identify the ~~((college))~~ university affiliation. ~~((College))~~ University approval or disapproval of any policy may not be stated or implied by any individual, group, or organization.

(6) Publications.

(a) A student, group, or organization may distribute written material on campus without prior approval providing such distribution does not disrupt the operations of the ~~((college))~~ university and the material clearly states the publisher.

(b) The student press is to be free of censorship. The editors and manager shall not be arbitrarily suspended because of student, faculty, administration, alumni, or community disapproval of editorial policy or content. Similar freedom is assured oral statements of views on a ~~((college))~~ university controlled and student-operated radio or television station. This editorial freedom entails a corollary obligation under the canons of responsible journalism and applicable regulations of the Federal Communications Commission.

(c) All student communications shall explicitly state on the editorial page or in broadcast that the opinions expressed are not necessarily those of the ~~((college))~~ university or its student body.

(7) ~~((College))~~ University Government.

(a) All constituents of the ((college)) university community are free, individually and collectively, to express their views on issues of ((college)) university policy and on matters of interest to the student body. Clearly defined means shall be provided for student expression on all ((college)) university policies affecting academic and student affairs.

(b) The role of student government and its responsibilities shall be made explicit. Student government actions reviewed by the ((college)) university shall only be reviewed through procedures agreed upon in advance.

(c) On questions of education policy, students are entitled to a participatory function. Faculty-student committees shall be created to consider questions of policy affecting student life. Students shall be designated as members of standing and special committees concerned with ((college)) university policy affecting academic and student affairs, including those concerned with curriculum discipline, admissions, and allocation of student fees.

(8) Privacy.

(a) The right of students to be secure in their persons, living quarters, papers, and effects against unreasonable searches and seizures is guaranteed. These rights of privacy extend to ((college)) university-owned housing. Nothing in the ((college)) university relationship or housing contract may expressly or by implication give the ((college)) university or housing officials authority to consent to a search of a student's room by police or other government officials, or anyone else.

(b) When the ((college)) university seeks access to a ((college)) university-owned student room to determine compliance with provisions of applicable multiple dwelling unit laws or for improvement or repairs, the occupant shall be notified of such action not less than twenty-four (24) hours in advance. There may be entry without notice in emergencies where imminent danger to life, safety, health, or property is reasonably feared.

(9) Student Records.

(a) The privacy and confidentiality of all student records shall be preserved. Official student academic records, supporting documents, and other student files shall be maintained only by full time members of the ((college)) university staff employed for that purpose. Separate files shall be maintained of the following: academic records, supporting documents, and general educational records; records of discipline proceedings; medical and psychiatric records; and financial aid records.

(b) No entry may be made on a student's academic record and no document may be placed in his file without actual or constructive notice to the student. All matters placed in a student's file in accordance with published customary and ordinary policies, procedures, and regulations, shall constitute constructive notice.

(c) Access to his official, institutional records and files is guaranteed every student subject only to reasonable regulations as to time, place, and supervision. A student may challenge the accuracy of any entry or the presence of any item by bringing the equivalent of an equitable action against the appropriate person.

(d) No information in any student file may be released to anyone except with the prior written consent of the student concerned or as stated below:

(i) Members of the faculty with administrative assignments may have access for internal educational purposes as well as routinely necessary administrative and statistical purposes.

(ii) The following data may be given any inquirer: school or division of the enrollment, periods of enrollment, degrees awarded, honors, and major field.

(iii) If any inquiry is made in person or by mail, the following information may be given in addition to that in subsection (ii) immediately above: address and telephone number, date of birth, and, unless the student has instructed the registrar's office not to release copies of his transcript without his written authorization, academic information from the transcript will be released when it is clear the institution is being cited as an educational reference.

(iv) Properly identified officials from federal, state, and local government agencies may be given the following information upon express request in addition to that in subsections (ii) and (iii) immediately above: name and address of parent or guardian if student is a minor, and any information required under legal compulsion.

(v) Unless under legal compulsion, personal access to a student's file shall be denied to any person making an inquiry.

(e) Upon graduation or withdrawal from the ((college)) university, the records and files of former students shall continue to be subject to the provisions of this section.

(10) Procedural standards in disciplinary proceedings. Disciplinary proceedings must guarantee fundamental concepts of fair play (due process). The procedural requirements of due process may vary with the seriousness of the charge. In every proceeding in which a major disciplinary action is contemplated, the student shall have the rights of due process, including at least:

(a) The student shall be informed, in writing, of the reasons for the proposed disciplinary action, including charges with sufficient time to ensure opportunity to prepare for the hearing.

(b) The burden of proof shall rest upon the official bringing the charge.

(c) Upon request, the right to: closed proceedings, confrontation and cross examination of witnesses, be present, challenge any member hearing the case and witnesses, a record of the appeal at least one (1) step beyond the initial determination.

(d) All matters upon which the decision may be based must be introduced into evidence at the proceeding. The decision shall be based solely upon such matter. Illegally acquired evidence may not be admitted.

(e) No person who is otherwise interested in the particular case may sit in judgment during the proceeding.

(f) The decision shall be final subject only to the student's right of appeal.

(11) Procedural standards in student complaint proceedings. If students have complaints of infringement of their rights, they shall, on request, have a hearing. Minimum requirements of procedural due process for all persons should include those in WAC 172-114-030(10) and:

(a) The ((hearing-committee)) University Disciplinary Committee should include both faculty and student members.

(b) The decision of the ((hearing-committee)) University Disciplinary Committee should be final, subject only to the right of appeal by parties concerned.

(12) Dual Membership. Activities of students may upon occasion result in violation of law. Students who violate the law may incur penalties prescribed by civil authorities, but institutional authority should never be used merely to duplicate the function of general laws. Only where the institution's interest as an academic community are distinct and clearly involved should the special authority of the institution be asserted. The student who incidentally violates institutional regulations in the course of his off-campus activity, such as those relating to class attendance, should be subject to no greater penalty than would normally be imposed. Institutional action should be independent of community pressure.

AMENDATORY SECTION (Amending Order 75-8, Filed July 24, 1975)

WAC 172-114-040 ARTICLE III: LEGISLATION. (1) The legislative powers of the A.S. shall be vested in the Legislature and may not be transferred.

(2) All legislation shall include: the names of the sponsor(s), date of introduction, committee referred to—if any, disposition, and date of disposition, signatures of A.S. Speaker and A.S. President; take effect immediately upon ((passage, unless a later date is specified)) signature by the A.S. President or override of his veto by the A.S. Legislature; and shall continue in effect until five (5) years from the last date of ((passage)) signature or override or until rescinded.

(3) The voting members of the Legislature shall consist of fifteen (15) representatives known as legislators, elected by numbered, at-large positions for one (1) year terms. The legislators shall take office on the last day of the quarter in which they are elected, as follows: Positions 1 through 5, elected Fall Quarter; Positions 6 through 10, elected Winter Quarter; and Positions 11 through 15, elected Spring Quarter. Provided, that no person may hold more than one (1) voting seat in the Legislature, and the A.S. President and A.S. Vice President may not hold ((a)) voting ((seat)) seats in the Legislature.

(4) Candidates/members for/of the Legislature shall be members of the A.S. and have/maintain a two point (2.00) cumulative grade point average, be enrolled for and complete six (6) credit hours in the previous quarter (excluding summer quarter), and have at least one (1) quarter in residence. A legislator's office shall become vacant upon the incumbent's death, resignation, recall, withdrawal from membership in A.S. (excluding summer quarter), or declaration of non-performance of duties stated in this constitution, or violation of this constitution, by the A.S. Superior Court. ~~((Should there be a vacancy in a legislative position, the Student Welfare Committee, with the approval of the Legislature, shall recommend three (3) students to the A.S. President;~~

who shall select one (1) of the three (3) to fill the vacancy.)
Legislators who miss three (3) full regularly scheduled consecutive meetings or four (4) full regularly scheduled meetings during a quarter shall have their seat declared vacant by the A.S. Speaker. All vacancies shall be filled for the balance of the term at the next regularly scheduled election.

(5) The Legislature shall be the judge of all of the A.S. election returns and of the qualifications of its legislators and a majority of its legislators shall constitute a quorum; ~~((it may compel the attendance of absent legislators in such manner and under such penalties as it may provide; and))~~ there shall be no proxy voting; and there shall be no secret balloting.

(6) The Legislature shall meet not less than ~~((twice))~~ once each month during Fall, Winter, and Spring Quarters, and at special meetings called by the Speaker, one-third (1/3) of its legislators, or by the presentation to the President of a petition signed by five per cent (5%) of the A.S. All meetings shall be open to the public, a record shall be kept of the votes taken therein, and copies of the minutes shall be available to any member of the ~~((college))~~ university community upon request.

(7) The Legislature shall have the following powers and duties:

(a) Be responsible for its own organization, election of legislative committees, the employment and supervision of those employees whom it deems necessary to assist it or individual legislators in the exercise of their legislative duties and powers, provided it budgets for same, and said salaries shall not exceed a cabinet member's salary.

(b) Elect an A.S. legislator to the position of Speaker the Third (3rd) meeting of Fall, Winter, and Spring Quarters, who shall serve one (1) quarter not counting Summer Quarter. Vacancies occurring in the Speaker's office shall be filled in the same manner for the balance of the unexpired term.

(c) Elect an A.S. legislator to the position of Speaker Pro-Tem the third (3rd) meeting of Fall, Winter, and Spring Quarters, who shall serve one (1) quarter not counting Summer Quarter. Vacancies occurring in the Speaker Pro-Tem's office shall be filled in the same manner for the balance of the unexpired term.

(d) The Legislature shall elect from among its members a Legislative Coordinator to serve during Summer Quarter who may receive a salary not to exceed that of a Cabinet Member.

~~((d))~~ (e) Shall enforce this Constitution.

~~((e))~~ (f) May remove a cabinet officer for nonperformance of duties or violation of this Constitution.

~~((f))~~ (g) May request the A.S. Superior Court to find the A.S. President guilty of nonperformance of duties stated in this Constitution or violation of this Constitution.

~~((g))~~ (h) Upon a two-thirds (2/3) vote of the A.S. Legislature, the A.S. President may be recalled as described in WAC 172-114-080(5).

~~((h))~~ (i) No legislative committee shall have the authority to delay presentation to the full Legislature legislation referred to it for more than two (2) meetings without permission of the sponsor.

~~((i))~~ (j) Budget and disbursement of all funds on behalf of A.S.

~~((j))~~ (k) Cause to have published an annual Financial Statement and Audit.

~~((k))~~ (l) Establish policies for and have supervision of all officials, budgets, committees, and organizations.

~~((l))~~ (m) Render advice upon and approve or reject all appointments made by officials of the Associated Students of Eastern Washington ~~((State College))~~ University.

~~((m))~~ (n) Publish the A.S. Committee Manual stating the membership, eligibility, purpose, and duties of each committee.

~~((n))~~ (o) Approve and remove persons to and from committees.

~~((o))~~ (p) Enact all legislation necessary to ensure that its policies are enforced.

~~((p))~~ (q) Do anything else necessary or convenient to carry out this Constitution.

(r) By a two-thirds (2/3) vote of the A.S. Legislature, the A.S. Legislature may override a veto by the A.S. President.

(8) The Speaker shall have the following powers and duties: Prepare the agenda for and chair all meetings of the Legislature; call meetings of the Legislature; prepare a schedule of regular meetings at the beginning of Fall, Winter, and Spring Quarters for the advice and consent of the A. S. Legislature; appoint a clerk and other assistants which may be beneficial to the performance of his office or the functioning of the Legislature, with its advice and consent, and to request salaries for the same, not to exceed a cabinet member's salary; shall be responsible for executing legislative decisions; all administrative matters of the Legislature; make all legislative

appointments, except as otherwise provided in this Constitution, subject to the advice and consent of the Legislature; assume the duties of the Vice President during the Vice President's absence or disability or vacancy of the office of Vice President until the Vice Presidential vacancy is filled as provided for in Article ((H)) IV, Section 2 (WAC 172-114-((030)) 050(2)); and to do all things necessary or convenient to carry out such duties not in conflict with this Constitution.

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 75-8, Filed July 24, 1975)

WAC 172-114-050 ARTICLE IV: EXECUTIVE. (1) The Executive power of the A.S. shall be vested in the A.S. President and A.S. Vice President and may not be transferred.

(2) Candidates for the ~~((office))~~ offices of and the A.S. President and A.S. Vice President shall be members of the A.S., shall have/maintain a two point (2.00) cumulative grade average, be enrolled for and complete six (6) credit hours in the previous quarter (excluding Summer Quarter for the A.S. Vice President), shall have a minimum of five (5) quarters as a full time student, at least ~~((two-(2)))~~ three (3) of which shall be in residence at the ~~((college))~~ university immediately prior to election for office. The A.S. President's and A.S. Vice President's office shall become vacant upon the incumbent's death, resignation, recall, withdrawal from membership in A.S. (excluding Summer Quarter for the A.S. Vice President), or declaration of nonperformance of duties states in this constitution or violation of this constitution, ~~((by a two thirds (2/3) vote of the A.S. Legislature: Vacancies occurring in the President's office shall be filled at the next regular election for the balance of the unexpired term:))~~ by the A.S. Superior Court. In case of vacancy in the office of the Presidency, the Vice President shall assume the Presidency for the balance of the unexpired term.

(3) The President and Vice President shall serve one (1) year terms, or until ~~((his))~~ a successor takes office, taking office on the ~~((sixth (6th) Wednesday))~~ ninth (9th) Thursday of the quarter in which ~~((he is))~~ they are elected, which shall be Spring Quarter.

(4) The President shall serve as the chief executive officer and representative of A.S.; shall enforce this Constitution; shall be responsible for executing legislative and judicial decisions; shall present to the Legislature, at its first meeting of each quarter, his executive request legislation; may veto any Legislative Bill or Supplemental Budget passed by the A.S. Legislature within three (3) working days of passage; shall sign all Legislation within three (3) working days of passage or override of veto by the A.S. Legislature; may create cabinet positions and appoint cabinet officers with the advice and consent of the Legislature, who will serve at his pleasure except as provided for in Article III, Section (7) ~~((e))~~ (f) (WAC 172-114-040(7) ~~((e))~~ (f)), and request salaries for such cabinet officers not to exceed the limit in Article VIII, Section ~~((6))~~ 7 (WAC 172-114-090 ~~((6))~~ (7)); make all appointments in an expeditious manner, except as otherwise provided for in this Constitution, subject to the advice and consent of the Legislature; shall hold twice a month executive meetings with the A.S. Vice President, Cabinet, Speaker, and Speaker Pro-Tem while the university is in session; all administrative matters and programs of A.S. except as otherwise provided for in this Constitution; may request the A.S. Superior Court to find an A.S. legislator guilty of non-performance of his duties stated in this Constitution or violation of this Constitution; and do all things necessary or convenient to carry out such duties not in conflict with this Constitution.

(5) The Vice President shall assume the office of A.S. President upon that position being vacant as provided for in Article IV, Section 2 (WAC 172-114-050(2)); assume any duties delegated by the President; shall supervise all A.S. elections; shall be responsible for validating all petitions; and assume the duties of the President during the President's absence or disability.

AMENDATORY SECTION (Amending Order 75-8, Filed July 24, 1975)

WAC 172-114-060 ARTICLE V: ELECTIONS. (1) There shall be a regular A.S. election on the ~~((fifth (5th) Wednesday))~~ eighth (8th) Thursday of Fall, Winter, and Spring Quarters; it shall be preceded by a primary election one (1) week prior; filing shall close

one (1) week prior to the primary election and shall open one (1) week prior to closing.

(2) The positions of legislators, President, Vice President, and vacancies therein shall be filled through regular elections with a majority of ballots cast being required for election.

(3) All those candidates who filed in the A.S. office by 5:00 o'clock P.M. on the last day of filing and are qualified shall have their names entered on the primary election ballot. The two (2) candidates receiving the most votes for each office in the primary, who are qualified, shall have their names entered on the final election ballot; provided, however, that in case of a tie for the second most votes in the primary, the three (3) candidates receiving the most votes for that office who are qualified, shall have their names entered on the final election ballot.

(4) Should no candidate receive a majority in the final election, a run-off election shall be held one (1) week after the final election between the two (2) persons receiving the most votes in the final election, who are qualified, and only ballots for those two (2) persons shall be counted; provided, however, that in case of a tie for the second most votes in the final election, the run-off election shall be between the three (3) candidates receiving the most votes for the office, and only ballots, for those three (3) persons shall be counted.

(5) Should no candidate receive a majority in a run-off election, the Legislature shall select the winner from between those entered on the run-off election ballot, by a majority of the legislators at its next meeting.

(6) All votes shall be cast by secret ballot. The names of the candidates shall appear on the ballot in the order in which filed. All ballots shall be kept under lock and key for six (6) months after each election.

(7) The polls shall be located at:

(a) Pence Union Building;

(b) Tawanka Commons; and

(c) As otherwise provided for by the Legislature.

The polls shall be open from 8:00 o'clock A.M. until 7:00 o'clock P.M., and members of A.S. shall be allowed to vote upon presentation of suitable identification, providing that they shall be allowed to vote but once in each election.

(8) Any member of A.S. may present an "Application of Absent Voter" form to the Office of A.S. ((Executive)) Vice President or his/her designees for an absentee voter ballot.

(9) Two (2) election clerks shall be assigned to each polling place and they shall be solely responsible for supervising the ballots, ballot boxes, and voting at the polling place. They may not be, nor related to, any current student. They shall be employed through the office of the A.S. ((Executive)) Vice President.

AMENDATORY SECTION (Amending Order 72-9, Filed September 20, 1972)

WAC 172-114-070 ARTICLE VI: JUDICIAL. (1) The judicial authority of the A.S. shall be vested in a Superior Court and such lesser courts as the A.S. Legislature may from time to time establish. The judges, both of the Superior and lesser courts, shall be members of the A.S., ~~((and))~~ have ~~((and))~~ maintain a two (2.00) cumulative grade average, and be enrolled for and complete six (6) credit hours in the previous quarter ~~(excluding Summer Quarter)~~. Members of the Superior Court and lesser courts shall serve until they resign, cease to be a member of A.S. (excluding Summer Quarter), ~~((have less than a two (2.00) cumulative grade average;))~~ or shall be impeached and convicted for cause brought by a petition signed by at least three-fourths (3/4) of the Legislators and tried by the ~~((college hearing board))~~ University Disciplinary Committee.

(2) The Superior Court shall serve as a court of equity, the highest appellate court in the student judicial system, and shall have full powers of Judicial Review.

(3) No court may render an opinion, hear evidence, nor pass judgment in the absence of a quorum, which shall be a majority of the court.

(4) The Superior Court shall consist of seven (7) Justices who shall select from their members one (1) who shall serve as Chief Justice, the others serving as Associate Justices. It shall be the duty of the Chief Justice to preside as chairman and chief officer at all meetings of the Superior Court and may appoint a court clerk and other assistants which may be beneficial to the functioning of the Superior Court, with the advice and consent of the Legislature, and to request salaries for the same, not to exceed a cabinet member's salary.

(5) The Justices of the Superior Court shall be appointed by the President with the advice and consent of the Legislature. Vacancies shall be filled in the same manner.

(6) The procedure of the judicial shall follow those principles of United States Law insofar as deemed practical and advisable by the bodies, and all proceedings of the judicial shall be recorded. All decisions shall be accompanied by a written opinion expressing the majority opinion and may be accompanied by dissenting or concurring written opinions. A copy of all Superior Court case records and court decisions and opinions shall be maintained in the ~~((College))~~ University Library.

(7) The Superior Court and lesser courts shall hear all cases and render opinions in as expeditious manner as is possible.

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 74-8, Filed October 1, 1974)

WAC 172-114-090 ARTICLE VIII: BUDGETING. (1) The budgeting authority of the A.S. shall be vested in the Legislature and may not be transferred.

(2) The budget shall include all funds, revenues, and reserves; shall be divided into programs, sub-programs, and objects of expense and shall include supporting data; shall indicate as to each program, sub-program, or object of expense the actual expenditures of the preceding two (2) fiscal years and requested appropriations for the next fiscal year; and shall include any proposed capital improvement program for the next six (6) fiscal years.

(3) Copies of the budget shall be delivered to each member of the Legislature and be available to any member of the ~~((college))~~ university community upon request.

(4) Unless otherwise provided by the appropriation legislation, all unexpended and unencumbered appropriations in the current expense appropriation legislation shall lapse at the end of the fiscal year. An appropriation in the capital budget appropriation legislation shall lapse when the project has been completed or abandoned or when no expenditure or encumbrance has been made for three (3) years.

(5) Any expenditures in excess of an appropriation shall be null and void; and any official, agent, or employee knowingly responsible shall be personally liable to anyone damaged by his action; providing the Legislature may permit the A.S. to enter into contracts requiring the payment of funds from appropriations of subsequent fiscal years.

(6) ((The A.S. President and A.S. Legislature's Speaker shall receive salaries at a rate of Five Hundred Dollars (\$500.00) per quarter that they are enrolled and in office except the Speaker shall not be paid for Summer Quarter. Cabinet officers may be paid no more than one-half (1/2) of an elected officer's salary.)) Regular budgets shall be those budgets adopted during Spring Quarter for the following fiscal year. Supplemental budgets shall be all other budget requests made throughout the year.

(7) The A.S. President and A.S. Speaker shall receive quarterly salaries based upon the following formula: Quarterly cost of in-state tuition, double occupancy room and board, and \$100 for expenses. The A.S. Vice President shall receive a quarterly salary, except for Summer Quarter, based upon the following formula: Quarterly cost of in-state tuition and double occupancy room and board. Cabinet officers may be paid no more than one-half (1/2) of the A.S. President's salary.

AMENDATORY SECTION (Amending Order 74-5, Filed June 5, 1974)

WAC 172-114-110 AMENDMENTS. (1) This Constitution may be amended by a two-thirds (2/3) vote of those voting on the proposed modification at any regular election ~~((and))~~ provided that 15% of the members of A.S. vote in that election. ~~((if))~~ If adopted, it shall become effective upon approval, as prescribed under Administrative Procedures Act hearing rules, by the Board of Trustees.

(2) Proposed constitutional amendments shall be presented to the members of the A.S. for approval upon the request of at least two-thirds (2/3) of the voting members of the Legislature or upon petition of at least ten per cent (10%) of the A.S.

(3) The By-Laws may be amended by a two-thirds (2/3) vote of the voting members of the Legislature provided that previous written notice of such amendment has been given at the previous meeting, or by a majority of those voting on the proposed modification at any regular election and if so adopted shall become effective immediately.

(4) Proposed By-Laws amendments shall be presented to the members of the A.S. for approval upon the request of at least one-half (1/2) of the voting members of the Legislature or upon at least ten per cent (10%) of the members of the A.S.

(5) Approved constitutional and By-Laws amendments shall be incorporated into the article, section, and clause of the Constitution or By-Laws to which they refer.

WSR 78-04-011

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

(Noxious Weed Control Board)

[Order 9, (Resolution 9)—Filed Mar. 9, 1978]

Be it resolved by the State Noxious Weed Control Board, acting at General Administration Building, Olympia, Washington, that it does promulgate and adopt the annexed rules relating to the amending of WAC 16-750-010, a proposed noxious weed list.

We, the State Noxious Weed Control 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 these weeds are found to be injurious to crops, livestock, or other property.

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

This rule is promulgated pursuant to chapter 17.10 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 March 9, 1978.

By Walter D. Wruble
Chairman

AMENDATORY SECTION (Amending Order No. 8, filed March 1, 1977)

WAC 16-750-010 PROPOSED NOXIOUS WEED LIST. In accordance with RCW 17.10.080, a proposed noxious weed list comprising the names of those plants which the Noxious Weed Control Board finds to be injurious to crops, livestock, or other property is hereby adopted as follows:

English or Common Name	Botanical or Scientific Name
Perennial weeds	
Austrian Fieldcress	Rorippa austriaca
Baby's Breath	Gypsophila paniculata
Bermudagrass	Cynodon dactylon
Bitter Nightshade	Solanum dulcamera

English or Common Name

- Blue Lettuce
- Blueweed
- Bracken Fern
- Camelthorn
- Canada Thistle
- Chicory
- Common Barberry
- Common Tansy
- Common Wormwood
- Creeping Buttercup
- Dalmation Toadflax
- Diffuse Knapweed
- Docks
- Dogbane
- Evergreen Blackberry
- Field Bindweed
- Foxtail Barley
- Gorse
- Hairy Whitetop
- Hedge Bindweed
- Hoary Cress or White Top
- Horsetail Rush
- Johnson Grass
- Larkspur
- Leafy Spurge
- Lupine
- Oxeye Daisy
- Perennial Ground Cherry
- Perennial Pepperweed
- Perennial Ragweed
- Perennial Sowthistle
- Plantain
- Poverty Weed
- Purple Nutgrass
- Quackgrass
- Reed's Canary Grass
- Russian Knapweed
- Scotch Broom
- Sheep Sorrel
- Showy Milkweed
- Spotted Spurge
- Tussocks
- Water Hemlock
- Yellow Nutgrass
- Yellow Toadflax

Botanical or Scientific Name

- Lactuca pulchella
- Helianthus ciliaris
- Pteridium aquilinum
- Alhagi camelorum
- Cirsium arvense
- Cichorium intybus
- Berberis vulgaris
- Tanacetum vulgare
- Artemisia absinthium
- Ranunculus repens L.
- Linaria dalmatica L.
- Centaurea diffusa Lam.
- Rumex spp.
- Apocynum cannabinum L.
- Rubus spp.
- Convolvulus arvensis L.
- Hordeum jubatum
- Ulex europaeus
- Cardaria pubescens
- Convolvulus sepium L.
- Cardaria draba L.
- Equisetum arvense L.
- Sorghum halepense
- Delphinium spp.
- Euphorbia esula L.
- Lupinus spp.
- Chrysanthemum leucanthemum
- Physalis heterophylla
- Lepidium latifolium L.
- Ambrosia psilostachya
- Sonchus arvensis L.
- Plantago spp.
- Iva axillaris
- Cyperus rotendus L.
- Agropyron repens L.
- Phalaris canariensis L.
- Centaurea repens L.
- Cytisus scoparius
- Rumex acetosella L.
- Asclepias speciosa
- Euphorbia maculata L.
- Scirpus validus
- Cicuta maculata L.
- Cyperus esculentus
- Linaria vulgaris

Biennial Weeds

- African Sage
- Black Henbane
- Bull Thistle
- Houndstongue
- Poison Hemlock
- Scotch Thistle
- Spotted Knapweed
- Tansy Ragwort
- Wild Carrot
- Yellowflowered Skeleton Weed

- Salvia aethiops
- Hyoscyamus niger L.
- Cirsium vulgare
- Cynoglossum officinale
- Conium maculatum L.
- Onopordum acanthium
- Centaurea maculosa
- Senecio jacobaea L.
- Daucus carota L.
- Chondrilla juncea L.

Annual Weeds

- Annual Bluegrass
- Barley Grass
- Cocklebur
- Common Purslane
- Dodder
- Field Pennycress
- Field Sandbur
- Goatweed
- Halogeton
- Hemp (Marijuana)
- Jointed Goatgrass
- Kochia
- Marestail (Horseweed)
- Medusahed
- Pacific Meadow-Foxtail
- Puncturevine
- Rattlebox
- Silverleaf Nightshade
- Sorghum
- Swamp Smartweed
- White Horse Nettle
- Wild Mustard
- Wild Oats
- Yellow Starthistle

- Poa annua
- Echinochloa crusgalli
- Xanthium spp.
- Portulacaoleracea
- Cuscuta spp.
- Thlaspi arvense
- Cenchrus pauciflorus
- Hypericum perforatum L.
- Halogeton glomeratus
- Canabis sativa L.
- Aegilops cylindrica
- Kochia scoparia
- Conyza canadensis
- Elymus caput-medusae L.
- Alopecurus myosuroides
- Tribulus terrestris L.
- Crotalaria sagittalis L.
- Solanum elaeagnifolium
- Sorghum spp.
- Polygonum coccineum
- Solanum carolinense
- Brassica kaber
- Avena fatua L.
- Centaurea solstitialis L.

English or Common Name Botanical or Scientific Name

Aquatic Weeds

Eurasian Water Milfoil

Myriophyllum spicatum L.

WSR 78-04-012

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

(Noxious Weed Control Board)

[Filed Mar. 9, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and chapter 17.10 RCW that the State Noxious Weed Control Board intends to adopt, amend, or repeal rules concerning the amending of WAC 16-750-010, a proposed noxious weed list comprising the names of those plants which it finds to be injurious to crops, livestock, or other property;

that such agency will at 9:00 a.m., Wednesday, May 10, 1978, in the Department of Agriculture, Olympia, Washington conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, May 10, 1978, in the Department of Agriculture, Olympia, Washington.

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 May 10, 1978.

Dated: March 9, 1978

By: Walter D. Wruble
Chairman

AMENDATORY SECTION (Amending Order No. 8, filed March 1, 1977)

WAC 16-750-010 PROPOSED NOXIOUS WEED LIST. In accordance with RCW 17.10.080, a proposed noxious weed list comprising the names of those plants which the Noxious Weed Control Board finds to be injurious to crops, livestock, or other property is hereby adopted as follows:

English or Common Name Botanical or Scientific Name

Perennial weeds

Austrian Fieldcress	Rorippa austriaca
Baby's Breath	Gypsophila paniculata
Bermudagrass	Cynodon dactylon
Bitter Nightshade	Solanum dulcamera
Blue Lettuce	Lactuca pulchella
Blueweed	Helianthus ciliaris
Bracken Fern	Pteridium aquilinum
Camelthorn	Alhagi camelorum
Canada Thistle	Cirsium arvense
Chicory	Cichorium intybus
Common Barberry	Berberis vulgaris
Common Tansy	Tanacetum vulgare
Common Wormwood	Artemisia absinthium
Creeping Buttercup	Ranunculus repens L.
Dalmation Toadflax	Linaria dalmatica L.
Diffuse Knapweed	Centaurea diffusa Lam.
Docks	Rumex spp.
Dogbane	Apocynum cannabinum L.
Evergreen Blackberry	Rubus spp.
Field Bindweed	Convolvulus arvensis L.
Foxtail Barley	Hordeum jubatum
Gorse	Ulex europaeus
Hairy Whitetop	Cardaria pubescens
Hedge Bindweed	Convolvulus sepium L.
Hoary Cress or White Top	Cardaria draba L.
Horsetail Rush	Equisetum arvense L.

English or Common Name

Botanical or Scientific Name

Johnson Grass	Sorghum halepense
Larkspur	Delphinium spp.
Leafy Spurge	Euphorbia esula L.
Lupine	Lupinus spp.
Oxeye Daisy	Chrysanthemum leucanthemum
Perennial Ground Cherry	Physalis heterophylla
Perennial Pepperweed	Lepidium latifolium L.
Perennial Ragweed	Ambrosia psilostachya
Perennial Sowthistle	Sonchus arvensis L.
Plantain	Plantago spp.
Poverty Weed	Iva axillaris
Purple Nutgrass	Cyperus rotendus L.
Quackgrass	Agropyron repens L.
Reed's Canary Grass	Phalaris canariensis L.
Russian Knapweed	Centaurea repens L.
Scotch Broom	Cytisus scoparius
Sheep Sorrel	Rumex acetosella L.
Showy Milkweed	Asclepias speciosa
Spotted Spurge	Euphorbia maculata L.
Tussocks	Scirpus validus
Water Hemlock	Cicuta maculata L.
Yellow Nutgrass	Cyperus esculentus
Yellow Toadflax	Linaria vulgaris

Biennial Weeds

African Sage	Salvia aethiops
Black Henbane	Hyoscyamus niger L.
Bull Thistle	Cirsium vulgare
Houndstongue	Cynoglossum officinale
Poison Hemlock	Conium maculatum L.
Scotch Thistle	Onopordum acanthium
Spotted Knapweed	Centaurea maculosa
Tansy Ragwort	Senecio jacobaea L.
Wild Carrot	Daucus carota L.
Yellowflowered Skeleton Weed	Chondrilla juncea L.

Annual Weeds

Annual Bluegrass	Poa annua
Barnyard Grass	Echinochloa crusgalli
Cocklebur	Xanthium spp.
Common Purslane	Portulacaoleracea
Dodder	Cuscuta spp.
Field Pennycress	Thlaspi arvense
Field Sandbur	Cenchrus pauciflorus
Goatweed	Hypericum perforatum L.
Halogeton	Halogeton glomeratus
Hemp (Marijuana)	Canabis sativa L.
Jointed Goatgrass	Aegilops cylindrica
Kochia	Kochia scoparia
Marestail (Horseweed)	Conyza canadensis
Medusahead	Elymus caput-medusae L.
Pacific Meadow-Foxtail	Alopecurus myosuroides
Puncturevine	Tribulus terrestris L.
Rattlebox	Crotalaria sagittalis L.
Silverleaf Nightshade	Solanum elaeagnifolium
Sorghum	Sorghum spp.
Swamp Smartweed	Polygonum coccineum
White Horse Nettle	Solanum carolinense
Wild Mustard	Brassica kaber
Wild Oats	Avena fatua L.
Yellow Starthistle	Centaurea solstitialis L.

Aquatic Weeds

<u>Eurasian Water Milfoil</u>	<u>Myriophyllum spicatum L.</u>
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WSR 78-04-013

ADOPTED RULES

PLANNING AND COMMUNITY AFFAIRS AGENCY
[Order No. 78-02 — Filed Mar. 9, 1978]

I, James C. Frits, Deputy Director of the Planning and Community Affairs Agency, do promulgate and adopt at Olympia, Washington the annexed rules relating to the administration of the Washington State Weatherization Assistance Program for Low-Income Persons.

This action is taken pursuant to Notice No. WSR 78-02-104 filed with the code reviser on Feb. 1, 1978. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Planning and Community Affairs Agency as authorized in RCW 43.63A.060.

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 March 9, 1978.

By James C. Frits
Deputy Director

Chapter 365-55 WAC
WASHINGTON STATE WEATHERIZATION AS-
SISTANCE PROGRAM FOR LOW-INCOME PER-
SONS

✓ WAC

- 365-55-010 Definitions.
- 365-55-020 Program description.
- 365-55-030 Program purpose.
- 365-55-040 Application procedure.
- 365-55-050 Contract awards.
- 365-55-060 Reports and records.
- 365-55-070 Policy advisory council.
- 365-55-080 Termination.

NEW SECTION

↪ WAC 365-55-010 DEFINITIONS. (1) Unless the language or context indicates that a different meaning is intended, the following terms, and phrases shall, for the purpose of this order, be given the meaning hereafter subjoined to them:

(2) "Agency" shall mean the Washington state planning and community affairs agency (PCAA);

(3) "Local applicant" shall mean a community action agency (CAA), a limited purpose agency; or a unit of general purpose local government which shall include all federally recognized Indian tribes located in the state of Washington;

(4) "Contract" shall mean the written agreement entered into by the applicant and the agency for the purpose of carrying out the weatherization program;

(5) "Contractor" shall mean any applicant accepted into the program under the terms and conditions of the program, that signs a contract of agreement to that effect with the agency;

(6) "Low income" means that income in relation to family size which (a) is at or below the poverty level determined in accordance with criteria established by the director of the office of management and budget, or (b) is the basis on which cash assistance payments have been paid during the preceding twelve month period under Titles IV and XVI of the Social Security Act or applicable state or local law;

(7) "Elderly person" means a person who is sixty years of age or older;

(8) "Handicapped person" means any individual (a) who is a handicapped individual as defined in section 7(6) of the Rehabilitation Act of 1973, (b) who is under disability as defined in section 1614 (a) (3) (A) or 223 (d) (1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act. or (c) who is receiving benefits under chapter 11 or 15 of Title 38, Unites States Code;

(9) "Weatherization project" means a project conducted in a single geographical area which undertakes to weatherize dwelling units that are thermally inefficient;

(10) "Weatherization materials" means items intended primarily to improve the heating or cooling efficiency of a dwelling unit including, but not limited to, ceiling, wall, floor, and duct insulation, vapor barriers, storm windows and doors, and caulking and weatherstripping, but not including mechanical equipment valued in excess of fifty dollars per dwelling unit;

(11) "Office of economic opportunity" designates a division of the planning and community affairs agency;

(12) "Policy advisory council" designates the state energy conservation weatherization advisory council established as required by federal regulations.

↪ NEW SECTION

WAC 365-55-020 PROGRAM DESCRIPTION.

(1) The U.S. department of energy (DE) pursuant to P.L. 94.385 and the community services administration (CSA) pursuant to P.L. 93-644 have provided grants to PCAA to weatherize thermally inefficient dwelling units of low income residents of the state of Washington. The federal legislation authorizing the funds gives priority to homes of the elderly and the handicapped.

(2) The program will be administered in the state by the agency, as designated by the governor.

(3) The office of economic opportunity will be responsible for coordinating, administering, monitoring, and publicizing the program and performing all other functions deemed necessary and appropriate.

(4) All questions regarding administration and operation of the program will be referred to the office of economic opportunity for resolution.

↪ NEW SECTION

WAC 365-55-030 PROGRAM PURPOSE. (1)

The purpose of the program is to assist in achieving a healthful dwelling environment and maximum practicable energy conservation in the dwellings of low-income persons, particularly elderly and handicapped low-income persons, in order both to aid those persons least able to afford higher energy costs and to conserve needed energy.

↪ NEW SECTION

WAC 365-55-040 APPLICATION PROCEDURE. (1)

To apply for funding under the program, the applicant shall submit an application to the office of economic opportunity which shall include at least the following information:

(a) The name, address, and phone number of the applicant organization;

(b) The name of the person responsible for administering the weatherization program;

(c) The area to be served by the weatherization program;

(d) The type of weatherization work to be done;

(e) The number of dwelling units to be weatherized;

(f) The expected average cost per dwelling to be weatherized, taking into account the total number of dwellings to be weatherized and the total amount of funds, federal and nonfederal;

(g) The number of rental dwelling units to be weatherized, if any;

(h) An estimate of the number of eligible dwelling units in which the low-income elderly reside;

(i) An estimate of the number of eligible dwelling units in which the low-income handicapped reside;

(j) The extent to which priority will be given to weatherization of single-family dwelling units for the elderly and handicapped;

(k) The proposed budget for funds applied for under this program;

(l) The amount of federal resources, if any, other than that requested in this application which will be used in the project.

(m) The amount of nonfederal resources to be applied to the program;

(n) Mechanisms for providing sources of labor; and

(o) Assurance of compliance with all applicable program requirements, procedures, preferences, and regulations.

(2) Blank application forms will be provided by the office and may require information or certifications in addition to that shown above if required by federal statute, and regulations or applicable state law.

(3) OEO recommends that a pre-application letter be written to OEO prior to formal filing of an application stating the intent of the applicant to request aid.

NEW SECTION

WAC 365-55-050 CONTRACT AWARDS. In accordance with the Washington state plan for weatherization assistance, funds available under this program will be granted to:

(1) Community action agencies (CAAs) which have demonstrated their ability to carry out an effective weatherization and energy conservation program within a specific geographical area.

(2) In areas where a current and effective program is being conducted by a non-CAA, preference for funds available under this program will be given to that program operator.

(3) In areas where there is no energy conservation program being operated under the Economic Opportunity Act of 1964, Washington state OEO shall consult with units of general purposes local government and/or other current program operators to adopt a plan to provide service to the area. If an agreement is not reached under the procedure, applications by prospective contractors will be evaluated by the policy advisory council which will make its recommendation to the director.

(4) In case of Indian reservations, funds will be granted to the appropriate tribal nonprofit organization

licensed by the state for affected native American populations if their application documents that the organization can effectively:

(a) Provide necessary program administration, supervision, and required reporting;

(b) Provide or obtain necessary technical expertise;

(c) Secure the services of volunteers, CETA training participants and/or CETA public service employment workers.

(5) If tribal authorities do not apply for funds or are not able to meet the requirements outlined above, funds reserved for the reservation shall be granted to the appropriate program operator for the geographical area with the following conditions in addition to those necessary for their nonreservation area:

(a) To the maximum extent possible and practicable, reservation representatives shall be included in both policy making and program administration which affects the native American population;

(b) Assurance will be provided that funds reserved for the reservation will be used to serve residences of low-income native Americans.

(c) A letter of endorsement from the tribal council shall accompany the application. If a letter has not been received within thirty-five days of the request from the CAA, the tribal council shall be assumed to have given its endorsement and the CAA may proceed with its plan.

(6) Awards to successful applicants will be made by written contract. Such contract shall as a minimum detail:

(a) Responsibilities of the applicant and the agency;

(b) The term of the agreement;

(c) The funding involved and method of reimbursement;

(d) Reports and record keeping required;

(e) Other special conditions mutually agreeable to both parties.

NEW SECTION

WAC 365-55-060 REPORTS AND RECORDS.

Each contractor receiving federal financial assistance under this program shall keep such records which fully disclose the amount and disposition of the funds received, the total cost of a weatherization project, the source and amount of funds for such project not supplied by OEO, and such other records as OEO deems necessary for an effective audit and performance evaluation. Project performance reports will be provided by the contractor as required by the OEO.

NEW SECTION

WAC 365-55-070 POLICY ADVISORY COUNCIL

(1) A policy advisory council will be established according to federal law and regulation. The council will be known as the energy conservation weatherization advisory council. The council shall advise the director of the agency on the administration of the program.

(2) The council will also hear appeals relative to the allocation of program funds and will make appropriate recommendations to the director for disposition of such appeals.

NEW SECTION

WAC 365-55-080 TERMINATION. (1) If, through any cause, the contractor fails to fulfill in timely and proper manner its obligations under their contract, or if the contractor violates any of the covenants, agreements, or stipulations of this contract, the agency shall thereupon have the right to terminate the contract by giving written notice to the contractor of such termination and specifying the effective date thereof. Such notice must be given at least five days before the effective date of such termination. In that event, all finished or unfinished work, materials secured under this contract shall, at the option of the OEO, become OEO's property; the contractor shall be entitled to receive just and equitable reimbursement for expenses incurred in connection with any satisfactory work completed.

(2) The OEO may terminate this contract without recourse if any of the following conditions occur:

(a) State or federal funds are not allocated for the purpose of meeting the state agencies' obligations hereunder; and

(b) The authorization to spend such funds is rescinded or revoked, or such funds are otherwise made available

The OEO shall provide written notice of such termination to the contractor at least five days prior to the effective date thereof.

AMENDATORY SECTION (Amending Order 109, filed 9/7/77)

WAC 356-18-020 HOLIDAYS. (1) Legal holidays are designated by statute. The following are legal holidays as established by RCW 1.16.050:

Sunday	January 1
New Year's Day	February 12
Lincoln's Birthday	Third Monday in February
Washington's Birthday	Last Monday of May
Memorial Day	July 4
Independence Day	First Monday in September
Labor Day	November 11
Veteran's Day	Fourth Thursday in November
Thanksgiving Day	The day immediately following Thanksgiving Day
Christmas Day	December 25

(2) Employees, except hourly rated faculty employees and those employees employed on the basis of contracts for a specified number of work days or faculty appointments, may select another day each calendar year on which to take an additional holiday as provided in WAC 356-18-025.

~~((3)) Whenever any legal holiday falls on a Saturday the preceding Friday shall be the legal holiday. Whenever any legal holiday, other than a Sunday, falls on a Sunday, the following Monday shall be the legal holiday.))~~

AMENDATORY SECTION (Amending Order 109, filed 9/7/77)

WAC 356-18-030 HOLIDAYS—RULES ~~((=~~ **REGULATIONS GOVERNING.** (1) The holidays cited in WAC 356-18-020 except Sundays are paid nonworking days for eligible employees.

(2) When operational necessity requires that employees work on a holiday except Sundays, they shall be compensated in accordance with the applicable provisions of the Compensation Plan Appendix and WAC 356-15.

(3) For employees on a Monday through Friday work schedule:

(a) Whenever any legal holiday falls on a Saturday, the preceding Friday shall be the holiday. Whenever any legal holiday, other than a Sunday, falls on a Sunday, the following Monday shall be the holiday.

~~((3))~~ (4) For employees working at least 32 hours per week but not on a Monday through Friday work schedule:

(a) When a holiday (other than Sunday) as identified in WAC 356-18-020(1) falls on the employee's ~~((a reg-
ularly))~~ scheduled work day, that day will be considered the holiday.

(b) When a holiday (other than Sunday) as identified in WAC 356-18-020(1) falls on ~~((a))~~ the employee's scheduled day off, agency heads shall, with respect to each individual employee, treat either the last preceding or the next following work day as the holiday.

~~((4))~~ (5) Temporary employees shall be given compensatory time or compensated for holidays in the same manner as permanent employees.

~~((5))~~ (6) Part-time employees who were on the payroll for at least ten working days during the month (but not including the holiday) and on their regularly

~~WSR 78-04-014~~

ADOPTED RULES

DEPARTMENT OF PERSONNEL

[Order 117—Filed Mar. 9, 1978]

Be it resolved by the State Personnel Board, acting at Dept. of Personnel, 600 So. Franklin, Olympia, WA, that it does promulgate and adopt the annexed rules relating to the amending of

- WAC 356-18-020 Holidays;
- WAC 356-18-030 Holidays—Rules, regulations governing; and
- WAC 356-22-180 Examination—Oral examining board.

This action is taken pursuant to Notice No. WSR 78-02-099 filed with the code reviser on 1/31/78. 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 March 9, 1978.

By Leonard Nord
Secretary

scheduled work day immediately preceding the holiday and their regularly scheduled work day immediately following the holiday will be given compensatory time for the holiday in a proportionate amount of time actually worked during the month.

AMENDATORY SECTION (Amending Order 36, filed 7/1/77)

WAC 356-22-180 EXAMINATION ((RATINGS))—ORAL EXAMINING BOARD. The members of oral examining boards shall be chosen primarily for their ability to judge the technical and personal qualifications of people in their general field of work, impartially and objectively. At least one member by past experience and training shall be generally familiar with the nature of work in the class. No examining board may have less than two members. No person holding political office or any officer or committee member of any political organization shall serve as a member of such board. If conditions require establishing multiple boards, tests and instructions shall be structured to insure uniformity of examining conditions and rating standards. ~~((A member))~~ Members of an oral examination board shall disclose each instance in which ~~((he))~~ they know((s-the)) an applicant ~~((personally or has))~~ to the extent that they have formed a prior personal bias for or against an applicant and shall disqualify ((himself)) themselves without rating the applicant or biasing the remaining members.

WSR 78-04-015
ADOPTED RULES
DEPARTMENT OF ECOLOGY
 [Order DE 78-2—Filed Mar. 14, 1978]

I, Elmer C. Vogel, deputy director of the Department of Ecology, do promulgate and adopt at Lacey, Washington the annexed rules relating to establishing and clarifying the Department of Ecology's procedures for identifying facilities eligible for tax credits or exemptions under chapter 82.34 RCW, defining "dual purpose" facilities eligible for partial credit or exemption, amending chapter 173-24 WAC, Regulation Relating to Tax Exemptions and Credits for Pollution Control Facilities.

This action is taken pursuant to Notice No. WSR 78-02-076 filed with the code reviser on 1/26/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 43.21A-.080-43.21A.090, and chapter 82.34 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 March 13, 1978.

By Elmer C. Vogel
 Deputy Director

AMENDATORY SECTION (Amending Order DE 70-11 filed 8/4/71)

WAC 173-24-010 INTRODUCTION AND PURPOSE. Chapter 82.34 RCW provides for tax credits and exemptions for pollution control facilities approved by the appropriate control agency. The purpose of this regulation is to establish a procedure for reviewing applications for tax benefits received from the department of revenue for review by the department of ecology, including the establishment of criteria for ~~((granting or denying the approval by the Department of Ecology of such an application for a tax credit or exemption))~~ identifying the individual facilities within each application and, for each facility, approving the facility, approving the facility as a "dual purpose pollution control facility," or denying the facility.

AMENDATORY SECTION (Amending Order DE 70-11 filed 8/4/71)

WAC 173-24-030 DEFINITIONS. Unless a different meaning is plainly required by the context, the following words as hereinafter used in this chapter shall have the following meanings:

- (1) "Commercial or industrial operation" shall mean the industrial, manufacturing, waste disposal, utility or other commercial establishment operated by an applicant for a certificate under chapter 82.34 RCW.
- (2) "Department" shall mean the Washington state department of ecology.
- (3) "Dual purpose pollution control facility" or "dual purpose facility" shall mean a facility in which the portion for the purpose of pollution control is so integrated into the total facility with portions for other purposes that separation into identifiable component parts is not possible.
- (4) "Facility" shall any treatment works, control devices, disposal systems, machinery, equipment, structures or property ~~((or any physically or conceptually identifiable part or accessories thereof))~~ for which a certificate is applied for under chapter 82.34 RCW or any physically or conceptually identifiable part or accessories thereof.
- ~~((4))~~ (5) "Necessary to the manufacture of products" shall mean that without which manufacture of products at the present or proposed level could not be undertaken.

If the manufacture of products could be undertaken at present levels without a facility, even though such manufacture would be uneconomical or impractical, such facility is not necessary to the manufacture of products. However, if a commercial or industrial operation is recovering or producing chemicals or heat for use in the manufacturing process at the time it submits an application, then any facilities necessary for such production or for recovery of chemicals at present percentage rates will be considered necessary to the manufacture of products.

~~((5))~~ (6) "Pollution" shall mean "air contaminant" and "air pollution" as defined in RCW 70.94.030, and "pollution" as defined in RCW 90.48.020.

~~((6))~~ "Pollution control element" shall mean any part of a facility conceptually identifiable as necessary for pollution control pursuant to ~~WAC 173-24-070~~.

(7) "Products" as used in the phrase, "manufacture of products," shall include the item or items which an industrial operation is designed primarily to manufacture or produce.

(8) "Regional or local air pollution control authority" shall mean any local or regional entity or control program considered as an "authority" for the purpose of chapter 70.94 RCW.

(9) "Single purpose facility" shall mean a facility other than a dual purpose facility.

AMENDATORY SECTION (Amending Order DE 70-1) filed 8/4/71)

2 WAC 173-24-060 ACTION BY THE DEPARTMENT WITHIN THIRTY DAYS—REQUEST FOR FURTHER INFORMATION. The department shall within thirty days of receipt of an application (~~either approve, disapprove, or request further information on the same. Any facility for which adequate information is available for approval shall be approved within thirty days of the receipt of the application, even though further information regarding other facilities is requested. In any case in which the applicant desires approval for all or part of any facility necessary for the manufacture of products, the applicant shall supply sufficient information to the Department to establish the basis for identification of a pollution control element in such facility~~) from the department of revenue make the identification and classification described in WAC 173-24-070 and approval or denial described in WAC 173-24-080, or it shall request further information from the applicant. A copy of any request from the department to the applicant for further information shall be transmitted to the department of revenue. The failure of the applicant to supply any additional information requested by the department, without reasonable grounds for such failure, may result in disapproval of all or part of the application.

The department shall notify the department of revenue in writing of ~~((the approval or disapproval of))~~ its decisions on any application submitted to it, and a copy of such notification shall be sent to the applicant by certified mail.

2 AMENDATORY SECTION (Amending Order DE 70-1) filed 8/4/71)

WAC 173-24-070 IDENTIFICATION ((OF COMPONENT PARTS)) AND CLASSIFICATION OF FACILITIES. The department will review each application to determine whether the facility is a single, integrated facility, or can be separated, either physically or conceptually, into identifiable component parts. ~~((A portion of a facility may be identified conceptually as a pollution control element, even though physically part of~~

~~a larger whole, if such identification can be reasonably made in view of chapter 82.34 RCW, and the pollution control element so identified meets the requirements for approval set forth in WAC 173-24-080 through 173-24-110.))~~ Each component part ~~((or pollution control element))~~ shall be considered as a separate facility for the purpose of the department's review of the application. The department will identify all such facilities within each application.

For each facility identified, the department shall classify it as a "dual purpose facility" or a "single purpose facility."

AMENDATORY SECTION (Amending Order DE 70-1) filed 8/4/71)

2 WAC 173-24-080 APPROVAL OF A FACILITY. The department shall approve any facility when:

- (1) It was installed or intended to be installed for the primary purpose of pollution control, and;
- (2) When it is operated or intended to be operated primarily for the purpose of pollution control, and;
- (3) When it is suitable, reasonably adequate, and meets the intent and purposes of chapter 70.94 RCW or chapter 90.48 RCW;

If the facility does not meet these criteria, it shall be denied.

AMENDATORY SECTION (Amending Order DE 70-1) filed 8/4/71)

2 WAC 173-24-100 OPERATION FOR THE PURPOSE OF POLLUTION CONTROL. A facility is operated or intended to be operated primarily for the purpose of pollution control when:

- (1) The emissions or effluents from the commercial or industrial operation do or will contain measurably less pollution with the facility installed than they would without the facility installed, and;
- (2) ~~((The))~~ For a facility other than a dual purpose facility it is not necessary to the manufacture of products. ((Provided that, a pollution control element of equipment necessary for the manufacture of products may be approved if such element meets the requirement of subsection (1) of this section and the manufacture of products could be undertaken at the present or proposed level with revised equipment without the presence of the pollution control element or its equivalent.))

AMENDATORY SECTION (Amending Order DE 70-1) filed 8/4/71)

2 WAC 173-24-110 MEETING THE INTENT AND PURPOSES OF CHAPTER 70.94 RCW AND CHAPTER 90.48 RCW. A facility is suitable, reasonably adequate, and meets the intent and purposes of chapter 70.94 RCW, and chapter 90.48 RCW, when:

- (1) Normal operation of the particular commercial or industrial operation with the facility installed will not be in violation of any provision of chapter 70.94 RCW, or chapter 90.48 RCW and;
- (2) Such operation will meet the requirements of any applicable permits, orders, regulations or standards of

the department or a regional or local air pollution control authority(~~(, and, in the absence of any order, permit, or regulation directed specifically to such operation, the facility will constitute the best known, available, and reasonable means of preventing and controlling water pollution))~~).

AMENDATORY SECTION (Amending Order DE 70-0) filed 8/4/71)

WAC 173-24-140 DELEGATION. The powers, duties and functions vested in the department by chapter 82.34 RCW, will be performed by the ~~((Public Services Branch of the Department, acting through the Executive Assistant Director of said branch))~~ deputy director of the department or his delegate.

AMENDATORY SECTION (Amending Order DE 70-0) filed 8/4/71)

WAC 173-24-150 DELEGATION OF STATE RESPONSIBILITIES UNDER FEDERAL PROGRAM. The functions of the "state certifying authority" for the federal tax credit program for pollution control facilities shall be performed by the ~~((Public Services Branch of the Department, acting through the Executive Assistant Director of said branch))~~ deputy director of the department or his delegate.

WSR 78-04-016

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 78-10—Filed Mar. 10, 1978]

I, Gordon Sandison, director of the State Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, Gordon Sandison, 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 substantial numbers of Pacific Cod are being taken in this area as incidental catch. Pacific Cod stocks in this area cannot support this type of fishery. This regulation is necessary to preserve these stocks.

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 March 10, 1978.

By Gordon Sandison
Director

REPEALER

The following section of the Washington Administrative Code is hereby repealed effective 12:01 A.M., March 16, 1978:

WAC 220-56-08000B RAZOR CLAMS - CLOSED AREA

NEW SECTION

WAC 220-48-09600B SETNET - DOGFISH, CLOSED AREA Notwithstanding the provisions of WAC 220-48-096, effective 12:00 Noon, March 14, 1978, it shall be unlawful to take, fish for, or possess dogfish or other species of bottomfish, taken with set net gear, for commercial purposes, in that portion of Marine Fish-Shellfish Area 26B west of a line projected true north from Agate Point and that portion of Marine Fish-Shellfish Area 26C north of a line projected true east from Pt. Bolin.

WSR 78-04-017

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Order 1570—Filed Mar. 10, 1978]

I, Bob J. Mickelson, director of Department of Agriculture of the state of Washington, do promulgate and adopt as emergency rules of this agency, the annexed rules the amending of WAC 16-54-082 relating to the importation of animals into the state of Washington, domestic bovine animals. (This action shall supersede the emergency action taken in Order 1547 filed December 14, 1977.)

I, Bob J. Mickelson, 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 with the identification of increased numbers of brucellosis infected animals in this state and because brucellosis is a public health problem, the adoption of this emergency rule change is necessary.

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

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

APPROVED AND ADOPTED March 10, 1978.

By Bob J. Mickelson
Director

AMENDATORY SECTION (Amending Order 1540, filed 10/17/77)

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 registered quarantined feed lot, or consigned to a state-federal approved stockyard, shall be accompanied by a health certificate (WAC 16-54-030 this Order) and shall meet the following requirements:

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

(2) Brucellosis. (a) Cattle originating from states other than Washington: All domestic bovine animals (including bison) moving into Washington, except those consigned to registered quarantined feed lots, or to federally inspected slaughter establishments for immediate slaughter, 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:

(i) 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 separate 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:

- (a) Calves under six months of age.
- (b) Steers and spayed heifers.
- (c) Officially vaccinated dairy cattle under twenty months of age and officially vaccinated beef cattle under twenty-four months of age.
- (d) Immediate slaughter cattle going directly to a federally inspected slaughter establishment.
- (e) Cattle consigned directly to a registered quarantined feed lot.
- (f) Cattle from certified brucellosis free herds.

(g) 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.

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

- (a) Calves under three months of age.
- (b) Those cattle consigned directly to a federally inspected slaughter plant.
- (c) Those cattle consigned directly to a registered quarantined feed lot.
- (d) Spayed heifers.

(iii) Herd owners desiring to move cattle into Washington for temporary grazing purposes must obtain a prior permit from the Animal Health Division and originate in a county or other political subdivision of equal status where brucellosis has not been diagnosed in the preceding twelve months, or tested negative to brucellosis within thirty days of entry.

WSR 78-04-018
PROPOSED RULES
DEPARTMENT OF PERSONNEL
[Filed Mar. 10, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and RCW 41.06.040, that the State Personnel Board intends to adopt, amend, or repeal rules concerning the amending of

- WAC 356-10-030 Positions—Allocation—Reallocation
- WAC 356-10-050 Positions—Reallocation upward, incumbents
- WAC 356-10-060 Allocation—Appeals
- WAC 356-15-030 Overtime provisions and compensation
- WAC 356-22-230 Examinations—Non-competitive;

that such agency will at 9:00 a.m., Thursday, May 11, 1978, in the Board Meeting Room, 600 So. Franklin, Olympia, WA, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Thursday, May 11, 1978, in the Board Meeting Room, 600 So. Franklin, Olympia, WA.

The authority under which these rules are proposed is RCW 41.06.040 and 41.06.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 11, 1978 and/or orally at 9:00 a.m., Thursday, May 11, 1978, Board Meeting Room, 600 So. Franklin, Olympia, WA.

This notice is connected to and continues the matter noticed in Notice Nos. WSR 78-02-100 and WSR 78-02-099 filed with the code reviser's office on January 31, 1978.

Dated: March 9, 1978
By: Leonard Nord
Secretary

WSR 78-04-019
ADOPTED RULES
DEPARTMENT OF ECOLOGY
[Order 78-3—Filed Mar. 10, 1978]

I, Wilbur G. Hallauer, director of the Department of Ecology, do promulgate and adopt at the Department of Ecology, Lacey, WA, the annexed rules relating to providing needed capital for the planning, acquisition, construction, and improvements of water supply facilities to alleviate water supply conditions arising from the drought forecast for 1977, as authorized by chapter 1, Laws of 1977 ex. sess., and section 75 of chapter 339, Laws of 1977 ex. sess.; creating chapter 173-166 WAC—Emergency Water Withdrawal Facilities.

This action is taken pursuant to Notice No. WSR 78-02-077 filed with the code reviser on 1/26/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to section 75, chapter 339, Laws of 1977 ex. sess. 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

Handwritten notes:
WSR 78-04-019
ADOPTED RULES
DEPARTMENT OF ECOLOGY
[Order 78-3—Filed Mar. 10, 1978]
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appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED March 8, 1978.

By Wilbur G. Hallauer
Director

Chapter 173-166 WAC
EMERGENCY WATER WITHDRAWAL FACILITIES

WAC

- 173-166-010 Purpose.
- 173-166-020 Authority.
- 173-166-030 Definitions.
- 173-166-040 Grant and loan fund conditions.
- 173-166-050 Loan and grant formula.
- 173-166-060 Loans.

NEW SECTION

WAC 173-166-010 PURPOSE. The purpose of this chapter is to implement that specific appropriation General Fund-State Emergency Water Projects Revolving Account as provided in section 75, chapter 339, Laws of 1977 first extraordinary session, relating to implementation of chapter 1, Laws of 1977 first extraordinary session.

NEW SECTION

WAC 173-166-020 AUTHORITY. This regulation is promulgated by the department of ecology under authorities and procedures provided in chapter 1, Laws of 1977 first extraordinary session, chapter 339, Laws of 1977 first extraordinary session, and after giving notice as provided in chapter 34.04 RCW.

NEW SECTION

WAC 173-166-030 DEFINITIONS. (1) "Department" shall mean the department of ecology.

(2) "User" shall mean any public body which operates, maintains and manages agricultural water supply facilities to divert, carry and distribute water to moisture deficient land used for the production of commercial crops.

NEW SECTION

WAC 173-166-040 GRANT AND LOAN FUND CONDITIONS. (1) The director may make loans or combination loans and grants for the following types of projects:

(a) Water withdrawal facilities to divert water from any source approved under provisions of chapter 1, Laws of 1977 first extraordinary session, to provide supplemental water to lands previously irrigated for projects which include one or more of the following facilities:

- (i) Diversion Structures
- (ii) Pumps and motors and accessories

- (iii) Penstocks and discharge lines
- (iv) Canals
- (v) Pipelines
- (vi) Wells

(b) Water conservation facilities to provide water which would not otherwise be available to the lands previously irrigated for projects which include the following work:

- (i) Repair
- (ii) Rehabilitation
- (iii) Improvement
- (iv) Replacement
- (v) Control structures

(2) Criteria. The director may make loans or combination loans and grants to an eligible user, for projects generally meeting the following criteria:

(a) Wherever possible, considering cost/effectiveness, the least costly alternative, including conservation measures, to supply adequate water supplies.

(b) The project will produce measurable water supply benefits in relation to the total needs arising from drought conditions.

(c) Projects having long-term drought-relief benefits.

(d) The project selected will minimize impacts on the environment.

(e) Alternate sources, including conservation through improvements to existing withdrawal facilities, will be favored over increasing withdrawal of water supplies impacted by drought conditions.

(f) The project will provide water to previously irrigated lands.

(g) The project will not reduce flows or levels below essential minimums as necessary (i) to assure the maintenance of fisheries requirements, and (ii) to protect federal and state interests including, among others, power generation, navigation, and existing water rights.

NEW SECTION

WAC 173-166-050 LOAN AND GRANT FORMULA. The director may make loans and grants, according to the following formula:

(1) The department may advance funds from these emergency appropriations to make loans or combinations of loans and grants to a user. The grant portion of a combination loan and grant to a user for any project shall not exceed fifteen percent of the total amount received under the drought program by such project.

(2) Loan and grants shall be based upon the user's repayment capabilities.

(3) The grant shall be contingent upon the user accepting the loan.

NEW SECTION

WAC 173-166-060 LOANS. Loans for rehabilitation may be provided by the director, whenever a combination fifteen percent grant and eighty-five percent loan is made.

**WSR 78-04-020
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed Mar. 13, 1978]**

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;

the repealing of WAC 388-28-155 relating to standards for additional requirements under specified circumstances—child care expenses for employed persons;

adding new section WAC 388-29-155 relating to standards for additional requirements under specified circumstances—child care expenses for employed persons;

and amending chapter 388-54 WAC relating to food assistance programs.

WAC 388-28-155 is being recodified as WAC 388-29-155. There is no change in policy.

that such agency will at 10:00 a.m., Wednesday, May 10, 1978, in the Auditorium, State Office Bldg. #2, 12th and Jefferson, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Friday, May 12, 1978, in William B. Pope's Office, 3-D-14, State Office Bldg. #2, 12th and Jefferson, Olympia, WA.

The authority under which these rules are proposed is RCW 74.04.510 and 74.08.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 10, 1978 and/or orally at 10:00 a.m., Wednesday, May 10, 1978, Auditorium, State Office Bldg. #2, 12th and Jefferson, Olympia, WA.

Dated: March 13, 1978

By: Gerald E. Thomas
Deputy Secretary

REPEALER

The following section of the Washington Administrative Code is repealed.

(1) WAC 388-28-155 STANDARDS FOR ADDITIONAL REQUIREMENTS UNDER SPECIFIED CIRCUMSTANCES—CHILD CARE EXPENSES FOR EMPLOYED PERSONS.

NEW SECTION

WAC 388-29-155 STANDARDS FOR ADDITIONAL REQUIREMENTS UNDER SPECIFIED CIRCUMSTANCES—CHILD CARE EXPENSES FOR EMPLOYED PERSONS

- (1) The expense of child care shall be authorized as an additional requirement only when financial services has determined the care is necessary due to employment and there is no one reasonably available to perform such service without cost, except that child care expenses for employed WIN participants shall be authorized as specified in WAC 388-57-057.

- (2) The cost allowed for child care shall be the most reasonable which can be obtained for the type of care required, not to exceed the following standards.

(a) Out-of-home day care

- (i) The part-time payment standard for day care of less than seven hours per day shall not exceed 92 cents per hour for each child.

- (ii) The full-time payment standard for day care of seven hours or more per day shall not exceed \$6.42 per day for each child.

- (A) The full-time payment standard may be adjusted to accommodate unusual work schedules, provided the total amount authorized does not exceed \$32.10 per week of full-time day care for each child.

(b) In-home child care

- (i) The payment standard for in-home care shall not exceed 92 cents per hour for the care of three children or less in the family, or \$1.19 per hour for care of four or more children in the family.

- (ii) If total payments to an individual providing in-home care are expected to be \$50 or more in any one quarter, the employer's share of the FICA tax must be added to the amount authorized for in-home care.

- (3) No payments shall be allowed for child care provided by the child's parent or stepparent.

AMENDATORY SECTION (Amending Order 1249, filed 10/28/77)

WAC 388-54-470 MONTHLY NET INCOME. (1) For nonassistance households the monthly net food stamp income used to determine eligibility and basis of issuance shall be computed by adding all income and then subtracting all appropriate exclusions and deductions.

(2) The monthly net income used for basis of issuance of food stamps to public assistance households shall be computed by adding all income and then subtracting all appropriate exclusions and deductions.

(3) The combined monthly net food stamp income of all members of nonassistance households shall not exceed the following standards effective ((July 1, 1977)) January 1, 1978.

Household Size	Maximum Allowable Income
1	\$262.00
2	344.00
3	((447.00)) 460.00
4	((567.00)) 580.00
5	((673.00)) 687.00
6	((807.00)) 827.00
7	((893.00)) 913.00
8	((1020.00)) 1047.00
For each additional member add	((127.00)) 133.00

(4) Ineligible aliens, unless excluded as roomers, boarders or attendants, shall have their total income minus a deduction for a one-person household coupon allotment, included as income to the household, unless the household can demonstrate that the income is not accessible for their needs. Ineligible aliens shall be treated as household members in determining income exclusions and deductions, but shall not be counted in the household size for determining the income eligibility standard for the household or its basis of issuance.

(5) The income of an individual determined ineligible due to tax dependency shall not be considered available to other household members in establishing the household's eligibility and basis of issuance, nor shall he be counted in determining the size of the household. (See WAC 388-54-442)

AMENDATORY SECTION (Amending Order 1245, filed 10/10/77)

WAC 388-54-485 INCOME DEDUCTIONS. (1) Household expenses shall be deducted in the order listed in this section. In determining monthly food stamp income only the expenses listed shall be deducted. No exceptions shall be approved. The household must pay the expense or anticipate payment during the certification period in which the deduction is claimed. The expenses are deductible even if payment is made from resources. If payments are made by a nonhousehold member on behalf of the household, the expenses are deductible if the payments have been counted as income to the household.

- (2) Deductible work expense
- (a) Nonassistance household: Ten percent of gross income not to exceed \$30 per household, from:
 - (i) Compensation for services performed as an employee; or
 - (ii) A training allowance to an individual working and learning a trade at a work site.
 - (iii) Any income attributable to the furnishing of housing to a household by an employer. Any vendor payments made on behalf of an employee by an employer or a trainee by the training program or sponsor.

(b) Assistance household: The public assistance standard deduction for transportation and clothing. (See 388-28-515(4)(b) and (4)(d)).

(3) Mandatory deductions from earned income which are not elective at the option of the employee such as local, state, and federal income taxes, FICA taxes, mandatory retirement payments, and union dues. Garnishments may be deducted only when they are made for items which would be deductible if paid when incurred, for example, medical costs of more than \$10 a month.

(4) The total payments for medical expenses; exclusive of special diets, when the costs exceed \$10 per household.

(a) Medical expenses may include actual payments for physician and dental services, hospitalization, nursing care in or out of the home, prescription drugs, prescribed medical services, health insurance, medicare payments, the care and feeding of a seeing eye dog, and reasonable medically-related transportation costs.

(b) The amount to be deducted for an attendant or housekeeper who is necessary for medical care reasons shall be the amount actually paid to the attendant or housekeeper. In addition, for a household which furnishes the attendant or housekeeper the majority of his meals, a deduction equal to the value of the one-person monthly coupon allotment shall be made.

(5) Payments for the care of a child or other persons when necessary for a household member to accept or continue employment, training or education.

(a) The amount to be deducted for an attendant or housekeeper who is necessary for child care reasons shall be the amount actually paid to the attendant or housekeeper. In addition, for a household which furnishes the attendant or housekeeper the majority of his meals, a deduction equal to the one-person monthly coupon allotment shall be made.

(6) Tuition and mandatory fees for education, including such expenses which are covered by scholarships, educational grants, loans, fellowships and veterans' educational benefits. No deduction shall be made for any other educational expenses, such as books, school supplies, meals and transportation.

(7) Unusual expenses incurred due to an individual household's disaster or casualty losses which could not be reasonably anticipated by the household. Unusual expenses shall be determined in accordance with the following criteria.

(a) The expense is essential to the continued existence of the household and is necessary to replace or repair items of property damaged or lost through vandalism, fire, theft, flood, tropical storms, or by the elements.

(b) The expense allowed is for only that portion which exceeds the amount which is paid either in goods or money by a private or public charitable organization.

(c) The expense is the result of funeral costs which are not reimbursable through social security, veterans' benefits, or the state government.

(d) The expense allowed will be that paid or anticipated to be paid during the certification period, even though part may be reimbursable through insurance. Insurance reimbursement payments will be treated as lump-sum payments when received, in accordance with WAC 388-54-465.

(e) The deduction is initially approved by the certification worker's immediate supervisor.

(f) The expense is not for costs of repair or replacement of property, clothing, etc., which becomes necessary due to mechanical failure, wear and tear, obsolescence, or any other occurrence not directly connected with an individual household disaster.

(8) Court-ordered support and alimony payments.

(9) Shelter costs in excess of ((30 percent of the household's income after the above deductions)) the shelter standard, as specified on WAC 388-54-485(f). The excess shelter cost is subtracted from the household's income after the above deductions are taken.

(a) "Shelter costs" mean rent or mortgage payment plus taxes, insurance and assessments, and utility costs such as heat, cooking fuel,

electricity, water, garbage, sewage disposal and basic service fee for one telephone.

(b) The actual rent or purchase payment plus taxes, insurance and assessments (if not included in the payment) shall be used to compute shelter costs.

(c) Standardized amounts shall be used to compute the shelter costs for utilities such as heat, cooking fuel, electricity, water, garbage, sewage disposal and telephone and shall be, effective July 1, 1977:

Persons in Household	Standard
1	\$66.25
2	70.70
3	76.10
4	82.05
5	86.65
6	90.85
7	95.15
8	97.60
9	100.90
10 or more	105.40

(d) If a household requests and can verify that its utility bills are higher than the standards and can reasonably be predicted to continue at a higher rate for the certification period, the actual utility costs must be used. ((The allowance for telephone service is limited to the basic service fee for one telephone plus the tax on the basic fee. This request may be made at the initial certification or at any subsequent certification. A household may not change the method of computing utilities during a certification period.)) These costs will be calculated according to bills the household anticipates receiving during the certification period, by using the most recent bills actually received or other information available.

(i) The allowance for telephone service is limited to the basic fee for one telephone plus tax on the basic fee.

(ii) A household certified for more than one month shall be allowed to switch to or from the standard once during its certification period or to the standard if the standard is updated during its certification period.

(e) Included as part of the household's utility allowance will be any payment, during a certification period, of a utility bill received by the household prior to January 1, 1978, if:

(i) The bill represents an allowable utility expense which was not used in any previous shelter allowance computations; and

(ii) The expense has been paid by the household or the household intends to pay it and has sufficient income and/or resources available.

Net Food Stamp Income	Shelter Standard	
	Shelter Standard	Net Food Stamp Income Shelter Standard
\$0 - \$ 29.99	\$0	\$270 - 279.99 81
30 - 39.99	9	280 - 289.99 84
40 - 49.99	12	290 - 299.99 87
50 - 59.99	15	300 - 309.99 90
60 - 69.99	18	310 - 319.99 93
70 - 79.99	21	320 - 329.99 96
80 - 89.99	24	330 - 339.99 99
90 - 99.99	27	340 - 349.99 102
100 - 109.99	30	350 - 359.99 105
110 - 119.99	33	360 - 369.99 108
120 - 129.99	36	370 - 379.99 111
130 - 139.99	39	380 - 389.99 114
140 - 149.99	42	390 - 399.99 117
150 - 159.99	45	400 - 409.99 120
160 - 169.99	48	410 - 419.99 123
170 - 179.99	51	420 - 429.99 126
180 - 189.99	54	430 - 439.99 129
190 - 199.99	57	440 - 449.99 132
200 - 209.99	60	450 - 459.99 135
210 - 219.99	63	460 - 469.99 138
220 - 229.99	66	470 - 479.99 141
230 - 239.99	69	480 - 489.99 144
240 - 249.99	72	490 - 499.99 147
250 - 259.99	75	500 - 509.99 150
260 - 269.99	78	

For households in excess of \$509.99, use thirty percent of the net income.

AMENDATORY SECTION (Amending Order 1030, filed 6/12/75)

WAC 388-54-505 NONASSISTANCE HOUSEHOLD—VERIFICATION OF ELIGIBILITY. (1) On an initial certification, gross income from all sources and mandatory deductions from income shall be verified by third person or documentary confirmation of the facts stated by the applicant. Income excluded per WAC 388-54-480 shall be verified only when there is reason to question the information given.

(2) If the application for recertification of continuing eligibility is consistent with eligibility and consistent with the previous application, verification of income is not required unless the source of income has changed or the amount of income reported has changed by more than \$25.

(3) Other eligibility factors shall be verified when the statements of the household in the application are unclear, incomplete, or inconsistent in any manner that would require an ordinarily prudent worker to question any factor affecting eligibility or basis of coupon issuance. Such questionable factors must be verified through the point where a firm determination can be made that the applicant is or is not eligible at some level of issuance.

(4) When a household reports an income so low as to put it at a zero purchase level, factors affecting eligibility and basis of issuance shall be verified through the point where a firm determination can be made that the household is or is not eligible. ~~((At least one collateral contact is mandatory:))~~

(5) Preliminary certification for 30 days without verification of eligibility factors may be made if it appears that the household will be eligible for participation. Necessary verification and adjustment in the household's basis of issuance shall be made before the second month's issuance of coupons is given.

(6) When a household contains a student tax dependent, the food stamp eligibility of the taxpayer household must be verified. (See WAC 388-54-442.)

(a) Student tax dependency status shall be verified when questionable.

(b) If the tax dependent or the taxpayer fails to respond to a verification request, eligibility cannot be determined and he shall not be considered as a member of the household in which he resides.

AMENDATORY SECTION (Amending Order 1030, filed 6/12/75)

WAC 388-54-540 BASIS OF COUPON ISSUANCE. (1) The department shall assign each eligible household a purchase requirement and total coupon allotment according to the following table. These purchase requirements are effective ~~((July))~~ January 1, ((1977)) 1978.

MONTHLY COUPON ALLOTMENT BY HOUSEHOLD SIZE
Number of Persons

	1	2	3	4	5	6	7	8
\$52	((94)) \$96	(134)) \$138	(170)) \$174	(202)) \$206	(242)) \$268	(268)) \$274	(306)) \$314	
Monthly Net Income	Monthly purchase requirement							
\$ 0-19.99	0	0	0	0	0	0	0	0
20-29.99	1	1	0	0	0	0	0	0
30-39.99	4	4	4	4	5	5	5	5
40-49.99	6	7	7	7	8	8	8	8
50-59.99	8	10	10	10	11	11	12	12
60-69.99	10	12	13	13	14	14	15	16
70-79.99	12	15	16	16	17	17	18	19
80-89.99	14	18	19	19	20	21	21	22
90-99.99	16	21	21	22	23	24	25	26
100-109.99	18	23	24	25	26	27	28	29
110-119.99	21	26	27	28	29	31	32	33
120-129.99	24	29	30	31	33	34	35	36
130-139.99	27	32	33	34	36	37	38	39
140-149.99	30	35	36	37	39	40	41	42
150-169.99	33	38	40	41	42	43	44	45
170-189.99	39	44	46	47	48	49	50	51
190-209.99	40	50	52	53	54	55	56	57
210-229.99	42	56	58	59	60	61	62	63
230-249.99	42	62	64	65	66	67	68	69
250-269.99	<u>42</u>	68	70	71	72	73	74	75
270-289.99		74	76	77	78	79	80	81
290-309.99	((74))	82	83	84	85	86	87	

	1	2	3	4	5	6	7	8
\$52	((94)) \$96	(134)) \$138	(170)) \$174	(202)) \$206	(242)) \$268	(268)) \$274	(306)) \$314	
Monthly Net Income	Monthly purchase requirement							
310-329.99	<u>76</u> ((74))	88	89	90	91	92	93	
330-359.99	<u>76</u>	94	95	96	97	98	99	
360-389.99		103	104	105	106	107	108	
390-419.99		112	113	114	115	116	117	
420-449.99		((116))	122	123	124	125	126	
450-479.99		<u>120</u>						
480-509.99		<u>120</u>	131	132	133	134	135	
510-539.99			140	141	142	143	144	
540-569.99			((146))	150	151	152	153	
570-599.99			<u>149</u>					
600-629.99			((146))	159	160	161	162	
630-659.99			<u>150</u>					
660-689.99			<u>150</u>	168	169	170	171	
690-719.99				((174))	178	179	180	
720-749.99				<u>177</u>				
750-779.99				((174))	187	188	189	
780-809.99				<u>178</u>				
810-839.99				((174))	196	197	198	
840-869.99				<u>178</u>				
870-899.99					205	206	207	
900-((1049.00))					((210))	215	216	
929.99					<u>214</u>			
930-959.99					((210))	224	225	
960-989.99					<u>216</u>			
990-1,019.99					((210))	232	234	
1,020-1,049.99					<u>216</u>	233	243	
					((232))	238	252	
					<u>238</u>	238	261	
					((232))	<u>238</u>	270	
						((266))	274	
							<u>274</u>	
							<u>274</u>	
							<u>274</u>	

(2) The following formula shall be used for the issuance of coupons to households of more than eight persons.

(a) For each person in excess of eight, ~~\$(38.00))~~ 40.00 shall be added to the monthly coupon allotment for an eight-person household.

(b) The purchase requirement for an eight-person household shall be used for households with incomes of ~~((899.99))~~ \$929.99 or less per month.

(c) For households with monthly incomes of ~~\$(900))~~ 930 or more - for each thirty dollars of monthly income (or portion thereof) over ~~\$(899.99))~~ 929.99 nine dollars shall be added to the monthly purchase requirement for an eight-person household with income of ~~\$(899.99))~~ 929.99.

(d) The maximum monthly purchase requirement for households of more than eight persons shall be determined by adding ~~\$(34))~~ 36 for each person over eight to the maximum purchase requirement for an eight-person household.

(3) The department shall offer an eligible household a monthly or semimonthly issuance, whichever is best geared to the frequency of its receipt of income.

WSR 78-04-021
EMERGENCY RULES
DEPARTMENT OF SOCIAL
AND HEALTH SERVICES
(Public Assistance)
[Order 1279—Filed Mar. 13, 1978]

I, Gerald E. Thomas, Deputy Secretary of the Department of Social and Health Services do promulgate and adopt at Olympia, Washington the annexed rules relating to the repealing of WAC 388-28-155 relating

to standards for additional requirements under specified circumstances—child care expenses for employed persons; adding new section WAC 388-29-155 relating to standards for additional requirements under specified circumstances—child care expenses for employed persons; and amending chapter 388-54 WAC relating to food assistance programs.

I, Gerald E. Thomas 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 amendments are necessary to comply with instructions from the Food and Nutrition Service, U. S. Department of Agriculture which were effective on January 1, 1978.

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 secretary of 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) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED March 13, 1978.

By Gerald E. Thomas
Deputy Secretary

REPEALER

The following section of the Washington Administrative Code is repealed.

(1) WAC 388-28-155 STANDARDS FOR ADDITIONAL REQUIREMENTS VENDOR SPECIFIED CIRCUMSTANCES—CHILD CARE EXPENSES FOR EMPLOYED PERSONS.

NEW SECTION

WAC 388-29-155 STANDARDS FOR ADDITIONAL REQUIREMENTS UNDER SPECIFIED CIRCUMSTANCES—CHILD CARE EXPENSES FOR EMPLOYED PERSONS

- (1) The expense of child care shall be authorized as an additional requirement only when financial services has determined the care is necessary due to employment and there is no one reasonably available to perform such service without cost, except that child care expenses for employed WIN participants shall be authorized as specified in WAC 388-57-057.
- (2) The cost allowed for child care shall be the most reasonable which can be obtained for

the type of care required, not to exceed the following standards.

(a) Out-of-home day care

- (i) The part-time payment standard for day care of less than seven hours per day shall not exceed 92 cents per hour for each child.
- (ii) The full-time payment standard for day care of seven hours or more per day shall not exceed \$6.42 per day for each child.
- (A) The full-time payment standard may be adjusted to accommodate unusual work schedules, provided the total amount authorized does not exceed \$32.10 per week of full-time day care for each child.

(b) In-home child care

- (i) The payment standard for in-home care shall not exceed 92 cents per hour for the care of three children or less in the family, or \$1.19 per hour for care of four or more children in the family.
- (ii) If total payments to an individual providing in-home care are expected to be \$50 or more in any one quarter, the employer's share of the FICA tax must be added to the amount authorized for in-home care.
- (3) No payments shall be allowed for child care provided by the child's parent or stepparent.

AMENDATORY SECTION (Amending Order 1249, filed 10/28/77)

WAC 388-54-470 MONTHLY NET INCOME.

- (1) For nonassistance households the monthly net food stamp income used to determine eligibility and basis of issuance shall be computed by adding all income and then subtracting all appropriate exclusions and deductions.
- (2) The monthly net income used for basis of issuance of food stamps to public assistance households shall be computed by adding all income and then subtracting all appropriate exclusions and deductions.
- (3) The combined monthly net food stamp income of all members of nonassistance households shall not exceed the following standards effective (~~July 1, 1977~~) January 1, 1978.

Household Size	Maximum Allowable Income
1	\$262.00
2	344.00
3	((447.00)) <u>460.00</u>
4	((567.00)) <u>580.00</u>
5	((673.00)) <u>687.00</u>
6	((807.00)) <u>827.00</u>
7	((893.00)) <u>913.00</u>
8	((1020.00)) <u>1047.00</u>
For each additional member add	((127.00)) <u>133.00</u>

(4) Ineligible aliens, unless excluded as roomers, boarders or attendants, shall have their total income minus a deduction for a one-person household coupon allotment, included as income to the household, unless the household can demonstrate that the income is not accessible for their needs. Ineligible aliens shall be treated as household members in determining income exclusions and deductions, but shall not be counted in the household size for determining the income eligibility standard for the household or its basis of issuance.

(5) The income of an individual determined ineligible due to tax dependency shall not be considered available to other household members in establishing the household's eligibility and basis of issuance, nor shall he be counted in determining the size of the household. (See WAC 388-54-442)

AMENDATORY SECTION (Amending Order 1245, filed 10/10/77)

WAC 388-54-485 INCOME DEDUCTIONS. (1) Household expenses shall be deducted in the order listed in this section. In determining monthly food stamp income only the expenses listed shall be deducted. No exceptions shall be approved. The household must pay the expense or anticipate payment during the certification period in which the deduction is claimed. The expenses are deductible even if payment is made from resources. If payments are made by a nonhousehold member on behalf of the household, the expenses are deductible if the payments have been counted as income to the household.

(2) Deductible work expense

(a) Nonassistance household: Ten percent of gross income not to exceed \$30 per household, from:

(i) Compensation for services performed as an employee, or

(ii) A training allowance to an individual working and learning a trade at a work site.

(iii) Any income attributable to the furnishing of housing to a household by an employer. Any vendor payments made on behalf of an employee by an employer or a trainee by the training program or sponsor.

(b) Assistance household: The public assistance standard deduction for transportation and clothing. (See 388-28-515(4)(b) and (4)(d)).

(3) Mandatory deductions from earned income which are not elective at the option of the employee such as

local, state, and federal income taxes, FICA taxes, mandatory retirement payments, and union dues. Garnishments may be deducted only when they are made for items which would be deductible if paid when incurred, for example, medical costs of more than \$10 a month.

(4) The total payments for medical expenses, exclusive of special diets, when the costs exceed \$10 per household.

(a) Medical expenses may include actual payments for physician and dental services, hospitalization, nursing care in or out of the home, prescription drugs, prescribed medical services, health insurance, medicare payments, the care and feeding of a seeing eye dog, and reasonable medically-related transportation costs.

(b) The amount to be deducted for an attendant or housekeeper who is necessary for medical care reasons shall be the amount actually paid to the attendant or housekeeper. In addition, for a household which furnishes the attendant or housekeeper the majority of his meals, a deduction equal to the value of the one-person monthly coupon allotment shall be made.

(5) Payments for the care of a child or other persons when necessary for a household member to accept or continue employment, training or education.

(a) The amount to be deducted for an attendant or housekeeper who is necessary for child care reasons shall be the amount actually paid to the attendant or housekeeper. In addition, for a household which furnishes the attendant or housekeeper the majority of his meals, a deduction equal to the one-person monthly coupon allotment shall be made.

(6) Tuition and mandatory fees for education, including such expenses which are covered by scholarships, educational grants, loans, fellowships and veterans' educational benefits. No deduction shall be made for any other educational expenses, such as books, school supplies, meals and transportation.

(7) Unusual expenses incurred due to an individual household's disaster or casualty losses which could not be reasonably anticipated by the household. Unusual expenses shall be determined in accordance with the following criteria.

(a) The expense is essential to the continued existence of the household and is necessary to replace or repair items of property damaged or lost through vandalism, fire, theft, flood, tropical storms, or by the elements.

(b) The expense allowed is for only that portion which exceeds the amount which is paid either in goods or money by a private or public charitable organization.

(c) The expense is the result of funeral costs which are not reimbursable through social security, veterans' benefits, or the state government.

(d) The expense allowed will be that paid or anticipated to be paid during the certification period, even though part may be reimbursable through insurance. Insurance reimbursement payments will be treated as lump-sum payments when received, in accordance with WAC 388-54-465.

(e) The deduction is initially approved by the certification worker's immediate supervisor.

(f) The expense is not for costs of repair or replacement of property, clothing, etc., which becomes necessary due to mechanical failure, wear and tear, obsolescence, or any other occurrence not directly connected with an individual household disaster.

(8) Court-ordered support and alimony payments.

(9) Shelter costs in excess of ~~((30 percent of the household's income after the above deductions))~~ the shelter standard, as specified on WAC 388-54-485(f). The excess shelter cost is subtracted from the household's income after the above deductions are taken.

(a) "Shelter costs" mean rent or mortgage payment plus taxes, insurance and assessments, and utility costs such as heat, cooking fuel, electricity, water, garbage, sewage disposal and basic service fee for one telephone.

(b) The actual rent or purchase payment plus taxes, insurance and assessments (if not included in the payment) shall be used to compute shelter costs.

(c) Standardized amounts shall be used to compute the shelter costs for utilities such as heat, cooking fuel, electricity, water, garbage, sewage disposal and telephone and shall be, effective July 1, 1977:

Persons in Household	Standard
1	\$66.25
2	70.70
3	76.10
4	82.05
5	86.65
6	90.85
7	95.15
8	97.60
9	100.90
10 or more	105.40

(d) If a household requests and can verify that its utility bills are higher than the standards and can reasonably be predicted to continue at a higher rate for the certification period, the actual utility costs must be used. ~~((The allowance for telephone service is limited to the basic service fee for one telephone plus the tax on the basic fee. This request may be made at the initial certification or at any subsequent certification. A household may not change the method of computing utilities during a certification period.))~~ These costs will be calculated according to bills the household anticipates receiving during the certification period, by using the most recent bills actually received or other information available.

(i) The allowance for telephone service is limited to the basic fee for one telephone plus tax on the basic fee.

(ii) A household certified for more than one month shall be allowed to switch to or from the standard once during its certification period or to the standard if the standard is updated during its certification period.

(e) Included as part of the household's utility allowance will be any payment, during a certification period, of a utility bill received by the household prior to January 1, 1978, if:

(i) The bill represents an allowable utility expense which was not used in any previous shelter allowance computations; and

(ii) The expense has been paid by the household or the household intends to pay it and has sufficient income and/or resources available.

		Shelter Standard	
Net Food Stamp Income	Shelter Standard	Net Food Stamp Income	Shelter Standard
\$0 - \$ 29.99	\$0	\$270 - 279.99	81
30 - 39.99	9	280 - 289.99	84
40 - 49.99	12	290 - 299.99	87
50 - 59.99	15	300 - 309.99	90
60 - 69.99	18	310 - 319.99	93
70 - 79.99	21	320 - 329.99	96
80 - 89.99	24	330 - 339.99	99
90 - 99.99	27	340 - 349.99	102
100 - 109.99	30	350 - 359.99	105
110 - 119.99	33	360 - 369.99	108
120 - 129.99	36	370 - 379.99	111
130 - 139.99	39	380 - 389.99	114
140 - 149.99	42	390 - 399.99	117
150 - 159.99	45	400 - 409.99	120
160 - 169.99	48	410 - 419.99	123
170 - 179.99	51	420 - 429.99	126
180 - 189.99	54	430 - 439.99	129
190 - 199.99	57	440 - 449.99	132
200 - 209.99	60	450 - 459.99	135
210 - 219.99	63	460 - 469.99	138
220 - 229.99	66	470 - 479.99	141
230 - 239.99	69	480 - 489.99	144
240 - 249.99	72	490 - 499.99	147
250 - 259.99	75	500 - 509.99	150
260 - 269.99	78		

For households in excess of \$509.99, use thirty percent of the net income.

AMENDATORY SECTION (Amending Order 1030, filed 6/12/75)

WAC 388-54-505 NONASSISTANCE HOUSEHOLD—VERIFICATION OF ELIGIBILITY. (1)

On an initial certification, gross income from all sources and mandatory deductions from income shall be verified by third person or documentary confirmation of the facts stated by the applicant. Income excluded per WAC 388-54-480 shall be verified only when there is reason to question the information given.

(2) If the application for recertification of continuing eligibility is consistent with eligibility and consistent with the previous application, verification of income is not required unless the source of income has changed or the amount of income reported has changed by more than \$25.

(3) Other eligibility factors shall be verified when the statements of the household in the application are unclear, incomplete, or inconsistent in any manner that would require an ordinarily prudent worker to question any factor affecting eligibility or basis of coupon issuance. Such questionable factors must be verified through the point where a firm determination can be made that the applicant is or is not eligible at some level of issuance.

(4) When a household reports an income so low as to put it at a zero purchase level, factors affecting eligibility and basis of issuance shall be verified through the point where a firm determination can be made that the

household is or is not eligible. ((At least one collateral contact is mandatory.))

(5) Preliminary certification for 30 days without verification of eligibility factors may be made if it appears that the household will be eligible for participation. Necessary verification and adjustment in the household's basis of issuance shall be made before the second month's issuance of coupons is given.

(6) When a household contains a student tax dependent, the food stamp eligibility of the taxpayer household must be verified. (See WAC 388-54-442.)

(a) Student tax dependency status shall be verified when questionable.

(b) If the tax dependent or the taxpayer fails to respond to a verification request, eligibility cannot be determined and he shall not be considered as a member of the household in which he resides.

AMENDATORY SECTION (Amending Order 1030, filed 6/12/75)

WAC 388-54-540 BASIS OF COUPON ISSUANCE. (1) The department shall assign each eligible household a purchase requirement and total coupon allotment according to the following table. These purchase requirements are effective ((July)) January 1, ((1977)) 1978.

MONTHLY COUPON ALLOTMENT BY HOUSEHOLD SIZE
Number of Persons

Monthly Net Income	Monthly purchase requirement							
	1	2	3	4	5	6	7	8
\$52	((\$94) <u>\$96</u>)	\$134 <u>\$138</u>	\$170 <u>\$174</u>	\$202 <u>\$206</u>	\$242 <u>\$242</u>	\$268 <u>\$268</u>	\$306 <u>\$274</u>	<u>\$314</u>
\$ 0-19.99	0	0	0	0	0	0	0	0
20-29.99	1	1	0	0	0	0	0	0
30-39.99	4	4	4	4	5	5	5	5
40-49.99	6	7	7	7	8	8	8	8
50-59.99	8	10	10	10	11	11	12	12
60-69.99	10	12	13	13	14	14	15	16
70-79.99	12	15	16	16	17	17	18	19
80-89.99	14	18	19	19	20	21	21	22
90-99.99	16	21	21	22	23	24	25	26
100-109.99	18	23	24	25	26	27	28	29
110-119.99	21	26	27	28	29	31	32	33
120-129.99	24	29	30	31	33	34	35	36
130-139.99	27	32	33	34	36	37	38	39
140-149.99	30	35	36	37	39	40	41	42
150-169.99	33	38	40	41	42	43	44	45
170-189.99	39	44	46	47	48	49	50	51
190-209.99	40	50	52	53	54	55	56	57
210-229.99	42	56	58	59	60	61	62	63
230-249.99	42	62	64	65	66	67	68	69
250-269.99	42	68	70	71	72	73	74	75
270-289.99		74	76	77	78	79	80	81
290-309.99		((74))	82	83	84	85	86	87
310-329.99		76 ((74))	88	89	90	91	92	93
330-359.99		76	94	95	96	97	98	99
360-389.99		76	103	104	105	106	107	108
390-419.99			112	113	114	115	116	117
420-449.99			((116))	122	123	124	125	126
450-479.99			120	131	132	133	134	135
480-509.99			120	140	141	142	143	144
510-539.99				((146))	150	151	152	153
540-569.99				149 ((146))	159	160	161	162
570-599.99				150	168	169	170	171
600-629.99				150 ((174))	178	179	180	
				177				

	1	2	3	4	5	6	7	8
\$52	((\$94) <u>\$96</u>)	\$134 <u>\$138</u>	\$170 <u>\$174</u>	\$202 <u>\$206</u>	\$242 <u>\$242</u>	\$268 <u>\$268</u>	\$306 <u>\$274</u>	<u>\$314</u>
Monthly Net Income	Monthly purchase requirement							
630-659.99					((174))	187	188	189
660-689.99					178 ((174))	196	197	198
690-719.99					178	205	206	207
720-749.99						((210))	215	216
750-779.99						214 ((210))	224	225
780-809.99						216 ((210))	((232))	234
810-839.99						216	233 ((232))	243
840-869.99						216	238 ((232))	252
870-899.99							238 ((232))	261
900-((1049.00))							238 ((266))	
929.99							270	
930-959.99							274	
960-989.99							274	
990-1,019.99							274	
1,020-1,049.99							274	

(2) The following formula shall be used for the issuance of coupons to households of more than eight persons.

(a) For each person in excess of eight, \$((38.00))40.00 shall be added to the monthly coupon allotment for an eight-person household.

(b) The purchase requirement for an eight-person household shall be used for households with incomes of ((899.99)) \$929.99 or less per month.

(c) For households with monthly incomes of \$((900))930 or more - for each thirty dollars of monthly income (or portion thereof) over \$((899.99))929.99 nine dollars shall be added to the monthly purchase requirement for an eight-person household with income of \$((899.99))929.99.

(d) The maximum monthly purchase requirement for households of more than eight persons shall be determined by adding \$((34))36 for each person over eight to the maximum purchase requirement for an eight-person household.

(3) The department shall offer an eligible household a monthly or semimonthly issuance, whichever is best geared to the frequency of its receipt of income.

WSR 78-04-022
EMERGENCY RULES
DEPARTMENT OF LABOR AND INDUSTRIES
(Order 78-5—Filed Mar. 13, 1978)

I, John C. Hewitt, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington the annexed rules relating to the amending of chapter 296-62 WAC to include a section on occupational exposure to Benzene.

I, John C. Hewitt, 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 OSHA has promulgated the rule regarding occupational exposure to Benzene and the State must be at least as effective as OSHA regarding each place of employment where benzene is produced, reacted, packaged, repackaged, stored, transported, handled, or used. Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 49.17.040 and 49.17.240 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 March 13, 1978.

By John C. Hewitt
Director

NEW SECTION

WAC 296-62-07335 BENZENE. (1) Scope and Application.

(a) This section applies to each place of employment where benzene is produced, reacted, released, packaged, repackaged, stored, transported, handled, or used.

(b) This section does not apply to:

(i) The storage, transportation, distribution, dispensing, sale or use as fuel of gasoline motor fuels or other fuels

(ii) The storage, transportation, distribution or sale of benzene in intact containers sealed in such a manner as to contain benzene vapors or liquid, except for the requirements of subsection (11)(b), (c), (d) and (e), and subsection (10) of this section.

(2) Definitions Applicable to This Section:

(a) "Action level" - an airborne concentration of benzene of 0.5 ppm, averaged over an 8-hour work day.

(b) "Authorized person" - any person required by his duties to enter a regulated area and authorized to do so by his employer, by this section or by the Washington Industrial Safety and Health Act of 1973. Authorized person includes a representative of employees who is designated to observe monitoring and measuring procedures under subsection (13) of this section.

(c) "Benzene" - (C_6H_6) CAS Registry No. 000071432), means solid, liquefied or gaseous benzene. It includes mixtures of liquids containing benzene and the vapors released by these liquids.

(d) "Bulk terminal" - a facility which is used for the storage and distribution of gasoline, motor fuels or other fuels and which receives its petroleum products by pipeline, barge or marine tanker.

(e) "Director" - The Director of Labor and Industries, or his authorized representative.

(f) "Emergency" - any occurrence such as, but not limited to, equipment failure, rupture of containers, or

failure of control equipment which may, or does, result in a massive release of benzene.

(3) Permissible Exposure Limits. (a) Inhalation. (i) Time-weighted average limit (TWA). The employer shall assure that no employee is exposed to an airborne concentration of benzene in excess of 1 part benzene per million parts of air (1 ppm), as an 8-hour time-weighted average.

(ii) Ceiling limit. The employer shall assure that no employee is exposed to an airborne concentration of benzene in excess of 5 ppm as averaged over any 15 minute period.

(b) Dermal and eye exposure limit. The employer shall assure that no employee is exposed to eye contact with liquid benzene, or to skin contact with liquid benzene, unless the employer can establish that the skin contact is an isolated instance.

(4) Regulated areas. (a) The employer shall establish within each place of employment, regulated areas where benzene concentrations are in excess of the permissible airborne exposure limit.

(b) The employer shall limit access to regulated areas to authorized persons.

(c) Notification of regulated areas. Within 30 days following the establishment of a regulated area, the employer shall report the following information to the Director:

(i) The address of each establishment which has one or more regulated areas;

(ii) The locations, within the establishment, of each regulated area;

(iii) A brief description of each process or operation which results in employee exposure to benzene in regulated areas; and

(iv) The number of employees engaged in each process or operation within each regulated area which results in exposure to benzene, and an estimate of the frequency and degree of exposure within each regulated area.

(5) Exposure Monitoring and Measurement. (a) General. (i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to benzene over an eight hour period.

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

(b) Initial Monitoring. (i) Each employer who has a place of employment where benzene is produced, reacted, released, packaged, repackaged, stored, transported, handled or used, shall monitor each of these workplaces and work operations to accurately determine the airborne concentrations of benzene to which employees may be exposed.

(ii) The initial monitoring required under subsection (5) (b) (i) of this section shall be conducted and the results obtained within 30 days of the effective date of this section. Where the employer has monitored after January 4, 1977, and the monitoring satisfies the accuracy requirements of subsection (5) (f) of the section, the employer may rely on such earlier monitoring to satisfy the requirements of subsection (5) (b) (i) of this section,

unless there has been a production, process, personnel or control change which may have resulted in new or additional exposures to benzene or the employer has any other reason to suspect a change which may have resulted in new or additional exposures to benzene, and provided that the employer maintains a record of the monitoring in accordance with subsection (12) (a) and notifies each employee in accordance with subsection (5) (e).

(c) Frequency. (i) Measurements below the action level. If the measurements conducted under subsection (5) (b) (i) of this section reveal employee exposure to be below the action level, the measurements need not be repeated, except as otherwise provided in subsection (5) (d) of this section.

(ii) Measurements above the action level. If the measurements reveal employee exposure to be in excess of the action level, but below the permissible exposure limit, the employer shall repeat the monitoring at least quarterly. The employer shall continue these quarterly measurements until at least two consecutive measurements, taken at least seven days apart, are below the action level, and thereafter the employer may discontinue monitoring, except as provided in subsection (5) (e) of this section.

(iii) Measurements above the permissible exposure limit. If the measurements reveal employee exposure to be in excess of the permissible exposure limits, the employer shall repeat the measurements at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven days apart, are below the permissible exposure limits, and thereafter the employer shall monitor at least quarterly.

(d) Additional monitoring. Whenever there has been a production, process, personnel or control change which may result in new or additional exposure to benzene or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to benzene, such as spills, leaks, ruptures, or breakdowns, the employer shall repeat the monitoring which is required by subsection (5) (b) (i) of this section.

(e) Employee notification. (i) Within 5 working days after the receipt of measurement results, the employer shall notify each employee in writing of the exposure measurements which represent that employee's exposure.

(ii) Where the results indicate that the employee's exposure exceeds the permissible exposure limits, the notification shall also include the corrective action being taken or to be taken by the employer to reduce exposure to or below the permissible exposure limit.

(f) Accuracy of measurement. The employer shall use a method of measurement which has an accuracy, to a confidence level of 95 percent, of not less than plus or minus 25 percent for concentrations of benzene greater than or equal to 1 ppm.

(6) Methods of Compliance. (a) Priority of compliance methods. The employer shall institute engineering and work practice controls to reduce and maintain employee exposures to benzene at or below the permissible exposure limits, except to the extent that the employer establishes that these controls are not feasible. Where

feasible engineering and work practice controls are not sufficient to reduce employee exposures to or below the permissible exposure limits, the employer shall nonetheless use them to reduce exposures to the lowest level achievable by these controls, and shall supplement them by the use of respiratory protection.

(b) Compliance program. (i) The employer shall establish and implement a written program to reduce exposures to or below the permissible exposure limits solely by means of engineering and work practice controls required by subsection (6) (a) of this section.

(ii) The written program shall include a schedule for development and implementation of the engineering and work practice controls. These plans shall be revised and updated at least every six months to reflect the current status of the programs.

(iii) Written plans for these compliance programs shall be submitted, upon request, to the Director, and shall be available at the worksite for examination and copying by the Director, and the employees or their authorized representatives.

(iv) The employer shall institute and maintain at least the controls described in his most recent written compliance program.

(7) Respiratory Protection. (a) General. Where respiratory protection is required under this section, the employer shall select, provide and assure the use of respirators. Respirators shall be used in the following circumstances:

(i) During the time period necessary to install or implement feasible engineering 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 limits; or

(iv) In emergencies.

(b) Respirator selection. (i) Where respiratory protection is required under this section, the employer shall select and provide at no cost to the employee, the appropriate respirator from Table I and shall assure that the employee uses the respirator provided.

(ii) The employer shall select respirators from among those approved by the National Institute for Occupational Safety and Health, and according to WAC 296-24-081.

(c) Respirator program. The employer shall institute a respiratory protection program in accordance with WAC 296-24-081.

(d) Respirator use. (i) Where air-purifying respirators (cartridge, canister, or gas mask) are used, the employer shall, except as provided in subsection (7) (d)ii) of this section, replace the air-purifying canisters or cartridges prior to the expiration of their service life or the end of shift in which they are first used, whichever occurs first.

(ii) Where a cartridge or canister of an air-purifying respirator has an end of service life indicator certified by NIOSH for benzene, the employer may permit its use until such time as the indicator shows the end of service life.

(iii) The employer shall assure that the respirator issued to the employee exhibits minimum facepiece leakage and that the respirator is properly fitted.

(iv) The employer shall allow each employee who wears a respirator to wash his or her face and respirator facepiece to prevent skin irritation associated with respirator use.

TABLE I

RESPIRATORY PROTECTION FOR BENZENE

Airborne Concentration of Benzene or Condition of Use	Respirator Type
(a) Less than or equal to 10 p/m	(1) Any chemical cartridge respirator with organic vapor cartridge; or (2) Any supplied air respirator.
(b) Less than or equal to 50 p/m	(1) Any chemical cartridge respirator with organic vapor cartridge and full facepiece; (2) Any supplied air respirator with full facepiece; (3) Any organic vapor gas mask; or (4) Any self-contained breathing apparatus with full facepiece.
(c) Less than or equal to 1,000 p/m	(1) Supplied air respirator with half mask in positive pressure mode.
(d) Less than or equal to 2,000 p/m	(1) Supplied air respirator with full facepiece, helmet or hood, in positive pressure mode.
(e) Less than or equal to 10,000 p/m	(1) Supplied air respirator and auxiliary self-contained facepiece in positive pressure mode; or (2) Open circuit self-contained breathing apparatus with full facepiece in positive pressure mode.
(f) Escape	(1) Any organic vapor gas mask; or (2) Any self-contained breathing apparatus with full facepiece.

(8) **Protective Clothing and Equipment.** Where eye or dermal exposure may occur, the employer shall provide, at no cost to the employee, and assure that the employee wears impermeable protective clothing and equipment to protect the area of the body which may come in contact with liquid benzene. Eye and face protection shall meet the requirements of WAC 296-24-07801.

(9) **Medical Surveillance.** (a) **General.** (i) The employer shall make available a medical surveillance program for employees who are or may be exposed to benzene at or above the action level and employees who are subjected to an emergency.

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

(b) **Initial examinations.** (i) Within thirty days of the effective date of this section, or before the time of initial

assignment, the employer shall provide each employee who is or may be exposed to benzene at or above the action level with a medical examination, including at least the following elements:

(A) A history which includes past work exposure to benzene or any other hematologic toxins, a family history of blood dyscrasias including hematological neoplasms, a history of blood dyscrasias including genetically related hemoglobin alterations, bleeding abnormalities, abnormal function of formed blood elements, a history of renal or liver dysfunction, a history of drugs routinely taken, alcoholic intake and systemic infections, a history of exposure to marrow toxins outside of the current work situation, including volatile cleaning agents and insecticides;

(B) Laboratory tests, including a complete blood count with red cell count, white cell count with differential, platelet count, hematocrit, hemoglobin and red cell indices (MCV, MCH, MCHC), serum bilirubin and reticulocyte count; and

(C) Additional tests where, in the opinion of the examining physician, alterations in the components of the blood are related to benzene exposure.

(ii) No medical examination is required to satisfy the requirements of subsection (9) (b) (i) of this section if adequate records show that the employee has been examined in accordance with the procedures of subsection (9) (b) (i) of this section within the previous six months.

(c) Information provided to the physician. The employer shall provide the following information to the examining physician for each examination under this section:

(i) A copy of this regulation;

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

(iii) The employee's representative 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.

(d) **Physician's written opinions.** (i) For each examination under this section, the employer shall obtain and provide the employee with a copy of the examining physician's written opinion containing the following:

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

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

(C) The physician's recommended limitations upon the employee's exposure to benzene or upon the employee's use of protective clothing or equipment and respirators.

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

(e) **Periodic examinations.** (i) The employer shall provide each employee covered under subsection (9) (a) (i) of this section with a medical examination at least semi-

annually following the initial examination. These periodic examinations shall include at least the following elements:

(A) A brief history regarding any new exposure to potential marrow toxins, changes in drug and alcohol intake and the appearance of physical symptoms relating to blood disorders;

(B) A complete blood count with red cell count, white cell count with differential, platelet count, hemoglobin, hematocrit and red cell indices (MCV, MCH, MCHC); and

(C) Additional tests where in the opinion of the examining physician, alterations in the components of the blood are related to benzene exposure.

(ii) Where the employee develops signs and symptoms commonly associated with toxic exposure to benzene, the employer shall provide the employee with a medical examination which shall include those elements considered appropriate by the examining physician.

(f) Emergency situations. If the employee is exposed to benzene in an emergency situation, the employer shall provide the employee with a urinary phenol test at the end of the employee's shift. The urine specific gravity shall be corrected to 1.024. If the result of the urinary phenol test is below 75 mg/ml, no further testing is required. If the result of the urinary phenol test is equal to or greater than 75 mg/ml, the employer shall provide the employee with a complete blood count including a red cell count, white cell count with differential, and platelet count as soon as practicable, and shall provide these same counts one month later.

(g) Special examinations. (i) Where the results of any tests required by this section reveal that any of the following conditions exist, the employer shall have the test results of the employee evaluated by a hematologist:

(A) The red cell count, hemoglobin or platelet count varies more than 15 percent above or below the employee's most recent values;

(B) The red cell count is below 4.4 million or above 6.3 million per mm^3 , (for males), or below 4.2 million or above 5.5 million per mm^3 (for females);

(C) The hemoglobin is below 14 grams percent or above 18 grams percent (for males) or below 12 grams percent or above 16 grams percent (for females);

(D) The white cell count is below 4,200 or above 10,000;

(E) The thrombocyte count is below 140×10^9 cells per mm^3 or above 440×10^9 cells per mm^3 .

(ii) In addition to the information required to be provided to the physician under subsection (9) (c) of this section, the employer shall provide the hematologist with the medical record required to be maintained by subsection (12) (b) of this section.

(iii) The hematologist's evaluation shall include a determination as to the need for additional tests, and the employer shall assure that these tests are provided.

(10) Employee Information and Training. (a) Training program. (i) The employer shall institute a training program for all employees assigned to workplaces where benzene is produced, reacted, released, packaged, repackaged, stored, transported, handled or used and shall

assure that each employee assigned to these workplaces is informed of the following:

(A) The information contained in Appendix A and B* (1) ;

(B) The quantity, location, manner of use, release, or storage of benzene and the specific nature of operations which could result in exposure above the permissible exposure limits as well as necessary protective steps;

(C) The purpose, proper use, and limitations of personal protective equipment and clothing required by subsection (8) of this section and of respiratory devices required by subsection (7) of this section and WAC 296-24-081;

(D) The purpose and a description of the medical surveillance program required by subsection (9) of this section and the information contained in Appendix C* (1) ; and

(E) The contents of this standard.

(ii) The training program required under subsection (10) (a) (i) of this section shall be provided within 90 days of the effective date of this section or at the time of initial assignment to workplaces where benzene is produced, reacted, released, packaged, repackaged, stored, transported, handled or used, and at least annually thereafter.

(b) Access to training materials. (i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

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

(11) Signs and Labels. (a) The employer shall post signs in regulated areas bearing the following legend:

**DANGER
BENZENE
CANCER HAZARD
FLAMMABLE-NO SMOKING
AUTHORIZED PERSONNEL ONLY
RESPIRATOR REQUIRED**

(b) The employer shall assure that caution labels are affixed to all containers of benzene and of products containing any amount of benzene, except:

(i) Pipelines, and

(ii) Transport vessels or vehicles carrying benzene or benzene products in sealed intact containers.

(c) The employer shall assure that the caution labels remain affixed when the benzene or products containing benzene are sold, distributed or otherwise leave the employer's workplace.

(d) The caution labels required by subsection (11) (b) of this section shall be readily visible and legible. The labels shall bear the following legend:

**CAUTION
CONTAINS BENZENE
CANCER HAZARD**

(e) The employer shall assure that no statement which contradicts or detracts from the information required by subsections (11) (a) and (d) of this section appears on or near any required sign or label.

(12) **Recordkeeping.** (a) **Exposure measurements.** (i) The employer shall establish and maintain an accurate record of all measurements required by subsection (5) of this section.

(ii) This record shall include:

(A) 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) A description of the sampling and analytical methods used;

(C) Type of respiratory protective devices worn, if any, and

(D) Name, social security number, and job classification of the employee monitored and all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least 40 years or the duration of employment plus 20 years, whichever is longer.

(b) **Medical surveillance.** (i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance required by subsection (9) of this section.

(ii) This record shall include:

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

(B) A copy of the physicians' written opinions, including results of medical examinations and all tests, opinions and recommendations;

(C) The peripheral blood smear slides of the initial test, the most recent test, and any test demonstrating hematological abnormalities related to benzene exposure;

(D) Any employee medical complaints related to exposure to benzene;

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

(F) A copy of the information provided to the physician as required by subsections (9) (c) (ii) through (9) (c) (v) of this section; and

(G) A copy of the employee's medical and work history related to exposure to benzene or any other hematologic toxins.

(iii) The employer shall maintain this record for at least 40 years or for the duration of employment plus 20 years, whichever is longer.

(c) **Availability.** (i) The employer shall assure that all records required to be maintained by this section shall be made available upon request to the Director for examination and copying.

(ii) The employer shall assure that employee exposure measurement records as required by this section be made available for examination and copying to affected employees or their designated representatives.

(iii) The employer shall assure that former employees and the former employees' designated representatives have access to such records as will indicate the former employee's own exposure to benzene.

(iv) The employer shall assure that employee medical records required to be maintained by this section be made available upon request for examination and copying to a physician or other individual designated by the affected employee or former employee.

(d) **Transfer of records.** (i) When the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by subsection (12) of this section for the prescribed period.

(ii) When the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall transmit these records by mail to the Director.

(iii) At the expiration of the retention period for the records required to be maintained under subsection (12) of this section, the employer shall transmit these records by mail to the Director.

(13) **Observation of Monitoring.** (a) **Employee observation.** The employer shall provide affected employees, or their designated representatives, an opportunity to observe any measuring or monitoring of employee exposure to benzene conducted pursuant to subsection (5) of this section.

(b) **Observation procedures.** (i) When observation of the measuring or monitoring of employee exposure to benzene requires entry into areas where the use of protective clothing and equipment or respirators is required, the employer shall provide the observer with personal protective clothing and equipment or respirators required to be worn by employees working in the area, assure the use of such clothing and equipment or respirators, and require the observer to comply with all other applicable safety and health procedures.

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

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the measurement of airborne concentrations of benzene performed at the place of exposure; and

(C) Record the results obtained.

*⁽¹⁾ Appendices printed in addition to this Section and information contained therein is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligations.

WSR 78-04-023
RULES OF COURT
STATE SUPREME COURT
[Order 25700-A-251]

IN THE MATTER OF THE ADOPTION
OF AMENDMENTS TO ADMISSION TO NO. 25700-A-251
PRACTICE RULE 2C (APR 2C) ORDER

The Court having considered proposed amendments to Admission to Practice Rule 2C as proposed by the Board of Governors of the Washington State Bar Association and having concluded that the proposed amendments

will aid in the performance of the orderly administration of justice; Now, therefore, it is hereby

ORDERED:

(a) That Admission to Practice Rule 2C (APR 2C) is amended as attached hereto.

(b) That Admission to Practice Rule 2C (APR 2C) will be published expeditiously in the Washington Reports and will become effective May 1, 1978.

DATED at Olympia, Washington, this 7th day of March, 1978.

	Charles T. Wright
Hugh J. Rosellini	Robert F. Brachtenback
Orris L. Hamilton	Charles Horowitz
Charles F. Stafford	James M. Dolliver
Robert F. Utter	Floyd V. Hicks

RULE 2

GENERAL APPLICANTS

C. Time for Filing Applications and Fees Payable.

(1) A general applicant shall pay an examination and admission fee of one hundred dollars (\$100).

(2) A general applicant who has not been admitted to the bar anywhere in the world prior to the filing of his application, must file his application to take each bar examination not less than 30 days prior to the examination date, and pay an investigation fee of one hundred dollars (\$100). In the case of late filing the Board of Governors may, for good cause, reduce the time requirement for filing the application to take the bar examination.

(3) A general applicant who has been admitted to the bar anywhere in the world prior to the filing of his application, must file his application to take each bar examination:

(a) Ninety days prior to the examination date if he is applying to take the Washington state bar examination for the first time, or

(b) Thirty days in advance of the examination date in the case of a repeater. In the case of late filing the Board of Governors may, for good cause, reduce the time requirement for filing the application to take the bar examination. Said general applicant shall pay at the time of filing his application an investigation fee of two hundred twenty-five dollars (\$225).

WSR 78-04-024
RULES OF COURT
STATE SUPREME COURT
[Order 25700-A-252]

IN THE MATTER OF THE ADOPTION
OF AMENDMENTS TO RULE OF
APPELLATE PROCEDURE 10.4(b)
(RAP 10.4(b))

NO. 25700-A-252
ORDER

The Court having determined that the filing of briefs of greater length than that allowed by Rule of Appellate Procedure 10.4(b) (RAP 10.4(b)) is not as a general rule an aid to the Court in reaching a determination on the merits of a cause, and having determined that the guidelines previously adopted by the Chief Justice on October 25, 1977, will aid in the prompt and orderly administration of justice; Now, therefore, it is hereby

ORDERED:

(1) That the amendments to Rule of Appellate Procedure 10.4(b) (RAP 10.4(b)) as attached herewith are adopted.

(2) That the amendments to Rule of Appellate Procedure 10.4(b) (RAP 10.4(b)) be published expeditiously in the Washington Reports and shall become effective on date of publication.

DATED at Olympia, Washington, this 7th day of March, 1978.

	Charles T. Wright
Hugh J. Rosellini	Robert F. Brachtenback
Orris L. Hamilton	Charles Horowitz
Charles F. Stafford	James M. Dolliver
Robert F. Utter	Floyd V. Hicks

RULE 10.4

PREPARATION AND FILING OF BRIEF
BY PARTY

(b)

(1) Waiver of Page Limitations. Waiver of page limitations will be granted only upon a motion made at least 14 days before the brief is due. Such motion must set forth the extraordinary reasons why compliance with the usual provisions of Rule 10.4(b) cannot be met. The motion may be heard ex parte.

WSR 78-04-025
EMERGENCY RULES
DEPARTMENT OF
NATURAL RESOURCES
[Order 290—Filed Mar. 14, 1978]

I, Bert L. Cole, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington the annexed rules relating to the adoption of an emergency rule extending the winter burning rules on outdoor burning (October 16 through March 14) through April 14 for Western Washington.

I, Bert L. Cole, 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 extension of the winter burning rules for outdoor burning (October 16 through March

14) for Western Washington is extended through April 14 due to adequate amounts of rainfall and the reduction of risk to life and property from burning.

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

This rule is promulgated pursuant to RCW 76.04.150 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 March 14, 1978.

By Bert L. Cole
Commissioner of Public Lands

area office of the State of Washington, Department of Natural Resources.

A bucket may be substituted for the water requirement, if the burning is adjacent to an accessible body of water. A charged garden hose line or other adequate water supply capable of extinguishment of the fire may be substituted for the five gallon water requirement.

Failure to comply with these rules voids permission to burn and the person burning is in violation of RCW 76.04.150 and subject to the penalties therein.

WSR 78-04-026

ADOPTED RULES

BELLEVUE COMMUNITY COLLEGE

[Order 56, (Resolution 108)—Filed Mar. 14, 1978]

Be it resolved by the board of Trustees of the Bellevue Community College - Community College District VIII, acting at 3000 Landerholm Circle S.E., Bellevue, WA, that it does promulgate and adopt the annexed rules relating to admissions, residency classification, registration regulations - schedule of fees and financial aid for Community College District VIII - WAC 132H-160-180 Refund Policy.

This action is taken pursuant to Notice No. WSR 78-02-021 filed with the code reviser on 1/12/78. Such rules shall take effect pursuant to RCW 28B.19.050(2).

This rule is promulgated under the general rule-making authority of the Bellevue Community College - Community College District VIII as authorized in RCW 28B.50.140.

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 March 7, 1978.

By Thomas E. O'Connell
Secretary, Board of Trustees

AMENDATORY SECTION (Amending Order 49, filed 4/8/77)

WAC 132H-160-180 REFUND POLICY. Community College District VIII Board of Trustees has authorized the Registrar to refund fees when a student withdraws from college or a course(s). A student who is requested to withdraw for disciplinary reasons will not be eligible for a refund. (1) Tuition fees are refunded upon withdrawal from college or a course(s) as follows:

- (a) Prior to the first day of the quarter:
 - (i) Complete withdrawal from college - 80% Refunded
 - (ii) Withdrawal from a course(s) (reduction of class load below 10 credits) - 80% Refunded
- (b) Through first week of the quarter:
 - (i) Complete withdrawal from college - 50% Refunded

AMENDATORY SECTION (Amending Order 169, filed 8/7/73)

WAC 332-24-090 SMALL OUTDOOR FIRES FOR RECREATION AND YARD DEBRIS DISPOSAL—REQUIREMENTS—FAILURE TO COMPLY. (1) The fire must not include rubber products, plastics, asphalt, garbage, dead animals, petroleum products, paints or any similar materials that emit dense smoke or create offensive odors when burned.

(2) A person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before leaving it.

(3) A serviceable shovel and, at least, five gallons of water must be within the immediate vicinity of the fire during the period March 15 through October 15 in Western Washington and April 15 through June 30 in Eastern Washington.

(4) No fires are to be within fifty (50) feet of structures.

(5) For the period ~~March 15~~ April 15 through October 15 in Western Washington and April 15 through June 30 in Eastern Washington, the material to be burned shall be in hand built piles no more than four (4) feet in diameter and three (3) feet in height.

(6) For the period October 16 through ~~March 14~~ April 14 in Western Washington and October 16 through April 14 in Eastern Washington, the material to be burned shall be in piles no more than ten (10) feet in diameter.

(7) Only one pile at a time may be burned and each pile must be extinguished before lighting another.

(8) The material to be burned must be placed on bare soil, gravel, bars, beaches, green fields, or other similar areas free of flammable material for a sufficient distance adequate to prevent the escape of the fire.

(9) Burning must be done during periods of calm to very light winds. Burning when the wind will scatter loose flammable materials, such as dry leaves and clippings, is prohibited.

(10) If the fire creates a nuisance from smoke or fly ash, it must be extinguished.

(11) Persons not able to meet the requirements (1-10) must apply for a written burning permit through the

See previous notes

WSR 78-04-028

ADOPTED RULES

DEPARTMENT OF LICENSING

(Board of Medical Examiners)

[Order PL 284, (Resolution 78-139)—Filed Mar. 14, 1978]

(ii) Withdrawal from a course(s) (reduction of class load below 10 credits) – 50% Refunded

(c) After first week of quarter:

(i) Complete withdrawal from college – No refund

(ii) Withdrawal from a course(s) (reduction of class load below 10 credits) – No Refund

(iii) Cancellation of a course – Permission to transfer to another course or full refund upon request

(d) Deferred Payment Deposit (The deferred payment is a \$20 tuition deposit paid at the time of registration by students who choose to postpone payment in full until the required due date. See quarterly class schedule)

(i) 100% refundable prior to the opening day of the quarter, less \$10 service charge. *← did not apply*

(e) Lab fees

(i) Prior to first week of quarter – 100% Refund

(ii) Through first week of the quarter – 80% Refund

(iii) After the first week of the quarter – No Refund

(f) Parking Fees

(i) Prior to first week – 100% Refund

(ii) Through first week of the quarter – 80% Refund

(iii) After the first week of the quarter – No Refund

(g) Insurance Fees

(i) Through first week of the quarter only – 100% Refund

(ii) After first week of the quarter – No Refund

(iii) If insurance claim has been filed – No Refund

(h) Community Service/Continuing Education tuition and fees:

(i) Through the first week of the quarter – 80% Refund

(ii) Through the second week of the quarter – 50% Refund

(iii) After the second week of the quarter – No Refund

(i) Non-resident tuition differential: (that portion of tuition which non-residents pay in addition to resident tuition)

(i) Through the first week of the quarter – 100% Refund

(ii) After the first week of the quarter – No Refund

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 78-04-027

NOTICE OF PUBLIC MEETINGS

OFFICE OF COMMUNITY DEVELOPMENT

[Memorandum of Deputy Director—Mar. 13, 1978]

This is to notify you that it has become necessary to re-schedule the Juvenile Justice Advisory Committee meeting from April 6, 1978, the date previously provided for the State Register publication.

The Juvenile Justice Advisory Committee meeting will be held on Wednesday, April 5, 1978, from 9:30 a.m. to 4:00 p.m. at the SeaTac Holiday Inn, Room 727. For further information contact Carol Noel, Law and Justice Planning Division, Office of Community Development, Olympia, WA 98504, (206) 753-2235.

Be it resolved by the Washington State Board of Medical Examiners acting at Olympia Room, Vance Airport Inn, 18220 Pacific Highway South, Seattle, WA, that it does promulgate and adopt the annexed rules relating to medical examination scores; medical examinations accepted for reciprocity or waiver; failure in more than one medical examination subject; amending WAC 308-52-260, 308-52-270; and repealing WAC 308-52-050.

This action is taken pursuant to Notice No. WSR 78-02-115 filed with the code reviser on 2/1/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.71.017 which directs that the Washington State Board of Medical Examiners has the authority to implement the provisions of chapter 18.71 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 March 10, 1978

By Eric R. Paulsen, MD.
Chairman

AMENDATORY SECTION (Order PL 240, filed 2/19/76)

WAC 308-52-260 EXAMINATION SCORES.

(1) Examinations given by the Washington state board of medical examiners.

~~((a) Passing score for individual subjects. The minimal passing score for each subject included in the examination shall be seventy percent.~~

~~(b) Aggregate score. The average of all scores attained in the subjects included in each part (or day) of the examination shall be at least seventy-five percent.))~~

(a) The board adopts the examination of the federation of state licensing boards as the examination given by the board.

(b) The minimal passing scores for the FLEX examination shall be a FLEX weighted average of seventy-five percent.

(2) Credit for years of active practice. The board may allow five points credit for each subject included in the examination if the applicant can demonstrate that he has been engaged in the active practice of medicine for ten or more years immediately preceding his examination. Periods of time spent in the first year of residency training or administrative positions shall not be included in computing such years of practice. Such credit shall be applied only to individual test scores and shall not be applied to the aggregate score for the various parts (days) of the examination.

AMENDATORY SECTION (Order PL 268, filed 5/6/77) 5/11/77

WAC 308-52-270 EXAMINATIONS ACCEPTED FOR RECIPROCITY OR WAIVER. (1) The board of medical examiners may accept certain examinations as a basis for reciprocity or waiver of examination. These include the examinations given by the federation of state licensing boards (FLEX), and those given by other states. In addition, the board may accept the examinations given by the medical council of Canada (LMCC) as a basis for reciprocity for days II and III of the Washington examination. ~~((The rules established for passing scores for the examinations given by the Washington state board of medical examiners shall be applied to the scores attained on all examinations so accepted.))~~ The minimum passing score will depend upon the quality of the examination using the FLEX examination as a guide.

(2) An applicant who has satisfactorily passed examinations given by the national board of medical examiners may be granted a license without examination: PROVIDED, That the applicant has not previously failed to pass an examination held in this state.

REPEALER

The following section of the Washington Administrative Code are repealed:

(1) WAC 308-52-050 FAILURE IN MORE THAN ONE SUBJECT.

WSR 78-04-029

ADOPTED RULES
DEPARTMENT OF LICENSING
(Board of Medical Examiners)

[Order PL 285, (Resolution 78-140)—Filed Mar. 14, 1978]

Be it resolved by the Washington State Board of Medical Examiners, acting at Olympia Room, Vance Airport Inn, 18220 Pacific Highway South, Seattle, WA, that it does promulgate and adopt the annexed rules relating to physicians' assistants—scope of jurisdiction, classification, program approval, registration, utilization, responsibility of supervising physician, registration fee, reregistration fee, simultaneous registration; adopting as new sections WAC 308-52-136, 308-52-137, 308-52-138, 308-52-139, 308-52-140, 308-52-141, 308-52-142, 308-52-143, 308-52-144.

This action is taken pursuant to Notice No. WSR-78-02-115 filed with the code reviser on 2/1/78. 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 March 10, 1978
By Eric R. Paulsen, MD.
Chairman

NEW SECTION

WAC 308-52-136 PHYSICIANS' ASSISTANTS—SCOPE OF JURISDICTION. Chapter 18.71A defines a physician's assistant as ". . . a person who is enrolled in, or has satisfactorily completed, a board approved program to prepare persons to practice medicine to a limited extent." The board will consider as falling within its jurisdiction all individuals who meet the above requirement, who assume responsibility for direct patient care involving patient contact and who are not registered, certified or licensed by another agency of the state.

NEW SECTION

WAC 308-52-137 PHYSICIANS' ASSISTANTS—CLASSIFICATION. Physicians' assistants will be classified as type A, B or C according to the following descriptions:

(1) Type A, Assistant to the Primary Physician. The type A assistant is capable of collecting historical and physical data, organizing the data, and presenting them in such a way that the physician can visualize the medical problem and determine appropriate diagnostic or therapeutic measures. He is also capable of assisting the physician by performing diagnostic and therapeutic procedures and coordinating the roles of other more technical assistants. While he functions under the general supervision and responsibility of the physician, he may under certain circumstances and under defined rules, perform without the immediate surveillance of the physician. He is, thus, distinguished by his ability to integrate and interpret findings on the basis of general medical knowledge to exercise a degree of independent judgment.

(2) Type B, Assistant to the Specialist. The type B assistant, while not equipped with general knowledge and skills relative to the whole range of medical care, possesses exceptional skill in one clinical specialty. He is capable of collecting and organizing data and performing appropriate diagnostic or therapeutic measures pertaining to his specialty. In his specialty he has a degree of skill beyond that normally possessed by a type A assistant. Because his knowledge and skill are limited to a particular specialty, he is qualified for independent action only within the field of that specialty.

(3) Type C, Technical Assistant. The type C assistant is capable of performing a specific function within a given field or specialty. He cannot operate over the broad range of medical care as would the type A assistant or within an entire specialty as would the type B assistant. He cannot exercise the degree of independent synthesis and judgment of which type A and B assistants are capable but may exercise a degree of independent judgment and may be capable of a degree of independent action within the limited scope of his activities.

NEW SECTION

WAC 308-52-138 PHYSICIANS' ASSISTANTS—PROGRAM APPROVAL. No physician shall be entitled to register a physician's assistant who has not successfully completed a program of training approved by the board in accordance with these rules.

(1) Standards. The board will establish standards by which programs designed to produce the various types of physicians' assistants shall be judged. If the council of medical education of the American medical association has defined "essentials" for such program, these shall be regarded as minimal criteria.

(2) Procedure.

(a) In order for a program for training physicians' assistants to be considered for approval by the board, the director of the program shall submit to the board a description of the course of training offered, including subjects taught and methods of teaching, entrance requirements, clinical experience provided, etc. The director of the program shall also advise the board concerning the medical skills which are attained in such course, and the methods by which the proficiency of the students in those skills was tested or ascertained. The board may require such additional information from program sponsors as it desires.

(b) The board will approve programs in terms of the skills attained by its graduates according to the classification system defined in WAC 308-52-137. Programs training type B and type C assistants shall be subdivided according to the specialty for which the physician's assistant is trained.

(c) Reapproval. Each approved program will be reexamined at intervals, not to exceed three years. Approval will be continued or withdrawn following each reexamination.

(d) Registry. A registry of approved programs shall be maintained by the board at the division of professional licensing in Olympia, Washington, which shall be available upon request to interested persons.

NEW SECTION

WAC 308-52-139 PHYSICIANS' ASSISTANTS—REGISTRATION. (1) Classification. Each physician's assistant will be classified as type A, B, or C, depending upon his training. Type B and type C assistants will be subdivided according to specialty or function.

(2) Registration Procedure. All applications shall be made to the board on forms supplied by the board. Applications shall be submitted thirty days prior to the meeting of the board in which consideration is desired. Applications shall be made jointly by the physician and the assistant.

(3) Registration Renewal. Each registered assistant and the registering physician shall be required to submit an application for renewal of their registration by January 1 of each year. Application for renewal shall be submitted on forms provided by the board. A current statement of utilization, skills and supervision shall be included in the application. Registration renewals will be issued as of March 1 of each year.

(4) Change of Registration. In the event that a physician's assistant who is currently registered desires to become associated with another physician, such transfer may be accomplished administratively with the approval of the chairman of the board, providing that the new physician supervisor is licensed and in good standing in the state of Washington and that evidence is submitted to document the continuing competence of the physician's assistant. This action shall be subject to approval by the board as a whole at its next regular meeting. Application for transfer of registration shall be made on forms provided by the board and may be considered at any regular meeting of the board.

(5) Utilization Plan. The application for registration of a physician's assistant must include a detailed plan describing the manner in which the physician's assistant will be utilized. The board will grant specific approval for the tasks which may be performed by the assistant based upon the curriculum of the program from which the assistant graduated as contained in the files of the board. No assistant shall be registered to perform tasks not contained in the program approval unless evidence satisfactory to the board is submitted demonstrating that he has been trained in that function and his competence has been properly and adequately tested. Request for approval of newly acquired skills may be considered at any regular meeting of the board.

NEW SECTION

WAC 308-52-140 PHYSICIANS' 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 physicians' 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.

(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 physicians' 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.

NEW SECTION

WAC 308-52-141 PHYSICIANS' ASSISTANTS—RESPONSIBILITY OF SUPERVISING PHYSICIAN. It shall be the responsibility of the supervising physician to insure that:

(1) The best interests of his patients are served by the utilization of a physician's assistant.

(2) Adequate supervision and review of the work of the physician's assistant is provided.

(a) The supervising physician shall review at least weekly all patient care provided by the physician's assistant if such care is rendered without direct consultation with the physician and shall countersign all notes made by the physician's assistant.

(b) In the temporary absence of the supervising physician, the physician's assistant may carry out those tasks for which he is registered, if the supervisory and review mechanisms noted above are provided by a delegated alternate physician supervisor.

(c) The physician's assistant may not function as such if these supervisory and review functions are impossible.

(3) The physician's assistant employed by him, at all times when meeting or treating patients, wears an identifying badge in a prominent place on his person identifying him as a physician's assistant.

(4) No physician's assistant in his employ advertises himself in any manner which would tend to mislead the public generally or the patients of the physician as to his role.

(5) The physician's assistant in his employ performs only those tasks which have been authorized by the board. If the physician's assistant is being trained to perform additional tasks beyond those authorized, such training may be carried out only under the direct, personal supervision of the supervising physician or a qualified person designated by him.

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 308-52-142 PHYSICIANS' ASSISTANTS—REGISTRATION FEE. The fee for an initial registration or transfer of registration shall be fifty dollars, to be paid by the physician.

NEW SECTION

WAC 308-52-143 PHYSICIANS' ASSISTANTS—REREGISTRATION FEE. The fee for re-registration shall be ten dollars which shall be paid by the supervising physician at the time of submission of the renewal form. Failure to reregister and pay the renewal fee shall render the registration invalid, but registration may be reinstated by payment of a penalty fee of twenty-five dollars together with all delinquent annual registration fees.

NEW SECTION

WAC 308-52-144 PHYSICIANS' ASSISTANTS—SIMULTANEOUS REGISTRATION OF TYPE C ASSISTANTS. Type C physicians' assistants, because of the nature of their services, may request approval for simultaneous registration with more than one physician. Such requests shall be submitted in the form of a letter attached to the application, but a separate utilization plan shall be submitted by each physician. A single registration fee shall cover such applications except that additional registrations requested after submission of the original applications shall require a reregistration fee (ten dollars).

WSR 78-04-030

EMERGENCY RULES

DEPARTMENT OF LICENSING

(Board of Medical Examiners)

[Order PL 286, (Resolution 78-141)—Filed Mar. 14, 1978]

Be it resolved by the Washington State Board of Medical Examiners, acting at Olympic Room, Vance Airport Inn, 18220 Pacific Highway South, Seattle, WA, that it does promulgate and adopt the annexed rules relating to medical examination scores, amending WAC 308-52-260.

We, Washington State Medical Examining 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 the citizens may be deprived of competent medical services during any delay of implementation of this rule.

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

This rule is promulgated pursuant to RCW 18.71.017 which directs that the Washington State Board of Medical Examiners has authority to implement the provisions of chapter 18.71 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 March 10, 1978.

By Eric R. Paulsen, M.D.
Chairman, Bd. of Med. Exam.

APPROVED AND ADOPTED March 15, 1978.

By James C. Frits
Deputy Director

AMENDATORY SECTION (Order PL 240, filed 2/19/76)

WAC 308-52-260 EXAMINATION SCORES.

(1) Examinations given by the Washington state board of medical examiners.

~~((a) Passing score for individual subjects. The minimal passing score for each subject included in the examination shall be seventy percent.~~

~~(b) Aggregate score. The average of all scores attained in the subjects included in each part (or day) of the examination shall be at least seventy-five percent.))~~

~~(a) The board adopts the examination of the federation of state licensing boards as the examination given by the board.~~

~~(b) The minimal passing scores for the FLEX examination shall be a FLEX weighted average of seventy-five percent.~~

(2) Credit for years of active practice. The board may allow five points credit for each subject included in the examination if the applicant can demonstrate that he has been engaged in the active practice of medicine for ten or more years immediately preceding his examination. Periods of time spent in the first year of residency training or administrative positions shall not be included in computing such years of practice. Such credit shall be applied only to individual test scores and shall not be applied to the aggregate score for the various parts (days) of the examination.

WSR 78-04-031

ADOPTED RULES

PLANNING AND COMMUNITY AFFAIRS

(Office of Community Development)

[Order 78-03—Filed Mar. 15, 1978]

I, James C. Frits, do promulgate and adopt at Capitol Center Building the annexed rules relating to section RCW 10.97.080, for security and privacy of criminal history record information; WAC 365-50-510 (Request form for modification of record) inadvertently omitted from WSR 78-03-065.

This action is taken pursuant to Notice No. WSR 78-03-012 filed with the code reviser on 2/8/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 10.97.090, which directs that the Planning and Community Affairs Agency (Office of Community Development) has authority to implement the provisions of chapter 10.97 RCW (The Washington Criminal Records Act).

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).

NEW SECTION

WAC 365-50-510 FORM OF REQUEST TO MODIFY RECORD.

Agency Name and Address No. _____
Date _____
Action By _____

REQUEST FOR MODIFICATION OF RECORD

Pursuant to RCW _____

Note: See Rules and Regulations printed on reverse side.

I, _____ (print Name) _____, acknowledge receipt this date, _____, of a copy of (Identify Kind of record: rap sheet, etc.) _____ bearing No. _____ consisting of _____ page(s) and identified as a history of criminal offenses charged to me.

I challenge the following specific portion(s) or the record as being incomplete, inaccurate, or maintained in violation of law. (Quote current item(s))

AND request modification to read (Quote):

I further request that the following designated persons or agencies who have received copies of the record within the past year be advised of the modifications, if such are determined to be valid.

(Signature of Applicant)

(Address of Applicant)

WSR 78-04-032

ADOPTED RULES

GAMBLING COMMISSION

[Order 83—Filed Mar. 16, 1978]

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 licensing and regulation of gambling activities, amending of WAC 230-25-220 and adopting WAC 230-25-260.

This action is taken pursuant to Notice No. WSR 78-02-102 filed with the code reviser on 2/1/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 9.46.070(10) as relating to WAC 230-25-220, RCW 9.46.070(18) as relating to WAC 230-25-260 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 March 10, 1978.

By Elgin Olrogg
Chairman

AMENDATORY SECTION (Amending Order 78, filed 11-17-77)

WAC 230-25-220 RAFFLES OR SIMILAR LOTTERIES CONDUCTED AT FUND RAISING EVENTS. (1) No sales of tickets or drawing(s) in any raffle or similar lottery wherein the winner or winners are chosen by the drawing of a ticket or other card or device shall be done at, or in connection with, a licensed fund raising event unless all aspects of the raffle or similar lottery are done only at the fund raising event.

(2) If any ticket or card or device for a raffle or similar lottery is sold, or any drawing for a raffle or similar lottery held, other than at and during a licensed fund raising event then no portion of the raffle or similar lottery shall be conducted at or during any licensed fund raising event, nor shall the raffle or similar lottery be considered as being held under the license for any such fund raising event.

~~((2))~~ (3) Raffles or other similar lotteries wherein the winner or winners are chosen by the drawing of a ticket or other card or device conducted at, or as a part of, a licensed fund raising event authorized under RCW 9.46.030(1) shall be treated as conducted solely pursuant to the license to conduct that fund raising event. All income, prizes awarded, and other expenses shall be accounted for, and reported to the commission, as required for fund raising events and shall not be reported, or accounted for, as required for raffles conducted under a raffle license issued by the commission, or under a different statutory authority: PROVIDED, That the requirements of WAC 230-20-100 applicable to raffles shall be applicable to all such lotteries.

Income from raffles or other lotteries conducted at, or as a part of, such a fund raising event shall be applied only against the maximum income permitted for fund raising events and shall not be applied against other maximum income limits imposed by chapter 9.46 RCW or the commission's rules.

~~((3))~~ (4) All of the commission's rules applicable to the conduct of raffles, whether general or specific, shall apply to the conduct of raffles and to the conduct of other similar lotteries wherein the winner or winners are chosen by the drawing of a ticket or similar card or device at, or as a part of, a fund raising event, except as provided in subsection ~~((2))~~ (3) above and except the following rules which shall not be applicable:

- (a) WAC 230-20-340;
- (b) WAC 230-20-350;
- (c) WAC 230-20-150;
- (d) WAC 230-20-300.

(5) Subsections (1) through (4) above shall not be applicable where a drawing is held during a fund raising event for a raffle conducted pursuant to a raffle license issued by the commission subject to all the commission's rules applicable to such raffles, and all tickets for said raffle are sold, and deposited into the drawing container prior to the beginning of the fund raising event.

NEW SECTION

WAC 230-25-260 BONA FIDE MEMBER OF ORGANIZATION CONDUCTING FUND RAISING EVENT. For the purposes of eligibility to participate in managing or otherwise assisting in the operation of a fund raising event, a person is a bona fide member of a bona fide charitable or bona fide nonprofit organization only when he or she:

(1) Has become a member prior to the commencement of the fund raising event and such membership was not dependent upon, or in any way related to the payment of consideration to participate in, any gambling activity; and

(2) Has (a) been admitted upon written application, only after investigation and ballot, with such action being recorded in the official minutes of a regular meeting, or (b) has held full and regular membership status in the organization for a period of not less than twelve consecutive months prior to the subject fund raising event; and

(3) Has paid reasonable initiation or admission fees for membership, and/or dues, consistent with the nature and purpose of the organization and with the type of membership obtained and is not in arrears in payment of such fees or dues; and

(4) Has met all other conditions required by the organization for membership and is in all respects a member in good standing at the time of the subject fund raising event.

A person may also be a bona fide member of a bona fide charitable or bona fide nonprofit organization affiliated with or auxiliary to his or her own organization, or to which his or her own organization is auxiliary, to the extent specifically provided for in RCW 9.46.020(15) defining "member", when he or she meets all of the standards set out above respecting his or her own organization.

WSR 78-04-033

ADOPTED RULES

DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 1280—Filed Mar. 16, 1978]

I, Gerald E. Thomas, Deputy Secretary of the Department of Social and Health Services do promulgate and adopt at Olympia, Washington the annexed rules

relating to the amending of chapter 275-27 WAC relating to Bureau of Developmental Disabilities Case Services and Home Aid Resources.

This action is taken pursuant to Notice No. WSR 78-01-039 filed with the code reviser on 1/4/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 72.33.040, 72.33.125 and 72.33.165 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 72.01.090.

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

APPROVED AND ADOPTED March 1, 1978.

By Gerald E. Thomas
Deputy Secretary

AMENDATORY SECTION (Amending Order 1143, filed 8/11/76)

WAC 275-27-020 DEFINITIONS. (1) "Mental retardation" means significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior manifested before age 18 and exhibiting an intelligence quotient at or below 67 using Stanford-Binet, or at or below 69 using Wechsler, or a social quotient of 69 or below using Vineland Social Maturity Scale; provided that, other appropriate analogous scale(s) receives the prior approval of the secretary.

(2) "Department" means the department of social and health services of the state of Washington.

(3) "Secretary" means the secretary of the department of social and health services.

(4) "Bureau" means the bureau or division of developmental disabilities of the department of social and health services.

(5) "Director" means the director of the bureau of developmental disabilities.

(6) "Respite care" means temporary services provided to a developmentally disabled individual and/or his family on either an emergency or planned basis without which the individual may need residential placement.

(7) "Individual" means the person for whom bureau ((case)) services are requested.

(8) "Informed consent" means an agreement obtained from an individual or his authorized representative, for such individual's participation in an activity. ~~((The bureau must in every case, inform the individual of the))~~ The following ((elements of informed consent prior)) information is necessary to ((the individual's giving)) informed consent:

(a) an explanation of the procedures to be followed including an identification of those which are experimental;

(b) a description of the attendant discomforts and risks;

(c) a description of the benefits to be expected;

(d) a disclosure of appropriate alternative procedures ~~((which would be in the best interest of the individual));~~

(e) an offer to answer any inquiries concerning the procedures; and

(f) instruction that ~~((the individual is free to withdraw his consent))~~ consent may be withdrawn and ((to discontinue)) participation ((in the project or activity)) discontinued at any time.

(9) "Residential facilities" means those facilities providing domiciliary care and other services, including, but not limited to, state residential facilities, group homes, skilled nursing facilities, intermediate care facilities, congregate care facilities, boarding homes, children's foster homes, adult family homes, and group training homes.

(10) "Nonresidential facilities" means facilities including, but not limited to, developmental centers and sheltered workshops.

(11) "Emergency" means a sudden, unexpected occurrence demanding immediate action.

(12) "Best interest" includes, but is not limited to, individual client program elements designed to:

(a) achieve or maintain economic self-support((-));

(b) achieve or maintain self-sufficiency((-);

(c) prevent or remedy neglect, abuse, or exploitation of individuals unable to protect their own interest((-); ~~((or preserve, rehabilitate or reunite families;))~~

(d) preserve, rehabilitate or reunite families; and

~~((d))~~ (e) prevent or reduce inappropriate institutional care by providing the least restrictive setting, such as community-based services, home-based services or other forms of less-intensive service, to meet the individual's medical and personal needs.

AMENDATORY SECTION (Amending Order 1143, filed 8/11/76)

WAC 275-27-040 APPLICATION FOR SERVICES. (1) All applications for bureau services shall be filed with one of the bureau case services offices in the form and manner required by the ~~((secretary))~~ director.

(2) An application may be made by an individual, or advocate for, or parent(s) or guardian of such an individual.

(3) All applications shall include written informed consent to bureau services requested by the individual, parent of an individual under age 18, or court authorized guardian. If an individual, who is over 18 years of age and has no guardian, is unable to give informed consent, then consent may be received from next-of-kin.

AMENDATORY SECTION (Amending Order 1143, filed 8/11/76)

WAC 275-27-050 DETERMINATION FOR NECESSARY SERVICES. (1) Within thirty days from the date of the bureau's decision that an individual is developmentally disabled, the appropriate ~~((case services regional))~~ bureau office shall evaluate the individual's needs to determine which services, if any, are necessary to stabilize or ameliorate the disabling condition and are in the client's best interest.

(2) Upon completion of the evaluation, an individual program plan with determination of necessary services shall be prepared pursuant to WAC ((275-27-070)) 275-27-060.

AMENDATORY SECTION (Amending Order 1143, filed 8/11/76)

WAC 275-27-060 INDIVIDUAL PROGRAM PLAN. (1) The ~~((appropriate case services regional office))~~ bureau shall develop a written individual program plan for each person who is determined eligible for ~~((case))~~ bureau services within 30 days. Interim services may be provided if deemed necessary.

(2) The individual program plan shall include the services adjudged to be in the best interests of the client and shall include short and long term training and habilitation goals for the client's progress. To the extent possible, all services shall be goal oriented and time limited.

(3) The program plan shall be reviewed at least annually by the ~~((case services))~~ bureau client program coordinator ~~((and))~~ with those directly involved with the client.

(4) A client, his parent(s), or guardian may request review or modification of the program plan at any time based on changed circumstances.

(5) Development, review and significant modifications of the ~~((case services client))~~ individual program plan shall include, to ~~((;))~~ the maximum extent possible, appropriate ~~((case services))~~ bureau staff, the client, his parent(s) or guardian and personal representative(s) of the agency or facility which is, or will be, primarily responsible for the implementation of specific provisions of the plan.

AMENDATORY SECTION (Amending Order 1143, filed 8/11/76)

WAC 275-27-230 PLACEMENT SERVICES. (1) Unless an individual is placed pursuant to court order, the bureau's case services section shall be responsible for placement services for all eligible bureau clients into and out of state schools, into and out of other residential facilities, and into and out of non-residential programs.

(2) The placement determination shall include, to the maximum extent feasible, the client, his parent(s) or guardian and all other responsible parties.

(3) The emergency admission of any individual to a state school shall not exceed 30 days.

(4) A temporary admission of any individual to a state school for respite care or diagnostic services shall not exceed 30 days.

(5) Placement by the bureau in a developmental center is limited as follows:

(a) The center must be certified as required by this chapter;

(b) Placement and funding is limited to those cases where the local school district is not responsible for provision of center services: PROVIDED, That:

(i) the bureau shall aid the client in obtaining required services from the local school district;

(ii) eligible individual enrolled in a developmental center program on or before December 31, 1977, may continue to receive developmental center services funded by the bureau until September 1, 1978, unless funding for services from the local district is obtained prior to that date;

(iii) exceptions may be granted by the bureau for developmental center services during non-school months.

NEW SECTION

WAC 275-27-300 COMPLETION OF INDIVIDUAL PROGRAM PLAN—RESIDENTIAL SCHOOLS. (1) Upon admission from bureau's case services section, the state residential school shall take actions necessary to review and complete the individual program plan. (WAC 275-27-060). Residents of a common school age shall be placed in an educational program and other programs as deemed appropriate.

(2) The completed individual program plan for residential schools shall include assessment, training and habilitation goals, and long and short term objectives.

(3) Assessment shall include the following:

(a) Scholastic assessment;

(b) Physical assessment;

(c) Adjustment assessment.

(4) Upon completion of assessment the residential school shall determine training and habilitation goals for the resident.

(a) Training and habilitation goals shall be directed to maximizing the resident's potential, stabilizing or ameliorating the resident's disabling condition, and in the resident's best interests.

(b) Training and habilitation goals shall include consideration of future community placement and an estimate as to when such placement is possible.

(c) Training and habilitation goals shall specify in measurable terms the behavioral changes desired, expected results, and necessary resources.

(5) For those residents of common school age as determined by chapter 392-173 WAC completion of the individual program plan shall meet requirements of chapter 392-173 WAC.

(6) The requirements of this section shall be completed within 30 days of admission. Upon completion of the requirements of this section, the parent, legal guardian, or committing court shall be notified of decisions made pursuant to this 500.

NEW SECTION

WAC 275-27-310 EXCLUSION OF CHILD FROM EDUCATIONAL PROGRAM—RESIDENTIAL SCHOOLS. (1) Exclusion from all or any portion of the education program shall be made only pursuant to one of the following findings:

(a) An education program of benefit to the child cannot be made available at the institution, and no agency, school district, or other institution with whom the institution may contract can accommodate such child if such a determination is made it shall be affirmed by the director of the bureau who shall report any such exclusion and documentation to the secretary of the department of

social and health services and the superintendent of public instruction for appropriate action and development of alternative plans to provide an education program of benefit; or

(b) The institution superintendent, through consultation with medical, clinical, and educational staff determines that the child is presently incapable of inclusion for a full school day. A current written medical report shall document the decision for exclusion and be made part of the child's file.

(2) Children excluded shall have assessments at least semi-annually and these assessments will be reviewed on a monthly basis.

(3) In addition to the above determination, a child's absence for more than three consecutive weeks or for more than one-third of his own total regular program over a period of two months except for reasons of illness documented by a physician or extended vacation from the institution shall constitute unjustified exclusion; in such case, the residential school must either take necessary action so that the education program is provided to the student or follow exclusion procedures specified in subsections (1) and (4).

(4) If the institution determines an exclusion from all or a portion of the educational program is appropriate under criteria as specified above, then notification of the decision and right to appeal shall be given pursuant to WAC 275-27-400.

NEW SECTION

WAC 275-27-320 DISCIPLINE—EXPULSION—SUSPENSION. Appropriate discipline in, and expulsion or suspension from, a state residential school and/or an educational or other program provided by a state residential school shall be restricted to established rules of conduct prescribed by the state residential school superintendent in accordance with RCW 28A.58-.101. Provided, that rules of conduct established by a residential school must be approved by the director of the bureau. Suspension or expulsion may be undertaken only pursuant to notice and administrative hearing as provided for in WAC 275-27-400 and WAC 275-27-500, except that interim suspension may be undertaken for cause specified in WAC 180-40-130.

AMENDATORY SECTION (Amending Order 1143, filed 8/11/76)

WAC 275-27-400 REASONABLE NOTICE AND CONSULTATION. (1) A notification of department decision with respect to eligibility, development, or modification of the individual program plan, proposed services, termination of bureau services, placements and admission or readmission to, or discharge from state schools, shall be delivered ((~~by the responsible case services regional office~~)) to the client and the parent(s), guardian, or advocate of such individual by certified mail or in person. Termination of the bureau services shall not be implemented for a period of 30 days after notification of the department's decision to terminate services. Other decisions of the department may be acted

upon by the department even though the 30 day period in which to appeal pursuant to WAC 275-27-500(1) has not expired provided that the client, or parent of a client under age 18, or guardian authorized to determine residential placements for the client may at any time, withdraw consent to any bureau service.

(2) The notice shall set forth a statement of the reasons for the decision, and information pertaining to such person(s) right to appeal pursuant to WAC 275-27-500.

(3) All parties affected by such department decision shall be consulted, whenever possible, during the decision process by the responsible case services regional office in person, and/or by telephone.

(4) The bureau shall notify the school district in which a school aged child is to be placed when a placement decision is reached.

AMENDATORY SECTION (Amending Order 1143, filed 8/11/76)

WAC 275-27-500 APPEALS. (1) Upon receipt of notification ((~~by the responsible case services regional office of the department's decision concerning eligibility, development or modification of the program plan, termination of bureau services, proposed services, placements and admission or readmission to, or discharge from state schools;~~)) pursuant to WAC 275-27-400, the person about whom the decision was made, and/or the parent(s) of a client under age 18, or court authorized guardian of such person shall have thirty days in which to appeal this decision to the secretary for an administrative hearing pursuant to the Administrative Procedure Act, chapter 34.04 RCW.

(2) Appeal shall be undertaken by delivering written notice of appeal in person or by mail to the address specified in the notice of right to appeal.

(a) If the department has not acted upon the decision, the written notice of appeal shall stay the decision pending the administrative hearing determination.

((2)) (b) The person(s) making such appeal shall indicate whether or not such person(s) is/are represented by legal counsel.

(3) ((~~If such hearing is requested, the director of the bureau shall schedule the matter for an administrative hearing within~~)) Within ten days after receipt of ((~~such request for a hearing unless the appellant(s) stipulates to a continuance.~~)) notice of appeal, the department shall schedule the matter for a hearing. Once scheduled, a hearing may not be continued unless the appellant stipulates to continuance or good cause is shown therefor.

(4) The administrative procedure used at such hearing shall be substantially in compliance with the Washington Administrative Procedure Act.

(5) The appellant(s) shall be permitted advance inspection of all affidavits, exhibits, or evidence available to the department's authorities.

(6) A tape recorded, or reliable verbatim record shall be made of the hearing ((~~by the director of the bureau~~)).

(7) A copy of the director's decision, on behalf of the secretary, shall be sent by certified mail or delivered in person to the appellant(s), and a copy sent to the secretary.

WSR 78-04-034
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
 [Filed Mar. 17, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and chapters 15.58 and 17.21 RCW, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning WAC 16-230-250, 16-230-260, 16-230-270, 16-230-280, and 16-230-290 pertaining to regulations restricting the use of microencapsulated methyl parathion;

that such agency will at 10:00 a.m., Monday, March 13, 1978, in the Conference Rooms A and B, Yakima County Court House, Yakima, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 4:00 p.m., Friday, March 31, 1978, in the Director's Office, Department of Agriculture, Olympia, WA.

The authority under which these rules are proposed is chapters 15.58 and 17.21 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to March 23, 1978 and/or orally at 10:00 a.m., Monday, March 13, 1978, Conference Rooms A and B, Yakima County Court House, Yakima, WA.

This notice is connected to and continues the matter noticed in Notice No. WSR 78-02-114 filed with the code reviser's office on February 1, 1978.

Dated: March 17, 1978

By: Art Losey
 Assistant Director

Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED March 15, 1978.

By Gerald E. Thomas
 Deputy Secretary

AMENDATORY SECTION (Amending Order 1241, filed 9/23/77)

WAC 388-29-140 MONTHLY STANDARDS FOR BASIC REQUIREMENTS—AFDC—CHILD LIVING WITH RELATIVE NOT IN NEED.

(1) The standard for food, shelter, and household maintenance for a dependent child, eligible for AFDC, living with a relative not in need, shall be \$88 monthly for a child less than six years of age, \$114 monthly for a child 6 through 12 years, and \$137 monthly for a child of 13 years or older, plus \$27.45 for clothing and personal maintenance and necessary incidentals.

(2) ~~((The standard in subsection (1) applies to the family consisting of eligible children and parent(s) who is not in need unless the total amount of the unit's requirements computed at the standard in subsection (1) exceeds the standards in WAC 388-29-100, 388-29-110 and 388-29-145, in which case those standards are applied.~~

(3) When a child lives with a relative who is in need, the standards in WAC 388-29-100, 388-29-110 and 388-29-145 are applicable.

WSR 78-04-035
ADOPTED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Order 1281—Filed Mar. 20, 1978]

I, Gerald E. Thomas, Deputy Secretary of the Department of Social and Health Services do promulgate and adopt at Olympia, Washington the annexed rules relating to the amending of WAC 388-29-140 relating to monthly standards for basic requirements—AFDC—Child living with relative not in need.

This action is taken pursuant to Notice No. WSR 78-02-069 filed with the code reviser on 1/25/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 78.04.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure

WSR 78-04-036

ADOPTED RULES

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 1282—Filed Mar. 20, 1978]

I, Gerald E. Thomas, Deputy Secretary of the Department of Social and Health Services do promulgate and adopt at Olympia, Washington the annexed rules relating to the amending of WAC 388-28-430 relating to effect of resources and income on financial need—Personal property exemptions—Ceiling values.

This action is taken pursuant to Notice No. WSR 78-02-096 filed with the code reviser on 1/31/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the secretary of 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) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED March 15, 1978.

By Gerald E. Thomas
 Deputy Secretary

AMENDATORY SECTION (Amending Order 1241, filed 9/23/77)

WAC 388-28-430 EFFECT OF RESOURCES AND INCOME ON FINANCIAL NEED—PERSONAL PROPERTY EXEMPTIONS—CEILING VALUES. (1) Personal property without ceiling value. The following personal property is an exempt resource. There is no ceiling value on such property.

(a) Used and useful household furnishings and personal clothing. Household furnishings and personal clothing which are in storage shall be presumed to be not used and useful, but all other household furnishings and personal clothing shall be presumed to be used and useful and both presumptions stand in the absence of evidence to the contrary.

(b) Personal property of "great sentimental value" may be exempted when the applicant establishes the circumstances and conditions which give it this value. When the intrinsic value is relatively high (stamp or coin collections, etc.) there may be need to review it carefully.

(c) Livestock or any other similar property owned by a child for the sole purpose of participating in an organized group or school activity, such as 4-H Club or FFA, shall be exempt, providing any net profit derived from the use of such property is reserved for future educational purposes.

(d) Other personal property, such as tools, farm machinery, livestock, business equipment, which is used by the applicant to reduce his need for assistance or to rehabilitate himself, and which produces an appreciable return in cash or kind, but which is not a fully competitive enterprise and does not require hiring help can be declared an exempt resource by the ESSO on the basis of an agreed plan.

(e) One cemetery plot for each member of an assistance household is exempt personal property. Any additional plots are nonexempt.

(2) Exempt personal property with ceiling value. Property holdings in the form of cash and marketable securities, life insurance, real estate or chattel mortgages, sales contracts and used and useful automobiles are exempt resources to the extent that the values of such items are within the maxima or "ceiling" values specified in the following paragraph:

(a) Ceiling values on combinations of individual items. The total value of cash, marketable securities, cash discount value of real estate or chattel mortgages and sales contracts, cash surrender value of life insurance, and equity in cars shall not exceed \$750 for a single person, or \$1,450 for a family of two. This maximum shall be increased by \$50 for each additional member in the family.

Family Size	Total Cash, Marketable Securities, Cash Surrender Value of Life Insurance, Cars	Cash and Marketable Securities
1	\$ 750	\$ 200
2	1450	400
3	1500	425
4	1550	450
5	1600	475
6	1650	500
7	1700	525
8	1750	550
9	1800	575
10	1850	600

(i) Funds represented by values within the ceiling values are not used to determine financial need and to compute grants.

(ii) Funds represented by values in excess of the maxima or ceilings are nonexempt; that is, they are used to determine financial need and to compute grants.

(b) Cash and marketable securities—ceiling. Within the above limitation the value of cash and marketable securities shall not exceed \$200 for a single person or \$400 for a family of two. This maximum shall be increased by \$25 for each additional member of the family over two.

(i) Cash. All cash savings held by the applicant or held jointly with any other person shall be considered. Any funds on deposit, in hand or in any place from which cash may be drawn by the applicant is a cash fund. A cash fund includes a bank account, savings, funds held in trust for future use (when applicant can make withdrawals), savings bonds, advance insurance premium payments, interest, etc.

~~((A))~~ (ii) A joint account shall be considered the property of the applicant/recipient since the entire amount is at his/her disposal, except when the applicant/recipient can show that all or a portion of the funds deposited within the joint account is derived from funds exclusively the other joint holder's and held/utilized solely for the benefit of that joint account holder. All funds within the joint account so verified shall not be considered actually available to the applicant/recipient.

~~((B))~~ An applicant may give "power of attorney" to another person to make withdrawals from a savings account for the requirements of the applicant. Such arrangement shall not be construed as constituting the transfer of a resource or deemed a joint account.)

(c) Real estate or chattel mortgages and sales contracts

(i) Real estate or chattel mortgages or sales contracts held by the applicant will be considered exempt resources in combination with the value of other exempt personal property, within the limitation allowed in subsection (2).

(ii) The cash discount value of a mortgage or contract represents the value of the resource.

(iii) Any payments on mortgages or contracts received by an applicant or recipient shall be considered income as specified in WAC 388-28-580.

(d) Life insurance.

(i) Cash surrender ceiling value. Life insurance may have a cash surrender value considered as an exempt resource in combination with the value of other exempt personal property within the limitation allowed in subsection (2).

(ii) Other considerations.

(A) Net value of unassignable policy. When the equity of another person in an unassignable policy held by an applicant can be established, the amount of such equity may be deducted in determining the applicant's holdings in insurance, provided that person holding the equity is named as beneficiary of the proceeds to the extent of such equity and without power or revocation by the insured.

(B) Assignment of policy. An insurance policy legally assigned belongs to the assignee and may not be regarded as the property of the insured. However, the assignment of a policy within two years prior to application or by a recipient must be evaluated as the transfer of a resource.

~~((C))~~ (C) Funeral insurance and prepaid funeral contracts are governed by the same rules as life insurance policies. The contract may include (but is not limited to) a method of prepaying funeral and burial expenses. In addition, the contract usually provides cash surrender and loan values, extended term insurance (nonforfeiture provisions), and assignability. The cash surrender or loan value of such contract shall be treated as life insurance.

(I) An assigned funeral contract shall be treated according to (ii)(B) above. However, the designation of a funeral director as beneficiary under either the "funeral benefits" or the "additional benefit agreement" sections of the policy, or both, is not an assignment of the contract.

(e) Used and useful automobiles.

(i) Used and useful automobiles are an exempt personal property resource in combination with the value of other exempt within the limitation allowed in subsection (2).

(ii) Equity value shall be used in determining the resource in automobiles.

(iii) (A) In determining the resource value of automobiles, the National Automobile Dealers Association Official Used Car Guide shall be used. For automobiles listed in this guide "average loan" value in the current edition shall be presumed to be the resource value.

(B) In determining the resource value of recreational vehicles the Kelley bluebook R.V. guide shall be used. For vehicles listed in this guide "wholesale" value in the current edition shall be presumed to be the resource value.

(C) For vehicles not listed in these guides the method of determining the resource value shall be documented in the case record.

(D) The values listed in these guides can be overcome by positive evidence to the contrary. Such evidence shall be documented in the case record.

WSR 78-04-037
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 1283—Filed Mar. 20, 1978]

I, Gerald E. Thomas, Deputy Secretary of the Department of Social and Health Services do promulgate and adopt at Olympia, Washington the annexed rules relating to and the amending of chapter 388-55 WAC relating to Asian refugee assistance.

This action is taken pursuant to Notice No. WSR 78-02-072 filed with the code reviser on 1/26/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 43.20A.550.

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

APPROVED AND ADOPTED March 15, 1978.

By Gerald E. Thomas
Deputy Secretary

AMENDATORY SECTION (Amending Order 1188, filed 2/18/77)

~~WAC 388-55-010 ((VIETNAMESE AND CAMBODIAN))~~ INDOCHINESE REFUGEE ASSISTANCE. (1) Assistance shall be granted to Vietnamese, Cambodian and Laotian refugees within the provisions of Public Law ~~((94-313))~~ 95-145, the Indochinese ~~((Migration and))~~ Refugee Assistance ~~((Act))~~ Program. ~~((and Public Law 94-330, Special Appropriations for Assistance to Refugees from Cambodia, Vietnam and Laos.))~~

(2) For the purpose of the refugee assistance program a refugee is defined as a Cambodian, Vietnamese or Laotian national who has ~~((been paroled into the United States as a refugee, or has been granted voluntary departure as a refugee by the Immigration and Naturalization Service (INS):~~

~~((a) Parole is granted only prior to or at entry into the United States.~~

~~((b) Voluntary departure is granted when a refugee had entered the country as a nonimmigrant prior to the refugee evacuation.~~

~~((c) Possession of INS form I-94 indicating that the person has been paroled into the U. S. or has been granted "voluntary departure" status shall constitute evidence of refugee status:))~~

fled from and cannot return to his country due to persecution or fear of persecution because of race, religion, or

political opinion. Under this definition, the following individuals shall be eligible to apply for assistance and/or services under the refugee assistance program:

(a) An individual who has parole status as indicated by an INS (Immigration and Naturalization Service) Form I-94.

(b) An individual who has voluntary departure status as indicated by Form I-94.

(c) An individual who has conditional entry status as indicated by Form I-94.

(d) An individual who was admitted to the United States with permanent resident status on or after April 8, 1975 (the date on which the President designated Vietnamese and Cambodians to be refugees under the Migration and Refugee Assistance Act), as indicated by Form I-151 or I-551.

(e) An individual who has permanent resident status as a result of adjustment of status under P.L. 95-145 as indicated by Form I-151 or I-551.

(3) Indochinese refugee assistance cases eligible for the AFDC and/or Medicaid programs shall be transferred to such programs retroactively effective as of October 1, 1977, or as of such date as the case qualified for refugee assistance, whichever is later.

(a) Refugees must meet AFDC or Medicaid eligibility criteria to be transferred.

(b) A refugee cash assistance case being transferred to AFDC shall be regarded as a recipient rather than a new applicant so that income shall be disregarded accordingly.

(4) Applications from refugees not currently receiving refugee cash and or medical assistance shall be determined for AFDC or Medicaid eligibility before determining eligibility for the refugee assistance program.

(a) If the applicant is determined not eligible for AFDC, eligibility shall then be determined under the refugee assistance program.

(b) If the applicant is determined not eligible for Medicaid, eligibility shall then be determined under the refugee assistance program.

~~((3))~~ (5) Requirements of categorical relatedness of federal assistance programs are waived~~((:))~~ for refugees under the refugee assistance program.

~~((4))~~ (6) Assistance to all types of refugee cases, regardless of family composition, shall be provided at the AFDC monthly payment standards; income and resources will be treated according to AFDC standards. ~~((WAC 388-28-005 through 388-28-133 and 388-28-600 are applicable.))~~ No resources which are not available, including property remaining in Vietnam, Laos or Cambodia, shall be considered in determining eligibility for financial assistance.

~~((5))~~ (7) The refugee family unit which includes United States citizen children, by virtue of their being born in this country, shall be treated as a single assistance unit under the refugee assistance program.

~~((6))~~ (8)(a) All applicants for and recipients of a financial grant under the refugee assistance program and each member of the family group of which they are a part are required to register for employment with the state employment service unless the individual is

(i) an individual who is under 16, or who is under age 21 and is attending school or training full time, or who is age 21 or over and is attending school or training as approved by the department;

(ii) a person who is ill, incapacitated, or over 65;

(iii) a person whose presence in the home is required because of illness or incapacity of another member of the household;

(iv) a mother or other caretaker of a child under the age of six who is caring for the child;

(v) a mother or other caretaker of a child, when the nonexempt father or other nonexempt adult relative in the home is registered and has not refused to accept employment without good cause.

(b) The nonexempt refugee applicant or recipient must accept employment when available as specified in WAC 388-57-025(4) through (7).

(c) Inability to communicate in English does not justify exemption from registration or acceptance of employment.

~~((7)(a) In the instance of a refugee who is employed and receiving supplementary assistance, the department shall require part-time training such as English language or skill training, if available and determined appropriate, if the refugee is employed part-time (less than 100 hours per month), as a condition for continued receipt of assistance.~~

~~(b) English as a second language is defined as a training program for the purposes of this section.~~

~~((8))~~ (9) Refusal of an employable adult recipient to register with the Employment Service or to accept or continue employment or training opportunity without good cause, as determined by the ESSO, will result in the following actions:

(a) The ESSO will provide counseling within 7 days of recipients refusal to participate. This counseling is intended to provide the refugee with an understanding of the implications of his refusal to accept employment or training, and to encourage the refugee's acceptance of such opportunity. Only one such counseling session is required but additional counseling may be provided at the discretion of the ESSO.

(b) If the employable refugee recipient continues to refuse an offer of employment or training, assistance will be terminated 30 days after the date of his original refusal. The refugee shall be given at least 10 days written notice of the termination of assistance and the reason therefore. This sanction shall be applied in the following manner:

(i) If the assistance unit includes other individuals, then the grant shall be reduced by the amount included on behalf of that refugee. If the employable refugee is a caretaker relative, assistance in the form of protective or vendor payments will be provided to the remaining members of the assistance unit.

(ii) If such individual is the only individual in the assistance unit, the grant shall be terminated.

(iii) The recipient's voluntary agency (VOLAG) shall be notified if either action (i) or (ii) takes place.

(iv) A decision by the refugee to accept employment or training, made at any time within the 30-day period after the date of the original refusal, shall result in the

continuation of assistance without interruption if the refugee continues to meet the eligibility requirements for continued assistance.

(v) An employable refugee shall be ineligible for a period of 30 days after the termination of assistance because of refusal to accept or continue employment or training.

~~((9) Recipients of assistance currently attending school at the time of the effective date of this revision will be allowed to finish the current semester or quarter.~~

~~(10) Full-time attendance in a college program is not considered appropriate training unless:~~

~~(a) The individual will finish his/her degree within one year from the effective date of this revision.~~

~~(b) The program has a definite short-term employment objective (less than one year) and is approved by the ESSO as part of an employability plan for the refugee; or~~

~~(c) The individual is an Indochinese professional who is attending college to become relicensed in his/her profession, in which case continued attendance shall be approved up to September 30, 1977, if such course of study is not completed earlier.~~

~~((11)) (10) A refugee of any age who is otherwise eligible shall not be denied cash assistance while enrolled and participating in a training program which is part of an employability plan approved by the ESSO, that is, training intended to have a definite short-term (less than one year) employment objective.~~

~~((12)) (11)(a) Adult refugee recipients shall be eligible for earned income exemptions as specified in WAC 388-28-570, regardless of assistance unit composition.~~

~~(b) The income of a refugee dependent child shall be treated as specified in WAC 388-28-535.~~

~~((13)) (12) All refugee recipients who are 65 years of age or older, or who are blind or disabled will be referred immediately to the social security administration for SSI benefits. The SSI applicant will be included in the assistance grant at the AFDC standard until payments are received.~~

~~((14)) (13)(a) The refugee recipient receiving a continuing assistance grant is eligible for medical assistance as specified in WAC 388-82-010(1).~~

~~(b) Eligibility for medical care for the nonrecipient refugee shall be determined as specified in chapter 388-83 WAC. Eligibility is based on medical and financial need only; requirements of categorical relatedness are waived. Subdivision ((12)) (11)(a) is applicable in determining the amount of participation in medical costs for refugee recipients.~~

~~(c) The refugee recipient who becomes ineligible because of increased income from employment shall remain eligible for medical assistance for four calendar months beginning with the month of ineligibility provided that~~

~~(i) In the case of a single individual assistance unit:~~

~~(A) The individual received assistance in at least three (3) of the six (6) months immediately preceding the month of ineligibility; and~~

~~(B) He/she continues to be employed~~

~~(ii) In the case of a multiple individual assistance unit~~

(A) The family received assistance in at least three (3) of the six (6) months immediately preceding the month of ineligibility; and

(B) A member of the family continues to be employed.

(d) Medical need shall not be an eligibility factor.

~~((15)) (14) Refugee recipients shall have their continuing eligibility for financial and medical assistance redetermined at least once in every three months of continuous receipt of assistance.~~

~~(15) In accordance with federal regulations, this section is effective October 1, 1977.~~

WSR 78-04-038

EXECUTIVE ORDER

OFFICE OF THE GOVERNOR

[EO 78-4]

EXECUTIVE ORDER

RESCINDING EO 77-14, STATE EXPENDITURE REDUCTIONS

WHEREAS, on November 8, 1977, the voters of the State of Washington approved an initiative which exempted most food products from retail sales and use taxes; and

WHEREAS, on November 10, 1977, an Executive Order was issued directing all executive branch agencies to adhere to an expenditure reduction plan until such time as the impact of the initiative could be better assessed; and

WHEREAS, the latest economic reports for the State of Washington enable a more accurate assessment of projected state revenues, and the outlook for the State of Washington is for continued economic growth; and

WHEREAS, the revenue collections for the current fiscal year are higher than anticipated and can be expected to exceed earlier forecasts throughout the biennium; and

WHEREAS, the prospects for a balanced state budget for the current biennium can be assured without further reduction of authorized expenditure levels and it is my desire to minimize program disruptions and unnecessary administrative procedures.

NOW, THEREFORE, I, Dixy Lee Ray, Governor of the State of Washington, do hereby rescind Executive Order 77-14 effective March 20, 1978.

PROVIDED, HOWEVER, all agency directors shall be expected to continue, when feasible, policies designed to restrict the growth of state government employment and to apply stringent controls to travel, personal services contracting and all other objects of expenditure. To this end, I will be issuing an administrative directive detailing specific control guidelines. I have also directed the Office of Financial Management to define reporting procedures so I can monitor agency staffing levels and travel expenditures.

IN WITNESS WHERE-
OF, I have hereunto set my
hand and caused the seal of
the State of Washington to
be affixed at Olympia this
17th day of March, A.D.,
1978.

DIXY LEE RAY

Governor of Washington

BY THE GOVERNOR:

Carmela M. Bowns

Assistant Secretary of State



WSR 78-04-039

ADOPTED RULES

DEPARTMENT OF FISHERIES

[Order 78-11—Filed Mar. 20, 1978]

I, Gordon Sandison, director of State Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

This action is taken pursuant to Notice No. WSR 78-02-111 filed with the code reviser on 2/1/78. 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 March 17, 1978.

By Gordon Sandison
Director

AMENDATORY SECTION (Amending Order 77-14, filed 4/15/77)

WAC 220-44-020 SEASONS. (1) It shall be lawful to possess for commercial purposes sockeye salmon taken lawfully by treaty Indians from the Quinault and Ozette Rivers.

(2) It shall be unlawful to take, fish for or possess salmon taken for commercial purposes in that portion of Coastal Salmon Management and Catch Reporting Area 4 north of Point of the Arches and inside the 3-mile limit during weekly closed periods extending from 11:59 p.m. Friday to 12:01 a.m. Monday.

(3) It shall be unlawful to take, fish for or possess salmon taken for commercial purposes with purse seine, drag seine, or gill net gear from Coastal Salmon Management and Catch Reporting Areas 1, 2, 3 and 4 except as provided in subsection (1).

(4) It shall be unlawful to take, fish for or possess smelt taken for commercial purposes with purse seine, drag seine, or gill net gear from Marine Fish-Shellfish Management and Catch Reporting Areas ((57-58;)) 59, ((and)) 60A, ((except as provided in subsections (1) and (4))) and that portion of area 58 within the United States 200 mile fishery conservation zone.

(5) It shall be lawful to take, fish for and possess smelt taken for commercial purposes by hand net gear in Marine Fish-Shellfish Management and Catch Reporting Areas 59 and 60A except during weekly closed periods extending from 8:00 a.m. Friday to 8:00 a.m. Sunday.

(6) It shall be lawful to take, fish for and possess for commercial purposes ((any species of food fish except salmon and smelt)) sturgeon, shad, herring, candlefish, anchovies and pilchards taken in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas ((58;)) 59, ((and)) 60A, and that portion of area 58 within the United States 200 mile fishery conservation zone with any lawful commercial fishing gear.

(7) It shall be unlawful to transport through Coastal Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 or to land in the state of Washington, any salmon taken for commercial purposes contrary to the provisions of chapter 220-47 WAC relative to seasons and species.

NEW SECTION

WAC 220-44-030 COASTAL BOTTOMFISH GEAR. (1) It shall be unlawful to take, fish for or possess bottomfish for commercial purposes in coastal waters with any gear except as follows:

- (a) Otter trawl and beam trawl.
- (b) Set lines.
- (c) Hand lines and jigger gear.
- (d) Troll lines.
- (e) Bottomfish pots.

(2) In fishing with hand line or jigger gear within state waters, it shall be 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 unlawful to use more than three lines and more than 500 hooks per line.

(4) It shall be 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 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 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 lawful to retain for commercial purposes any species of bottomfish taken with commercial salmon gear incidental to a lawful salmon fishery.

NEW SECTION

WAC 220-44-040 COASTAL BOTTOMFISH SEASONS. (1) It shall be lawful to take, fish for and possess for commercial purposes bottomfish in coastal waters taken with gear described in WAC 220-44-030 all year in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 59, 60A, and that portion of 58 within the United States 200 mile fishery conservation zone.

AMENDATORY SECTION (Amending Order 77-147, filed 12/16/77)

WAC 220-48-080 PUGET SOUND BOTTOMFISH GEAR. (1) It shall be unlawful to fish for bottomfish for commercial purposes in Puget Sound with any gear except as follows:

- (a) Otter trawl and beam trawl.
 - (b) Set lines having not more than 500 hooks per line.
 - (c) Hand lines and jigger gear having not more than three hooks.
 - (d) Troll lines.
 - (e) Drag seines not longer than 350 feet in length or containing meshes less than 1/2-inch stretch measure.
 - (f) Bottomfish pots.
 - (g) Set nets.
- (2) In fishing with hand line or jigger gear, it shall be unlawful to use more than two lines at any one time. In fishing with set lines, it shall be unlawful to use more than three lines.

(3) It shall be unlawful for the operator of set nets and set lines to leave such gear unattended unless marked as provided in WAC 220-20-010(5), and set nets shall be so marked at both ends of the net. Set nets shall have tags, issued by the Department of Fisheries, affixed to both buoys of each set net.

(4) It shall be unlawful to return any dogfish or ratfish to the water of that portion of Puget Sound Marine Fish-Shellfish Area 25A (Discovery Bay) southerly of a line projected from Diamond Point to Cape George, which were taken by commercial bottomfish gear.

(5) It shall be 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 unlawful to take or fish for, or possess salmon while fishing for bottomfish with troll line gear ~~((capable of taking salmon))~~ under authority of a bottomfish troll license, provided, in any waters of Puget Sound ((during such times that it is unlawful to take or fish for salmon for commercial purposes with troll line gear, provided;)) it shall be lawful to retain for commercial purposes ~~((any species of))~~ bottomfish taken with commercial salmon gear incidental to a lawful salmon fishery, except lingcod during closures provided in WAC 220-48-098.

(7) It shall be unlawful to use or operate otter trawl or beam trawl gear having mesh size in the codend section less than 4-1/2 inches in the waters of Puget Sound, unless otherwise provided.

(8) Subsection (7) above shall be in effect for Marine fish-shellfish Areas 27A, 27B, and 27C, December 1,

1977, and in effect for all other Marine Fish-Shellfish Areas in Puget Sound January 1, 1979.

(9) It shall be lawful to use or operate otter trawl gear having mesh size in the codend section of not less than 3 inches in Marine Fish-Shellfish Areas 28A, 28B, 28C, and 28D, during the season provided in WAC 220-48-090(4).

AMENDATORY SECTION (Amending Order 77-147, filed 12/16/77)

WAC 220-48-096 SET NET—DOG FISH—SEASONS. It shall be lawful to take, fish for or possess dogfish and other species of bottomfish, except halibut, salmon and shellfish, taken with set net gear for commercial purposes in the following Puget Sound Marine Fish-Shellfish Areas during the seasons provided hereinafter in each respective area:

Areas 20A and 20B – November 1 through June 15

Areas 21A – March 1 through April 15

Areas 21B, 22A ~~((and)),~~ 22B, and that portion of 26A southerly and westerly of a line projected between the ferry dock at Clinton and the ferry dock at Mukilteo, are closed the entire year.

All other Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas are open the entire year.

NEW SECTION

WAC 220-48-098 LINGCOD—SEASONS. (1) It shall be unlawful to take or possess lingcod with any gear the entire year in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, 28D, and that portion of Area 25B south of a line from Liplip Point to Bush Point, Whidbey Island.

(2) It shall be unlawful to take or possess lingcod with any gear from December 1 through March 31 in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 23, 25A, and that portion of 25B north of a line from Liplip Point to Bush Point, Whidbey Island.

WSR 78-04-040

ADOPTED RULES

DEPARTMENT OF LICENSING

[Order 487-DOL—Filed Mar. 20, 1978]

I, R. Y. Woodhouse, director of Department of Licensing, do promulgate and adopt at Olympia, Washington the annexed rules relating to the amending of WAC 308-04-010, Requirements for Checks in Payment of Licenses, Certificates, etc.—Penalty.

This action is taken pursuant to Notice No. WSR 78-02-086 filed with the code reviser on 1/30/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 46.01.230 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 March 20, 1978.

By R. Y. Woodhouse
Director

AMENDATORY SECTION (Order Rule 1, filed 6/29/67)

WAC 308-04-010 REQUIREMENTS FOR CHECKS IN PAYMENT OF LICENSES, CERTIFICATES, ETC.—PENALTY. (1) All checks must be made payable to the state treasurer.

~~((2) Personal checks drawn on out-of-state banks will be acceptable only if received through the mail.)~~

~~((3))~~ (2) Checks must be for the exact amount of the license fee due and the purpose for which the check is intended should be noted on the face as to whether it is for a motor vehicle license or driver's license.

~~((4))~~ (3) The drawer's name (licensee) and address should appear upon each check. All NSF checks will be redeposited once. If they fail to clear at the time of the second deposit, the following action will be taken:

(a) The drawer (licensee) will be sent a letter by certified mail advising him or her that the license will be cancelled unless a money order or cashier's check for the amount due is received within fifteen days.

(b) Upon the failure to receive said moneys the state patrol or other appropriate law enforcement agency will be requested to confiscate any driver or vehicle license issued and return the same to the department.

(c) The failure to pay a proration or liquid fuel tax fee after notice of dishonor has been given will result in the action being turned over to the attorney general for collection.

(d) In cases where a dishonored check is given for professional, securities or real estate fee the field representative of said agency will first contact the party and their license will be surrendered.

~~((5))~~ (4) No checks written on foreign banks (outside of the United States) will be accepted and only those foreign postal money orders made payable in U.S. dollars at the Olympia post office will be acceptable for payment of any license fees.

~~WSR 78-04-041~~

ADOPTED RULES

DEPARTMENT OF LICENSING

[Order 488-DOL—Filed Mar. 20, 1978]

I, R. Y. Woodhouse, director of Department of Licensing, do promulgate and adopt at Olympia, Washington the annexed rules relating to the amending of WAC 308-104-045, Identitcards, pertaining to the issuance of identitcards to nondrivers.

This action is taken pursuant to Notice No. WSR 78-02-087 filed with the code reviser on 1/30/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 46.20.117 and 46.20.119 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 March 20, 1978.

By R. Y. Woodhouse
Director

AMENDATORY SECTION (Order MV 303, filed 2/13/75)

WAC 308-104-045 IDENTICARDS. The department shall issue identitcards containing a picture to non-drivers. Non-drivers shall be defined as any (resident) person who has not been issued a driver's license within the last four (4) years immediately preceding: PROVIDED, That the non-driver is currently residing in the state of Washington and has a current Washington address; and PROVIDED, FURTHER, That any individual who has been issued a driver's license within the last four (4) years immediately preceding may qualify as a non-driver by surrendering the the driver's license and privilege to drive to the department for this express purpose. Any individual who surrenders the driver's license and privilege to drive to the department for the express purpose of qualifying as a non-driver shall forfeit said privilege to drive in this state together with all fees and license examination results.

The department shall not issue a driver's license to any individual holding an identitcard unless and until that individual shall surrender said identitcard to the department and the individual shall have met all other requirements of Title 46 RCW, as they pertain to an original driver's license applicant: PROVIDED, That the department shall not issue a driver's license to any individual ineligible to be licensed pursuant to RCW 46.20.031 under any circumstances.

WSR 78-04-042

PROPOSED RULES

OFFICE OF FINANCIAL MANAGEMENT

[Filed Mar. 21, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, 43.03.050 and 43.03.060 that the Office of Financial Management intends to adopt, amend, or repeal rules concerning travel regulations, amending WAC 82-28-080;

that such agency will at 9:00 a.m., Wednesday, May 17, 1978, in Room 416, House Office Building, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 10:00 a.m., Wednesday, May 17, 1978, in Room 416, House Office Building, Olympia, WA.

The authority under which these rules are proposed is RCW 43.03.050 and 43.03.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 17, 1978, and/or orally at 9:00 a.m., Wednesday, May 17, 1978, Room 416, House Office Building, Olympia, WA.

Dated: March 21, 1978

By: Orin C. Smith
Director

AMENDATORY SECTION (Amending Order 35, filed 9/1/77)

WAC 82-28-080 REIMBURSEMENT FOR USE OF PRIVATELY-OWNED AUTOMOBILES. (1) Reimbursement shall be allowed at a rate not to exceed 14¢ per mile for official travel. Mileage between points in the State shall be determined on the basis of the distances shown on the latest State Highway Commission map, and the out-of-state mileage on the basis of standard highway mileage guides or by speedometer readings. "Vicinity" miles as determined by speedometer readings shall be shown on the voucher as a separate figure for each day's travel.

(2) When an official or employee requests to use a privately-owned vehicle in lieu of a state-owned or operated passenger motor vehicle that is available for use, and the request is approved by the agency head or his designee, the official or employee shall be reimbursed at a rate not to exceed ~~((5-11))~~ 12¢ per mile.

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 78-04-043

ADOPTED RULES

CENTRALIA COLLEGE

[Order 78-9—Filed Mar. 22, 1978]

Be it resolved by the board of trustees of the Community College District 12, acting at Board Room, General Administration Building, Centralia, WA, that it does promulgate and adopt the annexed rules relating to the Code of Student Rights and Responsibilities at Centralia College WAC 132L-20-010 through 132L-20-170; 132L-22-010 through 132L-22-080; and 132L-24-010 through 132L-24-090.

This action is taken pursuant to Notice No. 7930 filed with the Code Reviser on 12/19/77. Such rules shall take effect pursuant to RCW 28B.19.050(2).

This rule is promulgated pursuant to RCW 28B.19.030 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 February 9, 1978.

By Nels W. Hanson
District 12 President

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

WAC 132L-20-010 PREAMBLE. Centralia College is dedicated not only to learning and the advancement of knowledge but also to the development of ethically sensitive and responsible persons. It seeks to achieve these goals through a sound educational program and policies concerning conduct that encourage independence and maturity while strengthening the spirit of mutual cooperation and responsibility shared by all members of the college community. Sharing goals held in common, the students, faculty, and staff of Centralia College are joined in voluntary association in an educational community.

The student is, first of all, a member of the community at large, and as such, is entitled to the rights and responsibilities of any citizen of comparable age and maturity. In addition, students, as members of the college community are in the unique position of being citizens of two communities, subject to the regulations imposed by both and accountable to both.

Centralia College expects that students will respect the laws of the greater society. As an agency of the state of Washington, the college must respect and adhere to the regulations established by local, state, and federal authorities. As an educational institution, it has the added responsibility for assisting students in gaining an understanding of the law and its function, and the responsibilities imposed upon each individual in a democratic society to respect and support the legal structure which protects the individual and the society. As a functioning organization, it also has the responsibility to develop a set of regulations to assure the orderly conduct of the affairs of the college.

Admission to the college carries with it the expectation that ~~((the))~~ students will conduct ~~((himself))~~ themselves as ~~((a))~~ responsible members of the college community, that ~~((he))~~ they will comply with the rules and regulations of the college, maintain high standards of integrity and honesty, respect the rights, privileges and property of other members of the college community and will not interfere with legitimate college affairs.

An atmosphere of learning and self-development is created by appropriate conditions in the college community. The rights and responsibilities in this document are critical ingredients in the free, creative, and spirited educational environment to which the students, faculty and staff of Centralia College are committed.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

WAC 132L-20-020 DEFINITIONS. As used in this Code of Student Rights and Responsibilities the following words and phrases shall mean:

(1) "ASCC Student Senate" means the representative governing body for students at Centralia College recognized by the board of trustees.

(2) "Assembly" means any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons or group of persons.

((2)) (3) "Board" means the board of trustees of Community College District ((No.)) 12, state of Washington.

((3)) (4) "College" means Centralia ((Community)) College located within Community College District ((No.)) 12, state of Washington.

((4)) (5) "College facilities" means and includes any or all real and personal property owned or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

((5)) (6) "College personnel" refers to any person employed by Community College District 12 on a full time or part time basis, except those who are faculty members((, by Centralia Community College)).

((6)) (7) "Disciplinary action" means and includes suspension or any lesser sanction of any student by the dean of students, the student hearing committee, ((the)) executive dean, district president or the board of trustees for the violation of any of the provisions of the Code of Student Rights and Responsibilities for which such sanctions may be imposed.

(a) The executive dean or designee shall have the authority to take any disciplinary action including the authority to suspend any student of the college for a period not to exceed ten academic calendar days.

(b) The district president or designee shall have the authority to take any disciplinary action including the authority to suspend any student of the college.

((7)) (8) "District" means Community College District ((No.)) 12, state of Washington.

(9) "District president" means the duly appointed chief executive officer of Community College District ((No.)) 12, state of Washington, or in his/her absence, the acting chief executive officer.

(10) "Executive Dean" means the duly appointed chief executive officer of Centralia College, Community College District 12, state of Washington, or in his/her absence, the acting chief executive officer.

((8)) (11) "Faculty member(s)" means any employee of Centralia ((Community)) College who is employed on a full time or part time basis as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority, except administrative appointments.

((10)) (12) "Recognized student organization" means and includes any group or organization composed of students which is formally recognized by the student government of the college.

((11)) (13) A "sponsored event or activity" means any activity that is scheduled by the college and is supervised and controlled by the college's faculty members or college personnel. Such "sponsorship" shall continue only as long as the event is supervised and controlled by the college faculty member or college personnel. When the sponsored event or activity is of a prolonged nature,

and free time periods are permitted to the students participating in the event, any activity taking place during such a free time period outside of the supervision and control of the college's faculty member or college personnel responsible for the event or activity shall be deemed to be a nonsponsored activity.

((12)) (14) "Student", unless otherwise qualified, means and includes any person who is enrolled for classes or formally in the process of applying for admission to the college.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

WAC 132L-20-040 AUTHORITY TO PROHIBIT TRESPASS. (1) The ((president)) executive dean is authorized in the instance of any event that ((he)) the executive dean deems impedes the movement of persons or vehicles or which ((he)) the executive dean deems to disrupt or threatens to disrupt the ingress and/or egress of persons from college facilities, and the ((president)) executive dean acting through the dean of students, or such ((or)) other designated person ((as he may designate)) shall have authority and power to:

(a) Prohibit the entry of, withdraw the license or privilege of a person or persons or any group of persons to enter onto or remain upon any portion of a college facility; or

(b) Give notice against trespass to any person, persons, or group of persons against whom the license or privilege has been withdrawn or who have been prohibited from((;)) entering onto or remaining upon all or any portion of a college facility; or

(c) Order any person, persons or group of persons to leave or vacate all or any portion of a college facility.

(2) Any student who shall disobey a lawful order given by the ((president)) executive dean or ((his)) designee pursuant to the requirements of subsection (1) of this rule shall be subject to disciplinary action.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

WAC 132L-20-050 RIGHT TO DEMAND IDENTIFICATION. (1) For the purpose of determining identity of a person as a student any faculty member or other college personnel authorized by the ((president)) executive dean may demand that any person on college facilities produce evidence of student enrollment at the college. Tender of the student identification card will satisfy this requirement.

(2) Refusal by a student to produce identification as required shall subject the student to disciplinary action.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

WAC 132L-20-060 FREEDOM OF ACCESS TO HIGHER EDUCATION. Students are free to pursue their educational goals; appropriate opportunities for learning in the classroom and on the campus shall be provided by the district. Centralia College shall maintain an open-door policy, to the end that no students will be denied admission because of the location of ((his)) the

student's residence, or because of ((his)) the student's educational background or ability; that, insofar as is practical in the judgment of the ((College)) Board, curriculum offerings shall be provided to meet the educational and training needs of the community generally and the students thereof; and that all students, regardless of their differing courses of study, will be considered, known and recognized equally as members of the student body: PROVIDED, That the administrative officers of Centralia College may deny admission to a prospective student or attendance to an enrolled student if, in their judgment, ((he)) the student would not be competent to profit from the curriculum offerings of the community college, or would, by ((his)) the student's presence or conduct, create a disruptive atmosphere within the community college inconsistent with the purposes of the institution.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

WAC 132L-20-080 FREEDOM OF ASSOCIATION AND ORGANIZATION. Students bring to the campus a variety of interests previously acquired and develop many new interests as members of the college community. They are free to organize and join associations to promote any legal purpose, whether it be religious, political, educational, recreational, or social.

Student organizations must be granted a charter by the Centralia College student government before they may be officially recognized. Prior to becoming chartered, a student organization must submit to the student government a statement of purpose, criteria for membership, a statement of operating rules or procedures, and the name of a faculty member who has agreed to serve as advisor. All student organizations must also submit to the student government a list of officers and keep that list updated when changes occur. In order to qualify for issuance of a charter, a student organization must be open to all students without respect to race, sex, creed, or national origin, except for religious qualification which may be required by organizations whose aims are primarily sectarian, or for other reasonable justifications which are directly related to the purposes of the organization. Affiliation with a noncampus organization shall not be grounds for denial of charter provided that other conditions for charter issuance have been met.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

WAC 132L-20-100 STUDENT RECORDS. ~~((When a student enters the College and submits the required personal data for academic and personnel records, there is an implicit and justifiable assumption of trust placed in the College as custodian of these data. The College also believes that a similar relationship should be maintained relative to subsequent data generated during the student's enrollment—academic performance, activities, personal interviews, and disciplinary proceedings.~~

(1) Records and Communications are Confidential. In its relations with students, the College intends to carry

on its educational and counseling processes so as to preserve the confidential character of communications and records.

(2) Information Which May be Released. Information will be furnished of a "public" or "directory" nature, that is, information which has appeared at one time or another in publications that are available to the general public or are a matter of public record. A student may, in writing, request that such information relating to him be withheld.

(3) Requests from Employers or Prospective Employers. The College respects the right of its students to determine employers or prospective employers to whom they wish the College to furnish nonpublic personal information. At the written request of the student concerned, the College will respond to inquiries originating from employers or prospective employers—public or private.

(4) Request from Other Educational Institutions. The College will send individually identified written reports to other educational institutions only with the consent of the student involved. When requested by another institution or when deemed necessary by the College, unidentified information may be sent when such information is to be used for curriculum study, accreditation, or studies which may be of benefit to future students.

(5) Request from Faculty Members. Faculty members may request objective information contained in permanent academic records when needed in discharge of their official duties.

(6) Relationships with Parents. The College recognizes the legitimate interest of parents and guardians to consult with the professional staff about the academic and personal well-being of their sons and daughters. Parents or guardians of unemancipated minor students will be furnished grade reports or transcripts upon written request without the permission of students. Parents or guardians of emancipated minor students will not be furnished such information without the permission of the student, nor will the parents or guardians of students who have reached legal majority have the right to obtain such information without the consent of the student. In like manner, the spouse of a married student, regardless of the student's age, will be given such information only with the consent of the student.

(7) Student Access to Records. A student may view the contents of his personnel record with the professional staff. If a student feels the information in his record inadequate or inaccurate, he may file corrections for inclusion in the record.

(8) Information on Race, Creed, Political Membership. Political membership or information is not recorded in student records unless the student expressly requests the inclusion of such information. This is released only if the student so requests. Information relative to an identifiable individual's race or creed will not be provided at any time.

(9) Information Regarding the Academic Achievement of Students being considered for College-associated honors, awards, or scholarships may be furnished the College committees and advisors responsible for

~~making the awards.))~~ In compliance with the Family Educational Rights and Privacy Act, this policy has been created to insure continued confidentiality of student records at Centralia College and govern the release of personally identifiable information contained within.

(1) Education Records. Education records are defined as those records, files, and documents containing information directly pertaining to a student. At Centralia College these are: (a) Records pertaining to admission, advisement, registration, grading, and progress to a degree that are maintained by the registrar. (b) Testing information used for advisement purposes by the counseling center. (c) Information concerning payment of fees as maintained by the treasurer. (d) Financial aid information as collected by the financial aid office. (e) Information regarding students participating in student government or athletics that is maintained by the student programs office.

(2) Access to Education Records. Students who are or have attended Centralia College have the right to examine or review their personal records, as defined above, by submitting to the registrar a written request indicating education records to which access is desired.

Charges for reproduced copies of education records are found in the current catalog.

(3) Directory Information. The following information is considered "Directory Information" and thus may be disclosed without consent of the student, unless otherwise directed by the student, at any time, to the registrar in writing: The student's name, address, telephone number, date and place of birth, major field of study, eligibility for and participation in officially recognized activities, organizations, and sports, weight and height of members of athletic teams, dates of attendance, honor roll, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(4) Disclosures from Education Records. In addition to Directory Information the college will, at its discretion, make disclosures from education records of students with the student's prior written consent or to the following listed parties:

(a) College officials including college administrative and clerical staff, faculty, and students where officially elected or appointed to the student senate or employed by the college. Access or release of records to the above is permissible only when the information is required for advisement, counseling, record keeping, reporting, or other legitimate educational interest consonant with their specific duties and responsibilities.

(b) To officials of another school in which the student seeks or intends to enroll.

(c) To authorized federal, state, or local officials as required by law.

(d) In connection with financial aid for which the student has applied or received.

(e) To accrediting organization, or organizations conducting studies for or on behalf of the institution.

(f) To appropriate parties in a health or safety emergency.

(g) To parents of a dependent student, as defined in section 152 of the Internal Revenue Code of 1954, upon

receipt of a written affidavit stating that the student is a dependent for income tax purposes. This, however, will not affect the other rights of the student.

In cases where consent of the student is required for release of education records, the student shall in writing, signed and dated by the student, specify: The records to be disclosed, the purpose or purposes of the disclosure, and the name of the party or parties to whom the disclosure can be made.

When personally identifiable information is released without prior consent of the student, other than directory information and information released to college officials or the student, the college official in charge of these records will record the names of the parties who have requested information from educational records and the nature of the interest in that information.

Education records released to third parties shall be accompanied by a statement indicating that the information cannot be subsequently released in a personally identifiable form to other parties without obtaining the consent of the student. The college is not precluded from permitting third party disclosures to other parties listed in (a) through (g) of this section.

(5) Challenge of Education Records. Students who believe that information contained in their education records is inaccurate, misleading or violates the privacy of other rights of the student may request in writing to the appropriate college official that the college amend their record(s). The college official(s) will make every effort to settle disputes through informal meetings and discussion with the student.

In instances where disputes regarding contents of education records cannot be resolved by the parties concerned, the college official involved shall advise the student of the right to a hearing by the Academic Standards Committee through a written request to the registrar. Should the Academic Standards Committee deem that the education records in question are inaccurate or misleading, the committee can ask that the records be amended by the appropriate college official. If the education records are held to be accurate, the student shall be granted the opportunity to place within those records a personal statement commenting upon the information contained within.

Each eligible student is afforded the right to file a complaint concerning alleged failures by the college to comply with the requirements of the act. The address of the office designated to investigate, process, and review violations and complaints which are filed is:

The Family Educational Rights and Privacy Act Office

(FERPA)

Department of Health, Education, and Welfare

330 Independence Avenue, S.W.

Washington, D.C. 20201

Copies of the Federal Register pertaining to the Family Education Rights and Privacy Act may be obtained from:

Superintendent of Documents

U.S. Government Printing Office

Washington, D.C. 20402

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

✓ WAC 132L-20-120 DISTRIBUTION AND POSTING OF MATERIALS. The college encourages free expression. Use of college facilities as provided herein, however, does not accord users immunity from legal action.

Permission for posting of literature in the various restricted areas provided therefore, shall be obtained from the following college officials:

(1) The director of student ~~((activities))~~ programs for posting on the restricted ~~((posting))~~ posting areas of the student center and those areas located on the campus outside of college buildings.

(2) Deans and directors for posting on the restricted posting areas provided in the appropriate college facility.

ASCC campaign rules govern special poster and sign locations for ASCC elections. Information on these special policies and regulations is available in the ASCC office.

Posting of posters, signs, and other publicity or promotional materials is permitted only in the locations specified above. All material sought to be posted in restricted posting areas ~~((should))~~ must have the identity of its sponsorship appearing on its face.

The dissemination or distribution of materials by persons on the public streets, walks and ways of the campus, shall be subject to the laws of the city of Centralia, Lewis County, state of Washington~~((;))~~ and the United States.

Permission for the dissemination or distribution of materials in other areas of the college campus, buildings and facilities shall be obtained from the director of student ~~((activities))~~ programs. Persons distributing materials without permission shall be subject to the provisions of the Code of Student Rights and Responsibilities.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

✓ WAC 132L-20-140 USE OF COLLEGE FACILITIES. Any recognized ASCC organization may request approval from the director of student ~~((activities))~~ programs to utilize available college facilities for authorized activities as provided for in official ASCC documents. Facilities will be provided free of charge to the organization except when such use necessitates staffing and services beyond regular college requirements. Standard college fees will be charged in these cases.

Use of facilities for purposes other than those approved or in an irresponsible manner may result in withdrawal of this privilege for an organization.

Student organizations should schedule facility use requests with the director of student ~~((activities))~~ programs at least three ~~((3))~~ academic calendar days in advance of an event whenever possible.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

✓ WAC 132L-20-150 NONCOLLEGE SPEAKER POLICY. The trustees, the administration, and the faculty of Centralia College subscribe to the proposition

that an important aspect of the education of college students is the opportunity to listen to speakers representing a wide variety of opinions and beliefs on important public issues. In conformity with the American tradition of free speech and free inquiry, the following policies are established governing the appearance on campus of speakers not themselves members of the college community:

(1) Any recognized ASCC student organization with the written sanction of its advisor, may ask individuals to speak on campus subject to normal restraints imposed by considerations of common decency and the state law.

(2) The appearance of a speaker on the campus does not involve an endorsement, either implicit or explicit, of ~~((his))~~ the speaker's views by Centralia College, its students, its faculty, its administration~~((;))~~ or its board of trustees.

(3) The scheduling of facilities for hearing invited speakers shall be made through the office of the director of student ~~((activities))~~ programs.

(4) The director of student ~~((activities))~~ programs or ~~((his))~~ designee will be notified at least three ~~((3))~~ academic calendar days prior to the appearance of an invited speaker, at which time a form (available in the student ~~((activities))~~ programs office) must be completed with such particulars as name of speaker, speech or discussion topic, time of appearance(s) and sponsoring organization. The form must bear the signature of the sponsoring organization's advisor. Exceptions to the three ~~((3))~~ day ruling may be made by the director of student ~~((activities))~~ programs with the approval of the dean of students.

(5) The dean of students may require views other than those of the invited speaker to be presented at the meeting, or at a subsequent meeting. The ~~((president))~~ executive dean may~~((, at his discretion;))~~ assign a faculty member to preside over any meeting where a speaker has been invited.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

✓ WAC 132L-20-160 VIOLATIONS. Any student shall be subject to immediate disciplinary action provided for in Code Procedures and Summary Suspension Rules who, either as a principal actor or aider or abettor;

(1) materially and substantially interferes with the personal rights or privileges of others or the educational process of the college;

(2) violates any provision of the Code of Student Rights and Responsibilities;

(3) commits any of the following acts which are hereby prohibited:

(a) All forms of dishonesty including cheating, plagiarism, knowingly furnishing false information to the college, and forgery, alteration or use of college documents or instruments of identification with intent to defraud.

(b) ~~((Failure to comply with directions of College officials acting in performance of their duties;))~~ Failure to comply with lawful directions of faculty, administrators

and other regularly employed personnel acting in performance of their lawful duties.

(c) Conduct which intentionally and substantially obstructs or disrupts freedom of movement, teaching, research administration, disciplinary proceedings or other lawful activities on the college campus.

(d) Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the health or safety of any person on college-owned or controlled property or at college-sponsored or supervised functions.

(e) Malicious damage to or malicious misuse of college property, or the property of any person where such property is located on the college campus.

(f) Refusal to comply with any lawful order to leave the college campus or any portion thereof.

(g) Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities ~~((of))~~ on the college campus, except for authorized college purposes; unless prior written approval has been obtained from the dean of students, or any other person designated by the ~~((president))~~ executive dean.

(h) Intentionally inciting others to engage immediately in any of the conduct prohibited herein, which incitement leads directly to such conduct. (Inciting is that advocacy which prepares the group addressed for imminent action and ~~((steers))~~ steers it to the conduct prohibited herein.)

(i) Possessing, consuming or furnishing of alcoholic beverages on college-owned or controlled property or at college-sponsored or supervised functions where prohibited by law.

(j) Disorderly conduct, including disorderly conduct resulting from drunkenness.

(k) Engaging in lewd, indecent, or obscene behavior on college-owned or controlled property or at college-sponsored or supervised functions.

(l) Using, possessing, furnishing, or selling any narcotic or dangerous drug as those terms are used in Washington statutes, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist.

(m) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(n) Theft or conversion of college property or private property.

(o) Entering any administrative office or any locked or otherwise closed college facility in any manner, at any time, without permission of the college employee or agent in charge thereof.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

WAC 132L-20-170 EMERGENCY PROCEDURES. In the event of activities which interfere with the orderly operation of the college as defined in ~~((Section WAC))~~ 132L-20-070 WAC, Freedom of Expression, the dean of students or the ~~((president))~~ executive

dean or their designees shall determine the course of action which appears to offer the best possibility for resolution of the problem. The emergency procedures outlined below will be followed if deemed essential:

(1) Inform those involved in such activities that they are in violation of college and/or civil regulations.

(2) Inform them that they should cease and desist. Indicate an area on campus where they are able to conduct their activities without interfering with the operation of the college, if such an area is available.

(3) If they do not respond within a reasonable time, call the civil authorities.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

WAC 132L-22-010 PURPOSE OF DISCIPLINARY ACTIONS. The college may apply sanctions or take other appropriate action when student conduct materially and substantially interferes with the college's (1) primary educational responsibility of ensuring the opportunity ~~((of))~~ for all students of the college community to attain their educational objectives, or (2) subsidiary responsibilities of ~~((protecting the health and safety of persons in the College community, maintaining and protecting))~~ protection and maintaining property, keeping records, other services, and sponsoring nonclassroom activities such as lectures, concerts, athletic events, and social functions. Disciplinary action proceedings shall determine whether and under what conditions the violator may continue as a student at the college.

(a) Nothing herein shall prevent faculty members from taking reasonable summary action as may be reasonably necessary to maintain order when they have reason to believe that such action is necessary for the physical safety and well-being of the student, or the safety and protection of other students or of college property or where the student's conduct materially and substantially disrupts the educational process.

(b) Such summary action in the form of removal from the classroom shall be effective for a period not to exceed two scheduled classroom days.

(c) Faculty shall maintain a written record of any summary action and a copy shall be filed with the dean of students within two scheduled classroom days.

(d) Any summary action may be appealed to the dean of students for an informal hearing.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

WAC 132L-22-020 INITIAL PROCEEDINGS.

(1) Initiation of Prosecution~~((;))~~. Students, faculty members, administrators and other employees of the district shall have concurrent authority to report violations which will be acted upon by the dean of students. All disciplinary proceedings will be initiated by the dean of students or ~~((his))~~ designated representative.

(2) Notice Requirements. Any student charged in a report filed pursuant to Section WAC 132L-22-020, subsection (1), with a violation of the Code of Student Rights and Responsibilities shall be notified by the dean of students or ~~((his))~~ designated representative within

two ((~~2~~)) academic calendar days after the filing of such a report(~~(, if possible)~~). The notice shall not be ineffective if presented later due to the student's absence. Such notice shall:

(a) inform the student that a report has been filed alleging that the student violated specific provisions of the Code and the date of the violation; and

(b) set forth those provisions allegedly violated; and

(c) specify the exact time and date the student is required to meet with the dean of students; and

(d) specify the exact time, date, and location of the formal hearing, if one is required; and

(e) inform the student that he/she may question witnesses, that he/she may have anyone appear in his/her behalf to defend him/her, that he/she may have a maximum of three ((~~3~~)) character witnesses appear in his/her behalf; and

(f) inform the student that failure to appear at either of the appointed times at the dean of student's office or at the hearing may subject ((him)) the student to suspension from the institution for a stated or indefinite period of time.

(3) Meeting with the Dean of Students.

(a) At the meeting with the dean of students the student shall be informed of provisions of the Code of Student Rights and Responsibilities that are involved, that ((he)) the student may appeal any sanction imposed by the dean of students and that if a hearing is required((; he)) the student may have that hearing open to the public. If the student requests a formal hearing, the dean of students shall take no action nor make any determination in the matter other than to inform the student again of the time, date, and location of the formal hearing.

(b) After considering the evidence in the case and interviewing the student or students involved, the dean of students may take any of the following actions:

(i) Terminate the proceedings exonerating the student or students; or

(ii) Dismiss the case after whatever counseling and advice may be appropriate; or

(iii) Impose minor sanctions directly (warning, reprimand, fine, restitution, disciplinary probation) subject to the student's right of appeal described below; or

(iv) Refer the matter to the student hearing committee for a recommendation to the executive dean/district president or designee as to appropriate action; or

(v) Recommend to the executive dean/district president or designee that the student be suspended. The student shall immediately be notified in writing of such recommendation and ((his)) of the right to a hearing before the student hearing committee prior to the executive dean/district president's or designee's final decision.

(c) A student accused of violating any provision of the Code of Student Rights and Responsibilities shall be given immediate notification of any disciplinary action taken by the dean of students or ((his)) designated representative. ((In case of an unemancipated minor notification of the disciplinary action taken by the dean of students or his designated representative shall also be sent to the parents or guardians of the student.))

(d) No disciplinary action taken by or at the recommendation of the dean of students or ((his)) designated representative is final unless the student fails to exercise ((his)) the right of appeal as provided for in these rules. The executive dean/district president or ((his designated representative)) designee after reviewing the case, including any statement the student may file with the executive dean/district president or designee, shall either give written approval of the action taken by or at the recommendation of the dean of students, or give written direction as to what lesser disciplinary action, if any, is to be taken.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

WAC 132L-22-030 APPEALS. (1) Appeals contesting recommendations of disciplinary action(s) shall be taken in the following order:

(a) Disciplinary action taken by or at the recommendation of the dean of students or ((his)) designated representative may be appealed to the student hearing committee;

(b) Disciplinary recommendations made by the student hearing committee may be appealed by the student to the ((president)) executive dean; in the case of a recommendation for suspension for ten days or less it may be appealed to the executive dean; in the case of a recommendation for suspension exceeding ten days it may be appealed to the district president or designee;

(c) Disciplinary action taken by the district president and resulting in suspension exceeding in duration one ((+)) college quarter may be appealed by the student to the board of trustees and their decision shall be final.

(2) All appeals by a student must be made in writing to the committee, district president or designee or board of trustees and presented to the committee, executive dean, district president or designee or chairman of the board of trustees within ((seven-7)) ten calendar days after the student has been notified of the action from which he has a right of appeal.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

WAC 132L-22-040 STUDENT HEARING COMMITTEE. (1) Composition. Centralia College shall have a standing committee composed of nine ((9)) members, who shall be chosen and appointed no later than October 15 of each year to serve as a standing committee until their successors are appointed. The membership of the standing committee shall consist of three ((3)) members of the administration, excepting the dean of students, chosen by the ((president)) executive dean; three ((3)) faculty members chosen by the faculty organization; and three ((3)) students chosen by the ASCC student ((council)) senate. Any student entitled to a hearing before a student hearing committee shall choose, in writing, five members of the standing committee to hear and decide ((his)) the appeal, provided, ((he)) the student must choose at least one ((+)) student, one ((+)) faculty member and one ((+)) member of the administration from the nine member

standing committee. The balance of the student hearing committee, two ~~((2))~~ members, may be chosen from the remainder of the standing committee, provided, that both shall not be from the same classification. In the event that unforeseen circumstances prevent a previously selected committee member from attending the hearing, the student must choose a replacement from among the balance of the standing committee.

(2) Procedures for Hearing.

(a) Five members of the student hearing committee will hear, de novo, and make recommendations to the executive dean/district president or designee on all disciplinary cases appealed to the committee by the student or referred to it by the dean of students or ~~((his))~~ designated representative. Recommendations involving suspension will be referred to the executive dean/district president or designee.

(b) The student hearing committee shall elect from among its five ~~((5))~~ members a chairman for the purpose of presiding at the disciplinary hearing.

(c) Hearings generally will be held in closed session, except when a student requests that persons other than those directly involved be invited to attend. If at any time during the conduct of a hearing any person is disruptive of the proceedings, the chairman of the student hearing committee may exclude such person from the hearing room.

(d) The student has a right to a fair and impartial hearing before the committee on any charge of violating a provision or provisions of the Code of Student Rights and Responsibilities. The student's failure to cooperate with the hearing procedures hereinafter outlined, however, shall not preclude the committee from making its findings of fact, conclusions and recommendations as provided below. Failure by the student to cooperate may be taken into consideration by the committee in recommending to the executive dean/district president or designee the appropriate disciplinary action.

(e) The student shall be given written notice of the time and place of ~~((his))~~ the hearing before the committee. Said notice shall contain:

(i) A statement of the date, time, place and nature of the disciplinary proceedings;

(ii) A statement of the specific charges against ~~((him))~~ the student including references to the particular sections of the Code of Student Rights and Responsibilities involved;

(iii) To the extent known, a list of witnesses who will appear and a summary description of any documentary or other physical evidence that will be presented by the college at the hearing.

(f) The student shall be entitled to hear and examine the evidence against him/her and be informed of the identity of its source; ~~((he))~~ the student shall be entitled to present evidence in his/her own behalf and cross-examine witnesses testifying against him/her as to factual matters. The student shall have all authority possessed by the college to obtain information ~~((he))~~ that the student specifically describes, in writing, and tenders to the dean of students no later than three ~~((3))~~ days prior to the hearings or to request the presence of witnesses or

the production of other evidence relevant to the hearings.

(g) The student may be represented by counsel of his/her choice at the disciplinary hearings. If the student elects to choose a duly licensed attorney admitted to practice in any state in the United States as ~~((his))~~ counsel, ~~((he))~~ the student must tender three ~~((3))~~ days notice thereof to the dean of students.

(h) In all disciplinary proceedings the college may be represented by the dean of students or ~~((his))~~ designee; ~~((he))~~ the dean of students may then present the college's case against the student accused of violating the Code of Student Right and Responsibilities, provided, that in those cases in which the student elects to be represented by a licensed attorney, the dean of students may elect to have the college represented by an assistant attorney general.

(i) The proceedings of the hearing shall be recorded. A copy thereof shall be on file at the office of the dean of students.

(j) The time of the hearing may be advanced by the committee at the request of the student or continued for good cause.

(3) Admissible Evidence.

(a) Only those matters presented at the hearing in the presence of the accused student, will be considered in determining whether the student hearing committee has sufficient cause to believe that the accused student is guilty of violating the rules ~~((he))~~ that the student is charged with having violated.

(b) In determining whether sufficient cause, as stated in the preceding paragraph (a), does exist, members of the student hearing committee shall give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent ~~((men))~~ persons in the conduct of their affairs.

(c) The chairman of the student hearing committee shall, in the course of presiding at the disciplinary hearing, give effect to the rules of privilege recognized by law and exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

(4) Interference with Proceedings. Any student interfering with the proceedings of the meeting with the dean of students or the formal hearing or any subsequent hearing shall be in contempt of the proceedings and may be summarily suspended from the college by the dean of students or the student hearing committee or the executive dean/district president or designee, or the board of trustees at the time the interference takes place and shall be subject to suspension or any lesser sanction as may be ~~((determined))~~ recommended by the student hearing committee or ~~((president))~~ as may be determined by the executive dean/district president or designee or the board of trustees at the time the interference takes place or within fifteen ~~((15))~~ academic calendar days thereafter.

(5) Decision by the Committee.

(a) Upon conclusion of the disciplinary hearing, the student hearing committee shall consider all the evidence therein presented and decide by majority vote whether to recommend to the executive dean/district president or designee the following actions:

(i) That the college terminate the proceedings and exonerate the student or students;

(ii) That the college impose minor sanctions directly, such as a warning, reprimand, fine, restitution, or disciplinary probation;

(iii) That the student be suspended from college including a recommendation of the duration of such suspension.

(b) The student shall be provided with a copy of the committee's findings of fact and conclusions regarding whether the student did violate any rule or rules of the Code of Student Rights and Responsibilities and the committee's recommendation to the executive dean/district president or designee. The committee shall also advise the student in writing of ~~((his))~~ the right(s) to present, within ~~((seven-7))~~ ten calendar days, a written statement to the executive dean/district president or designee appealing the recommendation of the committee.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

✓ WAC 132L-22-050 FINAL DECISION REGARDING DISCIPLINARY SANCTION. (1) The executive dean/district president or ((his)) designee (except the dean of students) shall, after reviewing the record of the case prepared by the student hearing committee together with any statement filed by the student, include therein ~~((either his))~~ a written acceptance of the recommendations of the committee, or ~~((his))~~ written directions as to what lesser disciplinary sanction shall be taken.

(2) If the executive dean/district president or ((his)) designee decides that discipline is to be imposed after the review provided by the preceding paragraph, subsection (1), ~~((he))~~ the executive dean/district president or designee shall notify the student in writing of the discipline imposed. ~~((In case of an unemancipated minor written notice of any action involving disciplinary action shall also be sent to the parents or guardians of the student.))~~

(3) In all cases of disciplinary action, the decision of the executive dean/district president or ((his)) designee shall be final except for those cases involving suspension ~~((for a duration exceeding one college quarter))~~ if the suspension has been appealed to the board.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

✓ WAC 132L-22-060 DISCIPLINARY SANCTIONS. The following definitions of disciplinary terms have been established and shall be the sanctions imposed upon violators of the Code of Student Rights and Responsibilities:

(1) Warning. Notice to a student, either verbally or in writing, that ~~((he))~~ the student has been in violation of college rules or regulations or has otherwise failed to meet the college's standards of conduct. Such warnings will include the statement that continuation or repetition of the specific conduct involved or other misconduct will

normally result in one of the more serious disciplinary actions described below.

(2) Reprimand. Formal action censuring a student for violation of the college rules or regulations or for failure to meet the college's standards of conduct. Reprimands shall be made in writing to the student by the officer or agency taking action, with copies filed in the office of the dean of students. A reprimand will include the statement that continuation or repetition of the specific conduct involved or other misconduct will normally result in one of the more serious disciplinary actions described below.

(3) Fines. The dean of students and/or the student hearing committee may assess monetary fines up to a maximum of twenty-five dollars against individual students for violation of college rules and regulations or for failure to meet the college's standards of conduct. Failure to pay such fines within thirty ~~((30))~~ days will result in suspension for an indefinite period of time as set forth in subsection (6) ~~((below))~~ of this section provided that a student may be reinstated upon payment of the fine.

(4) Restitution. An individual student may be required to make restitution for damage or loss to college or other property and for injury to persons. Failure to make restitution within thirty ~~((30))~~ days will result in suspension for an indefinite period of time as set forth in subsection (6) ~~((below))~~ of this section provided that a student may be reinstated upon payment.

(5) Disciplinary Probation. Formal action placing conditions upon the student's continued attendance for violation of college rules or regulations or other failure to meet the college standards of conduct. The office or agency placing the student on disciplinary probation will specify, in writing, the period of probation and the conditions, such as limiting the student's participation in extra-curricular activities. Disciplinary probation warns the student that any further misconduct will automatically raise the question of suspension from the college. Disciplinary probation may be for a specified term or for an indefinite period which may extend to graduation or other termination of the student's enrollment in the college.

(6) Suspension. Temporary or indefinite dismissal from the college and termination of the student status of a student for violation of college rules or regulations or for failure to meet the college standards of conduct. The notification suspending a student will indicate, in writing, the term of the suspension and any special conditions which must be met before readmission.

~~((In the case of an unemancipated minor who is suspended, a copy of the notification of suspension will be sent to the parents or the guardians of the student. There is no))~~ Refund of fees for the quarter in which ~~((the))~~ disciplinary action is taken ~~((, but fees paid in advance for a subsequent quarter are to be refunded))~~ shall be in accord with the college's refund policy.

Students suspended on the basis of conduct which disrupted the orderly operation of the campus or any facility of the district, may be denied access to all or any part of the campus or other facility.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

✓ WAC 132L-22-070 READMISSION AFTER SUSPENSION. Any student suspended from the college for disciplinary reasons may be readmitted upon expiration of the time period for which ~~((his))~~ the suspension was issued. If the student has been suspended for an indefinite period, or ~~((if he))~~ feels that circumstances warrant reconsideration of ~~((his))~~ the temporary suspension prior to its expiration, ~~((he))~~ the student may be readmitted following approval of a written petition submitted to the dean of students. Such petitions must state reasons which support a reconsideration of the matter. Before readmission may be granted, such petitions must be reviewed and approved by the executive dean/district president or designee, or by the board in those cases in which it made the final disciplinary action decision.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

✓ WAC 132L-22-080 REESTABLISHMENT OF ACADEMIC STANDING. Students who have been suspended pursuant to disciplinary procedures set forth in Code Procedures or Summary Suspension Rules, and ~~((who))~~ whose suspension upon appeal is found to have been unwarranted shall be provided the opportunity to reestablish their academic and student standing to the extent possible within the abilities of the college, including an opportunity to retake examinations or otherwise complete course offerings missed by reason of such action.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

✓ WAC 132L-24-010 INITIATION OF SUMMARY SUSPENSION PROCEEDINGS. The ~~((president))~~ executive dean or ~~((his))~~ designee may suspend any student of the college for not more than ten ~~((+10))~~ academic calendar days pending investigation, action or prosecution on charges of an alleged Code of Student Rights and Responsibilities violation or violations, and if the ~~((president))~~ executive dean or ~~((his))~~ designee has reason to believe the student's physical or emotional safety and well-being, or the safety and well-being of the other college community members, or the safety and well-being of the college property command such suspension.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

✓ WAC 132L-24-020 PERMISSION TO ENTER OR REMAIN ON CAMPUS. During the period of summary suspension, the student shall not enter any campus of District ~~((No.))~~ 12 other than to meet with the dean of students or to attend the hearing. However, the dean of students may grant the student special permission to enter a campus for the express purpose of meeting with faculty, staff, or students in preparation for the hearing.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

✓ WAC 132L-24-030 NOTICE OF SUMMARY SUSPENSION PROCEEDINGS. (1) If the ~~((president))~~ executive dean or ~~((his))~~ designee desires to exercise the authority to summarily suspend a student, ~~((he))~~ the executive dean shall cause notice thereof to be served upon that student by registered or certified mail at the student's last known address, or by causing personal service of such notice upon that student.

(2) The notice shall be entitled "Notice of Summary Suspension Proceedings" and shall state:

(a) The charges against the student including reference to the provisions of the Code of Student Rights and Responsibilities involved; and

(b) That the student charged must appear before the dean of students at a time specified in the notice.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

✓ WAC 132L-24-040 PROCEDURES OF SUMMARY SUSPENSION HEARING. (1) At the summary suspension hearing, the student against whom the violation or violations are alleged shall have the opportunity of proving to the dean of students that there is no cause to believe that the violation stated on the notice of summary suspension proceedings did occur, and that immediate suspension is not necessary nor justifiable pursuant to chapter 132L-24 WAC, Summary Suspension Rules.

(2) The student may offer oral testimony ~~((of himself))~~ or that of any person, submit any statement or affidavit ~~((on his own behalf))~~, examine any affidavit or cross-examine any witness ~~((who may appear against him))~~, and submit any matter in extenuation or mitigation of the violation or violations charged.

(3) The dean of students shall at the time of the summary suspension proceedings determine whether there is probable cause to believe that a violation of law or of provisions of the Code of Student Rights and Responsibilities has occurred, and whether there is reason to believe that immediate suspension is necessary. In the course of making such a decision, the dean may consider the sworn affidavits or oral testimonies of persons who have alleged that the student charged has committed a violation of law or of provisions of the Code of Student Rights and Responsibilities and the oral testimony and affidavits submitted by the student charged.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

✓ WAC 132L-24-050 DECISION BY THE DEAN OF STUDENTS. If the dean of students, following the conclusion of the summary suspension proceedings, finds that there is probable cause to believe that:

(1) The student against whom specific violations of law or of provisions of the Code of Student Rights and Responsibilities are alleged has committed one or more of such violations upon any college facility; and

(2) That summary suspension of said student is necessary under the provisions of WAC 132L-24-010, Summary Suspension Rules; and

(3) Such violation or violations of the law or of provisions of the Code of Student Rights and Responsibilities constitute grounds for disciplinary action, then the dean of students may, with the written approval of the ~~((president))~~ executive dean, suspend such student from college.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

✓ WAC 132L-24-060 NOTICE OF SUMMARY SUSPENSION. (1) If a student is suspended pursuant to the above rules, ~~((he))~~ the student shall be provided with a written copy of the dean of students' findings of fact and conclusions, as expressly concurred in by the ~~((president))~~ executive dean, which constituted probable cause to believe that the conditions for summary suspension existed.

(2) The student suspended pursuant to the authority of this rule shall be served a copy of the notice of suspension by personal service or by registered mail. Notice by mail shall be sent to said student's last known address. The suspension shall be effective from the day the notice of suspension is mailed or personal service accomplished, whichever shall occur first.

✓ AMENDATORY SECTION (Amending Order 71-11, filed 2/17/77)

✓ WAC 132L-24-070 SUSPENSION FOR FAILURE TO APPEAR. If the student against whom specific violations of provisions of the Code of Student Rights and Responsibilities have been alleged has been served pursuant to the notice required and then fails to appear at the time designated for the summary suspension proceedings, the dean of students may, with the written concurrence of the ~~((president))~~ executive dean, suspend the student from college.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

✓ WAC 132L-24-080 APPEAL. (1) Any student aggrieved by an order issued at the summary suspension proceedings may appeal the same to the ~~((board of trustees))~~ district president or designee. No such appeal shall be entertained, however, unless written notice of the appeal, specifically describing alleged errors in the proceedings of findings of the dean of students and the ~~((president))~~ executive dean, is tendered at the office of the ~~((president))~~ executive dean within seventy-two ~~((72))~~ hours following the date "Notice of Summary Suspension" was served or mailed to the student, whichever occurred first.

(2) The ~~((board of trustees))~~ district president or designee shall, as soon as reasonably possible, examine the allegations contained within the notice of appeal, along with the findings of the dean and ~~((president))~~ executive dean, the record of the summary suspension proceedings, and determine therefrom whether the summary suspension order is justified. Following such examination, the

~~((board))~~ district president or designee may, at ~~((its))~~ his/her discretion, stay the summary suspension pending determination of the merits of the disciplinary proceedings pursuant to the provisions of the Code Procedures.

(3) The ~~((board))~~ district president or designee shall notify the appealing student within forty-eight ~~((48))~~ hours following ~~((its))~~ his/her consideration of the notice of appeal, as to whether the summary suspension shall be maintained or stayed pending disposition of the disciplinary proceedings pursuant to the provisions of the Code Procedures.

AMENDATORY SECTION (Amending Order 71-11, filed 2/17/71)

✓ WAC 132L-24-090 SUMMARY SUSPENSION PROCEEDINGS NOT DUPLICITOUS. (1) The summary suspension proceedings shall in no way substitute for the disciplinary proceedings provided for in provisions of the Code Procedures. At the end of the suspension, the student shall be reinstated to ~~((his))~~ full rights and privileges as a student, subject to whatever sanctions may have been or may be in the future imposed for violation of the Code of Student Rights and Responsibilities.

(2) Any disciplinary proceeding initiated against the student because of violations alleged against any student in the course of the summary suspension proceedings provided for herein shall be heard de novo, provided, that the records made and evidence presented during the course of any facet of the summary suspension proceedings brought against the student shall be available for the use of the student and of the college in the disciplinary proceeding initiated under the provisions of the Code Procedures.

WSR 78-04-044

EMERGENCY RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 78-6—Filed Mar. 23, 1978]

I, John C. Hewitt, director of the Department of Labor and Industries, do promulgate and adopt at the director's office, Olympia, Washington the annexed rules relating to new sections WAC 296-62-07341, Acrylonitrile; and WAC 296-62-07345, 1,2-Dibromo-3-Chloropropane, to reflect 29 CFR 1910.1044 and 1910.1045.

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 78-04-045

**NOTICE OF PUBLIC MEETINGS
SHORELINES HEARINGS BOARD**

[Notice—Apr. 3, 1978]

The next regular meeting of the Shorelines Hearings Board scheduled for Wednesday, April 26, 1978, will

commence at 9:30 a.m. instead of the regular time of 10:00 a.m. in the Board's office at Number One South Sound Center, Lacey, Washington.

WSR 78-04-046
EMERGENCY RULES
UNIVERSITY OF WASHINGTON
 [Order 78-1E, (Resolution 78-1), Filed Mar. 24, 1978]

Be it resolved by the board of Regents of the University of Washington, acting at Seattle, Washington, that it does promulgate and adopt the annexed rules relating to Parking and Traffic Regulations at the University of Washington, amending WAC 478-116-600(2)b-1 (new subdivision).

We, the Board of Regents of the University of Washington, 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 need (1) to immediately alleviate traffic congestion, (2) to show to the surrounding community an immediate good faith effort to diminish the problem, and (3) to implement some experimental changes in the parking program while the regular school year is still in session, since only during the regular school year can the viability of a change be determined.

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

This rule is promulgated pursuant to RCW 28B.10-.560 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 March 23, 1978.

By John R. Wasberg
 Assistant Attorney General

AMENDATORY SECTION (Amending Order 75-2, filed June 4, 1975)

WAC 478-116-600 FEES, FINES AND PENALTIES. (1) For purposes of this section the following lots are in:

- (a) Zone A -
 - (i) Central Campus: C1, C3, C6, C7, C8, C9, C10, C12, C13, C14, C15, C16, C17, C18;
 - (ii) East Campus: E3, E6, E7, E8;
 - (iii) North Campus: N2, N3, N4, N6, N7, N8, N9, N10, N11, N12, N13, N14, N15, N16, N18, N20, N21, N22, N23, N24, N26, N27, N28;
 - (iv) South Campus: S1, S4, S5, S6, S7, S8, S9, S10;
 - (v) West Campus: W1, W3, W4, W5, W6, W7, W8, W9, W10, W11, W12, W13, W14, W18, W20, W21, W22, W23, W24, W25, W34, W39, W41, W42.

- (b) Zone B -
 - (i) East Campus: E2, E9, E10, E11, E12;
 - (ii) North Campus: N1, N5, N25;
 - (iii) South Campus: S13;
 - (iv) West Campus: W2, W16, W17, W26, W27, W28, W29, W30, W31, W32, W33, W36, W38, W40.
- (2) The following schedule of parking fees is hereby established:

	PER	AMOUNT
(a) Type of Permit -		
(i) Annual Permits		
(A) Zone A Permits (not incl. 24-hour storage)	Year	\$ 72.00
(B) Zone B Permits (not incl. 24-hour storage)	Year	60.00
(C) Reserved - General	Year	144.00
(D) Reserved - Physically Handicapped	Year	72.00
(E) Motorcycle and Scooter	Year	18.00
(F) Drive-through permits (Full-time Faculty and Staff only)	Year	6.00
(G) 24-hour storage, garages	Year	108.00
(H) 24-hour storage, surface lots - Zone A	Year	72.00
(I) 24-hour storage, surface lots - Zone B	Year	60.00
(ii) Quarterly Permits:		
(A) Zone A permits (not incl. 24-hour storage)	Quarter	18.00
(B) Zone B permits (not incl. 24-hour storage)	Quarter	15.00
(C) Reserved - General	Quarter	36.00
(D) Reserved - Physically Handicapped	Quarter	18.00
(E) Drive-through permits (Full-time Faculty and Staff only)	Quarter	2.00
(F) Motorcycle and Scooter	Quarter	5.00
(G) 24-hour storage, garages	Quarter	27.00
(H) 24-hour storage, surface lots - Zone A	Quarter	18.00
(I) 24-hour storage, surface lots - Zone B	Quarter	15.00
(iii) Night Permits (5:00 p.m. to 7:30 a.m. and Saturday a.m. only)		
(A) Zone A annual permits	Year	48.00
(B) Zone B annual permits	Year	24.00
(C) Zone A quarterly permits	Quarter	12.00
(D) Zone B quarterly permits	Quarter	6.00
(iv) Conference Permits	Day	1.25
	Week	6.25
(b) Hourly Parking Rates for Designated Areas on Main Campus and South Campus (6:45 a.m. to 11:00 p.m. only) -		
(i) 0-15 minutes	No charge	
(ii) 15 minutes to 30 minutes		.25
(iii) to 1 hour		.50
(iv) 1 hour to 2 hours		.75
(v) 2 hours to 3 hours		1.00
(vi) over 3 hours		1.25
<u>(b-1) Hourly Parking Rates for Designated Areas on the Periphery of Campus (6:45 a.m. to 11:00 p.m. only) -</u>		
(i) 0-15 minutes	No charge	
(ii) 15 minutes to 30 minutes		.25
(iii) to 1 hour		.50
(iv) over 1 hour		.75
(c) Evening Parking (5:00 p.m. to 11:00 p.m.) -		
(i) 0-30 minutes	No charge	
(ii) over 30 minutes		.50
(d) Overnight Parking (to 7:30 a.m.)		1.00
(e) Special Permits -		
(i) Short term (24-hour) Zone A (Faculty, Staff and Students)	Week	2.25
	Month	9.00
(ii) Short term (not including 24-hour storage) Zone A (Faculty, Staff, and Students)	Week	1.50
	Month	6.00
(iii) Short-term Motorcycle	Day	.25

	PER	AMOUNT	Offense	Maximum Fine
(iv) Ticket Books (persons identified in WAC 478-116-240(6) and 478-116-250(1) only)			WAC 478-116-060 and 478-116-370	
(A) 5 ticket book	Book	1.75	(s) 19 Use of Forged/Stolen Vehicle Permit	25.00
(B) 10 ticket book	Book	3.50	WAC 478-116-060 and 478-116-370	
(C) 25 ticket book	Book	8.75	(t) 20 Impound	At cost
(f) Mechanically Controlled Parking Areas as Designated (Parking meters, ticket dispensers, automatic gates, etc.)		.10 - .50	WAC 478-116-580	
(g) Athletic Events -			(u) 21 Other Violations of the University Parking and Traffic Regulations	25.00
(i) Football				
(A) All campus lots		1.00		
(B) Buses		5.00		
(ii) All other events - Pavilion and Stadium lots				
(A) When staffed by attendants		.75		
(B) When controlled by mechanical equipment		.25		
(h) Miscellaneous Fees -				
(i) Transfer from one area to another by request of individual		2.00		
(ii) Gate keycard replacement		2.50		
(iii) Vehicle Gatekey deposit (Amount of deposit will be set by the Manager of the Parking Division. Deposit will be returned to individual when key is returned to Parking Division).		Not to exceed 5.00		
(iv) Permit Replacement				
(A) With signed certificate of destruction or theft		No charge		
(B) Without certificate of destruction		2.00		
(v) Impound Fee		At cost		
(3) The following schedule of fines for violations of these rules is hereby established:				
Offense		Maximum Fine		
(a) 01 Blocking Traffic WAC 478-116-190		\$ 5.00		
(b) 02 Enter/Exit Without Paying WAC 478-116-110		10.00		
(c) 03 Failure to Lock Ignition WAC 478-116-200		2.00		
(d) 04 Failure to Set Brakes WAC 478-116-200		2.00		
(e) 05 Improper Display Area Designator WAC 478-116-340		1.00		
(f) 06 Improper Display of Vehicle Permit WAC 478-116-340		1.00		
(g) 07 Occupying More than One Stall or Space WAC 478-116-140		1.00		
(h) 08 Parking in Restricted Parking Area WAC 478-116-110		2.00		
(i) 09 Parking in Prohibited Area WAC 478-116-130		5.00		
(j) 10 Parking on Grass WAC 478-116-130		5.00		
(k) 11 Parking Out of Assigned Area WAC 478-116-130		2.00		
(l) 12 Parking Over Posted Time Limit WAC 478-116-110		2.00		
(m) 13 Parking with No Valid Permit Displayed WAC 478-116-060		2.00		
(n) 14 Parking within 10 Feet of Fire Hydrant WAC 478-116-130		5.00		
(o) 15 Parking at Expired Meter WAC 478-116-350		2.00		
(p) 16 Parking Outside Cycle Area WAC 478-116-070		2.00		
(q) 17 Parking in Space/Area Not Designated for Parking WAC 478-116-130		1.00		
(r) 18 Use of Forged/Stolen Area Designator		10.00		

WSR 78-04-047
EMERGENCY RULES
DEPARTMENT OF GAME
[Order 78—Filed Mar. 24, 1978]

I, Ralph W. Larson, Director, Washington State Department of Game, acting at Olympia, Washington, do hereby adopt WAC 232-32-111 relating to Treaty Indian fishing in the Green, Hoh, and Nooksack rivers and tributaries.

I, Ralph W. Larson, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, and 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 data provided by the licensed fish buyers reporting sales of steelhead harvested by Treaty Indian fishermen from the Green River, Hoh River, Nooksack River and all tributaries pursuant to the reporting system approved by the United States District Court in *United States v. Washington* indicate that the treaty share will have been taken as of 6:00 p.m., March 31, 1978. It is necessary that the Treaty Indian fisheries be terminated by that date. Such a closure will not result in over-escapement. Such rules are therefore adopted by this emergency order.

This rule is promulgated under the authority of the Director of the Game Department as authorized in RCW 77.12.150 with the approval of the Game Commission as provided in that statute.

The undersigned hereby declares that he 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 the 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 at Olympia, Washington, this 24th day of March, 1978.

By Ralph W. Larson
Director

NEW SECTION

WAC 232-32-111 CLOSURE OF THE GREEN RIVER, HOH RIVER, NOOKSACK RIVER AND TRIBUTARIES TO THE TAKING OF STEELHEAD

BY TREATY INDIANS. It shall be unlawful for Treaty Indian fishermen to take, fish for or possess steelhead trout in the Green River, Hoh River, Nooksack River, and tributaries effective 6:00 p.m., March 31, 1978.

WSR 78-04-048
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed Mar. 27, 1978]

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 the amending of WAC 388-28-474 relating to replacement of exempt property;

that such agency will at 10:00 a.m., Wednesday, May 10, 1978, in the Auditorium, State Office Bldg #2, 12th and Jefferson, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, May 17, 1978, in William B. Pope's office, 3-D-14, State Office Bldg #2, 12th and Jefferson, Olympia, WA.

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 5/10/78 and/or orally at 10:00 a.m., Wednesday, May 10, 1978, Auditorium, State Office Bldg #2, 12th and Jefferson, Olympia, WA.

Dated: March 27, 1978

By: Gerald E. Thomas
 Deputy Secretary

AMENDATORY SECTION (Amending Order 1241, filed 9/23/77)

WAC 388-28-474 REPLACEMENT OF EXEMPT PROPERTY. A recipient may, ((in the event of an insurance settlement as a result of fire loss, acquire items of like value as those destroyed in the fire. Such action must follow the guidelines established in WAC 388-30-075(2))) within sixty days of receipt, reinvest in other exempt property funds acquired from an insurance settlement covering destroyed or stolen exempt property. A recipient may retain enough cash from the settlement to bring cash savings up to the cash resource ceiling in accordance with the size of the assistance unit. Any remaining portion of the insurance settlement shall be considered newly acquired nonexempt income.

WSR 78-04-049
NOTICE OF PUBLIC MEETINGS
WHATCOM COMMUNITY COLLEGE
 [Memorandum—Mar. 23, 1978]

This is to notify you that the Whatcom Community College Board of Trustees has canceled their May 9, 1978 meeting.

WSR 78-04-050
NOTICE OF PUBLIC MEETINGS
CLARK COMMUNITY COLLEGE
 [Memorandum—Mar. 22, 1978]

This is to notify your office that the location of the Board meeting scheduled for May 16 will be Bingen, Washington. The address is as follows:

Clark College Adult Learning Center
 Corner of Cedar and Franklin
 Bingen, WA

The discussion session of the Board is scheduled to begin at 5 p.m.; the business meeting will begin at 7 p.m.

WSR 78-04-051
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION
 [Filed Mar. 27, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and chapter 1-12 WAC that the Department of Transportation intends to adopt, amend, or repeal rules concerning the amendment to WAC 252-20-040, allowing bicyclists the use of the shoulders of sections of established and operating fully controlled limited access highways during daylight hours;

and that the adoption, amendment, or repeal of such rules will take place at 10:00 a.m., May 12, 1978, in the Room 1D9, Highway Administration Building, Olympia, WA.

The authority under which these rules are proposed is RCW 47.52.025 and 46.61.160.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 12, 1978.

Dated: March 27, 1978

By: V. W. Korf
 Acting Deputy Secretary

AMENDATORY SECTION (Amending Order 286, filed 12/28/76)

WAC 252-20-040 PROHIBITION OF NONMOTORIZED TRAFFIC ON FULLY CONTROLLED LIMITED ACCESS HIGHWAYS. (1) All nonmotorized traffic shall be prohibited upon state highways which have been established and constructed as fully controlled limited access facilities, and signs giving notice of such prohibition shall be posted upon all such highways.

(2) This prohibition of nonmotorized traffic on fully controlled limited access highways shall not apply to pedestrian overcrossings and undercrossings or other facilities provided specifically for the use of such traffic.

(3) This prohibition of nonmotorized traffic shall not apply to the following sections of established and operating fully controlled limited access highways with regard to pedestrians and bicycles:

- (a) State Route 2, Mile Post 0.00 to Mile Post 2.50;
- (b) State Route 410, Mile Post 0.30 to Mile Post 11.60;
- (c) State Route 526, Mile Post 0.80 to Mile Post 4.57.

(4) This prohibition shall not apply to the shoulders of the following sections of an established and operating fully controlled limited access highway with regard to bicycles during daylight hours only ((from January 1, 1977, through December 31, 1977)):

- (a) State Route 5, Mile Post 23.01 to Mile Post 27.42;
- (b) State Route 5, Mile Post 116.70 to Mile Post 119.01;

Signs giving notice of such permission shall be posted upon these highway routes.

(5) This prohibition shall not apply to the shoulders of the following sections of established and operating fully controlled limited access highways with regard to bicycles during daylight hours only from May 1 through September 30:

State Route 90, Mile Post 254.02 to Mile Post 257.69.

Signs giving notice of such permission shall be posted upon these highway routes.

WSR 78-04-052

ADOPTED RULES

DEPARTMENT OF TRANSPORTATION

[Order 11—Filed Mar. 27, 1978]

I, W. A. Bulley, Secretary of Transportation of the State of Washington, do promulgate and adopt at Transportation Building, Olympia, WA the annexed rules relating to Parking Restriction—SR 2, Wenatchee Vicinity. Parking is prohibited on both sides of SR 2 from the Wenatchee River Bridge at Mile Post 119.58 to Mile Post 120.68, a distance of 1.10 mile, amending WAC 252-32-002.

This action is taken pursuant to Notice No. WSR 78-02-088 filed with the Code Reviser on 1/30/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 46.61.570 which directs that the Department of Transportation has authority to implement the provisions of RCW 46.61.570.

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 March 20, 1978.

By W. A. Bulley
Secretary

AMENDATORY SECTION (Amending Order 303, filed 3/23/77)

WAC 252-32-002 STATE ROUTE 2. (1) Sunset Falls Vicinity. Parking is prohibited on the south side of SR 2 from 1.69 miles east of the Burlington Northern Railroad Undercrossing, Mile Post 36.61, to 1.79 miles east of the Burlington Northern Railroad Undercrossing, Mile Post 36.71, a distance of 0.10 mile.

(2) Barclay Creek Vicinity. Parking is prohibited on the north side of SR 2 from 1.12 miles west of the west pavement seat of the Barclay Creek Bridge, Mile Post 38.84, to 1.01 miles west of the west pavement seat of the Barclay Creek Bridge, Mile Post 38.95, a distance of 0.11 mile.

(a) Parking is prohibited on both sides of State Route 2, from 7:00 a.m. to 5:00 p.m. on school days only, for 50 feet on each side of Mile Post 39.73.

(3) Grotto Vicinity. Parking is prohibited on the north side of SR 2 from 0.62 mile east of the east pavement seat of the Bridge No. 2-107, Mile Post 45.05, to 0.71

mile east of the east pavement seat of Bridge No. 2-107, Mile Post 45.14, a distance of 0.09 mile.

(a) Parking is prohibited on the south side of SR 2 from 0.71 mile east of the east pavement seat of Bridge No. 2-107, Mile Post 45.14, to 0.79 mile east of the east pavement seat of Bridge No. 2-107, Mile Post 45.22, a distance of 0.08 mile.

(4) Skykomish Vicinity. Parking is prohibited on the south side of SR 2 from 0.33 mile east of the east pavement seat of the south fork of the Skykomish River Bridge, Mile Post 50.05, to 0.48 mile east of the east pavement seat of the south fork of the Skykomish River Bridge, Mile Post 50.22, a distance of 0.17 mile.

(a) Parking is prohibited on the north side of SR 2 from 0.35 mile east of the east pavement seat of the south fork of the Skykomish River Bridge, Mile Post 50.07, to 0.48 mile east of the east pavement seat of the south fork of the Skykomish River Bridge, Mile Post 50.22, a distance of 0.15 mile.

(5) Alpine Chainup Areas. Parking is prohibited on both sides of SR 2 from 0.11 mile east of the west pavement seat of Bridge No. 2-120, Mile Post 54.11, to 0.44 mile east of the west pavement seat of Bridge No. 2-120, Mile Post 54.44, a distance of 0.33 mile.

(a) Parking is prohibited on both sides of SR 2 from 0.22 mile west of the Tye River Rd., Mile Post 54.79, to 0.15 mile east of the Tye River Rd., Mile Post 55.16, a distance of 0.37 mile.

(6) Scenic Vicinity. Fifteen (15) minute parking to be applied only when road and/or weather conditions warrant, from Mile Post 57.76 to Mile Post 57.86, a distance of 0.10 mile.

(7) Stevens Pass Summit and Vicinity. Parking is prohibited on the following sections of SR 2 as weather and/or road conditions warrant.

(a) On both sides from 0.52 mile west of the King-Chelan County Line, Mile Post 64.11, to 0.02 mile west of the Chelan-King County Line, Mile Post 64.61, a distance of 0.50 mile.

(b) On both sides from 0.19 mile east of the King-Chelan County Line, Mile Post 64.82, to 0.44 mile east of the King-Chelan County Line, Mile Post 65.07, a distance of 0.25 mile.

(c) On the westbound shoulder from 1.40 miles east of the King-Chelan County Line, Mile Post 66.03, to 1.90 miles east of the King-Chelan County Line, Mile Post 66.53, a distance of 0.50 mile.

(d) On the eastbound shoulder from 6:00 p.m. to 7:00 p.m., from 1.40 miles east of the King-Chelan County Line, Mile Post 66.03, to 1.90 miles east of the King-Chelan County Line, Mile Post 66.53, a distance of 0.50 mile.

(8) Stevens Pass Vicinity. Parking is prohibited for that portion of the Upper Mill Creek Road, between the east and westbound lanes, starting at Mile Post 70.33 and extending to the east for 0.17 mile.

(9) Dryden to Cashmere. Parking is prohibited on the north side of SR 2 from Mile Post 110.48, easterly for a distance of 1,100 feet to Mile Post 110.69, a distance of 0.21 mile.

(10) Wenatchee Vicinity. Parking is prohibited on the east and west sides of SR 2 from approximately 490 feet

north of Maple Street, Mile Post ((+19:58)) 120.68, northerly to the south pavement seat of the Wenatchee River Bridge, No. 2/402S, Mile Post ((+20:68)) 119.58, a distance of 1.10 miles.

(11) West Spokane Vicinity. Parking is prohibited on the south side of State Route 2 from Spotted Road, Mile Post 281.22, westerly for 1,000 feet to Mile Post 281.03.

(12) Vicinity Junction State Route 206. No parking any time from a point 0.10 mile south of Junction State Route 206 at Mile Post 297.15, to a point 0.03 mile north of Junction Walter Avenue, at Mile Post 297.65, a distance of 0.50 mile on both east and west sides of the road.

WSR 78-04-053
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 78-12—Filed Mar. 27, 1978]

I, Gordon Sandison, director of State Department of Fisheries, do promulgate and adopt at Olympia, Washington the annexed rules relating to Commercial Fishing regulations.

I, Gordon Sandison, 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 closure is necessary until 9000 ton of herring are accounted for to ensure adequate escapement and to justify a minimum level fishery.

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 March 27, 1978.

By Gordon Sandison
 Director

NEW SECTION

WAC 220-49-02000A CLOSED SEASON—
HERRING Notwithstanding the provisions of WAC 220-49-020, immediately until further notice, it shall be unlawful for any fisherman, including treaty Indian fishermen to take, fish for or possess, for commercial purposes, herring, candlefish, anchovy or pilchards, with any type gear in Marinefish Shellfish Management and Catch Reporting Areas 20A, 20B, 21A and 21B.

WSR 78-04-054

NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION
 [Memorandum, Exec. Sec'y.—Mar. 24, 1978]

By rule, WAC 162-04-020(2), the Washington State Human Rights Commission holds regular meetings commencing at 9:30 a.m. on the third Thursday of each month.

The place of meetings for the remainder of 1978 is as follows:

April 20	—	Vancouver
May 18	—	Pasco
June 15	—	Spokane
July 20	—	Bellingham
September 21	—	Seattle
October 19	—	Yakima
November 16	—	Seattle
December 21	—	Seattle

The specific address of the next meeting can be obtained by telephoning or writing the Clerk, Washington State Human Rights Commission, 1601 Second Avenue Building, Fourth Floor, Seattle, Washington (98101), (206) 464-6500 or the Commission at 402 Evergreen Plaza Building, Seventh and Capitol Way, Olympia, Washington (98504), (206) 753-6770.

WSR 78-04-055
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 78-13—Filed Mar. 29, 1978]

I, Gordon Sandison, director of Department of Fisheries, do promulgate and adopt at Olympia, Washington the annexed rules relating to Personal use angling, Columbia River.

I, Gordon Sandison, 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 area remains open to sport fishing by Washington Department of Game and Oregon Department of Fish & Game. Jack salmon are not vital to escapement needs, consequently, there is no biological justification to preclude them from personal use fisherman catch.

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 March 29, 1978.

By Gordon Sandison
Director

NEW SECTION

WAC 220-57-16000A SALMON SEASON Notwithstanding the provisions of WAC 220-57-160, it shall be lawful to take, fish for and possess salmon for personal use by angling in the mainstem of the Columbia River downstream from the Richland-Pasco Highway 12 Bridge to the Megler-Astoria Bridge, except closed areas as described in WAC 220-57-160, from April 1 to June 30, 1978.

BAG LIMIT: C.

WSR 78-04-056

EMERGENCY RULES

ENERGY FACILITY SITE EVALUATION COUNCIL

[Order 78-1, (Resolution 141)—Filed Mar. 29, 1978]

Be it resolved by the Energy Facility Site Evaluation Council acting at Olympia, Washington, that it does promulgate and adopt the annexed rules relating to Fees for Determining Compliance.

We, the Energy Facility Site Evaluation Council, 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 rule was necessary to cover deposit of funds for costs incurred by ongoing monitoring program for certificate holders until permanent rules currently being developed are adopted.

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

This rule is promulgated pursuant to RCW 80.50.071 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 March 29, 1978.

By William L. Fitch
Executive Secretary

NEW SECTION

WAC 463-58-050 FEES FOR DETERMINING COMPLIANCE. Pursuant to RCW 80.50.071 each certificate holder shall pay such reasonable costs as are actually and necessarily incurred by the council for inspection and determination of compliance by the certificate holder with the terms and conditions of the certificate and shall deposit funds therefore forthwith to the credit of the Washington State Treasurer. The amount of funds required to be placed on deposit by the certificate holder shall be determined as follows:

(1) For the period subsequent to the date of execution of the site certification agreement until the beginning of construction or until the beginning of any work covered by an NPDES permit, five hundred dollars, and

(2) For the period subsequent to beginning of construction or beginning of any work covered by an NPDES permit, twenty thousand dollars.

WSR 78-04-057

PROPOSED RULES CODE REVISER

[Filed Mar. 29, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 that the code reviser intends to adopt, amend, or repeal rules concerning chapter 1-06 WAC, particularly as it relates to the form for the request of public records of this agency;

that such agency will at 10:30 a.m., Wednesday, May 10, 1978, in the Code Reviser's Office, Legislative Building, Olympia conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 11:a.m., Wednesday, May 10, 1978, in the Code Reviser's Office.

The authority under which these rules are proposed is RCW 42.17.260 and 42.17.300.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 10, 1978, and/or orally at 10:30 a.m., Wednesday, May 10, 1978, at the Code Reviser's Office, Legislative Building, Olympia.

Dated: March 29, 1978

By: Dennis W. Cooper
Acting Code Reviser

NEW SECTION

WAC 1-06-160 REQUEST FOR PUBLIC RECORD—FORM.



REQUESTER: Please complete form and submit to "Public Records Officer" of the state agency identified.

REQUEST FOR PUBLIC RECORD

TO	NAME OF STATE AGENCY STATUTE LAW COMMITTEE/OFFICE OF THE CODE REVISER	DATE OF REQUEST	TIME OF REQUEST												
PUBLIC RECORDS OR INFORMATION REQUESTED		REQUESTED BY													
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2">COMPLETED BY AGENCY PUBLIC RECORDS OFFICER</th> <th colspan="2">ACKNOWLEDGEMENT OF RECEIPT</th> </tr> <tr> <td style="width: 20%;">NO. OF COPIES</td> <td style="width: 20%;">AMOUNT RECEIVED \$</td> <td style="width: 20%;">DATE OF RECEIPT</td> <td style="width: 20%;">TIME OF RECEIPT</td> </tr> <tr> <td colspan="2">PUBLIC RECORDS OFFICER</td> <td colspan="2">RECIPIENT'S SIGNATURE</td> </tr> </table>		COMPLETED BY AGENCY PUBLIC RECORDS OFFICER		ACKNOWLEDGEMENT OF RECEIPT		NO. OF COPIES	AMOUNT RECEIVED \$	DATE OF RECEIPT	TIME OF RECEIPT	PUBLIC RECORDS OFFICER		RECIPIENT'S SIGNATURE		<p>REQUESTER READ AND SIGN</p> <p>I understand that I must abide by the Rules and Regulations published by the agency identified, for the protection of the public records, a copy of which I have read and understand.</p> <p>I understand that I will be charged .25 cents per copy for all standard letter size copies I desire and that other size publications are available at cost.</p>	
COMPLETED BY AGENCY PUBLIC RECORDS OFFICER		ACKNOWLEDGEMENT OF RECEIPT													
NO. OF COPIES	AMOUNT RECEIVED \$	DATE OF RECEIPT	TIME OF RECEIPT												
PUBLIC RECORDS OFFICER		RECIPIENT'S SIGNATURE													
REASON IF AGENCY IS UNABLE TO COMPLY		REQUESTER'S SIGNATURE													

Public records of the agency are provided for inspection and copying subject to the following regulations:

- (1) No person shall knowingly alter, deface, or destroy public records of the agency.
- (2) Original copies of public records of the agency shall not be removed from the offices of the agency.
- (3) Care and safekeeping of public records of the agency, to a request for inspection or copying, shall be the sole responsibility of the requestor.
- (4) Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization as when furnished.
- (5) Boisterous or otherwise disruptive conduct by those requesting public records of the agency shall not be permitted.

I have read, understand, and will comply with the above-stated regulations.

(Signature and date)

REPEALER

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

- (1) WAC 1-06-150 ADOPTION OF FORM;
- (2) APPENDIX A - REQUEST FOR PUBLIC RECORDS—FORM.

WSR 78-04-058
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 1284—Filed Mar. 30, 1978]

I, Gerald E. Thomas, Deputy Secretary of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington the annexed rules relating to the amending of chapter 388-88 WAC relating to medical care—nursing home care; and chapter 388-96 WAC relating to the nursing home accounting and reimbursement system.

I, Harlan P. McNutt, MD, MPH, 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 failure to expand the Title XIX nursing home program to cover IMR services effective no later than March 31, 1978 would have a substantial fiscal impact. The State would then not be able to claim in excess of one million dollars (\$1,000,000) in federal matching funds for IMR services provided during the first quarter of 1978.

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

This rule is promulgated pursuant to RCW 74.09.120 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the secretary of 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) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED March 29, 1978.

By Harlan P. McNutt
Secretary

AMENDATORY SECTION (Amending Order 1257, filed 12/21/77)

WAC 388-88-001 NURSING HOME CARE. (1) The department has the administrative and legal responsibility to purchase nursing home and nursing home based (out-patient services, WAC 248-14-295) care for eligible persons. The department has the responsibility to assure to the state that adequate care, service and protection are provided through licensing and certification procedures.

(2) Each Title XIX nursing home will be certified as a skilled nursing facility, intermediate care facility, ((σ)) skilled nursing and intermediate care facility, and/or institution for the mentally retarded and those with related conditions (IMR). A contract for the provision of care to medical recipient patients at an ICF facility will be for ICF care only. Except as provided in WAC 388-88-001(4) and WAC 388-88-077, contracts for the provision of care at all other facilities will be dual (ICF/SNF). Medical assistance recipients who are classified as requiring either intermediate level or skilled nursing care must be provided care only in a facility so certified.

(3) When a hospital elects to provide skilled nursing facility and/or intermediate care facility services to medical assistance recipients, the department will consider the hospital as such a provider. The hospital will be surveyed and certified, and all rules and regulations relating to skilled nursing facilities and/or intermediate care facilities shall apply, including certificate of need and/or section 1122.

(4) In order to qualify for a SNF only contract, a facility must meet department criteria regarding location, patient-classification ratios, ICF availability, average length of stay, staffing, and provision of rehabilitative services. The department will review all such requests and respond in writing within thirty days of receipt of a properly completed application.

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 388-88-007 IMR FACILITIES. Contracts with IMR facilities will specify one of four levels (A, B, C or D) of service. Clients will be admitted to IMR facilities only after classification by a qualified mental retardation professional employed by the department. This classification will specify one of these four levels. At least 50% of the licensed bed capacity will be occupied by persons with mentally retardation or related conditions as of the date of application for certification. Facilities may not admit any residents except IMR residents after the date of certification.

NEW SECTION

WAC 388-88-051 ADDITIONAL SERVICES REQUIRED FOR IMR RESIDENTS. In addition to nursing home care as defined in WAC 388-88-050, all IMR residents must receive the following services:

- (1) Supervision of each client's total program plan by a qualified mental retardation professional;
- (2) Provision of a planned program of individual goal related activities which does not allow for unscheduled activity in excess of three hours of continuous duration.
- (3) Active treatment which includes regular, planned, participation in accordance with an individual prescriptive plan. Such treatment must be developed, supervised, reviewed, and revised by appropriate specialists in the field of mental retardation.
- (4) Direct services by professional therapists in accord with needs of individual clients including, but not limited to:
 - (a) Psychology
 - (b) Recreation
 - (c) Education
 - (d) Vocational services

NEW SECTION

WAC 388-88-082 CLASSIFICATION OF IMR CLIENTS. (1) For IMR clients the level of care determinations are made by a qualified mental retardation professional employed by the department, in accordance with his/her best professional judgment. Each IMR client will be classified as needing Level A, B, C, or D services.

(2) In making IMR classification decisions the departmental representative shall utilize the following guidelines:

- (a) Level A: clients who:
 - (i) require 24 hour licensed nursing care and
 - (ii) manifest behaviors which require highly structured behavioral management programs, or cannot receive adequate care or services in a lesser level of IMR.
- (b) Level B: clients who:
 - (i) require licensed nursing care for at least 8 hours per day and
 - (ii) manifest behaviors which require highly structured behavioral management programs or cannot receive adequate care or services in a lesser level of IMR.
- (c) Level C: clients who:
 - (i) require 24 hour licensed nursing care and

(ii) are capable of participating in off-premises programs.

(d) Level D: clients who:

(i) require licensed nursing care for at least 8 hours per day and

(ii) are capable of participating in off-premises programs.

(3) The classification of IMR clients shall be periodically reviewed by the qualified mental retardation professional for the purposes of:

(a) determining the need for continued stay

(b) identifying the level of care required to meet the needs of the client.

(4) Classification changes shall be made in accordance with the needs of the recipients and in accord with appeal and relocation procedures outlined in WAC 275-27-500 and WAC 388-88-100 - 102 as applicable.

NEW SECTION

WAC 388-88-086 MINIMUM STAFFING REQUIREMENTS—IMR. (1) Each level of IMR must provide staff adequate in numbers and qualifications to meet client needs.

(2) In addition, the IMR must provide:

(a) Level A

(i) facility-based physician staff to provide for 24-hour medical supervision to include examination, diagnosis, planning, implementation, and review of appropriate medical regimen for each client.

(ii) one full-time registered nurse as director of nursing services plus sufficient licensed nurses to provide 24 hour nursing coverage.

(iii) facility based active treatment staff in accord with WAC 388-88-050 and WAC 388-88-051.

(iv) residential living staff at 1 staff per 2 residents to include sufficient qualified mental retardation professionals.

(b) Level B

(i) facility-based physician staff sufficient to provide for examination, diagnosis, planning, implementation and review of an appropriate medical regimen for each client.

(ii) at least one licensed practical nurse plus 16 hours per month of consultation by registered nurses.

(iii) facility based active treatment staff in accord with WAC 388-88-050 and WAC 388-88-051.

(iv) residential living staff at 1 staff per 2 residents to include sufficient qualified mental retardation professionals.

(c) Level C

(i) a medical director.

(ii) at least one full-time registered nurse as director of nursing services plus sufficient licensed nurses to provide 24 hour nursing coverage.

(iii) residential living staff at 1 staff per 2.5 residents to include sufficient qualified mental retardation professionals.

(d) Level D

(i) a medical director.

(ii) at least one licensed practical nurse plus 16 hour per month of consultation by registered nurses.

(iii) residential living staff at 1 staff per 5 residents to include sufficient qualified mental retardation professionals.

(3) In levels C and D active treatment will be provided by one or more of the following methods:

(a) consultation by DSHS staff.

(b) vendor coupons per Chapter 388-86 WAC.

(c) day training programs.

Level C and D facilities will provide transportation for clients to off-premises active treatment programs.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-010 TERMS. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth below when used in this chapter.

"Accrual method of accounting" - A method of accounting in which revenues are reported in the period when they are earned, regardless of when they are collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

"Allowable costs" - See WAC 388-96-501.

"Arms-length transaction" - A transaction resulting from good-faith bargaining between a buyer and seller who are unrelated and have adverse bargaining positions in the market place.

"Assets" - Economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles. They also include certain deferred charges which are not resources but which are recognized and measured in accordance with generally accepted accounting principles.

"Bad debts" - Amounts considered to be uncollectable from accounts and notes receivable.

"Beds" - Unless otherwise specified, the number of set-up beds in the nursing home.

"Capitalization" - The process of recording and carrying forward into one or more future periods an expenditure the benefits or proceeds from which will then be enjoyed.

"Capitalized lease" - A lease which is required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

"Cash method of accounting" - A method of accounting in which revenues are recognized only when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for them.

"Change of ownership" - A change in the individual or legal organization which is responsible for the daily operation of a nursing home.

(1) Events which change ownership include but are not limited to the following:

(a) The form of legal organization of the owner is changed (e.g., a sole proprietor forms a partnership or corporation);

(b) Title to the nursing home enterprise is transferred to another party;

(c) The nursing home enterprise is leased, or an existing lease is terminated;

(d) Where the owner is a partnership, any event occurs which dissolves the partnership;

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

(2) Ownership does not change when the following, without more, occur:

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

(b) If the owner is a corporation, some or all of its stock is transferred.

"Charity allowances" – Reductions in charges made by the contractor because of the indigence or medical indigence of a patient.

"Contract" – A contract between the department and a contractor for the delivery of SNF ((and/or)), ICF and/or IMR services to medical care recipients.

"Contractor" – An entity which contracts with the department to deliver SNF ((and/or)), ICF and/or IMR services to medical care recipients.

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

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

"Depreciation" – The systematic distribution of the cost or other base of a depreciable asset over its estimated useful life.

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

"Entity" – An individual or legal organization capable of entering enforceable contracts (e.g., corporation, partnership).

"ESSO" – The local economic and social service office of the department.

"Exceptional care recipient" – A medical care recipient determined by the department to require exceptionally heavy care.

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

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

"Fixed asset" – A tangible asset with an historical cost in excess of one hundred fifty dollars and a useful life of more than one year.

"Generally accepted accounting principles" – Accounting principles currently approved by the American Institute of Certified Public Accountants.

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

"Historical cost" – The actual cost incurred in acquiring and preparing a fixed asset for use. Historical cost includes such planning costs as feasibility studies, architects' fees, and engineering studies. It does not include "start-up costs" as defined in this section or construction interest (see WAC 388-96-543).

"ICF" – When referring to a nursing home, an intermediate care facility. When referring to a level of care, intermediate care. When referring to a patient, a patient requiring intermediate care.

"Imprest fund" – A fund which is regularly replenished in exactly the amount expended from it.

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

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

"Intermediate care facility" – A licensed facility certified to deliver intermediate care services to medical care recipients.

"Levels of care" – The classification of types of services provided to patients by a contractor, e.g., skilled nursing care or intermediate care.

"Medical care recipient" – A recipient of medical assistance under Title XIX of the Social Security Act or of state funded medical care services.

"Multiservice facility" – A facility at which two or more types of health or related care are delivered, e.g., a hospital and SNF and/or ICF, or a boarding home and SNF and/or ICF. A combined SNF/ICF or ICF/IMR is not considered a multiservice facility.

"Nonallowable costs" – Costs which do not meet every test of an allowable cost.

"Nonrestricted funds" – Funds which are not restricted to a specific use by the donor, e.g., general operating funds.

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

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

"Owner" – The individual or legal organization which is responsible for the daily operation of a nursing home. This party is legally responsible for operational decisions and liabilities.

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

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

"Prospective daily payment rate" – The rate assigned by the department to a contractor for providing service

to medical care recipients. The rate is used to compute the maximum participation of the department in the contractor's costs.

"Recipient" – A medical care recipient.

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

"Relative" – Spouse, natural parent, child, or sibling, adopted child or adoptive parent, step-parent, step-child, step-brother, step-sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent or grandchild, uncle, aunt, nephew, niece or cousin.

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

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

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

(3) Endowment funds.

"Skilled nursing facility" – A licensed facility certified to deliver skilled nursing care services to medical care recipients.

"SNF" – When referring to a facility, a skilled nursing facility. When referring to a level of care, skilled nursing care. When referring to a patient, a patient requiring skilled nursing care.

"Start-up costs" – The one-time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first patient is admitted. Start-up costs include administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, training costs, etc. They do not include such costs as feasibility studies, engineering studies and architects' fees which are part of the historical cost of the facility.

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

"Vendor number" – A number assigned to each contractor delivering SNF ((and/or)), ICF and/or IMR services to medical care recipients.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-020 PROSPECTIVE COST-RELATED REIMBURSEMENT. The prospective cost-related reimbursement system is the system used by the department to pay for skilled nursing facility services ((and)), intermediate care facility services and IMR services provided to medical care recipients. Reimbursement rates for such services covering periods beginning

on and after January 1, 1978, will be determined in accordance with the principles, methods and standards contained in this chapter.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-023 CONDITIONS OF PARTICIPATION. In order to participate in the prospective cost-related reimbursement system, the person or legal organization responsible for operation of a nursing home or multiservice facility shall:

(1) Obtain a state certificate of need and/or federal capital expenditure review (section 1122) approval pursuant to chapter 70.38 RCW and Part 100, Title 42 C.F.R. where required. A certificate of need is required before commencement of a nursing home "construction" project (including acquisition) costing in excess of one hundred thousand dollars. Section 1122 approval is required for nursing home capital expenditures which (a) cost in excess of one hundred thousand dollars, (b) add or delete licensed beds, or (c) add or delete clinically related services;

(2) Hold the appropriate current license (e.g., nursing home license, hospital license);

(3) Hold current Title XIX certification to provide SNF ((and/or)), ICF and/or IMR services;

(4) Hold a current contract to provide SNF ((and/or)), ICF and/or IMR services; and

(5) Comply with all provisions of the contract and all applicable regulations, including but not limited to the provisions of this chapter and of chapter 388-88 WAC.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-032 TERMINATION OF CONTRACT. (1) When a ((nursing home)) contract is terminated for any reason, the old contractor shall submit final reports in accordance with WAC 388-96-125. Payment for care provided during the final thirty days of service under a contract will be held until the contractor has filed a properly completed final annual report, and final settlement has been determined.

(2) Following final settlement, a payment withheld pursuant to subsection (1) of this section will be sent to the contractor, after any overpayment determined in connection with final settlement has been deducted. If the contractor contests the settlement determination in accordance with WAC 388-96-904, the department will hold the amount in dispute pending completion of the appeal process, but will release the balance of such payment to the contractor.

(3) The department will release a payment which would be withheld pursuant to subsection (1) of this section, provided a bond issued by a reputable bonding company and acceptable to the department is filed by the contractor. The bond shall:

(a) be in an amount equal to the released payment;

(b) be for a term sufficient to ensure effectiveness after final settlement and the exhaustion of administrative and judicial remedies;

(c) provide that the full amount of the bond shall be paid to the department if a properly completed final annual report is not filed in accordance with this chapter, or if financial records supporting this report are not preserved and made available to the department's auditors; and

(d) provide that an amount equal to any recovery the department determines is due from the contractor at settlement, but not exceeding the amount of the bond, shall be paid to the department in the event the contractor does not pay the refund within sixty days following receipt of written demand or the conclusion of administrative or judicial proceedings to contest settlement issues.

(4) If a contract is terminated solely in order for the same owner to contract with the department to deliver SNF ((or)), ICF or IMR services to a different class of medical care recipients at the same nursing home, the contractor is not required to submit final reports, and payment for the final thirty days will not be withheld.

(5) When a contract is terminated, any accumulated liabilities which are assumed by a new owner shall be reversed against the appropriate accounts by the contractor.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-222 SETTLEMENT. (1) Following completion of the field audit of an annual report, the department will compare the prospective rates paid to the contractor during the report period, weighted according to the number of patient days during which each rate was in effect, with the contractor's audited allowable costs for the period, taking into account all authorized shifting (WAC 388-96-223).

(2) Within sixty days after completion of the field audit, the department will send a written audit report to the contractor. In this report, the department will:

(a) Explain the application of relevant contract provisions, regulations, auditing standards, rate formulas, and department policies to the contractor's report, in sufficient detail to permit the contractor to calculate with reasonable certainty its audited allowable costs and its settlement with the department;

(b) Advise the contractor of rules and regulations justifying a settlement determination resulting in reimbursement in any cost center at less than actual allowable costs, as reported by the contractor and verified by audit;

(c) Summarize all audit disallowances; and

(d) Request the contractor to refund money, if necessary, in accordance with the following principles;

(i) In the patient care and food cost areas, the contractor shall refund all portions of payments received for recipients (excluding exceptional care recipients) in excess of allowable patient care and food costs, respectively, for those recipients;

(ii) In the patient care cost area, the contractor shall also refund the percentage of the amount paid (less any recovery under subsection (i) above) equal to the percentage by which average per patient day nursing service

hours provided were less than the minimum number of hours issued by the department;

(iii) In the administration and operations and property cost areas, payments in excess of allowable costs will normally be retained by the contractor. Those overpayments shall be refunded only in the following circumstances:

(A) costs totaling \$.02 per patient day or \$1,000, whichever is higher, in any cost area, were reported which cannot be documented at audit, or accumulated liabilities of at least that amount accumulated liabilities were not properly reversed in accordance with WAC 388-96-032 or 388-96-113; or

(B) all conditions and standards were not met during the entire fiscal year, as determined by the department in Title XIX certification surveys. The portion of the total overpayment attributable to thirty days plus the number of days from the date of the first survey at which a standard or condition was found unmet until the date of the survey showing all conditions and standards met will be recovered((, and)). For IMR facilities with initial certification conditioned upon meeting a plan of correction relating solely to IMR program standards, overpayments will not be recovered due to failure to comply with these standards during the period covered by this initial plan of correction; and

(iv) The amount of any recoveries under WAC 388-96-571(4) or 388-96-573.

(3) The contractor shall pay the refund, or shall commence repayment in accordance with a schedule determined by the department, within sixty days after receiving the audit report, unless the contractor contests settlement issues in good faith in accordance with the procedures set out in WAC 388-96-904. If the settlement determination is contested, the contractor shall pay or commence repayment in accordance with a schedule determined by the department within sixty days after such proceedings are concluded. The department will pay any amount due the contractor as the result of errors discovered at audit in billing or payment within thirty days after the audit report is received by the contractor or within thirty days after proceedings to contest the settlement are concluded.

(4) If the contractor does not refund the overpayment or any installment when due, the department may withhold payments from current billings until the overpayment is refunded. Payments will only be withheld under this subsection up to the unrefunded amount of the overpayment.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-501 ALLOWABLE COSTS. Allowable costs are documented costs which are necessary, ordinary and related to the provision of SNF ((or)), ICF or IMR services to nursing home patients, and are not expressly declared nonallowable by applicable regulations. Costs are ordinary if they are of the nature and magnitude which prudent and cost-conscious management would pay.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-505 OFFSET OF MISCELLANEOUS REVENUES. (1) Allowable costs shall be reduced by the contractor whenever the item, service, or activity covered by such costs generates revenue or financial benefits (e.g., purchase discounts or rebates) other than through the contractor's normal billing for SNF ((or)), ICF or IMR services.

(2) Where goods or services are sold, the amount of the reduction shall be the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, it shall be the full amount of the revenue received. Where financial benefits such as purchase discounts or rebates are received, the amount of the reduction shall be the amount of the discount or rebate.

(3) Only allowable costs shall be recovered under this section. Costs allocable to activities or services which are not included in SNF ((or)), ICF or IMR services (e.g., costs of vending machines, patients' personal laundry, and services specified in chapter 388-86 WAC which are not included in SNF, ICF or IMR services) are nonallowable costs.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-507 COSTS OF MEETING STANDARDS. All necessary and ordinary expenses a contractor incurs in providing SNF ((and/or)), ICF and/or IMR services meeting all applicable standards will be allowable costs. These expenses include necessary and ordinary costs of:

- (1) Meeting licensing and certification standards;
- (2) Providing regular room, dietary and nursing services, minor medical and surgical supplies, and the use of equipment and facilities, in accordance with WAC 388-88-050 and 388-88-051;
- (3) Fulfilling accounting and reporting requirements imposed by the department; and
- (4) Performing any patient assessment activity required by the department.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-585 NONALLOWABLE COSTS. (1) Costs will be nonallowable if they are not documented, necessary, ordinary, and related to the provision of SNF ((or)), ICF or IMR services to nursing home patients.

(2) Nonallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the Title XIX program, including costs of unnecessary care. Costs of nonprogram items or services will be nonallowable even if they are indirectly reimbursed by the department as the result of an authorized reduction in patient contribution.

(b) Costs of services and items provided to SNF, ICF or IMR recipients which are covered by the department's medical care program but not included in SNF

((or)), ICF or IMR services respectively. ((These)) Items and services covered by the medical care program are listed in chapter 388-86 WAC.

(c) Costs associated with a capital expenditure subject to Section 1122 approval (part 100, Title 42 C.F.R.) if the department found it was not consistent with applicable standards, criteria or plans. If the department was not given timely notice of a proposed capital expenditure, all associated costs will be nonallowable as of the date they are determined not to be reimbursable under applicable federal regulations.

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained.

(e) Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes, or related to the part of a facility leased out for office space).

(f) Salaries or other compensation of officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care.

(g) Costs in excess of limits or violating principles set forth in this chapter.

(h) Costs resulting from transactions or the application of accounting methods which circumvent the principles of the prospective cost-related reimbursement system.

(i) Costs applicable to services, facilities and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities or supplies purchased elsewhere.

- (j) Bad debts.
- (k) Charity and courtesy allowances.
- (l) Cash or other contributions to charitable organizations or political parties, and costs incurred to improve community relations.
- (m) Vending machine expenses.
- (n) Expenses for barber or beautician services not included in routine care.
- (o) Funeral and burial expenses.
- (p) Costs of gift shop operations and inventory.
- (q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except those used in patient activity programs.
- (r) Fund-raising expenses, except those directly related to the patient activity program.
- (s) Penalties and fines.
- (t) Expenses related to telephones, televisions, radios and similar appliances in patients' private accommodations.
- (u) Federal, state and other income taxes.
- (v) Costs of special care services, such as private duty nurses, except where authorized by the department for exceptional care recipients.
- (w) Expenses of key-man insurance and other insurance or retirement plans not in fact made available to all employees.
- (x) Expenses of profit-sharing plans.
- (y) Costs of training programs for nonemployees other than volunteers.

(z) Personal expenses and allowances of owners or relatives, except those allowable as compensation.

(aa) All expenses of maintaining professional licenses or membership in professional organizations not related to operation of the facility.

(bb) Costs related to agreements not to compete.

(cc) Goodwill.

(dd) Organization costs, start-up costs, and construction interest not amortized over at least sixty months after opening.

(ee) Legal and consultant fees in connection with a fair hearing against the department where a decision is rendered in favor of the department or where otherwise the determination of the department stands. Legal and consultant fees in connection with a lawsuit against the department are nonallowable.

AMENDATORY SECTION (Amending Order 1264, filed 1/9/78)

WAC 388-96-704 PROSPECTIVE REIMBURSEMENT RATES. (1) The department will determine prospective reimbursement rates for SNF ((and)), ICF and IMR services provided to recipients. Each rate represents the contractor's maximum compensation for one patient day of care of a recipient determined by the department to require SNF ((or)), ICF or IMR care.

(2) A contractor may also be assigned an individual prospective rate for a specific recipient determined by the department to require exceptional care.

AMENDATORY SECTION (Amending Order 1264, filed 1/9/78)

WAC 388-96-707 PROGRAM SERVICES NOT COVERED BY THE REIMBURSEMENT RATE. Medical services which are part of the department's medical care program but not included in SNF ((or)), ICF or IMR services ((are listed in chapter 388-86 WAC. They)) are not covered by the prospective reimbursement rate. Payment is made directly to the provider of service in accordance with chapter 388-87 WAC. Items and services covered by the medical care program are listed in chapter 388-86 WAC.

AMENDATORY SECTION (Amending Order 1264, filed 1/9/78)

WAC 388-96-719 METHOD OF RATE DETERMINATION. (1) Data used in determining rates will be taken from the most recent complete, desk-reviewed annual cost report submitted by each contractor. If no annual report is available, the most recent desk-reviewed semiannual report will be used.

(2) Data containing obvious errors, data for facilities which are out of compliance with any standard or condition at any time during the reporting period, and data for facilities with average occupancy ratios of less than eighty-five percent for the report period, will be excluded from the determination of predicted costs and rate ranges under subsections (4) and (6) of this section.

(3) Each contractor's reported cost data will be adjusted for economic trends based on component indices

of the consumer price index issued by the United States department of labor, bureau of labor statistics. The national averages for the most recent twelve-month period will be applied in rate computations for the four cost areas as follows:

(a) Patient care—"health and recreation" index;

(b) Food—"food at home" index;

(c) Administration and operations—Average of the "all items less food" and "services less care services" indices; and

(d) Property—"shelter" index.

(4) A predicted cost per patient day (excluding cost data and patient days relating to exceptional care recipients) in each of the four cost areas will be determined for each facility through multiple regression analysis, which allows the assessment of the joint impact of a set of factors on cost. The formula for the linear multiple regression function is:

$$Y_c = A + B_1X_1 + B_2X_2 + \dots + B_kX_k$$

where:

Y_c is the predicted cost per patient day for an individual facility;

A is the base cost for a hypothetical facility where the factors all are zero;

$B_1, B_2 \dots B_k$ are the regression coefficients for the factors; and

$X_1, X_2 \dots X_k$ are the independent variables or factors measuring the relevant characteristics of a facility.

A and $B_1, B_2 \dots B_k$ are determined statistically by the method of least squares. In order to be included in a regression formula, factors must show statistical predictability by being significant at the twenty percent level.

(5) After all predicted costs per patient day have been computed, the difference between each facility's reported costs, adjusted to take into account economic trends, and the predicted cost will be computed. The standard deviation of the difference will also be calculated.

(6) To determine an individual contractor's prospective rate, its predicted cost is revised using the most current factor values for the individual facility and the base cost and weights derived in the regression analysis described above. A rate range, defined as this predicted cost plus and minus one standard deviation of the difference calculated in accordance with subsection (5) of this section, will then be determined. If the contractor's reported costs (adjusted for economic trends) are lower than the lower limit of the rate range, the lower limit will be the contractor's reimbursement rate. If these adjusted reported costs are higher than the upper limit of the rate range, the upper limit will be the contractor's reimbursement rate. If these adjusted reported costs fall within the standard rate range, the contractor's reimbursement rate will equal the adjusted reported costs.

(7) Where new standards are imposed, or the department wishes to encourage additional services or otherwise change the program, ((an)) a cost-related adjustment will be made to the ((overall reimbursement)) appropriate cost area rates of each contractor affected by the program change. Adjustments will be made until reported costs used in setting rates reflect the new standards or program changes.

AMENDATORY SECTION (Amending Order 1264, filed 1/9/78)

WAC 388-96-722 PATIENT CARE COST AREA RATE. (1) The patient care cost area reimbursement rate will be computed to cover the necessary and ordinary costs of providing routine ((nursing)) services and supplies to recipients in accordance with WAC 388-88-050 and 388-88-051.

(2) The regression equation used in the patient care cost area will contain weights for the following four factors:

(a) Locality of the facility. This factor adjusts the base cost to provide for local market conditions. Facility location will be considered "urban" if it is in one of the four Standard Metropolitan Statistical Areas (SMSA). It will be considered "rural" if it is not in an SMSA. SMSA areas are those established in the 1970 census for the state of Washington.

(b) Type of facility. This factor adjusts the base cost to provide for the effect institutional requirements have on patient care costs. Facilities such as hospitals and other institutions which are certified providers but not licensed as nursing homes will be distinguished from facilities whose primary mission is the delivery of nursing home care.

(c) Characteristics of patients in the facility, as determined by the department. This factor adjusts the base cost to provide for the effect patient mix has on patient care costs. From January 1, 1978 through June 30, 1978, this factor will be the ratio of the number of SNF patients to the total number of patients in each facility for purposes of the regression analysis. In computing an individual facility's rate for that period, it will be the ratio of the number of SNF recipients to the total number of recipients in the facility. On and after July 1, 1978, this factor will be derived using a uniform patient assessment performed by the department.

(d) Number of floors of the facility. This factor adjusts the base cost to provide for the effect of physical plant differences on patient care costs. Data will be derived from inspection records in the state fire marshal's office.

(3) In addition to its reimbursement rate, each contractor will be assigned a range of nursing service hours which represent the maximum and minimum number of hours the department will purchase. For purposes of this hour range for IMR facilities, nursing services include residential living services. The range will depend on the characteristics of the patients in each facility. From January 1, 1978 through June 30, 1978, it will be computed based on the ratio of the number of SNF ((patients)), ICF and IMR patients of each level, respectively, to the total number of patients in the facility, assuming a range of 1-2 hours for ICF patients ((and)), 1.75 - 3 hours for SNF patients, 3.1-6.1 for IMR level A patients, 2.7-5.4 for IMR level B patients, 2.1-3.6 for IMR level C patients, and 1.2-2.4 for IMR level D patients. On and after July 1, 1978, this range will be derived using a uniform patient assessment performed by the department. When the certification of a contractor is changed to add or eliminate a level of care,

the range will be adjusted using the ratio of patients in each level of care at the time the new certification becomes effective. When the department requires new standards or makes program changes which require more or less nursing service, the range will be adjusted as of the effective date of the new standard or program change.

AMENDATORY SECTION (Amending Order 1264, filed 1/9/78)

WAC 388-96-760 UPPER LIMITS TO REIMBURSEMENT RATE. The reimbursement rate shall not exceed the contractor's customary charges to the general public for the services covered by the rate, except that public facilities rendering such services free of charge or at a nominal charge will be reimbursed according to the methods and standards set out in this chapter. The contractor shall immediately inform the department if its reimbursement rate does exceed customary charges for comparable services. The rate will be adjusted in accordance with WAC 388-96-769. Rates will not exceed the limits set out at 42 CFR 450.30(b)(6).

AMENDATORY SECTION (Amending Order 1264, filed 1/9/78)

WAC 388-96-763 RATES FOR RECIPIENTS REQUIRING EXCEPTIONALLY HEAVY CARE. (1) A contractor certified to care for SNF or IMR patients may apply for an individual prospective reimbursement rate for a recipient whose special nursing and direct care-related service needs are such that the cost of care will be at least twice the contractor's current reimbursement rate.

(2) Application for an individual rate for an exceptionally heavy care recipient shall be made in accordance with instructions furnished by the department.

(3) An individual rate for an exceptionally heavy care recipient will be granted for a specified period of time, subject to extension, revision, or termination depending on the recipient's care requirements at the end of such period. It will be computed to cover the projected actual costs of care of the recipient.

(4) The contractor will be informed in writing of the disposition of its application as soon as possible and in no case longer than thirty days following receipt of a properly completed application.

WSR 78-04-059
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 78-14—Filed Mar 30, 1978]

I, Gordon Sandison, director of Fisheries, do promulgate and adopt at Olympia, Washington the annexed rules relating to commercial fishing regulations.

I, Gordon Sandison, 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 lingcod stocks have decreased tremendously to the point they require complete protection. This Order is necessary to protect these fish and make closure to coincide with personal use closure.

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 March 30, 1978.

By Gordon Sandison
Director

NEW SECTION

WAC 220-48-09800A LINGCOD SEASONS Effective April 1, 1978, it shall be unlawful to take or possess, for commercial purposes, lingcod with any type gear, the entire year in Puget Sound Marinefish-Shellfish Management and Catch Reporting Areas 24A, 24B, 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, 28D, and that portion of 25B south of a line from Liplip Point to Bush Point.

WSR 78-04-060

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 1550—Filed Mar. 31, 1978]

I, Bob J. Mickelson, director of Department of Agriculture, do promulgate and adopt at Olympia, Washington the annexed rules relating to new sections WAC 16-414-010, 16-414-020, 16-414-030, 16-414-040, 16-414-050, 16-414-060, 16-414-070, 16-414-080 and 16-414-090, relating to the establishment of a Washington State cherry grade.

This action is taken pursuant to Notice No. WSR 78-02-082 filed with the code reviser on 1/30/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 15.17 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 March 30, 1978.

By Bob J. Mickelson
Director

Chapter 16-414 WAC SWEET CHERRIES

NEW SECTION

WAC 16-414-010 WASHINGTON NO. 1 GRADE AND TOLERANCES DEFINED. (1)

Washington No. 1 shall consist of sweet cherries which meet the following requirements: Similar varietal characteristics; mature; fairly well colored; well formed and clean; free from decay insect larvae or holes caused by them, soft overripe or shriveled, underdeveloped doubles and sunscald; and free from damage by any other cause.

(2) Size. Unless otherwise specified, the minimum diameter of each cherry shall be not less than three-fourths inch. The maximum diameter of the cherries in any lot may be specified in accordance with the facts.

(3) Tolerances. In order to allow for variations incident to proper grading and handling, the following tolerances, by count, are provided as specified:

(a) For defects at shipping point. Washington No. 1. Eight percent for cherries which fail to meet the requirements for this grade: PROVIDED, That included in this amount not more than four percent shall be allowed for defects causing serious damage, including in this latter amount not more than one-half of one percent for cherries which are affected by decay.

NOTE: Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

(b) For defects en route or at destination.

Washington No. 1. Twenty-four percent for cherries in any lot which fail to meet the requirements for this grade: PROVIDED, That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) Eight percent for cherries which fail to meet the requirements for this grade because of permanent defects; or

(ii) Six percent for cherries which are seriously damaged, including therein not more than four percent for cherries which are seriously damaged by permanent defects and not more than two percent for cherries which are affected by decay.

(c) For off-size. Five percent for cherries which fail to meet the specified minimum diameter and ten percent for cherries that fail to meet any specified maximum diameter.

NEW SECTION

WAC 16-414-020 APPLICATION OF TOLERANCES. Individual samples shall have not more than

double the tolerances specified, except that at least two defective and two off-size specimens may be permitted in any sample: PROVIDED, That the averages for the entire lot are within the tolerances specified for the grade.

NEW SECTION

WAC 16-414-030 DEFINITIONS. (1) Similar varietal characteristics. "Similar varietal characteristics" means that the cherries in any container are similar in color and shape.

(2) Mature. "Mature" means that the cherries have reached the stage of growth which will insure the proper completion of the ripening process.

(3) Fairly well colored. "Fairly well colored" means that at least ninety-five percent of the surface of the cherry shows characteristic color for mature cherries of the variety.

(4) Well formed. "Well formed" means that the cherry has the normal shape characteristic of the variety, except that mature well developed doubles shall be considered well formed when each of the halves is approximately evenly formed.

(5) Clean. "Clean" means that the cherries are practically free from dirt, dust, spray residue, or other foreign material.

NEW SECTION

WAC 16-414-040 DAMAGE. "Damage" means any specific defect described in this section; or any equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit. The following specific defects shall be considered as damage:

(1) Cracks within the stem cavity when deep or not well healed, or when the appearance is affected to a greater extent than that of a cherry which has a superficial well healed crack one-sixteenth inch in width extending one-half the greatest circumference of the stem cavity;

(2) Cracks outside of the stem cavity when deep or not well healed, or when the crack has weakened the cherry to the extent that it is likely to split or break in the process of proper grading, packing and handling, or when materially affecting the appearance;

(3) Hail injury when deep or not well healed, or when the aggregate area exceeds the area of a circle three-sixteenths inch in diameter;

(4) Insects when scale or more than one scale mark is present, or when the appearance is materially affected by any insect;

(5) Limbrubs when affecting the appearance of the cherry to a greater extent than the amount of scarring permitted;

(6) Pulled stems when the skin or flesh is torn, or when the cherry is leaking;

(7) Russeting when affecting the appearance of the cherry to a greater extent than the amount of scarring permitted;

(8) Scars when excessively deep or rough or dark colored and the aggregate area exceeds the area of a circle three-sixteenths inch in diameter, or when smooth or fairly smooth, light colored and superficial and the aggregate area exceeds the area of a circle one-fourth inch in diameter;

(9) Skin breaks when not well healed or when the appearance of the cherry is materially affected; and,

(10) Sutures when excessively deep or when affecting the shape of the cherry to the extent that it is not well formed.

NEW SECTION

WAC 16-414-050 DIAMETER. "Diameter" means the greatest dimension measured at right angles to a line from the stem to the blossom end of the cherry.

NEW SECTION

WAC 16-414-060 SERIOUS DAMAGE. "Serious damage" means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which seriously detracts from the appearance or the edible or marketing quality of the fruit. The following specific defects shall be considered as serious damage:

(1) Decay;

(2) Insect larvae or holes caused by them;

(3) Skin breaks which are not well healed;

(4) Cracks which are not well healed; and,

(5) Pulled stems with skin or flesh of cherry torn or which causes the cherry to leak.

NEW SECTION

WAC 16-414-070 PERMANENT DEFECTS. "Permanent defects" means defects which are not subject to change during shipping or storage; including, but not limited to, factors of shape, scarring, skin breaks, injury caused by hail or insects, and mechanical injury which is so located as to indicate that it occurred prior to shipment.

NEW SECTION

WAC 16-414-080 CONDITION DEFECTS. "Condition defects" means defects which may develop or change during shipment or storage; including but not limited to decayed or soft cherries and such factors as pitting, shriveling, sunken areas, brown discoloration and bruising which is so located as to indicate that it occurred after packing.

NEW SECTION

WAC 16-414-090 MARKING CONTAINERS. Containers shall be conspicuously and legibly stamped with the name and the address of the grower, packer or shipper, the net weight, and may be marked with the true variety name of "Sweet Cherries."

WSR 78-04-061

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 1549—Filed Mar. 31, 1978]

I, Bob Mickelson, director of Department of Agriculture, do promulgate and adopt at Olympia, Washington

the annexed rules relating to amending existing prune grade and standard to allow a greater tolerance at destination, WAC 16-445-040.

This action is taken pursuant to Notice No. WSR 78-02-083 filed with the code reviser on 1/30/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 15.17 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 March 30, 1978.

By Bob J. Mickelson
Director

AMENDATORY SECTION (Amending Order 1262, filed 5/5/72)

WAC 16-445-040 WASHINGTON NO. 1 GRADE AND TOLERANCES. (1) Defined. Washington No. 1 grade shall consist of prunes of one variety which are well formed (1), mature (2) but not overripe, soft or shriveled, and which are free from decay and sunscald (3), and from damage (4) caused by broken skins (4a), heat injury (4b), growth cracks (4c), sunburn (4d), split pits (4e), hail marks (4f), drought spots (4g), russeting (4h), scars (4i), dirt or other foreign material, disease, insects or mechanical or other means. Italian type prunes shall have two-thirds of the surface with purplish color characteristic of the particular area where grown, and unless otherwise specified, the minimum size of such prunes shall be not less than 1-1/4 inches in diameter (7).

(2) Tolerances. In order to allow for variations incident to proper grading and handling, the following tolerances are specified:

(a) At shipping point: Not more than a total of ((+0)) ten percent, by count, of the prunes in any container may not meet the requirements of this grade for defects other than color and size, but not more than ((5)) five percent by count, may be allowed for defects causing serious damage and not more than ((+)) one percent may be allowed for decay. In addition, not more than ((+0)) ten percent, by count, in any container may not meet the color requirements and not more than ((+0)) ten percent, by count, may not meet the size specifications, but the combined tolerance for all defects shall not exceed ((+5)) fifteen percent.

(b) At destination or en route: Not more than a total of eighteen percent of the prunes in any container may not meet the requirements of this grade and not more than the following percentages shall be allowed for the defects listed:

Ten percent which fail to meet the color requirement;

Ten percent which fail to meet the minimum size requirement;

Ten percent which fail to meet the requirements of the grade because of other permanent defects;

Seven percent for defects causing serious damage, including therein not more than five percent for serious damage by permanent defects and not more than two percent decay.

WSR 78-04-062

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 1551—Filed Mar. 31, 1978]

I, Bob J. Mickelson, director of Department of Agriculture, do promulgate and adopt at Olympia, Washington the annexed rules relating to new section WAC 16-602-010, Establishment of Apiary Board area boundaries.

This action is taken pursuant to Notice No. WSR 78-02-081 filed with the code reviser on 1/30/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 15.60 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that 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 March 30, 1978.

By Bob J. Mickelson
Director

Chapter 16-602 WAC
APIARIES

NEW SECTION

WAC 16-602-010 APIARY BOARD, AREA BOUNDARIES. Area 1. Area 1 shall include the counties of Whatcom, San Juan, Island, Skagit, Snohomish and King.

Area 2. Area 2 shall include the counties of Pierce, Kitsap, Clallam, Jefferson, Grays Harbor, Mason, Thurston, Pacific, Lewis, Wahkiakum, Cowlitz, Clark and Skamania.

Area 3. Area 3 shall include the counties of Kittitas, Yakima, Klickitat and Benton.

Area 4. Area 4 shall include the counties of Okanogan, Chelan and Douglas.

Area 5. Area 5 shall include the counties of Grant, Adams, Franklin, Walla Walla, Columbia, Garfield, Asotin and Whitman.

Area 6. Area 6 shall include the counties of Spokane, Lincoln, Ferry, Stevens and Pend Oreille.

WSR 78-04-063
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Filed Mar. 31, 1978]

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 the amending of chapter 173-14 WAC regarding the administration and enforcement of the permit system for shorelines management as established by the Shorelines Management Act of 1971;

that such agency will at 10:00 a.m., Tuesday, May 9, 1978, in the Spokane County Health Department Auditorium, West 1101 College, Spokane, WA also: at 10:00 a.m., Thursday, May 11, 1978, at City of Tacoma, Public Utilities Administration Building Auditorium, 3628 South 35th Street, Tacoma, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 10:00 a.m., Tuesday, June 13, 1978, in the Department of Ecology, Hearings Room, St. Martin's College, Olympia, WA.

The authority under which these rules are proposed is RCW 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 26, 1978, and/or orally at any of the above hearings.

Dated: March 31, 1978
By: Elmer C. Vogel
Deputy Director

Chapter 173-14 WAC
PERMITS FOR ((SUBSTANTIAL)) DEVELOPMENTS ON
SHORELINES OF THE STATE

Table listing WAC sections 173-14-010 through 173-14-190 and their corresponding descriptions such as Authority, Purpose, Definitions, Exemptions from permit system, etc.

AMENDATORY SECTION (Amending Order DE 75-22, filed 10/16/75)

WAC 173-14-010 AUTHORITY. This regulation is adopted pursuant to RCW 90.58.140(3) and RCW 90.58.200, the Shoreline Management Act of 1971.

AMENDATORY SECTION (Amending Order DE 75-22, filed 10/16/75)

WAC 173-14-020 PURPOSE. RCW 90.58.140(3) requires local governments to establish a program, consistent with rules adopted by the department of ecology, for the administration and enforcement of the permit system for shoreline management established therein. The purpose of this regulation is to establish basic rules for the permit system in harmony with the spirit of RCW 90.58.140(3) ((which provides that local government shall establish a program consistent with rules adopted by the department for administration and enforcement of the permit system for shoreline management)).

This administrative regulation is drafted to also reflect RCW 90.58-.050 which provides that the intent of the shoreline management act is to establish a cooperative program between local government and the state. According to this provision, local government shall have the primary responsibility for initiating and administering the regulatory program of shoreline management, whereas the department shall act primarily in a supportive and review capacity with primary emphasis on insuring compliance with the policies and provisions of the shoreline management act.

AMENDATORY SECTION (Amending Order DE 76-17, filed 7/27/76)

WAC 173-14-030 DEFINITIONS. The following definitions shall apply:

- (1) "Department" means the department of ecology.
(2) "Local government" means any county, incorporated city or town which contains within its boundaries any lands or waters subject to this chapter.
(3) "Final order" shall include the approval or disapproval of a permit, or a letter of exemption as set forth in WAC 173-14-115.
(4) "Act" shall mean chapter 286, Laws of 1971 ex. sess., the Shoreline Management Act of 1971.
(5) "Substantial development undertaken on the shorelines of the state prior to the effective date of the Act" shall mean actual construction begun upon the shoreline as opposed to preliminary engineering or planning.
(6) "Average grade level" shall mean the average of the natural or existing topography ((at the center of all exterior walls of a building or structure to be placed on a site;)) of the portion of the lot, parcel or tract of real property which will be directly under the proposed building or structure: PROVIDED, That in the case of structures to be built over water, average grade level shall be the elevation of ordinary high water. Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure.
(7) "Natural or existing topography" shall mean the topography of the lot, parcel or tract of real property immediately prior to any site preparation grading, excavation, or filling.
(8) "Height" shall be measured from average grade level to the highest point of a structure: PROVIDED, That appurtenances such as television antennas and chimneys shall not be used in calculating height.
(9) "Applicable master program" shall mean the master program approved or adopted by the department pursuant to RCW 90.58.090 or 90.58.190 prior to issuance of the permit by local government.
(10) The definitions and concepts set forth in RCW 90.58.030 shall also apply as used herein.

AMENDATORY SECTION (Amending Order DE 76-17, filed 7/27/76)

WAC 173-14-040 EXEMPTIONS FROM PERMIT SYSTEM. The following shall not require substantial development permits for the purposes of the act:

- (1) Any development of which the total cost or fair market value, whichever is higher, does not exceed \$1000, if such development does not materially interfere with the normal public use of the water or shorelines of the state.

(2) Normal maintenance or the repair of existing structures or developments, including damage by accident, fire or elements.

(3) Construction of the normal protective bulkhead common to single-family residences.

(4) Emergency construction necessary to protect property from damage by the elements.

(5) Construction of a barn or similar agricultural structure on wetlands. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on wetlands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: PROVIDED, That a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the wetlands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.

(6) Construction or modification of navigational aids such as channel markers and anchor buoys.

(7) Construction on wetlands by an owner, lessee or contract purchaser of a single-family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter.

(8) Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a single-family residence, the cost or fair market value, whichever is higher, does not exceed two thousand five hundred dollars.

(9) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands.

(10) The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.

(11) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on the effective date of ~~((this))~~ the 1975 amendatory act which were created, developed or utilized primarily as a part of an agricultural drainage or diking system.

(12) Any project with a certification from the governor pursuant to chapter 80.50 RCW.

(13) ~~((No permit shall be required under chapter 90.58 RCW for))~~ The construction of up to 500 feet of one and only one road or segment of a road, for forest practices, provided such road does not enter the shoreline more than once. Such exemption from said permit requirements shall be limited to a single road or road segment for each forest practice and such road construction shall be subject to the requirements of chapter 76.09 RCW, the Forest Practices Act, and regulations adopted pursuant thereto and to the prohibitions or restrictions of any master program in effect under the provisions of chapter 90.58 RCW. Nothing in this subsection shall add to or diminish the authority of the shoreline management act regarding road construction except as specifically provided herein. The provisions of this subsection shall not relate to any road which crosses over or through a stream, lake, or other water body subject to chapter 90.58 RCW.

AMENDATORY SECTION (Amending Order 73-23, filed 10/23/73)

WAC 173-14-050 APPLICATION OF THE PERMIT SYSTEM TO SUBSTANTIAL DEVELOPMENT UNDERTAKEN PRIOR TO THE ACT. Substantial development undertaken on the shorelines of the state prior to the effective date of the act shall not require a permit except under the following circumstances:

(1) Where the activity was unlawful prior to the effective date of the act.

(2) Where there has been an unreasonable period of dormancy in the project between its inception and the effective date of the act.

(3) Where the development is not completed within two years after the effective date of the act. In determining the running of the two-year period hereof, those periods of time after June 1, 1971 shall not

be included during which a development was not actually pursued by construction and the pendency of litigation reasonably related thereto made it reasonable not to so pursue.

(4) Where substantial development occurred prior to the effective date of the act on a shoreline and continued on to a different lake, river or tributary after the effective date, a permit shall be required for the development undertaken after the effective date.

Substantial development undertaken prior to the effective date of the act shall not continue without a permit into other phases that were not part of the plan being followed at the time construction commenced.

AMENDATORY SECTION (Amending Order DE 75-22, filed 10/16/75)

WAC 173-14-060 ((SCOPE)) TIME REQUIREMENTS OF PERMIT. The following time requirements shall apply to all substantial development ~~((permits and))~~, conditional use(s) and variance(s) permits:

(1) Construction or substantial progress toward construction of a project for which a permit has been granted pursuant to the act must be undertaken within two years after the approval of the ~~((substantial development))~~ permit. Substantial progress towards construction shall include, but not be limited to the letting of bids, making of contracts, purchase of materials involved in development, but shall not include development or uses which are inconsistent with the criteria set forth in WAC 173-14-100. ~~((Provided, that))~~ In determining the running of the two-year period hereof, there shall not be included the time during which a development was not actually pursued by construction and the pendency of litigation reasonably related thereto made it reasonable not to so pursue~~((:))~~; PROVIDED ((FURTHER)), That local government may, at its discretion extend the two-year time period for a reasonable time based on factors, including the inability to expeditiously obtain other governmental permits which are required prior to the commencement of construction.

(2) If a project for which a permit has been granted pursuant to the act has not been completed within five years after the approval of the permit by local government, the local government that granted the permit shall, at the expiration of the five-year period, review the permit, and upon a showing of good cause, do either of the following:

(a) Extend the permit for one year; or

(b) Terminate the permit~~((:))~~;

PROVIDED, That nothing herein shall preclude local government from issuing ~~((substantial development))~~ permits with a fixed termination date of less than five ~~((5))~~ years.

AMENDATORY SECTION (Amending Order DE 75-22, filed 10/16/75)

WAC 173-14-062 APPLICABILITY OF PERMIT SYSTEM TO FEDERAL AGENCIES. The ~~((substantial development))~~ permit system shall be applied in the following manner to federal agencies on lands meeting the criteria of the shoreline management act and the department for shorelines of the state.

(1) Federal agencies shall not be required to obtain permits for ~~((substantial))~~ developments undertaken by the federal government on lands owned in fee by the federal government, unless the federal government grants or reserves to the state or local government, substantial jurisdiction over activities on those lands.

(2) ~~((Upon approval of the Washington state shoreline program pursuant to the coastal zone management act, 16 U.S.C. 1451 et seq., the federal government shall be subject to the state shoreline program as provided by the coastal zone management act.~~

~~((3))~~ The ~~((substantial development))~~ permit system shall apply to nonfederal activities constituting substantial developments undertaken on lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.

~~((4))~~ (3) The ~~((substantial development))~~ permit system shall apply to substantial developments undertaken on lands not federally owned but under lease, easement, license, or other similar federal property rights short of fee ownership, to the federal government.

(4) Federal agency actions shall be consistent with the approved Washington state coastal zone management program subject to certain limitations set forth in the federal coastal zone management act, 16 U.S.C. 1451 et seq. and regulations adopted pursuant thereto.

AMENDATORY SECTION (Amending Order DE 76-17, filed 7/27/76)

WAC 173-14-064 REVISIONS TO SUBSTANTIAL DEVELOPMENT, CONDITIONAL USE, AND VARIANCE PERMITS. When an applicant seeks to revise a substantial development, conditional use, or variance permit, local government shall request from the applicant detailed plans and text describing the proposed changes in the permit.

(1) If local government determines that the proposed changes are within the scope and intent of the original permit, local government ~~((shall))~~ may approve a revision.

(2) "Within the scope and intent of the original permit" shall ~~((be construed to))~~ mean the following:

(a) No additional over water construction will be involved;

(b) Lot coverage and height may be increased a maximum of ten percent ~~((+10%))~~ from the provisions of the original permit: PROVIDED, That revisions involving new structures not shown on the original site plan shall require a new ~~((substantial development))~~ permit, and: ~~((Further provided))~~ PROVIDED FURTHER, That any revisions authorized under this subsection shall not exceed height, lot coverage, setback or any other requirements of the master program for the area in which the project is located.

(c) Landscaping may be added to a project without necessitating an application for a new ~~((substantial development))~~ permit: PROVIDED, That the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with the master program for the area in which the project is located~~((:));~~

(d) The use authorized pursuant to the original permit is not ~~((changed;))~~

~~((e))~~ (e) No additional significant adverse environmental impact will be caused by the project revision.

(3) If the revision will violate the terms of one or more of the provisions in WAC 173-14-064(2) above, local government shall require that the applicant apply for a new substantial development, conditional use, or variance permit, as appropriate, in the manner provided for herein.

(4) The revised permit shall become effective immediately. Within eight ~~((+8))~~ days of the date of final local government action the revised site plan, text and the approved revision shall be submitted to the appropriate ~~((Department of Ecology))~~ regional office of the department and the attorney general for the completion of their files. In addition, local government shall submit the revised site plan, text and the approved revision to persons who have notified local government of their desire to receive a copy of the action on a permit pursuant to WAC 173-14-070.

(5) Appeals shall be in accordance with RCW 90.58.180 and shall be filed within ~~((+15))~~ fifteen days from the date of receipt of the local governments action by the department of ecology regional office. Appeals shall be based only upon contentions of noncompliance with one or more of the provisions of ~~((2(a)(b)(c)))~~ WAC 173-14-064(2) above. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit shall be at the applicants own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision was not within the scope and intent of the original permit, ~~((it))~~ the decision shall have no bearing on the original permit.

AMENDATORY SECTION (Amending Order DE 76-17, filed 7/27/76)

WAC 173-14-070 NOTICE REQUIRED. Upon receipt of a proper application for a shoreline management substantial development permit, local government shall insure that notices thereof are published at least once a week on the same day of the week for two consecutive weeks in a newspaper of general circulation within the area in which the development is proposed. In addition, local government shall insure that additional notice of such application is given by at least one of the following methods:

(1) Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred ~~((300))~~ feet of the boundary of the property upon which the substantial development is proposed,

(2) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed or,

(3) Any other manner deemed appropriate by local authorities to accomplish the objectives of reasonable notice to adjacent landowners and the public.

Upon receipt of a proper application for a variance or conditional use permit where a substantial development permit is not required, local government shall, as a minimum, require notice of application by at least two of the methods defined in WAC 173-14-070(1), (2), and (3) above.

An affidavit that the notice has been properly published, and/or as applicable, posted or deposited in the U.S. mail pursuant to this section shall be affixed to the application. All such notices shall include a statement that within thirty days ~~((30))~~ of the final publication, any interested person may submit his written views upon the application to the appropriate local government or notify the local government of his desire to receive a copy of the action taken upon the application. All persons who notify the appropriate local government of their desire to receive a copy of the final order shall be notified in a timely manner of the action taken upon the application. If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at such hearing.

All notices of applications for shoreline management substantial development, conditional use, or variance permits shall contain, as a minimum, the information called for in the following form:

**NOTICE OF APPLICATION FOR
SHORELINE MANAGEMENT
SUBSTANTIAL DEVELOPMENT, CONDITIONAL USE, OR
VARIANCE PERMIT (use appropriate)**

Notice is hereby given that _____ (state full name) who is _____ (describe relationship to property, such as owner, purchaser, lessee, etc.) of the below-described property has filed an application for a substantial development, conditional use, or variance permit (use appropriate) for the development of _____ (describe development, including uses) located at _____ (give street address, if known, otherwise give distance and direction to nearest town) _____ within _____ (quarter section) of section _____ of township _____ N., Range _____ W.M., in _____ (city or town) _____ (County) Washington. Said development is proposed to be within (name of water area) _____ and/or its associated wetlands. Any person desiring to express his views or to be notified of the action taken on this application should notify _____ (name of local government official) in writing of his interest within thirty (30) days of the final date of publication of this notice which is _____ (date).

Written comments must be received by _____ (date).

AMENDATORY SECTION (Amending Order DE 75-22, filed 10/16/75)

WAC 173-14-080 PUBLIC HEARINGS. Local governments may establish a mandatory or optional public hearing procedure to precede the issuance or denial of substantial development, conditional use, or variance permits in order to allow interested persons to present their views.

AMENDATORY SECTION (Amending Order DE 76-17, filed 7/27/76)

WAC 173-14-090 FILING WITH DEPARTMENT ((OF ECOLOGY)) AND ATTORNEY GENERAL. Copies of the original application ((and other pertinent materials used in the final decision pursuant to either chapter 90.58 RCW or chapter 43.21C RCW, the permit and any other written evidence of the final order of local government relative to the application)), affidavit of public notice, site plan, vicinity map, permit, and final order shall be filed with the department ((of ecology)) and attorney general within eight days of the local government final decision. Where applicable local government shall also file the following materials required by chapter 43.21C RCW, the state environmental policy act; environmental checklist, threshold determination, and environmental impact statement, or in lieu thereof, a statement summarizing the actions and dates of such actions taken pursuant to chapter 43.21C RCW. Filing shall not be complete until ((the final order has)) these documents have actually been received by the regional office of the department within which the project lies, and by the attorney general. This same rule shall apply to conditional uses, variances ((and)), rescissions and revisions of permits ((pursuant to WAC 173-14-120)).

"Date of filing" of a substantial development permit shall be the date of actual receipt by the regional office of the department. The department shall notify in writing the local government and the applicant of the date of filing with the department. With regard to a permit for a conditional use or variance approved by local government, "date of filing" shall mean the date the final decision of the department is transmitted to local government and the applicant.

AMENDATORY SECTION (Amending Order DE 75-22, filed 10/16/75)

WAC 173-14-100 ((JUDGMENT)) REVIEW CRITERIA FOR SUBSTANTIAL DEVELOPMENT PERMITS.* (1) Prior to the effective date of an applicable master program, a substantial development permit shall be granted only when the development proposed is consistent with:

- (a) The policies and procedures of the act;
(b) The guidelines and regulations of the department; and,
(c) So far as can be ascertained, the master program being developed for the area((, and)).

(2) After the adoption or approval, as appropriate, by the department of an applicable master program, a substantial development permit shall be granted only when the development proposed is consistent with ((WAC 173-14-100(1) (with the exception of guidelines referred to in WAC 173-14-100(1)(b) above) the master program adopted or approved for the area):

- (a) The policies and procedures of the act;
(b) The provisions of this regulation; and,
(c) The applicable master program adopted or approved for the area.

* The State Environmental Policy Act, chapter 43.21C RCW, has been determined to be applicable to government permit programs. See WAC 461-08-175, Rules of Practice and Procedures of the Shoreline Hearings Board. Also see ((Council on)) state environmental policy act guidelines.

AMENDATORY SECTION (Amending Order DE 76-17, filed 7/27/76)

WAC 173-14-110 APPLICATION FOR SUBSTANTIAL DEVELOPMENT ((PERMIT)), CONDITIONAL USE, ((AND/OR)) OR VARIANCE PERMIT. Applications for a substantial development ((permit)), ((which may include)) conditional use, ((and/or)) or variance permit shall contain, as a minimum, the information called for in the following form. Such forms shall be supplied by local government.

APPLICATION FOR SUBSTANTIAL, CONDITIONAL USE, OR VARIANCE PERMIT

TO THE APPLICANT: This is an application for a substantial development, conditional use, or variance permit ((and-is)) as authorized by the shoreline management act of 1971. It is suggested that you check with appropriate local, state, or federal officials to determine whether your project falls within any other permit systems.

- 1. Name of applicant
2. Mailing address
3. Relation of applicant to property:
Owner
Purchaser
Lessee
Other
4. Name and address of owner, if other than applicant
5. General location of proposed project (please list section to the nearest quarter section, township, and range)
6. Name of water area and/or wetlands within which development is proposed

- 7. Current use of the property with existing improvements
8. Proposed use of property
9. (To be completed by local official.) Nature of the existing shoreline. (Describe type of shoreline, such as marine, stream, lake, lagoon, marsh, bog, swamp, flood plain, floodway, delta; type of beach, such as accretion, erosion, high bank, low bank, or dike; material such as sand, gravel, mud, clay, rock, riprap; and extent and type of bulkheading, if any):
10. (To be completed by local official.) In the event that any of the proposed buildings or structures will exceed a height of thirty-five feet above the ((existing)) average grade level, indicate the approximate location of and number of residential units, existing and potential, that will have an obstructed view. ((AVERAGE GRADE LEVEL DETERMINATION: The natural or existing topography of the portion of the lot, parcel or tract of real property which will be directly under the proposed structure shall be used in calculating average grade level. "Natural or existing topography" shall mean the topography of the building site prior to any excavation, grading or filling. Calculation of average grade level shall be made by averaging the elevations at the center of all exterior walls of a building or structure.))
11. (To be completed by local official.) If the application involves a conditional use or variance, set forth in full that portion of the master program which provides that the proposed use may be a conditional use, or, in the case of a variance, from which the variance is being sought.

PROJECT DIAGRAMS: Draw all site plans and maps to scale, clearly indicating scale on lower right-hand corner and attach them to the application.

- (a) SITE PLAN. Include on plan:
(1) Site boundary.
(2) Property dimensions in vicinity of project.
(3) Ordinary high-water mark.
(4) Typical cross section or sections showing:
(i) Existing ground elevations.
(ii) Proposed ground elevation.
(iii) Height of existing structures.
(iv) Height of proposed structures.
(5) Where appropriate, proposed land contours using five-foot intervals in water area and ten-foot intervals on areas landward of ordinary high-water mark, if development involves grading, cutting, filling, or other alteration of land contours.
(6) Show dimensions and locations of existing structures which will be maintained.
(7) Show dimensions and locations of proposed structures.
(8) Identify source, composition, and volume of fill material.
(9) Identify composition and volume of any extracted materials, and identify proposed disposal area.
(10) Location of proposed utilities, such as sewer, septic tanks and drainfields, water, gas, electricity.
(11) If the development proposes septic tanks, does proposed development comply with local health and state regulations?
(12) Shoreline designation according to master program.
(13) Show which areas are shorelines and which are shorelines of state-wide significance.
(b) VICINITY MAP.
(1) Indicate site location using natural points of reference (roads, state highways, prominent land marks, etc.)
(2) If the development involves the removal of any soils by dredging or otherwise, please identify the proposed disposal site on the map. If the disposal site is beyond the confines of the vicinity map, provide another vicinity map showing the precise location of the disposal site and its distance to the nearest city or town.

(3) Give a brief narrative description of the general nature of the improvements and land use within one thousand feet in all directions from development site. (i.e., residential to the north, commercial to the south, etc.).

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 DE 76-17, filed 7/27/76)

WAC 173-14-115 LETTER OF EXEMPTION. Whenever a development falls within the exemptions stated in WAC 173-14-040 and the development is subject to a U.S. Corps of Engineers section 10 permit under the ((River)) Rivers and ((Harbor)) Harbors Act of 1899, or a section 404 permit under the Federal Water Pollution Control Act of 1972, the local government shall prepare a letter addressed to the applicant and the appropriate regional office of the department, exempting the development from the substantial development permit requirements of chapter 90.58 RCW. This exemption shall be in substantially the following form. Such forms will be supplied by local government.

EXEMPTION FROM SHORELINE MANAGEMENT ACT SUBSTANTIAL DEVELOPMENT PERMIT REQUIREMENT

To: (name and address of the applicant)

The proposal by (name of applicant) to undertake the the following development (please be specific)

upon the following property (please list legal description, i.e., section to the nearest quarter section)

within (name of water area) and/or its associated wetlands is exempt from the requirement of a substantial development permit because the development

(Identify exemptions as outlined in WAC 173-14-040)

(Corps Public Notice Number ((if Available)))

The proposed development is consistent or inconsistent with:

CHECK ONE
CONSISTENT INCONSISTENT

- Consistent/Inconsistent checkboxes for Shoreline Management Act, Department of Ecology, and Master program.

(Date)

(Signature of Authorized Local Governmental Official)

AMENDATORY SECTION (Amending Order DE 76-17, filed 7/27/76)

WAC 173-14-120 PERMITS FOR SUBSTANTIAL DEVELOPMENT, CONDITIONAL USE, OR VARIANCE. Each permit for a substantial development, ((which may include a)) conditional use ((and)) or variance, issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until thirty ((30)) days from the date ((that the department of ecology regional office receives the permit)) of filing as defined in RCW 90.58.140(6) and WAC 173-14-090; or until all review proceedings initiated within thirty ((30)) days from the date of ((receipt

by the department)) such filing have been terminated; EXCEPT as provided in RCW 90.58.140(5)(a)(b)(c). ((The department shall notify in writing the local government and the applicant of the date of filing. Such permit))

Permits for substantial development, conditional use, or variance shall be in substantially the following form. Such forms will be supplied by local government.

SHORELINE MANAGEMENT ACT OF 1971 PERMIT FOR SHORELINE MANAGEMENT SUBSTANTIAL DEVELOPMENT, CONDITIONAL USE, OR VARIANCE

NOTE - THIS PAGE FOR LOCAL GOVERNMENT USE ONLY

(Consecutive but beginning with No. 1)

Application No.

Administering Agency (city or county)

Date received

Approved Denied

Date

Type of Action(s) ((Check if appropriate))

- Substantial Development Permit
Conditional Use Permit
Variance Permit

Pursuant to chapter 90.58 RCW, a permit is hereby granted/denied to:

(name of applicant)

(address)

to undertake the following development: (Please be specific)

upon the following property (please list the legal description, i.e., section to the nearest quarter section, township, range):

Within (name of water area) and/or its associated wetlands. The project will (be/not be) within shorelines of state-wide significance (RCW 90.58.030). The project will be located within a (environment) designation. The following master program provisions are applicable to this development ((please)) state the master program section or page number; If a conditional use or variance, also identify the portion of the master program which provides that the proposed use may be a conditional use, or that portion of the master program being varied.

Development pursuant to this permit shall be undertaken pursuant to the following terms and conditions:

This permit is granted pursuant to the Shoreline Management Act of 1971 and nothing in this permit shall excuse the applicant from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project, but not inconsistent with the Shoreline Management Act (chapter 90.58 RCW).

This permit may be rescinded pursuant to RCW ((90.58.140(7))) 90.58.140(8) in the event the permittee fails to comply with the terms or conditions hereof.

CONSTRUCTION PURSUANT TO THIS PERMIT WILL NOT BEGIN OR IS NOT AUTHORIZED UNTIL THIRTY ((30)) DAYS FROM THE DATE OF FILING ((THE FINAL ORDER OF THE LOCAL GOVERNMENT WITH THE REGIONAL OFFICE OF THE DEPARTMENT OF ECOLOGY)) AS DEFINED IN RCW 90.58.140(6) AND WAC 173-14-090, OR UNTIL ALL REVIEW PROCEEDINGS INITIATED WITHIN THIRTY DAYS FROM THE DATE OF SUCH FILING HAVE TERMINATED; EXCEPT AS PROVIDED IN RCW 90.58.140(5)(a)(b)(c).

.....
(Date)

.....
(Signature of Authorized Local Government Official)

THIS SECTION FOR DEPARTMENT ((OF ECOLOGY)) USE ONLY IN REGARD TO A ((SUBSTANTIAL DEVELOPMENT PERMIT WITH A)) CONDITIONAL USE OR VARIANCE PERMIT.

Date received by ((Department of Ecology)) the department

Approved Denied

This ((substantial development permit with)) conditional use/variance permit is ((approved)) approved/denied by the department ((of ecology)) pursuant to chapter 90.58 RCW.

Development shall be undertaken pursuant to the following additional terms and conditions:

.....
(Date)

.....
(Signature of Authorized Department ((of Ecology)) Official)

AMENDATORY SECTION (Amending Order DE 76-17, filed 7/27/76)

WAC 173-14-130 ((SUBSTANTIAL DEVELOPMENT PERMITS WITH)) ((CONDITIONAL USE(S)) AND VARIANCE(S)) PERMITS. After ((taking action on)) local government approval of a conditional use or variance permit, local government shall submit ((its action)) the permit to the appropriate regional office of the department for ((its)) the departments approval, approval with conditions (with concurrence of local government), or denial. The department shall render and transmit to local government and the applicant its final decision approving, approving with conditions, or disapproving the permit within thirty days of the date of submittal by local government pursuant to WAC 173-14-090. Local government shall notify those interested persons having contacted local government pursuant to WAC 173-14-070 of the departments final decision.

AMENDATORY SECTION (Amending Order DE 75-22, filed 10/16/75)

WAC 173-14-140 ((DEFINITIONS AND OBJECTIVES OF CONDITIONAL USE. Conditional uses are specifically described within the master program. The objective of a conditional use provision is to provide more control and flexibility for implementing the regulations of the master program. With provisions to control the undesirable effects, the range of uses within each of the designated environments can be expanded to include additional uses.)) REVIEW CRITERIA FOR CONDITIONAL USE PERMITS. The purpose of a conditional use permit is to allow greater flexibility in administering the use regulations of the master program in a manner consistent with the policies of RCW 90.58.020; PROVIDED, That conditional use permits should also be granted in any circumstance where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to control the undesirable effects of the proposed use.

(1) Uses specifically classified or set forth in the applicable master program as conditional uses may be authorized provided the applicant can demonstrate all of the following:

(a) That the proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the master program.

(b) That the proposed use will not interfere with the normal public use of public shorelines.

(c) That the proposed use of the site and design of the project will be compatible with other permitted uses within the area.

(d) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located.

(e) That the public interest suffers no substantial detrimental effect.

(2) Other uses not specifically classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate, in addition to the criteria set forth in WAC 173-14-140(2) above, that extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of the master program.

(3) In the granting of all conditional use permits consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses should also remain consistent with the policies of RCW 90.58.020 and should not produce a significant adverse affect to the shoreline environment.

AMENDATORY SECTION (Amending Order DE 76-17, filed 7/27/76)

WAC 173-14-150 ((VARIANCES. A variance deals with specific requirements of the master program and its objective is to grant relief when there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the master program. A variance will be granted only after the applicant can demonstrate in addition to satisfying the procedures set forth in WAC 173-14-130 the following:

(1) That if he complies with the provisions of the master program, he cannot make any reasonable use of his property. The fact that he might make a greater profit by using his property in a manner contrary to the intent of the program is not a sufficient reason for a variance.

(2) That the hardship results from the application of the requirements of the act and master programs, and not, for example, from deed restrictions or the applicant's own actions.

(3) That the variance granted will be in harmony with the general purpose and intent of the master program.

(4) That the public welfare and interest will be preserved; if more harm will be done to the area by granting the variance than would be done to the applicant by denying it, the variance will be denied.)) REVIEW CRITERIA FOR VARIANCE PERMITS. The purpose of a variance permit is to grant relief to specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary or unique circumstances relating to the property such that the strict interpretation of the master program would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

(1) Variance permits should be granted in any circumstance where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental affect.

(2) Variance permits for development that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(b), except those areas designated by the department as marshes, bogs, or swamps pursuant to chapter 173-22 WAC, may be authorized provided the applicant can demonstrate all of the following:

(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes or significantly interferes with a reasonable permitted use of the property.

(b) That the hardship described in WAC 173-14-150(2)(a) above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions.

(c) That the design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment.

(d) That the variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the area, and will be the minimum necessary to afford relief.

(e) That the public interest will suffer no substantial detrimental effect.

(3) Variance permits for development that will be located either waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(b), or within marshes, bogs, or swamps as designated by the department pursuant to chapter 173-22 WAC, may be authorized provided the applicant can demonstrate all of the following:

(a) That the strict application of the bulk or dimensional criteria in the applicable master program precludes a reasonable permitted use of the property.

(b) That the hardship described in WAC 173-14-150(3)(a) above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions.

(c) That the design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment.

(d) That the requested variance will not constitute a grant of special privilege not enjoyed by the other properties in the area, and will be the minimum necessary to afford relief.

(e) That the public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance.

(f) That the public interest will suffer no substantial detrimental effect.

(4) In the granting of all variance permits consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments in the area where similar circumstances exist the total of the variances should also remain consistent with the policies of RCW 90.58.020 and should not produce significant adverse affect to the shoreline environment.

AMENDATORY SECTION (Amending Order DE 75-22, filed 10/16/75)

WAC 173-14-170 REQUESTS FOR REVIEW. All requests for review of any final permit decisions under chapter 90.58 RCW and chapter 173-14 WAC are governed by the procedures established in RCW 90.58.180 and chapter 461-08 WAC, the rules of practice and procedure of the shorelines hearings board.

NEW SECTION

WAC 173-14-174 CERTIFICATION OF REQUESTS FOR REVIEW. All requests for review filed with the department pursuant to RCW 90.58.180(1) must contain the items required by WAC 461-08-055. Such requests shall be filed with the department within thirty days of the date of filing as defined in RCW 90.58.140(6) and WAC 173-14-090. The department will certify the request for review to the shorelines hearings board within thirty days of receipt of same if it appears the request has set forth valid reasons to seek review. Failure of the department to provide such certification does not preclude the requestor from obtaining certification from the attorney general or from obtaining a review in the superior court under any right to review otherwise available.

AMENDATORY SECTION (Amending Order DE 76-17, filed 7/27/76)

WAC 173-14-180 ((ENFORCEMENT)) REGULATORY ORDERS BY LOCAL GOVERNMENT OR THE DEPARTMENT ((OF ECOLOGY)). (1) Local government and the department ((of ecology)) shall have the authority to serve upon a person undertaking, or about to undertake development as defined in RCW 90.58.030(3)(d), a regulatory order if:

(a) The development constitutes an integral part of substantial development being undertaken, or about to be undertaken, on the shorelines of the state in the absence of a substantial development, conditional use, or variance permit; or

(b) The development being undertaken, although an integral part of a project approved by an existing, valid substantial development, conditional use, or variance permit is outside the scope and intent of said permit; or

(c) The development being undertaken on the shorelines of the state is in violation of ((RCW 90.58.020)) chapter 90.58 RCW, and/or one of the following:

(i) Prior to the formal adoption or approval ((of)) by the department ((of ecology)) of a master program for the area, the guidelines ((chapter 173-14 WAC;)) and regulations of the department, and so far as can be ascertained, the master program being developed for the area.

(ii) Thereafter this regulation of the department and the adopted or approved master program for the area.

(2) The regulatory order shall set forth or contain:

(a) The specific nature, extent and time of violation, and the damage or potential damage;

(b) An order that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a specific and reasonable time; and

(c) The right of the person to whom the order is directed to a hearing before the shorelines hearings board.

(3) A regulatory order issued pursuant hereto shall become effective immediately upon receipt by the person to whom the order is directed and shall become final unless review is requested pursuant to WAC 173-14-190.

AMENDATORY SECTION (Amending Order DE 75-22, filed 10/16/75)

WAC 173-14-190 HEARINGS ON REGULATORY ORDERS. (1) The person to whom the regulatory order is directed may request review to the shorelines hearings board within thirty days after being served. The requirements of RCW 90.58.180(1) and chapter 461-08 WAC shall apply to all said requests for review((:)); PROVIDED, HOWEVER, That there shall be no requirement for such requests to be filed with and certified by the department ((of ecology)) and the attorney general.

(2) All hearings held pursuant to this provision and judicial review thereof shall be in accordance with the rules establishing the shorelines hearings board contained in chapter 90.58 RCW and to chapter 461-08 WAC.

REPEALER (Amending Order DE 75-22, filed 10/16/75)

The following section of the Washington Administrative Code is repealed:

WAC 173-14-160 DEPARTMENT OF ECOLOGY REVIEW.

WSR 78-04-064

ADOPTED RULES

COMMISSION FOR VOCATIONAL EDUCATION

[Order 78-2, (Resolution 78-27-2)—Filed Mar. 31, 1978]

Be it resolved by the Washington State Commission for Vocational Education acting at Everett Community College, 801 Wetmore Avenue, Everett, WA that it does promulgate and adopt the annexed rules relating to new guidelines implementing chapter 43.21C RCW, the State Environmental Policy Act, adopting WAC 490-325-010, 490-325-020, 490-325-030, 490-325-040, 490-325-050 and 490-325-060.

This action is taken pursuant to Notice No. WSR 78-02-079 filed with the code reviser on 1/27/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 43.21C-120 and chapter 28C.04 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 March 23, 1978.

By Homer J. Halverson
Executive Director

Chapter 490-325 WAC

COMMISSION FOR VOCATIONAL EDUCATION

490-325-010 Introduction.

490-325-020 State environmental policy act compliance.

490-325-030 State environmental policy act "responsible official."

490-325-040 Information center and register distribution.

490-325-050 Publication of notice of action.

490-325-060 Time limit for completion of EIS process.

NEW SECTION

WAC 490-325-010 INTRODUCTION. When the Commission for Vocational Education, hereinafter referred to as CVE, begins to consider taking an action which might affect the environment (e.g., developing or revising the master plan, constructing a new building or adding to an existing facility, landscaping, or modifying or installing utilities), the CVE shall follow the steps outlined in WAC 490-325-010 through RCW 490-325-060.

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 490-325-020 STATE ENVIRONMENTAL POLICY ACT COMPLIANCE. It is the policy of the CVE that capital projects proposed to be developed by the agency shall be accomplished in compliance with Chapter 43.21C RCW, the State Environmental Policy Act (SEPA) and in accordance with Chapter 197-10 WAC, guidelines for State Environmental Policy Act implementation. To this end, the CVE hereby adopts by reference to the following sections or subsection of Chapter 197-10 of the Washington Administrative Code (the "SEPA Guidelines" adopted by the State of Washington Council on Environmental Policy):

- WAC 197-10-040: Definitions
- WAC 197-10-060: Scope Of A Proposal And Its Impacts
- WAC 197-10-160: No Presumption Of Significance For Non-Exempt Actions
- WAC 197-10-170: Categorical Exemptions
- WAC 197-10-175: Exemptions And Non-Exemptions Applicable To Specific State Agencies
- WAC 197-10-180: Exemption For Emergency Actions
- WAC 197-10-190: Use And Effect Of Categorical Exemptions
- WAC 197-10-200: Lead Agency—Responsibilities
- WAC 197-10-203: Determination Of Lead Agency—Procedures
- WAC 197-10-205: Lead Agency Designation—Governmental Proposals
- WAC 197-10-210: Lead Agency Designation—Private Projects For Which There Is Only One Agency
- WAC 197-10-215: Lead Agency Designation—Private Projects For Which There Is Only One Agency With Jurisdiction
- WAC 197-10-220: Lead Agency Designation—Private Projects Requiring Licenses From More Than One Agency, When One Of The Agencies Is A County/City
- WAC 197-10-225: Lead Agency Designation—Private Projects Requiring Licenses From More Than One State Agency

- WAC 197-10-230: Lead Agency Designation—Specific Proposals
- WAC 197-10-235: Local Agency Transfer Of Lead Agency Status To A State Agency
- WAC 197-10-240: Agreements As To Lead Agency Status
- WAC 197-10-245: Agreements Between Agencies As To Division Of Lead Agency Duties
- WAC 197-10-260: Dispute As To Lead Agency Determination—Resolution by CEP
- WAC 197-10-270: Assumption Of Lead Agency Status By Another Agency With Jurisdiction
- WAC 197-10-300: Threshold Determination Requirement
- WAC 197-10-305: Recommended Timing for Threshold Determination
- WAC 197-10-310: Threshold Determination Procedures—Environmental Checklist
- WAC 197-10-320: Threshold Determination Procedures—Initial Review of Environmental Checklist
- WAC 197-10-330: Threshold Determination Procedures—Information In Addition To Checklist
- WAC 197-10-340: Threshold Determination Procedures—Negative Declarations
- WAC 197-10-345: Assumption Of Lead Agency Status By Another Agency With Jurisdiction Over A Proposal—Prerequisites, Effect And Form Of Notice WAC 197-10-350: Affirmative Threshold Determination
- WAC 197-10-355: Form Of Declaration Of Significance/Non-Significance
- WAC 197-10-360: Threshold Determination Criteria—Application of Environmental Checklist
- WAC 197-10-365: Environmental Checklist
- WAC 197-10-370: Withdrawal Of Affirmative Threshold Determination
- WAC 197-10-375: Withdrawal Of Negative Threshold Determination
- WAC 197-10-390: Effect Of Threshold Determination By Lead Agency
- WAC 197-10-400: Duty To Begin Preparation Of A Draft EIS
- WAC 197-10-410: Pre-Draft Consultation Procedures
- WAC 197-10-425: Organization And Style Of A Draft EIS
- WAC 197-10-440: Contents Of A Draft EIS
- WAC 197-10-442: Special Considerations Regarding Contents Of An EIS On A Nonproject Action
- WAC 197-10-444: List Of Elements Of The Environment
- WAC 197-10-450: Public Awareness Of Availability Of Draft EIS
- WAC 197-10-455: Circulation Of The Draft EIS—Review Period
- WAC 197-10-460: Specific Agencies To Which Draft EIS Shall Be Sent
- WAC 197-10-465: Agencies Possessing Environmental Expertise
- WAC 197-10-470: Cost To The Public For Reproduction Of Environmental Documents
- WAC 197-10-480: Public Hearing On A Proposal—When Required
- WAC 197-10-485: Notice Of Public Hearing On Environmental Impact Of The Proposal
- WAC 197-10-490: Public Hearing On The Proposal—Use Of Environmental Documents
- WAC 197-10-495: Preparation Of Amended Or New Draft EIS
- WAC 197-10-500: Responsibilities Of Consulted Agencies—Local Agencies
- WAC 197-10-510: Responsibilities Of Consulted Agencies—State Agencies With Jurisdiction
- WAC 197-10-520: Responsibilities Of Consulted Agencies—State Agencies With Environmental Expertise
- WAC 197-10-530: Responsibilities Of Consulted Agencies—WHEN Pre-Draft Consultation Has Occurred
- WAC 197-10-535: Cost Of Performance Of Consulted Agency Responsibilities
- WAC 197-10-540: Limitations On Responses To Consultation
- WAC 197-10-545: Effect Of No Written Comment
- WAC 197-10-550: Preparation Of The Final EIS—Time Period Allowed
- WAC 197-10-570: Preparation Of The Final EIS—Contents—When No Critical Comments Received On The Draft EIS
- WAC 197-10-580: Preparation Of The Final EIS—Contents—When Critical Comments Received On Draft EIS
- WAC 197-10-600: Circulation Of The Final EIS
- WAC 197-10-650: Effect Of An Adequate Final EIS Prepared Pursuant To NEPA
- WAC 197-10-652: Supplementation By A Lead Agency Of An Inadequate Final NEPA EIS
- WAC 197-10-660: Use Of Previously Prepared EIS For A Different Proposed Action
- WAC 197-10-690: Use Of Lead Agency's EIS By Other Acting Agencies For The Same Proposal
- WAC 197-10-695: Draft And Final Supplements To A Revised EIS
- WAC 197-10-700: No Action For Seven Days After Publication Of The Final EIS
- WAC 197-10-710: EIS Combined With Existing Planning And Review Processes
- WAC 197-10-831: Responsibility Of Agencies—SEPA Public Information
- WAC 197-10-840: Application Of Agency Guidelines To Ongoing Actions

NEW SECTION

WAC 490-325-030 STATE ENVIRONMENTAL POLICY ACT "RESPONSIBLE OFFICIAL." In compliance with Chapter 197-10 WAC, the CVE Executive Director or an individual designated to act for and on behalf of him shall be the "responsible official" for carrying out this policy.

NEW SECTION

WAC 490-325-040 INFORMATION CENTER AND REGISTER DISTRIBUTION. The SEPA public information center required by Chapter 197-10 WAC, shall be maintained in the Office of the CVE Executive Director. Copies or updates of the registers required by WAC 197-10-830(3) shall be sent as required by WAC 197-10-830(4) to those individuals and organizations who make written request therefore.

NEW SECTION

WAC 490-325-050 PUBLICATION OF NOTICE OF ACTION. Any action, as defined in WAC 197-10-040, undertaken by the CVE, shall be publicized as prescribed in RCW 43.21C.080.

NEW SECTION

WAC 490-325-060 TIME LIMIT FOR COMPLETION OF EIS PROCESS. As soon as possible after a proposal for action has been formulated and its scope defined the responsible official or his designee shall establish the date by which the EIS process for the particular project must be completed.

WSR 78-04-065**PROPOSED RULES****HIGHLINE COMMUNITY COLLEGE**

[Filed Mar. 31, 1978]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Highline Community College intends to adopt, amend, or repeal rules concerning admissions and registration procedures, amending WAC 132I-160-030. (Copy of proposed amendatory section is attached, and right is reserved to make changes in content.);

and that the adoption, amendment, or repeal of such rules will take place at 10:00 a.m., Thursday, May 18, 1978, in the Gold Room, Building 4, Highline Community College, Midway, WA.

The authority under which these rules are proposed is chapter 28B.19 RCW and RCW 28B.50.140(29).

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution prior to May 11, 1978, and/or orally at 9:00 a.m., Thursday, May 11, 1978, Vice President's Office, Administration Building, Highline Community College, Midway, WA.

Dated: March 30, 1978
By: Edward M. Command
Vice President

AMENDATORY SECTION (Amending Order 013 filed January 6, 1976)

WAC 132I-160-030 BASIC POLICY OF ADMISSIONS. (1) Any person of at least 18 years of age and/or a high school graduate is eligible for admission to Highline Community College. Those persons unable to comply with these minimum requirements may be admitted only after a favorable review of a written request exempting them from these requirements (WAC 132I-160-030,060) submitted to the Director of Admissions, Highline Community College. Persons granted admission are considered matriculated students, as defined by WAC 132I-160-020(2), upon receipt of written notification of admission as a result of their complying with the special procedures defined as follows:

((+)) (a) Submit page one of a State of Washington Uniform Community College Admission form accompanied by;

((+)) (b) a \$10 application fee to the Office of Admissions, Highline Community College.

((+)) (2) Upon receipt of this form and fee the applicant's name will be placed on the admissions list and an acknowledgement of such receipt will be sent to the applicant.

((+)) (3) All official transcripts from high school(s) and all other institutions of higher learning attended previously must also be submitted.

((+)) (4) Students will be admitted in numerical order as applications are received (WAC 132I-160-040), except to those occupational programs having special admissions criteria as filed with the Office of Admissions. When maximum enrollment has been reached, remaining students will be notified that their admission must be deferred.

((+)) (5) Placement in specific classes may be determined by counseling staff in consultation with the new student using the results of the Washington Pre-College Test or an alternative battery of tests taken at the College. While the results of these tests are helpful and desirable, the submission of scores by the applicant is not mandatory for admission to Highline Community College.

((+)) (6) ~~(Prior to registration, a Health Information Card and proof of chest x-ray or tuberculin skin test is required-)~~ The college reserves the right to request that a chest x-ray or tuberculin skin test has been conducted and/or proof that a complete physical examination by a licensed physician ~~(also be)~~ has been conducted for groups of students identified by the college for sufficient cause or for students who will participate in specific programs or activities.

((+)) (7) Payment of a non-refundable "registration deposit" is permissible to hold open a space for an applicant in order to allow more time to obtain full tuition fees.

((+)) (8) Falsification and/or failure to submit necessary documents for admission may constitute grounds for dismissal from the College and/or refusal of permission to graduate from Highline Community College. Appeals of decisions regarding this clause may be submitted in writing to the Office of Admissions, Highline Community College. Notification of receipt of said request will be sent by the Director of Admissions. The Director shall review the student's entire file and shall consult the College's attorney. The results of this investigation and the resulting decision will be mailed to the student.

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.

WSR 78-04-066**PROPOSED RULES****STATE BOARD FOR COMMUNITY COLLEGE EDUCATION**

[Filed Mar. 31, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board for Community College Education intends to adopt, amend, or repeal rules concerning maximum allowable percentage salary increases for certain community college districts

and regulations for implementing optional salary increases in addition to salary increases authorized and funded for the fiscal year beginning July 1, 1978, WAC 131-16-410 (A copy of the proposed rule is attached hereto; however, changes may be made at the public hearing.);

that such agency will at 11:00 a.m., Wednesday, May 17, 1978, in the Olympia Technical Community College, 2011 Mottman Road, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 11:00 a.m., Wednesday, May 17, 1978, in the Olympia Technical Community College, 2011 Mottman Rd., Olympia, WA.

The authority under which these rules are proposed is chapter 339, Laws of 1977 ex. sess.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 17, 1978 and/or orally at 11:00 a.m., Wednesday, May 17, 1978, Olympia Technical Community College, 2011 Mottman Rd., Olympia, WA.

Dated: March 31, 1978

By: Gilbert Carbone
Assistant Director

AMENDATORY SECTION (Amending Order 66, filed 9/13/77)

WAC 131-16-410 OPTIONAL SALARY INCREASES FOR FACULTY AND EXEMPT PERSONNEL OF CERTAIN COMMUNITY COLLEGES. (1) Pursuant to authority granted in Chapter 339, Laws of 1977, 1st ex. sess., the following community college districts may grant salary increases in addition to those specifically authorized and funded by legislative enactment for the fiscal year beginning July 1, (~~(1977)~~) 1978, in the amounts indicated.

DISTRICT	MAXIMUM ADDITIONAL PERCENTAGE INCREASE
1 - Peninsula	((1.28%)) 4.41%
3 - Olympic	((5.00%)) 3.38%
4 - Skagit Valley	((5.00%)) 3.86%
5 - Everett/Edmonds	.92%
((6 - Seattle))	((.93%))
7 - Shoreline	((5.00%)) 2.06%
9 - Highline	1.54%
11 - Ft. Steilacoom	((2.86%)) 3.63%
12 - Centralia/Olympia Tech.	((5.00%)) 2.32%
13 - Lower Columbia	4.13%
15 - Wenatchee Valley	((4.79%)) 5.00%
17 - Spokane/Spokane Falls	((1.46%)) .93%
19 - Columbia Basin	.06%
20 - Walla Walla	5.00%
21 - Whatcom	((2.37%)) 1.78%

(2) The optional additional salary increases are those determined by application of the percentage difference between the average nine-month-equivalent salary of those personnel defined for inclusion in the hypothetical salary computation procedure and the nine-month-equivalent salary average generated for those same personnel by the hypothetical salary schedule.

(3) Upon determination by the district board of trustees that funds are available for such purpose, any optional additional salary increases granted pursuant to this regulation shall be granted consistent with the following provisions:

(a) Employees eligible to receive such optional salary increases shall be full-time faculty, part-time faculty, and administrative staff personnel, except those under the jurisdiction of the Higher Education Personnel Board.

(b) College districts are advised to interpret the allowable percentage of additional salary increases set forth in this regulation as the maximum that may be applied to any category of eligible employees

such as full-time faculty, part-time faculty, administrative staff personnel, and other employees exempt from the jurisdiction of the Higher Education Personnel Board.

(c) Any optional salary increase percentage shall be applied to the salary level separate from application of any general salary increase authorized and funded by legislative enactment.

(d) Optional salary increases as determined by any college district pursuant to this regulation may be granted only after approval by the State Director of a detailed plan for application of such optional increases by each district.

(e) The plan for each district for application of any optional salary increases shall be supported by record of the application of the plan for each individual full-time faculty and exempt staff members and for part-time faculty and exempt staff members in the aggregate.

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 78-04-067
PROPOSED RULES
STATE BOARD FOR
COMMUNITY COLLEGE EDUCATION
[Filed Mar. 31, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 that the State Board for Community College Education intends to adopt, amend, or repeal rules concerning tuition and fee charges made to students registered at Washington community colleges and waiver of such tuition and fees, WAC 131-28-025, 131-28-026, 131-28-027, 131-28-041, and 131-28-045. (A copy of the proposed rules is attached hereto; however, changes may be made at the public hearing.);

that such agency will at 11:00 a.m., Wednesday, May 17, 1978, in the Olympia Technical Community College, 2011 Mottman Rd., Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 11:00 a.m., Wednesday, May 17, 1978, in the Olympia Technical Community College, 2011 Mottman Rd., Olympia, WA.

The authority under which these rules are proposed is RCW 28B.15.500, 28B.15.520, 28B.15.525, 28B.15.530 and 28B.15.540(16).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 17, 1978 and/or orally at 11:00 a.m., Wednesday, May 17, 1978, Olympia Technical Community College, 2011 Mottman Rd., Olympia, WA.

Dated: March 31, 1978

By: Gilbert Carbone
Assistant Director

AMENDATORY SECTION (Amending Order 39, filed 6/27/75)

WAC 131-28-025 METHOD OF ASSESSING TUITION AND FEE CHARGES. (1) For academic and occupational regular or short courses, tuition and fees charged to students:

(a) shall be based upon the number of credits assigned to such courses as listed in the official and current catalog of the college, or for courses not given such credit designations, the number of credit equivalents as computed by the method for deriving such equivalents established by the State Board.

(b) shall be assessed on a per-credit basis at uniform rates for resident and for non-resident students, provided:

(i) that the respective maximums charged to any resident or non-resident student shall not exceed the amount specified in RCW 28B.15.500,

(ii) that the required non-resident differential is charged, and
~~((iii) that for such courses the district board of trustees may reduce, but not eliminate, the total combined tuition and fees charged if in its judgment such amount would constitute an exorbitant charge considering the nature and content of the course, special circumstances related to the cost of offering the course, or unique characteristics of the students for whom the course is intended:))~~

(c) shall be assessed for part-time students, for each credit of registration or its equivalent, at the rate of one-tenth of the total combined tuition, operating, and services and activities fees charged to full-time students consistent with RCW 28B.15.500.

(2) The provisions of this section shall not apply to the ungraded courses set forth in WAC 131-28-026. ~~((apprenticeship-related training courses that meet the standards approved by the State Joint Apprenticeship Council pursuant to RCW 49.04.030, industrial first aid courses, designed to meet the requirements of the Washington Industrial Safety and Health Act of 1973, parent education courses offered in conjunction with cooperative pre-school education programs, and farm management courses that incorporate on-the-farm supervision, instruction, and work experience credit. Tuition and fees for such courses shall be those established by the district board of trustees subject to the approval of the State Board to the end that such charges shall be substantially uniform throughout the college system:))~~

(3) For community service regular or short courses, fees charged to students:

(a) shall be designated as a special fee, all revenue from which shall be used for the general operations and maintenance of the college;

(b) shall be based upon the number of credits assigned to such courses as listed in the official current catalog of the college, or for courses not so listed or given such credit designations, the number of credit equivalents as computed by the method for deriving such equivalents established by the State Board; and

(c) shall be assessed at a ~~((uniform))~~ rate sufficient to defray the ~~((total))~~ direct and indirect costs of offering ~~((all))~~ such community service courses ~~((during any fiscal year, provided that the district board of trustees may reduce the special fee for any specific community service course if in its judgment assessing such fee at the uniform rate would constitute an exorbitant charge considering the nature and content of the course, special circumstances related to the cost of offering the course, or unique characteristics of the students for whom the course is intended)).~~

(4) Nothing herein shall be construed to be a restriction on the right of the district board of trustees to assess additional non-instructional fees and special fees to cover unique instructional costs or expendable instructional materials related to any course offered by a college district.

~~((5) Fees for courses and programs for federally indentured apprentices shall be set by the district board of trustees:))~~

AMENDATORY SECTION (Amending Order 63, filed 9/13/77)

WAC 131-28-026 TUITION AND FEE CHARGES FOR CERTAIN UNGRADED COURSES. For the purpose of implementing WAC 131-28-025(2), the tuition and fees, exclusive of special fees, charged by any Washington community college for the following ungraded courses shall be:

Course	Tuition	Operating Fee	Services and Activities Fee
(1) Courses offered for the purpose of satisfying related or supplemental educational requirements for apprentices while indentured with the Washington State Apprenticeship Council or Federal Bureau of	((+\$10.50)) \$13.50 per year	((+\$10.50)) \$13.50 per year	No charge

Course	Tuition	Operating Fee	Services and Activities Fee
Apprenticeship and Training			
(2) Department of Labor and Industries Industrial first aid courses offered for the purpose of satisfying WISHA first aid certification requirements	No Charge	No Charge	No Charge
(3) Parent education involving pre-school cooperative pre-school program	One-half the standard district charge per credit per quarter less one-half of pre-school cooperative fee	One-half the standard district charge per credit per quarter less one-half of pre-school cooperative fee	No Charge
(4) Farm management and small business management	(((\$28.00)) \$40.00 per two-member family unit per year plus (((\$14.00)) \$20.00 for each additional family member enrolled	(((\$28.00)) \$40.00 per two-member family unit per year plus (((\$14.00)) \$20.00 for each additional family member enrolled	No Charge
(5) Specialized courses particularly for senior citizens offered specifically for the purpose of providing instruction in developing coping, social, communications, and human relations skills unique to advanced age	\$1.50 per credit	\$1.50 per credit	No Charge
(6) Adult Basic Education courses supported by federal funds and English as a Second Language courses funded from such sources	No Charge	No Charge	No Charge
(7) Courses offered for the purpose of satisfying related or supplemental educational requirements for public employees of the criminal justice system, which courses are approved	\$4.00 per credit	\$4.00 per credit	No Charge

Course	Tuition	Operating Fee	Services and Activities Fee
and cooperatively conducted by the Washington State Criminal Justice Training Commission			

For the purpose of computing any refunds related to such tuition and fees charged for apprenticeship, small business management and farm management courses, the total tuition and fees charged on a yearly basis shall be prorated to a quarterly basis.

AMENDATORY SECTION (Amending Order 65, filed 9/13/77)

WAC 131-28-027 COSTS AND SPECIAL FEES FOR CONTRACTED EDUCATIONAL SERVICES. (1) College districts that choose to offer contractual educational courses or services, as authorized by RCW 28B.50.140(16), to private or governmental entities and their member, employees or agents shall establish a special fee to be paid by either each student enrolled or a total fee for the service or course to be paid by the entity involved. Such special fee shall be set forth in the contractual agreement establishing such courses or services.

(2) Contractual educational courses or services may be offered when a district makes a determination that it is not reasonable feasible for financial or other reasons, to offer such courses or services as a part of the regular curriculum. Upon making such determination, the district may offer such courses or services and limit participation therein to employees, agents, or members of the particular entity.

(3) Contractual educational courses or services are those instructional courses which may be provided to meet special instructional needs of military, corporate, or other governmental or private entities where enrollments will be limited to the membership of the entity and includes administrative, organizational, research, public service or program development services of the college district.

(4) Any enrollments generated through contracts for educational courses or services developed pursuant to this regulation shall be appropriately designated so that they shall not be counted toward the official enrollment level of the college so that there will not be any state funding for such courses or services.

(5) The special fee charged for any such contractual educational course or service shall be retained by the college district to defray the cost of such course or service and may be used for the general operations and maintenance of the college district.

(6) The special fees charged pursuant to this regulation shall be sufficient to offset the full instructional costs of offering the course or service. Calculation of the full instructional cost level shall include all direct and indirect costs such as those for salaries and related benefits; supplies, public information; business services for budgeting, auditing, financial reporting, purchasing, payroll, and cashing; mail service, postage, telephone; admissions; registration; data processing; and maintenance of any public facilities used.

(7) If the instructor for any course performs such services as a paid employee or personal services contractor of another state agency, the course shall be considered a contract course subject to the provisions of this section, except when reimbursement for such services is made to the other agency by the college district.

AMENDATORY SECTION (Amending Order 47, filed 9/12/75)

WAC 131-28-041 CRITERIA FOR DETERMINING ELIGIBILITY FOR WAIVER OF TUITION AND FEES UNDER RCW 28B.15.520. Waiver of general tuition, operating, and services and activities fees, or any portions thereof as authorized by RCW 28B.15.520, normally charged to students enrolled in high school completion courses or programs shall be based upon the determination that the student is a needy student. ~~((by application of need analysis based upon data provided on the form: Fee Waiver Application for High School Completion:))~~ A high school completion student initially requesting a waiver shall be evaluated for financial need based either upon application of a method of need analysis approved by the United

States Office of Education for determining awards under federal student financial aid programs or based upon data provided on the form: Fee Waiver Application for High School Completion. During subsequent quarters or if the initial waiver is eleven credits or more the United States Office of Education approved method shall be used. There is no residency requirement for high school completion waivers granted under RCW 28B.15.520. If a student is concurrently enrolled in collegiate-level and high school completion courses or programs, determination of need shall be based upon criteria established by WAC 131-28-040.

FEE WAIVER APPLICATION FOR HIGH SCHOOL COMPLETION* DATE

In order to determine eligibility for a tuition waiver, the following information is required:

PART A. Applicant Information

Name
 Social Security #
 Age Sex
 Marital Status
 Address

Ethnic Origin (Optional)

- Asian American
- Black American
- American Indian
- Chicano or Mexican American
- ~~((Other Spanish-Surnamed))~~
- White American
- Foreign
- Other

PART B. If living with parents or legal guardian, or under 18.

Name of Parent or guardian
 Address
 Total number in household
 Current monthly income (take home)
 Parents Applicant
 Other current income:
 Social Security Welfare
 Child Support Unemployment
 G.I. Bill
 Other (specify)
 Savings and checking account totals:
 Parents Applicant

PART C. If living apart from parents or guardian, and over 18.

Current monthly income (take home)
 Total number in household
 Monthly parental assistance
 Other current income:
 Social Security Welfare
 Child Support Unemployment
 G.I. Bill
 Other (specify)
 Savings and checking account totals
Independent of parent(s) five years or longer?
 Yes No

PART D. Affidavit

I/We hereby certify that the information reported herein is complete and correct to the best of my/our knowledge. I/We authorize its use by those who select waiver recipients.

Applicant's Signature
 Parent's Signature (If Part B completed)

OFFICE USE ONLY:

Institutional Certification	
Est. monthly cost of attending college	\$
Est. monthly living cost for student and/or family	(+).
Sub Total	\$
Est. monthly income plus 1/10 of assets as defined above	(-).
Maximum monthly waiver for current quarter	\$
<u>Resident</u>	<u>Non-resident</u>

* Minimum data elements necessary to determine eligibility

Reviser's Note: 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 47, filed 9/12/75)

WAC 131-28-045 PROCEDURE FOR IMPLEMENTING TUITION AND FEE WAIVERS AUTHORIZED PURSUANT TO ((RCW 28B-15-520 AND)) RCW 28B.15.530. (1) Tuition and fee waivers for needy or disadvantaged students in any fiscal year as authorized by ((RCW 28B-15-520 and)) RCW 28B.15.530 may not exceed three percent of any college district's estimated total collections of tuition, operating, and services and activities fees had no such waivers been made, after deducting the portion of that total amount which is attributable to the difference between resident and non-resident tuition and fees.

(2) The estimated total collection of tuition and fees shall be based on the budgeted, state supported, four-quarter annual average enrollment, minus the actual tuition and fees collected for the summer quarter of the year being estimated.

(3) Each district may waive an amount not to exceed three percent of the estimated collections in the event that actual enrollments or collections exceed estimated collections. Conversely, the three percent waiver capacity based upon estimated collections is allowable even though actual collections may not be as high as the estimate.

(4) Districts desiring to exceed their individual three percent waiver capacity may do so only upon written approval from the State Director of Community Colleges or his designee. Additional waiver capacity can only be granted to a district after it has been determined that the total waiver capacity for the community college system is not being utilized as a result of other districts waiving at levels less than the three percent capacity.

**WSR 78-04-068
PROPOSED RULES
DEPARTMENT OF PERSONNEL
[Filed Mar. 31, 1978]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and 41.06.040, that the Department of Personnel intends to adopt, amend, or repeal rules concerning the amending of:

WAC 356-14-110	Salary—Original periodic increment date
WAC 356-14-140	Salary—Increase on promotion
WAC 356-14-180	Salary—Reversion—Computation
WAC 356-14-200	Salary—Interagency movement
WAC 356-14-210	Salary—Accrued leave credits—Transfer—Effect
WAC 356-14-270	Salary—Overtime payment on separation from job
WAC 356-18-040	Holidays—During leave without pay
WAC 356-18-070	Sick leave ((Credit))—Reporting
WAC 356-18-080	Sick leave ((Credit))—Workmen's compensation—Adjustment

WAC 356-18-100	Vacation leave—Computation—How made
WAC 356-18-160	Military leave—Reemployment
WAC 356-22-070	Applications—Disqualification
WAC 356-22-100	Examination—Time and place
WAC 356-22-120	Examinations—Promotional—Evaluations—Regulations
WAC 356-22-130	Examinations—Minimum qualifications waived or modified—Examinations modified
WAC 356-22-170	Examination ((Ratings)) results—Notice requirements
WAC 356-22-190	Examinations ((Ratings))—Physical
WAC 356-22-200	Examination ((Ratings))—Verification of application content

New Sections

WAC 356-30-005	Appointments—Permitted within rules
WAC 356-30-143	Intergovernmental mobility;

that such agency will at 9:00 a.m., Thursday, May 11, 1978, in the Board Meeting Room, 600 So. Franklin, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Thursday, May 11, 1978, in the Board Meeting Room, 600 So. Franklin, Olympia, WA.

The authority under which these rules are proposed is RCW 41.06-.040 and 41.06.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 11, 1978, and/or orally at 9:00 a.m., Thursday, May 11, 1978, Board Meeting Room, 600 So. Franklin, Olympia, WA.

Dated: March 30, 1978
By: Leonard Nord
Secretary

AMENDATORY SECTION (Amending Order 109, filed 9/7/77)

WAC 356-14-110 - SALARY—ORIGINAL PERIODIC INCREMENT DATE. The original periodic increment date for an employee is:

(1) Six continuous months from the date ((he)) the employee began work at the first step of a salary range.

(2) One calendar year from the date on which ((he)) the employee began work at an intervening salary step; provided that in either (1) or (2):

(a) Any work period starting before the 16th of the month will count as a full month.

(b) Any work period starting after the 15th of the month will not be counted.

(3) The date shall be recomputed following leave of absence without pay in accordance with the ((r))Rules governing leave without pay.

(4) Employees in the maximum step of the salary subrange will lose their periodic increment date.

AMENDATORY SECTION (Amending Order 109A, filed 10/6/77)

WAC 356-14-140 SALARY—INCREASE ON PROMOTION. An employee who is promoted shall be paid at the first step which represents an increment increase over the basic salary he/she received immediately prior to the promotion, or at the first step of the new subrange, whichever is higher, except:

(1) When an employee is promoted to a new classification at least three full ranges above his/her former classification, he/she shall receive more than a one-increment increase but no more than a two-increment increase over his/her former basic salary, or the first step in the new subrange, whichever is higher, however;

(2) When an employee is promoted over an intervening class in the class series or from one class series to a higher class series and passes over a lower classification in the new series, which would still represent a promotion, he/she shall be paid at the closest step in the new subrange that represents at least a two-increment increase over his/her former basic salary, or ((to)) the first step in the new subrange, whichever is higher.

(3) Whenever a promotion would require an employee to move his/her residence to another geographic area to be within a reasonable commuting distance to the new place of work, he/she shall be paid at

the closest step in the new subrange that represents at least a two-increment increase over his/her former basic salary or the first step in the new subrange, whichever is higher.

(4) Employees are not entitled to both the increases for promoting over an intervening class and the increase for moving to be within a reasonable commuting distance when they happen within 12 months of each other.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71)

WAC 356-14-180 SALARY—REVERSION—COMPUTATION. A reverted employee shall be paid at the step of the range which he/she normally would have received had he/she not been promoted.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71)

WAC 356-14-200 SALARY—INTERAGENCY MOVEMENT. An employee who moves from one agency to another shall remain on his/her present payroll through the final calendar day preceding the change and be entered upon the payroll of the new employing agency upon his/her first work day. If the change occurs following the last day of the month, he/she shall be entered on the new employer's payroll on the first day of the succeeding month.

AMENDATORY SECTION (Amending Order 36, filed 7/1/77)

WAC 356-14-210 SALARY—ACCRUED LEAVE CREDITS—TRANSFER—EFFECT. When an employee moves from one State agency to another, regardless of status and with no interruption in service, the accrued leave shall be transferred to the new agency even though the employee may not be eligible to use the vacation leave until he/she has completed a total of six months' continuous service. The employee is not entitled to separation pay for the accrued leave as a result of the change. Pay for the accrued vacation leave is due only when an employee separates from State service. Movement from one agency to another is not termination of employment with State government.

AMENDATORY SECTION (Amending Order 36, filed 7/1/77)

WAC 356-14-270 SALARY—OVERTIME PAYMENT ON SEPARATION FROM JOB. Employees moving from one to another agency or employees leaving State employment shall be compensated in cash for accumulated overtime by the agency from which the employee is being separated. (1) In the event of death of an employee, ((his)) accumulated overtime shall be paid to appropriate persons as provided by law.

(2) If a function or program, together with assigned employees, is transferred from one to another agency, all accumulated overtime shall also be transferred.

AMENDATORY SECTION (Amending Order 36, filed 7/1/77)

WAC 356-18-040 HOLIDAYS—DURING LEAVE WITHOUT PAY. An employee who would otherwise be entitled to a holiday but is on leave without pay will receive compensation for the holiday provided he/she has been in pay status for ten working days during the month, not counting the holiday.

AMENDATORY SECTION (Amending Order 36, filed 7/1/77)

WAC 356-18-070 SICK LEAVE ((CREDIT))—REPORTING. (1) Absence due to illness or injury shall be reported at the beginning of the absence and in accordance with agency procedure.

(2) Upon ((his)) return to work the employee shall complete a written statement explaining the nature of ((his)) the absence. The appointing authority may require a medical certificate.

(3) Sick leave shall be charged in units of half or full days or if the agency wishes on an hourly basis.

AMENDATORY SECTION (Amending Order 36, filed 7/1/77)

WAC 356-18-080 SICK LEAVE ((CREDIT))—WORKMEN'S COMPENSATION—ADJUSTMENT. (1) The employee shall file an application for workmen's compensation in accordance with State ((t)) Law for a period of absence from work due to injury or occupational disease resulting from State employment.

(2) An employee may elect to receive only time loss compensation rather than utilize any available sick leave credits. The employing agency shall make such option known to the employee.

(3) Should an employee elect to receive both time loss compensation and paid sick leave, ((his)) sick leave credits may be used only to the following extent:

(a) Total number of hours which would have been charged to sick leave, minus number of hours at regular salary for which payment was made by the workmen's compensation fund.

(4) If an employee has no sick leave accumulated, the words vacation leave may be substituted for sick leave above.

(5) Should any employee apply for time loss compensation and the claim is then or later denied, sick leave and vacation leave may be used for the absence in accordance with other provisions of this ((r)) Rule.

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 109, filed 9/7/77)

WAC 356-18-100 VACATION LEAVE—COMPUTATION—HOW MADE. When an employee separates from service by reason of resignation, layoff, dismissal, retirement or death, and is entitled to cash credit or payment for any unliquidated vacation leave, compensation shall be computed by using the formula published by the Office of ((Program Planning and Fiscal)) Financial Management.

(1) Employees may defer the payment of their accumulated vacation leave for which otherwise entitled for a period of 30 working days if the separation resulted from a reduction-in-force and there is a reasonable probability of reemployment, or if the separation resulted from employees returning to classified positions from exempt positions under the provision of RCW 41.06.070(22), RCW 41.06.100, or WAC 356-30-045.

(2) If employees are paid for the accumulated vacation leave and are reemployed within the period of time represented by the number of days for which vacation pay was received, employees must return the payment for the remaining vacation days. Employees will be credited with the number of vacation days represented by the returned payments at the rate of their last salary.

(3) The separation cited in (1) above will not be regarded as a break in service for purposes of computing the rates of crediting vacation leave prescribed in WAC 356-18-090, provided the employees return to employment other than by certification from the open competitive register.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71)

WAC 356-18-160 MILITARY LEAVE—REEMPLOYMENT. (1) Any person who is a resident of this State and who voluntarily or upon demand vacates a position of employment to determine ((his)) physical fitness to enter or who actually does enter upon active duty or training in the Washington National Guard, the armed forces of the United States or the United States public health service shall be reemployed within 90 days of discharge under the conditions prescribed in RCW 73.16.031 through 73.16.061.

(2) Such persons must return to State service within three months after serving four years or less provided that any additional service imposed by law will not affect their reemployment rights (RCW 73.16.035).

AMENDATORY SECTION (Amending Order 36, filed 7/1/71)

WAC 356-22-070 APPLICATIONS—DISQUALIFICATION. The Director is expected to follow accepted standards of personnel practice in screening applicants and may refuse to examine an applicant, or, after examination, may disqualify such applicant or remove his/her name from a register or refuse to certify any person otherwise eligible on a register if:

(1) ((He)) The applicant is found to lack any of the requirements established for the class.

(2) ((He)) The applicant is so disabled as to be rendered unfit to perform the duties of the class.

(3) ((He)) The applicant is addicted to the use of narcotics, or the habitual excessive use of intoxicating liquors.

(4) ((He)) The applicant has been convicted of any infamous crime, a crime involving moral turpitude, or any crime which would be grounds for dismissal from the position for which he/she is applying.

(5) ~~((He))~~ The applicant has made a false statement of material fact in ~~((his))~~ the application.

(6) ~~((He))~~ The applicant has previously been dismissed or requested to resign from private or public service for delinquency, misconduct, inability to do similar work, or any other such cause directly bearing upon ~~((his))~~ fitness as an employee.

(7) ~~((He))~~ The applicant has used, or attempted to use, bribery to secure an advantage in the examination or appointment.

(8) ~~((He))~~ The applicant has directly or indirectly obtained information regarding examinations to which he/she was not entitled.

(9) ~~((He))~~ The applicant has otherwise violated provisions of these Rules.

(10) ~~((He))~~ The applicant has taken part in the compilation, administration or correction of the examination.

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

AMENDATORY SECTION (Amending Order 36, filed 7/1/71)

WAC 356-22-100 EXAMINATIONS—TIME AND PLACE. Examinations shall be held at such times and places as are necessary to meet the requirements of the State service, provide ~~((d))~~ economical administration, and be generally convenient for applicants.

AMENDATORY SECTION (Amending Order 49, filed 8/17/72)

WAC 356-22-120 EXAMINATIONS—PROMOTIONAL—EVALUATIONS—REGULATIONS. (1) Inter- and intra-agency promotional examinations shall be announced as the Director determines the need and shall be open to permanent and trial service employees and employees who have been separated by reduction-in-force within the last year who meet the minimum requirements of the position. Promotional examinations shall consist of any combination of written, performance or oral test, or rating of training and experience.

(2) The announcement of the promotional examination shall specify the desirable or minimum requirements, the parts of the examination and the method of rating. Announcements shall be prominently posted by all appropriate agencies to ensure that the information is reasonably available to all.

(3) For a class used by only one agency, a promotional evaluation may be used in promotional scores if the class is in workweek group ~~((N))~~ E and all competing employees are employed by the same agency at the time of the examination.

(4) When any of the conditions in (3) above are not met, a promotional evaluation may be used in promotional scores provided that the Director determines such promotional evaluations are practical and necessary to improve the effectiveness of the examination.

AMENDATORY SECTION (Amending Order 80, filed 7/16/75)

WAC 356-22-130 EXAMINATIONS—MINIMUM QUALIFICATIONS WAIVED OR MODIFIED—EXAMINATIONS MODIFIED. (1) Upon the written request of the appointing authority, the Director may waive or modify the minimum qualifications for a class to fill a vacant position on a one-examination basis only when (a) there is an incomplete register following recent recruiting; and (b) an underfill appointment is not feasible in that the position is supervisory or managerial in nature or otherwise requires the full and immediate discharge of duties and responsibilities; and (c) the Director determines the established minimum qualifications to be appropriate under normal conditions and should not be permanently changed.

(2) The Director may admit to an examination an applicant who does not technically meet the published minimum qualifications if the Director determines that the applicant's qualifications exceed the minimum qualifications of the class for which the examination is being conducted.

(3) The Director may modify or substitute, for a handicapped applicant, an examination which in his/her judgment is substantially equivalent to the regular examination for the class and compensates for the handicap of the individual to be tested when, in the judgment of the Director, all or portions of the examination constitutes an artificial barrier to the applicant's fully demonstrating his/her ability through the normal examination process due to the handicap.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71)

WAC 356-22-170 EXAMINATION ((RATINGS))—RESULTS—NOTICE REQUIREMENTS. Each applicant shall receive written notice of his/her final rating as soon as it is computed. Within 30 calendar days following the test, the applicant may request and receive information regarding his/her score ~~((m))~~ on any part of the examination, or may give written authorization for ~~((his))~~ the appointing authority, personnel officer, or employee representative to obtain the information ~~((for him))~~. The same information may, upon request, be furnished to an agency personnel officer or appointing authority concerning a certified eligible.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71)

WAC 356-22-190 EXAMINATIONS ((RATINGS))—PHYSICAL. Before appointment, applicants may be required to pass a health examination relevant to the physical demands of the work. The cost of such examination will be borne by the employing agency.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71)

WAC 356-22-200 EXAMINATION ((RATINGS))—VERIFICATION OF APPLICATION CONTENT. The Director may investigate the applicant's training and experience to verify the statements contained in ~~((his))~~ the application. If the investigation produces information affecting the rating of training and experience, the Director shall rerate the applicant's record accordingly and make any necessary adjustments in the register. ~~((He))~~ The director shall also promptly notify the applicant of such rerating within ten calendar days following completion of the investigation.

NEW SECTION

WAC 356-30-005 APPOINTMENTS—PERMITTED WITHIN RULES. No person may be appointed to or within the classified service except as provided by these Rules.

NEW SECTION

WAC 356-30-143 INTERGOVERNMENTAL MOBILITY. In accordance with the intent of the Intergovernmental Personnel Act (P.L. 91-648) regarding mobility assignments and/or notwithstanding any other provisions of these Rules, the Director may authorize appointments into the classified service from other governmental units when such appointments are for purposes of cross-training or sharing of expertise across governmental boundaries. Such appointments shall be time limited.

WSR 78-04-069

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed Mar. 31, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, chapters 15.58 and 17.21 RCW, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning WAC 16-230-250, 16-230-260, 16-230-270, 16-230-280 and 16-230-290, pertaining to regulations restricting the use of microencapsulated methyl parathion;

and that the adoption, amendment, or repeal of such rules will take place at 4:00 p.m., Friday, April 21, 1978, in the Director's Office, Department of Agriculture, Olympia, WA.

The authority under which these rules are proposed is chapters 15.58 and 17.21 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to 4/13/78 and/or orally at 10:00 a.m.,

Thursday, 4/13/78, Conference Room, WSU Tree Fruit Experiment Station, Wenatchee, WA.

This notice is connected to and continues the matter noticed in Notice Nos. WSR 78-02-114 and WSR 78-04-034 filed with the code reviser's office on 2/1/78 and 3/17/78.

Dated: March 31, 1978

By: Art G. Losey
Assistant Director

WSR 78-04-070

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 1571—Filed Mar. 31, 1978—Eff. July 1, 1978]

I, Bob J. Mickelson, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington the annexed rules relating to WAC 16-304-100, 16-304-110, 16-304-120 and 16-304-130 relating to a seed quality control program and fees for enforcement.

This action is taken pursuant to Notice Nos. 7873, 7939 and WSR 78-02-113 filed with the code reviser on 11/16/77, 12/21/77 and 2/1/78. Such rules shall take effect at a later date, such date being July 1, 1978.

This rule is promulgated pursuant to chapter 15.49 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 March 31, 1978.

By Bob J. Mickelson
Director

NEW SECTION

WAC 16-304-100 DEFINITIONS. (1) "Fiscal year" shall mean the twelve month period July 1 through June 30.

(2) "Seed labeling permit" means a permit issued by the Department pursuant to RCW 15.49.400 to a person labeling seed for distribution in this state.

(3) "Seed Branch advisory committee" means a committee elected by the Washington Seed Council and shall be composed of representatives of the small grains, pea and lentil, bean and vegetable, small seeded legumes and grass seed industries, together with the president of the Washington Seed Council who acts as chairman.

(4) "Stock seed" means breeders, pre-basic, or like initial generation of seed.

NEW SECTION

WAC 16-304-110 ANNUAL SEED INSPECTION CHARGE. Each person required to obtain a seed

labeling permit, pursuant to Section 15.49.400 RCW, of the Washington State Seed Act, shall also, pursuant to RCW 15.49.310 and 15.49.370, pay a general seed inspection charge annually to the department in the amount of 10 cents per one hundred dollars gross annual dollar sales of agricultural and/or vegetable seed distributed in this state during the preceding fiscal year; PROVIDED, That no assessment shall be collected on (1) seed for which the assessment has been previously collected, except when such seed has been relabeled; (2) agricultural or vegetable seed distributed out of state; (3) seed distributed in containers of 4 ounces or less; (4) stock seed; and (5) seed distributed by governmental agencies, such as but not limited to the USDA National foundation seed project; and PROVIDED FURTHER, That erroneous and overpayments shall be refunded on request. Requests for refund must be filed by June 30 of the year following the due date. Agricultural and/or vegetable seeds distributed under bailment contract shall be valued at the producer-processor agreement rate in lieu of sale.

The assessment fees for the period beginning July 1, 1978 through June 30, 1979 shall be due August 1, 1979 and payable by February 1, 1980. The assessment fees for the period beginning July 1, 1979 through June 30, 1980 shall be due August 1, 1980 and payable by February 1, 1981.

The assessment may accompany the annual application for the seed labeling permit. A penalty of ten percent of the assessment fee or minimum of \$10.00, whichever is greater, shall be added to all assessments not paid by February 1. These funds shall only be used for seed control activities. The annual seed labeling permit may not be issued until all assessments and penalties have been satisfied.

NEW SECTION

WAC 16-304-120 REGISTRANT RECORDS. Each seed labeling registrant shall maintain reasonable and necessary records accurately reflecting the gross annual dollar value of agricultural and/or vegetable seed distributed in this state.

NEW SECTION

WAC 16-304-130 EFFECTIVE DATES. This regulation is effective through June 30, 1980. Between January 1, 1980 and March 1, 1980 the assessment program shall be reviewed by the Seed Branch advisory committee, who will recommend whether to continue the seed assessment program. Such recommendations shall be considered at a public hearing under authority of RCW 42.32 and 34.04, the Administrative Procedures Acts. The Advisory Committee shall also recommend the objectives of the seed quality control activities and shall review expenditures of assessment funds to verify such funds are being used only for seed quality control activities.

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.

WSR 78-04-071
EMERGENCY RULES
FINANCIAL MANAGEMENT
[Order 38—Filed Apr. 1, 1978]

I, Orin C. Smith, director of the Office of Financial Management, do promulgate and adopt at Olympia, Washington the annexed rules relating to travel regulations, amending WAC 82-28-080.

I, Orin C. Smith, 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 present rate of mileage paid for the use of a privately-owned vehicle when a state vehicle is available does not accurately reflect the cost to operate such vehicle and it is in the best interest of State officials and employees to have the increased rate effective as soon as possible.

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

This rule is promulgated pursuant to RCW 43.03.050 and 43.03.060 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 April 1, 1978.

By Orin C. Smith
Director

AMENDATORY SECTION (Amending Order 35, filed 9/1/77)

WAC 82-28-080 REIMBURSEMENT FOR USE OF PRIVATELY-OWNED AUTOMOBILES. (1) Reimbursement shall be allowed at a rate not to exceed 14¢ per mile for official travel. Mileage between points in the State shall be determined on the basis of the distances shown on the latest State Highway Commission map, and the out-of-state mileage on the basis of standard highway mileage guides or by speedometer readings. "Vicinity" miles as determined by speedometer readings shall be shown on the voucher as a separate figure for each day's travel.

(2) When an official or employee requests to use a privately-owned vehicle in lieu of a state-owned or operated passenger motor vehicle that is available for use, and the request is approved by the agency head or his designee, the official or employee shall be reimbursed at a rate not to exceed ((\$.14)) 12¢ per mile.

WSR 78-04-072 *Codified ✓*
ADOPTED RULES
LOWER COLUMBIA COLLEGE
[Resolution 78-1—Filed Apr. 3, 1978]

Be it resolved by the board of trustees of the Lower Columbia College, acting at Longview, Washington, that it does promulgate and adopt the annexed rules relating to guidelines implementing chapter 43.21C RCW, the State Environmental Policy Act.

This action is taken pursuant to Notice No. WSR 78-02-071 filed with the code reviser on 1/26/78. Such rules shall take effect pursuant to RCW 28B.19.050(2).

This rule is promulgated pursuant to chapter 43.21C 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 March 15, 1978.

By: David B. Story
Secretary, Board of Trustees

NEW SECTION

WAC 132M-325-010 INTRODUCTION. When the Office of Administration or another unit on campus begins to consider taking an action which might affect the environment (e.g., revising the master plan, constructing a new building or recreation facility, adding to an existing facility, landscaping, utilities modification or installation, or adopting or revising grounds maintenance policies), the College shall follow the steps outlined in WAC 132M-325-010 through 132M-325-060.

NEW SECTION

WAC 132M-325-020 STATE ENVIRONMENTAL POLICY ACT COMPLIANCE. It is the policy of Lower Columbia College that capital projects proposed to be developed by the college and other similar type activities shall be accomplished in compliance with Chapter 43.21C RCW, the State Environmental Policy Act (SEPA) and in accordance with Chapter 197-10 WAC, guidelines for State Environmental Policy Act implementation. To this end, Lower Columbia College hereby adopts by reference to the following sections or subsection of Chapter 197-10 of the Washington Administrative Code (the "SEPA Guidelines" adopted by the State of Washington, Council on Environmental Policy):

- WAC 197-10-040: Definitions
- 060: Scope of a Proposal and its Impacts
- 160: No Presumption of Significance for Non-Exempt Actions
- 170: Categorical Exemptions
- 175: Exemptions and Non-Exemptions Applicable to Specific State Agencies
- 180: Exemption for Emergency Actions
- 190: Use and Effect of Categorical Exemptions
- 200: Lead Agency—Responsibilities
- 203: Determination of Lead Agency—Procedures

- 205: Lead Agency Designation—Governmental Proposals
- 210: Lead Agency Designation—Proposals involving Both Private and Public Construction
- 215: Lead Agency Designation—Private Projects for Which There is Only One Agency
- 220: Lead Agency Designation—Private Projects, Licenses From More than One Agency When One is City/County
- 225: Lead Agency Designation—Private Projects, License From More Than One State Agency
- 230: Lead Agency Designation—Specific Proposals
- 235: Local Agency Transfer of Lead Agency Status to a State Agency
- 240: Agreements as to Lead Agency Status
- 245: Agreements Between Agencies as to Division of Lead Agency Duties
- 260: Dispute as to Lead Agency Determination—Resolution by CEP
- 270: Assumption of Lead Agency by Another Agency with Jurisdiction
- 300: Threshold Determination Requirement
- 305: Recommended Timing for Threshold Determination
- 310: Threshold Determination Procedures—Environmental Checklist
- 320: Threshold Determination Procedures—Initial Review of Environmental Checklist
- 330: Threshold Determination Procedures—Information in Addition to Checklist
- 340: Threshold Determination Procedures—Negative Declarations
- 345: Assumption of Lead Agency Status by Another Agency with Jurisdiction—Prerequisites, Effect and Form of Notice
- 350: Affirmative Threshold Determinations
- 355: Form of Declaration of Significance/Non-Significance
- 360: Threshold Determination Criteria—Application of Environmental Checklist
- 365: Environmental Checklist
- 370: Withdrawal of Affirmative Threshold Determination
- 375: Withdrawal of Negative Threshold Determination
- 390: Effect of Threshold Determination by Lead Agency
- 400: Duty to Begin Preparation of a Draft EIS
- 410: Pre-Draft Consultation Procedures
- 425: Organization and Style of a Draft EIS
- 440: Contents of a Draft EIS
- 442: Special Considerations Regarding Contents of an EIS
- 444: List of Elements of the Environment
- 450: Public Awareness of Availability of Draft EIS
- 455: Circulation of the Draft EIS—Review Period
- 460: Specific Agencies to which Draft EIS shall be sent
- 465: Agencies possessing Environmental Expertise
- 470: Cost to the Public for Reproduction of Environmental Documents
- 480: Public Hearing on a Proposal—When Required
- 485: Notice of Public Hearing on Environmental Impact of the Proposal
- 490: Public Hearing on the Proposal—Use of Environmental Document
- 495: Preparation of Amended or New Draft EIS
- 500: Responsibilities of Consulted Agencies—Local Agencies
- 510: Responsibilities of Consulted Agencies—State Agencies with Jurisdiction
- 520: Responsibilities of Consulted Agencies—State Agencies with Environmental Expertise
- 530: Responsibilities of Consulted Agencies—When Pre-Draft Consultation has Occurred
- 535: Cost of Performance of Consulted Agency Responsibilities
- 540: Limitations on Responses To Consultation
- 545: Effect of No Written Comment
- 550: Preparation of the Final EIS—Time Period Allowed
- 570: Preparation of Final EIS—When no Critical Comments Received on the Draft EIS
- 580: Preparation of the Final EIS—Contents—When Critical Comments Received on Draft EIS
- 600: Circulation of the Final EIS
- 650: Effect of an Adequate Final EIS Prepared Pursuant to NEPA
- 652: Supplementation by a Lead Agency of an Inadequate Final NEPA EIS
- 660: Use of Previously Prepared EIS for a Different Proposed Action
- 690: Use of a Lead Agency's EIS by Other Acting Agencies for the Same Proposal

- 695: Draft and Final Supplements to a Revised EIS
- 700: No action for Seven Days after Publication of the Final EIS
- 710: EIS Combined with Existing Planning and Review Processes
- 830: Responsibilities of Agencies—SEPA Public Information Center
- 835: Regional SEPA Public Information Centers
- 840: Application of Agency Guidelines to On-going Actions

NEW SECTION

WAC 132M-325-030 STATE ENVIRONMENTAL POLICY ACT "RESPONSIBLE OFFICIAL." In compliance with Chapter 197-10 WAC, the president of Lower Columbia College or an individual designated to act for and on behalf of him shall be the "responsible official" for carrying out this policy.

NEW SECTION

WAC 132M-325-040 INFORMATION CENTER AND REGISTER DISTRIBUTION. The SEPA public information center required by chapter 197-10 WAC, shall be maintained in the Office of Administration of Lower Columbia College. Copies or updates of the registers required by WAC 197-10-830 (3) shall be sent as required by WAC 197-10-830 (4) to those individuals and organizations who make written request therefore.

NEW SECTION

WAC 132M-325-050 PUBLICATION OF NOTICE OF ACTION. Any action, as defined in WAC 197-10-040, undertaken by Lower Columbia College, shall be publicized as prescribed in RCW 43.21C.080.

NEW SECTION

WAC 132M-325-060 TIME LIMIT FOR COMPLETION OF EIS PROCESS. As soon as possible after a proposal for action has been formulated and its scope defined the responsible official or his designee shall establish the date by which the EIS process for the particular project must be completed.

WSR 78-04-073**PROPOSED RULES****ENERGY FACILITY SITE EVALUATION COUNCIL**

[Filed April 3, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and chapter 80.50 RCW, that the Energy Facility Site Evaluation Council intends to adopt, amend, or repeal rules concerning new chapter 463-28 WAC Procedure—State Preemption; and amending chapter 463-54 WAC Certification Compliance Determination and Enforcement;

that such agency will at 1:30 p.m., Monday, May 22, 1978, in the Game Dept. Conference Rm., Washington St. and B Ave., Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 1:30, Monday, June 12, 1978, in

the Game Dept. Conference Rm., Washington St. and B Ave., Olympia, WA.

The authority under which these rules are proposed is chapter 80.50 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 12, 1978, and/or orally at 1:30 p.m., Monday, May 22, 1978, Game Dept. Conference Rm., Washington St. and B Ave., Olympia, WA.

Dated: April 3, 1978
By: William L. Fitch
Executive Secretary

Chapter 463-28 WAC
PROCEDURE—STATE PREEMPTION

WAC

- 463-28-010 Purpose and scope.
- 463-28-020 Authority of council—Preemption by state.
- 463-28-030 Determination of noncompliance—Procedures.
- 463-28-040 Inability to resolve noncompliance.
- 463-28-050 Failure to request preemption.
- 463-28-060 Request for preemption—Contested case.
- 463-28-070 Certification—Conditions—Local interests.
- 463-28-080 Preemption—Failure to justify.

NEW SECTION

WAC 463-28-010 PURPOSE AND SCOPE. This chapter sets forth procedures to be followed when the council finds it necessary for the state to preempt local land use plans or zoning ordinances for a site or portions of a site for an energy facility.

NEW SECTION

WAC 463-28-020 AUTHORITY OF COUNCIL—PRE-EMPTION BY STATE. The authority of the council is contained in RCW 80.50.040(1) and 80.50.110(2) which provides that the state preempts the regulation and certification of the location, construction, and operational conditions of certification of energy facilities.

NEW SECTION

WAC 463-28-030 DETERMINATION OF NONCOMPLIANCE—PROCEDURES. If the council determines during the hearing required by RCW 80.50.090 that the site of a proposed energy facility or portions of a site is not consistent and in compliance with existing land use plans or zoning ordinances in effect at the date of the application, the following procedures shall be observed:

- (1) If the applicant desires to continue processing the application, it shall be the responsibility of the applicant to seek resolution of non-compliance with land use plans or zoning ordinances, and the applicant shall make all reasonable efforts to resolve the noncompliance.
- (2) All council proceedings on the application for certification may be stayed at the request of the applicant during the period when the plea for resolution of noncompliance is being processed by local authorities.
- (3) The applicant shall submit regular reports to the council regarding the status of negotiations with local authorities on noncompliance issues.

NEW SECTION

WAC 463-28-040 INABILITY TO RESOLVE NONCOMPLIANCE. Should the applicant report that efforts to resolve noncompliance issues with local authorities have not been successful, then, if applicant elects to continue processing the application, the applicant shall file a written request for state preemption as authorized in WAC 463-28-020 within sixty days after completion of the public hearing required by RCW 80.50.090, or later if mutually agreed by the applicant and the council. The request shall address the following:

- (1) That the applicant has demonstrated a good faith effort to resolve the noncompliance issues.
- (2) That the applicant and the local authorities are unable to reach an agreement which will resolve the issues.

- (3) That alternate locations which are reasonably available to the applicant have been reviewed for technical suitability and consistency and compliance with applicable land use plans or zoning ordinances and have been found unacceptable.
- (4) Interests of the state that require preemption.

NEW SECTION

WAC 463-28-050 FAILURE TO REQUEST PREEMPTION. Where noncompliance is at issue, failure of the applicant to file the written request as required in WAC 463-28-040 within the time permitted shall be sufficient grounds for the council to recommend to the governor denial of certification.

NEW SECTION

WAC 463-28-060 REQUEST FOR PREEMPTION—CONTESTED CASE. Should applicant elect to continue processing the application and file a request with the council for state preemption, the council will schedule a contested case hearing on the application as authorized under chapter 463-30 WAC. At the outset of the contested case, the council shall first determine by a majority of the members thereof the issue of whether the state, by the council, should preempt the local land use plans or zoning ordinances for a site or portions of a site for the energy facility proposed by the applicant. The factors to be evidenced under this issue are those set forth in WAC 463-28-040. The determination of preemption shall be by council order, and shall be included in its report to the governor. The council shall determine this issue on the record before proceeding further in the contested case; thereafter, the remainder of the contested case shall proceed only if preemption is ordered by the council. Otherwise, the procedure shall follow WAC 463-28-080.

NEW SECTION

WAC 463-28-070 CERTIFICATION—CONDITIONS—LOCAL INTERESTS. If the council approves the request for preemption it shall include conditions in the draft certification agreement which give due consideration to state or local governmental or community interests affected by the construction or operation of the energy facility and the purposes of laws or ordinances, or rules or regulations promulgated thereunder that are preempted or superseded pursuant to RCW 80.50.110(2).

NEW SECTION

WAC 463-28-080 PREEMPTION—FAILURE TO JUSTIFY. During the contested case hearing, if the council determines that the applicant has failed to justify the request for state preemption, the council shall do so by issuance of an order accompanied by findings of fact and conclusions of law. Concurrent with the issuance of its order, the council shall report to the governor its recommendation for rejection of certification of the energy facility proposed by the applicant.

Chapter 463-28 WAC
PROCEDURE—STATE PREEMPTION

WAC

- 463-54-010 Intent and purpose of this chapter.
- 463-54-020 Compliance to be determined.
- 463-54-030 Compliance inspections and reports.
- 463-54-040 Compliance reports and determinations.
- 463-54-050 Noncompliance determinations and enforcement.
- 463-54-060 DOE monitoring and enforcement role.
- 463-54-070 Emergency action by chairman.

AMENDATORY SECTION (Amending Order 108, filed 11/4/76)

WAC 463-54-010 INTENT AND PURPOSE OF THIS CHAPTER. This chapter sets forth rules relating to effects and compliance ((auditing)) determination of ((the)) energy facility construction and operation pursuant to RCW 80.50.040(11).

AMENDATORY SECTION (Amending Order 108, filed 11/4/76)

WAC 463-54-020 ((AUDITING)) COMPLIANCE TO BE ((PERFORMED)) DETERMINED. ((Auditing may be performed by personnel from interested state agencies pursuant to interagency contracts with the Council. In the event any state agency declines or is not

qualified, the Council may obtain auditing services from other sources.) Compliance determination procedures shall be implemented by the council as necessary to keep it and the public properly informed as to the status of compliance with the terms of certification agreements and NPDES permits.

AMENDATORY SECTION (Amending Order 108, filed 11/4/76)

WAC 463-54-030 ((ANNUAL PRE-PAYMENT SYSTEM)) COMPLIANCE INSPECTIONS AND REPORTS. ((At the beginning of each fiscal year, the Council shall determine the total reasonable cost necessary to perform the auditing function during the next twelve months. Operators of certificated facilities will then be charged an amount based on the maximum expected auditing activity attributable to certificated facilities maintained by that operator.)) Compliance determinations shall include consideration of on-site inspections, data analyses and/or reporting activities as prescribed by the council and performed by other state agencies pursuant to annual interagency agreements.

AMENDATORY SECTION (Amending Order 108, filed 11/4/76)

WAC 463-54-040 ((PAYMENTS, A CONDITION OF CONTINUED CONSTRUCTION AND OPERATION.)) COMPLIANCE REPORTS AND DETERMINATIONS. ((Payment of the annual charges established by this chapter shall be a condition of continued construction and operation of the energy facility.)) Written reports by state agencies reporting to the council under interagency agreements shall be submitted regularly and contain certifications as to the certificate holders satisfactory compliance or noncompliance with the appropriate terms of the site certification agreement. Certifications of satisfactory compliance in the absence of compelling evidence to the contrary shall be deemed by the council as bona fide compliance by the certificate holder.

AMENDATORY SECTION (Amending Order 108, filed 11/4/76)

WAC 463-54-050 ((AMOUNT PAYABLE TO STATE TREASURER)) NONCOMPLIANCE DETERMINATIONS AND ENFORCEMENT. ((Payments shall be sent to the Council office in the form of a check made payable to the state treasurer. Any unexpended amounts shall be credited or refunded to the certificated operator.)) The council shall make the determination of noncompliance with the terms of a certification agreement or NPDES permit where circumstances so warrant and on such finding of noncompliance will institute appropriate enforcement action.

NEW SECTION

WAC 463-54-060 DOE MONITORING AND ENFORCEMENT ROLE. The DOE is delegated the monitoring activities pertaining to water discharges and when it reports to the council that appropriate enforcement activities are required relative thereto the council shall take or initiate action to enforce the terms of the appropriate certification agreement and the incorporated NPDES permit. Immediate enforcement action as needed may be undertaken by DOE subject to subsequent confirmation or modification by the council.

NEW SECTION

WAC 463-54-070 EMERGENCY ACTION BY CHAIRMAN.
 (1) The chairman of the council is authorized and shall take action to immediately and effectively halt or eliminate any imminent or substantial endangerments to the health or welfare of persons resulting from the discharge of pollutants from facilities sited under chapter 80.50 RCW including as appropriate:
 (a) The issuance of a stop work order to immediately terminate an endangering discharge and suspend the NPDES permit.
 (b) The requesting of the departments of emergency services and social and health services and other appropriate agencies, as necessary, to immediately take protective measures to safeguard the health or welfare of persons resulting from the discharge of pollutants.
 (c) The reference of matters to the attorney general for appropriate enforcement action for violations of site certification agreements and NPDES permits.
 (2) The chairman's action will be confirmed or modified by the council within seventy-two hours of execution at a special or regular meeting of the council, whichever will occur the earliest.

WSR 78-04-074
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE ADVISORY
COUNCIL ON VOCATIONAL EDUCATION
 [Memorandum—Apr. 3, 1978]

The Washington State Advisory Council on Vocational Education will hold its quarterly meeting on Friday, April 28, 1978. The meeting will be held at the Crestview Conference Center, Seattle, beginning at 10:00 a.m.

WSR 78-04-075
NOTICE OF PUBLIC MEETINGS
STATE HOSPITAL COMMISSION
 [Memorandum, Exec. Sec'y.—Mar. 27, 1978]

The State Hospital Commission will meet on April 13, 1978, at University Towers Hotel, N.E. 45th and Brooklyn Avenue, Seattle, Washington, beginning at 9:30 a.m.

(NOTE: The March 30, 1978 meeting will be held at University Towers, Seattle, in accordance with the meeting notice mailed, dated March 13, 1978.)

PLEASE NOTE THAT THE APRIL 27 MEETING HAS BEEN CANCELLED.

WSR 78-04-076 *Cancelled*

ADOPTED RULES
STATE INSURANCE COMMISSIONER AND STATE
FIRE MARSHAL
 [Order FM-78-1—Filed Apr. 4, 1978]

I, Dick Marquardt, director of State Insurance Commissioner and State Fire Marshal, do promulgate and adopt at Office of State Fire Marshal, Olympia, Washington the annexed rules relating to description of Fire Marshal Office, chapter 212-02 WAC.

This action is taken pursuant to Notice No. WSR 78-03-015 filed with the code reviser on 2/8/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the State Insurance Commissioner and State Fire Marshal as authorized in chapter 34.04 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 April 4, 1978.

By: Tom Brace
 Chief Fire Marshal

AMENDATORY SECTION (Amending Order FM-77-1, filed 11/17/77)

WAC 212-02-020 ORGANIZATION AND OPERATIONS. (1) Administration. The administrative staff and technical specialists are situated on the capitol campus in Olympia. The majority of the staff is assigned to specific functions and is situated at various locations throughout the state, but under the direction of the administrative division.

(2) Health care inspection division. A supervisor, clerical help and a team of deputy fire marshals are assigned to work directly with department of social and health services in fulfilling the fire marshal's responsibilities in inspecting and approving all hospitals, nursing homes, boarding homes, maternity homes, and facilities treating mental illness or inebriacy prior to licensing by the state. This team operates from offices within the department of social and health services in Olympia, Seattle and Spokane. Their primary duty is the inspection, at least annually, of all the aforementioned licensed facilities and issuing approvals or disapprovals for future operation. Facilities not approved must make the necessary corrections or risk denial, revocation or suspension of their license to operate. Secondary duties of this team includes training facility staffs in fire prevention and fire emergency procedures and the investigation of fires in the facilities to determine the effectiveness of fire-safety features, proficiency of the staff and evaluation of the fire prevention efforts of both the facility and the state.

Also assigned to work directly with the department of social and health services in their Olympia office is a plan review team, which reviews all plans for new construction or major remodeling of licensed facilities and makes field inspections at the construction site to insure compliance. This function is performed under a contract with the department of social and health services, rather than a statutory responsibility on the part of the fire marshal.

(3) Residential inspection division. A supervisor, clerical help and a team of deputy fire marshals operate out of offices in Olympia, Seattle and Spokane and work in close association with the department of social and health services in the inspection and approval for licensing of facilities encompassing several categories of full time and part time care of children, and transient accommodations. The primary duties of this team is the inspection or coordination of local inspections for the purpose of issuing approvals or disapprovals for licensing by the state. Secondary duties include fire prevention and fire investigation, in the same manner as the health care team.

(4) ((Zone deputies)) Fire investigation division. A team of deputy fire marshals operate from combination insurance commissioner/fire marshal offices in Olympia, Mount Vernon, Vancouver, Yakima, Richland and Spokane. Their primary function is the investigation of fires of criminal, suspected or undetermined origin, as reported by fire departments, police departments or insurance adjusters. Results of such investigations are referred to local prosecuting attorneys. Secondary duties

include assisting in the enforcement of local fire codes, responding to complaints, answering inquiries and public education in fire-related matters. Seasonal duties also include inspections and enforcement of the fireworks law.

(5) Technical assistance. Specialists in fire prevention, building design, pyrotechnics, codes and related matters are maintained in the administrative office in Olympia to provide assistance to the other deputies and local officials in technical fire-related matters.

AMENDATORY SECTION (Amending Order FM-77-1, filed 11/17/77)

WAC 212-02-030 FUNCTIONS. (1) The licensing function involves the adoption of recognized standards applicable to each category or licensed facility and the inspection prior to licensing to insure compliance. Where local officials are qualified and agreeable, they may make the inspections on behalf of the fire marshal. The specific requirements and manner of enforcement are covered in detail in other regulations.

(2) The fire investigation function involves all deputy fire marshals in varying degrees and for different specific purposes. Deputies assigned to inspection teams investigate fires in those specific facilities to evaluate the effectiveness/ineffectiveness of the regulations and to prevent future similar occurrences.

((Zone deputies concentrate)) The fire investigation division concentrates primarily on those fires which cannot be definitely determined to be accidental by the local investigator. Where criminality can be established, the deputy works directly with the local law enforcement agency in developing sufficient factual evidence for prosecution.

With the advent of recent legislation mandating the investigation of all fires by each city, town and county to determine the cause, origin and circumstances, the role of the fire marshal has become that of a technical specialist, assisting local investigators when requested, and monitoring the effectiveness of fire investigations in general. The fire marshal assigns all fires of criminal, suspected or undetermined origin reported or made known to him to ((Zone Deputies)) the fire investigation division for follow-up. Assistance may or may not be provided, in accordance with local needs. Deputies follow these fires through the investigation and prosecution phases in order to establish state-wide statistics and ascertain other factors which will produce better results.

Another important function in fire investigation is that of establishing responsibility for noncriminal fires. Negligence, product liability and design deficiencies play a key role in fire cause and spread. The fire marshal attempts to document these factors with sufficient certainty to allow recovery by innocent victims and establish the need and justification for additional standards by industry or regulatory agencies.

The ultimate failure in any fire is where serious injury or death results. The fire marshal attempts to expend special effort in the investigation of these fires to accurately determine not only the cause of the fire but the reason the victims were unable to escape unharmed.

(3) The fireworks function involves the administration of the fireworks law, including the regulation of fireworks and the licensing of manufacturers, wholesalers, retailers, importers/exporters, public displays, and pyrotechnic operators. Included in this general function but the subject of separate rules, is the regulation of model and experimental rocketry.

(4) Local support, assistance. Recent legislation established building and fire codes in each city, town and county and mandated enforcement at the local level. This responsibility was new to many municipalities and an increasingly greater amount of the fire marshal's time and effort is being directed toward assisting the smaller towns and counties in fulfilling this responsibility through training, advice and assistance.

(5) Public education. The fire marshal is committed to the principle that more can be accomplished in the furtherance of fire prevention through education than by enforcement or regulation. An informed populace will voluntarily comply with the majority of fire safety standards, which are based on common sense and experience. The mandated responsibilities of the fire marshal must be accomplished first with the discretionary functions, such as public education, limited to the time and resources available. By a greater involvement of local officials in performing some of the duties required of the fire marshal, more time and resources are available to, in turn, assist these same officials in public education efforts.

(6) Other functions. The fire marshal serves as a source of information and advice to all levels of government, business, industry and the general public. The headquarters and zone offices are staffed with full time clerical persons to receive telephone, mail and personal inquiries. The Deputies and the technical specialists are qualified to answer questions on most all inquiries involving fire and life safety, regulations, etc. A substantial part of the fire marshal's time is involved in this activity.

WSR 78-04-077

NOTICE OF PUBLIC MEETINGS

OFFICE OF

COMMUNITY DEVELOPMENT

(Planning and Community Affairs Agency)

[Memorandum, Deputy Director—Apr. 3, 1978]

Energy Conservation and Weatherization Advisory Council

The Energy Conservation and Weatherization Advisory Council has scheduled the following meetings:

April 25, 1978, 9 a.m. to noon, Sea-Tac Hyatt House

June 27, 1978, 9 a.m. to 4 p.m., Blue Mountain Action Council, 19 East Poplar, Walla Walla

For further information contact Priscilla Cates, Office of Economic Opportunity, Office of Community Development, Olympia, WA 98504, (206) 753-4931.

State Head Start Advisory Council

The state Head Start Advisory Council will meet on May 11 and 12 from 9 a.m. to 5 p.m. at the Sea-Tac Hyatt House. For further information contact Juanita Davis, Office of Economic Opportunity, Office of Community Development, Olympia, WA 98504, (206) 753-4454.

Governor's Committee on Law and Justice

The April 19, 1978, meeting of the Governor's Committee on Law and Justice has been cancelled. For further information contact Carol Noel, Law and Justice Planning Division, Office of Community Development, Olympia, WA 98504, (206) 753-2235.

State Building Code Advisory Council

The State Building Code Advisory Council will meet on May 24, 1978, at 9:30 a.m. in the Sea-Tac area. Specific location is yet to be determined. For further information contact Christopher Woodsum, Local Government Services Division, Office of Community Development, Olympia, WA 98504, (206) 754-1243.

WSR 78-04-078

EMERGENCY RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 78-7—Filed Apr. 4, 1978]

I, John C. Hewitt, director of the Department of Labor and Industries, do promulgate and adopt at the director's office, Olympia Washington the annexed rules relating to the amending of chapter 296-27 WAC, Record Keeping and Reporting to reflect changes in 29 CFR 1952.4; and, new section WAC 296-27-077, Small Employers, relating to changes of requirements for small businesses of ten employees or less.

I, John C. Hewitt, 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 to renumber WISHER forms to conform to changes by OSHA; and, reflect changes required by OSHA exempting certain record keeping by small businesses of less than ten employees.

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

This rule is promulgated pursuant to RCW 49.17.050 and 49.17.040 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 March 28, 1978.
 By: John C. Hewitt
 Director

Chapter 296-27 WAC
**STANDARDS FOR RECORDING AND REPORTING
 OCCUPATIONAL INJURIES AND ILLNESSES**
AMENDATORY SECTIONS

WAC

- 296-27-010 Purpose and Scope.
- 296-27-020 Definitions.
- 296-27-030 Log and Summary of Occupational Injuries and Illnesses.
- 296-27-050 Supplementary Record.
- 296-27-060 Annual Summary.
- 296-27-120 Petitions for Record Keeping Exceptions.
- 296-27-140 Duties of Employers—Statistical Program.
- 296-27-150 Effective Date of Regulations.

NEW SECTION

WAC

- 296-27-077 Small Employers.

AMENDATORY SECTION (Amending Order 22, filed 5/6/74)

WAC 296-27-010 PURPOSE AND SCOPE. The regulations of this chapter implement sections RCW 19.17.050(5), RCW 49.17.220(1), RCW 49.17.220(2), RCW 49.17.230, and RCW 49.17.260 of the Washington Industrial Safety and Health Act of 1973. These sections provide for record keeping and reporting by ((aH)) employers covered under the Act as necessary or appropriate for enforcement of the Act, for developing information regarding the causes and prevention of occupational accidents and illnesses, and for maintaining a program of collection, compilation, and analysis of industrial safety and health statistics.

Pursuant to the provisions of 29 CFR 1904.10, Records maintained by an employer and reports submitted pursuant to, and in accordance with the requirements of an approved State Plan under section 18 of the Federal Occupational Safety and Health Act of 1970 (Public Law 91-596, 84 STAT. 1590) shall be regarded as compliance with 29 CFR Part 1904 - "Recording and Reporting Occupational Injuries and Illnesses".

Compliance with and requirements of this chapter, as recognized by the Washington Industrial Safety and Health State Plan, is regarded as compliance with the provisions of the above-cited Federal requirements. Employers complying with the record keeping and reporting requirements of this chapter are not required to keep records as required by the Federal Record Keeping and Reporting Regulations (Ref. 29 CFR 1904.10).

The record keeping and reporting requirements of this chapter are separate and distinct from the record keeping and reporting requirements under Title 51 Revised Code of Washington (the Industrial Insurance Act) unless otherwise noted in this chapter.

AMENDATORY SECTION (Amending Order 22, filed 5/6/74)

WAC 296-27-020 DEFINITIONS. (1) "Act" means the Washington Industrial Safety and Health Act of 1973, chapter 49.17 RCW, as now or hereafter amended.

(2) The definitions and interpretations included in RCW 49.17.020 shall be applicable to such terms when used in this chapter, unless a different interpretation is clearly required by the context.

(3) "Recordable occupational injuries or illnesses of employees" means any occupational injury or illness of employees which result in:

(a) Occupational fatalities, regardless of the length of time between injury and death, or the length of the illness preceding the time of death (no recording is required for fatalities occurring after a termination of employment, except when recording may otherwise be required by a specific industrial safety and health standard adopted pursuant to the Act); or

(b) Lost workday cases, other than fatalities, that result in lost workdays (see subsection (6) of this section); or

(c) Occupational illnesses, or nonfatal cases without lost workdays which result in transfer to another job or termination of employment, or require medical treatment (other than first aid) or involve loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses which are reported to the employer but are not classified as fatalities or lost workday cases.

(4) "Medical treatment" means and includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid treatment even though provided by a physician or registered professional personnel.

(5) "First Aid" means any one-time treatment, and any follow-up visit or visits for the purpose of observation of minor scratches, cuts, burns, splinters and so forth which do not ordinarily require professional medical care. Such one-time treatment and follow-up visit or visits for the purpose of observation are considered first aid even though provided by a physician or registered professional personnel.

(6) "Lost workdays":

(a) "Lost workdays - days away from work" means the number of days (consecutive or not) after the day of injury or illness which the employee would have worked but could not because of occupational injury or illness. The number of "lost workdays - days away from work", should not include the day of the injury, or the day the illness occurred, or any days which the employee was not scheduled to work; e.g. Saturday, Sunday, or holidays.

(b) "Lost workdays - days of restricted activity" means the number of workdays (consecutive or not) in which, because of the injury or illness:

- (i) The employee was assigned to a temporary job, or
- (ii) The employee worked at a permanent job less than full time, or

(iii) The employee worked at a permanently assigned job but could not perform all the duties normally assigned to that job.

The number of "lost workdays - days of restricted activity" should not include the day of the injury or the day the illness occurred, or any other days which the employee was not scheduled to work; e.g. Saturday, Sunday, or holidays, etc.

(7) "Establishment" means:

(a) A single physical location where business is conducted or where services or industrial operations are performed. (For example: a factory, mill, store, hotel, restaurant, movie theater, farm, ranch, bank, sales office, warehouse, or central administrative office.) Where distinctly separate activities are performed at a single physical location, such as contract construction activities operated from the same physical location as a lumber yard, each activity shall be treated as a separate establishment.

(b) For firms engaged in activities such as agriculture, construction, transportation, communications, electric, gas or sanitary services, which may be physically disbursed, "establishment" means a place to which employees report each day.

(c) For employees who do not primarily report or work at a single establishment, and who are generally not supervised in their daily work, such as travelling salesmen, technicians, engineers, etc., "establishment" means the location from which they are paid, or the base from which employees operate to carry out their activities.

(8) "WISHERS" means Washington Industrial Safety and Health Evaluation and Reporting System.

(9) "Occupational illness" means such illness as arises naturally and approximately out of employment under the provisions of the act.

NOTE: Examples of occupational illnesses appear on the instruction page of Form (~~WISHERS No. 100~~) OSHA No. 200.

(10) "Occupational" means industrial and industrial means occupational.

(11) "OHS" means Occupational Safety and Health Administration.

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 22, filed 5/6/74)

WAC 296-27-030 LOG AND SUMMARY OF OCCUPATIONAL INJURIES AND ILLNESSES.

(1) Except as provided in subsection (2) of this section, each employer (~~subject to the Act~~) shall:

(a) Maintain in each establishment a log of all recordable occupational injuries and illnesses for that establishment; and

(b) Enter each recordable injury and illness on the log as early as practicable, but no later than six working days after receiving information that a recordable case has occurred. For this purpose Form (~~WISHERS No.~~

~~100~~) OSHA No. 200 or an equivalent which is as readable and comprehensible to a person not familiar with it shall be used. The log shall be completed in the detail provided in instructions of Form (~~WISHERS No. 100~~;) OSHA No. 200 (~~a facsimile of which appears as Appendix 1 of this chapter~~).

(2) Any employer may maintain the log of all recordable occupational injuries and illnesses at a place other than the establishment or by means of data processing equipment, or both, if at each of the employer's establishments there is available a copy of the log which reflects separately the injury and illness experience of that establishment complete and current to a date within 45 calendar days.

AMENDATORY SECTION (Amending Order 22, filed 5/6/74)

WAC 296-27-050 SUPPLEMENTARY RECORD. In addition to the log of occupational injuries and illnesses provided for under WAC 296-27-030, each employer shall have available at each establishment or other location as specified in WAC 296-27-020 within six working days after receiving information that a recordable case has occurred, a supplementary record for each occupational injury or illness for that establishment. The record shall be completed in the detail prescribed in the instructions accompanying Form WISHERS No. 101 (~~a facsimile of which appears as Appendix 2 of this chapter~~). The Department of Labor and Industries ACCIDENT REPORT FORM (~~S-F 1537 (revised 12-72)~~) LI-210-130 may be used as an alternative to the Form WISHERS 101. Other reports are acceptable alternative records if they contain the information required by Form WISHERS No. 101. If no acceptable alternative record is maintained for other purposes, Form WISHERS No. 101 shall be used for the necessary information or shall be otherwise maintained in a convenient form.

AMENDATORY SECTION (Amending Order 22, filed 5/6/74)

WAC 296-27-060 ANNUAL SUMMARY. (1) Each employer subject to the Act shall compile an annual summary of occupational injuries and illnesses for each establishment. Each annual summary shall be based on the information contained in the log of occupational injuries and illnesses for the particular establishment. Form WISHERS No. 102 shall be used for this purpose and shall be completed in the form and detail as provided in that form (~~a facsimile of which appears as Appendix 3 of this chapter~~).

(2) The summary shall be completed no later than one month after the close of each calendar year, beginning with the calendar year 1975.

(3) Each employer, or the officer or employee of the employer who supervises the preparation of the annual summary of occupational injuries and illnesses, shall certify that the annual summary of occupational injuries and illnesses is true and complete. The certification shall be accomplished by affixing the signature of the employer or the officer or employee of the employer who

supervises the preparation of the annual summary of occupational injuries and illnesses to the lower right-hand corner of the annual summary, or by appending a separate statement to the annual summary, certifying that the annual summary is true and complete.

(4) (a) Each employer shall post a copy of the establishment's annual summary in each establishment. The summary covering the previous calendar year shall be posted no later than February 1, and shall remain in place until March 1. For employees who do not primarily report or work at a single establishment, or who do not report to any fixed establishment on a regular basis, employers, shall satisfy these posting requirements by presenting or mailing a copy of the summary during the month of February of the following year to each such employee who receives pay during that month. For multi-establishment employers where operations have closed down in some establishments during the calendar year, it will not be necessary to post summaries for those establishments.

(b) A failure to post a copy of the establishment's annual summary, or otherwise satisfy the posting requirements as specified in this section, may result in the issuance of citations and assessments of penalties pursuant to RCW 49.17.120 and RCW 49.17.180.

NEW SECTION

WAC 296-27-077 SMALL EMPLOYERS. (1) An employer who had no more than ten employees at any time during the calendar year immediately preceding the current calendar year need not comply with any of the requirements of this chapter except the following:

(a) Obligation to report under WAC 296-27-090 concerning fatalities or multiple hospitalization accidents; and

(b) Obligation to maintain a log of occupational injuries and illnesses under WAC 296-27-030 and to make reports under WAC 296-27-140 upon being notified in writing by the Bureau of Labor Statistics and the Department of Labor and Industries that the employer has been selected to participate in a statistical survey of occupational injuries and illnesses.

AMENDATORY SECTION (Amending Order 29, filed 9/30/76)

WAC 296-27-120 PETITIONS FOR RECORD KEEPING EXCEPTIONS. (1) (a) In order to achieve a uniform, national system for the record keeping and reporting of occupational injuries and illnesses, the State of Washington and the United States Department of Labor have agreed that as applied to employers as defined by subsection 3(5) of the Occupational Safety and Health Act of 1970 (Public Law 91-596, 81 STAT 1950) the state shall not grant any variances or exceptions to the record keeping and reporting regulations of this chapter, with the exception of approval of forms to serve as the substitutes for WISHERS (~~(forms number 100 and)~~ 101 and OSHA 200 (see WAC 296-27-030 and WAC 296-27-050), without prior approval of the Bureau of Labor Statistics.

(b) Any public employer who wishes to maintain records in a manner different from that prescribed by this chapter may submit a petition containing the information specified in subsection (5) of this section to the director, Department of Labor and Industries, General Administration Building, Olympia, Washington 98504.

(2) All petitions for authorization to maintain records in a manner different than that required by this chapter shall be submitted to the director or directly to the Bureau of Labor Statistics. The director, upon receipt of a petition submitted pursuant to the provisions of subsection (3) of this section, shall immediately forward copies of same to appropriate officials of the Bureau of Labor Statistics. Should said federal officials inform the director of their belief in the desirability or necessity of additional notice or conferences pursuant to provisions of subsection (7) of this section, the director shall provide or cause to be provided such additional notice and/or afford an opportunity for interested parties for informal conferences or hearings concerning the petition. For the purposes of this section, the Occupational Safety and Health Administration and the Bureau of Labor Statistics shall be considered interested parties.

The Bureau of Labor Statistics shall be afforded the opportunity to review the petition and any comments submitted in regard thereto. The director shall not grant the petition prior to a finding by the said federal agency that the alternative procedure proposed will not hamper or interfere with the purposes of the Occupational Safety and Health Act of 1970.

(3) Submission of Petition. Any employer, who for good cause wishes to maintain records in a manner different from that required by this chapter, may submit a petition containing the information specified in subsection (5) of this section to the director.

(4) Opportunity for Comment. Affected employees, or their representatives shall have an opportunity to submit written data, views, or arguments concerning the petition to the director within ten working days following the receipt of notice under subdivision (5)(e) of this section.

(5) Contents of Petition. A petition filed under subsection (3) of this section shall include:

(a) The name and address of the applicant;

(b) The address of the place or places (establishment or establishments) of the employment involved;

(c) Specifications of the reasons for seeking relief;

(d) A description of the different record keeping procedures which are proposed by the applicant;

(e) A statement that:

(i) The applicant has informed his affected employees of the petition by giving a copy thereof to them or to their authorized representative, posting a statement giving a summary of the petition and specifying where a copy of the petition may be obtained, at the place or places where notices to employees are normally posted, and by other appropriate means. A statement posted pursuant to these provisions shall be posted in each establishment identified in WAC 296-27-120(4)(b).

(ii) The applicant has in the same manner informed affected employees and their representatives of their rights under subsection (3) of this section.

(6) Additional Notice - Conferences.

(a) In addition to the actual notice provided for in subdivision (5)(e) of this section, the director may provide, or cause to be provided, such additional notice of the petition as he may deem appropriate.

(b) The director may also afford an opportunity to interested parties for informational conferences or hearings concerning the petition.

(7) After review of the petition, and any comments submitted in regard thereto, and upon completion of any necessary appropriate investigation concerning the petition, if the director finds that the alternative procedure proposed will not hamper or interfere with the purposes of the Act, and will provide equivalent information, he may grant the petition subject to such conditions as he may determine appropriate, subject to the provisions of WAC 296-200-120(2), and subject to revocation for cause.

(8) Publication. When any relief is granted to an applicant under this chapter, notice of such relief, and the reasons therefor, may be published in the Federal Register.

(9) Revocation. Whenever any relief under this section is sought to be revoked for any failure to comply with the conditions thereof, an opportunity for informal hearing or conference shall be afforded to the employers and effected employees, or their representatives, and other interested parties. Except in cases of willfulness or where public safety or health requires otherwise, before the commencement of any such informal proceeding, the employer shall:

(a) Be notified in writing of the facts of conduct which may warrant the action and,

(b) Be given an opportunity to demonstrate or achieve compliance.

(10) Compliance After Submission of Petitions. The submission of a petition or any delay by the director in acting upon a petition shall not relieve any employer from any obligation to comply with the provisions of this chapter.

(11) The director shall honor exceptions to the provisions of 29 CFR 1904 - RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES, granted by the Bureau of Labor Statistics to companies having establishments in states other than Washington, when such exceptions apply to the establishments within this State.

(12) There shall be consultation between the appropriate representatives of the department, the Occupational Safety and Health Administration, and the Bureau of Labor Statistics in order to enjoy the effective implementation of this chapter.

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 22, filed 5/6/74)

WAC 296-27-140 DUTIES OF EMPLOYERS—STATISTICAL PROGRAM. Upon receipt of an Occupational Injuries and Illnesses Survey Form, Form ((WISHERS)) OSHA No. 103, the employer

shall promptly complete the form in accordance with the instructions contained therein and return it in accordance with the aforesaid instructions. ((A facsimile of the Form WISHERS No. 103 and the instructions pertinent to that form appear as Appendix 4 at the end of this chapter.))

AMENDATORY SECTION (Amending Order 22, filed 5/6/74)

WAC 296-27-150 EFFECTIVE DATE OF REGULATIONS. Pursuant to the finding of the director that additional time is needed to afford affected employers a reasonable opportunity to make changes in methods, means, or practices to meet the requirements of WAC 296-27-010 through WAC 296-27-140, the effective date of these requirements shall be January 1, ((1975)) 1978.

WSR 78-04-079

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed April 4, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, 49.17.040, 49.17.050, 49.17.240, and chapters 43.22 and 42.30 RCW that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning:

- Amd ch. 296-24 WAC to clarify requirements, improve accident investigations, stress on-the-job training, correct housekeeping errors;
- New WAC 296-24-045 Safety Committee Plan;
- Amd ch. 296-27 WAC to incorporate changes in record keeping to reflect OSHA;
- New WAC 296-27-077 Small Employers, record keeping changes for small employers of ten or less;
- New WAC 296-37-510 through 296-37-585, Commercial Diving Operations.
This standard reflects 29 CFR 1910.401 through 1910.441;
- Amd WAC 296-52-010 Introduction, eliminates references to repealed standards;
- New WAC 296-62-07335 Benzene, reflects 29 CFR 1910.1028;
- New WAC 296-62-07341 Acrylonitrile, reflects 29 CFR 1910.1045;
- New WAC 296-62-07345 1,2-Dibromo-3-chloropropane to reflect 29 CFR 1910.1044;
- Amd WAC 296-305-005 Scope and Application to eliminate Volunteers covered in the Fire Fighters Safety Standards;

Rep WAC 296-37-010 through 296-37-460, Scuba Diving—Submarine Diving to be superseded by Commercial Diving operations.

The following sections of the Washington Administrative Code are each repealed: WAC 296-37-010, 296-37-020, 296-37-030, 296-37-040, 296-37-050, 296-37-060, 296-37-070, 296-37-071, 296-37-072, 296-37-080, 296-37-081, 296-37-082, 296-37-090, 296-37-100, 296-37-110, 296-37-300, 296-37-310, 296-37-320, 296-37-330, 296-37-340, 296-37-350, 296-37-360, 296-37-370, 296-37-380, 296-37-390, 296-37-395, 296-37-400, 296-37-410, 296-37-420, 296-37-430, 296-37-440, 296-37-450 and 296-37-460.

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 78-04-080
PROPOSED RULES
GAMBLING COMMISSION
[Filed Apr. 4, 1978]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025 that the Washington State Gambling Commission intends to adopt, amend, or repeal rules concerning the licensing and regulation of gambling activities. (Copy of the proposed rules are attached hereto; however, changes may be made at the public hearing.);

that such agency will at 10 a.m., Wednesday, May 17, 1978, in the Shakey's Pizza Parlor, 439 Peace Portal Way, Blaine, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 10 a.m., Wednesday, May 17, 1978, in the Shakey's Pizza Parlor, 439 Peace Portal Way, Blaine, WA.

The authority under which these rules are proposed is chapter 9.46 RCW (See attached rules for authority for each separate rule).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 17, 1978 and/or orally at 10 a.m., Wednesday, May 17, 1978, Shakey's Pizza Parlor, 439 Peace Portal Way, Blaine, WA.

Dated: April 4, 1978
By: Jeffrey O. C. Lane
Assistant Attorney General

NEW SECTION

WAC 230-02-415 PUBLIC CARD ROOM EMPLOYEE DEFINED. A "public card room employee" is any person who is employed by a public card room operator, for compensation or otherwise, to work in, or in direct connection with, a public card room whose duties or responsibilities include any of the following:

- (1) Floor person,
- (2) Time collector,
- (3) Chip seller,

- (4) Dealer or mucker,
- (5) Cashier,
- (6) Pit boss,
- (7) Card room manager,
- (8) Supervision of any person working in, or in connection with, the card room,
- (9) The prevention or discovery of cheating by persons playing in the card room or of improper activities by employees working in the card room,
- (10) To encourage the organization and/or beginning of a card game.

This definition does not include bartenders, waitresses and persons with similar duties who are limited to the serving of food or drink in the card room.

[This rule is promulgated pursuant to RCW 9.46.070(16) and is intended to administratively implement that statute.]

Reviser's Note: The brackets and enclosed material following the text of 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 #67 filed 3-11-77)

WAC 230-04-060 REQUIRED INFORMATION. In addition to other information required by the commission, each applicant shall provide the following information on or attached to the application:

- (1) Washington state department of revenue tax number unless exempt from such registration pursuant to department of revenue regulations;
- (2) Copy of corporate applicants' articles of incorporation and by-laws; or, if not a corporation, a copy of any by-laws and other documents which set out the organizational structure and purposes of the organization;
- (3) A copy of a nonprofit or charitable applicant's internal revenue service tax exemption letter if one has been obtained;
- (4) Details and copies of all lease or rental arrangements, whether oral or written, between the applicant and the owner of premises upon which the gambling activity will be conducted, if such premises are leased or rented;
- (5) Details and copies of any and all franchise agreements or other agreements, whether written or oral, if any, between the applicant and distributors or manufacturers of equipment or between the applicant and any other person where those agreements relate to gambling activities or gambling equipment;
- (6) The name, address, date of birth, and social security number of each paid employee or agent who will work in the activity for which the license is sought;
- (7) For each person listed below, a completed copy of the commission's form entitled "Personal Information Form":
 - (a) Each person who has a substantial interest in the applicant;
 - (b) Each person who is the chief executive officer, the chairman of a board, and the financial records officer of a corporation and/or bona fide nonprofit charitable organization;
 - (c) Each person who will serve in a supervisory capacity over those persons in the direct management or direct operation of the activity for which the license is sought;

~~((d))~~ Each person who works in any capacity directly in connection with a public card room;

~~((8))~~ If the applicant is a natural person, a completed copy of the commission's "Personal Information Form" respecting the applicant;

~~((9))~~ (9) When information filed with the commission becomes inaccurate in any way, or additions or deletions are necessary to reflect changes in circumstances of the licensee, applicant, or any other persons since the information was filed, the applicant or licensee shall submit full details of any such change and/or correct any inaccuracy, together with copies of any new required documents, with the commission within 30 days following the change: PROVIDED, That with respect to bona fide charitable and/or bona fide nonprofit organizations only, notice need not be given of changes of officers until required renewal time(s) for a particular license(s). If other information required to be submitted under all other sections of this rule and/or other information required on the application, changes or becomes inaccurate in any way, the commission shall be notified as required in this subsection. All officers of bona fide charitable and/or bona fide nonprofit organizations, upon signing the original and/or renewal application(s) for licensure, shall obligate the organization to the fair and lawful operation of all gambling activities for that license year or until renewal

time of another license held by the organization or an additional license is applied for, whichever is sooner, regardless of any change(s) in the roster of elected officers during that license period.

~~((9))~~ (10) Sections (1), (2), (3), and (7) shall not apply to applications by or in behalf of an incorporated city or town in the state of Washington or a subdivision thereof.

[This rule is promulgated pursuant to RCW 9.46.070(6) and is intended to administratively implement that statute.]

Reviser's Note: The brackets and enclosed material following the text of 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 #51, filed 4-30-76)

WAC 230-04-070 ACTIVITIES NOT TO BE CONDUCTED WITHOUT A LICENSE OR PERMIT. Excepting only as provided in RCW 9.46.030(2), (3) and (6) none of the activities authorized by RCW 9.46.030, including any amendments thereto, nor any other activity for which a license or permit from the commission is required, shall be conducted or performed, or allowed to be conducted ~~((or))~~, played or performed, on any premises unless the operator ~~((thereof))~~ of, or person conducting or performing, the activity first obtains the appropriate license or permit from the commission.

[This rule is promulgated pursuant to RCW 9.46.070(13) which directs that the Washington State Gambling Commission has authority to implement the provisions of chapter 9.46 RCW.]

Reviser's Note: The brackets and enclosed material following the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 230-04-140 LICENSING OF PUBLIC CARD ROOM EMPLOYEES. Prior to accepting a position as, or acting as, a public card room employee a person shall first obtain a license from the commission. A sole owner, partner, major officer and/or owner of a substantial interest in a corporation licensed to operate a public card room shall not be required to be additionally licensed as a public card room employee to perform duties in connection with the card room. An operator of a public card room shall not employ any unlicensed person to perform duties for which a license is required in or in connection with a public card room, and shall take all measures necessary to prevent an unlicensed person from doing so.

The operator of a public card room or partner or officer of the entity operating the card room for which the applicant will work shall sign the application of each such public card room employee acknowledging that the applicant will be working for that operator with the operator's knowledge and consent.

This rule shall be effective as of September 1, 1978.

[This rule is promulgated pursuant to RCW 9.46.160(16) and is intended to administratively implement that statute.]

Reviser's Note: The brackets and enclosed material following the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 230-04-141 PUBLIC CARD ROOM EMPLOYEE LICENSES MAY BE REISSUED WHEN CHANGING EMPLOYMENT. In the event that a licensed public card room employee ceases to be employed at a public card room in connection with which his license was granted, the license shall be immediately and automatically rendered inactive and shall be returned to the commission forthwith. The commission shall maintain the license in an inactive status until it expires or the licensee is employed by another public card room.

If the licensee is employed as a public card room employee by a different licensed public card room operator within the term of the license remaining, he may apply to the commission to have the license returned to active status and reissued for employment at that card room for such remaining term. The public card room operator or a partner or major officer of the entity operating the card room seeking to employ the licensee shall sign this application for transfer acknowledging that the licensee will be working for that operator with that operator's knowledge and consent.

The fee for transfer and reactivation of the license shall be ten dollars.

[This rule is promulgated pursuant to RCW 9.46.070(16) and is intended to administratively implement that statute.]

Reviser's Note: The brackets and enclosed material following the text of 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 #5, filed 12-19-73)

WAC 230-04-170 APPLICANTS—QUALIFICATIONS. Where a married person is an applicant for, or holder of a license, the spouse of such applicant, if the parties are maintaining a marital community, shall be required to have the same qualifications as the applicant.

This rule shall not apply with respect to licenses required for employees of an operator licensed to conduct activities authorized by RCW 9.46.030.

[This rule is promulgated pursuant to RCW 9.46.070(13) which directs that the Washington State Gambling Commission has authority to implement the provisions of chapter 9.46 RCW.]

Reviser's Note: The brackets and enclosed material following the text of 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 #78, filed 11-17-77)

WAC 230-04-190 ISSUANCE OF LICENSE. (1) Charitable and nonprofit organizations and agricultural fairs. The commission may issue a license to qualified bona fide charitable or to qualified bona fide nonprofit organizations or to qualified agricultural fairs to operate each of the following activities upon a specified location:

- (a) Bingo
- (b) Raffles
- (c) Amusement games
- (d) Punchboards and pull tabs
- (e) To allow its premises to be used only by bona fide members and guests to play authorized card games.

The operation of each of these activities shall require a separate license from the commission.

(2) Fund raising event as defined in RCW 9.46.020. The commission may issue a license to a bona fide charitable or bona fide nonprofit organization defined in RCW 9.46.020, other than any agricultural fair defined therein, to conduct fund raising events.

(3) Special amusement game license. The commission may issue a license to any person, association or organization other than a bona fide charitable or nonprofit organization to conduct amusement games only at one or more of the locations set out by the commission in WAC 230-20-380.

(4) Commercial stimulant card games. The commission may issue a license to persons operating a business primarily engaged in the selling of items of food or drink for consumption on the premises operating under the authority of a license of permit for the business issued by the state, district or local health officer, and/or a license issued by the Washington state liquor control board, to allow a specified portion of a specified premises to be used by persons to play authorized card games.

(5) Public card room employee. The commission may issue a license to a person to perform duties in a public card room.

~~((5))~~ (6) Commercial stimulant punchboards and pull tabs. The commission may issue a license to a person operating a business primarily engaged in the selling of items of food or drink for consumption on the premises operating under the authority of a license or permit for the business issued by the state, district or local health officer, and/or a license issued by the Washington state liquor control board, to operate punchboards and pull tabs upon specified premises.

~~((6))~~ (7) Punchboard and pull tab manufacturer and distributor. The commission may issue a separate license to:

- (a) Punchboard and pull tab manufacturers,
- (b) Distributors to sell and distribute punchboards and pull tabs and related equipment within the state of Washington,
- (c) Manufacturer's representatives to sell and distribute punchboards and pull tabs and related equipment on behalf of the manufacturer in the state of Washington, and

(d) Distributor's representatives to sell and distribute punchboards and pull tabs and related equipment on behalf of the distributor in the state of Washington.

((+)) (8) License expiration. Each such license shall be valid for one year from the date that it is issued: PROVIDED, That

(a) Licenses issued to conduct any authorized activity in connection with and upon the site of a qualified agricultural fair, qualified community-wide civic festival, qualified world's fair, or qualified civic center shall be valid only for the duration of the fair or festival, or, in the case of an activity at a civic center, for the seasons during which the civic center is operating and open to the public. In no event shall such license exceed one calendar year.

(b) Licenses issued for card tournaments shall be valid only for the duration of the tournament, but in no event shall exceed ten consecutive days.

(c) Licenses issued for fund raising events shall be valid only for the duration of the fund raising event as set forth in the application, but in no event shall exceed three consecutive days, once each calendar year, or in the alternative, shall not exceed one calendar day no more than twice each calendar year.

(d) If the licensee fails to renew the license prior to the expiration date, the license shall expire. The licensee must reapply for licensure according to the statutory and regulatory conditions then in force as would any other person.

((+)) (9) Conditions of license issuance. All activities so licensed are licensed subject to compliance with all of the applicable provisions of chapter 9.46 RCW, including any amendments thereto, all applicable rules and regulations passed by the commission, all other applicable laws of the United States, the state of Washington and all political subdivisions of the state of Washington.

[This rule is promulgated pursuant to RCW 9.46.070(16) and is intended to administratively implement that statute.]

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 brackets and enclosed material following the text of 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 #78, filed 11-17-77)

WAC 230-04-200 LICENSE FEES. The following fees shall be paid to the commission for licenses, and permits, issued by the commission. For the operation of:

(1) BINGO

(a) Class A - five hundred dollars or less annual net receipts - \$20.

(b) Class B - over five hundred dollars through five thousand dollars annual net receipts - \$50.

(c) Class C - over five thousand dollars through fifteen thousand dollars annual net receipts - \$250.

(d) Class D - over fifteen thousand dollars through twenty-five thousand dollars annual net receipts - \$350.

(e) Class E - over twenty-five thousand dollars through fifty thousand dollars annual net receipts - \$750.

(f) Class F - over fifty thousand dollars through one hundred thousand dollars annual net receipts - \$1500.

(g) Class G - over one hundred thousand dollars through five hundred thousand dollars annual net receipts - \$3000.

(h) Class H - over five hundred thousand dollars annual net receipts - \$10,000.

(2) RAFFLES

(a) Class C - five hundred dollars or less annual net receipts - \$20.

(b) Class D - over five hundred dollars, but not over five thousand dollars, annual net receipts - \$50.

(c) Class E - over five thousand dollars through fifteen thousand dollars annual net receipts - \$250.

(d) Class F - over fifteen thousand dollars annual net receipts - \$350.

(3) AMUSEMENT GAMES - by bona fide charitable or bona fide nonprofit organizations.

(a) Class A - five hundred dollars or less annual net receipts - \$20.

(b) Class B - over five hundred dollars through one thousand dollars annual net receipts - \$25.

(c) Class C - over one thousand dollars through five thousand dollars annual net receipts - \$50.

(d) Class D - over five thousand dollars through fifteen thousand dollars annual net receipts - \$150.

(e) Class E - over fifteen thousand dollars annual net receipts - \$350.

(4) FUND RAISING EVENT AS DEFINED IN RCW 9.46.020 - by bona fide charitable or bona fide nonprofit organizations.

(a) Class A - one calendar day - not to exceed five thousand dollars annual net receipts - \$50.

(b) Class B - more than one calendar day not to exceed three consecutive days, once each calendar year - not to exceed five thousand dollars annual net receipts - \$100.

(5) SPECIAL LOCATION AMUSEMENT GAMES - other than bona fide charitable or bona fide nonprofit organizations.

(a) Class A - one event per year lasting no more than 12 consecutive days - \$100.

(b) Class B - twenty-five thousand dollars or less annual net receipts - \$250.

(c) Class C - over twenty-five thousand dollars through one hundred thousand dollars annual net receipts - \$750.

(d) Class D - over one hundred thousand dollars through five hundred thousand dollars annual net receipts - \$1500.

(e) Class E - over five hundred thousand dollars annual net receipts - \$3000.

(6) CARD GAMES - bona fide charitable and nonprofit organizations.

(a) Class A - general (fee to play charged) - \$250.

(b) Class B - limited card games - to hearts, rummy, pitch, pinochle, coon-can and/or cribbage (fee to play charged) - \$100.

(c) Class C - tournament only (no more than ten consecutive days) per tournament - \$35.

(d) Class D - general (no fee is charged a player to play cards) - \$35.

(7) CARD GAMES - commercial stimulant - each licensee per premises.

(a) Class A - general - up to three tables - \$250.

(b) Class B - limited card games to hearts, rummy, pitch, pinochle, coon-can and/or cribbage (fee to play charged) - \$100.

(c) Class C - tournament only (no more than ten consecutive days) - per tournament - \$35.

(d) Class D - general (no fee is charged a player to play cards) - \$35.

(e) Class E - general - up to five tables - \$500.

(8) PUBLIC CARD ROOM EMPLOYEE - each license - \$100.

((+)) (9) PERMITS - for operation by persons of authorized activity at agricultural fair or special property.

(a) Class A - one location and event only - \$10.

(b) Class B - annual permit for specified different events and locations - \$100.

((+)) (10) PUNCHBOARDS AND PULL TABS - each licensee, per premises - \$300.

((+)) (11) Manufacturer license - \$1250.

((+)) (12) Distributor license - \$1000.

((+)) (13) Distributor's representative license - \$100.

((+)) (14) Manufacturer's representative license - \$100.

The term annual net receipts as used above means net receipts from the activity licensed only, during the license year.

[This rule is promulgated pursuant to RCW 9.46.070(11) and is intended to administratively implement that statute.]

Reviser's Note: The brackets and enclosed material following the text of 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 #5, filed 12-19-73)

WAC 230-04-290 LOSS OR DESTRUCTION OF LICENSES, PERMITS, ETC.—FEES. Upon the loss or destruction of any license granted by the commission to conduct gambling activities in the state of Washington, application for a duplicate must be made to the commission upon a form to be supplied by the commission. A notarized affidavit signed by the licensee, chief executive officer of a corporation or by each of the owners of a profit making business which details the circumstances under which the license was lost or destroyed and certifies that such license was, in fact, lost or destroyed, shall accompany such application. The fee for replacement of a license shall be ten dollars.

[This rule is promulgated pursuant to RCW 9.46.070(13) which directs that the Washington State Gambling Commission has authority to implement the provisions of chapter 9.46 RCW.]

Reviser's Note: The brackets and enclosed material following the text of 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 #5, filed 12-19-73)

WAC 230-04-310 CHANGE OF NAME. No licensee shall adopt or make a change in his or her given name or a trade or corporate name without notifying the commission at least thirty days prior to the effective date of such change. Each such change shall be made subject to the approval of the commission. The fee for such adoption or change of name shall be ten dollars.

[This rule is promulgated pursuant to RCW 9.46.070(5) and is intended to administratively implement that statute. This rule is also promulgated pursuant to RCW 9.46.070(13) which directs that the Washington State Gambling Commission has authority to implement the provisions of chapter 9.46.]

Reviser's Note: The brackets and enclosed material following the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 230-04-405 LICENSEE SHALL BE RESPONSIBLE FOR ACTS OR OMISSIONS OF EMPLOYEES AND AGENTS. A licensee to operate a gambling activity, or to manufacture or distribute gambling devices, equipment or related items, shall be responsible for its, his or her employees or agents' acts or omissions in connection with the operation or conduct of the licensed activity. A violation of any of the commission's rules by such employee or agent shall be deemed a violation by the principal licensee.

[This rule is promulgated pursuant to RCW 9.46.070(13) which directs that the Washington State Gambling Commission has authority to implement the provisions of chapter 9.46 RCW.]

Reviser's Note: The brackets and enclosed material following the text of 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 #5, filed 12-19-73)

WAC 230-04-450 DISPLAY OF LICENSES. All licenses or permits granted by the commission, including those licenses issued to employees of a licensed operator as well as the principal license or licenses, shall be prominently displayed at all times upon the licensed premises in such position as they may be observed by persons participating in gambling activities on the licensed premises, except as may otherwise be provided by these rules.

[This rule is promulgated pursuant to RCW 9.46.070(13) which directs that the Washington State Gambling Commission has authority to implement the provisions of chapter 9.46 RCW.]

Reviser's Note: The brackets and enclosed material following the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 230-04-452 PICTURES TO BE POSTED WITH EMPLOYEE LICENSES. The operator of a gambling activity shall post together with each of the licenses of his employees for which licenses are required a picture of that employee. Such picture shall be of a passport type not less than 2 1/2" X 2 1/2" and clearly showing a full front facial view of that employee.

[This rule is promulgated pursuant to RCW 9.46.070(13) which directs that the Washington State Gambling Commission has authority to implement the provisions of chapter 9.46 RCW.]

Reviser's Note: The brackets and enclosed material following the text of 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 section of the Washington Administrative Code is repealed:

(1) WAC 230-04-332 CHANGE OF EMPLOYEE OR AGENT IN THE OPERATION OF A CARD ROOM, PUNCHBOARDS OR PULL TABS.

[This rule is promulgated pursuant to RCW 9.46.030(13) which directs that the Washington State Gambling Commission has authority to implement the provisions of chapter 9.46 RCW.]

Reviser's Note: The brackets and enclosed material following the text of 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 #12, filed 2-14-74)

WAC 230-12-080 LICENSEE TO MAINTAIN COPY OF COMMISSION'S RULES ON PREMISES. Each licensee for the operation of a gambling activity shall obtain, maintain and keep current, a copy of the rules of the commission, which shall be located upon each premises used for the conduct of a licensed activity by a licensee at all times the activity is there conducted. The rules shall be produced by the licensee and shown to any person upon demand. The fact that a licensee may not have a current copy of each of the rules of the commission shall not in any way diminish the licensee's obligation to abide by these rules.

[This rule is promulgated pursuant to RCW 9.46.070(13) which directs that the Washington State Gambling Commission has authority to implement the provisions of chapter 9.46 RCW.]

Reviser's Note: The brackets and enclosed material following the text of 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 #23, filed 9-23-74)

WAC 230-40-250 LICENSEE TO PREVENT CHEATING IN CARD GAMES. A licensee to allow certain premises to be used to play cards and his employees or agents shall not allow any player to play in such a manner as to cheat the persons with whom he is playing. The licensee shall take all necessary steps to prevent this and shall be responsible to insure that the games played upon the licensed premises are fairly played.

Any incident wherein a person is found cheating shall be reported immediately to the applicable local police or sheriff's office.

[This rule is promulgated pursuant to RCW 9.46.070(10) and is intended to administratively implement that statute.]

Reviser's Note: The brackets and enclosed material following the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

WSR 78-04-081

**NOTICE OF PUBLIC MEETINGS
CONSERVATION COMMISSION
[Memorandum—Apr. 4, 1978]**

The Washington State Conservation Commission has scheduled the following meetings:

1. May 17-18, 1978 - Okanogan County. May 17, 1978, tour and interaction dinner meeting; and May 18, 1978, 8:30 a.m., regular commission meeting.
2. July 18-19, 1978 - Ocean Shores. July 18, 1978, tour (coastal zone management, dune stabilization, and RC&D) and interaction dinner meeting with Grays Harbor and Pacific conservation districts; and July 19,

1978, 8:30 a.m., regular commission meeting.

WSR 78-04-082
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed April 4, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 that the State Board of Education intends to adopt, amend, or repeal rules concerning new chapter 180-79 WAC, Professional Preparation—Certification Requirements, being new sections WAC 180-79-005, 010, 015, 020, 025, 030, 035, 040, 045, 050, 055, 060, 065, 070, 075, 080, 085, 090, 095, 100, 105, 110, 112, 115, 120, 125, 130, 135, 150, 155, 160, 165, 170, 175, 180, 185, 190, 195, 200, 205, 210, 215, 230, 235, 240, 245, and 250;

that such agency will at 9:00 a.m., Thursday, May 11, 1978, in the Dept. of Social and Health Services Auditorium, Office Building 2, 12th and Franklin Streets, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Friday, May 12, 1978, in the DSHS Auditorium, OB 2, 12th and Franklin, Olympia, WA.

The authority under which these rules are proposed is RCW 28A.04.120 and chapters 28A.70 and 28A.93 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 11, 1978 and/or orally at 9:00 a.m., Thursday, May 11, 1978, DSHS Auditorium, OB 2, 12th and Franklin, Olympia, WA.

Dated: April 4, 1978
By: Wm. Ray Broadhead
Secretary

Chapter 180-79 WAC
PROFESSIONAL PREPARATION
CERTIFICATION REQUIREMENTS

NEW SECTION

WAC 180-79-005 PURPOSE. The purposes of this chapter are to implement RCW 28A.04.120(3) and chapter 28A.70 RCW and establish the various certificates which must be held as a condition to employment in the Washington school system and the conditions and procedures governing issuance and retention of the same. Any certificate issued pursuant to this chapter shall entitle the holder thereof to be employed by a public or nonpublic school for the performance of duties encompassed by the certificate until such certificate expires or is revoked.

The responsibility of the state board of education and the superintendent of public instruction in relation to certification shall be as set forth in WAC 180-78-010.

The state board of education considers it to be the professional obligation of each school district superintendent or nonpublic school administrator and each educational service district superintendent to file a written complaint with the superintendent of public instruction pursuant to RCW 28A.70.160 against any certificated employee who:

(1) Has committed or is guilty of (a) immorality, (b) a violation of written contract, (c) intemperance, (d) a crime against the law of the state, or (e) an act of unprofessional conduct that is of a nature which may justify the revocation of the individual's certificate to be employed in the schools; or

(2) Has been convicted of any crime involving the physical neglect of children, injury of children (excepting possible motor vehicle violations) or the sexual abuse of children.

Upon receipt of any such written complaint, that section within the office of the superintendent of public instruction having responsibility for certification shall investigate the complaint. If sufficient cause for revocation of the individual's certificate(s) is believed to exist, the section shall present and prosecute the case before the superintendent of public instruction. The superintendent of public instruction may appoint a hearing examiner and/or legal counsel to assist the superintendent in hearing the case.

NEW SECTION

WAC 180-79-010 DEFINITIONS. The following definitions shall apply to terms used in this chapter:

(1) The terms, "state board of education program approval," "accreditation," "cooperation," "program unit," "endorsement," "interstate compact," "minimum generic standards," "program outcomes," "site visit," "general professional organization," "school organization," "college or university," and "specialized professional organization," as defined in WAC 180-78-030 as adopted or hereafter amended shall apply to the provisions of this chapter.

(2) "Certificate" shall mean the license issued by the superintendent of public instruction to teachers, administrators, and school specialized personnel verifying that the individual has met the requirements set forth in this chapter and authorizing the individual to serve in the schools of this state pursuant to RCW 28A.67.010.

(3) "Certificate reinstatement" shall mean the process whereby the validity of any certificate not subject to renewal may be reestablished.

(4) "Certificate renewal" shall mean the process whereby the validity of an initial certificate may be reestablished.

(5) "Certificate revocation" shall mean the process whereby an individual's certificate is rescinded pursuant to RCW 28A.70.160 and 28A.70.170.

(6) "Classroom teaching" shall mean instructing pupils in a classroom setting.

(7) "Elementary level" shall mean grades K through 8.

(8) "Educational setting" shall mean any setting, the primary purpose for which is to instruct/teach children, youth, or adults or to administer such instruction/teaching. This shall include but not be limited to state board of education approved instate public and nonpublic schools; out-of-state K-12 schools; preschools; educational service districts; the office of the superintendent of public instruction; and institutions of higher education: PROVIDED, The office of the superintendent of public instruction shall have final authority to determine whether a specific setting qualifies as an educational setting for purposes of this chapter.

(9) "Field experience" shall mean a sequence of learning experiences which occur in actual K-12 school settings or clinical and laboratory settings. Such learning experiences are related to specified program outcomes and are designed to integrate educational theory, knowledge, and skills in actual practice under the direction of a qualified supervisor.

(10) "Secondary level" shall mean grades 7 through 12.

NEW SECTION

WAC 180-79-015 APPEAL—GENERAL. Any person who applies for a certificate, particular certificate level or endorsement, certificate renewal, or certificate reinstatement whose application is denied may appeal that decision if he or she follows the procedures established in WAC 180-79-020 through 180-79-025: PROVIDED, This section may not be used to seek reinstatement of a certificate if that certificate has been revoked by the superintendent of public instruction.

The appeal procedure consists of two levels, one informal and one formal. The use of the informal level is a condition precedent to use of the formal level.

NEW SECTION

WAC 180-79-020 APPEAL PROCEDURE—INFORMAL. Any person who desires to appeal the decision to deny his or her application must file a written notice with the superintendent of public instruction within twenty calendar days following the date of mailing from the section of the superintendent of public instruction's office responsible for certification of the decision to deny the application.

The written notice must set forth the reasons why the appellant believes his or her application should have been granted.

Following timely notice of appeal, the superintendent of public instruction or his or her designee shall appoint a review officer who will be someone other than the person or persons who reviewed the application initially.

The review officer shall then:

(1) Review the application and appeal notice and may request further written information including but not limited to an explanation from the person or persons who initially reviewed the application of the reason(s) the application was denied.

(2) If he or she deems it advisable, schedule an informal meeting of the appellant, the person or persons who denied the application initially, and any other interested parties designated by the reviewing officer, to receive oral information concerning the application. Any such meeting must be held within thirty days of the date of receipt by the superintendent of public instruction of the timely-filed appeal notice.

(3) Place in the mail a written decision on the appeal within forty-five days from the date of receipt of the timely-filed appeal notice by the superintendent of public instruction. The reviewing officer may uphold, reverse, or modify the decision to deny the application.

NEW SECTION

WAC 180-79-025 APPEAL PROCEDURES—FORMAL PROCESS. (1) Any person who has filed an appeal in accordance with WAC 180-79-015 and desires to have the denial of his or her application reviewed further may do so if the reviewing officer has not reversed the decision to deny the application. To instigate review under this section, a person must file a written notice with the state board of education within twenty calendar days following the date of mailing of the review officer's decision.

(2) For purposes of hearing an appeal under this section, the state board of education shall designate one or more hearing examiners. From the list of designated hearing examiners, the superintendent of public instruction, acting on behalf of the state board of education, shall select a hearing examiner to hear a particular appeal.

The appeal shall be conducted pursuant to chapter 180-08 WAC and chapter 34.04 RCW.

NEW SECTION

WAC 180-79-030 CERTIFICATE VALIDITY. Certificates are governed for their duration by the statutes and rules under which they are issued. A certificate which is issued to an individual who does not meet all requirements set forth in this chapter is null and void.

NEW SECTION

WAC 180-79-035 NOTIFICATION OF REVOCATION OF CERTIFICATES. The office of the superintendent of public instruction shall notify all other states that a certificate has been revoked and shall provide the full name and certificate number to the agency responsible for certification in each state. The superintendent of public instruction or his or her designee shall withhold certification of an individual from another state whose certificate has been revoked in such state: **PROVIDED**, That in accordance with RCW 28A.70.180 the individual may become eligible to receive a certificate after a period of one calendar year from the date of revocation. The superintendent of public instruction or his or her designee shall conduct an investigation and determine whether a certificate shall be issued.

NEW SECTION

WAC 180-79-040 EQUIVALENCY OF STANDARDS. Reasonable flexibility in interpretation of the requirements for certification set forth in this chapter may be applied consistent with the intent and spirit of the requirements. Exceptions to specific certification requirements will be considered by the superintendent of public instruction or his or her designee. It shall be the responsibility of the superintendent of public instruction or his or her designee to make the final decision concerning approval of any exception to certification requirements.

NEW SECTION

WAC 180-79-045 CERTIFICATES—PREVIOUS STANDARDS. (1) Certificates issued under previous standards which were issued for a specific term shall continue to be effective for that term. Renewals and reinstatements of such certificates shall be under the

standards set forth in this chapter as now or hereafter amended: **PROVIDED**, That all persons who hold any standard teacher, administrator, or specialized personnel certificate issued under previous standards of the state board of education shall be issued a continuing certificate: **PROVIDED FURTHER**, That all persons who hold any provisional or initial certificate granted under previous standards of the state board of education shall be authorized to meet requirements for standard or continuing certification as set forth in the relevant previous standards so long as the standard or continuing certificate is obtained within six calendar years of the date on which the first provisional or initial certificate was issued or, in the case of specialized personnel certificates authorized by chapter 180-84 WAC, five calendar years after adoption of the certification regulation set forth in this chapter: **PROVIDED FURTHER**, That all persons who hold other than provisional or standard certificates issued under previous standards of the state board of education shall be issued continuing certificates if they have completed forty-five quarter hours (thirty semester hours) of preparation past the baccalaureate degree and three years of experience: **PROVIDED FURTHER**, That persons holding provisional credentials as administrators under standards adopted by the state board of education in 1956 who have completed all requirements for the standard credential except the three years of experience as a principal or superintendent shall be issued continuing administrator certificates under these standards if they have completed at least five years of experience in an educational setting as defined herein and three years of experience in the role of superintendent, principal, vice principal, or deputy or assistant to a principal or superintendent.

(2) Certificates issued under previous standards which were issued for an indefinite period shall continue to be in effect.

NEW SECTION

WAC 180-79-050 CERTIFICATE REQUIRED. Persons serving as teachers, principals, and educational staff associates shall hold certificates authorized by the state board of education for service in the respective roles.

NEW SECTION

WAC 180-79-055 TYPES OF CERTIFICATES. Three types of certificates shall be issued:

(1) Teacher. The teacher certificate authorizes service in the primary role of classroom teaching.

(2) Administrator.

(a) The administrator certificate endorsed "principal" authorizes service as a building administrator or vice principal.

(b) The administrator certificates endorsed "superintendent" or "program administrator" will be issued to persons who have completed state board of education approved preparation programs for service in the roles of district administrator or his/her administrative staff and program administrator.

(c) The superintendent and program administrator certificates are not required.

(3) Educational staff associate. The educational staff associate certificate authorizes service in roles of specialized assistance to the learner, the teacher, the administration and the educational program. Included as educational staff associates shall be communication disorders specialists, counselors, school nurses, occupational therapists, physical therapists, psychologists, social workers, and reading resource specialists.

NEW SECTION

WAC 180-79-060 LEVELS OF CERTIFICATES. Three levels of certification may be issued:

(1) Preparatory certificate. The preparatory certificate is optional and authorizes training experiences under supervision in school or school related settings. This certificate does not authorize employment in the professional role and shall not be a certificate within the meaning of RCW 28A.67.010. Academic, experience, and competency requirements shall be subject to state board of education approval.

(2) Initial certificate. The initial certificate authorizes school service in a particular role and allows the holder to assume independent responsibility for working with children, youth, and adults.

(3) Continuing certificate. The continuing certificate authorizes school service in a particular role and indicates that the holder has completed additional academic, experience, and competency requirements.

NEW SECTION

WAC 180-79-065 CERTIFICATE VALIDITY, RENEWAL, AND REINSTATEMENT. (1) Preparatory certificate.

(a) The preparatory certificate is an optional certificate which will be available to individuals during their preparation programs.

(b) The preparatory certificate is valid for one year and may be reissued on recommendation from a state board of education approved preparation program.

(c) The preparatory certificate will be issued to those teacher, administrator and educational staff associate candidates who:

(i) Meet the relevant statutory and general requirements as set forth in WAC 180-79-105 and/or 180-79-110.

(ii) Have the preparatory level knowledge and skill specified in a state board of education approved program; and

(iii) Are recommended for preparatory certification by the administrator of such program.

(2) Initial certificate.

(a) The initial certificate is valid for four years and may be renewed once for a three-year period on verification by a state board of education approved program that work has begun toward continuing level certification: PROVIDED, That no more than ten years has elapsed since the completion of an approved preparation program for initial certification.

(b) The initial certificate may be reinstated if the individual completes at least fifteen quarter hours (ten semester hours) of course work in a state board of education approved preparation program and verification of minimum generic standards for initial certification. Course work taken more than three years prior to the date of application for reinstatement shall not satisfy this requirement.

(3) Continuing certificate.

(a) The continuing certificate is valid on a continuing basis and is subject to reinstatement only if the individual leaves educational service for more than seven consecutive years.

(b) To reinstate a continuing certificate the individual must complete fifteen quarter hours (ten semester hours) of course work in a state board of education approved preparation program and demonstrate minimum generic standards required for continuing certification. Course work taken more than three calendar years prior to the date of application for reinstatement shall not satisfy this requirement.

NEW SECTION

WAC 180-79-070 EDUCATIONAL EXPERIENCE ACCEPTABLE FOR CERTIFICATION. (1) Experience for maintaining and renewing certification. To satisfy experience requirements set forth in this chapter for maintaining and renewing a certificate, an individual must complete experience in an educational setting as defined in WAC 180-79-010(6).

(2) Any year during which an individual unsuccessfully completes a probationary period established in accordance with RCW 28A.67.065 shall not be considered a year of experience for purposes of obtaining, maintaining or renewing a certificate.

NEW SECTION

WAC 180-79-075 CERTIFICATE ENDORSEMENT. (1) Teacher certificates.

(a) Initial certificates shall specify the recommended assignment area(s) in a subject matter field(s) and grade level(s).

(b) Continuing certificates shall authorize service in grades K-12 and may be endorsed for recommended subject matter and teaching specializations if the candidate requests such endorsement and files an application in accordance with procedures set forth in WAC 180-79-080.

(2) Educational staff associate certificates.

(a) Initial and continuing certificates shall identify the field of specialization by endorsement.

(3) Administrator certificates.

(a) Initial and continuing administrator certificates shall identify the field of specialization (principal, program administrator, superintendent).

(b) Superintendents' and program administrators' initial and continuing certificates shall be endorsed for grades K-12.

(c) Principals' initial certificates shall be endorsed for grades K-9, 7-12, or K-12; continuing certificates shall be endorsed K-12.

NEW SECTION

WAC 180-79-080 CERTIFICATE ENDORSEMENTS—CHANGES OR ADDITIONS. In order to change or add an endorsement to an initial and continuing certificate, the candidate must complete an application, pay the certification fee, and submit verification from a state board of education approved program authorized to verify completion of a professional preparation program.

NEW SECTION

WAC 180-79-085 REPLACEMENT OF CERTIFICATES. The superintendent of public instruction shall issue a replacement certificate to any person who files an application, pays the appropriate certification fee, and verifies by signature that the original certificate has been lost or destroyed or that a legal name change has occurred.

NEW SECTION

WAC 180-79-090 FEE FOR CERTIFICATION. (1) In accordance with provisions of RCW 28A.70.110 and 28A.71.100, the fee for any certificate which is valid for more than one year, or for renewal of such certificate, issued by authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be fifteen dollars.

(2) The fee for any other certificate/credential, or for any renewal thereof, issued by the authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be one dollar.

(3) Officials authorized to collect such fees for transmittal to an educational service district are educational service district superintendents, local school district superintendents, deans and directors of education at colleges and universities, and designees of program units. The fee must accompany the application for a certificate and shall be transmitted to the educational service district within which the application is filed for disposition in accordance with provision of RCW 28A.70.110. The fee shall not be refunded unless the application is withdrawn before it is finally considered by the superintendent of public instruction or his or her designee. Monies accrued from certification fees within the boundaries of an educational service district shall be divided in the following manner:

(a) Local school districts employing more than one hundred teachers and other professional staff and collecting certification fees may retain one dollar of each fee in order to hold a professional training institute. If such district does not hold an institute all such monies shall be placed to the credit of the educational service district.

(b) No less than fifty percent of the funds accruing within the boundaries of an educational service district shall be used to support program activities related to state-wide precertification professional preparation and evaluation.

(c) The remaining funds shall be used to support professional inservice training programs and evaluations thereof.

NEW SECTION

WAC 180-79-095 USE OF FEE FOR CERTIFICATION. (1) Certification fees will be used solely for precertification professional preparation, professional inservice training programs, teachers' institutes and/or workshops, and evaluations thereof in accordance with this chapter.

(2) Precertification professional preparation. Certification fees shall be used to support program activities related to precertification professional preparation in accordance with the provisions set forth below:

(a) A subcommittee of the state professional education and advisory committee as established in WAC 180-78-015 shall assist the superintendent of public instruction in administration of precertification program funds by annually establishing priorities and procedures for distribution of funds available for precertification activities. Primary utilization shall be to support collaborative efforts essential to program development, program evaluation and assessment of candidates' entry and exit competency.

(b) Funds set aside for precertification shall not supplant funds already available to any participating agency.

(c) A single educational service district shall be designated to administer the funds allocated for precertification programs. The designated educational service district shall be permitted to retain up to five percent of the precertification fees for costs related to administering these funds.

(d) Each quarter every educational service district shall forward the monies designated for precertification programs to the educational service district designated to administer such programs.

(3) Professional inservice training programs and teachers' institutes and/or workshops. Certification fees shall be used to support professional inservice training programs and teachers' institutes and/or workshops in accordance with the provisions set forth below:

(a) Each educational service district, or cooperative thereof as specified in subparagraph (d) of this section, shall establish an inservice committee composed of an educational service district representative; at least one district superintendent; one principal; one educational staff associate; one elementary, one junior high and one senior high teacher and one representative selected by the chief administrative officer responsible for professional education from a college/university having a state board of education approved teacher education program. Teacher representatives shall be selected by agreement among the presidents of the local education associations within the respective educational service district or cooperative thereof.

(b) An educational service district representative shall serve as chairperson of the inservice committee and provide liaison with the superintendent of public instruction.

(c) The inservice committee will be responsible for coordinating inservice/staff development model programs within the educational service district and shall submit to the superintendent of public instruction and the state board of education a plan for soliciting and selecting model programs which shall include procedures for conducting needs assessment, determining priorities and carrying out program evaluation.

(d) Cooperative agreements may be made among educational service districts to provide quality inservice education programs.

(e) Funds designated for inservice programs shall not supplant funds already available for such programs.

(4) Allowable expenditures. Funds may be used to support costs related to training, such as the payment of professional contractual services, per diem, travel costs, materials, printing, or released time. Nonallowable costs, except when approved in advance by the superintendent of public instruction or his or her designee, are college/university tuition and fees and the rental or purchase of facilities or equipment.

(5) Annual reporting. The superintendent of public instruction shall prepare and present to the state board of education an annual report concerning the use of certification fees for precertification and inservice activities.

NEW SECTION

WAC 180-79-100 PERSONNEL ASSIGNMENT. (1) Teachers. Local districts shall assign secondary teachers holding initial level certificates to recommended assignment areas and levels only. Teachers holding initial level elementary endorsement shall be assigned to elementary grades only. Teachers holding continuing level certificates should be assigned to recommended areas and levels or to areas and levels in which they have demonstrated competency during professional service: PROVIDED, That when it is considered justifiable the superintendent of public instruction may, if requested by the school district superintendent who will provide evidence of the need for such assignment, authorize initially certificated teachers to serve at different grade levels or in different subject matter fields from those recommended.

(2) Educational staff associates. Assignments to serve in educational staff associate roles shall be limited to persons holding valid educational staff associate certificates with appropriate endorsements.

(3) Administrators. Assignment of persons to serve as principals shall be limited to persons holding valid administrator certificates with the appropriate endorsement(s).

NEW SECTION

WAC 180-79-105 GENERAL REQUIREMENTS—TEACHERS ONLY. (1) Consistent with RCW 28A.67.010, no person shall be accounted as a qualified teacher within the meaning of the school law who is not the holder of a valid teacher's certificate or permit issued by lawful authority of this state.

(2) Citizenship requirement—Alien permits—Limitations.

(a) No person who is not a citizen of the United States of America shall be permitted to teach in the common schools of this state: PROVIDED, That the superintendent of public instruction may grant to an

alien a permit to teach in the common schools of this state. A permit will be granted if such person:

(i) Has declared his or her intention of becoming a citizen of the United States of America; and

(ii) Has met all other qualifications required by law: PROVIDED FURTHER, That after a one-year probationary period the superintendent of public instruction, at the written request of the superintendent or his or her designee, of the school organization which employed such person on a permit, may grant to an alien who is otherwise qualified as determined by the superintendent of public instruction or his or her designee under this chapter a certificate to teach in the common schools of this state.

(b) The superintendent of public instruction may grant to a nonimmigrant alien whose qualifications have been approved under the standards of this chapter a permit to teach as an exchange teacher in the common schools of this state: PROVIDED, That the granting of such permit shall be subject to the conditions prescribed in RCW 28A.67.020.

NEW SECTION

WAC 180-79-110 GENERAL REQUIREMENTS—TEACHERS, ADMINISTRATORS, EDUCATIONAL STAFF ASSOCIATES. The following requirements are to be met by candidates for certification as teachers, administrators, or educational staff associates:

(1) Age. No person who is less than eighteen years of age shall receive a certificate to serve in the public or nonpublic schools of Washington state.

(2) Character. Applicants for certificates in Washington state must give evidence of good moral character, personal fitness, and no convictions for crimes involving the physical neglect of children, physical injury of children (excepting possible motor vehicle violations), or sexual abuse of children as verified by a signed affidavit.

(3) Competency. A candidate for certification shall demonstrate knowledge and skill in the areas specified by the state board of education as minimum generic standards for the respective certificate type and level set forth in WAC 180-79-130 through 180-79-210.

(4) Academic. A candidate for certification shall have earned the appropriate degree as set forth in WAC 180-79-115 through 180-79-125 for the respective certificate or shall have earned the equivalent to a degree as verified by a regionally accredited Washington state institution of higher education having a state board of education approved preparation program in education. The superintendent of public instruction or his or her designee shall make the final determination as to degree equivalency.

(5) Experience.

(a) A candidate for certification shall complete the field experience(s) under supervision in given educational roles and settings as required for the respective certificate by WAC 180-79-115 through 180-79-125.

(b) All candidates for continuing level teacher or educational staff associate certification shall have completed three years of certificated service in the respective role in an educational setting.

(6) Probationary status. A certificate shall not be issued to any candidate who is on probation as defined by RCW 28A.67.065 at the time of application for a certificate.

(7) Program completion. A candidate for an initial or continuing certificate shall provide verification that he/she has completed a state board of education approved professional preparation program.

NEW SECTION

WAC 180-79-112 PREPARATION OF SUPERINTENDENTS. In accordance with RCW 28B.10.140, the only public institutions authorized to provide training for superintendents over and above that required for teachers' or principals certificates shall be the University of Washington and Washington State University.

NEW SECTION

WAC 180-79-115 ACADEMIC, EXPERIENCE, AND PROGRAM OUTCOMES REQUIRED FOR CERTIFICATION—TEACHERS. Candidates for teachers' certificates shall complete the following requirements in addition to those set forth in WAC 180-79-105 and 180-79-110.

(1) Initial.

(a) Candidates for the initial certificate shall hold a baccalaureate degree. Secondary candidates shall have completed the degree major in an academic field; elementary candidates shall have completed the degree major in an academic field or teaching specialization. If the degree major is elementary education, the candidate must have at least one area of emphasis in an academic field.

(b) Candidates shall give evidence that they have completed in-school, clinical, and laboratory experiences which include observations, at least eight weeks of practice teaching under supervision in a state board of education approved or accredited public or nonpublic K-12 classroom(s) and have accomplished program outcomes relevant to the classroom which are set forth in the program as approved by the state board of education.

(2) Continuing.

(a) Candidates shall have completed at least forty-five quarter hours (thirty semester hours) of upper division and/or graduate work subsequent to the baccalaureate degree of which thirty quarter hours (twenty semester hours) must be taken after the first year of teaching.

(b) Candidates shall have completed at least three years of service as a teacher in a classroom teaching role, at least two years of which shall be in a K-12 educational setting.

NEW SECTION

WAC 180-79-120 ACADEMIC, EXPERIENCE, AND PROGRAM OUTCOMES REQUIRED FOR CERTIFICATION—ADMINISTRATORS. Candidates for the respective administrative certificate shall complete the following requirements in addition to those set forth in WAC 180-79-110.

(1) Superintendent.

(a) Initial.

(i) The candidate shall hold a master's degree and complete at least fifteen quarter hours (ten semester hours) of graduate study beyond the master's degree in education-related course work.

(ii) The candidate shall hold or be eligible to hold a valid initial or continuing teacher or ESA certificate.

(iii) The candidate shall have served as an administrator in K-12 settings for at least three years as verified by the district(s) superintendent or designee.

(iv) The candidate shall have completed a one-year internship appropriate to the role of superintendent. The internship shall provide experience under supervision in all aspects of a district's program and include sufficient full time experience to allow the candidate to develop and demonstrate the minimum generic standards for initial certification as a superintendent.

(b) Continuing.

(i) The candidate shall have completed at least thirty quarter hours (twenty semester hours) of graduate work beyond the master's degree.

(ii) The candidate shall hold a valid initial level superintendent's certificate.

(iii) While holding the initial superintendent's certificate, the candidate shall have completed at least three years of experience as superintendent, deputy superintendent, or assistant superintendent.

(2) Principal.

(a) Initial.

(i) The candidate shall hold a valid initial or continuing teacher certificate.

(ii) The candidate shall have completed at least five years of certificated service in a K-12 setting, including a minimum of one year of classroom teaching experience as a certificated teacher at the level for which he or she seeks certificate endorsement: PROVIDED, That if the candidate has not served as a teacher, a waiver of this requirement may be requested as specified under WAC 180-79-040 and the candidate shall during the internship experience complete supervised experiences in the classroom at the level for which the certificate will be endorsed and shall demonstrate the minimum generic standards set forth in WAC 180-79-130 for teachers.

(iii) The candidate shall complete an internship at the grade level(s) for which the certificate will be endorsed. As a minimum the internship shall be of sufficient length and depth to provide experience under supervision in all aspects of the school program including sufficient full time experience to allow the candidate to develop and demonstrate program outcomes and minimum generic standards set forth in the state board of education approved preparation program and to participate in activities prior to the opening and following the closing of the regular school year.

(iv) The candidate shall have completed at least thirty quarter hours (twenty semester hours) of graduate level work in a program approved by the state board of education for preparation of principals.

(b) Continuing.

(i) The candidate shall hold a master's degree and shall have completed a state board of education approved program for preparation of continuing level principals.

(ii) The candidate shall hold an initial certificate as a principal.

(iii) The candidate shall have completed at least three years of experience as a principal, vice principal, or assistant principal.

(3) Program administrator.

(a) Initial.

(i) The candidate shall hold a valid initial or continuing teacher or educational staff associate certificate.

(ii) The candidate shall hold a master's degree.

(iii) The candidate shall have completed at least five years of certificated service in an educational setting, grades K-12.

(iv) The candidate shall have completed an internship which shall be of sufficient length and depth to provide necessary full time experience under supervision to develop and demonstrate minimum generic standards set forth in the program approved by the state board of education in his/her specialization.

(b) Continuing.

(i) The candidate shall have completed at least fifteen quarter hours (ten semester hours) of graduate work beyond the master's degree relevant to educational administration or his/her subject matter field(s) or specialization(s).

(ii) The candidate shall have completed at least three years of experience as a program administrator.

NEW SECTION

WAC 180-79-125 ACADEMIC, EXPERIENCE, AND PROGRAM OUTCOMES REQUIRED FOR CERTIFICATION—EDUCATIONAL STAFF ASSOCIATE (ESA). Candidates for ESA certification shall complete the following requirements in addition to those set forth in WAC 180-79-110: PROVIDED, That it shall not be necessary for any candidate who holds a master's degree to obtain a second master's degree; however, the candidate shall complete all course work and experience requirements relevant to the specialization set forth in a state board of education approved preparation program for the ESA speciality.

(1) Communication disorders specialist.

(a) Initial.

(i) The candidate shall have completed all requirements for the master's degree (except special examinations, projects or thesis) with a major in speech pathology and/or audiology.

(ii) The candidate shall have completed practicum experiences in communication disorders which include observation as well as practice under supervision in K-12, clinical, and field/laboratory settings as required in a state board of education approved program in speech pathology and audiology.

(b) Continuing.

(i) The candidate shall hold a master's degree with a major in speech pathology and/or audiology.

(ii) The candidate shall have completed field and academic experiences, including course work, workshops, and inservice training necessary to develop and demonstrate continuing level minimum generic standards.

(2) Counselor.

(a) Initial.

(i) The candidate shall have completed all requirements for the master's degree (except special examinations, projects or thesis) with a major in counseling.

(ii) The candidate shall have completed a supervised practicum or internship in counseling in a K-12 school setting.

(b) Continuing.

(i) The candidate shall hold a master's degree with a major in counseling.

(ii) The candidate shall have completed field and academic experiences, including course work, workshops, and inservice training necessary to develop and demonstrate continuing level minimum generic standards.

(3) Occupational therapist.

(a) Initial.

(i) The candidate shall have completed an approved or accredited baccalaureate degree program in occupational therapy and have status

as an occupational therapist registered with the American occupational therapy association.

(ii) The candidate shall have completed field experience in an educational setting which includes observation as well as practice under supervision.

(iii) The candidate shall have successfully completed the American occupational therapy association certification examination.

(b) Continuing.

(i) The candidate shall have completed at least fifteen quarter hours (ten semester hours) of graduate work or continuing education in occupational therapy or education.

(4) Physical therapist.

(a) The candidate shall hold a baccalaureate degree in physical therapy from a college or university having an approved or accredited school of physical therapy or the candidate shall hold a baccalaureate degree and a certificate in physical therapy from an accredited school of physical therapy.

(i) The candidate shall hold a current Washington state license or a probational certificate to practice as a physical therapist.

(ii) The candidate shall have completed field experiences in an educational setting which includes observation as well as practice under supervision.

(b) Continuing.

(i) The candidate shall have completed at least fifteen quarter hours (ten semester hours) of graduate work or continuing education in physical therapy or education.

(5) School psychologist.

(a) Initial.

(i) The candidate shall have completed all requirements for the master's degree (except special examinations, projects or thesis) with a major or specialization in school psychology.

(ii) The candidate shall have completed a practicum or internship under supervision in an educational setting, K-12.

(b) Continuing.

(i) The candidate shall hold a master's degree with a major or specialization in school psychology.

(ii) The candidate shall have completed field and academic experiences, including course work, workshops, and inservice training necessary to develop and demonstrate continuing level minimum generic standards.

(6) Reading resource specialist.

(a) Initial.

(i) The candidate shall hold a valid initial or continuing level teacher's certificate.

(ii) The candidate shall have completed all requirements for the master's degree (except special examinations, projects or thesis) with a major or specialization in reading.

(iii) The candidate shall have completed field experiences in an educational setting which includes observation as well as practice under supervision.

(b) Continuing.

(i) The candidate shall hold a master's degree with a major or specialization in reading.

(ii) The candidate shall have completed field and academic experiences, including course work, workshops, and inservice training necessary to develop and demonstrate continuing level minimum generic standards.

(7) School nurse.

(a) Initial.

(i) The candidate shall hold a valid license as a registered nurse (RN) in Washington state.

(ii) The candidate shall hold a baccalaureate degree in nursing with an emphasis in school nursing or community health.

(iii) The candidate shall have completed field experiences in an educational setting, K-12, which includes observation as well as practice under supervision.

(b) Continuing.

(i) The candidate shall have completed at least forty-five quarter hours (thirty semester hours) of upper division or graduate work in education, community health, nursing or school nursing; thirty quarter hours (twenty semester hours) of which have been taken subsequent to the first year of service as a school nurse.

(8) Social worker.

(a) Initial.

(i) The candidate shall hold a master's degree in social work or shall demonstrate knowledge and skill equivalent to that required for the master's degree.

(ii) The candidate shall have completed at least one thousand two hundred hours of field experience in an educational setting, K-12, under the supervision of a certificated master of social work.

(b) Continuing.

(i) The candidate shall hold a master's degree in social work or an initial level certificate as a school social worker.

(ii) The candidate shall have completed field and academic experiences, including course work, workshops, and inservice training necessary to develop and demonstrate continuing level minimum generic standards.

NEW SECTION

WAC 180-79-130 MINIMUM GENERIC STANDARDS—GENERAL (1) Initial level certification. A candidate for an initial certificate as a teacher, administrator, or educational staff associate must demonstrate, while completing a state board of education approved preparation program, knowledge and skill in the following areas:

(a) Socio-cultural-economic differences and human relations. The candidate has knowledge of and appreciation for the history, contributions, and traditions of various ethnic, sex, age, socio-economic, cultural, and minority groups; recognizes dehumanizing biases; creates educational environments which contribute to the self-esteem of all persons and to positive human relationships; and facilitates understanding the beliefs, values and life styles of individuals from diverse groups and cultures.

(b) Communication and consultation. The candidate has the knowledge and skill necessary to develop and present organized oral, written, and visual materials which convey ideas and feelings to pupils, parents, colleagues, school directors and others as appropriate.

(c) Exceptionality. The candidate has knowledge about the needs and characteristics of exceptional students, including handicapped and gifted.

(d) School law. The candidate has knowledge about those federal, state, and local laws, regulations, and policies which directly affect his or her role(s) and rights and responsibilities in the educational setting, K-12.

(e) Professionalism. The candidate has knowledge about relevant professional organizations, practices consistent with the profession's code of ethics.

(f) Knowledge of K-12 educational setting. The candidate has general knowledge about the nature and foundation of the educational program and system, grades K-12.

(2) Continuing level certification. In addition to demonstrating in their professional roles those minimum generic standards required for initial certification, the candidate for continuing level certificate must demonstrate knowledge and skill in the following areas:

(a) Staff development and supervision. The candidate has the knowledge and skill to initiate, develop, and present instructional and informational programs for staff, board members, and parents and to supervise and evaluate personnel who report directly to him or her.

(b) Professional development and scholarship. The candidate has depth of knowledge in his or her subject matter field or specialization; participates in continuing education and professional development activities; contributes to the preparation of others who are entering the field; and recognizes his/her own limitations and strengths

(c) Research and evaluation. The candidate has the knowledge of research/evaluation techniques and skill to read and interpret research related to his or her field; to design and implement evaluation strategies; to use results of research and/or evaluation to improve programs.

(d) Referral agencies and resource personnel. The candidate has knowledge of personnel and agencies inside and outside the educational setting which may assist the teacher, pupils, and/or parents.

(e) Knowledge of alternate grade level. The candidate has knowledge about organizational patterns, special strategies, curriculum, materials, growth and development, and staff and student personnel management essential to a school building/unit at the alternate grade level from that for which his/her initial certificate may have been endorsed.

NEW SECTION

WAC 180-79-135 MINIMUM GENERIC STANDARDS—TEACHERS. (1) Initial level certification. To qualify for initial certification the candidate must demonstrate knowledge and skill in the following areas in addition to those set forth in WAC 180-79-130(1).

- (a) Instructional skill. The candidate has knowledge and skill to design and conduct instructional experiences.
 - (b) Classroom management. The candidate has knowledge and skill necessary to organize the physical and human elements in the educational setting to foster maximum student learning.
 - (c) Subject matter. The candidate has breadth of knowledge of theory and content in general education and pedagogy and depth of knowledge in one or more subject matters or teaching specializations appropriate to the elementary and/or secondary levels.
 - (d) Pupil/student personnel. The candidate has knowledge of normal and exceptional growth and development; the unique needs, characteristics, and developmental tasks of pupils of differing ages; and normative characteristics of age groups and has the skill to use this knowledge in working with pupils individually and in groups and in designing learning experiences.
 - (e) Pupil discipline. The candidate has knowledge and skill necessary to manage the human dynamics of the classroom.
- (2) Continuing level certification. The candidate for continuing level certification shall demonstrate knowledge and skill in those areas set forth in WAC 180-79-130(2).

NEW SECTION

WAC 180-79-150 MINIMUM GENERIC STANDARDS—ADMINISTRATORS—INITIAL CERTIFICATION—SUPERINTENDENTS. (1) The superintendent is responsible for administration of the school district.

(2) To qualify for initial certification the candidate must demonstrate knowledge and skill in the following areas in addition to those set forth in WAC 180-79-130(1):

- (a) Organizational management and accountability. The candidate has the knowledge and skill to plan, develop, coordinate, and supervise implementation and evaluation of district-wide policies, procedures, and programs and to provide leadership relative to management and accountability district-wide.
- (b) Facility and resource management and acquisition. The candidate has the knowledge and skill to identify facility and resource needs of the district and to coordinate procedures essential to maintenance and acquisition of facilities and resources.
- (c) Personnel management. The candidate has the knowledge and skill to establish district personnel policies and practices consistent with law and negotiated agreements in employment, assignment, supervision, evaluation, and other personnel related matters.
- (d) Fiscal management. The candidate has the knowledge and skill necessary to plan, develop, and coordinate district budget preparation, district funding, and fiscal accountability.
- (e) Community relations. The candidate uses staff and community resources to assess educational needs of the community, to develop district goals and objectives, to resolve school-community issues, and to implement a positive public information program.
- (f) School law. The candidate knows federal, state, and local statutes, rules and regulations, policies, and court decisions which affect management and operation of the total district and its programs and has the knowledge and skill to develop policies and, as appropriate, rules and regulations for adoption consideration by the local board of directors.
- (g) Legislative process. The candidate knows how the legislative process works and has the skill to use that process.

NEW SECTION

WAC 180-79-155 MINIMUM GENERIC STANDARDS—ADMINISTRATORS—INITIAL CERTIFICATION—PRINCIPALS. (1) The principal is responsible for administration of a school building.

(2) The candidate for initial certification as the principal shall demonstrate knowledge and skill in the following areas in addition to those set forth in WAC 180-79-130(1):

- (a) Knowledge of the field. The candidate has knowledge and skill in areas of educational administration relevant to building management, supervision, curriculum, and instruction.
- (b) Building administration and management. The candidate has knowledge and skill necessary to serve accountably in administering the unit/area of assigned responsibility. The candidate has the knowledge and skill to implement alternate patterns of space, time, and student-staff groupings; develop and implement plans for the care,

maintenance, and beautification of the physical environment; development and implement policies and procedures that govern changes in the school; and develop master and class schedules.

- (c) Community relations. The candidate has knowledge and skill to use community resources in assessing and developing school programs, solving school community problems, and implementing a public information program which promotes positive interactions between the school and community.
- (d) Program development and leadership. The candidate has the knowledge and skill to assist staff in developing and implementing instructional, curricular, and assessment programs.
- (e) Fiscal management. The candidate has the knowledge and skill to implement principles of fiscal management and record keeping and to identify fiscal needs emanating from the program, facility, and resources.

(f) Activity coordination. The candidate has knowledge and skill to plan and develop governance policies and supervise and evaluate student activities.

(g) Auxiliary services. The candidate has knowledge about and skill to coordinate auxiliary services such as health services; transportation; food services; pupil personnel services; maintenance; and learning resource programs.

(h) Staff personnel management. The candidate has knowledge and skill necessary to select, assign and evaluate staff personnel; to interpret district collective bargaining agreements relative to staff personnel; to implement district personnel policies and procedures; and to understand the dynamics of staff relationships and decision-making processes within the building or unit.

(i) Student personnel. The candidate has knowledge and skill necessary to maintain attendance and student personnel records and implement effective principles of discipline, student control, and student management.

NEW SECTION

WAC 180-79-160 MINIMUM GENERIC STANDARDS—ADMINISTRATORS—INITIAL CERTIFICATION—PROGRAM ADMINISTRATORS. (1) The program administrator is responsible for management of a district-wide activity or service involving the instructional program or specialized services which directly support the instructional program.

(2) The candidate for initial level certification shall demonstrate knowledge and skill in the following areas and in those general areas set forth in WAC 180-79-130(1):

- (a) Knowledge of field or specialization. The candidate shall have depth of knowledge and skill in the subject matter field, instructional area, or specialization for which the program administrator certificate is to be endorsed. The candidate knows curriculum and specialized materials, equipment and facilities; theory and techniques; and principles and methods relevant to the specialization.
- (b) Personnel management. The candidate has the knowledge and skill necessary to select, assign, supervise, train, and evaluate personnel within the program.
- (c) Financial management. The candidate has knowledge and skill to maintain required records accurately, prepare budget requests, and manage a budget.
- (d) Community relations. The candidate has the knowledge and skill to conduct or participate in citizen meetings, to assess community needs relative to the specific program, to develop programs for the community, and to promote positive school-community relationships.
- (e) Program development and management. The candidate has the knowledge and skill to set goals and objectives relative to the specific program, to delegate responsibility, to stimulate subordinates to perform, to involve those with expertise and interest in development of goals, objectives, and programs.
- (f) Staff development. The candidate can design and conduct in-service and continuing education experiences for personnel in the specific field or specialization.

NEW SECTION

WAC 180-79-165 MINIMUM GENERIC STANDARDS—ADMINISTRATOR—CONTINUING CERTIFICATION. In addition to demonstrating in the professional role those minimum generic standards required for initial certification, the candidate for continuing level certification as an administrator shall demonstrate knowledge and skill in those minimum generic standards set forth in WAC 180-79-130(2).

NEW SECTION

WAC 180-79-170 MINIMUM GENERIC STANDARDS—EDUCATIONAL STAFF ASSOCIATES—GENERAL. (1) Initial level certification. In addition to the minimum generic standards set forth in WAC 180-79-130(1), candidates for initial certification as educational staff associates shall demonstrate knowledge and skill in the following areas:

(a) Management of special and technical environments. The candidate manages and organizes the materials, equipment and environment essential to implement any specialized program.

(b) Assessment and diagnosis. The candidate has the knowledge and skill to develop, select, administer, and interpret assessment procedures and instruments as appropriate to his/her professional role, specialization, and responsibilities.

(2) Continuing level certification. In addition to those minimum generic standards required for initial certification, the candidate for continuing level certification as an educational staff associate shall demonstrate knowledge and skill in the minimum generic standards set forth in WAC 180-79-130(2) and in the following areas:

(a) Consultation. The candidate has the knowledge and skill to provide consultive services to parents, school personnel, and others; to make referral to nonschool agencies; and to participate in case conferences with other specialists and school personnel.

(b) Program development and management. The candidate has the knowledge and skill to plan, develop, and implement a program of instruction, remediation, prevention, and/or evaluation as appropriate to his/her professional specialization.

NEW SECTION

WAC 180-79-175 MINIMUM GENERIC STANDARDS—EDUCATIONAL STAFF ASSOCIATE—INITIAL CERTIFICATION—COMMUNICATION DISORDERS SPECIALISTS (CDS). (1) The communication disorders specialist provides diagnostic, therapeutic, and consultive services for individuals handicapped by disorders of language, speech and/or hearing.

(2) Initial level certification.

In addition to the minimum generic standards required in WAC 180-79-130(1) and WAC 180-79-165(1), the candidate for initial level certification shall demonstrate knowledge and skills in the following areas for initial level certification:

(a) Knowledge of field. The candidate has knowledge about normal and a typical speech development; causes and treatment of disorders of speech, language and hearing.

(b) Assessment and diagnosis. The candidate has the knowledge and skill necessary to select, administer, and interpret assessment instruments; identify students who exhibit disorders of speech, language and/or hearing; and determine through diagnostic procedures or referral the nature, etiology, and severity of the specific disorders.

(c) Program development. The candidate has knowledge and skill to develop a treatment program appropriate to the specific disorder(s); to implement the program within the educational setting, including the classroom; and/or to conduct a clinical program to modify the behavior that characterizes the disorder.

(d) Program evaluation. The candidate has the knowledge and skill to conduct systematic, evaluative procedures focusing on the improvement of the speech and language program in the school setting.

(e) Consultation. The candidate has the knowledge and skill to provide consultive services to parents, school personnel, and others concerned about speech, language and/or hearing disorders and programs; to make referral to nonschool agencies; and to participate in case conferences with other specialists and school personnel.

NEW SECTION

WAC 180-79-180 MINIMUM GENERIC STANDARDS—EDUCATIONAL STAFF ASSOCIATES—COUNSELOR. (1) The counselor facilitates individual development.

(2) Initial level certification. In addition to the minimum generic standards required in WAC 180-79-130(1) the candidate for initial level counselor certification shall demonstrate knowledge and skill in the following areas for initial level certification:

(a) Knowledge of field. The candidate has knowledge and skill in relevant fields of study including guidance services, career development and information, individual and group counseling theory and techniques, assessment and testing, vocational information, and placement.

(b) Individual and group counseling. The candidate has the knowledge and skill necessary to provide individual and/or group counseling for students requesting assistance with personal, social, vocational, or educational concerns, as well as with career and life planning.

(c) Informational services. The candidate has the knowledge and skill to provide information regarding vocations, education and training, and other relevant aspects of the individual's environment.

NEW SECTION

WAC 180-79-185 MINIMUM GENERIC STANDARDS—EDUCATIONAL STAFF ASSOCIATE—OCCUPATIONAL THERAPIST (OT). (1) The school occupational therapist provides service to those students whose abilities to cope with tasks of living are threatened or impaired by developmental deficits, poverty and cultural differences, physical injury or illness, or psychological and social disability.

(2) Initial level certification. In addition to the minimum generic standards required in WAC 180-79-130(1) the candidate for initial level certification as an occupational therapist shall demonstrate knowledge and skill in the following areas:

(a) Knowledge of the field. The candidate has knowledge and skill about normal and atypical growth, development and performance; causes of dysfunction; and treatment thereof and foundations of occupational therapy.

(b) Assessment and diagnosis. The candidate has the knowledge and skill to select, administer, and interpret those assessment instruments and procedures which will assist in determining the student's rate and quality of growth and development and effects on the educational process and life adjustment.

(c) Program development. The candidate has the knowledge and skill to plan and implement an occupational therapy treatment program to achieve explicit goals for the student.

(d) Program records and evaluation. The candidate has the knowledge and skill to maintain required written records and to evaluate the effectiveness of the program in terms of student outcomes and program objectives.

NEW SECTION

WAC 180-79-190 MINIMUM GENERIC STANDARDS—EDUCATIONAL STAFF ASSOCIATE—PHYSICAL THERAPIST (PT). (1) The physical therapist seeks to relieve disability and pain, develop or restore motor function, and maintain maximum performance within the student's capabilities.

(2) Initial level certification. In addition to the minimum generic standards required in WAC 180-79-130(1) and 180-79-170(1), the candidate for initial level certification as a physical therapist shall demonstrate knowledge and skill in the following areas:

(a) Knowledge of field. The candidate has knowledge and skill in relevant fields of study including anatomy and physiologic processes, normal and atypical growth and development, medical procedures and treatment, and history and foundations of physical therapy.

(b) Assessment and diagnosis. The candidate has the knowledge and skill to select, administer, and interpret physical therapy procedures, instruments, and techniques essential to assessment of the student's disability.

NEW SECTION

WAC 180-79-195 MINIMUM GENERIC STANDARDS—EDUCATIONAL STAFF ASSOCIATE—SCHOOL PSYCHOLOGIST. (1) The school psychologist is a specialist in individual differences and learning processes who applies psychological knowledge to enhance the educational progress of all children.

(2) Initial level certification. In addition to the minimum generic standards required in WAC 180-79-130(1) and 180-79-170(1), the candidate for initial level certification as a school psychologist shall demonstrate knowledge and skill in the following areas:

(a) Knowledge of the field. The candidate has knowledge and skill in relevant fields of study including learning theory, personality theory and development, individual and group testing and assessment, individual counseling and interviewing theory and techniques, basic statistics, child development, research design, exceptional children, deviant personality, curriculum, and learning theory.

(b) Academic and intellectual assessment and diagnosis. The candidate has knowledge and skill necessary to select, administer, and interpret individual intelligence tests including but not limited to the

Wechsler and Stanford-Binet; individual academic tests including diagnostic and placement tests such as the Durrell, Gates-McKillop, Spache, and Wide Range Achievement Test; group tests such as the Lorge-Thorndike, Metropolitan, and Otis.

(c) Behavioral observation and analysis. The candidate has knowledge and skill in behavioral observation including data taking, frequency measures, and qualitative and quantitative analysis of classroom behavior, and developmental and personality analysis, including perceptual, cognitive, social, affective, and language development in children and the use of such scales as the Vineland Social Maturity Scale, and Gesell Schedules.

(d) Counseling and interviewing. The candidate has the knowledge and skill necessary to provide individual counseling to students and to conduct interviews essential to information collecting from parents, teachers, and other specialists.

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

(f) Consultation. The candidate has the knowledge and skill to function in multidisciplinary teams in evaluating and placing students and to confer with parents, specialists, teachers, referral personnel, and others relative to the student's characteristics and needs in the educational setting.

(g) Program evaluation and record keeping. The candidate has the knowledge and skill necessary to develop and implement program evaluation and maintain required program and personnel records.

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

(i) Research. The candidate has knowledge and skill to evaluate research, to apply school-oriented research, and to construct criterion-referenced instruments with reference to such educational decisions as retention in grade, acceleration, and early entrance.

NEW SECTION

WAC 180-79-200 MINIMUM GENERIC STANDARDS—EDUCATIONAL STAFF ASSOCIATE—READING RESOURCE SPECIALIST. (1) The reading resource specialist serves as a diagnostician, advisor, special instructor, and evaluator providing consultation, training, and assistance to classroom teachers and other personnel participating in the reading program.

(2) Initial level certification. In addition to the minimum generic standards required in WAC 180-79-130(1) and 180-79-170(1), the candidate for initial level certification as a reading resource specialist shall demonstrate knowledge and skill in the following areas:

(a) Knowledge of the field. The candidate has knowledge and skill to describe and/or demonstrate the sequence of instruction required in decoding, vocabulary development, reading comprehension, and reading study; compare approaches to reading; interpret research results; state and apply a set of psychological principles of cognitive and affective learning; describe a model of the reading process; use a model or theory as a referent for choices and practices related to reading instruction; and to select trade, text, and resource materials.

(b) Instructional skill. The candidate has the knowledge and skill to describe and/or demonstrate several ways to individualize reading instruction in the classroom and to organize the classroom for optimal learning.

(c) Program evaluation. The candidate has the knowledge and skill to evaluate developmental corrective and remedial reading programs.

(d) Assessment and diagnosis. The candidate has the knowledge and skill to assess strengths and limitations of standardized reading tests, and informal reading inventories; to diagnose reading problems; to use informal assessment techniques and procedures; to interpret pertinent data; and to identify and recommend techniques, materials or remediation to teachers, parents and others involved in the reading program.

(e) Program development. The candidate has the knowledge and skill to plan and implement a developmental reading program which will include corrective and remedial reading programs.

(f) Staff development and consultation. The candidate has the knowledge and skill to help classroom teachers improve their skills in teaching reading and to analyze and evaluate current practices, materials and programs, and interpret them to teachers.

NEW SECTION

WAC 180-79-205 MINIMUM GENERIC STANDARDS—EDUCATIONAL STAFF ASSOCIATE—SCHOOL NURSE. (1) The school nurse, in collaboration with others, utilizes the school health program to contribute significantly to the attainment of the full health and educational potential of each student.

(2) Initial level certification. In addition to the minimum generic standards required in WAC 180-79-130(1) and 180-79-170(1), the candidate for initial level certification as a school nurse shall demonstrate knowledge and skill in the following areas:

(a) Knowledge of field. The candidate has knowledge and skill in relevant fields of study including human growth and development; physical, mental and behavioral deviations; prevention; therapeutic treatment and community health; and school health programs.

(b) Program development and implementation. The candidate has the knowledge and skill to develop a school health program which assists students, families, and school staff to deal with health problems; responds to each student's unique developmental health needs; minimizes the effect of sudden illness or injury in the school setting; provides students, families and faculty with a basis for decision making regarding health which promotes prevention and wellness; contributes to a safe and healthy school environment; and ensures that health needs are recognized and planned for in the total school program.

NEW SECTION

WAC 180-79-210 MINIMUM GENERIC STANDARDS—EDUCATIONAL STAFF ASSOCIATE—SCHOOL SOCIAL WORKER. (1) The school social worker contributes to the study and adjustment of pupils' problems through understanding of human growth and development, skill in developing human relationships and use of school, community resources, and professional resources within the educational setting.

(2) Initial level certification. In addition to the minimum generic standards required in WAC 180-79-130(1) and 180-79-170(1), the candidate for initial level certification shall demonstrate knowledge and skill in the following areas:

(a) Knowledge of the field. The candidate has knowledge and skill in relevant fields of study including social science theory and research; individual and group counseling and interviewing; the components of human functioning (e.g., physical, social, cultural, psychological) and dysfunctioning, personality development theories, and their various inter-relationships; principles of human learning (e.g., limitation, reinforcement, cognitive, psycho-motor, and social learning theories); personality development.

(b) Community relations. The candidate has knowledge and skill in policy analysis so as to:

(i) anticipate social needs in a community;

(ii) assist decision makers in making informed choices; and

(iii) identify the relationship and impact of social forces; in motivating people in communities to organize to express their needs/preferences and to engage in social problem solving; in influencing service delivery systems; and in using leadership abilities in community, professional organizations and agency settings to change social policy.

(c) Research and evaluation. The candidate has knowledge and skill necessary to conduct research and evaluation in social work including methods and techniques for measuring organizational performance, evaluating program effectiveness, and determining the community need for various types of community action; implementing systematic data collection, and deriving and evaluating treatment interventions for client systems.

(d) Counseling and interviewing. The candidate has the knowledge and skill to consult, counsel, interview the student individually or in a family setting; to provide assistance to the family, teachers and administrators, and other professional personnel; to cooperate with professional specialists to select and refer the student and/or his/her family to appropriate agencies and personnel within or outside the schools and to inform others about the social work program.

NEW SECTION

WAC 180-79-215 MINIMUM GENERIC STANDARDS—EDUCATIONAL STAFF ASSOCIATE—CONTINUING CERTIFICATION. In addition to those minimum generic standards required for initial certification, the candidate for continuing level certification as an educational staff associate shall demonstrate those

minimum generic standards set forth in WAC 180-79-130(2) and 180-79-165.

NEW SECTION

WAC 180-79-230 LIMITED CERTIFICATES. The following certificates are issued under specific circumstances for limited periods of service as outlined:

- (1) Consultant special certificate.
 - (a) The issuance of consultant special certificates is limited to:
 - (i) Persons highly qualified and experienced in fields of knowledge to be taught in the common or nonpublic schools;
 - (ii) Persons who qualify to instruct in the traffic safety program as paraprofessionals pursuant to WAC 392-153-020(2) and (3);
 - (iii) Persons who qualify to teach specific subjects in the adult education program;
 - (iv) Persons who under previous standards hold the band and orchestra certificate; and
 - (v) Persons who are assigned instructional responsibility for intramural/interscholastic activities which are part of the district approved program.
 - (b) Such certificates are issued to individuals who are screened by the local school district or educational service district superintendents. The educational service district or local district superintendent will verify that the following criteria have been met when requesting the consultant special certificate:
 - (i) No person with regular certification in the field is available as verified by the district or educational service district superintendent;
 - (ii) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities and will not be serving in a paraprofessional role which would not require certification;
 - (iii) The individual is being certificated for a limited assignment and responsibility in a specified activity/field;
 - (iv) Personnel so certificated will be oriented and prepared for the specific assignment and will be apprised of any legal liability, the lines of authority, and the duration of the assignment; and
 - (v) The district or educational service district superintendent will indicate the basis on which he/she has determined that the individual is competent for the assignment and will verify that general requirements for certification as set forth in WAC 180-79-105 through 180-79-110 have been met.
 - (c) The certificate is valid for one year and only for the activity specified. The certificate may be reissued on application and evidence that requirements set forth above have been met.

(2) Substitute certificate.
 (a) The substitute certificate entitles the holder to act as substitute during the absence of the regularly certificated staff member for a period not to exceed thirty consecutive school days during the school year in any one assignment. This certificate may be issued to:

- (i) Elementary or secondary school teachers, educational staff associates or administrators whose state of Washington certificates have expired, or
- (ii) Persons who have completed state approved preparation programs for certificates within the past ten years: PROVIDED, That any district unable to secure substitutes who meet these requirements may contact the office of the superintendent of public instruction to request a waiver of these requirements. Reasons for the request and qualifications of the proposed substitute shall be set forth in writing.

(b) The substitute certificate is valid for three years and may be reissued subsequently for three-year periods.

(3) Emergency certification.
 (a) Emergency certification for specific positions may be issued upon the recommendation of school district and educational service district superintendents to persons who hold the appropriate degree and have substantially completed a program of preparation in accordance with Washington requirements for certification: PROVIDED, That a qualified person who holds regular certification is not available or that the position is essential and circumstances warrant consideration of issuance of an emergency certificate. The superintendent of public instruction shall determine that the issuance of such certificate is in the best interest of the state.

(b) The emergency certificate is valid for one year.

NEW SECTION

WAC 180-79-235 PERMITS. (1) Alien permits.

(a) Alien permits may be issued under this section to aliens who have declared their intent to become citizens of the United States of

America, have filed an application for a permit, and who have completed all requirements for a certificate: PROVIDED, That the issuance of a permit does not in and of itself entitle the individual to be otherwise certificated.

(b) An alien permit is valid for a term equivalent to the period of validity of the certificate for which it is issued. Aliens seeking renewal or reinstatement of alien permits must comply with requirements specified in WAC 180-79-065.

(2) Temporary alien permits. A temporary alien permit to serve as an exchange teacher and valid for one academic year may be issued to nonimmigrant aliens who have filed an application for a permit, have complied with conditions prescribed in RCW 28A.67.020, and have training and experience which at a minimum are equivalent to standards for the initial certificate as set forth in this chapter.

(3) General permits.

(a) Permits may be issued under this section to those persons who have filed an application for a certificate and who have completed all requirements for provisional, initial, standard, or continuing certification.

(b) The issuance of a permit does not in and of itself entitle the individual to be otherwise certificated.

(c) An individual may apply for a permit directly to the superintendent of public instruction: PROVIDED, That in the case of an individual completing requirements for certification in a Washington state institution of higher education the request may also be made to that institution.

(d) A permit entitles the holder to serve as a teacher, educational staff associate or administrator consistent with the qualifications stated on his/her permit.

(e) A permit is valid for ninety consecutive calendar days commencing with the date following the date of issuance and is not renewable.

(4) Issuing authority. The superintendent of public instruction shall issue all permits and provide institutions of higher education with forms and instructions relevant to application for a permit.

NEW SECTION

WAC 180-79-240 CERTIFICATION OF OUT-OF-STATE TRAINED TEACHERS—INTERSTATE EDUCATIONAL PERSONNEL CONTRACTS. The superintendent of public instruction is authorized to enter into interstate educational personnel contracts with states party to the interstate agreement on qualifications of educational personnel in accordance with provisions of RCW 28A.93.010 and 28A.93.020 which authorize on an interstate basis Washington state certification of persons of other states having preparation and qualifications comparable even though not identical to Washington state board of education standards.

NEW SECTION

WAC 180-79-245 RECIPROCITY. Candidates for certification who hold certificates or credentials in other states or who have completed approved or accredited preparation programs in other states shall be eligible for Washington certificates as follows:

(1) Initial certificate. The initial certificate shall be issued by the superintendent of public instruction to any candidate who:

(a) Qualifies under provisions of the interstate compact or of this chapter; or

(b) Holds the appropriate degree as set forth in WAC 180-79-250; has completed a state, regional, or nationally approved or accredited preparation program in the professional field for which the certificate is to be issued; and has verification by previous supervisors and instructors that he or she possesses the relevant minimum generic standards: PROVIDED, That no more than seven years has elapsed since the individual completed his or her preparation or last served in a certificated position in an educational setting.

(2) Continuing certificate. The continuing certificate shall be issued only on verification from a Washington state board of education approved preparation program that the individual meets relevant academic and experience requirements and minimum generic standards set forth in this chapter: PROVIDED, That any out-of-state candidate who through no fault of his or her own is unable to gain admission to a state board of education approved program relevant to his or her certification during the four year period for which the initial certificate is valid, may request that the superintendent of public instruction or his or her designee issue a continuing certificate. The superintendent or his or her designee shall secure verification from an out-of-state college or university having a state approved or accredited

preparation program and from supervisors that relevant academic and experience requirements and continuing level minimum generic standards set forth in this chapter have been met.

(3) Until such time as the state board of education approves programs of preparation consistent with chapter 180-78 WAC, out-of-state candidates may:

- (a) Seek certification under provisions of chapter 180-79 WAC; or
- (b) Request that the superintendent of public instruction or his or her designee secure verification of academic and experience requirements and minimum generic standards for certification in accordance with provisions of this chapter.

NEW SECTION

WAC 180-79-250 **DEGREE AND PREPARATION REQUIRED FOR OUT-OF-STATE CANDIDATES FOR INITIAL CERTIFICATION.** The superintendent of public instruction will issue an initial certificate on evidence of the following:

(1) **Teacher.** Completion of a state, regional, or nationally approved/accredited teacher education program and a baccalaureate degree.

(2) **Administrator.**

(a) Completion of a state, regional, or nationally approved/accredited administrator preparation program in the appropriate endorsement area: Superintendent, principal, or program administrator.

(b) Applicants for endorsement as a superintendent must hold a master's degree in a field related to educational administration and must have completed an internship or one year of experience as a superintendent as verified by the local district board of directors.

(c) Applicants for the principal's endorsement must hold a baccalaureate degree and must have completed thirty quarter hours (twenty semester hours) of graduate work applicable to a master's degree in educational administration and an internship under supervision or one year of experience as a school principal as verified by the district superintendent or his/her designee.

(d) Applicants for the program administrator's endorsement must hold a master's degree in a subject matter field or educational staff associate specialization and shall have served at least one year in a district-wide administrative role responsible for management of a program or special area of curriculum and instruction.

(3) **Educational staff associate.** Completion of a state, regional, or nationally approved/accredited preparation program in the educational staff associate field and the following degree and licensing requirements:

(a) **Psychologist.** Provide evidence of completion of an approved/accredited master's degree in school psychology.

(b) **Counselor.** Provide evidence of completion of an approved/accredited master's degree in school counseling and guidance.

(c) **Nurse.** Provide evidence of completion of an approved/accredited baccalaureate degree in nursing with an emphasis in school and/or community health and licensure in Washington state as an RN.

(d) **Communication disorders specialist.** Provide evidence of completion of an approved/accredited master's degree program with a major in speech pathology and/or audiology.

(e) **School social worker.** Provide evidence of completion of an approved/accredited master's degree in social work (MSW).

(f) **Occupational therapist.** Provide evidence of completion of an approved/accredited baccalaureate program in occupational therapy and status as an occupational therapist registered with the American occupational therapy association.

(g) **Reading resource specialist.** Provide evidence of completion of an approved/accredited master's degree in the reading resource specialization.

(h) **Physical therapist.** Provide evidence of the following:

- (i) A baccalaureate degree;
- (ii) A certificate of completion; or
- (iii) A master's degree.

The applicant must hold a current Washington state license as a physical therapist or a valid probational certificate.

Notice is hereby given in accordance with the provisions of RCW 34.04.025 that the State Board of Education intends to adopt, amend, or repeal rules concerning the educational program standards that each public school district must comply with as a condition to the receipt of State funds for maintenance and operation. Said rules may include, but are not limited to, the following matters: the education programs that are subject to and exempt from these rules; the procedures and time schedule for reviewing and determining whether a school district's programs are in compliance or noncompliance with these program standards; provision for the withholding of State funds for noncompliance; the basic skills and work skills subject matters, and the percentages thereof, required to be offered to students at various grade levels; the number of classroom contact hours required of teachers; required ratios of teachers and other certificated employees to students; the minimum number of school days each school year and the rights of students to attend such school days; professional licensing requirements; student learning objective requirements; the grounds and procedure for the waiver of a school district's noncompliance with these program standards; the establishment of certain supplemental program standards including, but not limited to, student health and safety measures, instructional materials, physical facilities and supervision of instruction, as program standards separate and apart from those governing a school district's entitlement to State funds; definitions of various terms and phrases including, but not limited to, the definitions of the various "basic skills" and "work skills" areas, that are necessary to the interpretation of the requirements established by these rules; various formulas for computing the various percentages, ratios and other requirements established by these rules; the repeal of WAC 180-16-165; and the amendment of other current rules, including WAC 180-16-167 and 180-56-315, to bring rule references therein into line with these new rules.

ON MAY 12, 1978, SUBSEQUENT TO THE HEARING SCHEDULED BY THIS NOTICE, THE STATE BOARD MAY REVISE THE PROPOSED RULES FILED WITH THIS NOTICE BY AMENDING OR DELETING PROVISIONS THEREOF, OR BY ADDING ADDITIONAL PROGRAM STANDARD RELATED PROVISIONS;

that such agency will at 10:00 a.m., Thursday, May 11, 1978, in the Dept. of Social and Health Services Auditorium, Office Building 2, 12th and Franklin Streets, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 10:00 a.m., Friday, May 12, 1978, in the DSHS Auditorium, OB 2, 12th and Franklin Streets, Olympia, WA.

The authority under which these rules are proposed is RCW 28A.41.130 and 28A.58.754.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 11, 1978 and/or orally at 10:00 a.m., Thursday, May 11, 1978, DSHS Auditorium, OB 2, 12th and Franklin Streets, Olympia, WA.

Dated: April 4, 1978
By: Wm. Ray Broadhead
Secretary

AMENDATORY SECTION (Amending Order 4-72, filed 8/29/72)

WAC 180-16-167 KINDERGARTEN OPERATION ON NINETY FULL-DAY SCHOOL YEAR BASIS—APPROVAL PROVISIONS. Pursuant to authority under RCW 28A.41.130 as amended by section 2, chapter 105, Laws of 1972((1st)) ex. sess., and RCW 28A.58.180 as amended by section 3, chapter 105, Laws of 1972((1st)) ex. sess., approval of proposals for the operation of a kindergarten program on a ninety full-day school year basis in lieu of a one hundred eighty half-day basis shall be subject to compliance with the provisions hereinafter set forth.

(1) Evidence of need. A proposal which furnishes evidence of need for a ninety full-day kindergarten on the basis of one of the following conditions, or any combination thereof, shall be considered for approval:

- (a) Transportation limitations.
- (b) Physical facilities limitations.
- (c) Climatic conditions.

(d) Educational needs: PROVIDED, That when a district's proposal provides adequate documentation that a ninety full-day kindergarten program would be more conducive to the educational development of its kindergarten-age children than would be a one hundred eighty half-day program, such proposal shall be considered for approval in the absence of any specific transportation, physical, climatic or other limitation.

(2) School year schedule. The ninety full-day kindergarten program may be scheduled for consecutive or nonconsecutive school days or any variation thereof totaling at least ninety school days as determined by the school district and approved by the superintendent of public instruction: PROVIDED, That in no event shall a proposal for a kindergarten program be approved which provides for a school year shorter than that prescribed ((in WAC 180-16-165(1)(a)) by law or which denies any pupil an equal opportunity for in-class experience.

(3) Applicable rules. A proposal for operation of a ninety full-day kindergarten program shall indicate compliance with pertinent statutory provisions and rules and regulations governing ((minimum approval requirements for purposes of apportionment)) a school district's entitlement to basic education allocation funds as set forth in WAC ((180-16-165)) 180-16-191.

(4) Proposal for establishment of program—Approval procedure.

(a) The board of directors of a school district desiring to establish and operate a ninety full-day kindergarten program shall submit a proposal therefor to the superintendent of public instruction. The proposal shall state such information as may be necessary to a determination of eligibility for approval in accordance with the rules and regulations hereinbefore set forth and in accordance with guidelines to be established by the superintendent of public instruction.

(b) The superintendent of public instruction shall evaluate all proposals and submit his findings and recommendations to the state board of education for initial approval. The superintendent of public instruction is authorized hereby to act for the state board in the matter of continued approval based on evidence of compliance with the rules and regulations hereinbefore set forth.

(c) Such forms as may be necessary for the administration of these provisions shall be provided by the superintendent of public instruction.

((5) Effective date. The provisions of WAC 180-16-167 shall become effective July 1, 1973.))

NEW SECTION

WAC 180-16-191 PURPOSE—PROGRAMS SUBJECT TO BASIC EDUCATION ALLOCATION ENTITLEMENT REQUIREMENTS. (1) Purpose. The purpose of WAC 180-16-191 through 180-16-235 is to implement those portions of RCW 28A.41.130 and 28A.58.754 that authorize and require the adoption of program standards that govern a school district's entitlement to state basic education allocation funds pursuant to RCW 28A.41.130 and related

statutes and appropriation acts. As used hereafter, "basic education allocation entitlement requirements" and "entitlement requirements" mean WAC 180-16-191 through 180-16-235.

(2) Programs subject to entitlement requirements. The requirements, procedures and other provisions set forth in these basic education allocation entitlement requirements shall apply to kindergarten programs and to such portion of the grade one through twelve program as a school district conducts: PROVIDED, That preschool programs, special education programs for students with handicapping conditions, programs for residents of the state institutions for the delinquent or handicapped, vocational-technical institute programs and postsecondary programs that a school district may conduct are not subject to or governed by these entitlement requirements.

Personnel, student, program and other data regarding preschool, special education, state institution, vocational-technical institute and postsecondary programs shall not be reported or used in determining compliance with these entitlement requirements except as expressly required by a particular provision.

See chapter 392-171 WAC for school district special education program and excess cost funding requirements and chapter 392-173 WAC for residential school special education program and funding requirements.

NEW SECTION

WAC 180-16-195 ANNUAL REPORTING AND REVIEW PROCESS. (1) Annual district reports. A review of each school district's kindergarten through twelfth grade program shall be conducted annually for the purpose of determining compliance or noncompliance with these basic education allocation entitlement requirements. On or before the third Monday in October of each school year each school district superintendent shall complete and return the program data report form(s) now and hereafter prepared and distributed by the superintendent of public instruction. Such forms shall be designed to elicit data necessary to a determination of a school district's compliance or noncompliance with these entitlement requirements. Data reported on any such form(s) by a school district shall accurately represent the actual status of the school district's program as of the first school day in October of the current school year.

(2) State staff review. State staff shall review each school district's program data report and such supplemental state reports as staff deems necessary, and prepare recommendations and supporting reports for presentation to the state board of education: PROVIDED, That if a school district's initial program data report and any other state reports considered do not establish compliance with these basic education allocation entitlement requirements, the district shall be provided the opportunity to explain the deficiency and provide supplemental data. School districts which foresee that they will not be able to comply with these entitlement requirements or that are deemed by state staff to be in noncompliance may petition for a waiver on the basis of the limited grounds set forth in WAC 180-16-225.

(3) Annual certification of compliance or noncompliance—Withholding of funds for noncompliance. (a) At the annual March meeting of the state board of education, or at such other meeting as the board shall designate, the board shall certify each school district as being in compliance or noncompliance with these basic education allocation entitlement requirements.

(b) A certification of compliance shall be effective for the then current school year subject to any subsequent ad hoc review and determination of noncompliance as may be deemed necessary or advisable by the state board of education or the superintendent of public instruction. In addition, a certification of compliance shall be effective tentatively for the succeeding school year until such time as the state board takes its annual action certifying compliance and noncompliance with these entitlement requirements.

(c) A certification of noncompliance shall be effective until program compliance is assured by the school district to the satisfaction of the superintendent of public instruction, subject to review by the state board. Basic education allocation funds in an amount(s) established by the state board shall be withheld from a school district that has been certified as being in noncompliance until such assurance is provided and accepted.

NEW SECTION

WAC 180-16-200 TOTAL PROGRAM HOUR OFFERING—BASIC SKILLS AND WORK SKILLS REQUIREMENTS. (1) Total program hour offering—Definition. (a) Each

school district shall make available to students enrolled at least a total program hour offering as set forth in subsections (2) through (6) of this section. For the purpose of this section, "total program hour offering" shall mean those hours of sixty minutes each, inclusive of intermissions for class changes and recess and exclusive of intermissions for meals, when students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district.

(b) Frequency and extent of basic skills and work skills offerings. A school district has "provided the opportunity to engage in" the basic skills and work skills activities required by this section when the district actually conducts such activities for students. Each of the basic skills areas specified in subsections (2) through (6) of this section for a particular grade level grouping must be offered each school year to students at one or more of the grade levels within the particular grade level grouping. See WAC 180-16-230 for the definitions of the various basic skills areas. At least one of the work skills defined in WAC 180-16-235 must be offered each school year to students at one or more of the grade levels within each of the grade level groupings specified in subsections (4) through (6) of this section.

(2) Kindergarten. Each school district shall make available to students in kindergarten at least a total program offering of four hundred fifty hours each school year. The program shall include reading, arithmetic, language skills and such other subjects and activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such program.

(3) Grades 1 through 3. Each school district shall make available to students in grades one through three at least a total program hour offering of two thousand seven hundred hours each school year. A minimum of ninety-five percent of the total program hour offerings shall be in the basic skills areas of reading/language arts, mathematics, social studies, science, music, art, health and physical education. The remaining five percent of the total program hour offerings may include foreign languages, or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades.

(4) Grades 4 through 6. Each school district shall make available to students in grades four through six at least a total program offering of two thousand nine hundred seventy hours each school year. A minimum of ninety percent of the total program hour offerings shall be in the basic skills areas of reading/language arts, mathematics, social studies, science, music, art, health and physical education. A minimum of five percent of the total program hour offerings shall be in the area of work skills. The remaining five percent of the total program hour offerings may include foreign languages, or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades.

(5) Grades 7 through 8. Each school district shall make available to students in grades seven through eight at least a total program hour offering of one thousand nine hundred eighty hours each school year. A minimum of eighty-five percent of the total program hour offerings shall be in the basic skills areas of reading/language arts, mathematics, social studies, science, music, art, health and physical education. A minimum of ten percent of the total program offerings shall be in the area of work skills. The remaining five percent of the total program hour offerings may include foreign language, or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades.

(6) Grades 9 through 12. Each school district shall make available to students in grades nine through twelve at least a total program hour offering of four thousand three hundred twenty hours each school year. A minimum of sixty percent of the total program hour offerings shall be in the basic skills areas of language arts, mathematics, social studies, science, music, art, health and physical education. A minimum of twenty percent of the total program hour offerings shall be in the area of work skills. The remaining twenty percent of the total program hour offerings may include traffic safety, foreign language, or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades, with not less than one-half thereof in basic skills and/or work skills.

(7) Computation of required percentages of basic skills and work skills offerings. (a) K through eight. The percentages of basic skills and work skills offerings required within the various grade level groupings from kindergarten through grade eight shall be computed and based upon a school district's total program hour offering within each particular grade level grouping.

(b) Nine through twelve. The percentage of basic skills and work skills offerings required within the nine through twelve grade level grouping shall be computed and based upon a school district's total number of teaching assignments within such grade level grouping.

(8) Reconsideration of initial program data report. If the initial program data report and other state reports submitted by a school district establish that the district is not actually conducting the percentage(s) of basic skills and/or work skills required by this section, the state staff shall provide the district the opportunity to establish that the district is, nevertheless, in compliance with the requirements of this section by virtue of one or more of the following or other pertinent considerations:

(a) The district made a reasonable and good faith effort to provide students the opportunity to take the section(s) or course(s) necessary to comply with the basic skills and/or work skills requirements of this section, including having extended the enrollment period through at least the first school day of the term, but no student enrolled, or

(b) The district is conducting a total program hour offering that exceeds the minimum required by this section and the percentage figure(s) used to determine compliance should, accordingly, be adjusted downward for computation purposes.

NEW SECTION

WAC 180-16-205 CLASSROOM TEACHER CONTACT HOURS REQUIREMENT.

(1) Contact hours requirement—Definition. The average annual direct classroom contact hours for each average annual full-time equivalent certificated classroom teacher employed by a school district shall be no less than twenty-five hours per week. For the purpose of this section "classroom contact hours" shall mean those hours a certificated classroom teacher is instructing students in a classroom, exclusive of such time as the teacher spends for preparation, parent/teacher and other conferences, administrative duties, and any other nonclassroom instruction duties.

(2) Classroom—Definition. For the purpose of this section, "classroom" shall mean those areas or spaces within or without a building, on or off a school campus, that are utilized by a certificated classroom teacher and his/her students for the conduct of planned instructional activities.

(3) Computation of FTE teachers. For the purpose of this section the "average annual full-time equivalent classroom teachers" of a school district shall be the sum of full-time and part-time teachers computed as follows:

(a) Full-time teachers. Each employee who is employed full-time for the regular instructional year exclusive of summer school, and who is assigned solely classroom instructional and related duties (e.g., planning periods, parent/teacher conferences, before and after school supervision of students, etc.) by his/her basic contract shall be counted as one full-time equivalent classroom teacher regardless of his/her actual teaching load. No such employee shall be counted as more than one full-time equivalent classroom teacher: PROVIDED, That in the case of full-time employees of a school district that conducts a year round regular school program who are employed for a term in excess of the equivalent of the regular instructional year for individual students, such excess term of employment may be counted as a portion of an additional full-time equivalent classroom teacher.

(b) Part-time teachers. Each part-time employee who is assigned classroom instructional duties solely or in part, and each full-time employee who is assigned both classroom instructional duties and non-classroom related duties (e.g., administrative duties, extracurricular instructional or supervisory duties, etc.) by his/her basic contract, shall be counted as a fractional full-time equivalent classroom teacher based upon the percentage of time he or she performs duties equivalent to the duties performed by a full-time employee who is assigned solely classroom instructional duties and related duties (e.g., planning periods, parent/teacher conferences, before and after school supervision of students, etc.) by his/her basic contract.

(4) Computation of annual average direct classroom contact hour requirement. The number of average annual full-time equivalent classroom teachers employed by a school district and computed pursuant to subsection (3) of this section shall be divided into the sum of:

(a) The total number of hours (60 minutes each) within the regular instructional school year that such average annual full-time equivalent classroom teachers are scheduled to be in contact with and instructing students in a classroom divided by the quotient obtained by dividing the number of school days in the regular instructional year by five, plus

(b) Two hundred minutes per average annual full-time equivalent classroom teacher for every five school days scheduled for the regular instructional school year. Two hundred minutes per week per average annual full-time equivalent classroom teacher is provided in order to reasonably account for informal, unstructured, instruction related contact with students.

The quotient shall not be less than twenty-five (hours).

NEW SECTION

WAC 180-16-210 KINDERGARTEN THROUGH GRADE THREE STUDENTS TO CLASSROOM TEACHER RATIO REQUIREMENT. The ratio of students enrolled in a school district in kindergarten through grade three to kindergarten through grade three classroom teachers shall not be greater than the ratio of students to classroom teachers in grades four through twelve. For the purpose of this section "classroom teacher" shall mean any instructional employee who possesses at least a provisional certificate or an equivalent permit issued by the superintendent of public instruction, but not necessarily employed as a certificated employee, whose "primary" duty is the daily educational instruction of students. The term includes certificated teacher aides as well as teachers.

(1) Computation of ratios. Student to classroom teacher ratios shall be computed as follows:

(a) .5 kindergarten October 1 enrollment + October 1 enrollment grades 1-3 divided by (+) FTE certificated employees whose "primary" duty is the daily instruction of pupils in grades K through 3.

(b) October 1 enrollment in grades 4 and above divided by (+) FTE certificated employees whose "primary" duty is the daily instruction of pupils in grades 4 and above.

(c) For the purpose of this section exclude that portion of the time teachers and students participate in vocationally approved programs, traffic safety and special education programs from the above computations (i.e., programs hereby deemed to be "special programs").

(d) Include in the above computations only the time certificated employees are actually instructing students on a regularly scheduled basis. Exclude preparation and planning times from the above computation.

(2) Exemptions. School districts that have a ratio of kindergarten through grade three students to classroom teachers of twenty-five to one or less, nonhigh school districts, and school districts that have a student enrollment of two hundred fifty or less in grade nine through twelve are exempt from the students to classroom teachers ratio requirement of this subsection.

NEW SECTION

WAC 180-16-215 MINIMUM ONE HUNDRED EIGHTY SCHOOL DAY YEAR. Each school district shall conduct no less than a one hundred eighty school day program each school year which shall be accessible to all legally eligible students, including handicapped students, who are five years of age and under twenty-one years of age who have not completed high school graduation requirements.

NEW SECTION

WAC 180-16-220 SUPPLEMENTAL PROGRAM AND BASIC EDUCATION ALLOCATION ENTITLEMENT REQUIREMENTS. The following requirements, while not imposed by the "Basic Education Act of 1977," are hereby established by the state board of education as supplemental conditions to a school district's entitlement to state basic education allocation funds.

(1) Student to certificated staff ratio requirement. The ratio of students enrolled in a school district, including special education students, to full-time equivalent certificated employees, including special education program employees, shall not exceed thirty to one. For the purpose of this subsection, "certificated employees" shall mean those employees who are required by state statute or by rule of the state board of education, or by written policy of the school district to possess a professional education permit, certificate or credential issued by the superintendent of public instruction, as a condition to employment.

(2) Current and valid certificates. Every school district employee, including special education program employees, required by state statute and/or rule of the state board of education to possess a professional education permit, certificate, or credential issued by the superintendent of public instruction for his/her position of employment, shall have a current and valid permit, certificate or credential.

(3) Participation in accreditation. Each school district shall participate in an accreditation process in accordance with the provisions of RCW 28A.04.120(4) and chapter 180-56 WAC, each as now or hereafter amended.

(4) Student learning objectives. Each school district shall have implemented a program of student learning objectives in the areas of language arts, reading and mathematics on or before September 1, 1978, for grades kindergarten through eight and on or before September 1, 1981, for grades nine through twelve.

(a) Each school district must evidence community participation in defining the student learning objectives of such a program.

(b) The student learning objectives of such program shall be measurable as to the actual student attainment. Student attainment shall be locally assessed annually.

(c) The student learning objectives program shall be reviewed at least every two years by the school district.

NEW SECTION

WAC 180-16-225 WAIVER—GROUNDS AND PROCEDURE. (1) Grounds. The state board of education may waive one or more of the basic education allocation entitlement requirements set forth in WAC 180-16-200 through 180-16-215 only if a school district's failure to comply with such requirement(s) is found by the state board to be caused by levy failure and/or substantial lack of classroom space as set forth below:

(a) Levy failure. For the school years 1978-79 through 1980-81 the state board may waive the requirements of WAC 180-16-200 through 180-16-215 if the board finds that the noncompliance has been caused by special levy failure. As a condition to a waiver based on levy failure the state board will consider and a school district must demonstrate at least the following:

(i) That the district made reasonable efforts to submit a levy proposition to the voters twice during the levy year in an amount sufficient to enable it to meet these entitlement requirements, and

(ii) That the district's failure to comply with these entitlement requirements was caused by the lack of the revenue that would have been received from the levy. Noncompliance may be deemed to have been caused by a levy loss if the school district can demonstrate that all funds that it reasonably has available to support basic education are not sufficient to enable it to meet the referenced entitlement requirements.

(b) Substantial lack of classroom space. The state board may waive the requirements of WAC 180-16-200 through 180-16-215 if the board finds that the noncompliance has been caused by a substantial lack of classroom space. As a condition to a waiver based on substantial lack of classroom space the state board will consider and a school district must demonstrate at least that the facilities of the school district do not contain enough classroom space or other space that can reasonably be converted into classroom space, and that necessary classroom space may not reasonably be acquired by lease or rental, to enable the district to comply with the referenced entitlement requirements.

(2) Waiver procedure. In order to secure a waiver pursuant to subsection (1) of this section a school district must submit a petition together with a detailed explanation and documentation in support of its request not later than thirty days prior to either:

(a) The state board of education meeting immediately preceding commencement of the school year; or

(b) The March (or such other meeting as the state board shall have established) meeting of the board at which the board will consider certifications of compliance and noncompliance with these entitlement requirements.

A school district that can reasonably foresee an inability to comply with entitlement requirements by reason of levy loss or substantial lack of classroom space should petition for a waiver as early as the state board meeting immediately preceding commencement of the school year in order to allow for the possibility that the request may be denied.

(3) Nonwaiverable requirements. The certification and the student learning objectives requirements set forth in WAC 180-16-220(2) and (4) may not be waived for any reason.

(4) Deviations from certain supplemental requirements. The state board may allow deviations from the thirty to one ratio and the participation in accreditation requirements set forth in WAC 180-16-220 (1) and (3) for such reason(s) as the board deems reasonable.

NEW SECTION

WAC 180-16-230 DEFINITIONS—BASIC SKILLS AREAS. As used in these basic education allocation entitlement requirements the subjects comprising the "basic skills areas" shall be defined as follows:

(1) "Art" shall mean the organized body of subject matter or related courses involving primarily visual, tactile and kinesthetic expression. Included in instruction are the two-dimensional and three-dimensional forms and other spatial concepts including the esthetic and creative factors of visual forms.

(2) "Arithmetic"—See the definition of "mathematics," below.

(3) "Health education" shall mean experiences focused on promoting a healthful life style for each individual which may be organized into four main categories: Physical health, mental health, community/environmental health and safety.

(4) "Language arts" shall mean the body of related subject matter, or the body of related courses, organized for carrying on learning experiences concerned with developing and understanding of the language system; proficiency and control in the use of the English language; and, an understanding and appreciation of various aspects of past and present cultures as expressed in literature.

(5) "Language skills" shall mean subject matter and experiences designed to develop competency in the use of language with emphasis on speaking and listening.

(6) "Mathematics," including "arithmetic," shall mean the body of related subject matter, or the body of related courses, organized for carrying on learning experiences concerned with the science of relations existing between quantities (magnitude) and operations and the science of methods used for deducing from other quantities, known or supposed, the quantities sought.

(7) "Music" shall mean the fine art that utilizes sounds in time in a meaningful and organized manner. Subject matter and activities in music are designed to impart the skills and knowledge necessary for the understanding, appreciation, creation, performance, and enjoyment of music.

(8) "Physical education" shall mean the body of related subject matter and activities in physical education and recreation, organized for carrying on learning experiences concerned with developing knowledge, attitudes, appreciations and conduct through physical and mental growth and fitness.

(9) "Reading" shall mean instruction designed to develop the skills necessary to perceive and react to patterns of written symbols and translate them into meaning.

(10) "Science" shall mean the body of related subject matter or the body of related courses organized for carrying on learning experiences concerned with knowledge of the physical and biological world and of the processes of discovering and validating this knowledge.

(11) "Social studies" shall mean interrelated subject matter, such as the study of history, geography, economics, sociology and political science. Whether integrated or not, social studies instruction is organized to impart knowledge, develop skills and identify goals concerning elements and institutions of human society.

NEW SECTION

WAC 180-16-235 DEFINITIONS—WORK SKILLS. As used in these basic education allocation entitlement requirements the subjects comprising the "area of work skills" shall be defined as follows:

(1) "Agricultural education" shall mean a group of related courses or units of subject matter which is organized for carrying on learning experiences concerned with preparation for or upgrading in occupations requiring knowledge and skills in agricultural subjects. The functions of agricultural production, agricultural mechanization, agricultural products (processing), ornamental horticulture, forestry, agricultural resources and the services related thereto, are emphasized in the instruction designed to provide opportunities for students to prepare for or improve their competencies in agricultural occupations. An agricultural occupation may include one or any combination of these functions.

(2) "Business and office education" shall mean the body of subject matter, or combination of courses and practical experience that is organized into programs of instruction to provide opportunities for students to prepare for or advance in selected office occupations. In the instructional process various aspects of subject matter frequently are drawn from other subject-matter areas. Learning experiences are designed to lead to employment and/or advancement of individuals in

occupations in public or private enterprises or organizations related to the facilitation function of the office.

(3) "Career education" shall mean those learning experiences based on identifiable learning objectives and time allotments which may be infused into basic skills and work skills programs, and may include career awareness, career orientation and career exploration.

(4) "Career orientation" shall mean learning experiences that emphasize the wide range of occupations available, worker characteristics, educational and training requirements and relevancy of school subjects to the occupational areas and that also stress self-evaluation of interests, aptitudes and abilities and their application to various life styles.

(5) "Distributive education" shall mean various combinations of subject matter and learning experiences related to the performance of activities that direct the flow of goods and services, including their appropriate utilization, from the producer to the consumer or user. These programs are designed to prepare individuals to enter or progress or improve competencies in distributive occupations. These activities include selling and such sales-supporting functions as buying, transporting, storing, promoting, financing, marketing research and management.

(6) "Health occupations education" shall mean the body of related subject matter, or the body of related courses and planned experiences designed to impart knowledge and develop understanding and skills required to support the health professions. Instruction is organized to prepare and/or upgrade students for occupational objectives concerned with assisting qualified personnel in providing diagnostic, therapeutic, preventive, restoration, and rehabilitative services to people, including understanding and skills essential to provide care and health services to patients.

(7) "Home and family life education" shall mean the group of related courses or units of instruction organized for purposes of enabling students to acquire knowledge and develop understanding, attitudes and skills relevant to personal, home and family life, and occupational preparation using the knowledge and skills of home economics. The subject matter includes, in addition to that which is unique to the area, concepts drawn from the natural and social sciences and the humanities.

(8) "Industrial art" shall mean general education centered around the industrial and technical aspects of current living, offering orientation in and appreciation for production, consumption, and recreation through actual experiences with materials and goods and also providing exploratory experiences which are helpful in the choice of a vocation.

(9) "Technical education" shall mean that body of knowledge organized in a planned sequence of classroom and laboratory experiences to prepare students for a cluster of job opportunities in a specialized field of technology or to upgrade currently employed individuals. The program of instruction normally includes the study of the underlying sciences and supporting mathematics inherent in a technology, as well as methods, skills, materials and processes commonly used and services performed in the technology. A planned sequence of study and extensive knowledge in a field of specialization are required in technical education, including competency in the basic communication skills and related general education. Technical education prepares for the occupational area between the skilled craftsman and the professional person.

(10) "Trade and industrial education" shall mean the branch of vocational education which is concerned with preparing persons for initial employment, or for upgrading or retraining workers in a wide range of trade and industrial occupations. Such occupations are skilled or semiskilled and are concerned with layout designing, producing, processing, assembling, testing, maintaining, servicing or repairing any product or commodity. Instruction is provided:

(a) In basic manipulative skills, safety judgment and related occupational information in mathematics, drafting and science required to perform successfully in the occupation; and

(b) Through a combination of shop or laboratory experiences simulating those found in industry and classroom learning. Included is instruction for apprentices in apprenticeable occupations or for journeymen already engaged in a trade or industrial occupation. Also included is training for services and certain semiprofessional occupations considered to be trade and industrial in nature.

(11) "Vocational education" shall mean a planned series of learning experiences, the specific objective of which is to prepare persons to enter, continue in, or upgrade themselves in gainful employment in recognized occupations, homemaking, home and family life program, and

volunteer fire fighting training, which are not designated as professional or requiring a baccalaureate or higher degree.

NEW SECTION

WAC 180-16-240 RECOMMENDED SUPPLEMENTAL PROGRAM STANDARDS. (1) Consistent with the goals for the common schools and the requirements and goal(s) as set forth in RCW 28A.58.752, the state board of education recommends that school districts adhere to the supplemental program standards set forth in this section. Each school district superintendent, after approval by the school district board of directors, shall file each year a statement of district standing relative to these standards noting any deviations. Such statement shall be submitted at the same time as the annual basic education allocation entitlement program data report(s) required by WAC 180-16-195 is submitted. Deviation from these standards shall not result in withholding of any or all of a district's basic education allocation funds, however. The deviations shall be made available to the public separately or as a portion of the annual district guide pursuant to RCW 28A.58.758(3).

(2) Recommended supplemental program standards are as follows:

(a) Appropriate measures should be taken to safeguard all student and school district permanent records against loss or damage.

(b) Each school district should make provision for the supervision of instructional practices and procedures.

(c) Current basic instructional materials should be available for required courses of study.

(d) Each school district should establish and maintain a program of guidance, counseling and testing services for students in all grades offered by that school district.

(e) Each school district should establish and maintain a learning resources program pursuant to chapter 180-46 WAC and WAC 392-190-055, each as now or hereafter amended.

(f) The physical facilities of each district should be adequate and appropriate for the educational program offered.

(g) There should be adequate provision for the health and safety of all pupils within the custody of the school district.

(h) A current policy statement pertaining to the administration and operation of the school district should be available in each district's administrative office.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 180-16-165 MINIMUM APPROVAL REQUIREMENTS FOR PURPOSES OF APPORTIONMENT.

AMENDATORY SECTION (Amending Order 6-76, filed 6/1/76)

WAC 180-56-315 APPROVAL OF SCHOOL DISTRICT PROGRAM. Approval of the school district's program pursuant to provisions of RCW 28A.41.130 and state board of education regulations, (~~"Minimum approval requirements for purposes of apportionment," [see WAC 180-16-165]~~) "Basic education allocation entitlement requirements" (WAC 180-16-191 et seq.), and compliance with "Recommended supplemental program standards" (WAC 180-16-240) shall be ((~~⊖~~)) prerequisites for secondary school accreditation.

**WSR 78-04-084
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed April 4, 1978]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning new chapter 180-78 WAC, Professional Preparation—Program Development and Approval, being new sections WAC 180-78-005, 010, 015, 020,

025, 030, 035, 040, 045, 050, 055, 060, 065, 070, 075, 080 and 085;

that such agency will at 9:00 a.m., Thursday, May 11, 1978, in the Dept. of Social and Health Services Auditorium, Office Building 2, 12th and Franklin, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Friday, May 12, 1978, in the DSHS Auditorium, OB 2, 12th and Franklin, Olympia, WA.

The authority under which these rules are proposed is chapters 28A.70 and 28A.93 RCW, and RCW 28A.04.120.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 11, 1978 and/or orally at 9:00 a.m., Thursday, May 11, 1978, DSHS Auditorium, OB 2, 12th and Franklin, Olympia, WA.

Dated: April 4, 1978

By: Wm. Ray Broadhead
Secretary

Chapter 180-78 WAC
PROFESSIONAL PREPARATION
PROGRAM DEVELOPMENT AND APPROVAL

NEW SECTION

WAC 180-78-005 PURPOSE. The purposes of this chapter are to implement RCW 28A.04.120(1) and (2) and to establish the procedures, standards, and criteria to be used in the development and approval of preparation programs offered by institutions of higher education in Washington state leading to teacher, school administrator and school specialized personnel certification (educational staff associates).

NEW SECTION

WAC 180-78-010 STATE BOARD OF EDUCATION AND SUPERINTENDENT OF PUBLIC INSTRUCTION—RESPONSIBILITIES. (1) State board of education. Programs of preparation are subject to state board of education review and approval. The state board of education:

(a) Establishes standards for program development and approval; requirements for certification; and the types and kinds of certificates to be issued.

(b) Applies the standards set forth in this chapter.

(c) Receives and acts upon recommendations concerning requests for program approval.

(d) Reviews and approves comprehensive studies and reports about programs and other matters relevant to preparation and certification.

(2) Superintendent of public instruction.

(a) Approval-accreditation functions.

(i) The superintendent of public instruction or his or her designee arranges for on-site visitations to review programs for consequent recommendations to the state board of education pursuant to this chapter.

(ii) A designee of the superintendent of public instruction shall serve as chairperson of the site visit team.

(b) Certification function.

(i) The superintendent of public instruction issues certificates and makes certificate endorsements.

(c) Improvement-leadership function. The superintendent of public instruction or his or her designee:

(i) Assists colleges/universities, school organizations and professional associations in program development leading to state board approval.

(ii) Facilitates communication and cooperation among agencies.

(iii) Arranges for advisory committees of the state board to meet, make site visits, and prepare reports for the state board of education.

(iv) Selects each year areas of preparation for special study.

NEW SECTION

WAC 180-78-015 PROFESSIONAL EDUCATION ADVISORY COMMITTEE. The superintendent of public instruction shall establish a professional education advisory committee to advise the superintendent and the state board of education relative to preparation and certification matters and to participate in the review of training programs. The committee shall be comprised of no less than twenty-six regular members representing colleges and universities, specialized and general professional associations, school district administrators, boards of directors, and other business and lay organizations having interest in the preparation and certification of school personnel.

NEW SECTION

WAC 180-78-020 EQUIVALENCY OF STANDARDS. Reasonable flexibility in interpretation of the standards for program approval set forth in this chapter may be applied consistent with the intent and spirit of the standards. Exceptions to specific program approval standards will be considered. It shall be the responsibility of the superintendent of public instruction or his or her designee to make the final decision concerning approval of any exception to the program approval standards.

NEW SECTION

WAC 180-78-025 PROGRAM APPROVAL. Compliance date. All programs leading to certification offered in Washington state to prepare teachers, administrators, and school specialized personnel shall be approved under standards set forth in this chapter no later than five calendar years after the date on which such standards are adopted by the state board of education.

NEW SECTION

WAC 180-78-030 DEFINITION OF TERMS. The following definitions shall be used in this chapter:

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

(2) "College or university" shall mean any baccalaureate degree granting Washington institution of higher learning or cooperative group of such institutions which has or develops professional programs of preparation in education which are approved by the state board of education.

(3) "Cooperation" shall mean the act of working together in a participatory mode.

(4) "Endorsement" shall mean a specification placed on a certificate to indicate the subject matter field, grade level and/or specialization for which the individual is prepared to teach or serve as an administrator or educational staff associate.

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

(6) "Interstate compact" shall mean the contractual agreement among several states authorized by RCW 28A.93.010 and 28A.93.020 which facilitates interstate reciprocity and guarantees graduates of institutions having approved programs in such states regular beginning certification in any state party to the compact.

(7) "Minimum generic standards" shall mean those basic areas of knowledge and skill identified and approved by the state board of education as essential to a given professional role.

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

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

(10) "School organization" shall mean any public or nonpublic school system or district or cooperative group of such organizations.

(11) "Site visit" shall mean the process of on-site review of preparation programs conducted for the purposes of and according to procedures set forth in WAC 180-78-065 and 180-78-080.

(12) "Specialized associations" shall mean the state-wide professional organization(s) recognized by the state board of education as having legitimate interest in the preparation of a respective professional role.

(13) "State board of education program approval" shall mean the process whereby the state board of education in Washington state reviews preparation programs within Washington state for purposes of approval as required by RCW 28A.04.120 and following procedures as set forth in WAC 180-78-065 through 180-78-080.

NEW SECTION

WAC 180-78-035 PROGRAM DEVELOPMENT. The basis for the program development process and the content of preparation programs are set forth in WAC 180-78-045 through 180-78-055.

NEW SECTION

WAC 180-78-040 AGENCIES TO BE INVOLVED IN PROGRAM DEVELOPMENT—COORDINATION. Preparation programs are to be developed cooperatively. A college or university shall coordinate program development and agency involvement in program units.

NEW SECTION

WAC 180-78-045 AGENCIES TO BE INVOLVED IN PROGRAM DEVELOPMENT—TEACHER PREPARATION. Agencies recognized by the state board of education as having a legitimate interest in the development of preparation programs for teachers which are to be involved in a program unit are set forth below. The chief administrative officer or designee of such agencies shall be asked to identify representatives to participate in the program unit and to clarify the representative's authority in acting on behalf of the agency.

(1) School organization. The school organization representative shall represent the interests of the board of directors and school administration and shall have the responsibility for seeking input for program development from students, parents, and interested citizens.

(2) College or university. The chief administrator for professional preparation in education as designated by the college or university president shall represent the college or university interests and shall be responsible for seeking input for program development from faculty in education and other departments, students, and interest groups of the college or university.

(3) General professional organization. The general professional organization representative shall represent the interests of teachers and shall have the responsibility for seeking input for program development from those specialized and subject matter associations not represented in the program unit.

(4) Community colleges shall participate in a program unit only in cooperation with a four-year institution which has a state board of education approved preparation program.

NEW SECTION

WAC 180-78-050 AGENCIES TO BE INVOLVED IN PROGRAM DEVELOPMENT—ADMINISTRATOR PREPARATION. Agencies recognized by the state board of education as having a legitimate interest in development of programs to prepare school administrators and which are to be involved in program units are set forth below. The chief administrative officer or designee of such agencies shall be asked to identify representatives to participate in the program unit and to clarify the respective representative's authority in acting on behalf of the agency.

(1) School organization. The school organization representative's responsibilities shall be as set forth in WAC 180-78-045.

(2) College or university. The college or university representative's responsibilities shall be as set forth in WAC 180-78-045.

(3) Specialized association. The specialized association representative shall represent the interests of the respective category of administrator—superintendent, principal, or program administrator—and shall have the responsibility for seeking input from the general professional organization and other specialized and subject matter associations.

(4) The following specialized associations are recognized by the state board of education as having a legitimate interest in the preparation of the respective category of administrator:

- (a) Superintendent—Washington association of school administrators (WASA);
- (b) Principals—Association of Washington school principals (AWSP);
- (c) Program administrators—Washington association of school administrators (WASA):

PROVIDED, That the Washington council of private education (WCPE) shall provide input from the nonpublic school sector in matters relative to preparation of principals, program administrators, and superintendents.

NEW SECTION

WAC 180-78-055 AGENCIES TO BE INVOLVED IN PROGRAM DEVELOPMENT—EDUCATIONAL STAFF ASSOCIATE (ESA) PREPARATION. Agencies recognized by the state board of education as having a legitimate interest in development of programs to prepare educational staff associates and which are to be involved in program units are set forth below. The chief administrative officer or designee of such agencies shall be asked to identify representatives to participate in the program unit and to clarify the respective representative's authority in acting on behalf of the agency.

(1) School organization. The school organization representative's responsibilities shall be as set forth in WAC 180-78-045.

(2) College or university. The college or university representative's responsibilities shall be as set forth in WAC 180-78-045.

(3) Specialized association. The specialized association representative shall represent the interests of the respective category of educational staff associate and shall have the responsibility for seeking input from the general professional organization and other specialized and subject matter organizations.

(4) The following specialized associations are recognized by the state board of education as having a legitimate interest in the preparation of the respective category of educational staff associate:

- (a) Communication disorders specialist—Washington speech and hearing association (WSHA);
- (b) Counselor—Washington school counselor association (WSCA);
- (c) Occupational therapist—Washington occupational therapy association (WOTA);
- (d) Physical therapist—Pediatric special interest group of the Washington state physical therapy association (WSPTA);
- (e) Psychologist—Washington association of school psychologists (WASP);
- (f) Reading resource specialist—International reading association (IRA);
- (g) School nurse—School nurse organization of Washington (SNOW); and
- (h) Social worker—Washington association of school social workers (WASSW).

NEW SECTION

WAC 180-78-060 PROGRAM APPROVAL—LENGTH OF APPROVAL. All preparation programs shall be reviewed for approval purposes at least every five years. Program approval shall be granted for from one to five years depending on the state board of education's assessment of the extent to which the program complies with approval standards set forth in WAC 180-78-080.

NEW SECTION

WAC 180-78-065 PROGRAM APPROVAL PROCESS. Program review shall include the following:

(1) Each college or university shall file with the state board of education for review a written description of its program unit(s) and its program(s), including course titles, outcomes required of candidates, and the means for achieving those outcomes.

(2) A site visit shall be conducted.

(a) Established programs. Each five years or more often if deemed necessary by the state board of education, a select team of persons representing school administrators, college faculty, general and specialized professional organizations, and the professional education advisory committee as established in WAC 180-78-015 shall conduct on-

site visits to review programs, offer constructive assistance, and make recommendations concerning continued program approval to the state board of education.

(b) New programs. All new professional preparation programs shall be reviewed on site following the procedures set forth in subparagraph (a) of this subsection: PROVIDED, That an on-site review by the superintendent of public instruction or his or her designee may be sufficient when the program change is limited to the subject matter major or specialization to be endorsed on a teaching certificate.

(3) Subsequent to the site visit, the program unit will report in the time and manner specified in the site visit report on the progress underway to respond to recommendations offered in the site visit report.

(4) The program of study required in selected subject matter fields for which teaching certificates are endorsed will be reviewed in depth during each five-year evaluation.

(5) Between site visits any change in preparation programs relevant to the standards for program approval set forth in WAC 180-78-080 or planned changes affecting certificate endorsement shall be reported to the state board of education and the superintendent of public instruction. Any planned program changes shall be reviewed by the superintendent of public instruction or his or her designee who will initiate approval action consistent with provisions of this chapter.

(6) Each year a list of programs to be reviewed will be published and distributed by the superintendent of public instruction.

NEW SECTION

WAC 180-78-070 PROGRAM APPROVAL—PROCEDURES FOR SITE VISITS. The following procedures will be followed in arranging for and conducting site visits:

(1) The superintendent of public instruction or his or her designee will contact the college or university responsible for the program(s) one year prior to the year in which a visit is required. Program approval standards and guidelines will be presented and dates established.

(2) The following documentation shall be prepared by the program unit:

(a) A statement which reflects current philosophy and objectives as they pertain to professional preparation.

(b) A list of all professional education programs offered indicating areas of concentration (grade levels and subject-matter fields) in which endorsements are made.

(c) A general description of the programs in teacher education, administrator preparation, educational staff associate preparation and any teaching major program which is to be reviewed in depth. The general description shall include the historical development of programs, the kinds of field experiences available and any new program elements or directions.

(d) A statement identifying future goals and directions of the professional preparation program(s).

(e) A listing of faculty which includes information about the education, experience, and current assignment of all full and part time faculty and field personnel who participate in the program.

(f) A description of the procedure and basis for program decisions and how recommendations are gained from academic departments, students, and the field.

(g) Statistics related to program enrollments, certification, and placement.

(h) A statement summarizing action taken to respond to recommendations made following the previous program review and site visit.

(i) A copy of the bylaws or operating procedures of each program unit.

(3) A staff member of the superintendent of public instruction shall visit the program unit at least eight weeks prior to the site visit to review documentation, identify areas for focus of the site visit, and develop a tentative agenda.

(4) Sufficient copies of documentation required in WAC 180-78-070(2) shall be submitted to the superintendent of public instruction at least six weeks prior to the visit.

(5) A site visit team which shall act on behalf of the state board of education will be identified by the superintendent of public instruction or his or her designee with membership selected on the basis of expertise needed for a particular visit. At least one representative from the following groups shall be included on all teams: Colleges or universities, school organizations, general and specialized professional organizations.

NEW SECTION

WAC 180-78-075 PROGRAM APPROVAL—REPORTS AND RECOMMENDATIONS. Following state board of education review, a written report, including recommendation(s) relative to approval or nonapproval and the length of program approval, shall be sent to the college or university responsible for coordinating activities of the program unit(s).

The report shall reflect the combined assessment of the visiting team and shall include specific recommendations for program development together with data and evidence on which such recommendations are based and specific conditions or contingencies which are to be addressed during the interim prior to the next program review.

NEW SECTION

WAC 180-78-080 PROGRAM APPROVAL STANDARDS AND CRITERIA. Under provisions of RCW 28A.04.120, the state board of education is responsible for approving all programs of preparation which lead to certification. The standards and criteria which shall serve as the basis for state board of education approval are set forth below. Unless otherwise indicated each criterion must be met. Evidence accepted as verification or as indication that a criterion has not been met shall be specified in the final report to the state board of education. Annually, if necessary, the superintendent of public instruction or his or her designee shall present to the state board of education for approval any standards of specialized associations which will be used during the following year to supplement the standards set forth herein for assessment of program outcomes pursuant to subsection (3)(b)(ii) of this section.

(1) Cooperation.

(a) Standard: Programs of preparation are developed with the cooperation of a program unit.

(b) Criteria:

(i) Documentation provides evidence acceptable to the site visit team and the state board of education that:

(A) The chief administrative officer of each agency identified by the state board of education as having a legitimate interest was contacted and identified a representative to the program unit or

(B) A recommendation was forwarded to the superintendent of public instruction for comment and then to the state board of education signed by the chief administrative officers of each agency having a legitimate interest requesting that an exception be made to this program approval standard; documentation sets forth the reasons for the request; documentation verifies that the exception was granted by the state board of education.

(ii) A written procedure exists explaining how each official agency in the program unit will gain input from other groups and agencies as specified in WAC 180-78-040 through 180-78-055.

(iii) Bylaws or operating procedures have been written, adopted and implemented.

(iv) Meetings of the program unit, subcommittees or task forces are held on a regular basis and minutes of activities and actions are maintained.

(v) A college or university coordinates cooperation, involvement, and activities among agencies in the program unit.

(vi) Governing boards of agencies which participate in the program unit support the program and, as feasible, contribute human and material resources.

(2) Program management.

(a) Standard: Responsibilities are clearly assigned to individuals, groups, and/or committees within the program unit for activities necessary to develop, implement, and evaluate the program and certification components and are set forth in bylaws or operating procedures.

(b) Criteria:

(i) The college or university shall notify the state board of education and the superintendent of public instruction of the formation of a program unit; its membership; its specialization, subject matter, and/or grade level focus; and its timeline for program development.

(ii) Responsibilities are assigned for selection; advising and counseling; maintaining records regarding the student's program and progress; supervision and evaluation of candidates; and verifying that certification requirements have been met and the preparation program has been completed.

(iii) Persons who will instruct, evaluate, or supervise candidates are identified; descriptions of their roles, responsibilities, and loads are written; and their activities are consistent with the written role description.

(iv) Documentation contains a written explanation of policy-making, program development, and program management processes and responsibilities.

(v) Review of certification records verifies that the records are accurate.

(vi) The need for any new program, new program emphasis, or certificate endorsement is established and evidence of need exists including statistics relative to supply and demand; professional development needs of individuals or the education community; new curriculum or instructional directions in the common schools; and changes in enrollments and staffing ratios and patterns.

(vii) A schedule and outline have been completed relative to development and implementation of the program; decision-making points are identified; and individuals, agencies, or committees responsible for such tasks and decisions are specified.

(viii) Data are collected and available relative to the effectiveness of the management system, including identification of problem areas and procedural elements.

(ix) Responsibility for reporting program changes to the superintendent of public instruction and state board of education is assigned.

(3) Program outcomes.

(a) Standard: Knowledge and skills the person will possess and demonstrate when he or she completes the program, including the state board of education minimum generic standards, are specified in writing.

(b) Criteria:

(i) All minimum generic standards for certification established by the state board of education are addressed in learning experiences and are included among the program outcomes. A relationship exists between field and didactic learning experiences and program outcomes.

(ii) Relevant standards of the national association of state directors of teacher education and certification, the national council for accreditation of teacher education and/or standards of specialized associations and scholarly societies are referred to as guides in identifying program outcomes.

(iii) Degrees of proficiency required for program outcomes are clearly differentiated between the initial and continuing certificate levels.

(iv) Faculty, students and field supervisors know the program outcomes required of candidates.

(v) Program outcomes are stated in terms which make evaluation by supervisors and instructors possible.

(vi) Knowledge and skills related to continuing education and professional development are included in program outcomes.

(4) Selection and retention.

(a) Standard: Criteria and requirements to be used in selecting candidates for admission to the preparation program are explicit and practices relevant to retention of candidates are specified.

(b) Criteria:

(i) Selection criteria and the process used to screen and admit candidates are written.

(ii) Selection criteria are relevant to attainment of program outcomes.

(iii) A clearly written process exists for counseling and advising students about supply and demand; progress and retention in the program; and supervision and evaluation relative to academic, experience and generic standards.

(iv) Selection and retention procedures and criteria do not discriminate on the basis of race, ethnic group, sex, age, handicapping conditions, color or religion.

(v) Specific standards exist relative to retention in the program.

(vi) Written procedures exist for appeal of decisions within the college or university relative to admission or retention in the program.

(vii) Admission requirements to the professional preparation programs include evidence that the candidate is competent in the basic skills required for oral and written communication and computation.

(5) Individualization.

(a) Standard: Programs recognize individual differences in terms of learner rate and style. Alternative learning experiences appropriate to such differences are available.

(b) Criteria:

(i) Procedures for assessing individual assets and needs are clearly defined.

(ii) Opportunities for planning alternate preparation experiences are available to students.

(iii) Learning experiences are designed to provide for social-cultural-economic differences among candidates.

(iv) Appropriate individualized learning opportunities are provided to those students identified as possessing special assets and needs as determined through a variety of assessment procedures.

(v) Individual differences in learning style are recognized and as feasible alternative learning opportunities are provided.

(vi) When appropriate and feasible, learning opportunities provide for differences in learning rate by variations in training time.

(6) Field experience.

(a) Standard: Field experiences are provided as required in WAC 180-79-115 and are designed to correlate with specified program outcomes.

(b) Criteria:

(i) A sequence of field experiences is offered in the preparation program including opportunities for observation, tutoring, micro-teaching and extended practicum, student teaching, and/or internship experiences in educational settings.

(ii) Appropriate clinical and laboratory experiences are available to persons being prepared in specializations requiring practice under supervision in settings in addition to educational settings.

(iii) Written agreements exist between the college or university and the field sites which specify the relationships among agencies and the responsibilities and contributions each will make to the field program.

(iv) Field experiences provide opportunities for candidates to observe and participate in educational settings having varied organizational structures, ethnic populations, age groups, socio-economic characteristics, and curricular and instructional programs.

(v) Field experiences are designed to address the minimum generic standards established by the state board of education and to integrate theory and practice.

(vi) Criteria for selecting sites and for selecting field personnel are specified.

(vii) Criteria and procedures to be used in assigning students to field settings are identified; provisions are made for changes in assignments in circumstances where problems exist.

(viii) The responsibilities and authority of college supervisors and field personnel are specified in writing in relation to instruction, observation, evaluation, and grading.

(ix) Written materials are provided to field personnel which make explicitly their responsibilities and the program outcomes to be experienced, demonstrated, and evaluated in the field setting.

(x) Field personnel serving as supervisors are oriented to their responsibilities, and training is provided to assist them in implementing and evaluating those elements of the program for which they share responsibility with the college or university supervisors.

(xi) College or university supervisors have scheduled contact and communication with field personnel.

(7) Supervision.

(a) Standard: Provision exists in the program for ongoing evaluation and for constructive supervision emphasizing the developmental nature of the preparation process.

(b) Criteria:

(i) A schedule exists which ensures that each candidate receives regular assessment and feedback relative to knowledge, skill, and performance.

(ii) Results of assessment and evaluation are used as a basis for developing further didactic, field, and/or clinical experiences.

(iii) Criteria exist and are used for selecting field personnel and college or university personnel who will provide supervision; criteria include knowledge, skill and experience requirements.

(iv) Orientation and training are offered for all supervisory personnel including college and university supervisors.

(v) Records of observations, evaluations, and suggested learning experiences are maintained for each student in the preparation program.

(vi) College personnel providing supervision of field experiences and instructing techniques and methods courses have had experience in an educational setting in grades K-12.

(8) Options.

(a) Standard: Program units are encouraged to employ alternative methods for developing programs and implementing professional preparation.

(b) Criteria:

(i) Documentation shall identify unique features or approaches used in implementing program principles or meeting program approval standards and provide a rationale for variation in the latter instance.

(ii) Innovative and experimental programs or program components are based on validated research and theory.

(iii) Alternative approaches are consistent with institutional and program unit characteristics, program emphases and objectives, and generic standards.

(9) Resources.

(a) Standard: Resources are of the quantity and quality necessary for meetings of the program unit and for implementation of the program as set forth in program documentation submitted to and approved by the state board of education.

(b) Criteria:

(i) Documentation shall specify activities of the program unit, elements of the program which require resources, and resources available relative to specific resource needs.

(ii) Information and data relevant to funding, personnel, facilities, material, and equipment are available for review.

(iii) Member agencies in the program unit have set forth in writing the real and/or in-kind resource contributions they are making to the program unit or program.

(iv) A budget document exists and budgetary information pertinent to the program unit and the program is available.

(v) Faculty members and field personnel who supervise and instruct in the program have the appropriate academic preparation and experience in the fields of study for which they are responsible and which are essential to implementation of the program.

(vi) Learning resources reflect breadth and depth in selection of journals, books, curriculum and materials; holdings are evaluated periodically using model listings and guidelines of professional organizations.

(vii) The program administrator is allowed the necessary time as part of his or her load to fulfill program responsibilities.

(viii) Governing boards of agencies which participate in the program unit support the program and, as feasible, contribute human and material resources.

(10) Research and evaluation.

(a) Standard: The preparation program is based on study and research; ongoing program evaluation; and follow-up assessment of the persons prepared.

(b) Criteria:

(i) Specific individuals are assigned responsibility for program evaluation, research, and follow-up.

(ii) A systematic procedure is established for program evaluation and for follow-up studies of graduates.

(iii) A systematic process exists for gaining from instructors, supervisors, students, and field personnel evaluative information and data about the program and its outcomes.

(iv) Placement records are maintained and annual summaries are prepared.

(v) Data are analyzed and studied for the purposes of determining program needs.

(vi) Data generated from research or follow-up studies are used in program revision and redesign.

NEW SECTION

WAC 180-78-085 ANNUAL REPORTS. (1) An annual report shall be filed with the state board of education by each college or university having state board of education approved preparation program.

(2) The report shall summarize activities of program units, provide statistical information relative to enrollments, and any other data or information about the professional preparation programs requested by the superintendent of public instruction or state board of education.

(3) The superintendent of public instruction or his or her designee shall summarize information and data collected and prepare a comprehensive annual report for the state board of education and other interested individuals and agencies.

WSR 78-04-085

PROPOSED RULES

UNIVERSITY OF WASHINGTON

[Filed April 4, 1978]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030 and 42.30.080, that the University of Washington intends to adopt, amend, or repeal

rules concerning WAC 478-116-600 Fees, Fines and Penalties (2)b-1 (new subdivision) (Parking and Traffic Regulations at University of Washington);

that such institution will at 9:30, Wednesday, May 10, 1978, in the HUB Room 309 A, University of Washington, Seattle, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 1:00 p.m., Friday, May 12, 1978, in the Regents Room, Administration Building, U. of W., Seattle, WA.

The authority under which these rules are proposed is RCW 28B.10.560.

Interested persons may submit data, views, or arguments to this institution orally at 9:30 a.m., Wednesday, May 10, 1978, HUB Room 309 A, University of Washington, Seattle, WA.

This notice is connected to and continues the matter noticed in Notice Nos. WSR 78-04-046, Admin. Order 78-1E, filed with the code reviser's office on March 24, 1978.

Dated: March 31, 1978
 By: John Wasberg
 Assistant Attorney General

AMENDATORY SECTION (Amending Order 75-2, filed June 4, 1975)

WAC 478-116-600 FEES, FINES AND PENALTIES. (1) For purposes of this section the following lots are in:

- (a) Zone A -
 - (i) Central Campus: C1, C3, C6, C7, C8, C9, C10, C12, C13, C14, C15, C16, C17, C18;
 - (ii) East Campus: E3, E6, E7, E8;
 - (iii) North Campus: N2, N3, N4, N6, N7, N8, N9, N10, N11, N12, N13, N14, N15, N16, N18, N20, N21, N22, N23, N24, N26, N27, N28;
 - (iv) South Campus: S1, S4, S5, S6, S7, S8, S9, S10;
 - (v) West Campus: W1, W3, W4, W5, W6, W7, W8, W9, W10, W11, W12, W13, W14, W18, W20, W21, W22, W23, W24, W25, W34, W39, W41, W42.
- (b) Zone B -
 - (i) East Campus: E2, E9, E10, E11, E12;
 - (ii) North Campus: N1, N5, N25;
 - (iii) South Campus: S13;
 - (iv) West Campus: W2, W16, W17, W26, W27, W28, W29, W30, W31, W32, W33, W36, W38, W40.

(2) The following schedule of parking fees is hereby established:

	PER	AMOUNT
(a) Type of Permit -		
(i) Annual Permits		
(A) Zone A Permits (not incl. 24-hour storage)	Year	\$ 72.00
(B) Zone B Permits (not incl. 24-hour storage)	Year	60.00
(C) Reserved - General	Year	144.00
(D) Reserved - Physically Handicapped	Year	72.00
(E) Motorcycle and Scooter	Year	18.00
(F) Drive-through permits (Full-time Faculty and Staff only)	Year	6.00
(G) 24-hour storage, garages	Year	108.00
(H) 24-hour storage, surface lots - Zone A	Year	72.00
(I) 24-hour storage, surface lots - Zone B	Year	60.00
(ii) Quarterly Permits:		
(A) Zone A permits (not incl. 24-hour storage)	Quarter	18.00
(B) Zone B permits (not incl. 24-hour storage)	Quarter	15.00
(C) Reserved - General	Quarter	36.00
(D) Reserved - Physically Handicapped	Quarter	18.00

	PER	AMOUNT
(E) Drive-through permits (Full-time Faculty and Staff only)	Quarter	2.00
(F) Motorcycle and Scooter	Quarter	5.00
(G) 24-hour storage, garages	Quarter	27.00
(H) 24-hour storage, surface lots - Zone A	Quarter	18.00
(I) 24-hour storage, surface lots - Zone B	Quarter	15.00
(iii) Night Permits (5:00 p.m. to 7:30 a.m. and Saturday a.m. only)		
(A) Zone A annual permits	Year	48.00
(B) Zone B annual permits	Year	24.00
(C) Zone A quarterly permits	Quarter	12.00
(D) Zone B quarterly permits	Quarter	6.00
(iv) Conference Permits	Day	1.25
	Week	6.25
(b) Hourly Parking Rates for Designated Areas on Main Campus and South Campus (6:45 a.m. to 11:00 p.m. only) -		
(i) 0-15 minutes		No charge
(ii) 15 minutes to 30 minutes		.25
(iii) to 1 hour		.50
(iv) 1 hour to 2 hours		.75
(v) 2 hours to 3 hours		1.00
(vi) over 3 hours		1.25
<u>(b-1) Hourly Parking Rates for Designated Areas on the Periphery of Campus (6:45 a.m. to 11:00 p.m. only) -</u>		
(i) 0-15 minutes		<u>No charge</u>
(ii) 15 minutes to 30 minutes		<u>.25</u>
(iii) to 1 hour		<u>.50</u>
(iv) over 1 hour		<u>.75</u>
(c) Evening Parking (5:00 p.m. to 11:00 p.m.) -		
(i) 0-30 minutes		No charge
(ii) over 30 minutes		.50
(d) Overnight Parking (to 7:30 a.m.)		1.00
(e) Special Permits -		
(i) Short term (24-hour) Zone A (Faculty, Staff and Students)	Week	2.25
	Month	9.00
(ii) Short term (not including 24-hour storage) Zone A (Faculty, Staff, and Students)	Week	1.50
	Month	6.00
	Day	.25
(iii) Short-term Motorcycle		
(iv) Ticket Books (persons identified in WAC 478-116-240(6) and 478-116-250(1) only)		
(A) 5 ticket book	Book	1.75
(B) 10 ticket book	Book	3.50
(C) 25 ticket book	Book	8.75
(f) Mechanically Controlled Parking Areas as Designated (Parking meters, ticket dispensers, automatic gates, etc.)		.10 - .50
(g) Athletic Events -		
(i) Football		
(A) All campus lots		1.00
(B) Buses		5.00
(ii) All other events - Pavilion and Stadium lots		
(A) When staffed by attendants		.75
(B) When controlled by mechanical equipment		.25
(h) Miscellaneous Fees -		
(i) Transfer from one area to another by request of individual		2.00
(ii) Gate keycard replacement		2.50
(iii) Vehicle Gatekey deposit (Amount of deposit will be set by the Manager of the Parking Division. Deposit will be returned to individual when key is returned to Parking Division).		Not to exceed 5.00
(iv) Permit Replacement		
(A) With signed certificate of destruction or theft		No charge

	PER	AMOUNT
(B) Without certificate of destruction		2.00
(v) Impound Fee		At cost
(3) The following schedule of fines for violations of these rules is hereby established:		
Offense		Maximum Fine
(a) 01 Blocking Traffic WAC 478-116-190		\$ 5.00
(b) 02 Enter/Exit Without Paying WAC 478-116-110		10.00
(c) 03 Failure to Lock Ignition WAC 478-116-200		2.00
(d) 04 Failure to Set Brakes WAC 478-116-200		2.00
(e) 05 Improper Display Area Designator WAC 478-116-340		1.00
(f) 06 Improper Display of Vehicle Permit WAC 478-116-340		1.00
(g) 07 Occupying More than One Stall or Space WAC 478-116-140		1.00
(h) 08 Parking in Restricted Parking Area WAC 478-116-110		2.00
(i) 09 Parking in Prohibited Area WAC 478-116-130		5.00
(j) 10 Parking on Grass WAC 478-116-130		5.00
(k) 11 Parking Out of Assigned Area WAC 478-116-130		2.00
(l) 12 Parking Over Posted Time Limit WAC 478-116-110		2.00
(m) 13 Parking with No Valid Permit Displayed WAC 478-116-060		2.00
(n) 14 Parking within 10 Feet of Fire Hydrant WAC 478-116-130		5.00
(o) 15 Parking at Expired Meter WAC 478-116-350		2.00
(p) 16 Parking Outside Cycle Area WAC 478-116-070		2.00
(q) 17 Parking in Space/Area Not Designated for Parking WAC 478-116-130		1.00
(r) 18 Use of Forged/Stolen Area Designator WAC 478-116-060 and 478-116-370		10.00
(s) 19 Use of Forged/Stolen Vehicle Permit WAC 478-116-060 and 478-116-370		25.00
(t) 20 Impound WAC 478-116-580	At cost	
(u) 21 Other Violations of the University Parking and Traffic Regulations		25.00

WSR 78-04-086
PROPOSED RULES
STATE BOARD OF EDUCATION
 [Filed Apr. 4, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning chapter 180-80 WAC, Teacher Education and Certification—repeal sections as follows (to be incorporated in new chapters 180-78 and/or 180-79 WAC): WAC 180-80-195, 200, 201, 202, 217, 220, 245, 247, 250, 251, 256, 258, 260, 265, 275, 304, 305,

310, 510, 520, 522, 525, 533, 535, 540, 545, 550, 600, 610, 700, 710, 720, 730, and 740;

Amend WAC 180-80-205 to conform with repealing acting, and amend WAC 180-80-280 for consistency with new chapters 180-78 and 180-79 WAC;

that such agency will at 9:00 a.m., Thursday, May 11, 1978, in the Dept. of Social and Health Services Auditorium, Office Building 2, 12th and Franklin Streets, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Friday, May 12, 1978, in the DSHS Auditorium, OB 2, 12th and Franklin, Olympia, WA.

The authority under which these rules are proposed is RCW 28A.04.120 and chapters 28A.70 and 28A.93 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 11, 1978 and/or orally at 9:00 a.m., Thursday, May 11, 1978, DSHS Auditorium, OB 2, 12th and Franklin, Olympia, WA.

Dated: April 4, 1978
 By: Wm. Ray Broadhead
 Secretary

AMENDATORY SECTION (Amending Order 5-77, filed 6/1/77)

WAC 180-80-205 WASHINGTON PROGRAM OF TEACHER EDUCATION—PROVISIONAL AND STANDARD CERTIFICATES. (1) The three phases of the Washington program of teacher education are:

First. Four years of college education leading to the provisional certificate.

Second. Three years of teaching experience under the cooperative guidance of the colleges, local school districts and educational service district superintendents.

Third. A fifth year of college study leading to the standard certificate. This study may be taken during a regular college year or during summer sessions.

(2) Beginning teachers receive preparation and supervised experience with students in the various school grades to give them an understanding of both elementary and secondary school programs. Major emphasis may be placed on one level or both levels or in a specific subject field, grades K through 12. (See WAC 180-80-530 ((through 180-80-550)) relating to guidelines and standards for teacher education leading to teacher certification.)

AMENDATORY SECTION (Amending Order 13-75, filed 10/28/75)

WAC 180-80-280 ADMINISTRATORS' CREDENTIALS—REQUIREMENTS—TYPES—EFFECTIVE DATE—INTERPRETATION OF STANDARDS. The issuance of administrators' credentials shall be in accordance with the requirements hereinafter in WAC 180-80-285 through 180-80-312 set forth.

((+)) The types of such credentials shall be provisional and standard and shall be designated elementary principal, secondary principal, general principal and superintendent, respectively.

((2) Reasonable flexibility may be applied in interpretation of the standards for administrator preparation and certification set forth in WAC 180-80-285 through 180-80-312 consistent with the intent of the standards and based on the professional evaluation of preparation programs and individual applicants' qualifications.))

REPEALER

The following sections of the Washington Administrative Code are repealed:

- (1) WAC 180-80-195 PURPOSE.
- (2) WAC 180-80-200 TEACHERS—GENERAL PROVISIONS.

- (3) WAC 180-80-201 EVALUATION OF PREPARATION AND EXPERIENCE TO DETERMINE EQUIVALENCY OF QUALIFICATIONS FOR TEACHER CERTIFICATION.
- (4) WAC 180-80-202 STATE HISTORY AND GOVERNMENT.
- (5) WAC 180-80-217 EXTENSION OF COMMON SCHOOL CERTIFICATION TO EXPERIENCED COLLEGE TEACHERS.
- (6) WAC 180-80-220 VOCATIONAL EDUCATION CERTIFICATION—QUALIFICATIONS FOR—GENERAL PROVISIONS.
- (7) WAC 180-80-245 ADULT EDUCATION CERTIFICATION.
- (8) WAC 180-80-247 HIGH SCHOOL LIBRARIAN CERTIFICATION.
- (9) WAC 180-80-250 SPECIAL AND SUBSTITUTE CERTIFICATES.
- (10) WAC 180-80-251 PERMITS.
- (11) WAC 180-80-256 CERTIFICATION OF OUT-OF-STATE TRAINED TEACHERS—INTERSTATE EDUCATIONAL PERSONAL CONTRACTS.
- (12) WAC 180-80-258 CERTIFICATION OF OUT-OF-STATE TRAINED TEACHERS—GENERAL PROVISIONS.
- (13) WAC 180-80-260 CERTIFICATION OF OUT-OF-STATE TRAINED TEACHERS—ELEMENTARY CERTIFICATES.
- (14) WAC 180-80-265 CERTIFICATION OF OUT-OF-STATE TRAINED TEACHERS—SECONDARY CERTIFICATES.
- (15) WAC 180-80-275 ACCREDITATION OF PRIVATE TEACHERS OF MUSIC.
- (16) WAC 180-80-304 ADMINISTRATORS' CREDENTIALS—ASSISTANT PRINCIPALS—ASSISTANT SUPERINTENDENTS
- (17) WAC 180-80-305 ADMINISTRATORS' CREDENTIALS—PROCEDURES—FOR GUIDANCE OF APPLICANTS.
- (18) WAC 180-80-310 ADMINISTRATORS' CREDENTIALS—OUT-OF-STATE APPLICANTS—OUT-OF-STATE STUDY.
- (19) WAC 180-80-510 GUIDELINES AND STANDARDS FOR PROGRAMS OF PREPARATION LEADING TO TEACHER CERTIFICATION—BASIC PRINCIPLES AND MAJOR FEATURES.
- (20) WAC 180-80-520 GUIDELINES AND STANDARDS FOR PROGRAMS OF PREPARATION LEADING TO TEACHER CERTIFICATION—INSTITUTION TO PLAN PROGRAM—DEFINITION OF TEACHING ROLE.
- (21) WAC 180-80-522 GUIDELINES AND STANDARDS FOR PROGRAMS OF PREPARATION LEADING TO TEACHER CERTIFICATION—COMMUNITY COLLEGE PARTICIPATION IN TEACHER PREPARATION.
- (22) WAC 180-80-525 GUIDELINES AND STANDARDS FOR PROGRAMS OF PREPARATION LEADING TO TEACHER CERTIFICATION—SELECTION, RETENTION AND RECOMMENDATION OF TEACHER CANDIDATES.
- (23) WAC 180-80-533 GUIDELINES AND STANDARDS FOR PROGRAMS OF PREPARATION LEADING TO TEACHER CERTIFICATION—ASSIGNMENT OF BEGINNING TEACHERS.
- (24) WAC 180-80-535 GUIDELINES AND STANDARDS FOR PROGRAMS OF PREPARATION LEADING TO TEACHER CERTIFICATION—FOLLOW-UP OF BEGINNING TEACHER GRADUATES.
- (25) WAC 180-80-540 GUIDELINES AND STANDARDS FOR PROGRAMS OF PREPARATION LEADING TO TEACHER CERTIFICATION—FIFTH-YEAR PROGRAM.
- (26) WAC 180-80-545 GUIDELINES AND STANDARDS FOR PROGRAMS OF PREPARATION LEADING TO TEACHER CERTIFICATION—PROGRAM PLANNING.
- (27) WAC 180-80-550 GUIDELINES AND STANDARDS FOR PROGRAMS OF PREPARATION LEADING TO TEACHER CERTIFICATION—PROGRAM APPROVAL AND REVIEW.
- (28) WAC 180-80-600 SUBSTANDARD CERTIFICATION OF TEACHERS.

- (29) WAC 180-80-610 EDUCATIONAL EXPERIENCE ACCEPTABLE FOR TEACHER CERTIFICATION.
- (30) WAC 180-80-700 GUIDELINES AND STANDARDS FOR DEVELOPMENT AND APPROVAL OF PROGRAMS OF PREPARATION—CERTIFICATION OF SCHOOL PROFESSIONAL PERSONNEL.
- (31) WAC 180-80-710 GUIDELINES AND STANDARDS FOR DEVELOPMENT AND APPROVAL OF PROGRAMS OF PREPARATION—CONSORTIUM OF AGENCIES DEFINED.
- (32) WAC 180-80-720 GUIDELINES AND STANDARDS FOR DEVELOPMENT AND APPROVAL OF PROGRAMS OF PREPARATION—CONSORTIUM PROGRAMS.
- (33) WAC 180-80-730 GUIDELINES AND STANDARDS FOR DEVELOPMENT AND APPROVAL OF PROGRAMS OF PREPARATION—STATE BOARD OF EDUCATION AND SUPERINTENDENT OF PUBLIC INSTRUCTION.
- (34) WAC 180-80-740 GUIDELINES AND STANDARDS FOR DEVELOPMENT AND APPROVAL OF PROGRAMS OF PREPARATION—EFFECTIVE DATE OF ISSUANCE OF CERTIFICATES.

WSR 78-04-087

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed April 4, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning chapter 180-84 WAC, Specialized Personnel Standards—repeal sections as follows (to be incorporated in new chapters 180-78 and/or 180-79 WAC): WAC 180-84-010, 180-84-560 and 180-84-565;

that such agency will at 9:00 a.m., Thursday, May 11, 1978, in the Department of Social and Health Services Auditorium, Office Bldg. 2, 12th and Franklin Streets, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Friday, May 12, 1978, in the DSHS Auditorium, OB 2, 12th and Franklin, Olympia, WA.

The authority under which these rules are proposed is RCW 28A.04.120 and chapters 28A.70 and 28A.93 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 11, 1978, and/or orally at 9:00 a.m., Thursday, May 11, 1978, DSHS Auditorium, OB 2, 12th and Franklin, Olympia, WA.

Dated: April 4, 1978

By: Ray Broadhead
Secretary

REPEALER

The following sections of the Washington Administrative Code are repealed:

- (1) WAC 180-84-010 BASIC PRINCIPLES.
- (2) WAC 180-84-560 CERTIFICATION OF SCHOOL NURSES—ASSIGNMENT OF PERSONNEL.
- (3) WAC 180-84-565 EDUCATIONAL STAFF ASSOCIATE CERTIFICATION—EFFECTIVE DATE OF ISSUANCE—SPECIALIZED PERSONNEL CERTIFICATES DISCONTINUED.

WSR 78-04-088
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed April 4, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning chapter 180-90 WAC, Private Schools—to implement provisions of the Basic Education Act relating to program hour offerings;

that such agency will at 9:00 a.m., Thursday, May 11, 1978, in the Dept. of Social and Health Services Auditorium, Office Building 2, 12th and Franklin, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Friday, May 12, 1978, in the DSHS Auditorium, OB 2, 12th and Franklin, Olympia, WA.

The authority under which these rules are proposed is RCW 28A.02.201 and 28A.04.120(4) et seq.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 11, 1978, and/or orally at 9:00 a.m., Thursday, May 11, 1978, DSHS Auditorium, OB 2, 12th and Franklin, Olympia, WA.

Dated: April 4, 1978
By: Wm. Ray Broadhead
Secretary

AMENDATORY SECTION (Amending Order 2-77, filed 3/24/77)

WAC 180-90-120 DEFINITIONS. (1) An "approved private school" operating any or all of grades 1 through 12 is one which meets all requirements established by the state board of education as set forth in WAC 180-90-110 through 180-90-160.

(2) "Approval" means the state board of education has certified that a private school meets those minimal standards required by chapter 28A.02 RCW.

(3) "Major deviation" shall mean a variance from the standards established by these regulations which involves a substantial health or safety hazard, or raises a question as to the ability of the school to provide an educational program which substantially complies with the minimum standards set forth in WAC 180-90-160, but is not so serious as to constitute an unacceptable deviation.

(4) "Minor deviation" shall mean a variance from the standards established by these regulations which represents little or no threat to the health or safety of students and school personnel, and which does not raise a question as to the ability of the school to provide an educational program which is in substantial compliance with the minimum standards set forth in WAC 180-90-160, and which, therefore, does not preclude the granting of full approval.

(5) "Private school", as used in these regulations, shall include non-public, parochial, or independent schools, and nonpublic, parochial, or independent school districts.

(6) "Reasonable health requirements" shall be those standards contained in chapter 248-64 WAC as adopted by the state board of health, as now or hereafter amended: PROVIDED, That where a private school is a private residence in which parents teach their own natural or legally adopted or step children, reasonable health requirements shall be those provisions of state and local health codes applicable to private residences.

(7) "Reasonable fire safety requirements" shall be those standards adopted by the state fire marshal pursuant to chapter 48.48 RCW, as now or hereafter amended.

(8) "Unacceptable deviation" shall mean a variance from the standards established by these regulations which either:

(a) constitutes a serious, imminent threat to the health or safety of students or school personnel; or

(b) demonstrates that the school is not capable of providing an educational program which substantially complies with the minimum standards set forth in WAC 180-90-160.

(9) "Minimum standards for approval" shall be those standards set forth in WAC 180-90-160.

(10) The term "total program hour offering" shall mean those hours when students are provided the opportunity to engage in educational activity planned by and under the direction of school staff, as directed by the administration and board of directors, inclusive of intermissions for class changes and recess and exclusive of intermission for meals.

AMENDATORY SECTION (Amending Order 2-77, filed 3/24/77)

WAC 180-90-160 MINIMUM STANDARDS AND CERTIFICATE FORM. The annual certificate required by WAC 180-90-130 shall be in substantial compliance with the form and substance of the following:

CERTIFICATE OF COMPLIANCE
WITH STATE STANDARDS

STATE OF WASHINGTON

County of _____ } ss.

I, _____, being first duly sworn on oath or affirmation, do hereby certify that I am the principal or chief administrator of _____ school [or, the superintendent of the _____ school district]; that said school [or, that the schools within said district] is [are] located at _____, Washington _____ [zip], and conducts [conduct] grades _____ through _____; and that said school[s] meets [meet], and is [are] scheduled to meet throughout the _____ school year, the following standards with the exception only of such deviations as are set forth below: (1) The minimum school year consists of no fewer than 180 school days (for all matters pertaining to teacher certification or for computing experience in teaching);

(2) On each school day, pupils enrolled in the school are provided the opportunity to be engaged in educational activity planned by and under the direction of the staff, as directed by the administration and governing board;

(a) Each private school shall make available to students in grades one through three at least a total program hour offering of 2700 hours.

(b) Each private school shall make available to students in grades four through six at least a total program hour offering of 2970 hours.

(c) Each private school shall make available to students in grades seven and eight at least a total program hour offering of 1980 hours.

(d) Each private school shall make available to students in grades nine through twelve at least a total program hour offering of 4320 hours.

(3) All classroom teachers hold appropriate Washington State certification except for:

(a) teachers for religious courses or courses for which no counterpart exists in the public schools; and/or

(b) people of recognized professional competence who are not certificated, but who teach students under the supervision of a certificated person in exceptional cases;

(c) those people of recognized professional competence who do, and to the best of my knowledge will, teach without a certificate and the circumstances necessitating their employment without a certificate are as follows: _____;

(4) Measures have been taken to safeguard all permanent records against loss or damage through either the storage of such records in fire-resistant containers or facilities, or the retention of duplicates in a separate and distinct area;

(5) The physical facilities of the school are adequate to meet the program offered, and all school facilities and practices are in substantial compliance with reasonable health and fire safety standards, as substantiated by current inspection reports of appropriate health and fire safety officials which are on file in the chief administrator's office;

(6) The school's curriculum includes instruction in the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music in sufficient units for meeting state board of education graduation requirements, as set forth in chapter 180-56 WAC, as now or hereafter amended;

(7) Each teacher has a valid health certificate required by law and by the state department of social and health services on file with the educational service district within which the school is located;

(8) The school or its organized district maintains up-to-date policy statements related to the administration and operation of the school or district;

(9) The school does not engage in a policy of racial segregation or discrimination.

Deviations from the above standards are, and to the best of my knowledge will be, as follows: -----

----- (signed) -----
----- (address) -----
----- (phone number) -----

On this day of, 19 (name) known to me to be the chief administrator of (school or district) appeared before me and, having first been sworn on oath or affirmation, did subscribe to the foregoing.

NOTARY PUBLIC in and for the state of Washington, residing at -----

WSR 78-04-089
PROPOSED RULES
PARKS AND RECREATION COMMISSION
[Filed April 4, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Parks and Recreation Commission intends to adopt, amend, or repeal rules concerning the integration of the policies and procedures of the State Environmental Policy Act into the various programs under the jurisdiction of the Washington State Parks and Recreation Commission, chapter 352-10 WAC;

that such agency will at 9:30 a.m., Monday, May 15, 1978, in the Wapato Point Inn, Manson, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:30 a.m., Monday, May 15, 1978, in the Wapato Point Inn, Manson, WA.

The authority under which these rules are proposed is RCW 43.21C.120 and 43.51.040(2).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 12, 1978 and/or orally at 9:30 a.m., Monday, May 15, 1978, Wapato Point Inn, Manson, WA.

Dated: Apr. 3, 1978
By: James H. Davenport
Assistant Attorney General

Chapter 352-10 WAC
GUIDELINES INTERPRETING AND IMPLEMENTING THE
STATE ENVIRONMENTAL POLICY ACT

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-010 AUTHORITY. This chapter is promulgated pursuant to ~~((the direction provided in))~~ RCW 43.21C.120. The adoption of guidelines by the Washington state parks and recreation commission shall not be an "action" as defined in WAC 352-10-040(2).

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-020 PURPOSE. (1) The purpose of this chapter is to establish state-wide guidelines interpreting and implementing the state environmental policy act of 1971 (SEPA) for the Washington state parks and recreation commission, hereinafter referred to as the commission.

(2) These guidelines were developed to establish methods and means of implementing SEPA "in a manner which reduces duplicative and wasteful practices, establishes effective and uniform procedures, encourages public involvement, and promotes certainty with respect to the requirements of the act".

(3) These guidelines ~~((are))~~ do not ~~((intended to))~~ govern compliance by the commission with respect to the national environmental policy act of 1969 (NEPA). ~~((In those situations where))~~ When the commission is required by federal law or regulations to perform some element of compliance with NEPA, such agency compliance will be governed by the applicable federal statute and regulations and not by these guidelines.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-025 SCOPE AND COVERAGE OF THIS CHAPTER. (1) ~~((It is the intent of the Commission that))~~ Compliance with the guidelines of this chapter shall constitute complete procedural compliance by the commission with SEPA for any "action" as defined in WAC 352-10-040(2).

(2) The guidelines of this chapter ~~((contain no sections relating to))~~ do not cover the notice/statute of limitations provisions of RCW 43-21C.080, 43.21C.085 and 43.21C.087. To utilize these provisions, the commission shall follow the statutory language ~~((and any applicable regulations of the department of ecology)).~~

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-040 DEFINITIONS. The following words and terms have the following meanings for the purposes of this chapter, unless the context indicates otherwise:

(1) Acting agency ~~((Acting agency))~~ means an agency with jurisdiction which has received an application for a license, or which is ~~((the initiator of a proposed))~~ proposing an action.

(2) Action ~~((Action))~~ means an activity potentially subject to the environmental impact statement requirements of RCW 43.21C.030(2)(c) and (2)(d). ~~((It))~~ See ~~((the provisions of))~~ WAC 352-10-170 and 352-10-180 for activities that are exempted from the threshold determination and environmental impact statement requirements of SEPA and these guidelines ~~((due to the Commission's determination that such activities are minor, not "major", actions, even though such activities are within one of the subcategories below)).~~ ~~((It))~~ All actions fall within one of the following subcategories:

(a) Governmental licensing of activities involving modification of the physical environment.

(b) Governmental action of a project nature. This includes and is limited to:

(i) the decision by an agency to undertake any activity which will directly modify the physical environment, whether such activity will be undertaken directly by the agency or through contract with another, and

(ii) the decision to purchase, sell, lease, transfer or exchange natural resources, including publicly owned land, whether or not ~~((it directly modifies))~~ the environment is directly modified.

(c) Governmental action of a nonproject nature. This includes and is limited to:

(i) the adoption or amendment of legislation, ordinances, rules or regulations which contain standards controlling use or modification of the physical environment;

(ii) the adoption or amendment of comprehensive land use plans ~~((or zoning ordinances));~~

(iii) the adoption of any policy, plan or program which will govern the development of a series of functionally related major actions, but not including any policy, plan or program for which approval must be obtained from any federal agency prior to implementation;

(iv) creation of, or annexations to, any city, town or district;

(v) adoptions or approvals of utility, transportation and solid waste disposal rates;

(vi) capital budgets; and

~~((It))~~ (vii) road, street and highway plans.

(3) ~~((Agencies)) Agency with expertise((-Agencies with expertise))~~ means ~~((those agencies to which a draft environmental impact statement shall be sent pursuant to)) an agency listed in WAC 352-10-465, unless ((they are)) it is also ((agencies)) an agency with jurisdiction.~~

(4) ~~((Agencies)) Agency with jurisdiction((-Agencies with jurisdiction))~~ means ~~((those agencies)) an agency from which a nonexempt license is required for a proposal or any part thereof, ((or)) which will act upon an application for a grant or loan for a proposal, or ((agencies)) which ~~((are proposing)) proposes or ((initiating)) initiates any governmental action of a project or nonproject nature. The term does not include ((those agencies)) an agency authorized to adopt rules or standards of general applicability which govern the proposal in question, when no license or approval is required for a specific proposal((s; nor does)).~~ The term also does not include ~~((agencies)) an agency, involved in approving ((grants or loans)) a grant or loan, which serves only as a conduit((s)) between the primary administering agency and the recipient of the grant or loan. Federal agencies with jurisdiction are ((instrumentalities)) agencies of the federal government from which a license is required, or which will receive an application for a grant or loan for a proposal.~~~~

(5) Agency or agencies~~((Agency or agencies mean))~~ means all state agencies and local agencies as defined in this section. The term does not include any agency or division of the federal government. Whenever a specific agency has been named in these guidelines and the functions of that agency have been transferred to another agency, then the term shall mean ~~((such)) the successor agency.~~

(6) Authorized public use~~((Authorized Public Use))~~ shall not be construed to have occurred unless the particular parcel of real property in question has developed facilities which have been subject to public use and/or has been specifically designated and classified for such public use without developed facilities.

(7) Commission~~((Commission))~~ means the Washington state parks and recreation commission.

(8) CEP~~((CEP))~~ means the council on environmental policy. As directed by the legislature, the council on environmental policy ceased to exist on July 1, 1976, and its duties were transferred to the department of ecology (DOE). All reference to CEP in these guidelines should now be read to mean department of ecology.

(9) Consulted agency~~((Consulted agency))~~ means any agency with jurisdiction or with expertise which is ~~((consulted, or from which information is requested by a lead agency during the threshold determination, pre-draft consultation, or consultation on a draft environmental impact statement)) requested by the lead agency to provide information during a threshold determination or predraft consultation or which receives a draft environmental impact statement. An agency shall not be considered to be a consulted agency merely because it receives a proposed declaration of nonsignificance.~~

(10) County/city~~((County/city))~~ means a county, city or town. ~~((For the purposes of)) In this chapter, duties and powers are assigned to a county, city or town as a unit((-with)). The delegation of responsibilities among the various departments of a county, city or town ((being)) is left to the legislative or charter authority of the individual counties, cities or towns.~~

(11) Declaration of nonsignificance~~((Declaration of non-significance))~~ means the written decision by the responsible official of the lead agency that a proposal will not have a significant adverse environmental impact and that therefore no environmental impact statement is required. The form provided in WAC 352-10-355 shall be used for this declaration.

(12) Declaration of significance~~((Declaration of significance))~~ means the written decision by the responsible official of the lead agency that a proposal will or could have a significant adverse environmental impact and that therefore an environmental impact statement is required. The form in WAC 352-10-355 shall be used for this declaration.

(13) Draft EIS~~((Draft EIS))~~ means an environmental impact statement prepared prior to the final detailed statement.

(14) EIS~~((EIS))~~ means the detailed statement required by RCW 43.21C.030(2)(c). ~~((It)) This term may refer to either a draft or final environmental impact statement, or both, depending upon context.~~

(15) Environment~~((Environment))~~ means, and is limited to, those areas listed in WAC 352-10-444.

(16) Environmental checklist~~((Environmental checklist))~~ means the form contained in WAC 352-10-365.

(17) Environmental document~~((Environmental document))~~ means every written public document prepared or utilized as a result of the requirements of this chapter.

(18) Environmentally sensitive area~~((Environmentally sensitive area))~~ means an area designated and mapped by a county/city pursuant to WAC 352-10-177~~((, and within which)). Certain categorical exemptions do not apply within environmentally sensitive areas.~~

(19) Final EIS~~((Final EIS))~~ means an environmental impact statement prepared to reflect comments to the draft EIS. It may ~~((consist of)) be a new document, or ((of)) the draft EIS ((together, with supplementary)) supplemented by material prepared pursuant to WAC 352-10-570, 352-10-580 or 352-10-695.~~

(20) Lands covered by water~~((Lands covered by water))~~ means lands underlying the water areas of the state below the ordinary high water mark, including salt waters, tidal waters, estuarine waters, natural water courses, lakes, ponds, artificially impounded waters, marshes and swamps. Certain categorical exemptions do not apply to lands covered by water.

(21) Lead agency~~((Lead agency))~~ means the agency designated by ~~((the provisions of)) WAC 352-10-200 through 352-10-270 or 352-10-345((-which)). The lead agency is responsible for making the threshold determination and preparing or supervising preparation of the draft and final environmental impact statements.~~

(22) License~~((License))~~ means any form of written permission given to any person, organization or agency to engage in any activity, as required by law or agency rule. A license ~~((thus)) includes ((the whole)) all or part of any agency permit, certificate, approval, registration, charter, or plat approvals or rezones to facilitate a particular project((s)). The term does not include a license required solely for revenue purposes ((is not included)).~~

(23) Licensing~~((Licensing))~~ means the agency process in granting, renewing or modifying a license.

(24) List of elements of the environment~~((List of elements of the environment))~~ means the list ~~((contained)) in WAC 352-10-444 which must be attached to every environmental impact statement.~~

(25) Local agency~~((Local agency))~~ means any political subdivision, regional governmental unit, district, municipal or public corporation including cities, towns and counties. The term does not include the departments of a city or county.

(26) Major action~~((Major action))~~ means any "action" as defined in this section which is not exempted by WAC 352-10-170 and 352-10-180.

(27) Nonproject EIS~~((Non-project EIS))~~ means an environmental impact statement prepared for a proposal for any governmental action of a nonproject nature as defined under "action" in this section.

(28) Physical environment~~((Physical environment))~~ means, and is limited to, those elements of the environment listed under "physical environment" in WAC 352-10-444(2).

(29) Private applicant~~((Private applicant))~~ means any person or entity, other than an agency as defined in this section, applying for a license from an agency.

(30) Private project~~((Private project))~~ means any proposal ~~((for which the primary initiator or sponsor is)) primarily initiated or sponsored by an individual or entity other than an "agency" as defined in this section.~~

(31) Proposal~~((Proposal))~~ means a specific request to undertake any activity submitted to, and ~~((which is)) seriously considered by, an agency or a decision-maker within an agency, as well as any action or activity which may result from approval of any such request. ((Further definition of)) The scope of a proposal for the purposes of lead agency determination, the threshold determination, and impact statement preparation is ~~((contained)) further defined in WAC 352-10-060.~~~~

(32) Responsible official~~((Responsible official))~~ means that officer or officers, committee, department or section of the lead agency designated by the lead agency's guidelines to undertake its responsibilities as lead agency ~~((f)) (see WAC 352-10-820((f))).~~

(33) SEPA~~((SEPA))~~ means the state environmental policy act of 1971, chapter 43.21C RCW, as amended.

(34) State agency~~((State Agency))~~ means any state board, commission or department, except those in the legislative or judicial branches. The term includes the office of the governor and the various divisions thereof, state universities, colleges and community colleges.

(35) Threshold determination~~((Threshold determination))~~ means the decision by a lead agency whether or not an environmental impact statement is required for a proposal.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-050 USE OF THE ENVIRONMENTAL CHECKLIST FORM. A form is provided in WAC 352-10-365 for an environmental checklist to be initially completed by an action proponent, whether public or private(;;). This may be done either alone or together with the lead agency, but is usually done in conjunction with a license application. This form must be used in the threshold determination; it will also be helpful in making the lead agency designation and in predraft consultation. However, where there is an agreement between the proponent ((of a nonexempt action (whether a private applicant or an agency which is not the lead agency))) and the lead agency that an EIS is required, the completion of the environmental checklist is unnecessary. ((Where the action proponent and the lead agency are the same entity, and a decision to prepare an EIS has been made, then no checklist is required.))

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-055 TIMING OF THE EIS PROCESS. (1) The primary purpose of the EIS process is to provide environmental information to governmental decision-makers to be considered prior to making their decision. The process should thus be completed before the decisions of the commission commit it to a particular course of action. The actual decision to proceed with many actions may involve a series of individual approvals or decisions. The threshold determination and the EIS, if required, should ideally be completed at the beginning of this process. In many cases, however, preliminary decisions must be made upon a proposal before the proposal is sufficiently definite to permit meaningful environmental analysis. All decisions on SEPA applicability and degree or severity of impact will be made on a case by case basis. The lead agency should require completion of the threshold determination and EIS, if required, at the earliest point in the planning and decision-making process when the principal features of a proposal and its impacts upon the environment can be reliably identified.

(2) At a minimum, the threshold determination and any required EIS shall be completed prior to undertaking any proposed major action.

(3) ((When a proposed major action is a proposal for either a governmental action of a project nature or a governmental action of a nonproject nature, and the proponent of the major action is also the lead agency, then)) The maximum time limits contained in these guidelines for the threshold determination and EIS process ((need)) do not apply to ((the)) a proposal for a governmental action when the proponent of the action is also the lead agency.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-060 SCOPE OF A PROPOSAL AND ITS IMPACTS FOR THE PURPOSES OF LEAD AGENCY DETERMINATION, THRESHOLD DETERMINATION, AND EIS PREPARATION. (1) The proposal considered by an acting agency during the lead agency determination procedure, and by the lead agency during the threshold determination and EIS preparation, shall be the total proposal including its direct and indirect impacts. Whenever the word "proposal" or the term "proposed action" is used in this chapter, the discussion in subsection (2) ((hereof is applicable)) of this section applies. In considering the environmental impacts of a proposal during the threshold determination and EIS preparation, the discussion in subsection (3) ((hereof is applicable)) of this section applies.

(2) The total proposal is the proposed action, together with all proposed activity ((which is)) functionally related to it. Future activities are functionally related to the present proposal if:

(a) The future activity is an expansion of the present proposal, facilitates or is necessary to operation of the present proposal ((or is necessary thereto)); or

(b) The present proposal facilitates or is a necessary prerequisite to future activities.

The scope of the proposal is not limited by the jurisdiction of the lead agency. The fact that future ((impacts)) parts of a proposal will require future governmental approvals shall not be a bar to their present consideration, so long as the plans for those future ((elements)) parts are ((sufficiently)) specific enough to allow some evaluation of their potential environmental impacts. Acting agencies and lead agencies should be alert to the possibility that a proposal may involve other agencies with jurisdiction which may not be taking any action until sometime in the future.

(3) The impacts of a proposal include its direct impacts as well as its reasonably anticipated indirect impacts. Indirect impacts are those which result from any activity which is induced by a proposal. These include, but are not limited to ((consideration of)) impacts resulting from growth induced by the proposal, or the likelihood that the present action will serve as a precedent for future actions. Contemporaneous or subsequent development of a similar nature, however, need not be considered in the threshold determination unless there will be some causal connection between ((such)) this development and one or more of the governmental decisions necessary for the proposal in question.

(4) ((Proposals)) The lead agency may divide proposals involving extensive future actions ((may be divided, at the option of the lead agency)) into segments, with an EIS prepared for each segment. In such event, the earlier EIS shall describe the later segments of the proposal and note that future environmental analysis will be required for those future segments. The segmentation allowed by this subsection shall not be ((applied)) used at the threshold determination stage to determine that any segment of a more extensive significant proposal is insignificant; nor shall segmentation be applied ((so as)) to require significant duplication of analysis contained in an earlier EIS.

(5) For proposed projects, such as highways, streets, pipelines or utility lines or systems where the proposed action is related to a large existing or planned network, the lead agency may at its option treat the present proposal as the total proposal, or select only some of the future elements for present consideration in the threshold determination and EIS. These categorizations shall be logical with relation to the design of the total system or network ((itself)), and shall not be made merely to divide a larger system into exempted fragments.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-100 SUMMARY OF INFORMATION WHICH MAY BE REQUIRED OF A PRIVATE APPLICANT. (1) There are three areas of these guidelines where the commission is allowed to require information from a private applicant. These are:

- (a) Environmental checklist;
- (b) Threshold determination; and,
- (c) Draft and final EIS.

((The responsible official may determine that any information supplied by a private applicant is insufficient and require)) Further information(;;) may be required if ((in the judgment of)) the responsible official determines that the information initially supplied was not reasonably adequate to fulfill the purpose for which it was required. An applicant may ((choose to)) voluntarily submit, at any time, information beyond that which may be required under these guidelines.

(2) Environmental Checklist. A private applicant is required to complete an environmental checklist as set forth in WAC 352-10-365 either concurrently with or after filing the application. Explanations for each "yes" and "maybe" answer indicated thereon are required. The commission may not require a complete assessment or "mini-EIS" at this stage. ((f))(See WAC 352-10-310(f)).

(3) Threshold Determination. The lead agency shall make an initial review of a completed checklist without requiring more information from a private applicant. ((If, and only if, the lead agency determines as a result of its initial review that the information available to it is not reasonably sufficient to determine the environmental impacts of the proposal)) After completing this initial review, the lead agency may require further information from the applicant, including explanation of "no" answers on the checklist. This information shall be limited to those elements on the environmental checklist for which, as determined by the lead agency, information accessible to the lead agency is not reasonably sufficient to evaluate the environmental impacts of the proposal. Field investigations or research by the applicant reasonably related to determining the environmental impacts of the proposal may be required. ((f))(See WAC 352-10-330(f)).

(4) Draft and Final EIS Preparation. An EIS may be prepared by the applicant under the direction of the responsible official. ((f))(See WAC 352-10-420(f)). Alternatively, the responsible official may require a private applicant to provide data and information which is not in the possession of the lead agency relevant to any or all areas to be covered by an EIS. A private applicant shall not be required to provide information which is the subject of a predraft consultation request until the consulted agency has responded, or the forty-five days allowed for response by the consulted agency has expired, whichever is earlier.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-150 EXEMPTIONS EXCLUSIVE—CEP APPROVAL OF CHANGES IN EXEMPTIONS. (1) The only actions exempt from the threshold determination requirements of this chapter are those which are categorically exempted in WAC 352-10-170 and 352-10-180. Except to specify emergencies as allowed in WAC 352-10-180, the commission shall ~~((add))~~ create additional exemptions in these guidelines only after obtaining approval of CEP or its successor agency in accordance with either subsection (2) or (3) of this section.

(2) The commission may petition CEP, pursuant to RCW 34.04.060, ~~((for adoption of))~~ to adopt additional exemptions or ~~((for deletion of))~~ to delete existing exemptions through amendments to these guidelines. Such petition shall set forth the language of the amendment requested, the reasons for the requested amendment, the commission's views on the impacts to the environment resulting from the activities covered by the proposed amendment, and the approximate number of actions within any stated time period of the ~~((class))~~ type proposed for exemption or deletion which come before the agency. CEP shall consider and make a determination upon any such petition within thirty days of receipt~~((and))~~. If the determination is favorable, ~~((shall))~~ CEP will initiate the rule-making procedures of chapter 34.04 RCW, to amend these guidelines. Amendments to these guidelines will apply either generally or to specified classes of agencies. The commission shall amend these guidelines accordingly after the amendments to the CEP guidelines become effective.

(3) The commission may also petition CEP for an immediate ruling upon any request to add or delete an exemption. If such a petition is granted, CEP will ~~((so))~~ notify the commission, which may immediately thereafter include the modification approved by CEP in its own guidelines. CEP may thereafter initiate procedures to amend ~~((these))~~ the state guidelines to incorporate the approved modification. Until the CEP guidelines are amended, any modification granted under this subsection shall apply only to the commission.

(4) CEP will provide public notice of all proposed amendments to ~~((these))~~ the state guidelines in the manner required by the Washington Administrative Procedures Act (chapter 34.04. RCW). A copy of all CEP approvals under subsection (3) of this section will be given to all persons who have made request to CEP for advance notice of its rule-making proceedings.

(5) This section shall not be construed to limit the right of any interested person to petition CEP for the promulgation, amendment or repeal of any rule, including rules establishing categorical exemptions, in accordance with RCW 34.04.060.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-170 CATEGORICAL EXEMPTIONS. Governmental activities or approvals of activities of the types listed herein are not major actions, and proposals for such activities are exempted from the threshold determination and EIS requirements of SEPA and these guidelines:

(1) Minor new construction. The following types of construction shall be exempt except when undertaken wholly or in part on lands covered by water; the exemptions provided by this subsection apply to all ~~((governmental))~~ licenses required to undertake the construction in question, except when a rezone~~((s))~~ or any license governing emissions to the air or water is required:

(a) The construction or location of any residential structure of four dwelling units or less.

(b) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering less than 10,000 square feet and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feedlots.

(c) The construction of an office, school, commercial, recreational, service or storage building with less than 4,000 square feet of total floor area, and with associated parking facilities designed for twenty automobiles or less.

(d) The construction or designation of bus stops, loading zones, shelters, access facilities and pull-out lanes for taxicabs, transit and school vehicles.

(e) The construction and/or installation of commercial on-premise signs, and public signs and signals.

(f) The construction or installation of minor road and street improvements such as pavement marking, freeway surveillance and control systems, railroad protective devices (not including grade separated crossings), grooving, glare screen, safety barriers, energy attenuators,

~~((highway))~~ transportation corridor landscaping (including the application of Washington state department of agriculture approved herbicides by licensed personnel for right of way weed control as long as this is not within watersheds controlled for the purpose of drinking water quality in accordance with WAC 248-54-660), temporary traffic controls and detours, correction of substandard curves and intersections within existing rights of way, widening of a highway by less than a single lane width where capacity is not significantly increased and no new right of way is required, adding auxiliary lanes for localized purposes, (weaving, climbing, speed change, etc.), where capacity is not significantly increased and no new right of way is required, channelization and elimination of sight restrictions at intersections, street lighting, guardrail and barricade installation, installation of catch basins and culverts, and reconstruction of existing road bed (existing curb to curb in urban locations), including ~~((minor))~~ adding or widening of shoulders, addition of bicycle lanes, paths and facilities, and pedestrians walks and paths, but not including additional automobile lanes.

(g) The installation of hydrological measuring devices, regardless of whether or not on lands covered by water.

(h) The installation of any property, boundary or survey marker, other than fences, regardless of whether or not on lands covered by water.

(i) The construction of a parking lot designed for twenty automobiles or less.

(j) Any landfill or excavation of 500 cubic yards or less throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I, II, III and IV forest practice under ~~((chapter 200, Laws of 1975 ex. sess.))~~ RCW 76.09.050 or regulations promulgated thereunder, except those class IV forest practices designated by the forest practices board as being special forest practices and therefore subject to SEPA evaluation.

(k) The repair, maintenance or minor alteration of existing private or public structures, facilities or equipment, including utilities, involving no material expansions or changes in use beyond that previously existing.

(l) Grading, excavating, filling, septic tank installation, and landscaping necessary for any building or facility exempted by this subsection, as well as fencing and the construction of small structures and minor facilities accessory thereto.

(m) Additions or modifications to or replacement of any building or facility exempted by this subsection when such addition, modification or replacement will not change the character of the building or facility in a way which would remove it from an exempt class.

(n) The demolition of any structure or facility, the construction of which would be exempted by this subsection, except for structures or facilities with recognized historical significance.

(2) Water rights. The following appropriations of water shall be exempt, the exemption covering not only the permit to appropriate water, but also any hydraulics permit, shoreline permit or building permit required for a normal diversion or intake structure, well and pumphouse reasonably necessary to accomplish the exempted appropriation, and including any activities relating to construction of a distribution system solely for any exempted appropriation:

(a) Appropriations of fifty cubic feet per second or less of surface water for irrigation purposes, when done without a government subsidy.

(b) Appropriations of one cubic foot per second or less of surface water, or of ten cubic feet per second or less of ground water, for any purpose.

(3) Judicial activity. The following shall be exempt:

(a) All adjudicatory actions of the judicial branch.

(b) Any quasi-judicial action of the commission if such action consists of the review of a prior administrative or legislative decision. Decisions resulting from contested cases or other hearing processes conducted prior to the first decision on a proposal, or upon any application for a rezone, conditional use permit or other similar permit not otherwise exempted by this chapter, are not exempted by this subsection.

(4) Enforcement and inspections. The following enforcement and inspection activities shall be exempt:

(a) All actions, including administrative orders and penalties, undertaken to enforce a statute, regulation, ordinance, resolution or prior decision. No license shall be considered exempt by virtue of this subsection; nor shall the adoption of any ordinance, regulation or resolution be considered exempt by virtue of this subsection.

(b) All inspections conducted by the commission of either private or public property for any purpose.

(c) ~~((Fire department, police patrol and traffic law enforcement))~~ All activities of fire departments and law enforcement agencies except (where such involves any) physical construction activity.

(d) Any action undertaken by the commission to abate a nuisance or to abate, remove or otherwise cure any hazard to public health or safety ~~((PROVIDED, That no open burning shall be exempted under this subsection, nor shall))~~. The application of ~~((any pesticide or chemical))~~ pesticides or chemicals is not exempted by this subsection but may be exempted elsewhere in these guidelines. No license ((shall be considered exempt by virtue of this subsection, nor shall the)) or adoption of any ordinance, regulation or resolution shall be considered exempt by virtue of this subsection.

(e) Any suspension or revocation of a license for any purpose.

(5) Business and other regulatory licenses. The following business and other regulatory licenses are exempt:

(a) All licenses to undertake an occupation, trade or profession.

(b) All licenses required under electrical, fire, plumbing, heating, mechanical, and safety codes and regulations, but not including building permits.

(c) All licenses to operate or engage in amusement devices and rides and entertainment activities, including but not limited to cabarets, carnivals, circuses and other traveling shows, dances, music machines, golf courses, and theaters, including approval of use of public facilities for temporary civic celebrations, but not including licenses or permits required for permanent construction of any of the above.

(d) ~~((Licenses for solicitation or door to door sales, private security and detective services, and taxicabs and other vehicles for hire: PRO-VIDED, That regulation of common carriers by the utilities and transportation commission shall not be considered exempt under this subsection:))~~ All licenses to operate or engage in charitable or retail sales and service activities, including but not limited to peddlers, solicitors, second hand shops, pawnbrokers, vehicle and housing rental agencies, tobacco sellers, close out and special sales, fireworks, massage parlors, public garages and parking lots, and used automobile dealers.

(e) ~~((Licenses for close-out sales:))~~ All licenses for private security services, including but not limited to detective agencies, merchant and/or residential patrol agencies, burglar and/or fire alarm dealers, guard dogs, locksmiths, and bail bond services.

(f) ~~((Licenses for food or drink services, sales and distribution:))~~ All licenses for vehicles for-hire and other vehicle related activities, including but not limited to taxicabs, ambulances, and tow trucks: PRO-VIDED, That regulation of common carriers by the utilities and transportation commission shall not be considered exempt under this subsection.

(g) ~~((Licenses for the sale or display of fireworks:))~~ All licenses for food and drink services, sales, and distribution, including but not limited to restaurants, liquor, and meat.

(h) All animal control licenses, including but not limited to pets, kennels, and pet shops. Establishment or construction of such a facility shall not be considered exempt by this subsection.

(i) The renewal or reissuance of a license regulating any present activity or structure ~~((that was either exempted under this chapter, or the subject of a declaration of nonsignificance or an EIS, so long as no material changes have occurred since the determination of exemption, or completion of the prior declaration or EIS)).~~

(6) Activities of the legislature. All actions of the state legislature are hereby exempted: PROVIDED, That this subsection shall not be construed to exempt the proposing of legislation by any agency.

(7) Activities of the commission. The following administrative, fiscal and personnel activities of the commission and other agencies shall be exempt:

(a) The procurement and distribution of general supplies, equipment and services ~~((previously))~~ authorized, or necessitated by previously approved functions or programs.

(b) The assessment and collection of taxes.

(c) The adoption of all budgets and agency requests for appropriation: PROVIDED, That if such adoption includes a final agency decision to undertake a major action, that portion of the budget is not exempted by this subsection.

(d) The borrowing of funds, issuance of bonds, or applying for a grant and related financing agreements and approvals.

(e) The review and payment of vouchers and claims.

(f) The establishment and collection of liens and service billings.

(g) All personnel actions, including hiring, terminations, appointments, promotions, allocations of positions, and expansions or reductions in force.

(h) All agency organization, reorganization, internal operational planning or coordination of plans or functions.

(i) Adoptions or approvals of utility, transportation and solid waste disposal rates.

(j) The activities of school districts pursuant to desegregation plans or programs: PROVIDED, That construction or real property transactions or the adoption of any policy plan or program for such construction or real property transaction shall not be considered exempt under this subsection.

(8) Review and comment actions. Any activity where the responsible official of the commission reviews or comments upon the actions of another agency or another division within the commission shall be exempt.

(9) Purchase or sale of real property. The following real property transactions by the commission and other agencies shall be exempt:

(a) The purchase or acquisition of any right to real property ~~((by the Commission)).~~

(b) The sale, transfer or exchange of any publicly owned real property ~~((by the Commission to or with a private individual or governmental entity)), but only if the property is not subject to an authorized public use. ((f))(See WAC 352-10-040(6)(f)).~~

(c) The lease of real property ~~((by an agency to a private individual or entity, or to an agency or federal agency, only))~~ when the use of the property for the term of the lease will remain essentially the same as the existing use, or when the use under the lease is otherwise exempted by this chapter.

(10) Minor land use decisions. The following land use decisions shall be exempt:

(a) Except upon lands covered by water, the approval of short plats or short subdivisions pursuant to the procedures required by RCW 58-.17.060, but not including further short subdivision or short platting within a plat or subdivision previously exempted under this subsection.

(b) Granting of variances based on special circumstances, not including economic hardship, applicable to the subject property, such as size, slope, topography, location or surroundings and not resulting in any change in land use or density.

(c) Classification of land for current use taxation pursuant to chapter 84.34 RCW, and classification and grading of forest land under chapter 84.33 RCW.

(11) Procedural actions. The proposal or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment shall be exempt.

~~((f))~~ (12) Acceptance of filings. The acceptance by the commission of any document or thing required or authorized by law to be filed with the commission and for which the commission has no discretionary power to refuse acceptance shall be exempt. No license shall be considered exempt by virtue of this subsection.

(13) Variances under clean air act. The granting of variances pursuant to RCW 70.94.181 extending applicable air pollution control requirements for one year or less shall be exempt.

(14) Open burning. Open burning and the issuance of any license for open burning shall be exempt. The adoption of plans, programs, objectives or regulations by any agency incorporating general standards respecting open burning shall not be exempt.

(15) Water quality certifications. The granting or denial of water quality certifications pursuant to the Federal Water Pollution Control Act Amendments of 1972 (33 USC section 1341) shall be exempt.

~~((f))~~ (16) Financial assistance grants. The approval of grants or loans by one agency to another shall be exempt, although an agency may at its option require compliance with SEPA prior to making a grant or loan for design or construction of a project.

~~((f))~~ (17) Information collection and research. Proposals for basic data collection, research, resource evaluation and the conceptual planning of proposed actions shall be exempt. These may be for strictly information-gathering purposes, or as part of a study leading to a proposal which has not yet been approved, adopted or funded. This exemption does not include any action which commits the commission to proceed with the proposal.

~~((f))~~ (18) Utilities. The utility-related actions listed below shall be exempt: PROVIDED, That installation, construction or alteration on lands covered by water shall not be exempt for actions listed below. The exemption includes installation and construction, relocation when required by other governmental bodies, ~~((together with))~~ repair, replacement, maintenance, operation or alteration ~~((by the Commission~~

or private entity)) which does not change the action from an exempt class.

(a) All communications lines, including cable TV, but not including microwave towers or relay stations.

(b) All storm water, water and sewer facilities, lines, equipment, hookups or appurtenances including, utilizing or related to lines eight inches or less in diameter.

(c) All electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less; and the overbuilding of existing distribution lines (55,000 volts or less) with transmission lines (more than 55,000 volts); and the undergrounding of all electric facilities, lines, equipment or appurtenances.

(d) All natural gas distribution (as opposed to transmission) lines and necessary appurtenant facilities and hookups.

(e) All developments within the confines of any existing electric substation, reservoir, pump station or well: PROVIDED, That additional appropriations of water are not exempted by this subsection.

(f) Periodic use of chemical or mechanical means to maintain a utility or ((highway)) transportation right of way in its design condition: PROVIDED, That chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds which are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660.

(g) All grants of franchises by the commission to utilities.

(h) All disposals of rights of way by utilities.

(i) All grants of rights of way by the commission to utilities for use for distribution (as opposed to transmission) purposes.

((+5)) (19) Natural resources management. In addition to the other exemptions contained in this section, the following natural resources management activities shall be exempt:

(a) All class I, II, III and IV forest practices as defined by ((chapter 200, Laws of 1975 ex. sess.)) RCW 76.09.050, or regulations promulgated thereunder, except those class IV forest practices designated by the forest practices board as being special forest practices and therefore subject to SEPA evaluation.

(b) Issuance of new grazing leases covering a section of land or less; and issuance of all grazing leases for land which had been subject to a grazing lease within the previous ten years.

(c) Licenses or approvals to remove firewood.

(d) Issuance of agricultural leases covering one hundred sixty contiguous acres or less.

(e) Issuance of leases for Christmas tree harvesting or brush picking.

(f) Issuance of leases for school sites.

(g) Issuance of leases for, and placement of, mooring buoys designed to serve pleasure craft.

(h) Development of recreational sites not specifically designed for all-terrain vehicles and not including more than twelve campsites.

(i) Periodic use of chemical or mechanical means to maintain public park and recreational land: PROVIDED, That chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds which are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660.

(j) Issuance of rights of way, easements and use permits to use existing public roads in nonresidential areas.

((+6)) (20) Nonactions. Proposals for activities which are not "actions" as defined in WAC 352-10-040(2) are not subject to the threshold determination and EIS requirements of this chapter.

(21) Building codes. The adoption by ordinance of all codes as required by the state building code act (RCW 19.27.030).

(22) Adoption of noise ordinances. The adoption by counties/cities of resolutions, ordinances, rules or regulations concerned with the control of noise which do not differ from regulations adopted by the department of ecology pursuant to chapter 70.107 RCW. When a county/city proposes a noise resolution, ordinance, rule or regulation, a portion of which differs from the applicable state regulations (and thus requires approval of the department of ecology pursuant to RCW 70.107.060(4)), SEPA compliance may be limited to those items which differ from state regulations.

NEW SECTION

WAC 352-10-175 EXEMPTIONS AND NONEXEMPTIONS APPLICABLE TO SPECIFIC STATE AGENCIES. (1) The exemptions in this section relate only to the specific activities identified within the named agencies. The exemptions of this section are in addition to the general exemptions of WAC 352-10-170 and 352-10-180 which

apply to all agencies, including those named in this section, unless the general exemptions are specifically made inapplicable by this section.

(2) Department of licensing. All licenses required under programs administered by the department of licensing as of December 12, 1975 are exempted, except the following, which, notwithstanding WAC 352-10-170, shall not be considered exempt:

(a) Camping club promotional permits required by chapter 19.105 RCW.

(b) Motor vehicle wrecker licenses required by chapter 46.80 RCW.

WAC 352-10-170(5)(i) shall apply to allow possible exemption of renewals of camping club promotional permits and motor vehicle wrecker licenses.

(3) Department of labor and industries. All licenses required under programs administered by the department of labor and industries as of December 12, 1975 are exempted, except the issuance of any license for the manufacture of explosives or the adoption or amendment by the department of any regulations incorporating general standards respecting the issuance of licenses authorizing the storage of explosives pursuant to chapter 70.74 RCW. The adoption of any industrial health or safety regulations containing noise standards shall be considered a major action under this chapter.

(4) Department of natural resources. The following actions and licenses of the department of natural resources are exempted:

(a) Forest closures, shutdowns and permit suspensions due to extreme or unusual fire hazards.

(b) Operating permits to use power equipment on forest land.

(c) Permits to use fuse on forest land.

(d) Log patrol licenses.

(e) Permits for drilling for which no public hearing is required pursuant to RCW 79.76.070 (geothermal test drilling).

(f) Permits for the dumping of forest debris and wood waste in forested areas.

(g) All timber sales.

(h) Leases for mineral prospecting pursuant to RCW 79.01.616, or 79.01.652, but not including issuance of subsequent contracts for mining.

(5) Department of fisheries. The following activities of the department of fisheries are exempted:

(a) The establishment of seasons, catch limits or geographical areas for fishing or shellfish removal.

(b) All hydraulic project approvals (RCW 75.20.100) for activity incidental to a class I, II, III and IV forest practice as defined in RCW 76.09.050, and regulations adopted thereunder (except those forest practices designated by the forest practices board as being special forest practices and therefore subject to SEPA evaluation); and hydraulic project approvals for removal of streambed materials where the cost or fair market value of the total project is one thousand dollars or less, and other hydraulic project approvals where the cost of the total proposal is five thousand dollars or less except for proposals involving realignment into a new channel.

(c) All clam farm licenses and oyster farm licenses, except where cultural practices include structures occupying the water column or where a hatchery or other physical facility is proposed for construction on adjoining uplands.

(d) All other licenses (other than those excepted in (b) and (c) above) authorized to be issued by the department as of December 12, 1975 except the following, which, notwithstanding WAC 352-10-170, shall not be considered exempt:

(i) fish farming licenses, or other licenses allowing the cultivation of aquatic animals for commercial purposes;

(ii) licenses for the mechanical and/or hydraulic removal of clams, including geoducks; and,

(iii) any license authorizing the discharge of explosives in water.

WAC 352-10-170(5)(i) shall apply to allow possible exemption of renewals of the above licenses.

(6) Department of game. The following activities of the department of game are exempted:

(a) The establishment of hunting, trapping or fishing seasons, bag or catch limits, and geographical areas where such activities are permitted.

(b) The issuance of falconry permits.

(c) The issuance of all hunting or fishing licenses, permits or tags.

(d) Artificial game feeding.

(e) The issuance of scientific collector permits.

(f) All hydraulic project approvals (RCW 75.20.100) for activity incidental to a class I, II, III or IV forest practice as defined in RCW 76.09.050, and regulations adopted thereunder (except those forest

practices designated by the forest practices board as being special forest practices and therefore subject to SEPA evaluation); and hydraulic project approvals for removal of streambed materials where the cost or fair market value of the total project is one thousand dollars or less, and other hydraulic project approvals where the cost of the total proposal is five thousand dollars or less except for proposals involving realignment into a new channel.

(7) Department of social and health services. All actions under programs administered by the department of social and health services as of December 12, 1975 are exempt, except the following, which, notwithstanding WAC 352-10-170, shall not be exempt:

(a) The adoption or amendment by the department of any regulations incorporating general standards for issuance of licenses authorizing the possession, use and transfer of radioactive source material pursuant to RCW 70.98.080: PROVIDED, That the issuance, revocation or suspension of individual licenses thereto shall be exempt. However, licenses to operate low level waste burial facilities or licenses to operate or expand beyond design capacity, mineral processing facilities, or their tailings areas, whose products, or by-products, have concentrations of naturally-occurring radioactive materials in excess of exempt concentrations, as specified in WAC 402-20-250 shall not be exempt.

(b) The approval of a comprehensive plan for public water supply systems servicing one thousand or more units pursuant to WAC 248-54-280.

(c) The approval of engineering reports or plans and specifications pursuant to WAC 248-54-590 and 248-54-600, for all surface water source development, all water system storage facilities greater than one-half million gallons, new transmission lines longer than one thousand feet located in new rights of way and major extensions to existing water distribution systems.

(d) The approval of an application for a certificate of need pursuant to RCW 70.38.120 for construction of a new hospital or medical facility or for major additions to existing service capacity of such institutions.

(e) The approval of an application for any system of sewerage and/or water general plan or amendments thereto pursuant to RCW 36.94.100.

(f) The approval of any plans and specifications for new sewage treatment works or major extensions to existing sewer treatment works submitted to the department pursuant to WAC 248-92-040.

(g) The construction of any building, facility or other installation not exempt by WAC 352-10-170 for the purpose of housing department personnel, or fulfilling statutorily directed or authorized functions (e.g., prisons).

(h) The approval of any final plans for construction of a nursing home pursuant to WAC 248-14-100, construction of a private psychiatric hospital pursuant to WAC 248-22-015 or construction of an alcoholism treatment center pursuant to WAC 248-22-510.

(8) Department of agriculture. All actions under programs administered by the department of agriculture as of December 12, 1975 are exempt, except for the following, which, notwithstanding the provisions of WAC 352-10-170, shall not be considered exempt:

(a) The approval of any application for a commercial registered feedlot pursuant to RCW 16.58.040 or chapters 16-28 and 16-30 WAC.

(b) The issuance or amendment of any regulation respecting restricted-use pesticides pursuant to chapter 15.58 RCW, that would have the effect of allowing the use of a previously prohibited use pesticide.

(c) The removal of any pesticide from the list of restricted-use pesticides established in WAC 16-228-155 so as to permit sale of such pesticides to home and garden users.

(d) The removal of any pesticide from the list of highly toxic and restricted-use pesticides established pursuant to WAC 16-228-165 so as to authorize sale of such pesticides to persons not holding an annual user permit, an applicator certificate, or an applicator operator license.

(e) The removal of any pesticide from the category of highly toxic pesticide formulations established in WAC 16-228-010 so as to permit the sale of such pesticides by persons not possessing a pesticide dealer's license.

(f) The approval of any use of the pesticide DDT or DDD.

(g) The issuance of a license to operate a public livestock market pursuant to RCW 16.65.030.

(h) The provisions of WAC 352-10-170(5)(i) shall apply to allow possible exemption of renewals of the licenses in (a) through (g) above.

(9) Department of ecology. The following activities of the department of ecology shall be exempt:

(a) The issuance, reissuance or modification of any waste discharge permit which contains conditions no less stringent than federal effluent limitations and state rules and regulations. This exemption shall apply to existing discharges only and shall not apply to any new source discharges.

(b) Review of comprehensive solid waste management plans pursuant to RCW 70.95.100 and 70.95.110.

(10) Department of transportation. The following activities of the department of transportation shall be exempt:

(a) Approval of the annual highway safety work program involving the highway-related safety standards pursuant to 23 USC section 402;

(b) Issuance of road approach permits and right of way rental agreements;

(c) Establishment and changing of speed limits of fifty-five miles per hour or less;

(d) Revisions of existing access control involving a single property owner;

(e) Issuance of a "Motorist Information Signing Permit," granting a private business person the privilege of having a sign on highway right of way which informs the public of the availability of his or her services;

(f) Issuance of permits for special units relative to state highways;

(g) Issuance of permits for the movement of over-legal size and weight vehicles on state highways;

(h) Issuance of encroachment permits for road approaches, fences and landfills on highway right of way; and,

(i) Issuance of permits for utility occupancy of highway rights of way for use for distribution (as opposed to transmission).

(11) Utilities and transportation. All actions of the utilities and transportation commission under programs administered as of December 12, 1975 are exempt, except the following, which, notwithstanding WAC 352-10-170, shall not be considered exempt:

(a) Issuance of common carrier motor freight authority under chapter 81.80 RCW, which would authorize a new service, or extend an existing transportation service in the fields of general freight (other than local cartage), petroleum and petroleum products in bulk in tank type vehicles, radioactive substances, explosives or corrosives;

(b) Authorization of the opening or closing of any highway-railroad grade crossing, or the direction of physical connection of the line of one railroad with that of another;

(c) Regulation of oil and gas pipelines pursuant to chapter 81.88 RCW; and,

(d) The approval of utility and transportation rates where the funds realized as a result of such approved rates will or are intended to finance construction of a project, approval of which would not be otherwise exempt under WAC 352-10-170, and where at the time of such rate approval no responsible official of any state or federal agency has conducted the environmental analysis prescribed by this chapter or the appropriate provisions of NEPA, whichever is applicable.

(12) Department of commerce and economic development. The following activities of the department of commerce and economic development shall be exempt:

(a) The provision of business consulting and advisory services which shall include tourist promotion as authorized by RCW 43.31.050.

(b) The promotion and development of foreign trade as authorized by RCW 43.31.370.

(c) The furnishing of technical and information services as authorized by RCW 43.31.060.

(d) The provision of technical assistance to applicants for grants and aid and/or loans and for tax deferrals by the Economic Assistance Authority pursuant to the provisions of chapter 43.31A RCW.

(e) The conduct of research and economic analysis as authorized by RCW 43.31.070 including the provision of consulting and advisory services and recommendations to state and local officials, agencies and governmental bodies as authorized under the provisions of RCW 43.31.160, 43.31.200, and 43.31.210.

(13) Other agencies. Except for building construction (the majority of which is undertaken through the department of general administration), all activities of the following state agencies under programs they administer as of December 12, 1975 are exempt:

(a) Office of the attorney general.

(b) Office of the auditor.

(c) Department of employment security.

(d) Office of the insurance commissioner and state fire marshal.

(e) Department of personnel.

- (f) Department of printing.
- (g) Department of revenue.
- (h) Office of the secretary of state.
- (i) Office of the treasurer.
- (j) Arts commission.
- (k) Washington state patrol.
- (l) Interagency committee for outdoor recreation.
- (m) Department of emergency services.
- (n) Department of general administration, division of banking and division of savings and loan associations.
- (o) Forest practices appeals board.
- (p) Public employees' retirement system.
- (q) Law enforcement officers' and fire fighters' retirement board.
- (r) Volunteer fireman's retirement system board.
- (s) State department of retirement systems.
- (t) Teachers' retirement system board.
- (u) Higher education personnel board.
- (v) Commission for vocational education.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-177 ENVIRONMENTALLY SENSITIVE AREAS. (1) Each county/city may at its option designate areas within its jurisdiction which are environmentally sensitive areas. Environmentally sensitive areas shall be those within which the exemptions listed in subsection (2) hereof could have a significant adverse environmental impact, including, but not limited to, areas with unstable soils, steep slopes, unusual or unique flora or fauna, or areas which lie within flood plains. The location and extent of all environmentally sensitive areas shall be clearly indicated on a map which shall be adopted by reference as part of the SEPA guidelines of the county/city.

(2) Each county/city which adopts and maps environmentally sensitive areas may select certain categorical exemptions which do not apply within various environmentally sensitive areas. The selection of exemptions that will not apply may be made from the following list: WAC 352-10-170(1)(a) through (f) and (i) through (n); (5)(c), (9)(a) through (c); (10)(a); (18)(a) through (d), (f) and (i); and, (19)(d), (f) (~~and~~), (h), and (j). All other categorical exemptions apply whether or not the proposal will be located within an environmentally sensitive area. Exemptions selected by an agency (~~to~~) which do not apply within the various environmentally sensitive areas shall be listed within the SEPA guidelines of any county/city adopting such areas.

(3) Major actions which will be located within environmentally sensitive areas are to be treated no differently than other major actions under this chapter. A threshold determination shall be made for all such actions, and an EIS shall not be automatically required for a proposal merely because it is proposed for location in an environmentally sensitive area.

(4) Certain categorical exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-180 EXEMPTION FOR EMERGENCY ACTIONS. Actions which must be undertaken immediately, or within a time too short to allow full compliance with this chapter, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt (~~from the procedural requirements of this chapter~~).

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-190 USE AND EFFECT OF CATEGORICAL EXEMPTIONS. (1) Those activities excluded from the definition of "action" in WAC 352-10-040(2), or categorically exempted by WAC 352-10-170, 352-10-175, and 352-10-180, are exempt from the threshold determination (including completion of the environmental checklist) and EIS requirements of these guidelines and RCW 43.21C.030(2)(c) and (2)(d). No exemption is allowed for the sole reason that actions are considered to be of a "ministerial" nature or of an environmentally regulatory or beneficial nature.

(2) If a proposal includes a series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not, the proposal is not exempt.

~~((3))~~ For these proposals (~~in (2) above~~), exempt (~~activities or~~) actions may be undertaken prior to the threshold determination (~~subject to the timing considerations in WAC 352-10-055~~). For each such proposal a lead agency shall be determined, and a threshold determination shall be made prior to any major action with respect to the proposal, and prior to any decision by the lead agency irreversibly committing itself to adopt or approve the proposal.

~~((4))~~ (3) If the proposal includes a series of exempt actions which are physically or functionally related to each other, but which together may have a significant environmental impact, the proposal is not exempt. The determination that a proposal is not exempt because of this subsection shall be made only by the lead agency for that proposal.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-203 DETERMINATION OF LEAD AGENCY—PROCEDURES. (1) The first agency receiving or initiating a proposal for a major action, or for any part of a proposal when the total proposal involves a major action, shall determine the lead agency for that proposal. (~~To ensure that the lead agency is determined early.~~) The commission shall determine the lead agency for all proposals for a major action received by the commission, unless the lead agency has been previously determined, or the commission is aware that another agency is (~~in the process of~~) determining the lead agency. The lead agency shall be determined by using the criteria in WAC 352-10-205 through 352-10-245.

(2) If the acting agency determines that another agency is the lead agency, it shall mail to such lead agency a copy of the application it received, together with its determination of lead agency and explanation thereof. If the agency receiving this determination agrees that it is the lead agency, it shall so notify the other agencies with jurisdiction. If it does not agree, and the dispute cannot be resolved by agreement, the agencies shall immediately petition CEP for a lead agency determination pursuant to WAC 352-10-260.

(3) If the acting agency determines that it is the lead agency, it shall immediately mail a copy of its determination and explanation thereof to all other agencies with jurisdiction over the proposal. The acting agency shall then proceed, as the lead agency, to the threshold determination procedure of WAC 352-10-300 through 352-10-390. If another agency with jurisdiction objects to the lead agency determination, and the dispute cannot be resolved by agreement, the agencies shall immediately petition CEP for a lead agency determination pursuant to WAC 352-10-260.

(4) Any agency receiving a lead agency determination to which it objects shall either resolve the dispute, withdraw its objection, or petition to CEP for a lead agency determination within fifteen days of receiving the determination.

(5) To make the lead agency determination, an acting agency must determine to the best of its ability the other agencies with jurisdiction over the proposal. This can be done by requesting the information from a private applicant, or through consultation with the information centers established pursuant to RCW 90.62.120, within the environmental coordination procedures act of 1973 (ECPA).

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-205 LEAD AGENCY DESIGNATION—GOVERNMENTAL PROPOSALS. The Washington state parks and recreation commission shall be the lead agency for all proposals initiated by the commission: EXCEPT in the event that two or more agencies share in the implementation of a proposal, the agencies shall by agreement determine which agency will (~~assume the status of~~) be the lead agency. For the purposes of this section, a proposal by an agency does not include proposals to license private activity.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-220 LEAD AGENCY DESIGNATION—PRIVATE PROJECTS REQUIRING LICENSES FROM MORE THAN ONE AGENCY, WHEN ONE OF THE AGENCIES IS A COUNTY/CITY. For proposals for private projects which require nonexempt licenses from more than one agency when at least one of the agencies requiring such a license is a county/city, the lead agency shall be the nonexempt county/city within whose jurisdiction is located the greatest portion of the proposed project area, as measured in square feet. For the purposes of this section, the jurisdiction of a county shall not include the areas within the limits of cities or towns within such county.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-225 LEAD AGENCY DESIGNATION—PRIVATE PROJECTS REQUIRING LICENSES FROM MORE THAN ONE STATE AGENCY. (1) For private projects which require licenses from more than one state agency, but require no license from a county/city, the lead agency shall be one of the state agencies requiring a license, based upon the following order of priority:

- (a) Department of ecology.
- (b) Department of social and health services.
- (c) Department of natural resources.
- (d) Department of fisheries.
- (e) Department of game.
- (f) Utilities and transportation commission.
- (g) Department of ~~((motor vehicles))~~ licensing.
- (h) Department of labor and industries.

(2) ~~((For private projects requiring a license from more than one state agency, but requiring no license from a county/city, and))~~ When none of the state agencies requiring a license is on the above list, the lead agency shall be the licensing agency which has the largest biennial appropriation.

(3) When, due to the provision of subsection (1) of this section, an agency would be the lead agency solely because of its involvement in a program jointly administered with another agency, the other agency shall be designated the lead agency for proposals for which it is primarily responsible under agreements previously made between the two agencies for joint operation of the program.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-230 LEAD AGENCY DESIGNATION—SPECIFIC PROPOSALS. Notwithstanding the lead agency designation criteria contained in WAC 352-10-205 through 352-10-225, the lead agency for proposals within the areas listed below shall be as follows:

(1) For all governmental actions relating to ~~((thermal power plants))~~ energy facilities for which certification is required under chapter 80.50 RCW, the lead agency shall be the ~~((thermal power plant))~~ energy facility site evaluation council (EFSEC): PROVIDED, That for any public project requiring such certification and for which the study authorized by RCW 80.50.175 will not be made, the lead agency shall be the agency initiating the project.

(2) For all private projects relating to the utilization of geothermal resources subject to chapter 79.76 RCW, the lead agency shall be the department of natural resources.

(3) For all private projects requiring a license or other approval from the oil and gas conservation committee pursuant to chapter 78.52 RCW, the lead agency shall be the department of natural resources, except that for projects subject to RCW 78.52.125, the EIS shall be prepared in accordance with that section.

(4) For all private activity requiring a license or approval under the Forest Practices Act of 1974, chapter 76.09 RCW, the lead agency shall be the department of natural resources: PROVIDED, That for any proposal which will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the lead agency shall be the county/city requiring the license.

(5) For all private projects requiring a license or lease to use or affect state lands, the lead agency shall be the state agency managing the lands in question: PROVIDED, That this subsection shall not apply to the sale or lease of state-owned tidelands, harbor areas or beds of navigable waters, when such sale or lease is incidental to a larger project for which one or more licenses from other state or local agencies is required.

(6) For all proposals which are being processed under the environmental coordination procedures act of 1973 (ECPA), chapter 90.62 RCW, the ~~((lead agency shall be determined by the department of ecology, except that when county/city licenses are applied for prior to filing the ECPA application, a))~~ lead agency shall be determined pursuant to the standards of these guidelines ~~((prior to granting such county/city licenses))~~.

(7) For private projects which require the issuance of a National Pollutant Discharge Elimination System (NPDES) permit under section 402 of the Federal Water Pollution Control Act (33 U.S.C. section 1342), for a pulp or paper mill or oil refinery not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

(8) For proposals to construct a pipeline greater than six inches in diameter and fifty miles in length, used for the transportation of crude

petroleum or petroleum fuels or oil or derivatives thereof, or for the transportation of synthetic or natural gas under pressure, the lead agency shall be the department of ecology.

~~((§))~~ (9) For proposals that will result in an impoundment of water with a water surface in excess of forty acres, the lead agency shall be the department of ecology.

(10) For proposals to construct facilities on a single site designed for, or capable of, storing a total of one million or more gallons of any liquid fuel not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

(11) For proposals to construct any new oil refinery, or an expansion of an existing refinery that shall increase capacity by ten thousand barrels per day or more not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

(12) For proposals to construct any new metallic mineral processing plant, or to expand any such existing plant by ten percent or more of design capacity, the lead agency shall be the department of ecology.

(13) For proposals to construct, operate, or expand any uranium or thorium mill, any tailings areas, generated by uranium or thorium milling or any low-level radioactive waste burial facilities, the lead agency shall be the department of social and health services.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-235 LOCAL AGENCY TRANSFER OF LEAD AGENCY STATUS TO A STATE AGENCY. For any proposal for a private project where a city or town with a population of under five thousand or a county of fifth through ninth class would be the lead agency pursuant to ~~((the designation criteria of))~~ WAC 352-10-210 through 352-10-230, and when one or more state agencies are agencies with jurisdiction over the proposal, such local agency may at its option transfer the lead agency duties to that state agency with jurisdiction appearing first on the priority listing in WAC 352-10-225. In such event, the state agency so determined shall be the lead agency and the agency making the transfer shall be an agency with jurisdiction. Transfer is accomplished by the county, city or town transmitting a notice of the transfer together with any relevant information it may have on the proposal to the appropriate state agency with jurisdiction. The local agency making the transfer shall also give notice of the transfer to any private applicant and other agencies with jurisdiction involved in the proposal.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-240 AGREEMENTS AS TO LEAD AGENCY STATUS. ~~((Nothing herein shall prohibit the Commission from assuming the role of lead agency as a result of an agreement among all agencies with jurisdiction.))~~ Any agency may assume lead agency if all agencies with jurisdiction agree.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-260 DISPUTE AS TO LEAD AGENCY DETERMINATION—RESOLUTION BY CEP. (1) In the event that the agencies with jurisdiction are unable to determine which agency is the lead agency under these guidelines, any agency with jurisdiction may petition CEP for ~~((such))~~ a determination. ~~((Such))~~ The petition shall clearly describe the proposal in question, and include a list of all licenses and approvals required for the proposal. ~~((Any such))~~ The petition shall be filed with CEP within fifteen days after receipt by the petitioning agency of the determination to which it objects. Copies of the petition shall be mailed to any private applicant involved, as well as to all other agencies with jurisdiction over the proposal. The applicant and agencies with jurisdiction may file with CEP a written response to the petition within ten days of the date of the initial filing.

(2) Within fifteen days of receipt of a petition, CEP shall make a written determination of the lead agency, which shall be mailed to the applicant and all agencies with jurisdiction. CEP shall make its determination in accordance with these guidelines ~~((or))~~. In the event the guidelines do not control, the lead agency shall be the agency whose action, license, or licenses will have the greatest effect on the environment.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-300 THRESHOLD DETERMINATION REQUIREMENT. (1) Except as provided in subsection (2) hereof, a threshold determination shall be made for every proposal for a major action. The responsible official designated by the lead agency shall be

responsible for making the threshold determination. ~~((Only the lead agency shall make a threshold determination, except when lead agency duties are shared or assumed pursuant to WAC 352-10-245 and 352-10-345, respectively.))~~

(2) The threshold determination requirement ~~((of completion of an environmental checklist))~~ may be omitted ~~((, unless pre-draft consultation occurs;))~~ when:

(a) Both the responsible official and the sponsor (public or private) of a proposal agree that an EIS is required, or

(b) The sponsor of the proposal and the lead agency are the same entity and decide that an EIS is required.

(3) ~~((When the provisions of subsection (2) above have been utilized, compliance with requirements for use of the environmental checklist contained in WAC 352-10-305 through 352-10-390 may be disregarded.))~~ When the threshold determination is omitted, no environmental checklist is required unless a private applicant requests pre-draft consultation pursuant to WAC 352-10-410.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-305 RECOMMENDED TIMING FOR THRESHOLD DETERMINATION. In most cases the time required to complete a threshold determination should not exceed fifteen days. The initial review of a completed environmental checklist can usually be completed in a matter of hours. If further information is required to make the threshold determination, the time required will vary, depending upon the nature of the proposal and the information required. When a ~~((threshold determination is expected to require more than fifteen days to complete and a))~~ private applicant requests notification of the date when a threshold determination will be made, the lead agency shall ~~((transmit to))~~ so notify the private applicant ((a written statement as to the expected date of decision)) in writing.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-310 THRESHOLD DETERMINATION PROCEDURES—ENVIRONMENTAL CHECKLIST. (1) An environmental checklist substantially in the form provided in WAC 352-10-365 shall be completed for any proposed major action before making the threshold determination. ~~((The proposal's proponent shall complete the checklist either alone or together with the lead agency. Explanations of))~~ Every "yes" and "maybe" answer on the checklist shall be ~~((provided, and))~~ explained. Persons completing the checklist may ~~((provide explanations of))~~ also explain "no" answers. Persons filling out an environmental checklist may make reference to studies or reports which are available to the agency to which the checklist is being submitted.

(2) ~~((An environmental checklist may be required by an acting agency receiving an application for a major action, or (if one has not been previously completed) shall be required by the lead agency prior to making the threshold determination.~~

~~((3))~~ No environmental checklist or threshold determination is required for proposals that are exempted by WAC 352-10-170, 352-10-175 and 352-10-180.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-320 THRESHOLD DETERMINATION PROCEDURES—INITIAL REVIEW OF ENVIRONMENTAL CHECKLIST. ~~((1))~~ The lead agency shall conduct an initial review of the environmental checklist for the proposal together with any supporting documentation. This initial review shall be made without requiring further information from the applicant. In making this initial review, the lead agency shall independently evaluate each item on the checklist and indicate ~~((thereon))~~ the results of this evaluation.

~~((2))~~ After completing the initial review of the environmental checklist, the lead agency shall apply the criteria of WAC 352-10-060 and 352-10-360 to the checklist as evaluated by the lead agency. This process will lead to one of three determinations:

(a) The proposal will not have a significant adverse impact upon the quality of the environment; in which case, the lead agency shall initiate the negative threshold determination procedures of WAC 352-10-340; or,

(b) The proposal will have a significant adverse impact upon the quality of the environment; in which case the lead agency shall initiate the EIS preparation procedures of WAC 352-10-350 and 352-10-400 through 352-10-695; or,

~~((c) There is not sufficient information available to the lead agency to enable it to reasonably make a determination of the environmental significance of the proposal; in which case the lead agency shall implement one or more of the information gathering mechanisms in WAC 352-10-330.))~~

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-330 THRESHOLD DETERMINATION PROCEDURES—INFORMATION IN ADDITION TO CHECKLIST. (1) The threshold determination by the lead agency must be based upon information reasonably sufficient to determine the environmental impact of a proposal. ~~((In the event that))~~ If, after its initial review of the environmental checklist, the lead agency determines the information available to it is not reasonably sufficient to make this determination, one or more of the following may be initiated:

(a) The applicant may be required to furnish further information. This additional information shall be limited to ~~((those categories))~~ the subjects on the environmental checklist. An applicant may be required to provide explanations of any "no" answers to questions on the checklist.

(b) The lead agency may initiate further studies, including physical investigations on the subject property, directed toward providing additional information on the environmental impacts of the proposal.

(c) The lead agency may consult with other agencies with jurisdiction over the proposal, requesting substantive information as to potential environmental impacts of the proposal which lie within the area of expertise of the particular agency so consulted. Consulted agencies ~~((so consulted))~~ shall respond in accordance with ~~((the requirements of))~~ WAC 352-10-500 through 352-10-540.

(2) ~~((During the course of collecting further information on a proposal;))~~ the lead agency obtains information reasonably sufficient to assess the adverse environmental impacts of the proposal, it shall immediately make the threshold determination ~~((utilizing the criteria of WAC 352-10-360 and 352-10-365)).~~ In the event that the further investigations authorized by this section do not provide information reasonably sufficient to assess any potential adverse environmental impacts of the proposal, an EIS shall be prepared.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-340 THRESHOLD DETERMINATION PROCEDURES—NEGATIVE DECLARATIONS. (1) In the event the lead agency determines a proposal will not have a significant adverse impact on the quality of the environment, it shall prepare a proposed or final declaration of nonsignificance, as appropriate, substantially in the form provided in WAC 352-10-355.

(2) The lead agency shall prepare a final declaration of nonsignificance for all proposals except for those listed in subsection (3) below.

(3) A lead agency making a threshold determination of nonsignificance for any of the following proposals shall prepare a proposed declaration of nonsignificance, and comply with the requirements of subsection (4) through ~~((6))~~ (7) below prior to taking any further action on the proposal:

(a) Proposals ~~((for which there is))~~ which have another agency with jurisdiction, except that the commission may specify situations in which written concurrence may be obtained from the other agency or agencies with jurisdiction and the proposed declaration of nonsignificance omitted and a final declaration of nonsignificance issued.

(b) Proposals involving demolition of any structure or facility not exempted by WAC 352-10-170(1)(n) or 352-10-180.

(c) Proposals involving issuance of clearing or grading permits not exempted by WAC 352-10-170 or 352-10-180.

(4) The lead agency shall ~~((list))~~ issue all proposed declarations of nonsignificance ((in the "Proposed Declaration of NonSignificance Register" at its SEPA public information center. All such declarations shall be attached to the environmental checklist as evaluated by the lead agency and transmitted)) by sending the proposed declaration and environmental checklist to ~~((any))~~ other agencies with jurisdiction ((and to the SEPA public information center of the lead agency)).

(5) Any person or agency may submit written comments on the proposed declaration of nonsignificance to the lead agency within fifteen days from the date of its ~~((listing in the register))~~ issuance. The lead agency shall take no further action on the proposal which is the subject of the proposed declaration of nonsignificance for fifteen days from the date of ~~((its listing in the register))~~ issuance. If comments are received, the lead agency shall reconsider its proposed declaration ~~((in light thereof));~~ however, the lead agency is not required to modify its

proposed declaration of nonsignificance to reflect the comments received ((thereon)).

(6) After the fifteen day time period ((has elapsed)), and after considering any comments, the lead agency shall ((either)) adopt its proposed declaration as a "Final Declaration of Nonsignificance," ((or)) determine that the proposal is significant, or utilize the additional information gathering mechanisms of WAC 352-10-330(1).

(7) When a final declaration of nonsignificance results from a proposed declaration of nonsignificance, that final declaration of nonsignificance shall be sent to the department of ecology headquarters office in Olympia. The department of ecology shall list it on the "SEPA register" as specified in WAC 352-10-830. This subsection shall not apply to proposed declarations of nonsignificance, to final declarations of nonsignificance issued in accordance with WAC 352-10-340(2) or to final declarations of nonsignificance made under the "agreement with other agency" provision of WAC 352-10-340(3)(a). Checklists need not be sent.

(8) Issuance of proposed and final declarations of nonsignificance completes the procedural requirements of these guidelines unless another agency with jurisdiction assumes lead agency duties and responsibilities pursuant to WAC 352-10-345.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-345 ASSUMPTION OF LEAD AGENCY STATUS BY ANOTHER AGENCY WITH JURISDICTION OVER A PROPOSAL—PRE-REQUISITES, EFFECT AND FORM OF NOTICE. (1) ((Notwithstanding the lead agency determination criteria of WAC 352-10-200 through 352-10-260.)) An agency with jurisdiction over a proposal, upon review of a proposed declaration of nonsignificance, may transmit to the initial lead agency a completed "Notice of Assumption of Lead Agency Status." ((Such form of)) This notice shall be substantially similar to that described in subsection (4) below. Assumption of lead agency status((, if it is to occur,)) shall take place only within fifteen days of ((the listing of the proposal in the "Proposed Declaration of Non-Significance Register")) issuance of the proposed declaration of nonsignificance (as provided for in WAC 352-10-340).

(2) ((An agency with jurisdiction over a proposal, prior to transmittal of the notice described in subsection (4) below and an attached declaration of significance, shall make a finding that an EIS is required for the proposal. This finding)) The affirmative threshold determination by the new lead agency shall be based only upon information contained in the environmental checklist attached to the proposed declaration of nonsignificance transmitted by the first lead agency and any other information possessed by the new lead agency ((with jurisdiction)) relative to the matters contained in the environmental checklist.

(3) As a result of ((the transmittal of)) transmitting a completed form of the notice contained in subsection (4) below and attached declaration of significance, the consulted agency with jurisdiction shall become the "new" lead agency and shall ((begin preparation of)) expeditiously prepare a draft and a final EIS. In addition, all other responsibilities and authority of a lead agency under this chapter shall be transferred to the new lead agency.

(4) The form of "Notice of Assumption of Lead Agency Status" is as follows:

FORM OF NOTICE OF ASSUMPTION OF LEAD AGENCY STATUS

Description of Proposal
Proponent
Location of Proposal
Initial Lead Agency
New Lead Agency

This proposal was determined by the initial lead agency to have no significant adverse impact upon the environment, according to the proposed declaration of nonsignificance dated A review of the information relative to the environmental checklist has been made by the new lead agency and in its opinion an EIS is required for the proposal. Consequently, notice is hereby given that the former consulted agency with jurisdiction assumes the responsibility of lead agency status from the initial lead agency, including, but not limited to, the duty to prepare a draft and final EIS on the proposal.

Responsible Official
Position/Title
Address/Phone
Date Signature

(5) A completed form of notice, together with a declaration of significance, shall be transmitted to the initial lead agency, any other agencies with jurisdiction and the proponent of the proposal. ((A copy of the notice shall be retained in the new lead agency's SEPA public information center.))

(6) Agencies with jurisdiction may still comment critically upon a proposed declaration of nonsignificance without assuming lead agency status. No agency shall be deemed to have assumed lead agency status ((pursuant to this section)) unless a notice substantially in the form of subsection (4) hereof is completed and transmitted by that agency. The decision of any agency with jurisdiction to not assume lead agency status pursuant to this section shall create no new legal obligation upon that agency.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-350 AFFIRMATIVE THRESHOLD DETERMINATION. (1) In the event the lead agency determines that the proposal will have a significant adverse effect upon the quality of the environment, it shall prepare a declaration of significance using the form in WAC 352-10-355 ((which)). This form shall be retained in the files of the lead agency with a copy sent to the applicant in the case of a private project. ((The lead agency shall then list the proposal in the "EIS in Preparation Register" maintained at the SEPA public information center of the lead agency, and then)) If the proposal is not modified by the applicant resulting in a withdrawal of the affirmative threshold determination as allowed by WAC 352-10-370, the lead agency shall begin the EIS preparation procedures of WAC 352-10-400 through 352-10-695.

(2) ((After)) If the additional information gathering mechanisms of WAC 352-10-330 have been utilized, and ((when there exists a reasonable belief by)) the lead agency reasonably believes that the proposal could have a significant adverse impact, the ((procedure contained in subsection (1) above shall also be followed)) affirmative threshold determination shall be made.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-355 FORM OF DECLARATION OF SIGNIFICANCE/NONSIGNIFICANCE. (1) A declaration substantially in the form set forth in subsection (2) of this section shall be used for all declarations of significance and proposed and final declarations of nonsignificance. This form shall be attached to the environmental checklist together with any other information obtained pursuant to WAC 352-10-330, and maintained in the files of the lead agency. ((The form without the attachments shall also be retained in the SEPA public information center of the lead agency for one year after issuance.))

(2) The form is as follows:

FORM FOR [PROPOSED/FINAL] DECLARATION OF [SIGNIFICANCE/NONSIGNIFICANCE]

Description of Proposal
Proponent
Location of Proposal
Lead Agency

This proposal has been determined to [have/not have] a significant adverse impact upon the environment. An EIS [is/is not] required under RCW 43.21C.030(2)(c). This decision was made after review by the lead agency of a completed environmental checklist and other information on file with the lead agency.

Responsible Official
Position/Title
Date Signature

(3) If the form is for a declaration of environmental significance, the lead agency may add to the information contained in subsection (2) of this section a listing of those environmental impacts which led to the declaration, together with a brief explanation of what measures, if any, could be taken to prevent or mitigate the environmental impacts of the

proposal to such an extent that the lead agency would withdraw its declaration and issue a [proposed/final] declaration of nonsignificance.

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

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-360 THRESHOLD DETERMINATION CRITERIA—APPLICATION OF ENVIRONMENTAL CHECKLIST.

(1) The lead agency shall apply the questions in the environmental checklist to the total proposal, including its indirect effects ((f))(see WAC 352-10-060((f))), to determine whether the proposal will result in a significant adverse impact upon the quality of the environment. The threshold decision shall be based solely upon this process. The questions contained in the environmental checklist are exclusive, and factors not listed ((therein)) in the checklist shall not be considered in the threshold determination.

(2) The questions in the environmental checklist are not weighted. ((It is probable there will be affirmative)) While some "yes" answers to several of these questions ((white)) are likely, the proposal ((would)) may still not ((necessarity)) have a significant adverse impact((- however, a single affirmative answer could indicate a significant adverse impact)). However, depending upon the nature of the impact and location of the proposal, a single affirmative answer could indicate a significant adverse impact. The nature of the existing environment is an important factor. The same project may have a significant adverse impact in one location, but not in another location. The absolute quantitative effects of the proposal are also important, and may result in a significant adverse impact regardless of the nature of the existing environment. The lead agency shall also be alert to the possibility that several marginal impacts when taken together will result in a significant adverse environmental impact. For some proposals, it may be impossible to forecast the environmental impacts with precision, often because some variables cannot be predicted. If, after the lead agency has utilized the additional information gathering mechanisms of WAC 352-10-330, the impacts of the proposal are still in doubt, and there exists a reasonable belief by the lead agency that the proposal could have a significant adverse impact, an EIS is required.

(3) It should also be remembered that proposals designed to improve the environment (such as sewage treatment plants or pollution control requirements) may also have adverse environmental impacts. The question at the threshold determination level is not whether the beneficial aspects of a proposal outweigh its adverse impacts, but rather if the proposal involves any significant adverse impacts upon the quality of the environment. If it does, an EIS is required. No test of balance shall be applied at the threshold determination level.

(4) Additional research or field investigations by either the lead agency or by the private applicant is required when the information available to the lead agency is not sufficient for it to make a determination of the potential adverse environmental impacts ((f))(see WAC 352-10-330((f))). It is expected, however, that many proposals can be evaluated entirely through an office review ((f))(see WAC 352-10-320((f))) of the environmental checklist, and that for other proposals, the majority of the questions in the environmental checklist may be answered in the same manner.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-365 ENVIRONMENTAL CHECKLIST. (1) The form in subsection (2) ((hereof)) of this section is the environmental checklist. The commission may at its option revise the format of this form; however, the language of the questions shall not be changed. The questions appearing in the environmental checklist are exclusive, and considerations which do not appear in it or in WAC 352-10-360 shall not be used in making a threshold determination. This checklist does not supersede or void application forms required under any other federal or state statute or local ordinance, but rather is ((supplementary thereto)) supplemental.

(2) Environmental checklist form:

ENVIRONMENTAL CHECKLIST

Introduction: The state environmental policy act of 1971, chapter 43-.21C RCW, requires all state and local governmental agencies to consider environmental values both for their own actions and when

licensing private proposals. The act also requires that an EIS be prepared for all major actions significantly affecting the quality of the environment. The purpose of this checklist is to help the agencies involved determine whether or not a proposal is such a major action.

Please answer the following questions as completely as you can with the information presently available to you. Where explanations of your answers are required, or where you believe an explanation would be helpful to government decision makers, include your explanation in the space provided, or use additional pages if necessary. You should include references to any reports or studies of which you are aware and which are relevant to the answers you provide. Complete answers to these questions now will help all agencies involved with your proposal to undertake the required environmental review without unnecessary delay.

The following questions apply to your total proposal, not just to the license for which you are currently applying or the proposal for which approval is sought. Your answers should include the impacts which will be caused by your proposal when it is completed, even though completion may not occur until sometime in the future. This will allow all of the agencies which will be involved to complete their environmental review now, without duplicating paperwork in the future.

NOTE: This is a standard form being used by all state and local agencies in the state of Washington for various types of proposals. Many of the questions may not apply to your proposal. If a question does not apply, just answer it "no" and continue on to the next question.

ENVIRONMENTAL CHECKLIST FORM

I. BACKGROUND

1. Name of Proponent -----
2. Address and Phone Number of Proponent: -----

3. Date Checklist Submitted -----
4. Agency Requiring Checklist -----
5. Name of Proposal, if applicable: -----
6. Nature and Brief Description of the Proposal (including but not limited to its size, general design elements, and other factors that will give an accurate understanding of its scope and nature): -----

7. Location of Proposal (describe the physical setting of the proposal, as well as the extent of the land area affected by any environmental impacts, including any other information needed to give an accurate understanding of the environmental setting of the proposal): -----

8. Estimated Date for Completion of the Proposal: -----
9. List of all Permits, Licenses or Government Approvals Required for the Proposal (federal, state and local—including rezones): -----

10. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain: -----

11. Do you know of any plans by others which may affect the property covered by your proposal? If yes, explain: -----

12. Attach any other application form that has been completed regarding the proposal; if none has been completed, but is expected to be filed at some future date, describe the nature of such application form: -----

II. ENVIRONMENTAL IMPACTS

(Explanations of all "yes" and "maybe" answers are required)

Yes Maybe No

- | | Yes | Maybe | No |
|---|-------|-------|-------|
| | _____ | _____ | _____ |
| (1) Earth. Will the proposal result in: | | | |
| (a) Unstable earth conditions or in changes in geologic substructures? | _____ | _____ | _____ |
| (b) Disruptions, displacements, compaction or overcovering of the soil? | _____ | _____ | _____ |
| (c) Change in topography or ground surface relief features? | _____ | _____ | _____ |
| (d) The destruction, covering or modification of any unique geologic or physical features? | _____ | _____ | _____ |
| (e) Any increase in wind or water erosion of soils, either on or off the site? | _____ | _____ | _____ |
| (f) Changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake? | _____ | _____ | _____ |
| Explanation: _____ | | | |
| (2) Air. Will the proposal result in: | | | |
| (a) Air emissions or deterioration of ambient air quality? | _____ | _____ | _____ |
| (b) The creation of objectionable odors? | _____ | _____ | _____ |
| (c) Alteration of air movement, moisture or temperature, or any change in climate, either locally or regionally? | _____ | _____ | _____ |
| Explanation: _____ | | | |
| (3) Water. Will the proposal result in: | | | |
| (a) Changes in currents, or the course or direction of water movements, in either marine or fresh waters? | _____ | _____ | _____ |
| (b) Changes in absorption rates, drainage patterns, or the rate and amount of surface water runoff? | _____ | _____ | _____ |
| (c) Alterations to the course or flow of flood waters? | _____ | _____ | _____ |
| (d) Change in the amount of surface water in any water body? | _____ | _____ | _____ |
| (e) Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen or turbidity? | _____ | _____ | _____ |
| (f) Alteration of the direction or rate of flow of ground waters? | _____ | _____ | _____ |
| (g) Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations? | _____ | _____ | _____ |
| (h) Deterioration in ground water quality, either through direct injection, or through the seepage of leachate, phosphates, detergents, waterborne virus or bacteria, or other substances into the ground waters? | _____ | _____ | _____ |

- | | | | |
|---|-------|-------|-------|
| (i) Reduction in the amount of water otherwise available for public water supplies? | _____ | _____ | _____ |
| Explanation: _____ | | | |
| (4) Flora. Will the proposal result in: | | | |
| (a) Change in the diversity of species, or numbers of any species of flora (including trees, shrubs, grass, crops, microflora and aquatic plants)? | _____ | _____ | _____ |
| (b) Reduction of the numbers of any unique, rare or endangered species of flora? | _____ | _____ | _____ |
| (c) Introduction of new species of flora into an area, or in a barrier to the normal replenishment of existing species? | _____ | _____ | _____ |
| (d) Reduction in acreage of any agricultural crop? | _____ | _____ | _____ |
| Explanation: _____ | | | |
| (5) Fauna. Will the proposal result in: | | | |
| (a) Changes in the diversity of species, or numbers of any species of fauna (birds, land animals including reptiles, fish and shellfish, benthic organisms, insects or microfauna)? | _____ | _____ | _____ |
| (b) Reduction of the numbers of any unique, rare or endangered species of fauna? | _____ | _____ | _____ |
| (c) Introduction of new species of fauna into an area, or result in a barrier to the migration or movement of fauna? | _____ | _____ | _____ |
| (d) Deterioration to existing fish or wildlife habitat? | _____ | _____ | _____ |
| Explanation: _____ | | | |
| (6) Noise. Will the proposal increase existing noise levels? | _____ | _____ | _____ |
| Explanation: _____ | | | |
| (7) Light and Glare. Will the proposal produce new light or glare? | _____ | _____ | _____ |
| Explanation: _____ | | | |
| (8) Land Use. Will the proposal result in the alteration of the present or planned land use of an area? | _____ | _____ | _____ |
| Explanation: _____ | | | |
| (9) Natural Resources. Will the proposal result in: | | | |
| (a) Increase in the rate of use of any natural resources? | _____ | _____ | _____ |
| (b) Depletion of any nonrenewable | _____ | _____ | _____ |

	Yes	Maybe	No
	___	___	___
natural resource?	___	___	___
Explanation:			
(10) Risk of Upset. Does the proposal involve a risk of an explosion or the release of hazardous substances (including, but not limited to, oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions?	___	___	___
Explanation:			
(11) Population. Will the proposal alter the location, distribution, density, or growth rate of the human population of an area?	___	___	___
Explanation:			
(12) Housing. Will the proposal affect existing housing, or create a demand for additional housing?	___	___	___
Explanation:			
(13) Transportation/Circulation. Will the proposal result in:			
(a) Generation of additional vehicular movement?	___	___	___
(b) Effects on existing parking facilities, or demand for new parking?	___	___	___
(c) Impact upon existing transportation systems?	___	___	___
(d) Alterations to present patterns of circulation or movement of people and/or goods?	___	___	___
(e) Alterations to waterborne, rail or air traffic?	___	___	___
(f) Increase in traffic hazards to motor vehicles, bicyclists or pedestrians?	___	___	___
Explanation:			
(14) Public Services. Will the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas:			
(a) Fire protection?	___	___	___
(b) Police protection?	___	___	___
(c) Schools?	___	___	___
(d) Parks or other recreational facilities?	___	___	___
(e) Maintenance of public facilities, including roads?	___	___	___
(f) Other governmental services?	___	___	___
Explanation:			

	Yes	Maybe	No
	___	___	___
(15) Energy. Will the proposal result in:			
(a) Use of substantial amounts of fuel or energy?	___	___	___
(b) Demand upon existing sources of energy, or require the development of new sources of energy?	___	___	___
Explanation:			
(16) Utilities. Will the proposal result in a need for new systems, or alterations to the following utilities:			
(a) Power or natural gas?	___	___	___
(b) Communications systems?	___	___	___
(c) Water?	___	___	___
(d) Sewer or septic tanks?	___	___	___
(e) Storm water drainage?	___	___	___
(f) Solid waste and disposal?	___	___	___
Explanation:			
(17) Human Health. Will the proposal result in the creation of any health hazard or potential health hazard (excluding mental health)?	___	___	___
Explanation:			
(18) Aesthetics. Will the proposal result in the obstruction of any scenic vista or view open to the public, or will the proposal result in the creation of an aesthetically offensive site open to public view?	___	___	___
Explanation:			
(19) Recreation. Will the proposal result in an impact upon the quality or quantity of existing recreational opportunities?	___	___	___
Explanation:			
(20) Archeological/Historical. Will the proposal result in an alteration of a significant archeological or historical site, structure, object or building?	___	___	___
Explanation:			

III. SIGNATURE

I, the undersigned, state that to the best of my knowledge the above information is true and complete. It is understood that the lead agency may withdraw any declaration of nonsignificance that it might issue in reliance upon this checklist should there be any willful misrepresentation or willful lack of full disclosure on my part.

Proponent:

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-370 WITHDRAWAL OF AFFIRMATIVE THRESHOLD DETERMINATION. If at any time after the (~~en-~~try) issuance of a declaration of significance, the proponent modifies the proposal so that, in the judgment of the lead agency, all significant adverse environmental impacts (~~(resulting therefrom)~~) which might result are eliminated, the declaration of significance shall be withdrawn and a declaration of nonsignificance (~~(entered)~~) issued instead. (~~The lead agency shall also revise the registers at its SEPA public information center accordingly.~~) If the proponent of a proposal is a private applicant, the proposal shall not be considered modified until all license applications for the proposal are revised to reflect the modification or other binding commitment is made by the applicant.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-375 WITHDRAWAL OF NEGATIVE THRESHOLD DETERMINATION. (1) Except after a nonexempt license has been issued for a private project, the lead agency may withdraw any proposed or final declaration of nonsignificance when new information becomes available to it indicating that the proposal may have significant adverse environmental impacts.

(2) The lead agency may withdraw any proposed or final declaration of nonsignificance at any time when:

(a) The proposal has been modified after the threshold determination, and such modification may cause the proposed action to have significant adverse environmental impacts, or

(b) The negative threshold determination was procured by misrepresentation or willful lack of full disclosure by the proponent of the proposal.

(3) Whenever a negative threshold determination is withdrawn pursuant to this section, the lead agency shall immediately re-evaluate the proposal and make a revised threshold determination pursuant to WAC 352-10-300 through 352-10-360.

(4) Whenever a final declaration of nonsignificance has been withdrawn for one of the reasons in subsection (2) (~~(hereof)~~) of this section, and the lead agency (~~(upon)~~), after re-evaluation, determines that the proposal will have significant adverse environmental impacts, agencies with jurisdiction shall initiate procedures to suspend, modify or revoke, as appropriate, any nonexempt licenses issued for the proposal until compliance with the procedures of these guidelines is met.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-380 INTRA-AGENCY APPEALS OF THRESHOLD DETERMINATIONS. Agencies may (~~(at their option)~~) provide in their guidelines for internal review or appeals of threshold determinations, including appeals initiated by members of the public. The time required to complete any such review or appeal mechanisms may be considered an addition to that recommended by WAC 352-10-305.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-390 EFFECT OF THRESHOLD DETERMINATION BY LEAD AGENCY. (1) Except as provided in subsection (2) below, a threshold determination by the lead agency is binding upon all agencies (~~(-and)~~). No agency shall repeat the threshold determination procedures for substantially the same proposal. This section shall not be construed to permit or prohibit judicial review of a threshold determination by a court, or quasi-judicial review of a threshold determination by an agency during an administrative hearing.

(2) An agency with jurisdiction over a proposal, upon receipt of a proposed declaration of nonsignificance from the lead agency, may complete and transmit a notice of assumption of lead agency status after meeting the requirements of WAC 352-10-345. As a result of compliance with WAC 352-10-345, the agency with jurisdiction has in effect reversed the decision of the initial lead agency regarding environmental insignificance and as the new lead agency, will be required to prepare a draft EIS and exercise the other responsibilities of a lead agency under these guidelines.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-400 DUTY TO BEGIN PREPARATION OF A DRAFT EIS. After compliance with WAC 352-10-350, relating to preparation of a declaration of significance (~~(and the listing of the proposal in the "EIS in Preparation Register,")~~), the lead agency shall

prepare the draft and final EIS in compliance with WAC 352-10-410 through 352-10-695.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-405 PURPOSE AND FUNCTION OF A DRAFT EIS. (1) The principal purpose of the draft EIS document is to transmit information concerning a proposed governmental action and the alternatives to that action to public officials, project sponsors, and interested citizens. While the contents of a draft EIS may span a wide spectrum of issues, the focus of the document is upon the following:

(a) The assessment of the adverse impacts upon the environment which may result from the proposed action or its alternatives, and

(b) An analysis of measures which may be taken to mitigate or eliminate those adverse impacts.

(2) Another principal function to be served by the draft EIS process is to facilitate the transmittal to the lead agency from other governmental agencies and interested citizens substantive information concerning the adverse impacts upon the environment discussed inadequately or erroneously in the draft EIS. The draft EIS process also provides an opportunity for reviewers of the document to bring to the attention of the lead agency any issue of potential environmental concern which should be explored by the lead agency prior to the issuance of a final EIS.

(3) The purpose of an EIS is better served by short, concise documents containing summaries of, or reference to, technical data and avoiding unnecessarily detailed information. The volume of an EIS does not bear on its adequacy. Larger documents may even hinder the decision-making process.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-410 PREDRAFT CONSULTATION PROCEDURES. (1) Predraft consultation (~~(is consultation by)~~) occurs when the lead agency (~~(with)~~) consults another agency with jurisdiction or expertise prior to completion of the draft EIS. Predraft consultation with another agency on proposals for private projects shall only be initiated by the lead agency when requested by a private applicant participating in the preparation of the draft EIS. Predraft consultation with another agency on public proposals may be initiated at the option of the lead agency.

(2) Predraft consultation is (~~(commenced)~~) begun when the lead agency sends to the consulted agency a packet of the following material related to the proposal:

(a) Any application for licenses for the proposal (~~(in the possession of)~~) possessed by the lead agency.

(b) A copy of the environmental checklist required by WAC 352-10-310, as reviewed pursuant to WAC 352-10-320.

(c) Any information in addition to the checklist resulting from application of WAC 352-10-330.

(d) Any other information deemed relevant to the proposal by the lead agency such as:

(i) Prior EISs;

(ii) Portions of applicable plans or ordinances; or,

(iii) Prior scientific studies applicable to the site.

(3) Agencies so consulted will have forty-five days from receipt of the packet to respond in writing to the lead agency. The required contents of the consulted agency response are governed by WAC 352-10-500 through 352-10-540.

(4) The lead agency shall incorporate the relevant information received from other agencies during the predraft consultation stage into the draft EIS, by either summarizing the major findings which are contained in each of the consulted agency's responses or utilizing all of the data received. In the event the lead agency disagrees with any conclusion expressed in the information received from the consulted agency, the conclusion shall be set forth together with the position of the lead agency. The information required by this subsection may be placed wherever in the draft EIS the lead agency deems most appropriate. There is no requirement that either the draft or final EIS include responses to predraft consultation in a separate "response" section.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-420 PREPARATION OF EIS BY PERSONS OUTSIDE THE LEAD AGENCY. (1) Preparation of the EIS is the

responsibility of the lead agency, by or under the direction of its responsible official. No matter who participates in the preparation of the EIS, it is nevertheless the EIS of the responsible official of the lead agency. The responsible official, prior to distributing the draft EIS, shall be satisfied that it complies with ~~((the provisions of))~~ these guidelines and the guidelines of the lead agency.

(2) An EIS may be prepared by a private applicant or his agent ~~((thereof)),~~ or by an outside consultant retained by either a private applicant or the lead agency. ~~((In such case,))~~ The responsible official within the lead agency shall assure that the EIS is prepared in a responsible manner and with appropriate methodology. The responsible official shall direct the areas of research and examination to be undertaken, as well as the organization of the resulting document.

(3) If a person other than the lead agency is preparing the EIS, the responsible official will coordinate any predraft consultation procedures so that the individual preparing the EIS immediately receives all substantive information submitted by consulted agencies. The responsible official shall also attempt to obtain any information needed by the person preparing the EIS which is on file with another agency or federal agency. The responsible official shall allow any private party preparing an EIS access to all public records of the lead agency which ~~((are relevant))~~ relate to the subject ~~((matter))~~ of the EIS, pursuant to chapter 42.17 RCW ~~((f))~~ (Public Disclosure and Public Records Law; Initiative 276, 1973~~((f))~~).

(4) Private applicants applying to the commission under RCW 43.51.130 to improve state park lands are authorized to ~~((participate in the preparation of))~~ help prepare any EIS required for proposed work.

(5) Private applicants applying to the commission under RCW 43.51.040(5) or as amended to construct or operate concession facilities on state park lands are required to help prepare any EIS required for proposed work.

(6) Private applicants applying to commission under RCW 43.51.685 or as amended to remove sand from the seashore conservation area as defined in RCW 43.51.655 are required to help prepare any EIS required.

(7) Private applicants applying to the commission under RCW 43.51.062 or as amended to obtain a new lease or lease renewal to operate a television station or other transmitter or repeater devices on park lands are required to help prepare any EIS required.

(8) The commission shall not require more information than that specified in WAC 352-10-310, 352-10-320 or 352-10-330. The commission reserves the right to require less information of the applicant. PROVIDED, That nothing herein shall be construed to prohibit the commission from charging any fee of an applicant which the commission is otherwise authorized to charge ~~((f))~~ (see WAC 352-10-860~~((f))~~).

~~((f))~~ A private applicant may, however, volunteer to provide any information or effort desired, so long as the contents and organization of the resulting EIS are supervised and approved by the responsible official as required by this section.

~~((f))~~ (9) The provisions of this section apply to both the draft and final EIS.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-440 CONTENTS OF A DRAFT EIS. (1) The following subsections set forth the required contents of a draft EIS: PROVIDED, That where an agency is preparing a draft EIS in order to satisfy the requirements of NEPA, as well as SEPA, and the regulations of the applicable federal agency require items in addition to that set forth below, then the contents of the draft EIS may be ~~((expanded))~~ modified as necessary to meet the requirements of that federal agency.

(2) Introduction. The following information shall be ~~((succinctly set forth))~~ briefly given at the beginning of the draft EIS:

(a) Action sponsor, and a brief (one or two sentence) description of the nature of the proposal and its location (street address, or nearest crossroads or cross-streets).

(b) Lead agency, responsible official, and the name and address of a contact person to whom comments, information and questions may be sent.

(c) Authors and principal contributors to the draft EIS and the nature or subject area of their contribution.

(d) List of all licenses which the proposal is known to require. The responsible official shall attempt to make this list as complete and specific as possible. Licenses shall be listed by name and agency.

(e) Location of EIS background data.

(f) Cost to the public for a copy of the EIS pursuant to chapter 42.17 RCW.

(g) Date of issue of the draft EIS.

(h) Dates by which consulted agency and public comments must be received to be incorporated into the final EIS.

(3) Table of contents.

(4) Distribution list. The draft EIS shall include a list of the names of all agencies, federal agencies, organizations and persons to whom the draft EIS will be sent upon publication ~~((f))~~ (see WAC 352-10-460~~((f))~~).

(5) Summary of the contents of the draft EIS. Each draft EIS shall contain a summary of its contents as an aid to the agency decision-makers. The lead agency is to bear in mind that agencies other than the lead agency may be utilizing the EIS as an aid in decision-making. Therefore, care should be taken to ensure that the scope of the summary and the EIS is sufficiently broad to be useful to those other agencies being requested to license or approve a proposal. The summary shall contain only a short restatement of the main points discussed in the EIS for each of the ~~((various subject areas))~~ subjects covered. In the event impacts cannot be predicted with certainty, the reason for uncertainty together with the more likely possibilities should be concisely stated. ~~((In most cases it is expected that the summary will run two to five pages, but it shall not be more than ten pages.))~~ The summary shall include a brief description of the following:

(a) The proposal, including the purpose or objectives which are sought to be achieved by the sponsor.

(b) The direct and indirect impacts upon the environment which may result from the proposal.

(c) The alternatives considered, together with any variation in impacts which may result from each alternative.

(d) Measures which may be ~~((effectuated))~~ effected by the applicant, lead agency, or other agency with jurisdiction to mitigate or eliminate adverse impacts which may result from the proposal.

(e) Any remaining adverse impacts which cannot or will not be mitigated.

(6) Description of the proposal. The draft EIS shall include a description of the total proposal, including, but not limited to, the following:

(a) The name of the proposal and sponsors.

(b) The location of the project, or area affected by a nonproject action, including an address, if any, and a legal description: PROVIDED, That where the legal description is by metes and bounds, or is excessively lengthy, a map, in lieu of a legal description, shall be included which enables a lay person to precisely understand the location of the proposal.

(c) Reference to the file numbers, if known, of any other agencies involved so the proposal's location may be identified with precision by the consulted agency.

(d) If the proposal involves phased construction ~~((over a period of time)),~~ the timing of each ~~((construction))~~ phase should be identified ~~((and if it is anticipated that)).~~ If later phases of the proposal ~~((with))~~ are expected to require future environmental analyses, these should be identified.

(e) A description of the major physical and engineering aspects of the proposal. This description should be tailored to the environmental impacts ~~((later discussed)),~~ with those physical aspects of the proposal causing the greater impacts being given the more detailed description. Inclusion of detailed engineering drawings and technical data should normally be avoided. Material of this nature should be retained in agency files and supplied to consulted agencies upon request.

(f) A brief description of existing comprehensive land use plans and zoning regulations applicable to the proposal, and how the proposal is consistent and inconsistent with them.

(g) Within the general guidelines of this subsection, the lead agency has discretion to determine the content and level of detail appropriate to adequately describe the proposal.

(7) Existing environmental conditions. This section shall include the following:

(a) A general assessment of the existing environment, covering those areas of the environment listed in WAC 352-10-444.

(i) The level of detail used in presenting the existing environment should be proportionate to the impacts the proposal will have if approved.

(ii) Areas of the environment which are not relevant to the identified impacts need only be mentioned generally, or not at all.

(iii) Inventories of the species of flora and fauna present on the site should be avoided ~~((rather, emphasis should be placed upon)).~~ Those

species and habitats which may be significantly affected should be emphasized.

(iv) This subsection shall be brief, nontechnical, and easily understandable by lay persons, and provide the necessary background for understanding the proposal's impacts.

(b) Specific reference shall be made to those inventories and data studies which provided the informational source for part or all of the contents of this subsection.

(8) The impact of the proposal on the environment. The following items shall be included in this subsection:

(a) The known impacts resulting from the proposal within any element of the environment listed in WAC 352-10-444, the effects of which are either known to be, or which may be significant (whether beneficial or adverse), shall be discussed in detail; impacts which are potential, but not certain to occur, shall be discussed within reason.

(b) Elements of the environment which will not be significantly affected shall be marked "N/A" (not applicable) as set forth in WAC 352-10-444(1).

(c) Direct and indirect impacts of the total proposal, as described in subsection (8)(a) above shall be examined and discussed (for example, cumulative and growth-inducing impacts).

(d) The possibility that effects upon different elements of the environment will interrelate to form significant impacts shall be considered.

(9) The relationship between local short-term uses of man's environment and maintenance and enhancement of long-term productivity. The following items shall be included in this subsection:

(a) An identification of the extent to which the proposal involves trade-offs between short-term gains at the expense of long-term environmental losses.

(i) The phrases "short-term" and "long-term" do not refer to any fixed time periods, but rather are to be viewed in terms of the significant environmental impacts of the proposal.

(ii) Impacts which will narrow the range and degree of beneficial uses of the environment or pose long-term risks to human health shall be given special attention.

(b) A discussion of the benefits and disadvantages of reserving for some future time the implementation of the proposal, as opposed to possible approval of the proposal at this time.

(i) The agency perspective should be that each generation is, in effect, a trustee of the environment for succeeding generations.

(ii) Particular attention should be given to the possibility of foreclosing future options or alternatives by implementation of the proposal.

(10) Irreversible or irretrievable commitments of resources. The following items shall be included in this subsection:

(a) An identification of all substantial quantities of natural resources, including sources of energy and nonrenewable materials, which will be committed by the proposal on a permanent or long-term basis. Commitment of natural resources also includes the lost opportunities to make other uses of the resources in question.

(b) This subsection may be integrated with subsection (9) above in order to more usefully present the information required by both sections.

(11) Adverse environmental impacts which may be mitigated. The following items shall be included in this subsection:

(a) A description of reasonable ~~((alterations))~~ changes to the proposal which may ~~((result in avoiding, mitigating or reducing))~~ avoid, mitigate or reduce the risk ((of occurrence)) of any adverse environmental impacts ((upon the environment)).

(b) Energy conservation measures, including more efficient ~~((utilization))~~ use of conventional techniques (e.g., insulation) as well as newer methods.

(c) Each alternative discussed in (a) and (b) above shall be evaluated in terms of its effect upon the environment, its technical feasibility, and its economic practicability.

(12) Alternatives to the proposal. This subsection shall include the following items:

(a) A description and objective evaluation of any reasonable alternative action which could feasibly attain the objective of the proposal.

(i) Reasonable alternatives shall include any action which might approximate the proposal's objective, but at a lower environmental cost or decreased level of environmental degradation.

(ii) Reasonable alternatives may be those which are capable of being effected by either the lead agency or other agency having jurisdiction.

(b) The "no-action" alternative shall be evaluated and compared to the other alternatives.

(c) The adverse environmental effects of each alternative shall be identified.

(d) The analysis of alternatives should be sufficiently detailed to permit a comparative evaluation of each alternative and the proposal as described in subsection (6) of this section.

(e) ~~((In those instances where))~~ When the proposal is for a private project on a specific site, the alternatives considered shall be limited to the "no-action" alternative plus other reasonable alternative means of achieving the objective of the proposal on the same site or other sites owned or controlled by the same proponent (which may include only alterations for mitigation under subsection (11) of this section). This limitation shall not apply when the project proponent is applying for a rezone or contract rezone.

(f) Subsection (12) may be integrated with subsection (11) of this section in order to more usefully present the information required by both subsections.

(g) The use of the term "reasonable" is intended to limit both the number and range of alternatives that shall be described and evaluated in this subsection, as well as the amount or level of detail which the EIS shall employ for each alternative that is discussed and evaluated.

(13) Unavoidable adverse impacts. This subsection shall include the following items:

(a) A listing of those impacts included in subsection (8) of this section which are adverse but cannot, or will not, be mitigated or avoided ~~((by modifications to the project))~~.

(b) For any impact discussed in subsection (8) of this section which is determined to be nonadverse, the rationale for such determination shall be clearly stated.

(c) ~~((f))~~ ~~Optional~~ ~~((f))~~ A discussion of the relationship between the costs of the unavoidable adverse environmental impacts and the expected beneficial environmental impacts which will result from the implementation of the proposed action.

(14) Other issues. A draft EIS may contain a section labeled "Other Issues" within which those other problems and issues not pertaining to any element listed in WAC 352-10-444, but which are relevant to the proposal, shall be identified. The section shall be limited to a brief identification of such problems or issues. The lead agency may adopt guidelines that delineate the problems or issues identified under this subsection. ~~((f))~~ ~~See WAC 352-10-446~~ ~~((f))~~.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-442 SPECIAL CONSIDERATIONS REGARDING CONTENTS OF AN EIS ON A NONPROJECT ACTION.

(1) ~~((The requirements of))~~ WAC 352-10-440 ~~((apply))~~ applies to the contents of a draft EIS ~~((on a proposal))~~ for a nonproject action. ~~((Lead agencies,))~~ However, lead agencies have greater flexibility in their approach to achieving compliance with the requirements of WAC 352-10-440 in writing and EIS for nonproject actions, because normally less specific details are known about the proposal and any implementing projects, as well as the anticipated impacts on the environment.

(2) The lead agency should be ~~((alert to the fact))~~ aware that ~~((it is in the development and review of))~~ typically in developing and reviewing proposals for nonproject actions ~~((where))~~ the range of alternatives is ~~((typically more broad))~~ broader than ~~((that of))~~ in developing a proposal for a project action (which is often narrowed to a specific location and design). The proposal should be described in a manner which encourages consideration of a number of alternative methods of accomplishing its objective.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-444 LIST OF ELEMENTS OF THE ENVIRONMENT.

(1) Every EIS shall have appended to it a list of the elements of the environment in subsection (2), (3) and (4) of this section. The lead agency shall place "N/A" ("not applicable") next to an item when the proposal, including its indirect impacts, will not significantly affect the area (or subarea) of the environment in question. Items marked "N/A" need not be mentioned in the body of the EIS. Subsections (2) and (3) of this section correspond in subject matter to the questions contained in the environmental checklist used for threshold determination, and the questions in the checklist may be used to interpret this outline listing. Provided, this list of elements need not be appended to an EIS being prepared to satisfy both the national environmental policy act and SEPA.

(2) ELEMENTS OF THE PHYSICAL ENVIRONMENT.

- (a) Earth.
 - (i) Geology.
 - (ii) Soils.
 - (iii) Topography.
 - (iv) Unique physical features.
 - (v) Erosion.
 - (vi) Accretion/avulsion.
- (b) Air.
 - (i) Air quality.
 - (ii) Odor.
 - (iii) Climate.
- (c) Water.
 - (i) Surface water movement.
 - (ii) Runoff/absorption.
 - (iii) Floods.
 - (iv) Surface water quantity.
 - (v) Surface water quality.
 - (vi) Ground water movement.
 - (vii) Ground water quantity.
 - (viii) Ground water quality.
 - (ix) Public water supplies.
- (d) Flora.
 - (i) Numbers or diversity of species.
 - (ii) Unique species.
 - (iii) Barriers and/or corridors.
 - (iv) Agricultural crops.
- (e) Fauna.
 - (i) Numbers or diversity of species.
 - (ii) Unique species.
 - (iii) Barriers and/or corridors.
 - (iv) Fish or wildlife habitat.
- (f) Noise.
- (g) Light and glare.
- (h) Land use.
- (i) Natural resources.
 - (i) Rate of use.
 - (ii) Nonrenewable resources.
- (j) Risk of explosion or hazardous emissions.

(3) ELEMENTS OF THE HUMAN ENVIRONMENT

- (a) Population.
- (b) Housing.
- (c) Transportation/circulation.
 - (i) Vehicular transportation generated.
 - (ii) Parking facilities.
 - (iii) Transportation systems.
 - (iv) Movement/circulation of people or goods.
 - (v) Waterborne, rail and air traffic.
 - (vi) Traffic hazards.
- (d) Public services.
 - (i) Fire.
 - (ii) Police.
 - (iii) Schools.
 - (iv) Parks or other recreational facilities.
 - (v) Maintenance.
 - (vi) Other governmental services.
- (e) Energy.
 - (i) Amount required.
 - (ii) Source/availability.
- (f) Utilities.
 - (i) Energy.
 - (ii) Communications.
 - (iii) Water.
 - (iv) Sewer.
 - (v) Storm water.
 - (vi) Solid waste.
- (g) Human health (including mental health).
- (h) Aesthetics.
- (i) Recreation.
- (j) Archeological/historical.

(4) The following additional element shall be covered in all EISs, either by being discussed or marked "N/A," but shall not be considered part of the environment for other purposes:

- (a) Additional population characteristics.

- (i) Distribution by age, sex and ethnic characteristics of the residents in the geographical area affected by the environmental impacts of the proposal.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-450 PUBLIC AWARENESS OF AVAILABILITY OF DRAFT EIS. ~~((1) Upon publication of the draft EIS, the responsible official shall list the proposal in the lead agency's "EIS Available Register" maintained at the agency's SEPA public information center.~~

~~((2))~~ The lead agency is encouraged, but not required, to use any reasonable method ~~((calculated))~~ to inform the public ~~((of the availability of))~~ that the draft EIS is available and of the procedures for requesting a public hearing. Examples of such methods are publication of notice in a newspaper of general circulation in the county, city or general geographic area where the proposal is located; notifying private groups that are known to be interested in a certain proposal; contacting news media personnel and encouraging news coverage; and, placing notices in appropriate regional, neighborhood or ethnic periodicals.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-455 CIRCULATION OF THE DRAFT EIS—REVIEW PERIOD. (1) A consulted agency shall have ~~((a maximum of))~~ thirty-five days from the date of ~~((listing of the proposal in the "EIS Available Register"))~~ issuance in which to review the draft and forward its comments and information ~~((with respect thereto))~~ to the lead agency. If a consulted agency with jurisdiction requires additional time to develop and complete new data on the proposal, a fifteen day extension may be granted by the lead agency. Extensions may not be granted for any other purpose.

(2) There shall be allowed a period of thirty-five days from the date of ~~((the listing of the proposal in the "EIS Available Register"))~~ issuance for the public to forward to the lead agency any comments upon or substantive information related to the proposal and the draft EIS.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-460 SPECIFIC AGENCIES TO WHICH DRAFT EIS SHALL BE SENT. (1) ~~((A copy of each))~~ The draft EIS shall be ~~((mailed no later than the day that it is listed in the "EIS Available Register"))~~ issued by sending copies to the following:

- (a) The department of ecology.
- (b) Each federal agency having jurisdiction by law over a proposed action.
- (c) Each agency having jurisdiction by law over, or environmental expertise pertaining to a proposed action, as defined by WAC 352-10-040 and 352-10-465 (required by RCW 43.21C.030(2)(d)).
- (d) Each city/county in which adverse environmental effects identified in the draft EIS may occur if the proposed action is implemented. (This subsection does not apply to draft EISs for nonproject actions.)
- (e) Each local agency or political subdivision which will be required to furnish additional public services as a result of implementation of the proposed action.
- (f) The applicable regional planning commission, regional clearinghouse, state-wide clearinghouse, or area-wide council of government which has been designated to review and coordinate local governmental planning under the A-95 review process and other federal regulations and programs ~~((f))~~(see RCW 36.64.080, ~~((RCW))~~ 35.63.070 and ~~((RCW))~~ 36.70.070~~((f))~~).
- (g) ~~((The lead agency's SEPA public information center.~~
- ~~((h-f))~~(Optional~~((f))~~) Any person, organization or governmental agency that has expressed an interest in the proposal, is known by the lead agency to have an interest in the type of proposal being considered, or receives governmental documents (e.g., local and regional libraries) may be sent a copy of the draft EIS.

(2) An agency that receives a copy of the draft EIS does not become a "consulted agency" under these guidelines due to that factor alone. ~~((f))~~(See WAC 352-10-040, 352-10-465, 352-10-510 and 352-10-520 for those provisions that define a consulted agency~~((f))~~).

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-465 AGENCIES POSSESSING ENVIRONMENTAL EXPERTISE. The following agencies shall be regarded as possessing special expertise relating to those categories of the environment under which they are listed:

- (1) Air quality.
 - (a) Department of ecology.
 - (b) Department of natural resources (only for burning in forest areas).
 - (c) Department of social and health services.
 - (d) Regional air pollution control authority or agency.
- (2) Water resources and water quality.
 - (a) Department of game.
 - (b) Department of ecology.
 - (c) Department of natural resources (state-owned tidelands, harbor areas or beds of navigable waters).
 - (d) Department of social and health services (public water supplies, sewer systems, shellfish habitats).
 - (e) Department of fisheries.
 - (f) Oceanographic commission (marine waters).
- (3) Fish and wildlife.
 - (a) Department of game.
 - (b) Department of fisheries.
 - (c) Oceanographic commission (marine waters).
- (4) Solid waste.
 - (a) Department of ecology.
 - (b) Department of fisheries (dredge spoils).
 - (c) Department of social and health services.
- (5) Noise.
 - (a) Department of ecology.
 - (b) Department of social and health services.
- (6) Hazardous substances (including radiation).
 - (a) Department of ecology.
 - (b) Department of social and health services.
 - (c) Department of agriculture (foods or pesticides).
 - (d) Department of fisheries (introduction into waters).
 - (e) Oceanographic commission (introduction into marine waters).
- (7) Natural resources development.
 - (a) Department of commerce and economic development.
 - (b) Department of ecology.
 - (c) Department of natural resources.
 - (d) Department of fisheries.
 - (e) Department of game.
 - (f) Oceanographic commission (related to marine waters).
- (8) Energy production, transmission and consumption.
 - (a) Department of commerce and economic development (office of nuclear energy development—nuclear).
 - (b) Department of ecology.
 - (c) Department of natural resources (geothermal, coal, uranium).
 - (d) State energy office.
 - (e) ((~~Thermal power plant~~) Energy facility site evaluation council (thermal power plants)).
 - (f) Utilities and transportation commission.
- (9) Land use and management.
 - (a) Department of commerce and economic development.
 - (b) Department of ecology.
 - (c) Department of fisheries (affecting surface or marine waters).
 - (d) Department of natural resources (tidelands or state-owned or -managed lands).
 - (e) Office of community development.
- (10) Transportation.
 - (a) Department of ((~~highways~~) transportation).
 - (b) Utilities and transportation commission.
 - (c) Oceanographic commission (water borne).
- (11) Recreation.
 - (a) Department of commerce and economic development.
 - (b) Department of game.
 - (c) Department of fisheries.
 - (d) Parks and recreation commission.
 - (e) Department of natural resources.
- (12) Archaeological/historical.
 - (a) ((~~Parks and recreation commission~~) Office of archaeology and historic preservation).
 - (b) Washington state university at Pullman (Washington archaeological research center).

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-470 COST TO THE PUBLIC FOR REPRODUCTION OF ENVIRONMENTAL DOCUMENTS. The lead agency shall ((~~make available~~)) provide a copy of any environmental document, in ((~~the manner provided by~~)) accordance with chapter 42-17 RCW, charging only those costs allowed therein ((~~and~~)) plus mailing costs((~~-PROVIDED, That~~)). However, no charge shall be levied for circulation of documents to other agencies ((~~which is~~)) as required by these guidelines.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-480 PUBLIC HEARING ON A PROPOSAL—WHEN REQUIRED. (1) If a public hearing on the proposal is held pursuant to some other requirement of law, such hearing shall be open to consideration of the environmental impact of the proposal, together with any available environmental document.

(2) In all other cases a public hearing on the environmental impact of a proposal shall be held whenever one or more of the following situations occur:

(a) The lead agency determines, in its sole discretion, that a public hearing would assist ((~~the lead agency~~)) it in meeting its responsibility to implement the purposes and goals of SEPA and these guidelines; or,

(b) When fifty or more persons residing within the jurisdiction of the lead agency, or who would be adversely affected by the environmental impact of the proposal, make written request to the lead agency within thirty-five days of ((~~the listing of the proposal in the "EIS Available Register"~~)) issuance of the draft EIS; or,

(c) When two or more agencies with jurisdiction over a proposal make written request to the lead agency within thirty-five days of ((~~listing of the proposal in the "EIS Available Register."~~)) issuance of the draft EIS.

(3) Whenever a public hearing is held under subsection (2) of this section, it shall occur no later than fifty-one days from the ((~~listing of the proposal in the "EIS Available Register"~~)) issuance of the draft EIS and no earlier than fifteen days from such date of ((~~listing~~)) issuance.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-485 NOTICE OF PUBLIC HEARING ON ENVIRONMENTAL IMPACT OF THE PROPOSAL. ((~~++~~)) Notice of all public hearings to be held pursuant to WAC 352-10-480(2) shall be published in a newspaper of general circulation in the area where the project will be implemented. For nonproject actions the notice shall be published in the general area where the lead agency has its principal office. The notice shall be published no later than five days preceding the hearing. For nonproject proposals having regional or statewide applicability, copies of the notice shall be transmitted to the Olympia bureaus of the associated press and united press international.

((~~2~~)) A notation of the hearing date and location shall be entered in the "EIS Available Register" maintained at the lead agency's SEPA public information center.))

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-510 RESPONSIBILITIES OF CONSULTED AGENCIES—STATE AGENCIES WITH JURISDICTION. Each state agency with jurisdiction, when responding to a consultation request prior to a threshold determination, participating in pre-draft consultation, or reviewing a draft EIS, shall immediately begin the research and, if necessary, field investigations which it would normally conduct in conjunction with whatever license it requires for a proposal((~~-or~~)). In the event no license is involved, the agency with jurisdiction shall investigate the impacts of the activity it will undertake which gives it jurisdiction over a portion of the proposal. The end result of these investigations should be that each agency with jurisdiction will be able to transmit to the lead agency substantive information on those environmental impacts of the proposal which are within the scope of the license or activity of the agency with jurisdiction. An agency with jurisdiction, in its response to the lead agency, should also indicate which of the impacts it has discovered may be mitigated or avoided and how this might be accomplished, and describe those areas of environmental risk((s)) which remain after it has conducted the investigations that may have been required.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-520 RESPONSIBILITIES OF CONSULTED AGENCIES—STATE AGENCIES WITH ENVIRONMENTAL EXPERTISE. (1) When requested by the lead agency, each state agency participating in predraft consultation, or reviewing a draft EIS, lacking jurisdiction, but possessing environmental expertise pertaining to the impacts associated with a proposal ((f))(see WAC 352-10-465((j)))(- when requested by the lead agency;)) shall provide to the lead agency that substantive data, information, test results or other material relevant to the proposal which the consulted agency ((then)) possesses relating to its area of special expertise.

(2) The consulted agency may at its option investigate, develop and transmit whatever additional information is necessary for the lead agency to meet its responsibilities under WAC 352-10-440 or 352-10-442.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-535 COST OF PERFORMANCE OF CONSULTED AGENCY RESPONSIBILITIES. A consulted agency shall not charge the lead agency for any costs incurred in complying with WAC 352-10-500 through 352-10-540, including, but not limited to, ((such functions as)) providing relevant data to the lead agency and the reproduction of various documents that are transmitted to the lead agency. This section shall not prohibit a consulted agency from charging those costs allowed by chapter 42.17 RCW((;)) for the reproduction of any environmental document when the request for a copy of the document is from an agency other than the lead agency, or from an individual or private organization.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-540 LIMITATIONS ON RESPONSES TO CONSULTATION. ((In those instances where)) If part or all of the relevant data possessed by ((any)) a consulted agency is ((either)) voluminous in nature, extremely bulky or otherwise incapable of ready transmittal to the lead agency, or if it consists of a report or document published by another agency, or ((represents)) is a standard text or other work obtainable at a public library, such data or information may be clearly identified or cited by the consulted agency in its comments to the lead agency and the data itself need not be transmitted. When the consulted agency identifies ((relevant data, files or other)) material pursuant to this section, it shall describe briefly the nature of such information and clearly indicate its relevance to the environmental analysis of the proposed action in question. If the details of the proposal supplied with the consultation request are not sufficient to allow a complete response, the consulted agency shall be required to transmit only that information it is capable of developing from the material sent to it with the consultation request.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-545 EFFECT OF NO WRITTEN COMMENT. If a consulted agency does not respond with written comments within thirty-five days of the date of ((listing of the draft EIS in the "EIS Available Register,") issuance of the draft EIS or ((fails to respond)) within ((the)) a fifteen-day extension period ((which may have been)) granted by the lead agency, the lead agency may assume that the consulted agency has no information relating to the potential impact of the proposal upon the subject area of the consulted agency's jurisdiction or special expertise. Any consulted agency which fails to submit substantive information to the lead agency in response to a draft EIS is thereafter barred from alleging any defects in the lead agency's compliance with WAC 352-10-400 through 352-10-495, or with the contents of the final EIS.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-550 PREPARATION OF THE FINAL EIS—TIME PERIOD ALLOWED. The lead agency shall prepare a final EIS within seventy-five days of ((the listing of the proposal in the "EIS Available Register,") issuance of the draft EIS. The lead agency may extend the time period whenever the proposal is unusually large in scope, or the environmental impact associated with the proposal is unusually complex.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-570 PREPARATION OF THE FINAL EIS—CONTENTS—WHEN NO CRITICAL COMMENTS RECEIVED ON THE DRAFT EIS. (1) If the lead agency does not receive any comments critical of the scope or content of the draft EIS, the lead agency may prepare a statement to ((the)) that effect ((that no critical comments were received)) and circulate that statement in the manner prescribed in WAC 352-10-600.

(2) The statement prepared and circulated pursuant to subsection (1) above, together with the draft EIS (which is not recirculated with the statement), shall constitute the "final EIS" for the proposal: PROVIDED, That when the draft EIS was not circulated to the office of the governor or the ecological commission, then the draft EIS shall be attached only to the statement sent to these agencies.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-580 PREPARATION OF THE FINAL EIS—CONTENTS—WHEN CRITICAL COMMENTS RECEIVED ON THE DRAFT EIS. (1) When the lead agency receives any comments critical of the scope or content of the draft EIS, whether made in writing or made orally at any public hearing on the environmental impact of the proposal, it shall comply with either subsection (2) or (3) below.

(2) The lead agency may determine that no changes or only minor changes are required in either the draft EIS or the proposal, despite the critical comments that were received during the commenting period. The lead agency must prepare a document containing a general response to the comments that were received, any minor changes to the EIS or proposal, the text or summary of written comments, and a summary of the oral comments made by the public at any hearing held on the proposal or its environmental impacts. The lead agency shall then circulate the document in the manner prescribed in WAC 352-10-600: PROVIDED, That when the draft EIS was not circulated to the office of the governor or the ecological commission, then the draft EIS shall be attached only to the statement sent to these agencies.

(3) The lead agency may determine that it is necessary and appropriate to rewrite the contents of the draft EIS in order to respond to critical comments received during the commenting period. In such instances, the lead agency shall circulate the rewritten EIS in the manner specified in WAC 352-10-600. The lead agency shall ensure that the re-written EIS evidences an affirmative response by the lead agency to the critical comments, or alternatively, contains a summary of those critical comments with which it does not agree.

(4) A document prepared and circulated pursuant to subsection (2) or (3) above shall constitute the "final EIS" for the proposal.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-600 CIRCULATION OF THE FINAL EIS. The final EIS shall be ((circulated)) issued by circulating it to the department of ecology, office of the governor or the governor's designee, the ecological commission, ((the lead agency's SEPA public information center;)) agencies with jurisdiction, and federal agencies with jurisdiction which received the draft EIS. It shall be made available to the public in the same manner and cost as the draft EIS.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-650 EFFECT OF AN ADEQUATE FINAL EIS PREPARED PURSUANT TO NEPA. (1) The requirements of this chapter relating to the preparation of an EIS shall not apply when an adequate final EIS has been prepared pursuant to the national environmental policy act of 1969 (NEPA), in which event such EIS may be utilized in lieu of a final EIS separately prepared under SEPA.

(2) The final EIS of a federal agency shall be adequate unless:

(a) A court rules that it is inadequate; or,
(b) The administrator of the United States Environmental Protection Agency issues a written comment pursuant to the Federal Clean Air Act, 42 U.S.C. section 1857, which determines it to be inadequate; or,

(c) The environmental elements of WAC 352-10-444, when applied locally, are not adequately treated in it.

(3) If, after review thereof, the lead agency determines that the federal EIS is adequate, ((it shall be listed in the "EIS Available Register" in the SEPA public information center)) a notice to this effect shall be circulated as in WAC 352-10-600.

(4) If a hearing open to public comment upon the adequacy of the federal EIS has not previously been held within the jurisdiction of the SEPA lead agency, a public hearing on the sole issue of the adequacy of the content of a federal EIS shall be held if, within thirty-five days of ~~((its listing in the register))~~ the notice in subsection (3) above, at least fifty persons who reside within the jurisdiction of the lead agency, or are adversely affected by the environmental impact of the proposal, make written request ~~((therefor))~~. The lead agency shall reconsider its determination of adequacy in view of comments received at any such public hearing.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-660 USE OF PREVIOUSLY PREPARED EIS FOR A DIFFERENT PROPOSED ACTION. (1) An agency may adopt and utilize a previously prepared EIS, or portion thereof, to satisfy certain of the EIS requirements applicable to a different proposed action, as set forth in (2) and (3) below. In such event, two requirements shall be met:

(a) The previous EIS or portion thereof, together with any supplement to it, shall meet the requirements of these guidelines applicable to an EIS for the new proposed action, and

(b) ~~((A previous EIS shall not be used without an explanatory supplement))~~ Where any intervening change in conditions would make the previous EIS misleading when applied to the new proposed action, a previous EIS shall not be used without an explanatory supplement.

(2) When the new proposed action will have an impact on the environment that was not adequately analyzed in the previously prepared EIS, the lead agency shall prepare a draft supplemental EIS and comply with the provisions of WAC 352-10-400 through 352-10-695. The contents of the draft and final supplemental EIS shall be limited to those impacts of the proposed action which were not adequately analyzed in the earlier EIS.

(3) When the new proposed action will not have an impact on the environment that is substantially different than the impacts of the earlier proposed action, the lead agency may prepare a written statement setting forth its determination under this subsection and ~~((list the proposal in the "EIS Available Register"))~~ circulate it as provided in WAC 352-10-600. The lead agency shall not be required to prepare a new or supplemental draft or final EIS on the new proposed action when this subsection is determined to apply. However, the provisions of WAC 352-10-480 through 352-10-490, relating to a public hearing on the environmental impact of a proposal shall apply ~~((; however, to proposed actions determined to be under the provisions of this subsection))~~.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-690 USE OF LEAD AGENCY'S EIS BY OTHER ACTING AGENCIES FOR THE SAME PROPOSAL. (1) When an agency is considering an action which is ~~((identified as))~~ part of a proposal covered by a final EIS of a lead agency, and the agency ~~((now considering the action))~~ was consulted as an agency with jurisdiction during the consultation process on the previous EIS because of the action it is now considering, such agency must utilize the previous EIS unchanged when it is considering its present action except under the conditions of subsection (2) ~~((hereof))~~ of this section.

(2) An agency with jurisdiction shall review and consider supplementing an EIS prepared by the lead agency only if:

(a) The proposal has been significantly modified since the lead agency prepared the EIS; or,

(b) The action now being considered was identified in the lead agency's EIS as one which would require further environmental evaluation; or,

(c) The level of design or planning for the proposal has become more detailed, revealing inadequately analyzed impacts; or,

(d) Technical data has become available which indicates the presence of a significant adverse environmental impact.

In such cases, the acting agency shall prepare a supplement to the lead agency's EIS ~~((; and only if;))~~ it determines that significant adverse environmental impacts have been inadequately analyzed in the lead agency's EIS.

(3) If an agency is not listed as a licensing agency in the draft EIS pursuant to WAC 352-10-440(2)(d) and did not receive a copy of the draft EIS, such agency shall not be limited by the contents of the earlier EIS in preparing its statement.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-695 DRAFT AND FINAL SUPPLEMENTS TO A REVISED EIS. (1) In any case where the lead agency is preparing a supplement to an earlier EIS or to an EIS prepared pursuant to NEPA, it shall prepare a draft supplemental EIS and comply with WAC 352-10-450 through 352-10-470. Copies ~~((of both the prior and supplemental EIS shall be maintained at the SEPA public information center, and copies))~~ of the prior EIS, as well as the supplement, shall be transmitted to the consulted agencies which had not previously received it.

(2) Upon preparation of the draft supplemental EIS, the lead agency shall comply with WAC 352-10-550 through 352-10-580 and the final supplemental EIS, together with the ~~((earlier))~~ prior EIS, shall be regarded as a final EIS for all purposes of these guidelines.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-700 NO ACTION FOR SEVEN DAYS AFTER PUBLICATION OF THE FINAL EIS. No agency shall take any major action (as defined in WAC 352-10-040(26)) on a proposal for which an EIS has been required, prior to seven days from the ~~((publication))~~ issuance of the final EIS ~~((and its listing in the "EIS Available Register" maintained at the agency's SEPA public information center))~~.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-830 COMMISSION SEPA PUBLIC INFORMATION CENTER. (1) The commission's SEPA public information center shall be located in the office of the environmental coordination section at the headquarters office of the commission in Olympia.

(2) The following documents shall be maintained at the commission's SEPA public information center:

(a) Copies of all declarations of nonsignificance filed by the commission, for a period of one year.

(b) Copies of all EISs prepared by the commission, for a period of three years. Draft EISs which have been superseded by a final EIS need not be maintained at the center.

(3) ~~((In addition, the Commission shall maintain the following registers at its information center, each register including for each proposal its location, a brief (one sentence or phrase) description of the nature of the proposal, the date first listed on the register, and a contact person or office from which further information may be obtained:))~~

(a) A "Proposed Declaration of Non-Significance Register" which shall contain a listing of all current proposed declarations of non-significance;

(b) An "EIS in Preparation Register" which shall contain a listing of all proposals for which the Commission is currently preparing an EIS, and the date by which the EIS is expected to be available;

(c) An "EIS Available Register" which shall contain a listing of all draft and final EISs prepared by the Commission during the previous six months, including thereon the date by which comments must be received on draft EISs, and the date for any public hearing scheduled for the proposal;

(4) Each of the registers required by subsection (3) hereof shall be kept current and maintained at the information center for public inspection. In addition, the registers, or updates thereof containing new entries added since the last mailing, shall be mailed once every two weeks to those organizations and individuals who make written request therefor, unless no new proposals are placed on the register, in which event a copy of the register or update shall be mailed when a new proposal is added. The Commission may charge a periodic fee for the service of mailing the registers or updates, which shall be reasonably related to the costs of reproduction and mailing.

(5) The documents required to be maintained at the information center shall be available for public inspection, and copies thereof shall be provided upon written request. The commission may charge for copies in the manner provided by chapter 42.17 RCW, and for the cost of mailing.

(4) The commission shall transmit the following documents to the department of ecology headquarters office in Olympia:

(a) All draft and final EISs. (See WAC 352-10-460 and 352-10-600);

(b) All final declarations of nonsignificance for which a proposed declaration of nonsignificance has been circulated. (See WAC 352-10-340(7)).

(5) Each week the department of ecology shall prepare a listing of the documents in subsection (4)(a) and (b) above and make the listing available to other agencies and to the public. The department may charge a reasonable fee for this list in the manner provided for in chapter 42.17 RCW. This listing shall be known as the "SEPA REGISTER".

(6) The commission may take any additional steps found appropriate to inform other agencies and the public of EISs in preparation, EISs available, proposed declarations of nonsignificance, final declarations of nonsignificance and other SEPA-related matters.

AMENDATORY SECTION (Amending Order 20, filed 5/27/76)

WAC 352-10-920 EFFECTIVE DATE. These guidelines shall become effective not sooner than (~~June 25, 1976~~) June 14, 1978.

WSR 78-04-090

ADOPTED RULES

DEPARTMENT OF ECOLOGY

[Order DE 78-5—Filed April 4, 1978]

I, Elmer C. Vogel, deputy director of the Department of Ecology, do promulgate and adopt at the Department of Ecology, Lacey, Washington, the annexed rules relating to the repealing of chapter 173-800 WAC, Department of Ecology State Environmental Policy Act (SEPA) Guidelines, and readopting with amendments as chapter 173-801 WAC, Department of Ecology State Environmental Policy Act (SEPA) Guidelines, to make the new chapter consistent with the recently amended state-wide SEPA Guidelines, chapter 197-10 WAC.

This action is taken pursuant to Notice No. WSR 78-03-083 filed with the code reviser on 2/28/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 43.21C-.120 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 April 4, 1978.

By Elmer C. Vogel
Deputy Director

Chapter 173-801 WAC
DEPARTMENT OF ECOLOGY "SEPA" GUIDELINES

NEW SECTION

WAC 173-801-010 AUTHORITY. This chapter is promulgated pursuant to the directives of RCW 43-.21C.120 and chapter 197-10 WAC.

NEW SECTION

WAC 173-801-020 ADOPTION BY REFERENCE. The department of ecology hereby adopts by reference the following sections or subsections of chapter 197-10 of the Washington Administrative Code (the

"SEPA Guidelines" adopted by the state of Washington, council on environmental policy and amended by the department of ecology)

- WAC 197-10-040: Definitions.
- WAC 197-10-060: Scope of a proposal and its impacts.
- WAC 197-10-160: No presumption of significance for nonexempt actions.
- WAC 197-10-170: Categorical exemptions.
- WAC 197-10-175: Exemptions and nonexemptions applicable to specific state agencies.
- WAC 197-10-180: Exemptions for emergency actions.
- WAC 197-10-190: Use and effect of categorical exemptions.
- WAC 197-10-200: Lead agency—Responsibilities.
- WAC 197-10-203: Determination of lead agency—Procedures.
- WAC 197-10-205: Lead agency designation—Governmental proposals.
- WAC 197-10-210: Lead agency designation—Proposals involving both private and public construction.
- WAC 197-10-215: Lead agency designation—Private projects for which there is only one agency.
- WAC 197-10-220: Lead agency designation—Private projects, licenses from more than one agency when one is city/county.
- WAC 197-10-225: Lead agency designation—Private projects, license from more than one state agency.
- WAC 197-10-230: Lead agency designation—Specific proposals.
- WAC 197-10-235: Local agency transfer of lead agency status to a state agency.
- WAC 197-10-240: Agreements as to lead agency status.
- WAC 197-10-245: Agreements between agencies as to division of lead agency duties.
- WAC 197-10-260: Dispute as to lead agency determination—resolution by CEP.
- WAC 197-10-270: Assumption of lead agency by another agency with jurisdiction.
- WAC 197-10-300: Threshold determination requirement.
- WAC 197-10-305: Recommended timing for threshold determination.
- WAC 197-10-310: Threshold determination procedures—Environmental checklist.
- WAC 197-10-320: Threshold determination procedures—Initial review of environmental checklist.
- WAC 197-10-330: Threshold determination procedures—Information in addition to checklist.
- WAC 197-10-340: Threshold determination procedures—Negative declarations.

- WAC 197-10-345: Assumption of lead agency status by another agency with jurisdiction—Prerequisites, effect and form of notice.
- WAC 197-10-350: Affirmative threshold determination.
- WAC 197-10-355: Form of declaration of significance/nonsignificance.
- WAC 197-10-360: Threshold determination criteria—Application of environmental checklist.
- WAC 197-10-365: Environmental checklist.
- WAC 197-10-370: Withdrawal of affirmative threshold determination.
- WAC 197-10-375: Withdrawal of negative threshold determination.
- WAC 197-10-390: Effect of threshold determination by lead agency.
- WAC 197-10-400: Duty to begin preparation of a draft EIS.
- WAC 197-10-405: Purpose and function of a draft EIS.
- WAC 197-10-410: Pre-draft consultation procedures.
- WAC 197-10-420: Preparation of EIS by persons outside the lead agency.
- WAC 197-10-425: Organization and style of a draft EIS.
- WAC 197-10-440: Contents of a draft EIS.
- WAC 197-10-442: Special considerations regarding contents of an EIS on a nonproject action.
- WAC 197-10-444: List of elements of the environment.
- WAC 197-10-446: Draft EIS—Optional additional elements.
- WAC 197-10-450: Public awareness of availability of draft EIS.
- WAC 197-10-455: Circulation of the draft EIS—Review period.
- WAC 197-10-460: Specific agencies to which draft EIS shall be sent.
- WAC 197-10-465: Agencies possessing environmental expertise.
- WAC 197-10-470: Cost to the public for reproduction of environmental documents.
- WAC 197-10-480: Public hearing on a proposal—When required.
- WAC 197-10-485: Notice of public hearing on environmental impact of the proposal.
- WAC 197-10-490: Public hearing on the proposal—Use of environmental documents.
- WAC 197-10-495: Preparation of amended or new draft EIS.
- WAC 197-10-500: Responsibilities of consulted agencies—Local agencies.
- WAC 197-10-510: Responsibilities of consulted agencies—State agencies with jurisdiction.
- WAC 197-10-520: Responsibilities of consulted agencies—State agencies with environmental expertise.

- WAC 197-10-530: Responsibilities of consulted agencies—When pre-draft consultation has occurred.
- WAC 197-10-535: Cost of performance of consulted agency responsibilities.
- WAC 197-10-540: Limitations on responses to consultation.
- WAC 197-10-545: Effect of no written comment.
- WAC 197-10-550: Preparation of the final EIS—Time period allowed.
- WAC 197-10-570: Preparation of final EIS—When no critical comments received on the draft EIS.
- WAC 197-10-580: Preparation of the final EIS—Contents—When critical comments received on draft EIS.
- WAC 197-10-600: Circulation of the final EIS.
- WAC 197-10-650: Effect of an adequate final EIS prepared pursuant to NEPA.
- WAC 197-10-652: Supplementation by a lead agency of an inadequate final NEPA EIS.
- WAC 197-10-660: Use of previously prepared EIS for a different proposed action.
- WAC 197-10-690: Use of a lead agency's EIS by other acting agencies for the same proposal.
- WAC 197-10-695: Draft and final supplements to a revised EIS.
- WAC 197-10-700: No action for seven days after publication of the final EIS.
- WAC 197-10-710: EIS combined with existing planning and review processes.
- WAC 197-10-831: Responsibilities of Agencies—SEPA public information.
- WAC 197-10-840: Application of agency guidelines to ongoing actions.

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

NEW SECTION

WAC 173-801-030 PURPOSE. (1) The purpose of this chapter is to implement the state-wide guidelines (chapter 197-10 WAC) established by the council on environmental policy as they apply to actions of the department of ecology.

(2) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the department of ecology to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

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

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

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

(d) Preserve important historic, cultural, and natural aspects of our national heritage;

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

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

(g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

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

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

NEW SECTION

WAC 173-801-040 EFFECT OF SEPA. The state environmental policy act provides additional standards for departmental decision-making for all activities which may have an impact on the environment. The processes of the state environmental policy act, including but not limited to detailed statement requirements, are aimed at making more informed decisions, and toward projects with greater public and environmental acceptability. The process should foster mutual communication, understanding and cooperation among applicants, governmental agencies and citizens. All reasonable alternatives and mitigative/compensatory measures should be explored.

NEW SECTION

WAC 173-801-045 INTEGRATION OF SEPA PROCEDURES WITH OTHER DEPARTMENTAL OPERATIONS. To the fullest extent possible, the department of ecology shall integrate the procedures required by these guidelines with existing planning and licensing procedures. These procedures should be initiated early, and undertaken in conjunction with other governmental operations to avoid lengthy time delays and unnecessary duplication.

NEW SECTION

WAC 173-801-050 DESIGNATION OF RESPONSIBLE OFFICIAL. (1) Within the department of ecology, the ultimate responsible official is the director. Normally, the operational responsibility shall be delegated to levels no lower than a supervisor of a regional office branch or a division supervisor. When significant interdivisional involvements occur, consideration shall be given to establishing the next higher official common to involved supervisors as the responsible official. When the convergence or responsibility is higher than the assistant director level, the responsible official shall be designated by the deputy director.

(2) The identity of the responsible official should be established as soon as possible, ideally at the preapplication (or for department actions—preproject formulation) stage. The first department contact person should make a recommendation to his/her supervisor in order that a preliminary determination be made.

NEW SECTION

WAC 173-801-060 TIMING. (1) The department shall integrate SEPA into its normal processes in such a way that no undue delays are caused by SEPA compliance. The purposes of SEPA are best served by consideration of environmental factors early in the preplanning stages.

(2) At a minimum, the threshold determination and any required EIS shall be completed prior to undertaking any proposed major action.

(3) The environmental checklist should normally be completed when an application is found to be nonexempt. In order to conserve time and avoid misunderstandings, the first agency contact person should make the "action" and "exemption" determinations and assist the applicant in completing the checklist. If exempt status is questionable, a checklist should be completed and the supervisor consulted.

NEW SECTION

WAC 173-801-070 SUMMARY OF INFORMATION WHICH MAY BE REQUIRED OF A PRIVATE APPLICANT. (1) There are three areas of these guidelines where the department may require information from a private applicant. These are:

- (a) Environmental checklist;
- (b) Threshold determination; and,
- (c) Draft and final EIS.

The responsible official may determine that any information supplied by a private applicant is insufficient and require further information, if in the judgment of the responsible official the information initially supplied was not reasonably adequate to fulfill the purpose for which it was required. An applicant may choose to voluntarily submit, at any time, information beyond that which may be required under these guidelines.

(2) Environmental Checklist. A private applicant is required to complete an environmental checklist, either concurrently with or after filing the application. Explanations for each "yes" and "maybe" answer indicated thereon are required. The department may not require a complete assessment or "mini EIS" at this stage.

(3) Threshold Determination. The responsible official shall make an initial review of a completed checklist without requiring more information from a private applicant. If, and only if, he determines as a result of its initial review that the information available is not reasonably sufficient to determine the environmental impacts of the proposal, he may require further information from the applicant, including explanation of "no" answers on the checklist. This information shall be limited to those elements on the environmental checklist for which, as determined by the responsible official, information accessible to him is not reasonably sufficient to evaluate the environmental impacts of the proposal. Field investigations or research by the applicant reasonably related to determining the environmental impacts of the proposal may be required.

- (4) Draft and Final EIS.

(a) The department shall normally prepare its own draft and final impact statements. In so doing, it may

require the applicant to provide information not in the possession of the department. This may include a requirement that the applicant conduct specific investigations.

The applicant shall not be required to provide information reasonably available from other agencies with expertise. The applicant shall not be unduly burdened financially, however, in the interest of efficiency, the applicant is encouraged to provide as much information as he desires.

(b) The situation may arise in which the department, because of its commitments, is unable to prepare the draft and/or final EIS on a local agency transfer. In this case, the applicant shall be provided a letter outlining the situation and will be provided the option of the following impact statement preparation method:

(i) Applicant posts a mutually agreed upon bond with the department.

(ii) The department retains a mutually agreed upon and independent outside party to prepare the document.

(iii) The outside party prepares the document under the supervision of the department responsible official.

(iv) The outside party is paid from the posted bond. The applicant is provided an itemized accounting and the remaining balance of the bond.

(c) Private applicants shall be encouraged to cooperate in the impact statement preparation process. The results of a cooperative effort can be a better, more acceptable project, and a more expeditious handling of the application.

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

NEW SECTION

WAC 173-801-080 SENSITIVE AREAS. In its actions, the department shall respect "environmentally sensitive areas" and their modified exemption criteria which have been adopted and displayed by local governments pursuant to WAC 197-10-177.

NEW SECTION

WAC 173-801-090 INDIVIDUALS MAKING SEPA-RELATED DETERMINATIONS. Within the department, the following officials are designated the responsibility of determinations under SEPA; "action" and "exemption" decisions may be made by the first departmental official contacted; all responsibilities transferred to the department from CEP shall be handled by the Environmental Review Section; all other SEPA-related determinations are designated the responsibility of the responsible official.

NEW SECTION

WAC 173-801-100 THRESHOLD DETERMINATION APPEAL PROCEDURES. (1) In the event that the threshold determination results in a written appeal within fifteen calendar days from date of issuance, the following procedures shall be followed:

(a) The responsible official shall review his decision with particular emphasis on the areas of appeal. He may

request further information of the applicant. The decision of the responsible official shall be in writing with copies to the project file, the applicant, and the protestor.

(b) If deemed fit, the responsible official may bring the appeal to the deputy director. The resulting decision shall be final and circulated as in (a) above.

(2) The responsible official should attempt to act upon an appeal within one week of receipt. If more time is required, the applicant should be advised in writing of the anticipated schedule.

NEW SECTION

WAC 173-801-110 STATUTE OF LIMITATION. The responsible official should examine the option of following the procedures of RCW 43.21C.080, 43.21C.085, and 43.21C.087 to qualify for the statute of limitations concerning SEPA compliance. This procedure is activated by the actual execution of the subject action (i.e., issuance of permit or approval).

NEW SECTION

WAC 173-801-120 COORDINATION ON COMBINED DOE-FEDERAL ACTION. When the department is considering an action which also involves federal actions, it shall attempt to coordinate the two governmental processes so that only one environmental impact statement need be prepared for that proposal.

NEW SECTION

WAC 173-801-130 SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

REPEALER

WAC chapter 173-800 is repealed in its entirety as follows:

- (1) WAC 173-800-010 AUTHORITY.
- (2) WAC 173-800-015 IMPACT OF GUIDELINES ON THE DEPARTMENT.
- (3) WAC 173-800-020 PURPOSE.
- (4) WAC 173-800-030 EFFECT OF SEPA.
- (5) WAC 173-800-035 INTEGRATION OF SEPA PROCEDURES WITH OTHER DEPARTMENTAL OPERATIONS.
- (6) WAC 173-800-040 DEFINITIONS.
- (7) WAC 173-800-050 DESIGNATION OF RESPONSIBLE OFFICIAL.
- (8) WAC 173-800-060 TIMING.
- (9) WAC 173-800-070 SCOPE OF A PROPOSAL AND ITS IMPACTS FOR THE PURPOSES OF LEAD AGENCY DETERMINATION, THRESHOLD DETERMINATION, AND EIS PREPARATION.
- (10) WAC 173-800-080 SUMMARY OF INFORMATION WHICH MAY BE REQUIRED OF A PRIVATE APPLICANT.

- ✓ (11) WAC 173-800-090 NO PRESUMPTION OF SIGNIFICANCE FOR NON-EXEMPT ACTIONS.
- ✓ (12) WAC 173-800-100 CATEGORICAL EXEMPTIONS.
- ✓ (13) WAC 173-800-105 EXEMPTIONS APPLICABLE TO OTHER AGENCIES.
- ✓ (14) WAC 173-800-110 EXEMPTIONS AND NON-EXEMPTIONS SPECIFICALLY APPLICABLE TO THE DEPARTMENT.
- ✓ (15) WAC 173-800-120 EXEMPTION FOR EMERGENCY ACTIONS.
- ✓ (16) WAC 173-800-140 SENSITIVE AREAS.
- ✓ (17) WAC 173-800-145 USE AND EFFECT OF CATEGORICAL EXEMPTIONS.
- ✓ (18) WAC 173-800-150 LEAD AGENCY—RESPONSIBILITIES.
- ✓ (19) WAC 173-800-160 DETERMINATION OF LEAD AGENCY—PROCEDURES.
- ✓ (20) WAC 173-800-170 LEAD AGENCY DESIGNATION—GOVERNMENTAL PROPOSALS.
- ✓ (21) WAC 173-800-180 LEAD AGENCY DESIGNATION—PROPOSALS INVOLVING BOTH PRIVATE AND PUBLIC CONSTRUCTION ACTIVITY.
- ✓ (22) WAC 173-800-190 LEAD AGENCY DESIGNATION—PRIVATE PROJECTS FOR WHICH THERE IS ONLY ONE AGENCY WITH JURISDICTION.
- ✓ (23) WAC 173-800-200 LEAD AGENCY DESIGNATION—PRIVATE PROJECTS REQUIRING LICENSES FROM MORE THAN ONE AGENCY, WHEN ONE OF THE AGENCIES IS A COUNTY/CITY.
- ✓ (24) WAC 173-800-210 LEAD AGENCY DESIGNATION—PRIVATE PROJECTS REQUIRING LICENSES FROM MORE THAN ONE STATE AGENCY.
- ✓ (25) WAC 173-800-220 LEAD AGENCY DESIGNATION—SPECIFIC PROPOSALS.
- ✓ (26) WAC 173-800-230 LOCAL AGENCY TRANSFER OF LEAD AGENCY STATUS TO A STATE AGENCY.
- ✓ (27) WAC 173-800-240 AGREEMENTS AS TO LEAD AGENCY STATUS.
- ✓ (28) WAC 173-800-250 AGREEMENTS BETWEEN AGENCIES AS TO DIVISION OF LEAD AGENCY DUTIES.
- ✓ (29) WAC 173-800-260 DISPUTE AS TO LEAD AGENCY DETERMINATION—RESOLUTION BY CEP.
- ✓ (30) WAC 173-800-270 ASSUMPTION OF LEAD AGENCY STATUS BY ANOTHER AGENCY WITH JURISDICTION.
- ✓ (31) WAC 173-800-280 INDIVIDUALS MAKING SEPA-RELATED DETERMINATIONS.
- ✓ (32) WAC 173-800-300 ENVIRONMENTAL CHECKLIST.
- ✓ (33) WAC 173-800-310 ENVIRONMENTAL CHECKLIST PROCEDURES.
- ✓ (34) WAC 173-800-320 THRESHOLD DETERMINATION PROCEDURES—INITIAL REVIEW OF ENVIRONMENTAL CHECKLIST.
- ✓ (35) WAC 173-800-330 THRESHOLD DETERMINATION PROCEDURES—INFORMATION IN ADDITION TO CHECKLIST.
- ✓ (36) WAC 173-800-340 THRESHOLD DETERMINATION PROCEDURES—NEGATIVE DECLARATIONS.
- ✓ (37) WAC 173-800-345 ASSUMPTION OF LEAD AGENCY STATUS BY ANOTHER AGENCY WITH JURISDICTION OVER A PROPOSAL—PREREQUISITES, EFFECT AND FORM OF NOTICE.
- ✓ (38) WAC 173-800-350 AFFIRMATIVE THRESHOLD DETERMINATION.
- ✓ (39) WAC 173-800-355 FORM OF DECLARATION OF SIGNIFICANCE/NON-SIGNIFICANCE.
- ✓ (40) WAC 173-800-360 THRESHOLD DETERMINATION CRITERIA—APPLICATION OF ENVIRONMENTAL CHECKLIST.
- ✓ (41) WAC 173-800-370 WITHDRAWAL OF AFFIRMATIVE THRESHOLD DETERMINATION.
- ✓ (42) WAC 173-800-375 WITHDRAWAL OF NEGATIVE THRESHOLD DETERMINATION.
- ✓ (43) WAC 173-800-380 THRESHOLD DETERMINATION APPEAL PROCEDURES.
- ✓ (44) WAC 173-800-390 STATUTE OF LIMITATION.
- ✓ (45) WAC 173-800-400 DUTY TO BEGIN PREPARATION OF A DRAFT EIS.
- ✓ (46) WAC 173-800-405 PURPOSE AND FUNCTION OF A DRAFT EIS.
- ✓ (47) WAC 173-800-410 PREDRAFT CONSULTATION PROCEDURES.
- ✓ (48) WAC 173-800-420 PREPARATION OF EIS BY PERSONS OUTSIDE THE LEAD AGENCY.
- ✓ (49) WAC 173-800-425 ORGANIZATION AND STYLE OF A DRAFT EIS.
- ✓ (50) WAC 173-800-440 CONTENTS OF A DRAFT EIS.
- ✓ (51) WAC 173-800-442 SPECIAL CONSIDERATIONS REGARDING CONTENTS OF AN EIS ON A NON-PROJECT ACTION.
- ✓ (52) WAC 173-800-444 LIST OF ELEMENTS OF THE ENVIRONMENT.
- ✓ (53) WAC 173-800-450 PUBLIC AWARENESS OF AVAILABILITY OF DRAFT EIS.
- ✓ (54) WAC 173-800-460 SPECIFIC AGENCIES TO WHICH DRAFT EIS SHALL BE SENT.
- ✓ (55) WAC 173-800-465 AGENCIES POSSESSING ENVIRONMENTAL EXPERTISE.
- ✓ (56) WAC 173-800-470 COST TO THE PUBLIC FOR REPRODUCTION OF ENVIRONMENTAL DOCUMENTS.
- ✓ (57) WAC 173-800-480 PUBLIC HEARING ON A PROPOSAL—WHEN REQUIRED.
- ✓ (58) WAC 173-800-485 NOTICE OF PUBLIC HEARING ON ENVIRONMENTAL IMPACT OF THE PROPOSAL.
- ✓ (59) WAC 173-800-490 PUBLIC HEARING ON THE PROPOSAL—USE OF ENVIRONMENTAL DOCUMENTS.
- ✓ (60) WAC 173-800-495 PREPARATION OF AMENDED OR NEW DRAFT EIS.

✓ (61) WAC 173-800-500 RESPONSIBILITIES OF CONSULTED AGENCIES—LOCAL AGENCIES.

✓ (62) WAC 173-800-510 RESPONSIBILITIES OF CONSULTED AGENCIES—STATE AGENCIES WITH JURISDICTION.

✓ (63) WAC 173-800-520 RESPONSIBILITIES OF CONSULTED AGENCIES—STATE AGENCIES WITH ENVIRONMENTAL EXPERTISE.

✓ (64) WAC 173-800-530 RESPONSIBILITIES OF CONSULTED AGENCIES—WHEN PREDRAFT CONSULTATION HAS OCCURRED.

✓ (65) WAC 173-800-535 COST OF PERFORMANCE OF CONSULTED AGENCY RESPONSIBILITIES.

✓ (66) WAC 173-800-540 LIMITATIONS ON RESPONSES TO CONSULTATION.

✓ (67) WAC 173-800-545 EFFECT OF NO WRITTEN COMMENT.

✓ (68) WAC 173-800-550 CONSULTED AGENCY COORDINATION.

✓ (69) WAC 173-800-570 PREPARATION OF THE FINAL EIS—CONTENTS—WHEN NO CRITICAL COMMENTS RECEIVED ON THE DRAFT EIS.

✓ (70) WAC 173-800-580 PREPARATION OF THE FINAL EIS—CONTENTS—WHEN CRITICAL COMMENTS RECEIVED ON THE DRAFT EIS.

✓ (71) WAC 173-800-600 CIRCULATION OF THE FINAL EIS.

✓ (72) WAC 173-800-650 EFFECT OF AN ADEQUATE FINAL EIS PREPARED PURSUANT TO NEPA.

✓ (73) WAC 173-800-652 SUPPLEMENTATION BY A LEAD AGENCY OF AN INADEQUATE FINAL NEPA EIS.

✓ (74) WAC 173-800-660 USE OF PREVIOUSLY PREPARED EIS FOR A DIFFERENT PROPOSED ACTION.

✓ (75) WAC 173-800-690 USE OF LEAD AGENCY'S EIS BY OTHER ACTING AGENCIES FOR THE SAME PROPOSAL.

✓ (76) WAC 173-800-695 DRAFT AND FINAL SUPPLEMENTS TO A REVISED EIS.

✓ (77) WAC 173-800-710 EIS COMBINED WITH EXISTING PLANNING AND REVIEW PROCESSES.

✓ (78) WAC 173-800-810 RESPONSIBILITY OF AGENCIES—AMENDMENTS TO THIS CHAPTER.

✓ (79) WAC 173-800-830 RESPONSIBILITY OF AGENCIES—SEPA PUBLIC INFORMATION CENTER.

✓ (80) WAC 173-800-840 APPLICATION OF THESE GUIDELINES TO ON-GOING ACTIONS.

✓ (81) WAC 173-800-910 SEVERABILITY.

WSR 78-04-091

ADOPTED RULES

DEPARTMENT OF ECOLOGY

[Order DE 78-6—Filed April 4, 1978]

I, Elmer C. Vogel, deputy director of the Department of Ecology, do promulgate and adopt at the Department of Ecology, Lacey, WA, the annexed rules relating to the amending of chapter 173-805 WAC, State Environmental Policy Act (SEPA) "Model Ordinance," to make it consistent with the recently amended statewide SEPA Guidelines (chapter 197-10 WAC).

This action is taken pursuant to Notice No. WSR 78-03-084 filed with the code reviser on 2/28/78. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 43.21C-.130 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 April 4, 1978.

By: Elmer C. Vogel
Deputy Director

AMENDATORY SECTION (Amending Order DE 76-13, filed 6/8/76)

✓ WAC 173-805-020 ADOPTION BY REFERENCE. The city/county hereby adopts by reference the following sections or subsections of chapter 197-10 of the Washington Administrative Code (the "SEPA Guidelines" adopted by the state of Washington, council on environmental policy)((:)) and amended by the state of Washington, department of ecology

WAC 197-10-040: Definitions.

WAC 197-10-060: Scope of a proposal and its impacts.

WAC 197-10-160: No presumption of significance for nonexempt actions.

WAC 197-10-170: Categorical exemptions.

WAC 197-10-175: Exemptions and nonexemptions applicable to specific state agencies.

WAC 197-10-180: Exemptions for emergency actions.

WAC 197-10-200: Lead agency—Responsibilities.

WAC 197-10-203: Determination of lead agency—Procedures.

WAC 197-10-205: Lead agency designation—Governmental proposals.

WAC 197-10-210: Lead agency designation—Proposals involving both private and public construction.

WAC 197-10-215: Lead agency designation—Private projects for which there is only one agency.

WAC 197-10-220: Lead agency designation—Private projects, licenses from more

- than one agency when one is city/county.
- WAC 197-10-225: Lead agency designation—Private projects, license from more than one state agency.
- WAC 197-10-230: Lead agency designation—Specific proposals.
- WAC 197-10-235: Local agency transfer of lead agency status to a state agency.
- WAC 197-10-240: Agreements as to lead agency status.
- WAC 197-10-245: Agreements between agencies as to division of lead agency duties.
- WAC 197-10-260: Dispute as to lead agency determination—Resolution by CEP.
- WAC 197-10-270: Assumption of lead agency by another agency with jurisdiction.
- WAC 197-10-300: Threshold determination requirement.
- WAC 197-10-305: Recommended timing for threshold determination.
- WAC 197-10-310: Threshold determination procedures—Environmental checklist.
- WAC 197-10-320: Threshold determination procedures—Initial review of environmental checklist.
- WAC 197-10-330: Threshold determination procedures—Information in addition to checklist.
- WAC 197-10-340: Threshold determination procedures—Negative declarations.
- WAC 197-10-345: Assumption of lead agency status by another agency with jurisdiction—Prerequisites, effect and form of notice.
- WAC 197-10-350: Affirmative threshold determinations.
- WAC 197-10-355: Form of declaration of significance/nonsignificance.
- WAC 197-10-360: Threshold determination criteria—Application of environmental checklist.
- WAC 197-10-365: Environmental checklist.
- WAC 197-10-370: Withdrawal of affirmative threshold determination.
- WAC 197-10-375: Withdrawal of negative threshold determination.
- WAC 197-10-390: Effect of threshold determination by lead agency.
- WAC 197-10-400: Duty to begin preparation of a draft EIS.
- WAC 197-10-410: Pre-draft consultation procedures.
- WAC 197-10-425: Organization and style of a draft EIS.
- WAC 197-10-440: Contents of a draft EIS.
- WAC 197-10-442: Special considerations regarding contents of an EIS.
- WAC 197-10-444: List of elements of the environment.
- WAC 197-10-450: Public awareness of availability of draft EIS.
- WAC 197-10-455: Circulation of the draft EIS—Review period.
- WAC 197-10-460: Specific agencies to which draft EIS shall be sent.
- WAC 197-10-465: Agencies possessing environmental expertise.
- WAC 197-10-470: Costs to the public for reproduction of environmental documents.
- WAC 197-10-480: Public hearing on a proposal—When required.
- WAC 197-10-485: Notice of public hearing on environmental impact of the proposal.
- WAC 197-10-490: Public hearing on the proposal—Use of environmental document.
- WAC 197-10-495: Preparation of amended or new draft EIS.
- WAC 197-10-500: Responsibilities of consulted agencies—Local agencies.
- WAC 197-10-510: Responsibilities of consulted agencies—State agencies with jurisdiction.
- WAC 197-10-520: Responsibilities of consulted agencies—State agencies with environmental expertise.
- WAC 197-10-530: Responsibilities of consulted agencies—When pre-draft consultation has occurred.
- WAC 197-10-535: Cost of performance of consulted agency responsibilities.
- WAC 197-10-540: Limitations on responses to consultation.
- WAC 197-10-545: Effect of no written comment.
- WAC 197-10-550: Preparation of the final EIS—Time period allowed.
- WAC 197-10-570: Preparation of final EIS—When no critical comments received on the draft EIS.
- WAC 197-10-580: Preparation of the final EIS—Contents—When critical comments received on draft EIS.
- WAC 197-10-600: Circulation of the final EIS.
- WAC 197-10-650: Effect of an adequate final EIS prepared pursuant to NEPA.
- WAC 197-10-652: Supplementation by a lead agency of an inadequate final NEPA EIS.
- WAC 197-10-660: Use of previously prepared EIS for a different proposed action.
- WAC 197-10-690: Use of a lead agency's EIS by other acting agencies for the same proposal.
- WAC 197-10-695: Draft and final supplements to a revised EIS.
- WAC 197-10-700: No action for seven days after publication of the final EIS.
- WAC 197-10-710: EIS combined with existing planning and review processes.
- ~~(WAC 197-10-830: Responsibilities of agencies—SEPA public information center.~~
- ~~WAC 197-10-835: Regional SEPA public information centers.)~~

WAC 197-10-831: Responsibilities of agencies—SEPA public information.

WAC 197-10-840: Application of agency guidelines to ongoing actions.

AMENDATORY SECTION (Amending Order DE 76-13, filed 6/8/76)

WAC 173-805-030 ADDITIONAL DEFINITIONS. In addition to those definitions contained within WAC 197-10-040, the following terms shall have the following meanings, unless the context indicates otherwise:

(1) "Department" means any division, subdivision or organizational unit of the city/county established by ordinance, rule, or order.

(2) "SEPA Guidelines" means chapter 197-10 WAC adopted by the council on environmental policy and amended by the department of ecology.

AMENDATORY SECTION (Amending Order DE 76-13, filed 6/8/76)

WAC 173-805-070 LEAD AGENCY DETERMINATION AND RESPONSIBILITIES. (1) Any department within the city/county receiving or initiating a proposal any portion of which involves a major action, shall determine the lead agency for that proposal pursuant to the criteria set forth in section WAC 197-10-205 through 197-10-270, using the procedures of WAC 197-10-203. This determination shall be made for each proposal involving a major action unless the lead agency has been previously determined, or the department is aware that another department or agency is in the process of determining the lead agency. NOTE: A lead agency must be an agency with jurisdiction.

(2) In those instances in which the city/county is the lead agency, the responsible official of the city/county shall supervise compliance with the threshold determination, and if an EIS is necessary, shall supervise preparation of the draft and final EIS.

(3) In those instances in which the city/county is not the lead agency under the criteria of WAC 197-10-205 through 197-10-270, all departments of the city/county, subject to the limitations of WAC 197-10-390, 197-10-660, and 197-10-690 shall utilize and consider as appropriate either the declaration of nonsignificance or the final EIS of the lead agency in conjunction with the decisions of the city/county on the proposal. In such instances, no city/county department shall prepare or require preparation of a declaration of nonsignificance or EIS in addition to that prepared by the lead agency.

(4) In the event that the city/county or any department thereof receives a lead agency determination made by another agency which does not appear to be in accord with the criteria of WAC 197-10-205 through 197-10-245 it may object thereto. Any such objection must be made and resolved within fifteen (15) days of receipt of the determination, or the city/county must petition ((CEP)) the department of ecology for a lead agency determination pursuant to WAC 197-10-260 within the fifteen (15) day time period. Any such petition on behalf

of the city/county shall be initiated by

(5) Departments of the city/county are authorized to make agreements as to lead agency status pursuant to WAC 197-10-240 and WAC 197-10-245: PROVIDED, That any such agreement involving assumption of lead agency status by the city/county will first be approved by the responsible official for the city/county and that any department which will incur responsibilities as a result of any such agreement will approve the agreement.

(6) Any department making a lead agency determination for a private project shall require sufficient information from the applicant to ascertain which other agencies have jurisdiction over the proposal.

AMENDATORY SECTION (Amending Order DE 76-13, filed 6/8/76)

WAC 173-805-120 (OPTIONAL) SEPA PUBLIC INFORMATION CENTER. (1) The following location constitutes the city's/county's SEPA public information center:

Telephone: () -----

(2) All reasonable means will be used to make the existence and location of the city's/county's SEPA public information center known to both the public generally and the employees of the city/county.

(3) The SEPA public information center shall contain the documents and provide the services required by WAC 197-10-830.

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

NEW SECTION

WAC 173-805-121 RESPONSIBILITY OF AGENCIES—SEPA PUBLIC INFORMATION. All documents required by the SEPA guidelines (chapter 197-10 WAC) shall be retained by the city/county and made available in accordance with chapter 42.17 RCW.

AMENDATORY SECTION (Amending Order DE 76-13, filed 6/8/76)

WAC 173-805-130 FEES. (This section is completely optional, and any or none of the following subsections may be used, or municipalities may wish to substitute their own provisions.)

The following fees shall be required for actions by the city/county in accordance with the provisions of this ordinance:

(1) Threshold Determination—For every environmental assessment to be performed by the city/county when the city/county is lead agency a fee of (\$50.00) shall be required of the proponent of the proposal. This fee shall be collected prior to undertaking the threshold

determination, and the time periods provided by this ordinance for making a threshold determination shall not begin to run until payment of the fee.

(2) Environmental Impact Statements—

(a) For all proposals requiring an EIS for which the city/county is the lead agency and for which the responsible official determines that the EIS shall be prepared by employees of the city/county, the city/county may charge and collect a reasonable fee from any applicant to cover costs incurred by the city/county in the preparation of an EIS. If it is determined that an EIS is required, applicants shall be advised of projected costs of the statement prior to actual preparation and shall post bond or otherwise insure payment of such costs.

(b) The responsible official may determine that the city/county will contract directly with a consultant for preparation of environmental documents for activities initiated by some persons or entity other than the city/county and may bill such costs and expenses directly to the applicant. Such consultants shall be selected by mutual agreement of the city/county and applicant after a call for proposals. Applicants may be required to post bond or otherwise insure payment of such costs.

(c) In the event that a proposal is modified so that an EIS is no longer required, the responsible official shall refund any costs collected under (a) and (b) of this subsection which were collected for costs not incurred.

(3) No fee shall be collected by the city/county for performing its duties as a consulted agency.

[Note: The SEPA guidelines prohibit fees by consulted agencies.]

(4) [Optional—Use this procedure only if the SEPA public information center is retained]. The SEPA public information center of the city/county is hereby authorized to charge periodic fees for the service of mailing registers and register updates. Such fees shall be reasonably related to the costs of reproduction and mailing of registers and updates.

(5) The city/county may charge any person for copies of any document prepared pursuant to the requirements of this ordinance, and for mailing thereof, in a manner provided by chapter 42.17 RCW.

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

REPEALER

in original

The following section of the Washington Administrative Code is repealed:

WAC 173-805-125 REGIONAL SEPA PUBLIC INFORMATION CENTER.

WSR 78-04-092
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed April 5, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and 15.17.150 that the Department of Agriculture intends to adopt, amend, or repeal rules concerning changes in fees charged with respect to horticultural inspection services provided by the Department of Agriculture as set forth in chapter 16-400 WAC with the exception of those fees contained in WAC 16-400-060, 16-400-090, 16-400-100, 16-400-120, 16-200-200, 16-400-240, 16-400-280 and 16-400-285.

WAC provisions to be amended are: WAC 16-400-010, 16-400-020, 16-400-040, 16-400-050, 16-400-070, 16-400-110, 16-400-140, 16-400-150, 16-400-210, 16-400-230, 16-400-235, 16-400-250 and 16-400-270;

that such agency will at 10:00 a.m., Wednesday, May 10, 1978, in the Holiday Inn, Ellensburg, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 10:00 a.m., Wednesday, May 17, 1978, in the Department of Agriculture, Office of the Director, General Administration Building, Olympia, WA.

The authority under which these rules are proposed is RCW 15.17.150.

Interested persons may submit data, views, or arguments to this agency orally at 10:00 a.m., Wednesday, May 10, 1978, Holiday Inn, Ellensburg, WA.

Dated: April 5, 1978

By: C. T. Nielsen
Assistant Director

AMENDATORY SECTION (Amending Order 1482, filed 8/16/76)

WAC 16-400-010 GRADE AND CONDITION CERTIFICATES.

ALL DISTRICTS.

(1) The minimum charge for a certificate shall be \$6.00 on all fruits and vegetables.

(2) All fresh fruits. (Apples, pears and soft fruits). Fruit in containers. (Wrapped, place pack, face and fill, or loose in bulk, bins, boxes, cartons, crates, or bags). For bulk or bins, divide the net wt. by 40 lbs to determine the number of standard containers for charges.

Under 12 lbs net ((+)) 1 1/4¢ each container
12 to 19 lbs net ((+1/8)) 1 1/4¢ each container
20 to 29 lbs net ((2)) 2 1/4¢ each container

Districts 1 and 3

30 to 65 lbs net 2-3/4¢ each container
(Incl. 1/2 bu. container for prunes)

District 4 (Chelan, Douglas and Okanogan Counties)

30 to 65 lbs net 3-1/4¢ each container
(Incl. 1/2 bu. container for prunes)

District 2 (Yakima, Kittitas, Klickitat, Skamania and a portion of Benton County)

30 to 65 lbs net ((2-1/4)) 2 3/4¢ each container
1/2 bu. container for prunes 2-3/4¢ each container

AMENDATORY SECTION (Amending Order 1402, filed 6/16/75)

WAC 16-400-020 LOOSE APPLES AND/OR PEARS. (In bulk.)

- (1) ~~\$(1.25)~~ 1.50 per ton net weight or fraction thereof.
- (2) The charge for a mixture of packed and loose apples and pears, shall be based on the total of packed and loose apples and pears under WAC 16-400-010 and ~~(WAC)~~ 16-400-020.

AMENDATORY SECTION (Amending Order 1402, filed 6/16/75)

WAC 16-400-040 VEGETABLES.

Asparagus in 12 lb containers	.....	((1+1/2)) <u>2¢</u> each
Asparagus in 26 - 35 lb containers	.....	((2-3/4)) <u>3 1/2¢</u> each
Corn - crates	.....	((3)) <u>6¢</u> each
Cantaloupe (60 lb container unit)	.....	((4)) <u>5¢</u> each
Tomatoes - L.A. Lugs or loose in containers	.....	((2+1/2)) <u>3¢</u> each
Tomatoes - In flats	.....	((+7/8)) <u>2 1/4¢</u> each
Onions	.....	((4)) <u>5¢</u> cwt.
Potatoes and seed potatoes	.....	((3+1/4)) <u>4¢</u> cwt.
Potatoes where percentage grade needed or major fraction thereof (diversion program or similar program)	.....	((30)) <u>50¢</u> per ton
Processing potatoes	.....	((2+1/4)) <u>3¢</u> cwt.
Complete inspection (Rate reduced for service required)		

Inspection fees for cabbage, celery, lettuce, cauliflower, grapes, rhubarb, rutabagas, watermelons, squash, carrots, etc., shall be at the regular hourly rate of ~~\$(8.25)~~ 12.00 per hour, or ~~\$(16.50)~~ 18.00 for a carload, with a maximum of 2 hours time, for domestic use only.

AMENDATORY SECTION (Amending Order 1377, filed 9/12/74)

WAC 16-400-050 DEFENSE SUBSISTENCE SUPPLY CENTER OR OTHER FEDERAL AGENCIES. Fees as established by USDA.

(1) For Canadian export inspections only where specific charges are not established by this regulation.

1 - 25 packages	.....	\$(5.25) <u>6.00</u>
26 - 50 packages	.....	((7.00)) <u>10.00</u>
51 - 150 packages	.....	((10.00)) <u>15.00</u>
151 - 400 packages	.....	((14.75)) <u>20.00</u>
401 - customary car lot	.....	((23.00)) <u>30.00</u>

except where specific commodity charges are established.

- (2) Terminal wholesale market inspections (domestic) in Tacoma, Seattle and Spokane. Minimum chg., 1 hour ~~((@ \$8.25 hour))~~ \$12.00.
- (3) State institution inspections ~~\$(8.25 hour)~~ 12.00
Minimum fee shall be ~~\$(4.00)~~ 6.00.

AMENDATORY SECTION (Amending Order 1377, filed 9/12/74)

WAC 16-400-070 HAY AND STRAW.

- (1) Complete inspection ~~((50¢))~~ \$1.00 per ton or fraction thereof, but not less than ~~\$(5.00)~~ 6.00 ~~((:))~~ PROVIDED, That in the case of submitted samples the fee shall be ~~\$(+00)~~ 2.00 per sample.
- (2) Partial inspection ~~((50¢))~~ \$1.00 per ton or fraction thereof, calculated on the amount to which the inspection is restricted, but shall not be less than ~~\$(5.00)~~ 6.00.

AMENDATORY SECTION (Amending Order 1377, filed 9/12/74)

WAC 16-400-110 CONDITION CERTIFICATES. (1) When the lot has been previously certified, the charge shall be 2/3 of the charge schedule of grade and condition certificates, except that the minimum charge shall be \$6.00.

(2) When the lot has no prior inspection for quality or grade, and it is not requested that the certificate carry identification of car, truck, or state lot number, same schedule as above.

(3) On certified lots unloaded for "storage in transit" or for commercial storage, same as above.

(4) When the lot has had no prior inspection for quality or grade and it is requested that certificate carry identifying out-bound car, truck, or state lot number, use same schedule as grade and condition certificates.

(5) Condition certificates on out-of-state products reported on state certificates shall be charged on the applicable grade and condition certificate schedule, except that a minimum charge shall be \$6.00 or ~~\$(8.25)~~ 12.00 per hour.

AMENDATORY SECTION (Amending Order 1377, filed 9/12/74)

WAC 16-400-140 SANITARY CERTIFICATES—FRUITS AND VEGETABLES.

- (1) When shipment is not covered by federal-state certificates:
 - (a) ~~\$(2.00)~~ 3.50 for the first 200 containers or fraction thereof, plus ~~\$(8.25)~~ 12.00 per hour for necessary inspection.
- (2) When shipment is covered by federal-state certificate all sanitary certificates will be at the rate of ~~\$(2.00)~~ 3.50 per set.

AMENDATORY SECTION (Amending Order 1524, filed 4/20/77)

WAC 16-400-150 SHIPPING PERMITS. By law, each shipment of apples, apricots, Italian prunes, peaches, pears, and certified seed potatoes must be covered by a shipping permit for grade; and cherries for freedom from cherry fruit fly larvae, whether certified or not. Shipments to processors of apricots, cherries, peaches, and prunes do not require a shipping permit. If the lot has been certified for each shipment by car or truck, a permit will be issued without additional charge. If the lot has not been certified, the basis of charges shall be as follows:

- (1) Apples, pears, and soft fruits (carlots and trucklots)
 - (a) 80 or less containers of 28 lbs ~~((and over))~~ to 65 lbs, 5¢ per container. 81 and over, the shipping permit shall be 2/3 the fee for grade and condition certificate with a minimum fee of \$4.00.
 - (i) 17 to 27 lbs - two containers - 5¢ up to the \$4.00 minimum. 16 lbs and under - three containers - 5¢ up to the \$4.00 minimum.
 - (b) Permit to ship apples and/or pears to a by-product plant outside the district - ~~\$(+50)~~ 2.00.
(Permits to by-product plants are for transportation only in accordance with state law.)
- (2) Vegetables.

- (a) Potatoes - minimum charge per permit 2/3 of certificate charge or \$4.00 minimum.
- (b) Processing plant or livestock feed shipments - for transportation only, in accordance with state law ~~\$(+50)~~ 2.00 per load
OR where point of origin or out-of-district inspection required ~~\$(+40)~~ .50 per ton
- (c) Certified seed potatoes ~~((3+1/4))~~ 4¢

PROVIDED, That no charge shall be made for shipping permits when seed potatoes are grown, graded and shipped in full compliance with the provisions of the rules for the certification of seed potatoes, and the grades and standards for certified seed potatoes. Shipments not in compliance with the above shall be charged in accordance with WAC 16-400-150(2)(c).

Container weight, or checkloading certificates shall be 1 cent per container, except that the minimum charge shall be \$12.00.

AMENDATORY SECTION (Amending Order 1377, filed 9/12/74)

WAC 16-400-210 PLATFORM INSPECTION. (1) Platform inspections, time taking samples, extra time, FV-294 inspections, and all other services, will be charged at the rate of ~~\$(8.25)~~ 12.00/hr.

(2) Time allowance - Where platform inspector working full time at one house also does certification inspection, he will allow credit for the time according to limits outlined in the schedule for such certification at the rate of ~~\$(8.25)~~ 12.00 per hour and should the certificate charges divided by ~~\$(8.25)~~ 12.00 equal or exceed the number of

hours worked, the platform charge will be made to bring the total for the day to the proper charge.

AMENDATORY SECTION (Amending Order 1377, filed 9/12/74)

WAC 16-400-230 FUMIGATION CHARGES. The rate for supervision of fumigation shall be ~~\$(15.00)~~ 18.00 per fumigation allowing ~~(2)~~ 1 1/2 hours; additional time or unnecessary stand-by time will be charged for at the rate of ~~\$(8.25)~~ 12.00 per hour. No fumigations will be started after 3:00 p.m. from October 1 to May 31, nor after 10:00 p.m. from June 1 to September 30.

AMENDATORY SECTION (Amending Order 1377, filed 9/12/74)

WAC 16-400-235 FIELD OR ORCHARD INSPECTIONS. Inspections made at applicants' request for determination of presence or absence of disease or insect infestation, or for other reason, shall be at the rate of ~~\$(1.25)~~ 2.00 per acre or fraction thereof.

AMENDATORY SECTION (Amending Order 1482, filed 8/16/76)

WAC 16-400-250 EXTRA CHARGES. (ON ALL ABOVE SERVICES) (1) The minimum inspection charge for each commodity and requested form shall be at the rate of ~~\$(8.25)~~ 12.00 per hour. ((Example: An 840 container lot of apples at 2-3/4 cents per container is \$23.10, requiring 2 hours work, no extra charge. If 4 hours is required, add \$16.50 for a total of \$39.60-))

(2) If, through no fault of the inspection service, time over the maximum allowance for each commodity and requested form is required, such excess time shall be at the rate of ~~\$(8.25)~~ 12.00 per hour.

(3) For all inspection services performed after 5:00 PM or on Saturdays, or Sundays, or state legal holidays, an hourly charge equivalent of ~~\$(12.38)~~ 18.00 per hour for actual hours spent in performance of duties must be made. This shall include unit charges, plus, if necessary, overtime charges to equal ~~\$(12.38)~~ 18.00 per hour.

(4) When the per unit charge for inspection in any one day equals or exceeds the basic hourly and/or overtime charge, no additional hourly or overtime charges will be made.

((Example:

8 hours @ \$8.25	\$66.00
2 hours overtime @ \$12.38	24.76
	<hr/> \$90.76

Unit inspection fees \$95.00 = no extra charges
 Unit inspection fees (6 hrs allowed)

Job required 7-1/2 hrs = add \$12.38 (1-1/2 hours excess time) for a total of

(5) The following state legal holidays will be observed: New Year's Day, Veteran's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the day following Thanksgiving Day, Christmas Day, Lincoln's Birthday and Washington's Birthday. NO SERVICE will be performed on Thanksgiving Day, Christmas Day or New Year's Day, beginning at 5:00 PM on the previous day.

(6) Mileage. Whenever necessary, mileage will be charged at the rate ((of 13 cents per mile)) established by the state OFM.

AMENDATORY SECTION (Amending Order 1377, filed 9/12/74)

WAC 16-400-270 EXTRA COPIES. After original typing of a certificate a charge of \$2.00 per set will be made for extra copies when requested by the original applicant of the certificate or other financially interested party. Copy machine copy of inspectors notes when requested by applicant will be \$1.00 per copy.

**WSR 78-04-093
 PROPOSED RULES
 PLANNING AND
 COMMUNITY AFFAIRS AGENCY
 [Filed April 5, 1978]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Planning and Community Affairs Agency intends to adopt, amend, or

repeal rules concerning chapter 10.97 RCW rules for the provision of physical security and personnel safeguards over the dissemination of information pertaining to subjects named in criminal history files. In addition, WAC 365-50-300, contract for services, is amended to better reflect State Planning Agency authority to require compliance to all physical security and personnel standards, as established by section 10.97.090 (2) RCW. The form prescribed in WAC 365-50-560 may be used for this purpose;

that such agency will at 9:30 a.m., Tuesday, May 9, 1978, in the 1st Floor Auditorium of the General Administration Building, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, May 24, 1978, in the Capitol Center Building, Olympia, WA.

The authority under which these rules are proposed is section 10.97.090 (1) and (2) RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 12, 1978.

Dated: April 5, 1978

By: James C. Frits

Dep. Director

**PHYSICAL SECURITY AND PERSONNEL RULES AND REGULATIONS
 TO IMPLEMENT CHAPTER 10.97 RCW WASHINGTON
 CRIMINAL RECORDS PRIVACY ACT**

NEW SECTION

WAC 365-50-340 PROTECTION FROM ACCIDENTAL LOSS OR INJURY. (1) Criminal justice agencies including the State Identification Section, which collect, retrieve, store and disseminate CHRI in manual and automated systems, shall institute procedures for the protection of CHRI from environmental hazards including fire, flood, power failure, or other natural or man-made disasters, and in accordance with local fire, safety, and building codes.

(2) Criminal justice agencies which maintain CHRI in automated systems shall develop physical security procedures that are consistent with standards promulgated by the Data Processing Authority.

NEW SECTION

WAC 365-50-350 PROTECTION AGAINST UNAUTHORIZED ACCESS. (1) Criminal history record systems, whether dedicated to criminal justice purposes, or shared, will be designed and operated in accordance with procedures which will assure:

(a) Access to CHRI facilities and system operating areas (whether for computerized or manual systems) and the content of data files and systems documentation, will be restricted to authorized personnel. These procedures may include use of guards, keys, badges, passwords, sign-in logs or similar safeguards.

(b) All facilities which house CHRI shall be designed and constructed so as to reduce the possibility of physical damage to the information resulting from unauthorized access.

(c) CHRI is stored in such a manner that will prevent modification, destruction, access, change, purging or overlay of CHRI by unauthorized personnel.

(d) Operational programs are used in computerized systems that will prohibit inquiry, record updates, or destruction of records from any terminal other than those authorized to perform CHRI functions.

(e) The purging or destruction of records is limited to personnel authorized by the criminal justice agency or through contract with the non-criminal justice agency as required under WAC 365-50-300, and consistent with WAC 365-50-380 for maintaining the CHRI which is to be purged or destroyed.

(f) Refuse from the criminal history record information system installations is transferred and destroyed under such reasonably secure conditions as will effectively guard against unauthorized availability.

(g) Operational procedures are used in computerized and manual systems to detect and store unauthorized attempts to penetrate any CHRI system, program or file, and that such information is made available only to criminal justice agency employees with responsibility for system security, or as authorized by WAC 365-50-300.

(h) The procedures developed to meet standards (d) and (g) above, are known only to authorized employees responsible for criminal history records information system control.

NEW SECTION

WAC 365-50-360 PERSONNEL SECURITY. (1) Agencies which collect and retrieve, or are authorized to maintain or modify, CHRI shall prepare job descriptions which describe the degree of sensitivity and the requirements of the security clearance for each job relating to the administration of CHRI systems. Each agency shall identify those positions which are of such a sensitive nature that fingerprints of employees will be required and used to conduct a criminal record background investigation. The extent of the background investigation and criteria for disqualification of prospective employees will be determined by each agency according to its own needs or as defined by a contract pursuant to WAC 365-50-300.

(2) Agencies shall initiate, or cause to be initiated, action leading to the transfer or removal of personnel authorized to have direct access to criminal history record information, when such personnel violate the provisions of Chapter 10.97 RCW or other security requirements established through administrative code for the collection, storage, and dissemination of such information.

NEW SECTION

WAC 365-50-370 PERSONNEL TRAINING. (1) Each employer and contractor maintaining a CHRI system shall be required to familiarize their employees with all Federal, state, and local legislation, executive orders, rules, and regulations, applicable to such a system. The SPA shall provide information to facilitate training regarding the security and confidentiality procedures under Chapter 10.97 RCW.

(2) The training to be provided to each employee with responsibility for maintaining, updating, or inquiring of CHRI systems shall be determined with respect to the degree of responsibility of those functions.

(3) Training to be provided shall include not only initial training, but continuing training, designed to maintain among CHRI system personnel current knowledge and operational proficiency with respect to security and privacy law and regulations.

NEW SECTION

WAC 365-50-380 PERSONNEL CLEARANCES. (1) All personnel assigned to a CHRI system shall be assigned by the head of the agency an appropriate security clearance, which shall be reviewed annually.

(2) Personnel shall be granted security clearances on a selective and individual basis, for access only to such sensitive areas, equipment, and information as they have demonstrated need and right to know.

(3) No person shall have access to any areas, equipment, or information of a higher sensitivity classification than the highest valid clearance held by such a person.

(4) Clearances may be revoked or reduced to a lower sensitivity classification at the will of the grantor. Adequate notice must be given of the reduction or revocation to all other agencies that previously relied upon such clearances.

(5) To provide evidence of the person's sensitivity classification clearance, the grantor of such clearance shall provide an authenticated card or certificate. Responsibility for control of the issuance, adjustment or revocation of such document shall rest with the grantor.

NEW SECTION

WAC 365-50-390 SECURITY CLASSIFICATION SYSTEM. (1) The head of the agency where CHRI is collected, retrieved, maintained and disseminated, shall implement a classification system for the CHRI system. The general guidelines for this purpose are:

(a) Areas and equipment shall be assigned the lowest classification consistent with their proper protection.

(b) Whenever the classification of areas or equipment diminishes or increases, it shall be reclassified without delay.

NEW SECTION

WAC 365-50-400 AUDITING OF CHRI SYSTEMS. (1) Every criminal justice agency, including those agencies authorized to collect, retrieve, maintain, and disseminate CHRI pursuant to WAC 365-50-300, shall make its records available under section RCW 10.97.090(3) to determine the extent of compliance with the following:

(a) Dissemination records as required under RCW 10.97.050(7);

(b) Security procedures as required by RCW 10.97.090(1); and

(c) Personnel standards as required by RCW 10.97.090(2).

(2) The SPA shall establish systems for periodic review of CHRI dissemination logs and determine the extent of compliance with all physical security and personnel regulations.

(3) Personnel engaged in the auditing function shall be subject to the same personnel security requirement as required under WAC 365-50-360, WAC 365-50-370, and WAC 365-50-380, as employees who are responsible for the management and operation of CHRI systems.

NEW SECTION

WAC 365-50-410 ESTABLISHMENT OF PROCEDURES. Every criminal justice agency which collects, retrieves, maintains, and disseminates CHRI shall establish written rules and regulations setting forth security and personnel procedures for authorized access to CHRI files or adopt administrative regulations promulgated by the SPA. These procedures shall include documentation of those persons who have access to CHRI and shall indicate any limitations on such access.

NEW SECTION

WAC 365-50-560 CONTRACT FOR SUPPORT SERVICES MODEL AGREEMENT UNDER WAC 365-50-300.

I. General Provisions

A. Parties: This agreement is made and entered into this day of, 19.., by the between (Head of Agency , Administrator of (criminal justice agency) and (Head of Agency) of (Support Services Agency of "User").

B. Purpose of Agreement . This agreement authorizes (user) to collect, retrieve, maintain and disseminate criminal history record information (hereinafter, CHRI) pursuant to section 10.97.050(5) RCW, WAC 365-50-300 and the terms of this contract. In addition, it provides for the security and privacy of information in that dissemination to criminal justice agencies shall be limited for the purposes of the administration of justice and criminal justice agency employment. Dissemination to other individuals and agencies shall be limited to those individuals and agencies authorized by either the State Planning Agency, under Chapter 10.97 RCW or local ordinance, as specified by the terms of this contract, and shall be limited to the purposes for which it was given and may not be disseminated further.

II. Duties of Criminal Justice Agency

A. In accordance with Federal and state regulations, (criminal justice agency) agrees to furnish complete and accurate criminal history information to user pursuant to section 10.97.040 RCW.

B. (Criminal justice agency) shall specify and approve those individuals or agencies authorized to obtain CHRI, which includes nonconviction data, pursuant to section 10.97.050(4) RCW or by local ordinance.

III. Duties of User

A. (User) will collect, retrieve, maintain and disseminate all information covered by the terms of this agreement in strict compliance with all present and future Federal and state laws and regulations. In addition, all programs, tapes, source documents, listings, and other developmental or related data processing information containing or permitting any person to gain access to CHRI and all personnel involved in the development, maintenance, or operation of an automated information system containing CHRI are

subject to the requirements of section 10.97.050(5) RCW, and WAC 365-50-300.

- B. (User) will familiarize its personnel with and fully adhere to section 524 (b) of the Crime Control Act 1973 (42 USC 3771 (b)), 28 CFR Part 20, Chapter 10.97 RCW and WAC rules 365-50, promulgated by the State Planning Agency.
C. (User) will disseminate CHRI only as authorized by Chapter 10.97 RCW and as specified by (criminal justice agency) in this agreement.
D. (User) agrees to fully comply with all rules and regulations promulgated by the State Planning Agency, pursuant to section 10.97.090(2), regarding standards for the physical security, protections against unauthorized access and personnel procedures and safeguards.
E. (User) agrees to permit access to its records system for the purposes of an audit as specified under section 10.97.090(3) RCW.

IV. Suspension of Service

(Criminal justice agency) reserve the right to immediately suspend furnishing information covered by the terms of this agreement to (User), when any terms of this agreement are violated. (Criminal justice agency) shall resume furnishing information upon receipt of satisfactory assurances that such violations have been fully corrected or eliminated.

V. Cancellation

Either (criminal justice agency) or (user) may cancel this agreement upon thirty days notice to the other party.

VI. Indemnification

User hereby agrees to indemnify and save harmless (criminal justice agency) and its officers, agents and employees from and against any and all loss, damages, injury, liability suits and proceedings however caused, arising directly or indirectly out of any action or conduct of the (user) in the exercise or enjoyment of this agreement.

VII. Construction

This agreement shall be liberally construed to apply to both manual and automated information systems wherever and whenever possible.

(CRIMINAL JUSTICE AGENCY) (USER)

by: by:
title: title:
date: date:

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.

Chapter 365-50 WAC
CRIMINAL RECORDS

- WAC
365-50-010 General applicability.
365-50-020 Definitions.
365-50-030 Separation of information.
365-50-040 Deferred prosecutions.
365-50-050 Convictions under appeal or review.
365-50-060 Certification of criminal justice agencies.
365-50-070 Inspection—Individual's right to review record.
365-50-080 Inspection—Forms to be made available.
365-50-090 Inspection—Identification of requester.
365-50-100 Inspection—Timeliness and manner of agency response.

- 365-50-110 Inspection—Time allowed for review.
365-50-120 Inspection—Retention or reproduction of records.
365-50-130 Inspection—Prevention of unauthorized retention or reproduction.
365-50-140 Inspection—Designation of person to assist in review.
365-50-150 Inspection—Statement of procedures to be available.
365-50-160 Inspection—Procedure for correctional or detention agencies.
365-50-170 Deletion—Individual's right to have certain information deleted.
365-50-180 Deletion—Agency option to refuse to delete.
365-50-190 Deletion—Policies to be adopted.
365-50-200 Deletion—Inquiries required.
365-50-210 Challenge—Individual's right to challenge.
365-50-220 Challenge—Forms to be made available.
365-50-230 Challenge—Forwarding of challenge to appropriate agency.
365-50-240 Challenge—Agency to make determination.
365-50-250 Correction of erroneous information.
365-50-260 Review of refusal to alter record.
365-50-270 Dissemination—Dispositions to be included.
365-50-280 Dissemination—Inquiry of prosecutor required.
365-50-290 Dissemination—To implement a statute or other grant of authority.
365-50-300 Dissemination—Pursuant to contract for services.
365-50-310 Dissemination—Research purposes.
365-50-320 Dissemination—Record of disseminations to be maintained.
365-50-330 Dissemination—Fees.
365-50-500 Form of request to inspect record.
365-50-510 Form of request to modify record.
365-50-520 Form of request to review refusal to modify record.
365-50-530 Appendix III to State of Washington plan for security and privacy of criminal offender records.
365-50-540 Certification request form for criminal justice agencies seeking access to criminal offender record information.
365-50-550 Certification request form for noncriminal justice agencies seeking access to criminal offender record information.

NEW SECTION

WAC 365-50-010 GENERAL APPLICABILITY. The regulations in this chapter shall apply to state and local criminal justice agencies in the state of Washington, that collect, and maintain, or disseminate criminal history record information. The regulations shall also apply to criminal justice or other agencies outside the jurisdiction of the state of Washington, for the purpose of the dissemination of criminal history record information to other agencies by state of Washington criminal justice agencies. The provisions of chapter 314, 1977 ex. sess., chapter 10.97 RCW, do not generally apply to the courts and court record keeping agencies. The courts and court record keeping agencies have the right to require and receive criminal history record information from criminal justice agencies. The regulations are intended to cover all criminal justice records systems that contain criminal history record information, whether the systems are manual or automated. Chapter 314, Laws of 1977 ex. sess., chapter 10.97 RCW, defines the rights and privileges relating to criminal history record information and should not be interpreted to redefine or amend rights or privileges relevant to any other kinds of records or information.

NEW SECTION

WAC 365-50-020 DEFINITIONS. (1) "Criminal history record information" has the meaning set forth in RCW 10.97.030(1), and shall consist of the following information, pertaining to criminal offenders regardless of the kinds of files or records in which the information is contained:
(a) The individual subject's name and other specific identifiable notations.
(b) The date and place of arrest, detention or charge and any disposition therefrom;
(c) The name of the agency which made the arrest or otherwise initiated the subject's contact with the criminal justice system.

(2) "Records collected by" or "records maintained by" a criminal justice agency means (a) records directly generated or collected by that agency in the performance of its official functions, and (b) records properly obtained from another agency but retained by a criminal justice agency in the normal course of its business, and includes federal, state, or local rap sheets from wherever obtained if they are in the possession of the agency.

Criminal history records information does not include intelligence and investigative information.

Criminal justice information that does not identify particular individuals is not criminal history record information.

(3) "Nonconviction data" has the meaning set forth in RCW 10.97.030(2), and includes police decisions where an arrest is made not to refer a case to the prosecutor, prosecutorial decisions not to charge, dismissals (except dismissals following a period of probation, or suspension or deferral of sentence), acquittals, and arrest information without disposition if more than one year has elapsed since arrest, citation, or service of warrant and the prosecutor has not certified in writing that proceedings are still pending.

(4) "Conviction or other disposition adverse to the subject" has the meaning set forth in RCW 10.97.030(4).

(5)(a) "Criminal justice agency" has the meaning set forth in RCW 10.97.030(5). "Government agency" includes a state or local agency an agency of the federal government or of another state (for the purpose of disseminating criminal history record information to another agency), if the agency allocates a substantial part of its annual budget to, and has as its primary function, the administration of criminal justice.

(b) The following agencies shall be considered criminal justice agencies for the purpose of chapter 10.97 RCW and these regulations:

(i) The Washington state patrol, including the state identification section;

(ii) Federal, state and local law enforcement, prosecutorial or correctional programs, agencies, or departments;

(iii) Courts at any level, if they exercise criminal jurisdiction (Note the general applicability of chapter 314, Laws of 1977 ex. sess. chapter 10.97 RCW, to courts set forth in WAC 365-50-010);

(iv) The adult corrections division of the department of social and health services as specified in chapter 72.02 RCW, including institutions as specified in chapter 72.01 RCW and probation and parole services as specified in chapter 72.04A RCW;

(v) The board of prison terms and paroles;

(vi) The liquor control board as specified in RCW 66.44.010.

(vii) An agency that has been certified as a criminal justice agency pursuant to WAC 365-50-060.

(6) "The administration of criminal justice" has the meaning set forth in RCW 10.97.030(6), but does not include crime prevention activities (if that is the sole function of the program or agency) and does not include criminal defense activities.

(7) "Disposition" has the meaning set forth in RCW 10.97.030(7).

(8) "Dissemination" has the meaning set forth in RCW 10.97.030(8).

(a) Confirming the existence or nonexistence of criminal history record information is a dissemination.

(b) Disclosing criminal history record information to the subject of the record containing that information is a dissemination.

(c) The furnishing of information by one criminal justice agency to another for the purpose of processing a matter through the criminal justice system is not a dissemination as long as the information relates solely to the criminal charge in process.

(d) Disclosing information within a criminal justice agency or subunit thereof is not a dissemination.

(9) "Juvenile justice agency," for the purpose of RCW 10.97.050(3), means (a) a juvenile court, or (b) a governmental agency or subunit thereof which devotes a substantial portion of its annual budget to, and has as a primary function, the administration of juvenile justice.

(10) "State planning agency" shall mean that agency designated by WAC 365-31-010 and Executive Order 75-04 to fulfill the functions established by 42 USC Section 3701, the Omnibus Crime Control and State Streets Act of 1968 as amended. (Also referred to as "the SPA.")

NEW SECTION

WAC 365-50-030 SEPARATION OF INFORMATION. When a file or record contains criminal history record information combined with other kinds of information that is not subject to disclosure, the criminal history record information may be separated from the other

information in response to a request to review or receive criminal history record information, unless a federal, state, or local rap sheet is available that would satisfy the request. Each criminal justice agency shall adopt procedures for making such separations when necessary.

NEW SECTION

WAC 365-50-040 DEFERRED PROSECUTIONS. A deferred prosecution or similar diversion of an alleged offender does not become nonconviction data until there is a final decision to dismiss charges or not to prosecute.

NEW SECTION

WAC 365-50-050 CONVICTIONS UNDER APPEAL OR REVIEW. A conviction followed by an appeal or other court review may be treated as conviction information or as information pertaining to an incident for which a subject is currently being processed by the criminal justice system until such time as the conviction is reversed, vacated, or otherwise overturned by a court, but notations of pending appeals or other court review shall be included as a part of a person's criminal record if the agency disseminating the record has knowledge of the proceedings.

NEW SECTION

WAC 365-50-060 CERTIFICATION OF CRIMINAL JUSTICE AGENCIES. An agency not defined as a criminal justice agency by WAC 365-50-020(5)(b)(i-vi) that asserts a right to receive criminal history record information based on its status as a criminal justice agency shall show satisfactory evidence of its certification as a criminal justice agency prior to receiving such information. The state planning agency shall certify such an agency, based on a showing that the agency devotes a substantial portion of its annual budget to, and has as a primary function, the administration of criminal justice. The state planning agency shall keep a current list, of all agencies that have been certified as criminal justice agencies. Agencies which assert their right to be certified as a criminal justice agency shall submit a written request for certification to the SPA on the form provided under WAC 365-50-540.

The application shall include documentary evidence which establishes eligibility for access to criminal history information.

The SPA shall make a finding in writing on the eligibility or noneligibility of the applicant. The written finding together with reasons for the decisions shall be sent to the applicant.

NEW SECTION

WAC 365-50-070 INSPECTION—INDIVIDUAL'S RIGHT TO REVIEW RECORD. Every criminal justice agency shall permit an individual who is, or believes he may be, the subject of a criminal record maintained by that agency to come to the agency during its normal business hours and request to inspect said criminal history record. Criminal justice agency has the meaning set forth in WAC 365-50-020(5)(a) and shall include regional or branch offices of state or local criminal justice agencies including the Washington state patrol. If such agency or its regional or branch office does not have the facilities or capability to process such requests, the individual shall be referred to the nearest criminal justice agency having such facilities or capability, which agency shall process the individual's request.

NEW SECTION

WAC 365-50-080 INSPECTION—FORMS TO BE MADE AVAILABLE. The criminal justice agency shall make available a request form to be completed by the person who is the subject of the criminal record. The form shall be substantially equivalent to that set forth in WAC 365-50-500.

NEW SECTION

WAC 365-50-090 INSPECTION—IDENTIFICATION OF REQUESTER. Each criminal justice agency shall adopt rules pursuant to RCW 10.97.080.

NEW SECTION

WAC 365-50-100 INSPECTION—TIMELINESS AND MANNER OF AGENCY RESPONSE. (1) A criminal justice agency shall respond to a request to review by the subject of a criminal record

as soon as administratively convenient, but in no event later than ten business days from the date of the receipt of the request.

(2) If the information requested concerns felonies, gross misdemeanors where the subject arrested was taken into custody, or any other offenses for which fingerprints would be submitted to the identification section of the Washington state patrol, the agency shall respond in the following manner, unless one of the exceptions in RCW 10.97.040(1) through (5) applies;

(a) The criminal justice agency receiving the request shall, without unnecessary delay, forward the request to the identification section of the Washington state patrol for processing.

(b) At the identification section, the request shall be processed and a copy of any criminal history record information in the files of the identification sections relating to the individual requester shall be forwarded to the criminal justice agency submitting the request to the identification section.

(c) Upon receipt by the criminal justice agency of the requester's criminal history record information from the identification sections, the agency shall, without unnecessary delay, notify the requester at his designated address or telephone number that the requested information is available for review.

(d) Upon notification by the criminal justice agency, the person who is the subject of the criminal history record may come to the agency during its normal business hours for the purpose of reviewing the record.

(3) If the information requested concerns misdemeanors, gross misdemeanors where the subject arrested was not taken into custody, or any offenses for which fingerprints were not in fact submitted to the identification section, or if the agency does not have, and is not willing to obtain a state identification section rap sheet, the agency shall respond by disclosing the identifiable descriptions and notations of arrests, charges, and dispositions that are contained in the files of the agency.

NEW SECTION

WAC 365-50-110 INSPECTION—TIME ALLOWED FOR REVIEW. A reasonable period of time shall be allowed each individual to examine criminal history record information pertaining to himself for purposes of determining its accuracy and completeness or the legality of its maintenance. Unless the subject of the record clearly indicates that less time is sufficient, a reasonable period of time shall mean at least thirty minutes.

NEW SECTION

WAC 365-50-120 INSPECTION—RETENTION OR REPRODUCTION OF RECORDS. No subject of a record shall be allowed to retain or mechanically reproduce any nonconviction data except for the purpose of challenge or correction when the subject of the criminal history record information asserts his belief in writing that such information regarding himself is inaccurate, incomplete, or maintained in violation of law.

NEW SECTION

WAC 365-50-130 INSPECTION—PREVENTION OF UNAUTHORIZED RETENTION OR REPRODUCTION. Each criminal justice agency shall develop procedures to insure that improper retention or mechanical reproduction of nonconviction data by any subject of a record does not occur.

NEW SECTION

WAC 365-50-140 INSPECTION—DESIGNATION OF PERSON TO ASSIST IN REVIEW. Any subject of a record entitled to examine criminal history record information pertaining to himself may designate another person of his choice to assist him in reading, interpreting, or otherwise reviewing his criminal record. The subject about whom the information pertains shall indicate, on the form provided by the agency pursuant to WAC 365-50-090, his consent to the inspection of criminal history record information pertaining to himself by the other person. The agency may also require the other person to sign the form. The designated person shall then be permitted to assist the subject of the criminal record in reviewing criminal history record information pertaining to the subject.

NEW SECTION

WAC 365-50-150 INSPECTION—STATEMENT OF PROCEDURES TO BE AVAILABLE. Every criminal justice agency that maintains criminal history record information shall prominently display and make available to the public a statement which informs the public that criminal history record information is maintained by that agency and that individuals have the right to review criminal history record information pertaining to themselves and to challenge its accuracy, completeness, or the legality of its maintenance. The statement shall also set forth in summary form, the procedure for obtaining access to such information for the purpose of review and shall state the fact that there exist procedures for administrative review of a refusal by the agency to correct, complete, or delete criminal history record information challenged by the individual.

NEW SECTION

WAC 365-50-160 INSPECTION—PROCEDURE FOR CORRECTIONAL OR DETENTION AGENCIES. Any state or local correctional or detention facility in the state of Washington having access to the identification section of the Washington state patrol shall permit an individual in custody in that facility to request to review any criminal history record information pertaining to himself maintained by the identification section. The correctional or detention facility shall follow the procedures set forth for law enforcement agencies in WAC 365-50-100. The identification section shall likewise follow the procedures set forth in WAC 365-50-100.

NEW SECTION

WAC 365-50-170 DELETION—INDIVIDUAL'S RIGHT TO HAVE CERTAIN INFORMATION DELETED. A person who is the subject of criminal history record information consisting of nonconviction data only may request that such information be deleted from his file in accordance with the provisions of RCW 10.97.060. If two years or longer have elapsed since the record became nonconviction data as a result of the entry of a disposition favorable to the defendant, or if three years or longer have elapsed from the date of arrest or issuance of a citation or warrant for an offense for which a conviction was not obtained, unless the person is a fugitive or the case is under active prosecution, the nonconviction data shall be deleted upon the request of the subject of the record. If the case is under active prosecution, the prosecuting attorney shall so certify in writing to the agency that is the object of the request to delete.

NEW SECTION

WAC 365-50-180 DELETION—AGENCY OPTION TO REFUSE TO DELETE. The criminal justice agency maintaining the information may refuse to make the deletion if: (1) The disposition was a deferred prosecution or similar diversion of the alleged offender; which has not become nonconviction data under 365-50-040; (2) the person who is the subject of the record has had a prior conviction for a felony or gross misdemeanor; or (3) the individual who is the subject of the record has been arrested for or charged with another crime during the intervening period.

NEW SECTION

WAC 365-50-190 DELETION—POLICIES TO BE ADOPTED. Every criminal justice agency that maintains files that are available and generally searched for the purpose of responding to inquiries concerning the criminal history of a named or otherwise identified individual shall adopt policies to implement RCW 10.97.060. Such policies shall be designed to structure the discretionary power of the agency to refuse to delete nonconviction data under RCW 10.97.060(1) through (3), and shall be available for inspection by the public.

NEW SECTION

WAC 365-50-200 DELETION—INQUIRIES REQUIRED. Every criminal justice agency which is the object of a request to delete nonconviction data shall inquire of the identification section of the Washington state patrol to determine whether one of the exceptions of RCW 10.97.060(1) through (3) applies. The agency shall also make inquiry of its local criminal history record information summary (local rap sheet), if one exists, or of the local prosecutorial agency, for the

same purpose and to determine whether the case is under active prosecution. If none of the exceptions of RCW 10.97.060 apply the agency shall delete the nonconviction data. When an agency makes a deletion in the criminal history record information, the state identification section of the Washington state patrol shall be notified of the deletion so their files may be corrected.

NEW SECTION

WAC 365-50-210 CHALLENGE—INDIVIDUAL'S RIGHT TO CHALLENGE. A subject seeking to challenge the accuracy, completeness, or the legality of the maintenance of any part of the criminal history record information pertaining to himself shall do so in writing, clearly identifying that information which he asserts to be inaccurate, incomplete, or maintained in violation of law. A subject may initiate a challenge at the agency where he is reviewing his criminal record by completing a form made available by that agency. It will be the agency's responsibility to supply the form and address of the agency whose record the subject is challenging. This includes only Washington state records.

NEW SECTION

WAC 365-50-220 CHALLENGE—FORMS TO BE MADE AVAILABLE. Every criminal justice agency which maintains criminal history record information or which authorizes individuals to use its facilities for the purpose of reviewing criminal history record information pertaining to those individuals shall make available forms to be used by individuals in challenging their criminal records. Such forms shall be substantially equivalent to that set forth in WAC 365-50-510.

NEW SECTION

WAC 365-50-230 CHALLENGE—FORWARDING OF CHALLENGE TO APPROPRIATE AGENCY. Upon receipt of a written challenge, the agency receiving the challenge shall forward a copy of the challenge to each agency which originally submitted the criminal history record information being challenged, together with a copy of that portion of the criminal history record that has been challenged (including, where practical, a copy of the information as originally submitted by the originating agency). If the information challenged was received directly from an originating agency and is contained in a record maintained by the agency receiving the challenge, the agency receiving the challenge shall examine its own records to ensure that such information was correctly recorded before forwarding the challenge to the originating agency.

NEW SECTION

WAC 365-50-240 CHALLENGE—AGENCY TO MAKE DETERMINATION. The agency which originally submitted the criminal history record information being challenged shall:

- (1) Not later than ten business days after receiving the written challenge, acknowledge receipt of the challenge in writing; and
- (2) Promptly, but in no event later than ten business days after acknowledging receipt of the challenge, either
 - (a) make any correction of any portion of the criminal history record information which the person challenging such information has designated as being inaccurate, incomplete, or maintained in violation of law, or
 - (b) inform the person challenging the criminal history record information, in writing, of the refusal of the agency which originated such information to amend the record in accordance with his challenge, the reason for the refusal, and the procedures established for review of that refusal.

NEW SECTION

WAC 365-50-250 CORRECTION OF ERRONEOUS INFORMATION. (1) An individual whose criminal history record has been challenged and corrected shall be provided with the names of all non-criminal justice agencies or persons to which the incorrect information has been disseminated. The originating agency must send information correcting the previously incorrect information to every criminal justice and noncriminal justice agency and persons to which the previously incorrect information was disseminated. This obligation shall be limited to disseminations made within one year of the date on which the challenge was initiated.

(2) Every criminal justice agency maintaining criminal history record information within the state shall adopt a procedure which, when significant information in a criminal history record maintained on an individual is determined to be inaccurate, leads to the dissemination of corrected information to every criminal justice and noncriminal justice agency and subject to which, the prior erroneous information was disseminated within the preceding one year.

NEW SECTION

WAC 365-50-260 REVIEW OF REFUSAL TO ALTER RECORD. A person who is the subject of a criminal record and who disagrees with the refusal of the agency maintaining or submitting the record to correct, complete, or delete the record, may request a review of the refusal within twenty business days of the date of receipt of such refusal. The request for review shall be in writing, and shall be made by the completion in a form substantially equivalent to that set forth in WAC 365-50-520. If review is requested, not later than thirty business days from the date on which the individual requested review, the head of the agency whose record or submission has been challenged shall complete the review and make a final determination of the challenge, unless, for good cause, the head of the agency extends the thirty day period. The thirty day period may be extended for a maximum of another thirty days. If the head of the agency determines that the challenge should not be allowed, he shall state his reasons in a written decision, a copy of which shall be provided to the subject of the record. Denial by the agency head constitutes a final decision under RCW 34.04.130.

NEW SECTION

WAC 365-50-270 DISSEMINATION—DISPOSITIONS TO BE INCLUDED. The requirements of (RCW 10.97.040) are effective as of January 1, 1978.

(1) No criminal justice agency shall disseminate criminal history record information pertaining to arrests or other formal criminal charges made after December 31, 1977 unless the record disseminated states the disposition of such arrests or charges to the extent that dispositions have been made at the time of the request for the information. Such disseminations are subject to the proviso set forth in paragraph 1 of RCW 10.97.040.

(2) No criminal justice agency shall disseminate criminal history record information concerning a felony or gross misdemeanor without first making inquiry of the identification section of the Washington State Patrol for the purpose of obtaining the most current and complete information available unless one of the exceptions of RCW 10.97.040(1) through (5) applies. Predissemination query of the state identification section is required regardless of the date the record was made and regardless of whether a conviction was obtained.

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 365-50-280 DISSEMINATION—INQUIRY OF PROSECUTOR REQUIRED. If an arrest record reveals that no disposition has occurred, and more than one year has elapsed since the date of the arrest, citation, or service of a warrant, a criminal justice agency shall make inquiry of the prosecuting authority in whose jurisdiction the arrest occurred to determine whether proceedings are in fact still pending prior to making a dissemination. If proceedings are still pending, the prosecuting authority shall so certify in writing.

NEW SECTION

WAC 365-50-290 DISSEMINATION—TO IMPLEMENT A STATUTE OR OTHER GRANT OF AUTHORITY. (1) Criminal history record information which includes nonconviction data may be disseminated to implement a statute, ordinance, executive order, or a court rule, decision, or order which expressly refers to nonconviction data and which authorizes or directs that it be available or accessible for a specific purpose. A criminal justice agency shall demand satisfactory proof of certification from the state planning agency of the requesting individual's or agency's authority to receive the information prior to any dissemination.

(2) The state planning agency shall compile a list, to be updated annually, of noncriminal justice agencies authorized to receive

nonconviction data along with copies of statutes, ordinances or other grants of authority. All criminal justice agencies shall refer to these lists in making disseminations pursuant to such authority.

The state planning agency shall identify, in that listing the specific purpose, for which the agency is authorized to receive criminal history information, which includes nonconviction data, on the basis of a need to know such information in the performance of its official duties. Noncriminal justice agencies shall be required to present evidence of such authorization before dissemination is made. The form prescribed in WAC 365-50-550 may be used for this purpose.

(3) Criminal justice agencies that receive state rap sheets from the identification section of the Washington state patrol may disseminate them further, but only to the same extent to which the identification section itself would be authorized to make a dissemination in the first instance. Nonconviction data based on an incident that arose in the jurisdiction of the agency about to make the dissemination is not subject to this restriction, if the agency is otherwise authorized to disseminate such information.

NEW SECTION

WAC 365-50-300 DISSEMINATION—PURSUANT TO CONTRACT FOR SERVICES. (1) Criminal history record information which includes nonconviction data may be disseminated pursuant to a contract to provide services, as set forth in RCW 10.97.050(5). The contract must contain provisions giving notice to the individual or agency to which the information is to be disseminated that the use of such information is subject to the provisions of chapter 10.97 RCW and these regulations, and federal statutes and regulations, which shall be cited with express reference to the penalties provided for a violation thereof.

(2) A criminal justice agency using an information system that contains criminal history record information, and that is controlled and managed by a noncriminal justice agency, the noncriminal justice agency may disseminate criminal history record information only as authorized by the criminal justice agency. Authorization shall be established in a contract between the criminal justice agency and the noncriminal justice agency providing the management service or support. Any criminal justice agency entering a contract with a noncriminal justice agency shall require that the noncriminal justice agency personnel who utilize CHRI, meet the same personnel standards as set forth in WAC 365-50-360. All programs, tapes, source documents, listings, and other developmental or related data processing information containing, or permitting any person to gain access to, criminal history record information, and all personnel involved in the development, maintenance, or operation of an automated information system containing criminal history record information are subject to the requirements of RCW 10.97.050(5) and these regulations. A statement to this effect shall also be included in the contract.

NEW SECTION

WAC 365-50-310 DISSEMINATION—RESEARCH PURPOSES. (1) Criminal history record information which includes nonconviction data may be disseminated for research purposes according to the provisions of RCW 10.97.050(6). The transfer agreement provided for by that section shall be substantially similar to that set forth in WAC 365-50-530 (Model Transfer Provisions).

(2) Criminal history record information contained in agency files may be disseminated to persons for research, evaluative or statistical purposes provided the researcher enters into a contract with the agency. If such a contract is entered into, it is not necessary for the researcher to obtain consent from the individual involved. The contract with the agency shall consist of a transfer agreement with the agency to whom the request is made.

(3) Either certification by the SPA or a transfer agreement (under subsection (1) of this section), are necessary for the dissemination of nonconviction information to noncriminal justice agencies.

NEW SECTION

WAC 365-50-320 DISSEMINATION—RECORD OF DISSEMINATIONS TO BE MAINTAINED. (1) Every criminal justice agency that maintains and disseminates criminal history record information shall maintain records indicating every dissemination of such information (including a confirmation of the existence of criminal history record information), except a dissemination or confirmation to the effect that the agency has no record concerning an individual, in

accordance with the requirements of RCW 10.97.050(7). Such dissemination records may be kept separately, or may be included on the state or local criminal history record information summary (rap sheet) itself. If an agency receives a state rap sheet from the identification section of the Washington state patrol, or a local rap sheet if one exists, and makes a further dissemination of the rap sheet while retaining a copy for its own records, the agency shall make a record of the further dissemination, which may be included on the retained copy of the rap sheet.

(2) Records of information disseminated shall be for a period of not less than one year. Records of information disseminated shall include:

- (a) An indication of to whom (agency or person) criminal history record information was disseminated;
- (b) The date on which the information was disseminated;
- (c) The individual to whom the information relates;
- (d) A brief description of the information disseminated.

NEW SECTION

WAC 365-50-330 DISSEMINATION—FEES. A criminal justice agency may charge persons and agencies, other than criminal justice agencies, a reasonable fee, to reimburse agency's costs for disseminating the records. A schedule of such fees shall be posted in a convenient place accessible to the public.

NEW SECTION

WAC 365-50-500 FORM OF REQUEST TO INSPECT RECORD.

Agency Name and Address No. _____
Date and Time Inspected _____
Agency _____

REQUEST FOR INSPECTION OF RECORD

Pursuant to RCW

Note: See Rules and Regulations printed on reverse side.

DATE

I, _____ (Print Name) _____, request permission to inspect such record of criminal offenses as are charged to me in the files of _____ (Name of Agency) _____.

In order to ensure positive identification as the person in question, I am stating that I was born _____ (Date of Birth) _____, in _____ (Place of Birth) _____, and I am willing to submit my fingerprints in the space below if required or requested.

(Fill in where applicable) Because I am unable to read ; do not understand English ; otherwise need assistance in reviewing my record ; (check applicable box), I designate and consent that _____ (Name) _____, whose address is _____ (Address) _____, assist me in examining the criminal history record information concerning myself.

(Initials of subject)

(Signature of designated person)

(Signature of Applicant)

Prints of right four fingers
taken simultaneously.

(Address of Applicant)

NEW SECTION

WAC 365-50-520 FORM OF REQUEST TO REVIEW REFUSAL TO MODIFY RECORD.

Agency Name and Address

REQUEST FOR REVIEW OF REFUSAL TO MODIFY RECORD

Pursuant to RCW and WAC

Note: See Rules and Regulations printed on reverse side.

DATE

I, (Print Name), request the head of (Name of Agency), to review and make a final determination of my challenge to the accuracy, completeness, or legality of retention of criminal history record information pertaining to myself and maintained by (Name of Agency).

My challenge, a copy of which is attached, was made on (Date of Challenge), and was refused on (Date of Agency Refusal). I request that my challenge be allowed and that my record be modified in accordance with such challenge.

(Signature of Applicant)

(Address of Applicant)

NEW SECTION

WAC 365-50-530 APPENDIX III TO STATE OF WASHINGTON PLAN FOR SECURITY AND PRIVACY OF CRIMINAL OFFENDER RECORDS.

APPENDIX III TO

STATE OF WASHINGTON PLAN FOR SECURITY AND PRIVACY OF CRIMINAL OFFENDER RECORDS

MODEL TRANSFER PROVISIONS

SUGGESTED PROVISIONS TO BE INCLUDED IN AGREEMENTS FOR RELEASE OF

CRIMINAL HISTORY RECORD INFORMATION BY A CRIMINAL JUSTICE

AGENCY FOR RESEARCH, EVALUATIVE OR STATISTICAL PURPOSES

AGREEMENT made this day of, 197.., between (hereinafter referred to as "RESEARCHER" and (hereinafter referred to as "CRIMINAL JUSTICE AGENCY").*

WHEREAS the RESEARCHER has made a written request to the CRIMINAL JUSTICE AGENCY dated a copy of which is annexed hereto and made a part hereof, and

WHEREAS the CRIMINAL JUSTICE AGENCY has reviewed said written request and determined that it clearly specifies (1) the criminal history record information sought, and (2) the research, evaluative or statistical purpose for which the said information is sought,** and

WHEREAS the RESEARCHER represents that (he) (she) (it) is in receipt of, and is familiar with, the provisions of 28 CFR Part 22, including provisions for sanctions at Parts 22.24(c) and 22.29 thereof,

NOW, THEREFORE IT IS AGREED AS FOLLOWS:

1. The CRIMINAL JUSTICE AGENCY will supply the following items of information to the RESEARCHER:

[Describe in Detail]***

.....

2. The RESEARCHER will:

- (a) use the said information only for the research, evaluative, or statistical purposes described in the above mentioned written request dated and for no other purpose;
(b) limit access to said information to the RESEARCHER and those of the RESEARCHER'S employees whose responsibilities cannot be accomplished without such access, and who have been advised of, and agreed to comply with, the provisions of this agreement, and of 28 CFR Part 22.****
(c) store all said information received pursuant to this agreement in secure, locked containers;
(d) so far as possible, replace the name and address of any record subject with an alpha-numeric or other appropriate code;
(e) immediately notify the CRIMINAL JUSTICE AGENCY in writing of any proposed material changes in the purposes or objectives of its research, or in the manner in which said information will be used.

3. The RESEARCHER will not:

- (a) disclose any of the said information in a form which is identifiable to an individual, in any project report or in any other manner whatsoever, except pursuant to 28 CFR Part 22.24 (b)(1)(2).
(b) make copies of any of the said information, except as clearly necessary for use by employees or contractors to accomplish the purposes of the research. (To the extent reasonably possible, copies shall not be made of criminal history record information, but information derived therefrom which is not identifiable to specific individuals shall be used for research tasks. Where this is not possible, every reasonable effort shall be made to utilize coded identification data as an alternative to names when producing copies of criminal history record information for working purposes.)
(c) utilize any of the said information for purposes or objectives or in a manner subject to the requirement for notice set forth in 2.(e) until specific written authorization therefor is received from the Criminal Justice Agency.

4. In the event the RESEARCHER deems it necessary, for the purposes of the research, to disclose said information to any subcontractor, (he) (she) (it) shall secure the written agreement of said subcontractor to comply with all the terms of this agreement as if (he) (she) (it) were the RESEARCHER named herein.****

5. The RESEARCHER further agrees that:

- (a) the CRIMINAL JUSTICE AGENCY shall have the right, at any time, to monitor, audit, and review the activities and policies of the RESEARCHER or its subcontractors in implementing this agreement in order to assure compliance therewith; and
(b) upon completion, termination or suspension of the researcher, it will return all said information, and any copies thereof made by the RESEARCHER, to the CRIMINAL JUSTICE AGENCY, unless the CRIMINAL JUSTICE AGENCY gives its written consent to destruction, obliteration or other alternative disposition.

6. In the event the RESEARCHER fails to comply with any term of this Agreement the CRIMINAL JUSTICE AGENCY shall have the right to take such action as it deems appropriate, including termination of this Agreement. If the CRIMINAL JUSTICE AGENCY so terminates this Agreement, the RESEARCHER and any subcontractors shall forthwith return all the said information, and all copies made thereof, to the CRIMINAL JUSTICE AGENCY or make such alternative disposition thereof as is directed by the CRIMINAL JUSTICE AGENCY. The exercise of remedies pursuant to this paragraph shall be in addition to all sanctions provided by law, and to legal remedies available to parties injured by disclosures.

7. The RESEARCHER will hold the CRIMINAL JUSTICE AGENCY harmless from any damages or other liability which might be assessed against the CRIMINAL JUSTICE AGENCY as a result of disclosure by RESEARCHER of any information received pursuant to this Agreement.

IN WITNESS WHEREOF the parties have signed their names hereto this day of, 197...

.....(CRIMINAL JUSTICE AGENCY)
by
(Name)

Title:
.....(RESEARCHERS)

by
(Name)
Title:

COMPLIANCE AGREEMENT of employee, consultant or subcontractor.

(I) (We), employee(s) of, consultant to, (and) (or) subcontractor of the RESEARCHER, acknowledge familiarity with the terms and conditions of the foregoing agreement between the CRIMINAL JUSTICE AGENCY AND RESEARCHER, and agree to comply with the terms and conditions thereof in (my) (our) use and protection of the criminal history record information obtained pursuant to the foregoing agreement.

.....
(date) (signature)
.....
(date) (signature)

NEW SECTION

WAC 365-50-540 CERTIFICATION REQUEST FORM FOR CRIMINAL JUSTICE AGENCIES SEEKING ACCESS TO CRIMINAL OFFENDER RECORD INFORMATION.

Certification Request Form for
Criminal Justice Agencies Seeking Access to
Criminal Offender Record Information

INSTRUCTIONS

This form is for criminal justice agencies requesting certification for access to Criminal History Record Information (hereinafter referred to as "CHRI"). Criminal justice agencies are defined by Title 10; Ch. 314 Section 3(5-6) and WAC 365-50-020(4)(a)(6)) state in relevant part:

WAC 365-50-020 4(a): Definition of Criminal Justice Agency

"Criminal Justice Agency" has the meaning set forth in RCW 10.97.030(5). "Government Agency" includes a state or local agency, an agency of the federal government or of another state (for the purpose of disseminating criminal history record information to another agency), and includes a subunit of an agency, which itself is not a criminal justice agency if the subunit allocates a substantial part of the budget to, and has as its primary functions, the administration of criminal justice.

REQUEST FOR CERTIFICATION

- 1. Agency making request:
a. Name: Last First Middle
b. Address: Street City State Zip
c. Telephone Number: (.....) Area Code
d. Official or employee who should be contacted concerning the application.
1) Name: Last First Middle Title
2) Address:

Street City State Zip
3) Telephone Number: (.....) Area Code

- 2. Cite specifically the statutory or regulatory provisions which establish your agency as a governmental agency involved in criminal justice activities, and the provisions which indicate your agency's need for CHRI.
State/Federal Statute Chapter/Title Section Number Paragraph Number
3. Attach a copy of the above provision or provisions to this application and indicate, by marking, the specific language upon which you base your request.
4. State your agency's need for access to CHRI relative to the above cited provisions and to the actual performance of its criminal justice duties and responsibilities.
5. State the percentage of your agency's budget used for the "administration of criminal justice."

I hereby affirm that all facts and representations made in this document are true and accurate to the best of my knowledge, information and belief.

.....
Signature of person filling out form
.....
Title
.....
Date

NEW SECTION

WAC 365-50-550 CERTIFICATION REQUEST FORM FOR NONCRIMINAL JUSTICE AGENCIES SEEKING ACCESS TO CRIMINAL OFFENDER RECORD INFORMATION.

Certification Request Form for
Noncriminal Justice Agencies Seeking Access to
Criminal Offender Record Information

INSTRUCTIONS

This form is for the use of noncriminal justice agencies or individuals certification for access to Criminal Offender Record Information (hereinafter referred to as "CHRI"). In order for such agencies or individuals to be qualified to receive CHRI they must be authorized access to such information by statute pursuant to Title 10, chapter 314, Laws of 1977 ex. sess. and WAC 365-50-390 of the State Planning Agency. WAC 365-50-390 sets forth the following guidelines:

WAC 365-50-390—Dissemination to Implement A Statute Or Other Grant Of Authority

- (1) Criminal history record information which includes nonconviction data may be disseminated to implement a statute, ordinance, executive order, or a court rule, decision, or order which expressly refers to nonconviction data and which authorizes or directs that it be available or accessible for a specific purpose. A criminal justice agency shall demand satisfactory proof of the requesting individual's or agency's authority to receive the information prior to any dissemination which shall consist of the submission of a copy of the statute ordinance, or other authority relied upon. Such statute, ordinance, or other authority or some other statute, ordinance, or authority must also authorize or direct the criminal justice agency to disseminate nonconviction data.

The State Planning Agency shall compile a list, to be updated annually, of noncriminal justice agencies authorized to receive nonconviction data, along with copies of statutes, ordinances or other grants of authority. All criminal justice agencies shall refer to these lists in making disseminations. The State Planning Agency shall identify, in that listing the specific purpose for which the agency is

authorized to receive criminal history and nonconviction data on the basis of a need to know such information in the performance of its official duties. Noncriminal justice agencies shall be required to present evidence of such authorization before dissemination is made. The form prescribed in WAC 365-50-550 may be used for this purpose.

REQUEST FOR CERTIFICATION FOR NONCRIMINAL JUSTICE USERS UNDER WAC 365-50-290

- 1. Agency or individual seeking Certification
a. Name: Last First Middle
b. Address: Street City State Zip
c. Telephone Number: Area Code
d. If applicable, information concerning employee or official who should be contacted regarding this application.
1) Name: Last First Middle
2) Address: Street City State Zip
3) Telephone Number: Area Code
2. a. Cite specifically the statutory provision, ordinance, executive order, court rule, decision or order or provisions upon which you base your request.
State/Federal Chapter/Title/ Section Number Paragraph No.
Statute/Local Article Number Ordinance, etc.
b. Provide a copy of the contract with a criminal justice agency to provide services related to the administration of criminal justice activities pursuant to RCW 10.97.050(5).
3. Attach a copy of the above provision or provisions to this application and indicate, by marking, the specific language upon which you base your request.
4. State the need for access to CHRI, which includes nonconviction data relative to the statutory responsibilities cited in items 2 and 3 above.

I hereby affirm that all facts and representations made in this document are true and accurate to the best of my knowledge, information and belief.

Signature of person filling out form

Title

WSR 78-04-094 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Public Assistance) [Filed April 5, 1978]

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 the amending of WAC 388-24-050 relating to AFDC—assistance unit; and repealing WAC

388-29-140 relating to monthly standard for basic requirements—AFDC—child living with relative not in need;

that such agency will at 10:00 a.m., Wednesday, May 10, 1978, in the Auditorium, State Office Bldg #2, 12th and Jefferson, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, May 17, 1978, William B. Pope's office, 3-D-14, State Office Bldg #2, 12th and Jefferson, Olympia, WA.

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 May 10, 1978, and/or orally at 10:00 a.m., Wednesday, May 10, 1978, State Office Building #2 Auditorium, 12th and Jefferson, Olympia, WA.

Dated: April 5, 1978 By: Gerald E. Thomas Deputy Secretary

AMENDATORY SECTION (Amending Order 1235, filed 8/31/77)

WAC 388-24-050 AID TO FAMILIES WITH DEPENDENT CHILDREN—ASSISTANCE UNIT. (1) Eligibility for any individual to be included in an AFDC assistance unit is conditioned upon the provisions in WAC 388-24-107 and WAC 388-57-061.

(2) The AFDC-R assistance unit shall consist of (a) The eligible child or children living together, and ((b)) (i) The natural, adoptive, stepparent, or parents with whom the child(ren) lives. If the child(ren) is deprived because of the incapacity of a parent, the legally wedded spouse of the child(ren)'s parent is also included, or

((c)) (ii) In lieu of a parent, ((the)) one needy relative caretaker of the child(ren) of the degree specified in WAC 388-24-125 with whom the child(ren) lives and whose eligibility depends solely on caring for the child(ren).

((d)) (b) Only the eligible child(ren) shall constitute the AFDC-R assistance unit when he/she is living with a parent ((or other caretaker relative)) who is not in financial need, or who does not meet other eligibility requirements.

((e)) (c) Only the eligible (sibling) child(ren) shall constitute the AFDC-R assistance unit when he/she is living with a relative of specified degree who is not legally responsible for the support or care of the child(ren).

(d) An eligible child who is temporarily in an institution and meets conditions in WAC 388-24-125 shall be included or continue to be included in an AFDC assistance unit.

(3) The AFDC-E assistance unit shall consist of (a) The eligible child(ren) and (b) Both natural or adoptive parents or a stepfather and parent of the eligible child(ren) if legally married to each other, with whom the child(ren) lives. If not legally married, see subsection (4). If an unemployed parent is temporarily absent from the home to search for employment with intention to reunite with the family, only the parent in the home is included in the unit.

(c) Only the eligible child shall constitute the AFDC-E assistance unit when he is living with parents who do not meet eligibility requirements.

(4) Unmarried parents living with one or more children (a) When a child is living with both of his parents who are unmarried, only one such parent can be included in the child's assistance unit.

(b) When the family is composed of the mother's child(ren) only, or the father's child(ren) only, or one or more children of both parents, or any combination of the above,

(i) One assistance unit is established for all children who have one parent in common, and this unit can include only this parent.

(ii) Another assistance unit is established for any children of the other parent only, including this parent if otherwise eligible.

(5) The AFDC-FC assistance unit shall include only the child who is eligible for AFDC-FC.

(6) When it is necessary for a responsible relative to reside temporarily apart from his or her family to secure training, as specified in WAC 388-24-125(3)(b)(v), separate assistance units shall be established for the relative in training and for the other members of the family.

(7) When all the dependent children in a potential AFDC assistance unit are receiving SSI, the AFDC assistance unit shall consist of the parent(s) or other needy caretaker relative who would be included in the assistance unit if the children were receiving AFDC.

REPEALER

The following section of the Washington Administrative Code is repealed:

388-29-140 MONTHLY STANDARD FOR BASIC REQUIREMENTS—AFDC—CHILD LIVING WITH RELATIVE NOT IN NEED.

WSR 78-04-095
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed April 5, 1978]

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 the amending of WAC 388-44-127 relating to repayment of overpayment resulting from department error. It is the intention of the Department to adopt this rule on an emergency basis prior to the hearing;

that such agency will at 10:00 a.m., Wednesday, May 10, 1978, in the Auditorium, State Office Bldg #2, 12th and Jefferson, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, May 17, 1978, William B. Pope's office, 3-D-14, State Office Bldg #2, 12th and Jefferson, Olympia, WA.

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 May 10, 1978 and/or orally at 10:00 a.m., Wednesday, May 10, 1978, Auditorium, State Office Bldg #2, 12th and Jefferson, Olympia, WA.

Dated: April 4, 1978
By: Gerald E. Thomas
Deputy Secretary

AMENDATORY SECTION (Amending Order 897, filed 1/11/74)

WAC 388-44-127 REPAYMENT OF OVERPAYMENT RESULTING FROM DEPARTMENT ERROR. (1) Overpayments resulting from department error (~~are treated the same as overpayments from other causes, except that they~~) shall not be used as the basis for a mandatory grant deduction. When such overpayment is verified, the amount of the overpayment becomes a debt due the state unless relief from liability is granted.

(2) (~~If an overpayment results from an error by the department and no fault on the part of the recipient in obtaining or retaining the assistance received, determinations may be made as follows:~~

~~(a) If the monthly amount of overpayment is less than \$25, the local office administrator may relieve the recipient of liability for repayment and transfer the account receivable to closed status.~~

~~(b) If the monthly amount of overpayment is \$25 or more, the secretary or his designee may relieve the recipient of liability for repayment when recommended by the local office on grounds that repayment would be inequitable. The secretary or his designee will notify the local office of his decision.)~~ When an overpayment is discovered, and before it is established as an account receivable, the ESSO shall determine:

(a) Whether the overpayment resulted from error on the part of the department and;

(b) Whether there was any fault on the part of the recipient in obtaining or retaining the overpayment. "Fault," as used in this section, means either fraud or nonwillful error.

(3) When an overpayment results from error on the part of the department and no fault on part of the recipient in obtaining or retaining the assistance, the ESSO administrator or his immediate designee shall determine whether or not recovery of the overpayment would be inequitable. Recovery shall be inequitable only in the following circumstances:

(a) The recipient was actually in financial need at the time the overpayment occurred, and;

(b) The recipient did not receive assistance in excess of actual financial need as computed according to department standards, and;

(c) The overpayment was due to an eligibility factor unrelated to financial need. (See WAC 388-44-035 and 388-44-040.)

(4) If recovery would be inequitable, the recipient shall not be liable for repayment; the overpayment shall not be a debt due the state, and the recipient shall be so informed.

(5) Department decisions made pursuant to this section shall be subject to fair hearing review.

(6) "Recipient," as used in this section, also means "former recipient."

WSR 78-04-096
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 1285—Filed April 5, 1978]

I, Gerald E. Thomas, Deputy Secretary of the Department of Social and Health Services do promulgate and adopt at Olympia, WA the annexed rules relating to the amending of WAC 388-44-127 relating to repayment of overpayment resulting from department error.

I, Gerald E. Thomas 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 matter is in current litigation. The attached amendments constitute an alternative acceptable to the Department.

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 secretary of 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 April 4, 1978.

By Gerald E. Thomas
Deputy Secretary

AMENDATORY SECTION (Amending Order 897,
filed 1/11/74)

WAC 388-44-127 REPAYMENT OF OVERPAYMENT RESULTING FROM DEPARTMENT ERROR. (1) ~~Overpayments resulting from department error ((are treated the same as overpayments from other causes, except that they)) shall not be used as the basis for a mandatory grant deduction. When such overpayment is verified, the amount of the overpayment becomes a debt due the state unless relief from liability is granted.~~

(2) ~~((If an overpayment results from an error by the department and no fault on the part of the recipient in obtaining or retaining the assistance received, determinations may be made as follows:~~

~~(a) If the monthly amount of overpayment is less than \$25, the local office administrator may relieve the recipient of liability for repayment and transfer the account receivable to closed status.~~

~~(b) If the monthly amount of overpayment is \$25 or more, the secretary or his designee may relieve the recipient of liability for repayment when recommended by the local office on grounds that repayment would be inequitable. The secretary or his designee will notify the local office of his decision.))~~ When an overpayment is discovered, and before it is established as an account receivable, the ESSO shall determine:

(a) Whether the overpayment resulted from error on the part of the department and;

(b) Whether there was any fault on the part of the recipient in obtaining or retaining the overpayment. "Fault," as used in this section, means either fraud or nonwillful error.

(3) When an overpayment results from error on the part of the department and no fault on part of the recipient in obtaining or retaining the assistance, the ESSO administrator or his immediate designee shall determine whether or not recovery of the overpayment would be inequitable. Recovery shall be inequitable only in the following circumstances:

(a) The recipient was actually in financial need at the time the overpayment occurred, and;

(b) The recipient did not receive assistance in excess of actual financial need as computed according to department standards, and;

(c) The overpayment was due to an eligibility factor unrelated to financial need. (See WAC 388-44-035 and 388-44-040.)

(4) If recovery would be inequitable, the recipient shall not be liable for repayment, the overpayment shall not be a debt due the state, and the recipient shall be so informed.

(5) Department decisions made pursuant to this section shall be subject to fair hearing review.

(6) "Recipient," as used in this section, also means "former recipient."

WSR 78-04-097
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed April 5, 1978]

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 the amending of chapter 388-88 WAC relating to medical care—nursing home care; and chapter 388-96 WAC relating to the nursing home accounting and reimbursement system;

that such agency will at 10:00 a.m., Wednesday, May 10, 1978, in the Auditorium, State Office Bldg #2, 12th and Jefferson, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, May 24, 1978, in William B. Pope's office, 3-D-14, State Office Bldg #2, 12th and Jefferson, Olympia, WA.

The authority under which these rules are proposed is RCW 74.08.090 and 74.09.120.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 10, 1978, and/or orally at 10:00 a.m., Wednesday, May 10, 1978, Auditorium, State Office Bldg #2, 12th and Jefferson, Olympia, WA.

Dated: March 29, 1978

By: Harlan P. McNutt
Secretary

AMENDATORY SECTION (Amending Order 1257, filed 12/21/77)

WAC 388-88-001 NURSING HOME CARE. (1) The department has the administrative and legal responsibility to purchase nursing home and nursing home based (out-patient services, WAC 248-14-295) care for eligible persons. The department has the responsibility to assure to the state that adequate care, service and protection are provided through licensing and certification procedures.

(2) Each Title XIX nursing home will be certified as a skilled nursing facility, intermediate care facility, ((or)) skilled nursing and intermediate care facility, and/or institution for the mentally retarded and those with related conditions (IMR). A contract for the provision of care to medical recipient patients at an ICF facility will be for ICF care only. Except as provided in WAC 388-88-001(4) and WAC 388-88-007, contracts for the provision of care at all other facilities will be dual (ICF/SNF). Medical assistance recipients who are classified as requiring either intermediate level or skilled nursing care must be provided care only in a facility so certified.

(3) When a hospital elects to provide skilled nursing facility and/or intermediate care facility services to medical assistance recipients, the department will consider the hospital as such a provider. The hospital will be surveyed and certified, and all rules and regulations relating to skilled nursing facilities and/or intermediate care facilities shall apply, including certificate of need and/or section 1122.

(4) In order to qualify for a SNF only contract, a facility must meet department criteria regarding location, patient-classification ratios, ICF availability, average length of stay, staffing, and provision of rehabilitative services. The department will review all such requests and respond in writing within thirty days of receipt of a properly completed application.

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 388-88-007 IMR FACILITIES. Contracts with IMR facilities will specify one of four levels (a, b, c, or D) of service. Clients will be admitted to IMR facilities only after classification by a qualified mental retardation professional employed by the department. This classification will specify one of these four levels. At least 50% of the licensed bed capacity will be occupied by persons with mentally retardation or related conditions as of the date of application for certification. Facilities may not admit any residents except IMR residents after the date of certification.

NEW SECTION

WAC 388-88-051 ADDITIONAL SERVICES REQUIRED FOR IMR RESIDENTS. In addition to nursing home care as defined in WAC 388-88-050, all IMR residents must receive the following services:

- (1) Supervision of each client's total program plan by a qualified mental retardation professional;
- (2) Provision of a planned program of individual goal related activities which does not allow for unscheduled activity in excess of three hours of continuous duration.
- (3) Active treatment which includes regular, planned, participation in accordance with an individual prescriptive plan. Such treatment must be developed, supervised, reviewed, and revised by appropriate specialists in field of mental retardation.
- (4) Direct services by professional therapists in accord with needs of individual clients including, but not limited to:
 - (a) Psychology
 - (b) Recreation
 - (c) Education
 - (d) Vocational services

NEW SECTION

WAC 388-88-082 CLASSIFICATION OF IMR CLIENTS. (1) For IMR clients the level of care determinations are made by a qualified mental retardation professional employed by the department, in accordance with his/her best professional judgment. Each IMR client will be classified as needing Level A, B, C, or D services.

- (2) In making IMR classification decisions the departmental representative shall utilize the following guidelines:
 - (a) Level A: clients who:
 - (i) require 24 hour licensed nursing care and
 - (ii) manifest behaviors which require highly structured behavioral management programs, or cannot receive adequate care or services in a lesser level of IMR.
 - (b) Level B: clients who:
 - (i) require licensed nursing care for at least 8 hours per day and
 - (ii) manifest behaviors which require highly structured behavioral management programs or cannot receive adequate care or services in a lesser level of IMR.
 - (c) Level C: clients who:
 - (i) require 24 hour licensed nursing care and
 - (ii) are capable of participating in off-premises programs.
 - (d) Level D: clients who:
 - (i) require licensed nursing care for at least 8 hours per day and
 - (ii) are capable of participating in off-premises programs.
- (3) The classification of IMR clients shall be periodically reviewed by the qualified mental retardation professional for the purposes of:
 - (a) determining the need for continued stay
 - (b) identifying the level of care required to meet the needs of the client.
- (4) Classification changes shall be made in accordance with the needs of the recipients and in accord with appeal and relocation procedures outlined in WAC 275-27-500 and WAC 388-88-100 - 102 as applicable.

NEW SECTION

WAC 388-88-086 MINIMUM STAFFING REQUIREMENTS—IMR. (1) Each level of IMR must provide staff adequate in numbers and qualifications to meet client needs.

- (2) In addition, the IMR must provide:
 - (a) Level A
 - (i) facility-based physician staff to provide for 24-hour medical supervision to include examination, diagnosis, planning, implementation, and review of appropriate medical regimen for each client.

- (ii) one full-time registered nurse as director of nursing services plus sufficient licensed nurses to provide 24 hour nursing coverage.

- (iii) facility based active treatment staff in accord with WAC 388-88-050 and WAC 388-88-051.

- (iv) residential living staff at 1 staff per 2 residents to include sufficient qualified mental retardation professionals.

- (b) Level B

- (i) facility-based physician staff sufficient to provide for examination, diagnosis, planning, implementation and review of an appropriate medical regimen for each client.

- (ii) at least one licensed practical nurse plus 16 hours per month of consultation by registered nurses.

- (iii) facility based active treatment staff in accord with WAC 388-88-050 and WAC 388-88-051.

- (iv) residential living staff at 1 staff per 2 residents to include sufficient qualified mental retardation professionals.

- (c) Level C

- (i) a medical director.

- (ii) at least one full-time registered nurse as director of nursing services plus sufficient licensed nurses to provide 24 hour nursing coverage.

- (iii) residential living staff at 1 staff per 2.5 residents to include sufficient qualified mental retardation professionals.

- (d) Level D

- (i) a medical director.

- (ii) at least one licensed practical nurse plus 16 hour per month of consultation by registered nurses.

- (iii) residential living staff at 1 staff per 5 residents to include sufficient qualified mental retardation professionals.

- (3) In levels C and D active treatment will be provided by one or more of the following methods:

- (a) consultation by DSHS staff.
- (b) vendor coupons per Chapter 388-86 WAC.
- (c) day training programs.

Level C and D facilities will provide transportation for clients to off-premises active treatment programs.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-010 TERMS. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth below when used in this chapter.

"Accrual method of accounting" - A method of accounting in which revenues are reported in the period when they are earned, regardless of when they are collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

"Allowable costs" - See WAC 388-96-501.

"Arms-length transaction" - A transaction resulting from good-faith bargaining between a buyer and seller who are unrelated and have adverse bargaining positions in the market place.

"Assets" - Economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles. They also include certain deferred charges which are not resources but which are recognized and measured in accordance with generally accepted accounting principles.

"Bad debts" - Amounts considered to be uncollectable from accounts and notes receivable.

"Beds" - Unless otherwise specified, the number of set-up beds in the nursing home.

"Capitalization" - The process of recording and carrying forward into one or more future periods an expenditure the benefits or proceeds from which will then be enjoyed.

"Capitalized lease" - A lease which is required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

"Cash method of accounting" - A method of accounting in which revenues are recognized only when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for them.

"Change of ownership" - A change in the individual or legal organization which is responsible for the daily operation of a nursing home.

(1) Events which change ownership include but are not limited to the following:

- (a) The form of legal organization of the owner is changed (e.g., a sole proprietor forms a partnership or corporation);
- (b) Title to the nursing home enterprise is transferred by the operating entity to another party;

(c) The nursing home enterprise is leased, or an existing lease is terminated;

(d) Where the owner is a partnership, any event occurs which dissolves the partnership;

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

(2) Ownership does not change when the following, without more, occur:

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

(b) If the owner is a corporation, some or all of its stock is transferred.

"Charity allowances" - Reductions in charges made by the contractor because of the indigence or medical indigence of a patient.

"Contract" - A contract between the department and a contractor for the delivery of SNF ((and/or)), ICF and/or IMR services to medical care recipients.

"Contractor" - An entity which contracts with the department to deliver SNF ((and/or)), ICF and/or IMR services to medical care recipients.

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

"Department" - The department of social and health services (DSHS).

"Depreciation" - The systematic distribution of the cost or other base of a depreciable asset over its estimated useful life.

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

"Entity" - An individual or legal organization capable of entering enforceable contracts (e.g., corporation, partnership).

"ESSO" - The local economic and social service office of the department.

"Exceptional care recipient" - A medical care recipient determined by the department to require exceptionally heavy care.

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

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

"Fixed asset" - A tangible asset with an historical cost in excess of one hundred fifty dollars and a useful life of more than one year.

"Generally accepted accounting principles" - Accounting principles currently approved by the American Institute of Certified Public Accountants.

"Goodwill" - The excess of the price paid for a business over the fair market value of all other identifiable, tangible and intangible assets acquired. Also, the excess of the price paid for an asset over its fair market value.

"Historical cost" - The actual cost incurred in acquiring and preparing a fixed asset for use. Historical cost includes such planning costs as feasibility studies, architects' fees, and engineering studies. It does not include "start-up costs" as defined in this section or construction interest (see WAC 388-96-543).

"ICF" - When referring to a nursing home, an intermediate care facility. When referring to a level of care, intermediate care. When referring to a patient, a patient requiring intermediate care.

"Imprest fund" - A fund which is regularly replenished in exactly the amount expended from it.

"IMR" - When referring to a facility, one certified to provide services to the mentally retarded or persons with related conditions. When referring to a level of care, services for the mentally retarded or persons with related conditions. When referring to a recipient, a recipient requiring IMR services.

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

"Intermediate care facility" - A licensed facility certified to deliver intermediate care services to medical care recipients.

"Levels of care" - The classification of types of services provided to patients by a contractor, e.g., skilled nursing care or intermediate care.

"Medical care recipient" - A recipient of medical assistance under Title XIX of the Social Security Act or of state funded medical care services.

"Multiservice facility" - A facility at which two or more types of health or related care are delivered, e.g., a hospital and SNF and/or ICF, or a boarding home and SNF and/or ICF. A combined SNF/ICF or ICF/IMR is not considered a multiservice facility.

"Nonallowable costs" - Costs which do not meet every test of an allowable cost.

"Nonrestricted funds" - Funds which are not restricted to a specific use by the donor, e.g., general operating funds.

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

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

"Owner" - The individual or legal organization which is responsible for the daily operation of a nursing home. This party is legally responsible for operational decisions and liabilities.

"Patient day" - A calendar day of patient care. In computing calendar days of care, the day of admission is always counted. The day of discharge is counted only when the patient was admitted on the same day. A patient is admitted for purposes of this definition when he or she is assigned a bed and a patient medical record is opened.

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

"Prospective daily payment rate" - The rate assigned by the department to a contractor for providing service to medical care recipients. The rate is used to compute the maximum participation of the department in the contractor's costs.

"Recipient" - A medical care recipient.

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

"Relative" - Spouse; natural parent, child, or sibling; adopted child or adoptive parent; step-parent, step-child, step-brother, step-sister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law; grandparent or grandchild; uncle, aunt, nephew, niece or cousin.

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

- (1) Funds restricted by the donor to specific operating purposes;
- (2) Funds restricted by the donor for additions to property, plant and equipment; and
- (3) Endowment funds.

"Skilled nursing facility" - A licensed facility certified to deliver skilled nursing care services to medical care recipients.

"SNF" - When referring to a facility, a skilled nursing facility. When referring to a level of care, skilled nursing care. When referring to a patient, a patient requiring skilled nursing care.

"Start-up costs" - The one-time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first patient is admitted. Start-up costs include administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, training costs, etc. They do not include such costs as feasibility studies, engineering studies and architects' fees which are part of the historical cost of the facility.

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

"Vendor number" - A number assigned to each contractor delivering SNF ((and/or)), ICF and/or IMR services to medical care recipients.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-020 PROSPECTIVE COST-RELATED REIMBURSEMENT. The prospective cost-related reimbursement system is the system used by the department to pay for skilled nursing facility

services ((and)), intermediate care facility services and IMR services provided to medical care recipients. Reimbursement rates for such services covering periods beginning on and after January 1, 1978, will be determined in accordance with the principles, methods and standards contained in this chapter.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-023 CONDITIONS OF PARTICIPATION. In order to participate in the prospective cost-related reimbursement system, the person or legal organization responsible for operation of a nursing home or multiservice facility shall:

(1) Obtain a state certificate of need and/or federal capital expenditure review (section 1122) approval pursuant to chapter 70.38 RCW and Part 100, Title 42 C.F.R. where required. A certificate of need is required before commencement of a nursing home "construction" project (including acquisition) costing in excess of one hundred thousand dollars. Section 1122 approval is required for nursing home capital expenditures which (a) cost in excess of one hundred thousand dollars, (b) add or delete licensed beds, or (c) add or delete clinically related services;

(2) Hold the appropriate current license (e.g., nursing home license, hospital license);

(3) Hold current Title XIX certification to provide SNF ((and/or)), ICF and/or IMR services;

(4) Hold a current contract to provide SNF ((and/or)), ICF and/or IMR services; and

(5) Comply with all provisions of the contract and all applicable regulations, including but not limited to the provisions of this chapter and of chapter 388-88 WAC.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-032 TERMINATION OF CONTRACT. (1) When a ((nursing home)) contract is terminated for any reason, the old contractor shall submit final reports in accordance with WAC 388-96-125. Payment for care provided during the final thirty days of service under a contract will be held until the contractor has filed a properly completed final annual report, and final settlement has been determined.

(2) Following final settlement, a payment withheld pursuant to subsection (1) of this section will be sent to the contractor, after any overpayment determined in connection with final settlement has been deducted. If the contractor contests the settlement determination in accordance with WAC 388-96-904, the department will hold the amount in dispute pending completion of the appeal process, but will release the balance of such payment to the contractor.

(3) The department will release a payment which would be withheld pursuant to subsection (1) of this section, provided a bond issued by a reputable bonding company and acceptable to the department is filed by the contractor. The bond shall:

(a) be in an amount equal to the released payment;

(b) be for a term sufficient to ensure effectiveness after final settlement and the exhaustion of administrative and judicial remedies;

(c) provide that the full amount of the bond shall be paid to the department if a properly completed final annual report is not filed in accordance with this chapter, or if financial records supporting this report are not preserved and made available to the department's auditors; and

(d) provide that an amount equal to any recovery the department determines is due from the contractor at settlement, but not exceeding the amount of the bond, shall be paid to the department in the event the contractor does not pay the refund within sixty days following receipt of written demand or the conclusion of administrative or judicial proceedings to contest settlement issues.

(4) If a contract is terminated solely in order for the same owner to contract with the department to deliver SNF ((or)), ICF or IMR services to a different class of medical care recipients at the same nursing home, the contractor is not required to submit final reports, and payment for the final thirty days will not be withheld.

(5) When a contract is terminated, any accumulated liabilities which are assumed by a new owner shall be reversed against the appropriate accounts by the contractor.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-222 SETTLEMENT. (1) Following completion of the field audit of an annual report, the department will compare the

prospective rates paid to the contractor during the report period, weighted according to the number of patient days during which each rate was in effect, with the contractor's audited allowable costs for the period, taking into account all authorized shifting (WAC 388-96-223) and the upper rate limits set out in WAC 388-96-760.

(2) Within sixty days after completion of the field audit, the department will send a written audit report to the contractor. In this report, the department will:

(a) Explain the application of relevant contract provisions, regulations, auditing standards, rate formulas, and department policies to the contractor's report, in sufficient detail to permit the contractor to calculate with reasonable certainty its audited allowable costs and its settlement with the department;

(b) Advise the contractor of rules and regulations justifying a settlement determination resulting in reimbursement in any cost center at less than actual allowable costs, as reported by the contractor and verified by audit;

(c) Summarize all audit disallowances; and

(d) Request the contractor to refund money, if necessary, in accordance with the following principles;

(i) In the patient care and food cost areas, the contractor shall refund all portions of payments received for recipients ((excluding exceptional care recipients)) in excess of allowable patient care and food costs, respectively, for those recipients;

(ii) In the patient care cost area, the contractor shall also refund the percentage of the amount paid (less any recovery under subsection (i) above) equal to the percentage by which average per patient day nursing service hours provided were less than the minimum number of hours issued by the department;

(iii) In the administration and operations and property cost areas, payments in excess of allowable costs will normally be retained by the contractor. Those overpayments shall be refunded only in the following circumstances:

(A) costs totaling \$.02 per patient day or \$1,000, whichever is higher, in any cost area, were reported which cannot be documented at audit, or accumulated liabilities of at least that amount ((accumulated liabilities)) were not properly reversed in accordance with WAC 388-96-032 or 388-96-113; or

(B) all conditions and standards were not met during the entire fiscal year, as determined by the department in Title XIX certification surveys. The portion of the total overpayment attributable to thirty days plus the number of days from the date of the first survey at which a standard or condition was found unmet until the date of the survey showing all conditions and standards met will be recovered ((and)). For IMR facilities with initial certification conditioned upon meeting a plan of correction relating solely to IMR program standards, overpayments will not be recovered due to failure to comply with these standards during the period covered by this initial plan of correction; and

(iv) ((The amount of any recoveries)) In the property cost area, the contractor shall refund amounts determined under WAC 388-96-571(4) or 388-96-573.

(3) The contractor shall pay the refund, or shall commence repayment in accordance with a schedule determined by the department, within sixty days after receiving the audit report, unless the contractor contests settlement issues in good faith in accordance with the procedures set out in WAC 388-96-904. If the settlement determination is contested, the contractor shall pay or commence repayment in accordance with a schedule determined by the department within sixty days after such proceedings are concluded. The department will pay any amount due the contractor as the result of errors discovered at audit in billing or payment within thirty days after the audit report is received by the contractor or within thirty days after proceedings to contest the settlement are concluded.

(4) If the contractor does not refund the overpayment or any installment when due, the department may withhold payments from current billings until the overpayment is refunded. Payments will only be withheld under this subsection up to the unrefunded amount of the overpayment.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-501 ALLOWABLE COSTS. Allowable costs are documented costs which are necessary, ordinary and related to the provision of SNF ((or)), ICF or IMR services to nursing home patients, and are not expressly declared nonallowable by applicable regulations. Costs are ordinary if they are of the nature and magnitude which prudent and cost-conscious management would pay.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-505 OFFSET OF MISCELLANEOUS REVENUES. (1) Allowable costs shall be reduced by the contractor whenever the item, service, or activity covered by such costs generates revenue or financial benefits (e.g., purchase discounts or rebates) other than through the contractor's normal billing for SNF ((~~or~~)), ICF or IMR services.

(2) Where goods or services are sold, the amount of the reduction shall be the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, it shall be the full amount of the revenue received. Where financial benefits such as purchase discounts or rebates are received, the amount of the reduction shall be the amount of the discount or rebate.

(3) Only allowable costs shall be recovered under this section. Costs allocable to activities or services which are not included in SNF ((~~or~~)), ICF or IMR services (e.g., costs of vending machines, patients' personal laundry, and services specified in chapter 388-86 WAC which are not included in SNF, ICF or IMR services) are nonallowable costs.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-507 COSTS OF MEETING STANDARDS. All necessary and ordinary expenses a contractor incurs in providing SNF ((~~and/or~~)), ICF and/or IMR services meeting all applicable standards will be allowable costs. These expenses include necessary and ordinary costs of:

- (1) Meeting licensing and certification standards;
- (2) Providing regular room, dietary and nursing services, minor medical and surgical supplies, and the use of equipment and facilities, in accordance with WAC 388-88-050 and 388-88-051;
- (3) Fulfilling accounting and reporting requirements imposed by the department; and
- (4) Performing any patient assessment activity required by the department.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-533 MAXIMUM ALLOWABLE COMPENSATION OF CERTAIN ADMINISTRATIVE PERSONNEL. (1) Total compensation of the licensed administrator for services actually rendered to a nursing home on a full time basis (at least 40 hours per week, including reasonable vacation, holiday and sick time) will be allowable at the lower of (a) actual compensation received, or (b) the amount in the table in subsection (4) of this section corresponding to the number of set-up beds in the nursing home. Compensation of the licensed administrator will only be allowable if the department is given written notice of his or her employment within ten days after it begins.

(2) Total compensation of not more than one full time licensed assistant administrator will be allowable if there are at least eighty set-up beds in the nursing home, at the lower of (1) actual compensation received, or (2) seventy-five percent of the appropriate amount in the table in subsection (4) of this section.

(3) Total compensation of not more than one full time registered administrator-in-training will be allowable at the lower of (1) actual compensation received, or (2) sixty percent of the appropriate amount in the table.

(4) **TABLE**

Maximum Allowable Total Compensation for Licensed Administrators—Calendar Year 1978

Bed Size	Maximum Allowable Total Compensation
1 - 49	\$22,098
50 - 99	\$23,126
100 - 149	\$25,053
150 and up	\$25,695

(5) The table applies to the portion of a contractor's fiscal year in calendar year 1978. For any part of a fiscal year in calendar year 1979, a table to be promulgated by the department will apply.

(6) If any of the above employees works fewer than forty hours as administrator, assistant administrator or administrator-in-training in the average week, allowable compensation shall be the lower of (a) actual compensation received, or (b) the appropriate amount in the table

multiplied by the percentage of forty hours worked in the relevant position in the average week. Further discounting is required if the person was licensed or registered and/or worked for less than the entire report period.

(7) The contractor shall maintain time records for the licensed administrator and for an assistant administrator or administrator-in-training, if any.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-539 ALLOWABLE INTEREST. (1) The contractor's necessary and ordinary interest for working capital and capital indebtedness will be allowable.

(a) To be necessary, interest must be incurred in connection with a loan which satisfies a financial need of the contractor and be for a purpose related to patient care. Interest expense relating to business opportunity or goodwill(~~(lease acquisition costs, agreements not to compete, and other intangibles not related to patient care))~~) will not be allowed.

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

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

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

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-571 HANDLING OF GAINS AND LOSSES UPON RETIREMENT OF DEPRECIABLE ASSETS. (1) Gains and losses on the retirement of depreciable assets either during the period of participation in the program or within twelve months following termination, shall be ((~~included in computing allowable costs. They shall be treated as income or expense and separately disclosed in required reports~~)) treated in accordance with this section.

(2) A gain or loss on the retirement of an asset shall be the difference between the remaining undepreciated base and any proceeds received for, or to compensate for loss of, the asset. ((~~In computing a gain~~)) For purposes of subsections (3) and (4) of this section, ((~~one percent of~~)) the total gain shall be ((~~deducted~~)) reduced by one percent for each month of ownership of an asset with an expected useful life of one hundred months or longer. For an asset with an expected useful life of less than one hundred months, total gain shall be reduced by the portion ((~~of the gain~~)) thereof equal to the ratio of the actual life of the asset from its most recent arms-length acquisition up to the date of retirement to its expected useful life ((~~shall be deducted~~)).

(3) If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided that a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset.

(4) If the retired asset is not replaced, or if the contractor is terminating its contract, the gain or loss shall be spread over the actual life of the asset up to the date of retirement, provided that a loss will only be so spread if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset. ((~~Depreciation schedules for fiscal years during which the contractor participated in the program shall be adjusted.~~)) The difference between reimbursement actually paid for depreciation in any period beginning on or after January 1, 1978, and the reimbursement for depreciation which would have been paid with the base adjusted to reflect the gain or loss, will be computed. Where the difference results from a gain, it shall be recovered by the department. Where the difference results from a loss, it will be added to allowable costs for purposes of determining settlement.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-585 NONALLOWABLE COSTS. (1) Costs will be nonallowable if they are not documented, necessary, ordinary, and related to the provision of SNF ((~~or~~)), ICF or IMR services to nursing home patients.

(2) Nonallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the Title XIX program, including costs of unnecessary care. Costs of nonprogram items or services will be nonallowable even if they are indirectly reimbursed by the department as the result of an authorized reduction in patient contribution.

(b) Costs of services and items provided to SNF, ICF or IMR recipients which are covered by the department's medical care program but not included in SNF ((or)), ICF or IMR services respectively. ((These)) Items and services covered by the medical care program are listed in chapter 388-86 WAC.

(c) Costs associated with a capital expenditure subject to Section 1122 approval (part 100, Title 42 C.F.R.) if the department found it was not consistent with applicable standards, criteria or plans. If the department was not given timely notice of a proposed capital expenditure, all associated costs will be nonallowable as of the date they are determined not to be reimbursable under applicable federal regulations.

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained.

(e) Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes, or related to the part of a facility leased out for office space).

(f) Salaries or other compensation of officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care.

(g) Costs in excess of limits or violating principles set forth in this chapter.

(h) Costs resulting from transactions or the application of accounting methods which circumvent the principles of the prospective cost-related reimbursement system.

(i) Costs applicable to services, facilities and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities or supplies purchased elsewhere.

(j) Bad debts.

(k) Charity and courtesy allowances.

(l) Cash or other contributions to charitable organizations or political parties, and costs incurred to improve community relations.

(m) Vending machine expenses.

(n) Expenses for barber or beautician services not included in routine care.

(o) Funeral and burial expenses.

(p) Costs of gift shop operations and inventory.

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except those used in patient activity programs.

(r) Fund-raising expenses, except those directly related to the patient activity program.

(s) Penalties and fines.

(t) Expenses related to telephones, televisions, radios and similar appliances in patients' private accommodations.

(u) Federal, state and other income taxes.

(v) Costs of special care services, such as private duty nurses, except where authorized by the department for exceptional care recipients.

(w) Expenses of key-man insurance and other insurance or retirement plans not in fact made available to all employees.

(x) Expenses of profit-sharing plans.

(y) Costs of training programs for nonemployees other than volunteers.

(z) Personal expenses and allowances of owners or relatives, except those allowable as compensation.

(aa) All expenses of maintaining professional licenses or membership in professional organizations not related to operation of the facility.

(bb) Costs related to agreements not to compete.

(cc) Goodwill.

(dd) Organization costs, start-up costs, and construction interest not amortized over at least sixty months after opening.

(ee) Legal and consultant fees in connection with a fair hearing against the department where a decision is rendered in favor of the department or where otherwise the determination of the department stands. Legal and consultant fees in connection with a lawsuit against the department are nonallowable.

(ff) Lease acquisition costs, costs associated with agreements not to compete, and other intangibles not related to patient care.

AMENDATORY SECTION (Amending Order 1264, filed 1/9/78)

WAC 388-96-704 PROSPECTIVE REIMBURSEMENT RATES. (1) The department will determine prospective reimbursement rates for SNF ((and)), ICF and IMR services provided to recipients. Each rate represents the contractor's maximum compensation for one patient day of care of a recipient determined by the department to require SNF ((or)), ICF or IMR care.

(2) A contractor may also be assigned an individual prospective rate for a specific recipient determined by the department to require exceptional care.

AMENDATORY SECTION (Amending Order 1264, filed 1/9/78)

WAC 388-96-707 PROGRAM SERVICES NOT COVERED BY THE REIMBURSEMENT RATE. Medical services which are part of the department's medical care program but not included in SNF ((or)), ICF or IMR services ((are listed in chapter 388-86 WAC. They)) are not covered by the prospective reimbursement rate. Payment is made directly to the provider of service in accordance with chapter 388-87 WAC. Items and services covered by the medical care program are listed in chapter 388-86 WAC.

AMENDATORY SECTION (Amending Order 1264, filed 1/9/78)

WAC 388-96-719 METHOD OF RATE DETERMINATION.

(1) Data used in determining rates will be taken from the most recent complete, desk-reviewed annual cost report submitted by each contractor. If no annual report is available, the most recent desk-reviewed semiannual report will be used. Data from reports covering a period of less than six full months will not be used in determining rates, except for such reports which are submitted in accordance with WAC 388-96-101(2). Data from these reports will be combined with data from the report period immediately preceding the abbreviated period for purposes of determining rates.

(2) Data containing obvious errors, data for facilities which are out of compliance with any standard or condition at any time during the reporting period, and data for facilities with average occupancy ratios of less than eighty-five percent for the report period, will be excluded from the determination of predicted costs and rate ranges under subsections (4) and (6) of this section.

(3) Each contractor's reported cost data will be adjusted for economic trends based on component indices of the consumer price index issued by the United States department of labor, bureau of labor statistics. The national averages for the most recent twelve-month period will be applied in rate computations for the four cost areas as follows:

(a) Patient care—"health and recreation" index;

(b) Food—"food at home" index;

(c) Administration and operations—Average of the "all items less food" and "services less care services" indices; and

(d) Property—"shelter" index.

(4) A predicted cost per patient day (excluding cost data and patient days relating to exceptional care recipients) in each of the four cost areas will be determined for each facility through multiple regression analysis, which allows the assessment of the joint impact of a set of factors on cost. The formula for the linear multiple regression function is:

$$Y_c = A + B_1X_1 + B_2X_2 + \dots + B_kX_k$$

where:

Y_c is the predicted cost per patient day for an individual facility;

A is the base cost for a hypothetical facility where the factors all are zero;

$B_1, B_2 \dots B_k$ are the regression coefficients for the factors; and

$X_1, X_2 \dots X_k$ are the independent variables or factors measuring the relevant characteristics of a facility.

A and $B_1, B_2 \dots B_k$ are determined statistically by the method of least squares. In order to be included in a regression formula, factors must show statistical predictability by being significant at the twenty percent level.

(5) After all predicted costs per patient day have been computed, the difference between each facility's reported costs, adjusted to take into account economic trends, and the predicted cost will be computed. The standard deviation of the difference will also be calculated.

(6) To determine an individual contractor's prospective rate, its predicted cost is revised using the most current factor values for the individual facility and the base cost and weights derived in the regression analysis described above. A rate range, defined as this predicted cost plus and minus one standard deviation of the difference calculated in

accordance with subsection (5) of this section, will then be determined. If the contractor's reported costs (adjusted for economic trends) are lower than the lower limit of the rate range, the lower limit will be the contractor's reimbursement rate. If these adjusted reported costs are higher than the upper limit of the rate range, the upper limit will be the contractor's reimbursement rate. If these adjusted reported costs fall within the standard rate range, the contractor's reimbursement rate will equal the adjusted reported costs.

(7) Where new standards are imposed, or the department wishes to encourage additional services or otherwise change the program, ~~((and))~~ a cost-related adjustment will be made to the ((overall reimbursement)) appropriate cost area rates of each contractor affected by the program change. Adjustments will be made until reported costs used in setting rates reflect the new standards or program changes.

AMENDATORY SECTION (Amending Order 1264, filed 1/9/78)

WAC 388-96-722 PATIENT CARE COST AREA RATE. (1) The patient care cost area reimbursement rate will be computed to cover the necessary and ordinary costs of providing routine ~~((nursing))~~ services and supplies to recipients in accordance with WAC 388-88-050 and 388-88-051.

(2) The regression equation used in the patient care cost area will contain weights for the following four factors:

(a) Locality of the facility. This factor adjusts the base cost to provide for local market conditions. Facility location will be considered "urban" if it is in one of the four Standard Metropolitan Statistical Areas (SMSA). It will be considered "rural" if it is not in an SMSA. SMSA areas are those established in the 1970 census for the state of Washington.

(b) Type of facility. This factor adjusts the base cost to provide for the effect institutional requirements have on patient care costs. Facilities such as hospitals and other institutions which are certified providers but not licensed as nursing homes will be distinguished from facilities whose primary mission is the delivery of nursing home care.

(c) Characteristics of patients in the facility, as determined by the department. This factor adjusts the base cost to provide for the effect patient mix has on patient care costs. From January 1, 1978 through June 30, 1978, this factor will be the ratio of the number of SNF patients to the total number of patients in each facility for purposes of the regression analysis. In computing an individual facility's rate for that period, it will be the ratio of the number of SNF recipients to the total number of recipients in the facility. On and after July 1, 1978, this factor will be derived using a uniform patient assessment performed by the department.

(d) Number of floors of the facility. This factor adjusts the base cost to provide for the effect of physical plant differences on patient care costs. Data will be derived from inspection records in the state fire marshal's office.

(3) In addition to its reimbursement rate, each contractor will be assigned a range of nursing service hours which represent the maximum and minimum number of hours the department will purchase. For purposes of this hour range for IMR facilities, nursing services include residential living services. The range will depend on the characteristics of the patients in each facility. From January 1, 1978 through June 30, 1978, it will be computed based on the ratio of the number of SNF ~~((patients))~~, ICF and IMR patients of each level, respectively, to the total number of patients in the facility, assuming a range of 1-2 hours for ICF patients ~~((and))~~, 1.75 - 3 hours for SNF patients, 3.1-6.1 for IMR level A patients, 2.7-5.4 for IMR level B patients, 2.1-3.6 for IMR level C patients, and 1.2-2.4 for IMR level D patients. On and after July 1, 1978, this range will be derived using a uniform patient assessment performed by the department. When the certification of a contractor is changed to add or eliminate a level of care, the range will be adjusted using the ratio of patients in each level of care at the time the new certification becomes effective. When the department requires new standards or makes program changes which require more or less nursing service, the range will be adjusted as of the effective date of the new standard or program change.

AMENDATORY SECTION (Amending Order 1264, filed 1/9/78)

WAC 388-96-760 UPPER LIMITS TO REIMBURSEMENT RATE. The reimbursement rate shall not exceed the contractor's customary charges to the general public for the services covered by the

rate, except that public facilities rendering such services free of charge or at a nominal charge will be reimbursed according to the methods and standards set out in this chapter. The contractor shall immediately inform the department if its reimbursement rate does exceed customary charges for comparable services. If necessary, the rate will be adjusted in accordance with WAC 388-96-769. Rates will not exceed the limits set out at 42 CFR 450.30(b)(6).

AMENDATORY SECTION (Amending Order 1264, filed 1/9/78)

WAC 388-96-763 RATES FOR RECIPIENTS REQUIRING EXCEPTIONALLY HEAVY CARE. (1) A contractor certified to care for SNF or IMR patients may apply for an individual prospective reimbursement rate for a recipient whose special nursing and direct care-related service needs are such that the cost of care will be at least twice the contractor's current reimbursement rate.

(2) Application for an individual rate for an exceptionally heavy care recipient shall be made in accordance with instructions furnished by the department.

(3) An individual rate for an exceptionally heavy care recipient will be granted for a specified period of time, subject to extension, revision, or termination depending on the recipient's care requirements at the end of such period. It will be computed to cover the projected actual costs of care of the recipient.

(4) The contractor will be informed in writing of the disposition of its application as soon as possible and in no case longer than thirty days following receipt of a properly completed application.

WSR 78-04-098

EMERGENCY RULES

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed April 5, 1978]

I, Gerald E. Thomas, Deputy Secretary of the Department of Social and Health Services do promulgate and adopt at Olympia, Washington the annexed rules relating to the amending of WAC 388-80-005 relating to definitions; and WAC 388-86-005 relating to services available to recipients of medical assistance.

I, Gerald E. Thomas, 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 amendments are necessary to comply with a court order in the case of Mead vs. Burdman.

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 secretary of 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) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 4, 1978.

By Gerald E. Thomas
Deputy Secretary

AMENDATORY SECTION (Amending Order 1196, filed 3/3/77)

WAC 388-80-005 DEFINITIONS. (1) "Acute and emergent" signify an acute condition, defined as having a short and relatively severe course, not chronic; and an emergent condition, defined as occurring unexpectedly and demanding immediate action.

(2) "Applicant" is any person who has made an application or on behalf of whom an application has been made to the department for medical care.

(3) "Applicant-recipient" or "A/R" is an applicant for or recipient of medical care provided according to these rules.

(4) "Application" shall mean a request for medical care made to the ESSO by a person in his own behalf or in behalf of another person. A verbal application must be reduced to writing before considered complete unless the death of the applicant intervenes.

(5) "Assignment" is the method by which the provider receives payment for services under part B of medicare.

(6) "Available income" is income available to meet the cost of medical care after deducting from net income items specified by the rules.

(7) "Beneficiary" is an eligible individual who receives a federal cash benefit and/or state supplement under Title XVI.

(8) "Benefit period" is the term used by social security administration to denote a period of consecutive days during which services furnished to a patient, up to a certain specified maximum amount, can be paid for by the hospital insurance plan. The term applies to medicare beneficiaries only. See also "spell of illness".

(9) "Carrier" is the agency having a contract to serve as a third-party agency in behalf of the federal government for Part B of medicare.

(10) "Categorically related" refers to a resident of the state of Washington who is:

(a) A recipient of a federal aid grant, or

(b) A child receiving foster care, or

(c) An individual who meets the eligibility requirements for a federal aid grant, except that his income and/or resources exceed budgetary standards for a federal aid grant.

(11) "Central disbursements" is the state office section which audits nonmedicaid medical claims for payment billed on form DSHS 6-06 (A-19).

(12) Certification is a document confirming that an applicant has met the financial and medical eligibility requirements for the federal aid medical assistance (MA) or fully state-financed care services (MS) programs.

(13) "Chiropractor" is a person licensed by the state of Washington to practice chiropractic according to chapter 18.25 RCW.

(14) "Coinsurance" is a portion of the medicare cost for covered services, after the deductible is met, which the patient must pay.

(15) "Deductible" is the initial cost of medical care for which the recipient is responsible. It applies specifically to:

(a) All recipients who are beneficiaries of Title XVIII medicare. This is the amount the individual accrues on a yearly basis and is paid by the department to the social security administration for authorized recipients;

(b) Applicants or recipients of noncontinuing general assistance who cannot be categorically related and applicants or recipients of medical only. Medical assistance can be certified after such recipients have accrued medical expenses as prescribed in WAC 388-83-045(7).

(16) "Department" shall mean the state department of social and health services, the single state agency with authority to administer the Title XIX medical care program.

(17) "Detoxification" (alcohol) means three-day treatment of acute alcoholism for which the department will pay under the medical care program.

(18) "EPSDT" shall mean a program providing early and periodic screening, diagnosis and treatment to persons under 21 years of age who are eligible under Title XIX of the Social Security Act.

(19) "Essential person" is the "grandfathered" spouse of a former OAA, AB, or DA recipient for whom a cash allowance is included in the SSI benefit of a beneficiary.

(20) "ESSO" (Economic and Social Service Office) is an office of the department which administers the medical care program at the county level.

(21) "Extended care facility" (ECF) See "skilled nursing facility".

(22) "Extended care patient" is a recently hospitalized medicare patient who needs relatively short-term skilled nursing and rehabilitative care in a skilled nursing facility.

(23) "Federal aid" shall mean the medical assistance or aid to families with dependent children programs for which the state receives matching funds from the federal government.

(24) "Federal aid medical care only" (FAMCO) is medical care provided to a person not eligible for a federal aid grant or for foster care but who can otherwise be categorically related or who is otherwise eligible under the "H" category.

(25) "Financially eligible" shall mean the determination by the department that an applicant meets the financial requirements to receive medical care under the medical assistance (MA) or state medical care services (MS) programs.

(26) "Fiscal intermediary" is the agency having a contract to serve as fiscal agent for Part A of medicare.

(27) "Grandfathering" refers to certain individuals specified below who on December 31, 1973, were receiving medical assistance (or had an application pending which was subsequently approved) and who continue to be eligible under Title XVI for purposes of medicaid beginning January 1, 1974:

(a) Aged, blind and disabled recipients of FAMCO.

(b) Disabled recipients of categorical cash assistance who did not meet Title XVI disability criteria.

(c) Essential persons in adult federal-aid grant programs. All individuals above remain "grandfathered" as long as they continue to meet original program criteria

or continue to be an essential person to the same individual who was converted to SSI, and as long as the latter remains eligible.

(28) "H category" is a federal aid category in the medical assistance (MA) program. An applicant under this category is an individual under 21, or a pregnant woman of any age, who cannot be categorically related but whose income and/or resources are insufficient to meet the cost of medical care.

(29) "Home" shall mean real property owned and used by an applicant-recipient as a place of residence, together with reasonable amount of property surrounding or contiguous thereto which is used and useful to him.

(30) "Home health agency" is an agency or organization certified under medicare to provide skilled nursing and other therapeutic services to the patient in his place of residence.

(31) "Hospital" shall mean any institution licensed as a hospital by the official state licensing authority.

(32) "Institution" shall mean a medical institution as defined in WAC 388-34-015.

(33) "Intermediate care facility" shall mean a licensed facility certified to provide intermediate care for which an agreement has been executed.

(34) "Legal dependents" are persons whom an individual is required by law to support.

(35) "Local office": See ESSO.

(36) "Medical assistance" or "MA" shall mean the federal aid Title XIX program under which medical care is provided to:

(a) A recipient of a federal aid grant or of SSI benefit or a child receiving foster care

(b) A recipient of general assistance who is categorically related

(c) A recipient of general assistance who is eligible for care under the "H" category

(d) A categorically related recipient or a recipient under the "H" category who is eligible for federal aid medical care only (ineligible for a grant)

(e) The spouse of an aged, blind or disabled beneficiary for whom a cash allowance is included in the SSI benefit.

(37) "Medical audit". See "professional audit."

(38) "Medical care program" is the total program under which medical care is provided through medical assistance (MA) and medical care services (MS) according to the rules in chapters 388-80 through 388-95 WAC.

(39) "Medical care services" or "MS" shall mean the fully state-financed program under which medical care is provided to:

(a) A recipient of general assistance who cannot be categorically related,

(b) A recipient of general assistance who does not qualify in the "H" category,

(c) A recipient of medical only (MO).

(40) "Medical consultant" shall mean a physician employed by the department at the ESSO level.

(41) "Medically necessary" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the

worsening of conditions that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective more conservative or substantially less costly course of treatment available or suitable for the recipient requesting the service. For the purpose of this section "course of treatment" may include mere observation or, where appropriate, no treatment at all.

~~((41))~~ (42) "Medicare" is a commonly used term for the federal government health insurance program for certain aged or disabled recipients under Titles II and XVII of the Social Security Act.

~~((42))~~ (43) "Nursing care consultant" shall mean a qualified and licensed registered nurse employed by the department at the ESSO level.

~~((43))~~ (44) "Outpatient" is a nonhospitalized patient receiving care in an outpatient or emergency department of a hospital, or away from a hospital such as in a physician's office or the patient's own home.

~~((44))~~ (45) "Part A" is the hospital insurance portion of medicare.

~~((45))~~ (46) "PAS" - professional activity study is a compilation of inpatient hospital data by diagnosis and age, conducted by the commission of professional and hospital activities, which resulted in the determination of an average length of stay for patients. These data were published in a book entitled "Length of Stay in PAS Hospitals, United States". The department has adopted this book as the basis for authorizing the maximum number of days of inpatient hospital care for which the department is responsible for payment.

~~((46))~~ (47) "Part B" is the supplementary medical insurance benefit (SMIB) or the "doctor portion" of medicare.

~~((47))~~ (48) "Participation" is that part of the cost of medical care which the recipient who has available resources must pay.

~~((48))~~ (49) "Physician" is a doctor of medicine, osteopathy or podiatry who is legally authorized to perform the functions of his profession by the state in which he performs them.

~~((49))~~ (50) "Professional audit" shall mean that unit of the department which audits and authorizes payment for Title XIX provider billings.

(51) "Professional services review organization" (PSRO) is the community based organization designated to approve hospital admissions and stays for recipients related to federal programs.

~~((50))~~ (52) "Provider" or "provider of service" means those institutions, agencies, or individuals furnishing medical care and goods and/or services to recipients and who are eligible to receive payment from the department. See also "vendor".

~~((51))~~ (53) "Recipient of continuing assistance" is a person certified by the ESSO as eligible to receive a continuing maintenance grant, that is, a recipient of federal aid or continuing general assistance (GAU) or a child receiving foster care.

~~((52))~~ (54) "Recipient of medical assistance" (MA) is a resident of the state of Washington who is receiving medical care as a recipient of a federal aid grant or SSI

benefit, as a foster child, as a recipient of general assistance categorically related or under the H category, as an "essential person", or who has been certified as eligible to receive federal aid medical care only (FAMCO).

((53)) (55) "Recipient of medical only" (MO) is a resident of the state of Washington who is not eligible for a grant or for medical assistance (MS), and who has been certified for the treatment of acute and emergent conditions only, under that part of the state funded medical care services (MS) program known as "medical only".

((54)) (56) "Recipient of noncontinuing general assistance" is a person certified by the department as eligible to receive temporary general assistance (GAN).

((55)) (57) "Resident" is a person who is living in the state of Washington voluntarily and not for a temporary purpose; that is, one who has indicated his intent to maintain his residence in the state and has no present intention of leaving the state to take up residence. No requirement of durational residence is imposed as a condition of eligibility.

((56)) (58) "Resource" is any asset which could be applied toward meeting the costs of medical care. A nonexempt resource is one which is available to meet the costs of medical care. An exempt resource is not considered available to meet the costs of medical care.

((57)) (59) "Retroactivity" is the process used to certify applicant/recipients related to federal programs no earlier than the first day of the third month prior to the month of application to cover unpaid bills for covered medical care.

((58)) (60) "Skilled nursing facility" shall mean a licensed facility certified to provide skilled nursing care for which an agreement has been executed.

((59)) (61) "Skilled nursing home", unless otherwise described, shall mean any institution or facility licensed by the department as a nursing home, or is a nursing home unit of a hospital licensed by the state department of social and health services. Also known as "skilled nursing facility".

((60)) (62) "Spell of illness" (benefit period) begins on the first day a person eligible for medicare receives covered services in a hospital or extended care facility. A spell of illness ends as soon as he has been out of any hospital, extended care facility, or a nursing home providing skilled nursing service, for sixty consecutive days.

((61)) (63) "Spouse" -

(a) Eligible spouse is a person in a two-person household who, in addition to the eligible individual, is eligible for cash benefits under SSI. This person is automatically eligible for medicaid.

(b) Ineligible spouse is a person in a two person household of an eligible individual who is not eligible for a cash benefit under SSI. This person is not automatically eligible for medicaid and must apply in his or her own right.

((62)) (64) "State office" or "SO" shall mean the office of medical assistance of the health services division of the department.

((63)) (65) "Supplementary security income" is a cash benefit provided as a federal payment and/or state

supplement under Title XVI for the aged, blind and disabled.

((64)) (66) "Title XVI" is a program administered by the social security administration which provides supplementary security income to the aged, blind and disabled.

((65)) (67) "Transfer of property" shall mean any act or any omission to act whereby title to property is assigned or set over or otherwise vested or allowed to vest in another person, including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing whole or partial title of property.

((66)) (68) "Vendor" is a provider of medical goods or services under these rules.

NOTE* Specific definitions applicable to: Medical assistance to the aged and those under 21 years of age in mental institutions are in WAC 388-95-005, Title XVI related recipients are in WAC 388-92-005, and "Grandfathered" recipients are in WAC 388-93-005.

AMENDATORY SECTION (Amending Order 1265, filed 1/13/78)

WAC 388-86-005 SERVICES AVAILABLE TO RECIPIENTS OF MEDICAL ASSISTANCE. (1) For recipients of medical assistance (MA), the department shall authorize ambulance service and other means of transportation for medical reasons, early and periodic screening services to eligible individuals under twenty-one years of age, family planning services, home health agency services, inpatient and outpatient hospital care, other laboratory and x-ray services, skilled nursing home care, and physicians' services in the office or away from the office as needed for necessary and essential medical care.

(2) The following additional services shall also be authorized when medically necessary: anesthetization services; blood; dental services; drugs and pharmaceutical supplies; eyeglasses and examination; hearing aids and examinations; medical-social services; oxygen; physical therapy services; special-duty nursing services; surgical appliances, prosthetic devices, and certain other aids to mobility.

(3) Treatment, transplants, dialysis, equipment and supplies for acute and chronic nonfunctioning kidneys are provided in the home, hospital and kidney center. (See WAC 388-86-050(5)).

(4) Organ transplants, other than kidney transplants are not provided as a part of physician services or hospital care authorized under the medical assistance program.

(5) Treatment to detoxify narcotic addiction cases in a hospital or on an outpatient basis is not provided as a part of the medical care program. The department will provide treatment for concurrent diseases and complications.

(6) Detoxification of an acute alcoholic condition will be provided only in a certified detoxification center or in a general hospital with certified detoxification facilities.

(7) ((When requested medical care and/or services are denied by the department, the recipient shall be sent a written notification of the denial and explanation of the decision.)) Where evidence is obtainable to establish medical necessity, as defined in WAC 388-80-005, the department shall approve the request if the recipient or provider submits sufficient objective clinical information (including, but not limited to, a physiological description of the disease, injury, impairment or other ailment, pertinent laboratory findings, x-ray reports, and patient profiles).

(8) A request for medical services may be denied by the department if the requested service is not medically necessary as defined by WAC 388-80-005, is generally regarded by the medical profession as experimental in nature or as unacceptable treatment, unless the recipient can demonstrate through sufficient objective clinical evidence the existence of particular circumstances which render the requested service medically necessary.

(9) The department shall approve or deny all requests for medical services within fifteen days of the receipt of the request, except that if additional justifying information is necessary before a decision can be made, the request shall be neither approved nor denied but shall be returned to the provider within five working days of the original receipt. If additional justifying information is not returned within thirty days of the date it was returned to the provider, then the original request shall be approved or denied. However, if such information is returned to the department, the request shall be acted upon within five working days of the receipt of the additional justifying information.

(10) Whenever the department denies a request for medical services the department shall, within five working days of the decision, give written notice of the denial to the recipient and the provider. In order to fully inform the recipient, the notice shall state:

- (a) The specific reasons for the department's conclusion to deny the requested service.
- (b) If a fair hearing is requested, a medical assessment other than that of the person or persons involved in making the original decision may be obtained at the expense of the department of social and health services, and instructions on how to obtain such assessment.
- (c) The recipient has a right to a fair hearing if the request is made within thirty days of receipt of the denial, with the instruction on how to request the hearing.
- (d) The recipient may be represented at the hearing by legal counsel or other representative.
- (e) That upon request, the ESSO shall furnish the recipient the name and address of the nearest legal services office.

WSR 78-04-099
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed Apr. 5, 1978]

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 the amending of WAC 388-80-005 relating to definitions; and WAC 388-86-005 relating to services available to recipients of medical assistance.

It is the intention of the department to adopt these rules on an emergency basis prior to the hearing;

that such agency will at 10:00 a.m., Wednesday, May 10, 1978, in the Auditorium, State Office Bldg #2, 12th and Jefferson, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, May 17, 1978, in William B. Pope's office, 3-D-14, State Office Bldg #2, 12th and Jefferson, Olympia, WA.

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 May 10, 1978 and/or orally at 10:00 a.m., Wednesday, May 10, 1978, Auditorium, State Office Bldg #2, 12th and Jefferson, Olympia, WA.

Dated: April 4, 1978
 By: Gerald E. Thomas
 Deputy Secretary

AMENDATORY SECTION (Amending Order 1196, filed 3/3/77)

WAC 388-80-005 DEFINITIONS. (1) "Acute and emergent" signify an acute condition, defined as having a short and relatively severe course, not chronic; and an emergent condition, defined as occurring unexpectedly and demanding immediate action.

(2) "Applicant" is any person who has made an application or on behalf of whom an application has been made to the department for medical care.

(3) "Applicant-recipient" or "A/R" is an applicant for or recipient of medical care provided according to these rules.

(4) "Application" shall mean a request for medical care made to the ESSO by a person in his own behalf or in behalf of another person. A verbal application must be reduced to writing before considered complete unless the death of the applicant intervenes.

(5) "Assignment" is the method by which the provider receives payment for services under part B of medicare.

(6) "Available income" is income available to meet the cost of medical care after deducting from net income items specified by the rules.

(7) "Beneficiary" is an eligible individual who receives a federal cash benefit and/or state supplement under Title XVI.

(8) "Benefit period" is the term used by social security administration to denote a period of consecutive days during which services furnished to a patient, up to a certain specified maximum amount, can be paid for by the hospital insurance plan. The term applies to medicare beneficiaries only. See also "spell of illness".

(9) "Carrier" is the agency having a contract to serve as a third-party agency in behalf of the federal government for Part B of medicare.

(10) "Categorically related" refers to a resident of the state of Washington who is:

(a) A recipient of a federal aid grant, or

(b) A child receiving foster care, or

(c) An individual who meets the eligibility requirements for a federal aid grant, except that his income and/or resources exceed budgetary standards for a federal aid grant.

(11) "Central disbursements" is the state office section which audits nonmedicaid medical claims for payment billed on form DSHS 6-06 (A-19).

(12) Certification is a document confirming that an applicant has met the financial and medical eligibility requirements for the federal aid medical assistance (MA) or fully state-financed care services (MS) programs.

(13) "Chiropractor" is a person licensed by the state of Washington to practice chiropractic according to chapter 18.25 RCW.

(14) "Coinsurance" is a portion of the medicare cost for covered services, after the deductible is met, which the patient must pay.

(15) "Deductible" is the initial cost of medical care for which the recipient is responsible. It applies specifically to:

(a) All recipients who are beneficiaries of Title XVIII medicare. This is the amount the individual accrues on a yearly basis and is paid by the department to the social security administration for authorized recipients;

(b) Applicants or recipients of noncontinuing general assistance who cannot be categorically related and applicants or recipients of medical only. Medical assistance can be certified after such recipients have accrued medical expenses as prescribed in WAC 388-83-045(7).

(16) "Department" shall mean the state department of social and health services, the single state agency with authority to administer the Title XIX medical care program.

(17) "Detoxification" (alcohol) means three-day treatment of acute alcoholism for which the department will pay under the medical care program.

(18) "EPSDT" shall mean a program providing early and periodic screening, diagnosis and treatment to persons under 21 years of age who are eligible under Title XIX of the Social Security Act.

(19) "Essential person" is the "grandfathered" spouse of a former OAA, AB, or DA recipient for whom a cash allowance is included in the SSI benefit of a beneficiary.

(20) "ESSO" (Economic and Social Service Office) is an office of the department which administers the medical care program at the county level.

(21) "Extended care facility" (ECF) See "skilled nursing facility".

(22) "Extended care patient" is a recently hospitalized medicare patient who needs relatively short-term skilled nursing and rehabilitative care in a skilled nursing facility.

(23) "Federal aid" shall mean the medical assistance or aid to families with dependent children programs for which the state receives matching funds from the federal government.

(24) "Federal aid medical care only" (FAMCO) is medical care provided to a person not eligible for a federal aid grant or for foster care but who can otherwise be categorically related or who is otherwise eligible under the "H" category.

(25) "Financially eligible" shall mean the determination by the department that an applicant meets the financial requirements to receive medical care under the medical assistance (MA) or state medical care services (MS) programs.

(26) "Fiscal intermediary" is the agency having a contract to serve as fiscal agent for Part A of medicare.

(27) "Grandfathering" refers to certain individuals specified below who on December 31, 1973, were receiving medical assistance (or had an application pending which was subsequently approved) and who continue to be eligible under Title XVI for purposes of medicaid beginning January 1, 1974:

(a) Aged, blind and disabled recipients of FAMCO.

(b) Disabled recipients of categorical cash assistance who did not meet Title XVI disability criteria.

(c) Essential persons in adult federal-aid grant programs. All individuals above remain "grandfathered" as long as they continue to meet original program criteria or continue to be an essential person to the same individual who was converted to SSI, and as long as the latter remains eligible.

(28) "H category" is a federal aid category in the medical assistance (MA) program. An applicant under this category is an individual under 21, or a pregnant woman of any age, who cannot be categorically related but whose income and/or resources are insufficient to meet the cost of medical care.

(29) "Home" shall mean real property owned and used by an applicant-recipient as a place of residence, together with reasonable amount of property surrounding or contiguous thereto which is used and useful to him.

(30) "Home health agency" is an agency or organization certified under medicare to provide skilled nursing and other therapeutic services to the patient in his place of residence.

(31) "Hospital" shall mean any institution licensed as a hospital by the official state licensing authority.

(32) "Institution" shall mean a medical institution as defined in WAC 388-34-015.

(33) "Intermediate care facility" shall mean a licensed facility certified to provide intermediate care for which an agreement has been executed.

(34) "Legal dependents" are persons whom an individual is required by law to support.

(35) "Local office": See ESSO.

(36) "Medical assistance" or "MA" shall mean the federal aid Title XIX program under which medical care is provided to:

(a) A recipient of a federal aid grant or of SSI benefit or a child receiving foster care

(b) A recipient of general assistance who is categorically related

(c) A recipient of general assistance who is eligible for care under the "H" category

(d) A categorically related recipient or a recipient under the "H" category who is eligible for federal aid medical care only (ineligible for a grant)

(e) The spouse of an aged, blind or disabled beneficiary for whom a cash allowance is included in the SSI benefit.

(37) "Medical audit". See "professional audit."

(38) "Medical care program" is the total program under which medical care is provided through medical assistance (MA) and medical care services (MS) according to the rules in chapters 388-80 through 388-95 WAC.

(39) "Medical care services" or "MS" shall mean the fully state-financed program under which medical care is provided to:

(a) A recipient of general assistance who cannot be categorically related,

(b) A recipient of general assistance who does not qualify in the "H" category,

(c) A recipient of medical only (MO).

(40) "Medical consultant" shall mean a physician employed by the department at the ESSO level.

(41) "Medically necessary" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective more conservative or substantially less costly course of treatment available or suitable for the recipient requesting the service. For the purpose of this section "course of treatment" may include mere observation or, where appropriate, no treatment at all.

~~((41))~~ (42) "Medicare" is a commonly used term for the federal government health insurance program for certain aged or disabled recipients under Titles II and XVII of the Social Security Act.

~~((42))~~ (43) "Nursing care consultant" shall mean a qualified and licensed registered nurse employed by the department at the ESSO level.

~~((43))~~ (44) "Outpatient" is a nonhospitalized patient receiving care in an outpatient or emergency department of a hospital, or away from a hospital such as in a physician's office or the patient's own home.

~~((44))~~ (45) "Part A" is the hospital insurance portion of medicare.

~~((45))~~ (46) "PAS" - professional activity study is a compilation of inpatient hospital data by diagnosis and age, conducted by the commission of professional and hospital activities, which resulted in the determination of an average length of stay for patients. These data were published in a book entitled "Length of Stay in PAS Hospitals, United States". The department has adopted this book as the basis for authorizing the maximum number of days of inpatient hospital care for which the department is responsible for payment.

~~((46))~~ (47) "Part B" is the supplementary medical insurance benefit (SMIB) or the "doctor portion" of medicare.

~~((47))~~ (48) "Participation" is that part of the cost of medical care which the recipient who has available resources must pay.

~~((48))~~ (49) "Physician" is a doctor of medicine, osteopathy or podiatry who is legally authorized to perform the functions of his profession by the state in which he performs them.

~~((49))~~ (50) "Professional audit" shall mean that unit of the department which audits and authorizes payment for Title XIX provider billings.

(51) "Professional services review organization" (PSRO) is the community based organization designated to approve hospital admissions and stays for recipients related to federal programs.

~~((50))~~ (52) "Provider" or "provider of service" means those institutions, agencies, or individuals furnishing medical care and goods and/or services to recipients and who are eligible to receive payment from the department. See also "vendor".

~~((51))~~ (53) "Recipient of continuing assistance" is a person certified by the ESSO as eligible to receive a continuing maintenance grant, that is, a recipient of federal aid or continuing general assistance (GAU) or a child receiving foster care.

~~((52))~~ (54) "Recipient of medical assistance" (MA) is a resident of the state of Washington who is receiving medical care as a recipient of a federal aid grant or SSI benefit, as a foster child, as a recipient of general assistance categorically related or under the H category, as an "essential person", or who has been certified as eligible to receive federal aid medical care only (FAMCO).

~~((53))~~ (55) "Recipient of medical only" (MO) is a resident of the state of Washington who is not eligible for a grant or for medical assistance (MS), and who has been certified for the treatment of acute and emergent conditions only, under that part of the state funded medical care services (MS) program known as "medical only".

~~((54))~~ (56) "Recipient of noncontinuing general assistance" is a person certified by the department as eligible to receive temporary general assistance (GAN).

~~((55))~~ (57) "Resident" is a person who is living in the state of Washington voluntarily and not for a temporary purpose; that is, one who has indicated his intent to maintain his residence in the state and has no present intention of leaving the state to take up residence. No requirement of durational residence is imposed as a condition of eligibility.

~~((56))~~ (58) "Resource" is any asset which could be applied toward meeting the costs of medical care. A nonexempt resource is one which is available to meet the costs of medical care. An exempt resource is not considered available to meet the costs of medical care.

~~((57))~~ (59) "Retroactivity" is the process used to certify applicant/recipients related to federal programs no earlier than the first day of the third month prior to the month of application to cover unpaid bills for covered medical care.

~~((58))~~ (60) "Skilled nursing facility" shall mean a licensed facility certified to provide skilled nursing care for which an agreement has been executed.

~~((59))~~ (61) "Skilled nursing home", unless otherwise described, shall mean any institution or facility licensed by the department as a nursing home, or is a nursing home unit of a hospital licensed by the state department of social and health services. Also known as "skilled nursing facility".

~~((60))~~ (62) "Spell of illness" (benefit period) begins on the first day a person eligible for medicare receives covered services in a hospital or extended care facility. A spell of illness ends as soon as he has been out of any hospital, extended care facility, or a nursing home providing skilled nursing service, for sixty consecutive days.

~~((61))~~ (63) "Spouse" -

(a) Eligible spouse is a person in a two-person household who, in addition to the eligible individual, is eligible for cash benefits under SSI. This person is automatically eligible for medicaid.

(b) Ineligible spouse is a person in a two person household of an eligible individual who is not eligible for a cash benefit under SSI. This person is not automatically eligible for medicaid and must apply in his or her own right.

~~((62))~~ (64) "State office" or "SO" shall mean the office of medical assistance of the health services division of the department.

~~((63))~~ (65) "Supplementary security income" is a cash benefit provided as a federal payment and/or state supplement under Title XVI for the aged, blind and disabled.

~~((64))~~ (66) "Title XVI" is a program administered by the social security administration which provides supplementary security income to the aged, blind and disabled.

~~((65))~~ (67) "Transfer of property" shall mean any act or any omission to act whereby title to property is assigned or set over or otherwise vested or allowed to vest in another person, including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing whole or partial title of property.

~~((66))~~ (68) "Vendor" is a provider of medical goods or services under these rules.

NOTE* Specific definitions applicable to: Medical assistance to the aged and those under 21 years of age in mental institutions are in WAC 388-95-005, Title XVI related recipients are in WAC 388-92-005, and "Grandfathered" recipients are in WAC 388-93-005.

AMENDATORY SECTION (Amending Order 1265, filed 1/13/78)

WAC 388-86-005 SERVICES AVAILABLE TO RECIPIENTS OF MEDICAL ASSISTANCE. (1) For recipients of medical assistance (MA), the department shall authorize ambulance service and other means of transportation for medical reasons, early and periodic screening services to eligible individuals under twenty-one years of age, family planning services, home health agency services, inpatient and outpatient hospital care, other laboratory and x-ray services, skilled nursing home care, and physicians' services in the office or away from the office as needed for necessary and essential medical care.

(2) The following additional services shall also be authorized when medically necessary: anesthetization services; blood; dental services; drugs and pharmaceutical supplies; eyeglasses and examination; hearing aids and examinations; medical-social services; oxygen; physical therapy services; special-duty nursing services; surgical appliances, prosthetic devices, and certain other aids to mobility.

(3) Treatment, transplants, dialysis, equipment and supplies for acute and chronic nonfunctioning kidneys are provided in the home, hospital and kidney center. (See WAC 388-86-050(5)).

(4) Organ transplants, other than kidney transplants are not provided as a part of physician services or hospital care authorized under the medical assistance program.

(5) Treatment to detoxify narcotic addiction cases in a hospital or on an outpatient basis is not provided as a part of the medical care program. The department will provide treatment for concurrent diseases and complications.

(6) Detoxification of an acute alcoholic condition will be provided only in a certified detoxification center or in a general hospital with certified detoxification facilities.

~~(7) (When requested medical care and/or services are denied by the department, the recipient shall be sent a written notification of the denial and explanation of the decision.)~~ Where evidence is obtainable to establish medical necessity, as defined in WAC 388-80-005, the department shall approve the request if the recipient or provider submits sufficient objective clinical information (including, but not limited to, a physiological description of the disease, injury, impairment or other ailment; pertinent laboratory findings; x-ray reports; and patient profiles).

~~(8) A request for medical services may be denied by the department if the requested service is not medically necessary as defined by WAC 388-80-005, is generally regarded by the medical profession as experimental in nature or as unacceptable treatment, unless the recipient can demonstrate through sufficient objective clinical evidence the existence of particular circumstances which render the requested service medically necessary.~~

~~(9) The department shall approve or deny all requests for medical services within fifteen days of the receipt of the request, except that if additional justifying information is necessary before a decision can be made, the request shall be neither approved nor denied but shall be returned to the provider within five working days of the original receipt. If additional justifying information is not returned within thirty days of the date it was returned to the provider, then the original request shall be approved or denied. However, if such information is returned to the department, the request shall be acted upon within five working days of the receipt of the additional justifying information.~~

~~(10) Whenever the department denies a request for medical services the department shall, within five working days of the decision, give written notice of the denial to the recipient and the provider. In order to fully inform the recipient, the notice shall state:~~

~~(a) The specific reasons for the department's conclusion to deny the requested service.~~

~~(b) If a fair hearing is requested, a medical assessment other than that of the person or persons involved in making the original decision may be obtained at the expense of the department of social and health services, and instructions on how to obtain such assessment.~~

- (c) The recipient has a right to a fair hearing if the request is made within thirty days of receipt of the denial, with the instruction on how to request the hearing.
- (d) The recipient may be represented at the hearing by legal counsel or other representative.
- (e) That upon request, the ESSO shall furnish the recipient the name and address of the nearest legal services office.

implement the provisions of Substitute Senate Bill No. 2383.

Amend the following sections by adding clarifying language which does not change the concepts currently expressed:

**WSR 78-04-100
PROPOSED RULES
HIGHER EDUCATION PERSONNEL BOARD**
[Filed April 5, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and 28B.16.100, that the Higher Education Personnel Board intends to adopt, amend, or repeal rules concerning:

- Amd WAC 251-04-020 Definitions to add definitions for "employee", "periodic increment date", "P.I.D.", and "provisional appointment", and to revise the order of some existing definitions in the section.
- Amd WAC 251-06-065 Effective date—Allocation—Reallocation, to differentiate between effective dates for various types of actions.
- Amd WAC 251-06-070 Allocation appeal—Higher education personnel board, to clarify that the burden of proof rests with the appellant.
- New WAC 251-12-095 Appeals—Limitations, to clarify that the same charge may not be simultaneously filed as an appeal, a grievance dispute, and a charge of unfair labor practice.
- Amd WAC 251-12-240 Burden of proof, to specify which party has the burden in various types of appeal actions.
- Amd WAC 251-09-090 Special premium pay, to allow the Board or Director to approve such premium pay.
- New Chapter 251-20 WAC Performance evaluation, to provide administrative rules required to

- WAC 251-08-100 Periodic increment date
- WAC 251-08-110 Salary—Promotion
- WAC 251-08-112 Salary—Reallocation
- WAC 251-09-025 Schedule changes
- WAC 251-09-030 Overtime
- WAC 251-10-055 Layoff lists—Institution-wide
- WAC 251-10-140 Immediate dismissal
- WAC 251-18-030 Examination notice—Content
- WAC 251-18-140 Examination notice—Notification
- WAC 251-18-176 Eligible list—Appointment—Modification of minimum qualifications
- WAC 251-18-260 Certification—Incomplete
- WAC 251-22-200 Leave of absence without pay
- Amd WAC 251-18-160 and 251-18-181;

that such agency will at 10:00 a.m., Thursday, May 18, 1978, in the Olympic College, 16th and Chester Streets, Bremerton, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 10:00 a.m., Thursday, May 18, 1978, in the Olympic College, Bremerton, WA.

The authority under which these rules are proposed is RCW 28B.16.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 18, 1978, and/or orally at 10:00 a.m., Thursday, May 18, 1978, Olympic College, Bremerton, WA.

Dated: April 4, 1978
By: Douglas E. Sayan
Director

AMENDATORY SECTION (Amending Order 63, filed 11/22/77)

WAC 251-04-020 DEFINITIONS. Unless the context clearly indicates otherwise, the words used in these rules shall have the meanings given in this section.

"ADMINISTRATIVE ASSISTANT EXEMPTION" - A president or vice president may have individual(s) acting as his/her administrative assistant(s). The employee normally performs supportive work for his/her superior as an individual contributor without subordinates.

((+)) "ADMINISTRATIVE EMPLOYEES" - Personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

- ((+)) (1) Primary duty is office or nonmanual work directly related to the management policies or general business operations; and
- ((+)) (2) Must have the authority to make important decisions, customarily and regularly exercise discretion and independent judgment, as distinguished from using skills and following procedures; and
- ((+)) (3) Must regularly assist an executive or administrative employee, or perform work under only general supervision along specialized or technical lines requiring special training, experience or knowledge; and
- ((+)) (4) Must be paid at a rate of at least \$672 a month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if the primary duty consists of responsible office or nonmanual work directly related to management policies or general business operations.

((2)) "AGRICULTURAL EMPLOYEES" - 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.

((3)) "ALLOCATION" - The assignment of an individual position to an appropriate class on the basis of the kind, difficulty, and responsibility of the work of the position.

((4)) "APPOINTING AUTHORITY" - A person or group of persons lawfully authorized to make appointments.

"AVAILABILITY" - Within a class or job category, the existence of qualified persons of the under-represented groups in the employed and unemployed workforce in that class or job category within the defined recruitment area.

((5)) "BOARD" - The higher education personnel board established under the provisions of the higher education personnel law.

((6)) "CERTIFICATION" - The act of providing an employing official or appointing authority with the names of the appropriate eligibles to be considered for appointment to fill a vacancy.

((7)) "CHARGES" - A detailed statement of the specific incidents alleging cause for dismissal or disciplinary action.

((8)) "CLASS" - One or more positions sufficiently similar with respect to duties and responsibilities that the same descriptive title may be used with propriety to designate each position allocated to the class; that the same general qualification requirements are needed for performance of the duties of the class; that the same tests of fitness may be used to select employees; and that the same schedule of pay can be applied with equity to all positions in the class under the same or substantially the same employment conditions.

((9)) "CLASSIFIED SERVICE" - All positions in the higher education institutions which are subject to the provisions of the higher education personnel law.

((10)) "COLLECTIVE BARGAINING" - The performance of the mutual obligation of the appointing authority and the certified exclusive bargaining representative to meet at reasonable times, to confer and bargain in good faith, and to execute a written agreement with respect to those personnel matters over which the appointing authority may lawfully exercise discretion.

((11)) "COMPETITIVE SERVICE" - All positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

((12)) "CORRECTIVE EMPLOYMENT PROGRAM" - A program designed to increase the employment of persons of under-represented groups to correct a condition of under-representation of such persons caused by present or past practices or other conditions which have resulted in limited employment opportunity for members of the affected groups. (Also see separate definitions of "availability," "job categories," and "under-representation".)

~~((a)) "UNDER-REPRESENTATION" - Having fewer employees by racial or ethnic minority, handicap, or sex within a class or job category than:~~

- ~~(i) would reasonably be expected by their availability; or~~
- ~~(ii) are included in the institution's approved corrective employment goal for that class or job category per WAC 251-18-390(1);~~

~~(b) "AVAILABILITY" - Within a class or job category, the existence of qualified persons of the under-represented groups in the employed and unemployed work force in that class or job category within the defined recruitment area;~~

~~(c) "JOB CATEGORIES" - Those groupings required in equal employment opportunity reports to federal agencies.)~~

"COUNSELING EXEMPTION" - Individuals in counseling-exempt positions are responsible for directing and/or participating in providing academic, athletic, medical, career, financial aid, student activity and/or personal counseling to students. Such activities include, but are not limited to, providing individual and group guidance services using recognized professional techniques and practices.

((13)) "DEMOTION" - The change of an employee from a position in one class to a position in another class which has a lower salary range maximum.

((14)) "DEVELOPMENT" - The attainment through work experience and training of proficiency in skills which will enable the employee to perform higher level duties.

((15)) "DIRECTOR" - The personnel director of the higher education personnel board.

((16)) "DISMISSAL" - The termination of an individual's employment for just cause as specified in these rules.

((17)) "ELIGIBLE" - An applicant for a position in the competitive service who has met the minimum qualifications for the class involved, has been admitted to and passed the examinations, and has met all requirements for eligibility as stated on the bulletin board posting; or an applicant for a position in the noncompetitive service who has met all requirements for eligibility as stated on the bulletin board posting.

((18)) "ELIGIBLE LIST" - A list established by the personnel officer, composed of names of persons who have made proper application, met the minimum qualifications, and successfully completed the required examination process to be certified for vacancies in a class at the institution.

"EMPLOYEE" - A person having classified service status at an institution.

((19)) "EMPLOYEE ORGANIZATION" - Any lawful association, labor organization, federation, council, or brotherhood, having as one of its purposes the improvement of working conditions among employees, and which has filed a notice of intent to represent employees with the director, and which has been authorized in accordance with WAC 251-14-020.

((20)) "EMPLOYING OFFICIAL" - An administrative or supervisory employee designated by the appointing authority to exercise responsibility for requesting certification, interviewing eligibles, and employing classified employees.

((21)) "EXECUTIVE EMPLOYEES" - Management personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

- ((a)) (1) Primary duty must be management of a recognized department or subdivision; and
- ((b)) (2) Must customarily and regularly direct the work of two or more employees; and
- ((c)) (3) Must have the authority to hire and fire, or to recommend with authority on these and other actions affecting employees; and
- ((d)) (4) Must customarily and regularly exercise discretionary powers; and
- ((e)) (5) Must be paid at a rate of at least \$672 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if he/she regularly directs the work of at least two other employees and the primary duty is management of a recognized department or subdivision thereof.

"EXECUTIVE HEAD EXEMPTION" - Executive heads of major academic or administrative divisions are analogous in the hierarchy to vice presidents, deans and chairmen. Directors may be executive heads as determined by the higher education personnel board. An executive head is in charge of a separate budget unit and directs subordinates.

((22)) "EXEMPT POSITION" - A position properly designated as exempt from the application of these rules as provided in WAC 251-04-040. (Also see separate definitions of "administrative assistant exemption," "executive head exemption," "research exemption," "counseling exemption," "extension and/or continuing education exemption," "graphic arts or publication exemption," and "principal assistant exemption".)

~~((a) "ADMINISTRATIVE ASSISTANT EXEMPTION" - A president or vice president may have individual(s) acting as his or her administrative assistant(s). The employee normally performs supportive work for his/her superior as an individual contributor without subordinates.~~

~~(b) "EXECUTIVE HEAD EXEMPTION" - Executive heads of major academic or administrative divisions are analogous in the hierarchy to vice presidents, deans and chairmen. Directors may be executive heads as determined by the higher education personnel board. An executive head is in charge of a separate budget unit and directs subordinates.~~

~~(c) "RESEARCH EXEMPTION" - Individuals in research-exempt positions spend the majority of their time in one or more of the following activities: identification and definition of research problems; design of approaches or hypotheses and methodology to be used; design of specific phases of research projects; analysis of results; development~~

of conclusion and hypothesis, presentation of research results in publishable form.

(d) "COUNSELING EXEMPTIONS" - Individuals in counseling exempt positions are responsible for directing and/or participating in providing academic, athletic, medical, career, financial aid, student activity and/or personal counseling to students. Such activities include, but are not limited to, providing individual and group guidance services using recognized professional techniques and practices.

(e) "EXTENSION AND/OR CONTINUING EDUCATION EXEMPTION" - Individuals considered exempt in this category are responsible for originating and developing formal education programs for the general public, usually involving close contact with faculty and staff or training or consulting with specific groups in the community to enable them to provide specialized training and/or services to the community.

(f) "GRAPHIC ARTS OR PUBLICATION EXEMPTION" - Individuals qualifying for exemption under this section will be involved in performing selected graphic arts or publication activities requiring prescribed academic preparation or special training. Positions of this type are those which use special visual techniques, require original design and layout and/or can be distinguished from positions associated with the standard editorial functions.

(g) "PRINCIPAL ASSISTANT EXEMPTION" - Individuals qualifying for exemption under this section function as second-in-command in importance levels. The individual may perform many of the functions of his/her superior in the superior's absence or alternatively have major administrative or program responsibilities. Reporting relationships will not be below that of the executive head. In some institutions an executive head may have more than one principal assistant as determined by the higher education personnel board.)

"EXTENSION AND/OR CONTINUING EDUCATION EXEMPTION" - Individuals considered exempt in this category are responsible for originating and developing formal education programs for the general public, usually involving close contact with faculty and staff or training or consulting with specific groups in the community to enable them to provide specialized training and/or services to the community.

((23)) "FRINGE BENEFITS" - As used in the conduct of salary surveys, the term shall include but not be limited to compensation for leave time, including vacation, civil, and personal leave; employer retirement contributions; health insurance payments, including life, accident, and health insurance, workmen's compensation, and sick leave; and stock options, bonuses, and purchase discounts where appropriate.

((24)) "FULL-TIME EMPLOYMENT" - Work consisting of forty hours per week.

"GRAPHIC ARTS OR PUBLICATION EXEMPTION" - Individuals qualifying for exemption under this category will be involved in performing selected graphic arts or publication activities requiring prescribed academic preparation or special training. Positions of this type are those which use special visual techniques, require original design and layout and/or can be distinguished from positions associated with the standard editorial functions.

((25)) "GRIEVANCE" - A dispute filed in accordance with a grievance procedure of a signed collective bargaining agreement.

((26)) "HANDICAPPED PERSON" - Any person who:

((a)) (1) has a physical or mental impairment which substantially limits one or more major life activity;

((b)) (2) has a record of such an impairment; or

((c)) (3) is regarded as having such an impairment. For purposes of affirmative action, the major life activity affected must be employment.

((27)) "HEARING EXAMINER" - An individual appointed by the board to preside over, conduct and make recommended decisions including findings of fact and conclusions of law in all cases of employee appeals to the board.

((28)) "INSTITUTIONS OF HIGHER EDUCATION" - The University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges. For purposes of application of these rules, the term shall be considered to include the various related boards as defined in this section, unless specifically indicated to the contrary.

((29)) "INSTRUCTIONAL YEAR" - The schedule established annually by an institution to identify the period required to meet the educational requirements of a given academic or training program.

"JOB CATEGORIES" - Those groupings required in equal employment opportunity reports to federal agencies.

((30)) "LATERAL MOVEMENT" - Appointment of an employee to a position in another class which has the same salary range maximum as the employee's current class.

((31)) "LAYOFF" - Any of the following management initiated actions caused by lack of funds, curtailment of work, or good faith reorganization for efficiency purposes:

((a)) (1) Separation from service to an institution;

((b)) (2) Separation from (service within) a class;

((c)) (3) Reduction in the work year; and/or

((d)) (4) Reduction in the number of work hours.

((32)) "LAYOFF SENIORITY" - The last period of unbroken service in the classified service of the higher education institution. Authorized leave of absence or leave without pay shall not constitute a break in service; however, the time spent on such leave shall not be included in computing seniority except where required by statute and except in the case of positions established on the basis of an instructional year. Permanent employees who are veterans or their unmarried widows/widowers as identified in WAC 251-10-045 shall have added to their unbroken institution service the veteran's active military service to a maximum of five years' credit.

((33)) "LAYOFF UNIT" - A clearly identified structure within an institution, which is approved by the director, and within which employment/layoff options are determined in accordance with the reduction in force procedure.

((34)) "LEAD" - An employee who performs the same duties as other employees in his/her work group and in addition regularly assigns, instructs and checks the work of the employees.

((35)) "NONCOMPETITIVE SERVICE" - All positions in the classified service for which a competitive examination is not required.

((36)) "ORGANIZATIONAL UNIT" - A clearly identified structure, or substructure of persons employed to achieve a common goal or function under the direction of a single official. An organizational unit may consist of either an administrative entity or a geographically separated activity.

((37)) "PART-TIME EMPLOYMENT" - Work of twenty or more hours per week but less than full time employment with an understanding of continuing employment for six months or more.

"PERIODIC INCREMENT DATE" - ("P.I.D.") - The date upon which an employee is scheduled to move to a higher salary step within the range for his/her current class, as provided in WAC 251-08-090 and 251-08-100.

((38)) "PERMANENT EMPLOYEE" - An employee who has successfully completed a probationary period at the institution within the current period of employment.

((39)) "PERSONNEL OFFICER" - The principal employee in each institution/related board responsible for administrative and technical personnel activities of the classified service.

"P.I.D." - Commonly used abbreviation for periodic increment date.

((40)) "POSITION" - A set of duties and responsibilities normally utilizing the full or part time employment of one employee.

"PRINCIPAL ASSISTANT EXEMPTION" - Individuals qualifying for exemption under this category function as second-in-command in importance levels. The individual may perform many of the functions of his/her superior in the superior's absence, or alternatively may have major administrative or program responsibilities. Reporting relationships will not be below that of the executive head. In some institutions an executive head may have more than one principal assistant as determined by the higher education personnel board.

((41)) "PROBATIONARY PERIOD" - The initial six months of employment in a class following appointment from an eligible list of a nonpermanent employee of the institution.

((42)) "PROBATIONARY REAPPOINTMENT" - Appointment of a probationary employee from an eligible list to a position in a different class.

((43)) "PROFESSIONAL EMPLOYEES" - Personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

((a)) (1) Primary duty must involve work that requires knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction and study or work that is original and creative in character in a recognized field of artistic endeavor and the result of which depends primarily on invention, imagination, or talent; and

((b)) (2) Must consistently exercise discretion and judgment; and

((c)) (3) Must do work that is predominantly intellectual and varied, as distinguished from routine or mechanical duties; and

~~((44))~~ (4) Must be paid at a rate of at least \$737 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if the primary duty consists of work requiring knowledge of an advanced type in a field of science or learning which requires consistent exercise of discretion and judgment.

~~((44))~~ "PROMOTION" - The appointment as a result of recruitment, examination and certification, of a permanent employee to a position in another class having a higher salary range maximum.

"PROVISIONAL APPOINTMENT" - Appointment made prior to establishment of an eligible list, per the provisions of WAC 251-18-300. A person so appointed is required to apply through the competitive process to be considered for the position on a permanent basis.

~~((45))~~ "PUBLIC RECORDS" - Includes any writing containing information relating to conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

~~((46))~~ "REALLOCATION" - The assignment of a position by the personnel officer to a different class.

~~((47))~~ "REASSIGNMENT" - A management initiated movement of a classified employee from one position to another in the same class.

~~((48))~~ "RELATED BOARDS" - The state board for community college education, the council for postsecondary education, the higher education personnel board, and such other boards, councils and commissions related to higher education as may be established. For purposes of application of these rules, the term "institution" shall be considered to include these related boards, unless specifically indicated to the contrary.

"RESEARCH EXEMPTION" - Individuals in research-exempt positions spend the majority of their time in one or more of the following activities: Identification and definition of research problems, design of approaches or hypotheses and methodology to be used, design of specific phases of research projects, analysis of results, development of conclusion and hypothesis, presentation of research results in publishable form.

~~((49))~~ "RESIGNATION" - A voluntary termination of employment.

~~((50))~~ "REVERSION" - The return of a permanent employee from trial service to the most recent class in which permanent status was achieved.

~~((51))~~ "SEPARATION" - Resignation, retirement, layoff or dismissal from the classified service.

~~((52))~~ "SUPERVISOR" - Any individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them or adjust their grievances, or effectively to recommend such action if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

~~((53))~~ "SUSPENSION" - An enforced absence without pay for disciplinary purposes.

~~((54))~~ "TEMPORARY EMPLOYMENT" -

~~((a))~~ (1) Work performed in the absence of an employee on leave;

~~((b))~~ (2) Extra work required at a work load peak or special projects, or cyclic work loads not to exceed one hundred eighty calendar days.

~~((55))~~ "TRAINING" - Formal and systematic learning activities intended to provide employees with the knowledge and skills necessary to become proficient or qualified in a particular field.

~~((56))~~ "TRANSFER" - An employee initiated change from one classified position to another in the same class within the institution without a break in service.

~~((57))~~ "TRIAL SERVICE" - The initial period of employment following promotion, demotion or lateral movement into a class in which the employee has not held permanent status, beginning with the effective date of the change and continuing for six months, unless interrupted as provided in these rules.

"UNDER-REPRESENTATION" - Having fewer employees by racial or ethnic minority, handicap, or sex within a class or job category than would reasonably be expected their availability; or than are included in the institution's approved corrective employment goal for that class or job category per WAC 251-18-390(1).

~~((58))~~ "UNION SHOP" - A union membership provision which, as a condition of employment, requires all employees within a bargaining unit to become members of an employee organization.

~~((59))~~ "UNION SHOP REPRESENTATIVE" - An employee organization which is the exclusive representative of a bargaining unit that has been certified by the director as the union shop representative following an election wherein a majority of employees in the bargaining unit voted in favor of requiring membership in the employee organization as a condition of employment.

~~((60))~~ "UNION SHOP REPRESENTATION FEE" - Employees who are granted a nonassociation right based on religious tenets or teachings of a church or religious body of which they are members, must pay a representation fee to the union shop representative. Such fee is equivalent to the regular dues of the employee organization minus any monthly premiums for union sponsored insurance programs.

~~((61))~~ "WRITING" - Handwriting, typewriting, printing, photographing and every other means of recording any form of communication or representation including letters, words, pictures, sounds; or symbols or combination thereof and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77)

WAC 251-06-065 EFFECTIVE DATE—ALLOCATION—REALLOCATION. (1) The effective date of allocations or reallocations initiated by the institution shall be determined by the personnel officer.

(2) The effective date of reallocations resulting from an employee or employee representative request for position review will be established as ~~((of))~~:

(a) the date that the request ~~((is))~~ was filed with the personnel officer as required per WAC 251-06-060(1), when it has been established that the reallocation is as a result of an accumulation of duties over a period of at least six months, as provided in WAC 251-06-080(1)(a); or

(b) the date of appointment to the new class, in accord with chapter 251-18 WAC, when the incumbent is required to compete for the position as provided in WAC 251-06-080(1)(b).

AMENDATORY SECTION (Amending Order 63, filed 11/22/77)

WAC 251-06-070 ALLOCATION APPEAL—HIGHER EDUCATION PERSONNEL BOARD. (1) The employee or employee representative may file a written appeal with the board under provisions of WAC 251-06-060 when:

(a) The response required in WAC 250-06-060(2) is not issued to the employee or employee representative within the sixty calendar day period following receipt of the employee request; or

(b) The response fails to address the specific reason(s) that the request was not approved; or

(c) The employee disagrees with the results of the response. The written appeal should include information which will assist the board in determining the proper allocation of the position.

(2) Within thirty calendar days, but prior to scheduling of the appeal hearing, the director will investigate the appeal and attempt to resolve the allocation to the satisfaction of all parties. This may be extended by thirty calendar days provided the affected employee is given notice of the extension. If the allocation remains unresolved and the appeal is not withdrawn within fifteen calendar days following the director's review, the director will schedule an appeal hearing with the board or its designee.

(3) The burden of proof in an allocation appeal shall rest with the appellant.

(4) Allocation appeal hearings will be informal and will allow sufficient time for the parties to present facts pertinent to the proper allocation of a position. The appellant may represent him/herself or may be represented by any person of his/her choosing at the hearing. In appeals heard by a hearing examiner, the hearing examiner will issue a recommended decision within thirty calendar days of the hearing. The recommended decision will be transmitted to both parties by certified mail with a statement regarding the right to file exceptions to the recommended decision. Within thirty calendar days of service of the recommended decision, any party adversely affected may file written exception to the recommended decision. If no written exceptions are filed, the hearing examiner's recommended decision will become final forty calendar days after service of the recommended decision unless within that forty calendar day period the board issues a notice to each of the parties that a hearing will be scheduled for reconsideration of the hearing examiner's recommended decision. When exceptions are filed, such written statements must indicate in detail the specific items

of the recommended decision to which exception is taken. Thereafter, a hearing on the exceptions will be scheduled before the board at which time all parties may present written and/or oral argument. Within thirty calendar days of hearing the testimony or arguments upon exceptions, the board will issue a decision which is final and binding.

AMENDATORY SECTION (Amending Order 64, filed 12/23/77)

WAC 251-08-100 PERIODIC INCREMENT DATE. (1) For purposes of payment of periodic increment increases, the effective date shall be determined as follows:

(a) The first of the current month for actions occurring between the first and the fifteenth of the month; or

(b) The first of the following month for actions occurring between the sixteenth and the end of the month.

(2) The periodic increment date of new employees or probationary employees who are reappointed to a new class during the probationary period shall be established:

(a) Upon completion of the probationary period for those appointed at the first step in the salary range; or

(b) Upon completion of twelve months' service in the class for those appointed at a salary step above the first step in the salary range.

(3) The periodic increment date of all employees shall be changed as follows:

(a) Upon promotion, the existing periodic increment date will be eliminated and a new date established to be effective upon completion of the trial service period;

(b) Upon reappointment of a probationary employee during the probationary period, the former periodic increment date will be eliminated and a new date established as provided in WAC 251-08-100(2);

(c) Upon reallocation under WAC 251-06-080(1)(a) of an employee who is at the top step of the current salary range, the ~~((existing periodic increment date will be eliminated and a new date established to be effective))~~ employee will be given a new periodic increment date which will be six months following the reallocation action;

(d) When a leave of absence without pay exceeds ten working days in any calendar month, or exceeds ten consecutive working days, the date will be extended by one month, except as provided by WAC 251-22-180 and 251-18-380;

(e) When employees return from layoff status, the date will be reestablished and extended by an amount of time equal to the period of layoff in order to give credit for time served in a salary step prior to layoff;

(f) When an instructional-year leave of absence without pay exceeds ninety calendar days, the periodic increment date shall be extended on a month-for-month basis. Provisions of WAC 251-08-100(3)(d) shall apply to that period exceeding the ninety calendar days. Instructional-year employees serving a probationary or trial service period will have their periodic increment dates extended by an amount of time equal to the period in which the employee is on leave of absence without pay;

(g) When employees are reverted from trial service following promotion (or return from alternate appointment), the periodic increment date held prior to promotion or layoff will be reestablished;

(h) When the board or the director order remedial action per WAC 251-12-600, the periodic increment date may be modified as part of the order.

(4) The periodic increment date of all employees shall remain unchanged for all other actions including, but not limited to, transfer within class, appointment to another class with the same or lower salary range maximum, and reallocations except as provided in WAC 251-08-100(3)(c).

(5) The periodic increment date for incumbents of exempt positions which are converted to classified status shall be established as provided in WAC 251-18-420.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77)

WAC 251-08-110 SALARY—PROMOTION. An employee who is promoted or reallocated upward shall be paid at the salary step which represents at least a two step increase over the salary received immediately prior to the promotion as determined by the personnel officer, provided such increase is not less than the first step of the new range, and does not exceed the top step of the new range.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77)

WAC 251-08-112 SALARY—REALLOCATION. (1) An employee occupying a position that is reallocated to a class with a

higher salary range maximum shall receive an increase in accordance with the provisions of WAC 251-08-110. The periodic increment date shall be established as provided in WAC 251-08-100.

(2) An employee occupying a position that is reallocated to a class with a lower salary maximum shall be placed in the salary step in the new range which is equal to the current salary, provided such salary does not exceed the top step of the new salary range.

(3) When reallocation is necessary because the board has created, abolished, or modified a class, the incumbent will remain in the position and the following will apply:

(a) An employee occupying a position reallocated to a class with a lower salary range maximum will be placed at the step in the new salary range which is equal to the current salary and will be allowed to achieve the salary maximum of the former class at the time of reallocation. The employee will lose the right to such salary maintenance if he/she voluntarily demotes, promotes, or moves to another class;

(b) An employee occupying a position reallocated to a class with a higher salary range maximum will receive an increase as provided in WAC 251-08-110;

(c) A reallocation which results from the board's abolishment of a class will be effective the date of the board's action.

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

WAC 251-09-025 SCHEDULE CHANGES. Changes to a scheduled work period employee's assigned ((hours)) work schedule may be made under the following condition(s):

(1) For temporary changes of work hours within the assigned week:

(a) By providing two calendar days notice to the employee. (The day notification is given constitutes a day of notice); or

(b) Because of emergency conditions; or

(c) When the change is requested by the employee and approved by the employing official; or

(d) For operational convenience (instances where the conditions above do not exist), in which case the employee shall have the right to work his/her regularly assigned schedule in addition to the modified schedule for a maximum of two calendar days from the date of notice of the schedule change (in accordance with the provisions of WAC 251-09-030) unless:

(i) there is no work; or

(ii) there is a safety hazard to the employee or others; or

(iii) the resulting total hours worked would exceed one and one-half of the employee's regular shifts.

(2) For changes in work hours or shift extending beyond seven calendar days or for an indefinite period:

(a) By providing seven calendar days notice to the employee. (The day notification is given constitutes a day of notice); or

(b) Because of emergency conditions; or

(c) When the change is requested by the employee and approved by the employing official; or

(d) For operational convenience (instances where the conditions above do not exist), in which case the employee shall be paid premium pay (at time and one-half) for each hour outside of the regular shift (pro rata for part time employees) for a maximum of seven calendar days from the date of the notice of the schedule change.

(3) Overtime worked shall be computed on the employee's base rate plus shift premium where applicable.

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

WAC 251-09-030 OVERTIME. (1) Each of the following conditions constitutes overtime:

(a) Work in excess of the daily work shift for fulltime employees assigned to scheduled work period positions((-)); or

(b) Work in excess of forty hours in one workweek for employees assigned to scheduled or nonscheduled work period positions; or work in excess of eighty hours in a fourteen day period for hospital personnel assigned to a fourteen day schedule.

(2) Overtime worked by employees assigned to scheduled or nonscheduled work period positions shall be compensated at a rate of one and one-half times the employee's straight time hourly rate including shift differential for all overtime worked as provided in subsection (1) ((above)) of this section.

(3) Employees assigned to scheduled or nonscheduled work period positions shall receive monetary payment as compensation for overtime worked; however, at the employee's request compensatory time off at one and one-half times the overtime hours worked may be granted in

lieu of monetary payment, except that agricultural employees shall receive compensatory time off or monetary payment at the option of the institution.

(4) Use of accrued compensatory time shall be approved by the employing official with consideration being given to the work requirements of the department and the wishes of the employee. Compensatory time off may be scheduled by the employing official during the final sixty days of a biennium.

(5) Employees assigned to excepted work period positions normally do not qualify for overtime. Under circumstances in which the employee is directed to work an excessive amount of overtime, the personnel officer may authorize additional compensation in cash or compensatory time off not to exceed one and one-half times the employee's regular rate. The employee may petition the personnel officer for compensation of the directed overtime.

(6) For purposes of computing overtime compensation, holidays or leave with pay during the employee's regular work schedule shall be considered as time worked.

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

WAC 251-09-090 SPECIAL PREMIUM PAY. The board or the director may approve special premium pay required by the employer due to unique working conditions, as may be requested by the personnel officer of an institution.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77)

WAC 251-10-055 LAYOFF LISTS—INSTITUTION-WIDE. (1) The names of permanent and probationary employees who are scheduled for layoff, who have been laid off from service within a class or service to the institution, or who have accepted a lower option in lieu of layoff shall be placed on the institution-wide layoff list(s) for those class(es) in which they have held permanent status, probationary (if within the same class series as the list), or trial service appointment status within the current period of employment at the institution provided that:

- (a) The employee has requested placement on the list;
- (b) The employee has not been rejected, reverted, demoted or dismissed from such class(es); and
- (c) The class has the same or lower salary range maximum as the class from which laid off.

In addition such employees shall be placed on institution-wide layoff list(s) for all lower class(es) in these same class series.

(2) Upon request, employees shall be placed on these lists at the completion of the three day option period or upon selection of an option, whichever is sooner.

(3) Layoff lists shall be institution-wide with eligibles ranked according to layoff seniority as defined in WAC 251-04-020.

(4) Eligibles certified from such lists shall be re-employed in preference to all other eligibles.

(5) Removal from the institution-wide layoff list shall be as provided below:

(a) Acceptance of a layoff option or appointment from a layoff list shall cause removal from the list(s) for all classes with the same or lower salary range maximum(:); except that ~~((no employee))~~, unless the employee so requests, he/she may not be removed via this procedure from the layoff list for the class from which laid off.

(b) Retirement, resignation, or dismissal from the institution shall cause removal from the list(s).

AMENDATORY SECTION (Amending Order 61, filed 8/30/77)

WAC 251-10-140 IMMEDIATE DISMISSAL. When the appointing authority determines that a permanent employee is to be dismissed for cause as provided in WAC 251-10-110 and the circumstances are such that retention of the employee in an active duty status may result in damage to state property or may be injurious to the employee, fellow workers, or the client public, the employee may be dismissed immediately. The employee must be notified in writing as provided in WAC 251-10-120, but the fifteen calendar days notice requirement does not apply. The notification must state the cause for the dismissal and in addition the necessity for the immediacy of the action.

NEW SECTION

WAC 251-12-095 APPEALS—LIMITATIONS. Appeals shall not be processed per WAC 251-12-090 if the same charges have been filed with the board as a grievance dispute per WAC 251-14-100

and 251-14-110 or as a complaint charging an unfair labor practice per WAC 251-14-080.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77)

WAC 251-12-240 BURDEN OF PROOF. (1) At any hearing on appeal from a layoff, demotion, suspension, reduction, or dismissal the institution shall have the burden of proof.

(2) At any hearing on appeal from an allocation, the burden of proof shall rest with the appellant.

(3) At any hearing on exceptions to a hearing examiner's recommended decision per the provisions of WAC 251-12-085 or to a director's determination per the provisions of WAC 251-12-075, 251-12-600, or 251-18-115, the party filing the exceptions shall have the burden of proof.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77)

WAC 251-18-030 EXAMINATION NOTICE—CONTENT. (1) Bulletin board postings except open-continuous shall specify as a minimum the title and salary range of the class for which the eligible list is open; the nature of the work to be performed; the experience and training required; the time, place and manner of making application; the minimum qualifications established for admission to the examination; and the type of examination required for the class.

(2) Bulletin board postings and examination announcements for open-continuous eligible lists shall specify the title and salary range of the class for which the eligible list is open, the manner of making application, and the location and procedure for obtaining information regarding minimum qualifications and examination requirements.

(3) When the personnel officer elects to establish a combined eligible list as provided in WAC 251-18-181 and 251-18-240(4), to limit the number of eligibles to be placed on a noncompetitive eligible list, or to limit the number of ~~((eligibles))~~ applicants to be admitted to the entire examination as provided in WAC 251-18-060(3), such information shall be included in the bulletin board posting.

AMENDATORY SECTION (Amending Order 65, filed 1/30/78)

WAC 251-18-140 EXAMINATION RESULTS—NOTIFICATION. (1) Within ten working days after scoring the examination, the personnel officer will ~~((notify in writing))~~ provide each applicant competing in an examination with written notice of his/her score or failure to obtain a passing score and in addition his/her appeal rights per the provisions of WAC 251-18-115 ~~((within ten working days after scoring the examination))~~. Any applicant or authorized representative may request in writing that the personnel officer review the examination rating and/or score within fifteen calendar days after notification of the score. If an error in scoring has been made, it will be corrected and the eligible's name will be placed at the appropriate place on the eligible list. A correction so made shall not invalidate any appointment previously made from the list.

(2) The personnel officer will notify the candidate of the date of placement on the eligible list and the date of expiration.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77)

WAC 251-18-160 EXAMINATION—MEDICAL. (1) Candidates for employment or promotion shall take a medical examination if prescribed for the position to which appointment is sought. All candidates must conform with medical regulations for state employment established by the Washington State Board of Health.

(2) A medical examination and/or doctor's certificate also may ~~((also))~~ be required where a question arises concerning the fitness of the incumbent to perform the duties of his/her position.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77)

WAC 251-18-176 ~~((ELIGIBLE LIST APPOINTMENT))~~ MODIFICATION OF MINIMUM QUALIFICATIONS. When a vacancy exists and active and reasonable recruiting efforts fail to establish an eligible list for the class, the personnel officer may request that the director modify the minimum qualifications. If satisfied that reasonable effort has been made to recruit at the established minimum qualifications the director may modify the minimum qualifications for that recruiting cycle on a one-time basis. On approval, the personnel officer shall initiate recruiting at the reduced minimum qualifications. Such temporary modification will be reported to the board at the next regular meeting.

Appointments made from employment lists established in this manner will be in accordance with these rules.

AMENDATORY SECTION (Amending Order 65, filed 1/30/78)

WAC 251-18-181 ELIGIBLE LISTS—COMBINED. For positions in classes which meet the HEPB definitions of administrative, executive, or professional employees, the personnel officer may combine into a single list all the eligible lists provided in WAC 251-18-180, except the institution-wide layoff list. Such combined list shall be established by class and shall contain the names of all candidates who have successfully completed the examination for the class. Ranking of eligibles shall be in the order of their final earned rating on the examination as indicated below:

(1) Permanent employees of the institution shall have added to their final passing score a five percent permanent employee preference bonus.

(2) All other candidates on the combined eligible list shall be placed on the list with their passing score.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77)

WAC 251-18-260 CERTIFICATION—INCOMPLETE. When the number of names available for filling any vacancy is fewer than three, the employing official may make an appointment from the ((eligible list)) certification or decline ((certification for that vacancy)) to do so.

Chapter 251-20 WAC
EMPLOYEE PERFORMANCE EVALUATION

NEW SECTION

WAC 251-20-010 EMPLOYEE PERFORMANCE EVALUATION—AUTHORITY, PURPOSE. (1) The rules contained in this chapter follow from the authority of the higher education personnel law, RCW 28B.16.105, which provides in part, ". . . the board shall develop standardized employee performance evaluation procedures and forms which shall be used by institutions of higher learning for the appraisal of employee job performance at least annually . . ."

(2) It is the board's intent that employing officials or designated supervisory personnel will conduct annual performance evaluations to record and inform employees regarding how well they have contributed to efficiency, effectiveness, and economy in fulfilling institution and job objectives.

NEW SECTION

WAC 251-20-020 EMPLOYEE PERFORMANCE EVALUATION—FORMS. (1) Standardized performance evaluation forms approved by the board shall be used to record employee evaluations. The forms shall contain standard performance factors and shall provide for one or more optional factors, developed by the institution, which reflect organizational requirements and specific job-related aspects of performance.

(2) The approved forms shall accommodate the provisions of WAC 251-20-040.

(3) The approved forms may be supplemented with other forms and/or information used by an institution to support the ratings recorded on the approved forms.

NEW SECTION

WAC 251-20-030 METHOD OF EVALUATION. (1) Employee performance is to be rated for each performance factor on the approved form on the basis of criteria determined by the supervisor. To assist in the rating the employee's supervisor shall:

(a) Provide the employee with a copy of the specification for the class which identifies thereon those portions of the specification which relate to the position held, and may

(b) Identify on the form or attached thereto additional position criteria to be evaluated.

Criteria recorded as part of the performance evaluation process shall remain in effect for future evaluations unless action is taken to modify or replace them.

(2) Each performance factor will be rated and recorded according to a scale which differentiates varied levels of employee performance.

NEW SECTION

WAC 251-20-040 EMPLOYEE PERFORMANCE EVALUATION—PROCEDURE. (1) Each employee shall be evaluated at least annually by his/her supervisor. The evaluation process shall use the form(s) as provided in WAC 251-20-020 and shall be in accord with the provisions of this chapter 251-20 WAC.

(2) Prior to review by the second level of supervision, the employee shall be provided an opportunity to comment on the evaluation and to discuss his/her comments and the final evaluation with the supervisor.

(3) The evaluation shall be reviewed by the employee's second level of supervision (or management designee as determined by the institution).

(4) Performance evaluations shall be retained in the employee's file for no more than three years.

NEW SECTION

WAC 251-20-050 EMPLOYEE PERFORMANCE EVALUATION—GENERAL PROVISIONS. An appeal against action under chapter 251-20 WAC shall be restricted to allegations of irregularities in the use of the approved form and/or the procedures outlined in WAC 251-20-030.

NEW SECTION

WAC 251-20-060 EMPLOYEE PERFORMANCE EVALUATION—RESPONSIBILITY. The personnel officer shall be responsible for establishing and administering the employee performance evaluation system for the institution.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77)

WAC 251-22-200 LEAVE OF ABSENCE WITHOUT PAY. (1) Leave of absence without pay may be allowed for any of the following reasons:

(a) Conditions applicable for leave with pay;

(b) Maternity leave;

(c) Educational leave;

(d) Leave for Government service in the public interest;

(e) To accommodate annual work schedules of employees occupying positions established on the basis of an instructional year as specified in WAC 251-18-380.

(2) Requests for leave of absence without pay must be submitted in writing to the employing official or designee and must receive the approval of both the employing official and the personnel officer.

(3) Leave of absence without pay extends from the time an employee's leave commences until he/she is scheduled to return to continuous service, unless at the employee's request the employing official and the personnel officer agree to an earlier date.

(4) Annual leave and sick leave credits will not accrue during a leave of absence without pay which exceeds ten working days in any calendar month, except as provided in WAC 251-18-380(2).

(5) A classified employee taking a temporary appointment to an exempt position shall be granted a leave of absence without pay, with the right to return to his/her regular position, or to a like position at the conclusion of such temporary appointment; provided application for return to classified status must be made not more than thirty calendar days following the conclusion of the temporary employment.

WSR 78-04-101

PROPOSED RULES

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed April 5, 1978]

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 the amending of chapter 388-11 WAC relating to child support—obligations; and chapter 388-14 WAC relating to support enforcement;

that such agency will at 2:00 p.m., Wednesday, May 10, 1978, in the Auditorium, State Office Bldg #2, 12th and Jefferson, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, May 17, 1978, William B. Pope's office, 3-D-14, 12th and Jefferson, State Office Bldg #2, Olympia, WA.

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 May 10, 1978, and/or orally at 2:00 p.m., Wednesday, May 10, 1978, State Office Building #2 Auditorium, 12th and Jefferson, Olympia, WA.

Dated: April 5, 1978
By: Gerald E. Thomas
Deputy Secretary

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

WAC 388-11-015 ((LEGAL BASIS—DEBT ON PUBLIC ASSISTANCE CASES)) CREDITS ALLOWABLE IN SATISFACTION OF DEBT. ((In the absence of a superior court order for support, RCW 74.20.292, RCW 74.20A.030, RCW 74.20A.250 and RCW 74.20A.055, and this chapter establish a debtor/creditor relationship between the department of social and health services and the responsible parent of a child or children when the department has provided public assistance monies for necessary food, clothing, shelter, medical attendance for said child(ren) and for the child(ren)'s caretaker/custodian. This debt obligation is created by statute in favor of the department.)) After a notice and finding of financial responsibility has been served on the responsible parent, satisfaction in whole or in part of this debt may be obtained only by cash, check, or money order payments through the office of support enforcement. After service of said notice, any direct providing of cash, check, money order or in-kind, noncash, nonnegotiable items or services, including payments to vendors or other third parties of items included in the public assistance standards, are conclusively presumed to be gifts and may not be credited against the debt. Family necessities provided direct to the caretaker/custodian, or children, or provided through vendors or third parties, may be credited against the debt only if they are provided prior to service of the notice and finding of financial responsibility on the responsible parent pursuant to WAC 388-11-040. To obtain such credit the responsible parent has the burden of proving, by a preponderance of the evidence, that such items provided were, at that time, intended to satisfy, in whole or in part, the common law or statutory obligation of said responsible parent; Provided, no credit may be given for items not provided for or included in the basic public assistance standards. Provided, further, that shelter payments made may not be credited against any debt for any period determined under these rules in an amount greater than the shelter allocation in the public assistance standards for the same period or one-half of the actual shelter payment made, whichever is the lesser. Any credit given shall be classified as a payment of child support and shall be treated consistent with rules of eligibility in effect as of the time of the payment. After assignment has been made pursuant to WAC 388-24-108, any support payments made subsequent to assignment shall be treated pursuant to WAC 388-14-210.

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

WAC 388-11-030 NOTICE AND FINDING OF FINANCIAL RESPONSIBILITY. (1) The notice and finding of financial responsibility shall set forth the original determination of the office of support enforcement, of the amount the responsible parent owes as an accrued debt ((because public assistance has been paid in the past,)) and a statement of the demand for payment thereon and/or the original determination of the office of support enforcement of the amount the responsible parent should pay in the future as periodic future support ((payment up to a ceiling of the amount of public assistance that has been paid or is being paid, unless action is also being taken pursuant to RCW 74.20.040)).

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

- (a) A statement of the name of the recipient or custodian;
- (b) The name of the child or children ((for whom assistance has been or is being paid or)) on whose behalf need is alleged;
- (c) A statement that, if the responsible parent objects to all or any part of the notice and finding of financial responsibility ((that)), (s)he shall have a right, for not more than twenty days from date of service, for a hearing to show cause why said responsible parent should not be determined to be liable for any or all of the debt, past and future, determined, and the amount to be paid thereon;
- (d) A statement that said objection shall be communicated, in writing, and shall be served on the district field office of the office of support enforcement issuing the notice and finding of financial responsibility;
- (e) A statement that, if the responsible parent fails to object in writing ((that)), the support debt and/or payments stated in the notice and finding of financial responsibility shall be assessed and determined in accordance with the original determination of the department as set forth in the notice and finding of financial responsibility;
- (f) A statement that the support debt, as assessed and determined, is subject to collection action and that the property of the debtor, without further advance notice or hearing, is subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver to satisfy the debt.

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

WAC 388-11-050 FAILURE TO MAKE REQUEST FOR HEARING. If the responsible parent fails to object to the original determinations of the office of support enforcement, such determinations as stated in the notice and finding of financial responsibility shall become final subject to the provisions of WAC 388-11-055. The debt, as stated, together with the amount to be paid thereon each month, if stated, and/or the future periodic support payments to prospectively satisfy liability under RCW 74.20A.030 or ((RCW)) 26.16.205, and/or ((RCW)) 74.20A.250 shall be subject to collection action. Prospective modification pursuant to WAC 388-11-140 may be ordered as to that portion of the original determination for periodic future support payments. It shall not be necessary for the responsible parent or the office of support enforcement to show material change of circumstances if prospective modification is sought as to an original determination for periodic future support payments which determination was made by allegation of ability to pay based on the best information available.

NEW SECTION

WAC 388-11-055 PETITION FOR HEARING AFTER TWENTY DAYS—STAY. (1) The responsible parent may, at any time within one year from the date of service of the notice and finding of financial responsibility, petition the secretary or his designee for a hearing, as provided for but not previously granted pursuant to WAC 388-11-060, 388-11-065, and 388-11-100, upon a showing of any of the grounds enumerated in RCW 4.72.010 and CR 60. A copy of said petition shall also be served by certified mail, return receipt requested, or by service in the manner of a summons in a civil action on the district office of the office of support enforcement. The filing of such petition shall not stay any collection action being taken under chapter 74.20A RCW. The petition shall state:

- (a) The grounds relied on as enumerated in RCW 4.72.010 and CR 60;
- (b) The defenses to be raised to liability;
- (c) A statement of the name of the employer of the responsible parent and his spouse, if any, and a statement of the income, property and resources of the responsible parent or his marital community, as defined in WAC 388-11-190.

(2) Upon the assignment of the matter to a hearing examiner, the responsible parent may petition the hearing examiner for an order staying collection action pending the final decision of the department or the courts on any appeal made pursuant to chapter 34.04 RCW. The office of support enforcement shall be given notice of not less than five working days of the petition for stay of collection action.

The hearing examiner may, upon being satisfied of proper notice as provided above, issue a stay of future collection action conditioned upon payment to the office of support enforcement of temporary, current and future support in an amount prescribed by WAC 388-11-190 when current and future support has been requested in the notice and

finding of financial responsibility. The hearing examiner shall, on request of the office of support enforcement, also condition the stay on execution by the responsible parent and spouse, if any, of an assignment of earnings. The stay shall not require release of liens already filed and shall also provide for the filing of additional liens pursuant to RCW 74.20A.060 to prevent transfer of any real or personal property subject to said liens during the pendency of this hearing. If conditions of the stay are not met, the office of support enforcement may immediately resume collection action pursuant to chapter 74.20A RCW with notice to the responsible parent and the hearing examiner or secretary or his designee as appropriate. Undisbursed monies withheld by collection action taken prior to the date of issuance of the stay or by collection action taken pursuant to the terms of the stay shall be held in trust by the office of support enforcement, pending final order of the department or any appeal to the courts made pursuant to chapter 34.04 RCW, to be distributed in accordance with said final order. Temporary current and future support shall be disbursed to the custodial parent or as otherwise appropriate when received by the office of support enforcement.

The conditions stated above shall continue in effect as jurisdictional requirements during the pendency of the hearing and during the pendency of any appeal made to the courts pursuant to chapter 34.04 RCW unless the court in its discretion makes other provision as to these matters.

In the absence of a petition for a stay by the responsible parent, the office of support enforcement may also petition the hearing examiner to set temporary, current and future support which shall be governed by the same rules which apply to the petition for a stay by the responsible parent.

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

WAC 388-11-060 REQUEST FOR HEARING. Any responsible parent who objects to all or any part of the notice and finding of financial responsibility shall have the right, for not more than twenty days from the date of service of said notice and finding of financial responsibility, to request, in writing, a hearing which request shall be served upon the office of support enforcement by registered or certified mail or personally. A request for hearing, pursuant to this section, shall not be construed to be or considered as a general denial of requests for admission pursuant to WAC 388-11-080. The execution of the notice and finding of financial responsibility shall be stayed pending the decision on such hearing or any direct appeal to the courts from that decision. If an objection is received, the department shall notify the appellant, his attorney, or other designated representative, of the date, time and place of the hearing, at least twenty days prior to the date thereof by written notice to the appellant or his representative by registered or certified mail ~~((or personal service))~~. It shall be the appellant's responsibility to notify the department of his mailing address at the time of service of the objection and also of any change of address after his objection is submitted and he shall bear the consequences of failing to receive subsequent certified or registered mailings in this proceeding: PROVIDED, That said hearing shall be scheduled within thirty days of the date of receipt of the objection. If the time, date or place is inconvenient to either party, the hearing examiner may grant a new time, date or place as is reasonably convenient upon a showing of good cause.

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

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

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

~~((6))~~ Lack of eligibility in the receipt of public assistance funds paid to or for the benefit of the responsible parent's minor child or children((:)): PROVIDED, That lack of eligibility shall not operate as a defense to a responsible parent's current and future support obligation when an assignment of support rights has been executed by a non-assistance custodian pursuant to RCW 74.20.040 or an assignment of support rights has been executed by a public assistance recipient pursuant to 42 USC 602 (26)(a): PROVIDED, further, That lack of eligibility shall operate as a defense to a responsible parent's liability to repay the department only to the extent the amount of ineligibility proven in any one month exceeds the difference between the total grant for that month and the amount of the support liability determined for that month;

~~((7))~~ (6) Lack of natural or adoptive parentage; ((Provided, however, if the responsible parent alleges (s)he is not the natural or adoptive parent of the minor child or children listed in the notice and finding of financial responsibility and said child or children were not born during the term of marriage of the responsible parent to the natural mother or father of said minor child or children or born within nine months after dissolution of marriage, the office of support enforcement shall have the burden of proving by a preponderance of the evidence that the responsible parent is the natural or adoptive parent of said minor child or children;

~~((8))~~ (7) Inability to pay the amount determined and/or inaccuracy of amount or value of net earnings or resources upon which the original determination is based;

~~((9))~~ (8) Lack of need and/or debt pursuant to RCW 26.16.205: PROVIDED, That the cost of living standard adopted by the department as directed by the legislature in RCW 74.08.040 shall constitute a rebuttable presumption of the minimum support need of the child or children and if said presumption is rebutted the office of support enforcement shall be afforded reasonable opportunity to present evidence of actual need with the right to a continuance on request to present said evidence: PROVIDED FURTHER, Said rebuttable presumption shall apply whether or not the child or children are recipients of or applicants for public assistance, and

~~((10))~~ (9) Any other matter constituting an avoidance or affirmative defense to the notice and finding of financial responsibility.

The hearing examiner or review examiner shall not require the office of support enforcement to produce or obtain information, documents or witnesses to assist the responsible parent in proof of defenses raised pursuant to WAC 388-11-065 except for that information or those documents which the office of support enforcement has in its possession.

AMENDATORY SECTION (Amending Order 875, filed 11/16/73)

WAC 388-11-090 HEARING EXAMINER. The hearing shall be conducted by a duly qualified hearing examiner appointed by the secretary for such purpose who was not previously involved in any way with the action in question. No hearing examiner or hearing examiner acting as designee of the secretary for the purpose of review of decisions pursuant to WAC 388-11-100 and 388-14-375 shall hear or review a contested case provided for by chapter 183, section 25, Laws of 1973((:)) 1st ex. sess., when it has been requested by any party or representative that a different hearing examiner be assigned to hear or review said matter: PROVIDED, That no party or representative shall be permitted to make more than one such request in the same case without the allegation and proof that actual cause exists for the removal of the hearing examiner first assigned to hear said case. The party or representative requesting the change of hearing examiner shall make said request in writing ~~((and said request shall be filed and called to the attention of the hearing examiner not less than twenty-four hours in advance of the hearing))~~.

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

WAC 388-11-100 DUTY OF HEARING EXAMINER. Based on the notice and finding of financial responsibility and objections made thereto, the hearing examiner shall determine the liability and responsibility, if any, of the responsible parent under RCW 74.20A.030 and ~~((RCW))~~ 74.20.292. The hearing examiner shall also determine the amount of periodic payments to be made to satisfy past, present, or future liability under RCW 74.20.292, ~~((RCW))~~ 74.20A.030 and/or ~~((RCW))~~ 26.16.205 and/or ~~((RCW))~~ 74.20A.250. ~~((In making these determinations, a hearing examiner shall include in his considerations:))~~

Periodic payments to satisfy a past liability shall provide for full repayment prior to expiration of any statute of limitations which may bar collection of the debt. In all cases in which the applicant-custodian has made assignment pursuant to RCW 74.20.040 for nonassistance support enforcement services, the hearing examiner shall determine the future and current support obligation based upon full need pursuant to RCW 26.16.205. In all cases in which the applicant-recipient has made assignment pursuant to 42 USC 602 (26)(a) the hearing examiner shall determine the future and current support obligation of the responsible parent based upon full need pursuant to RCW 26.16.205. Whenever there has been no assignment made pursuant to 42 USC 602 (26)(a) or RCW 74.20.040, the hearing examiner shall determine the liability and the responsibility, if any, of the responsible parent as to past, future and current support obligation based upon RCW 74.20A.030. The hearing examiner shall include in his consideration:

- (1) The necessities and requirements of the child or children exclusive of any income of the custodian of said child or children;
- (2) The amount of support debt claimed;
- (3) The public policy and intent of the legislature to require that children be maintained from the resources of the responsible parents thereby relieving to the greatest extent possible the burden borne by the general citizenry through welfare programs;
- (4) The abilities and resources of the responsible parent; and
- (5) The standards in WAC 388-11-190 and any standards for determination of support payments used by the superior court of the county of residence of the responsible parent. The hearing examiner is empowered, upon proper showing of unusual circumstances, to set an amount of support, as to the past, present, or future, at variance from the amount stated or computed in reference to the scale in WAC 388-11-190. The findings of fact shall consist of a concise statement of each fact found upon each contested issue of fact and shall state the grounds for deviation from the standards in WAC 388-11-190. The hearing examiner shall make his decision and enter his findings of fact based on the notice and finding of financial responsibility and the evidence admitted at the hearing. The office of support enforcement may verbally amend the notice and finding of financial responsibility, at the time of hearing, to conform to the evidence in which case the hearing examiner is empowered, when deemed necessary, through continuance, to allow the responsible parent additional time to present rebutting evidence and/or argument as to the amendment.

After evidence has been presented at a hearing conducted by a hearing examiner, the hearing examiner shall enter an initial decision and order which shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the order based thereon.

The hearing examiner shall file the original of the initial decision and order signed by him with the secretary or his designee, and copies thereof shall be mailed by the hearing examiner to the office of support enforcement and to the appellant by certified mail to the last known address of the party. Within thirty days of receipt of the initial decision, either the appellant or the office of support enforcement may petition the secretary or his designee, in writing, for review of the initial decision and order. Such petition for review shall set forth in detail the basis for the requested review, and shall be mailed to the other party by certified or registered mail to the last known address of the party.

The petition shall be based on any one of the following causes materially affecting the substantial rights of the petitioner:

- (a) Irregularity in the proceedings of the hearing examiner or adverse party, or any order of the hearing examiner, or abuse of discretion, by which the moving party was prevented from having a fair hearing;
- (b) Misconduct of prevailing party;
- (c) Accident or surprise which ordinary prudence could not have guarded against;
- (d) Newly discovered evidence, material for the party making the application, which he could not with reasonable diligence have discovered and produced at the hearing;
- (e) That there is no evidence or reasonable inference from the evidence to justify the decision, or that it is contrary to law or these rules;
- (f) Error in mathematical computation;
- (g) Error in the law occurring at the hearing and objected to at the time by the party making the application;
- (h) That the moving party is unable to perform according to the terms of the order without further clarification;
- (i) That substantial justice has not been done;
- (j) Fraud or misstatement of facts by any witness, pertaining to the ability of the responsible parent to pay support;

(k) Clerical mistakes in the decision arising from oversight or omission; and/or

(l) That the decision and order entered, because the responsible parent failed to appear at the hearing, should be vacated and the matter be remanded upon showing of the grounds enumerated in RCW 4.72.010.

In the event no petition for review is made as provided herein by any party, the initial decision and order of the hearing examiner shall be final as of the date of filing and becomes the decision and order of the department.

After the receipt of a petition for review, the secretary or his designee shall consider the initial decision and order, the petition or petitions for review, the record or any part thereof and such additional evidence and argument as he may in his discretion allow. The secretary or his designee may remand the proceedings to the hearing examiner for additional evidence or argument. The secretary or his designee may deny review of the initial decision and order and thereupon deny the petition or petitions at which time the initial decision and order shall be final as of the date of said denial and all parties shall forthwith be notified, in writing, of said denial by certified mail to the last known address of the parties. Unless the petition is denied, the secretary or his designee shall review the initial decision and order and shall make the final decision and order of the department. The final decision and order shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law. A copy of the decision and order, including the findings and conclusions, shall be mailed to each party to the appeal by certified mail to the last known address of the party. The hearing examiner shall also file a copy of the final decision and order with the clerk of the superior court.

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

WAC 388-11-120 DEFAULT. If the responsible parent fails to appear at the hearing, the hearing examiner shall, upon showing of valid service, enter a decision and order declaring the support debt and payment provisions stated in the notice and finding of financial responsibility to be assessed and determined and subject to collection action. ((Within fifteen days of entry of said decision and order the responsible parent may petition the secretary or his designee, the office of hearings, post office box 2465, Olympia, Washington 98507, or 1117 Jefferson, Olympia, Washington, to vacate said decision and order upon the showing of any of the grounds enumerated in RCW 4.72-010:)) Prospective modification pursuant to WAC 388-11-140 may also be ordered when appropriate as to that portion of the original determination for periodic future support payments. It shall not be necessary for the responsible parent or the office of support enforcement to show material change of circumstances if prospective modification is sought as to an original determination for periodic future support payments which determination was made by allegation of ability to pay based on the best information available.

AMENDATORY SECTION (Amending Order 875, filed 11/16/73)

WAC 388-11-130 DECISION AND ORDER AFTER HEARING. The hearing examiner shall, within twenty days of the hearing, enter findings, conclusions, and ((a final)) an initial decision determining liability and responsibility and/or future periodic support payments. The determination of the hearing examiner entered pursuant to this section if not reviewed, or the final decision if there is a review shall be entered as a decision and order and shall limit the support debt under RCW 74.20A.030, ((RCW)) 74.20.292 and/or ((RCW)) 26.16.205 and/or ((RCW)) 74.20A.250 to the amount stated in said decision. Said decision establishing liability and/or future periodic support payments shall be superseded upon entry of a superior court order for support to the extent the superior court order is inconsistent with the hearing order or decision.

NEW SECTION

WAC 388-11-135 SERVICE. Service of the decision and order pursuant to WAC 388-11-120 or 388-11-130 shall be by mailing a copy of the decision and order to the last known address of the appellant by certified mail.

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

WAC 388-11-140 MODIFICATION. Either the responsible parent or the office of support enforcement may petition the secretary or his designee, the office of hearings, ((post office box 2465, Olympia,

~~Washington 98507, or 1117 Jefferson, Olympia, Washington,))~~ for issuance of an order to appear and show cause based upon a showing of good cause and material change in circumstances to require the other party to appear and show cause why the decision previously entered ordering periodic future support payments, or final determination for periodic future support payments pursuant to WAC 388-11-050, should not be prospectively modified: **PROVIDED, HOWEVER, That either party need not show a material change in circumstances where the final determination for periodic future support payments was based on fraud or a misstatement of facts by any witness, pertaining to the ability of the responsible parent to pay support. Said order to appear and show cause together with a copy of the affidavit upon which the order is based shall be served in the manner of a summons in a civil action on the other party by the petitioning party. A hearing, which shall be a contested case, shall be set not less than fifteen days nor more than thirty days from the date of service unless extended for good cause shown. Prospective modification may be ordered, but only upon showing of good cause and material change in circumstances except as provided in WAC 388-11-050 and 388-11-120. An order to appear and show cause under this modification provision may not issue unless the previous order for periodic future support payments to which modification is requested was entered pursuant to RCW 74.20A.055 and there is the absence of a superior court order for support. The hearing examiner, on petitions to modify, shall consider the standards promulgated pursuant to RCW 74.20.270 and any standards for determination of support payments used by the superior court of the county of residence of the responsible parent. If the party ordered to appear and show cause why a decision previously entered should not be prospectively modified fails to appear at the hearing, the hearing examiner shall grant relief as a default order based on the prayer for relief in the motion and affidavit. Within fifteen days of entry of said default order the defaulting party may petition the secretary or his designee, the office of hearings, ((post office box 2465, Olympia, Washington 98507, or 1117 Jefferson, Olympia, Washington,)) to vacate said default order upon showing of any of the grounds enumerated in RCW 4.72.010. If the party who petitions for an order to show cause why a decision previously entered should not be prospectively modified fails to appear at the hearing, the hearing examiner shall enter an order dismissing the petition for modification. The hearing examiner may set the effective date of prospective modification as either the date of entry of the order or the date of receipt of the petition or any time in between, but if no effective date is set, the effective date shall be the date of entry of the order. Any decision and order under this section shall be an initial decision by the hearing examiner subject to a petition for review by the secretary or his designee pursuant to the procedure in WAC 388-11-100.**

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

WAC 388-11-170 COLLECTION OF DEBTS DETERMINED. Whenever an order designating the amount of periodic payments to be made to satisfy a past liability or periodic future support obligation has not been complied with, the accrued debt, not paid, and any current delinquency, shall become due in full and ((said)) the portion of the order designating periodic payments to satisfy past, accrued liability shall be deemed to be vacated without the necessity of further action by the hearing examiner. After such vacation, collection action pursuant to chapter 74.20A RCW by the office of support enforcement as authorized representative of the secretary as to debts determined, accrued, and unpaid may not be stayed by the hearing examiner and is subject only to review by the superior court pursuant to RCW 74.20A.200.

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

WAC 388-11-180 PROCEDURAL REFERENCE. The following WAC provisions are herewith included in this section and made applicable to hearings held pursuant to RCW 74.20A.055:

WAC	
388-08-055	388-08-235
388-08-083	388-08-375
388-08-150	388-08-390
388-08-160	388-08-400
388-08-170	388-08-480
388-08-180	388-08-490
388-08-190	388-08-500
388-08-200	388-08-520

WAC	
388-08-210	388-08-600
388-08-220	

In determining the validity of defenses to liability asserted pursuant to RCW 74.20A.030 and/or ((RCW)) 74.20.292 other provisions of the Washington Administrative Code shall be applied to determine emancipation and determine defenses asserted pursuant to WAC ((388-11-065(g))) 388-11-065(5).

AMENDATORY SECTION (Amending Order 1119, filed 5/13/76)

WAC 388-11-190 SCALE OF MINIMUM CONTRIBUTIONS. The rates shown in this section are established pursuant to RCW 74.20.270. They define levels of minimum contributions based on "net income" for use in determining the amount that a parent will be required to contribute to or for the benefit of his child(ren).

((**"Net income"** is defined for purposes of this scale as that part of the income of any responsible parent remaining after the deduction from that income of any amount required by law to be withheld:))

The rates are twenty-four percent of net income for one child, thirty-five percent of net income for two children, forty-two percent of net income for three children and forty-eight percent of net income for four or more children. Minimum contribution shall be calculated by the following steps:

(1) Add the number of children named in the notice and finding of financial responsibility to the natural and/or stepchildren living with the responsible parent and select the applicable rate for that number of children;

(2) Multiply the total net income of the responsible parent by the rate selected in subsection (1) above;

(3) Divide the result by the total number of children determined pursuant to subsection (1) above to obtain the proportionate share that should be paid for one child;

(4) Multiply this by the number of children named in the notice and finding of financial responsibility to obtain the minimum contribution the responsible parent should make for support of his children.

"Income" includes all payment of monies to the responsible parent, including, if married, all payment of monies to the marital community of a responsible parent from any sources whatsoever ((which may be disposed of by the responsible parent under the law)). "Net income" is defined for purposes of this scale as all income of the responsible parent, including, if married, all income available to the marital community of which the responsible parent is a member remaining after the deduction from that income of any amount required by law to be withheld. Moneys paid for support of natural or stepchildren living with and being supported by the responsible parent or the marital community of which he is a member including but not limited to child support, SSI, OASI, shall be added to the net income of the responsible parent without deduction of any amounts prior to determination of the proportionate share for each child in subsection (2) above. Other available resources, real and personal property available and/or saleable and income therefrom including the ((responsible parent's)) ability to borrow ((may)) and the earnings potential of the responsible parent shall be considered in determining minimum contributions. Contributions ((should not)) shall not, except as provided for in WAC 388-11-100(5) be lessened by consideration of debts of the responsible parent. Public policy found in both state and federal laws requires preference for support of minor dependent children from the funds of the responsible parent. ((Where monthly net income is less than \$300; the responsible parent shall have a minimum support obligation equal to that required at \$300 per month net income:))

	((SCALE OF MINIMUM CONTRIBUTIONS FOR THE BENEFIT OF MINOR DEPENDENT CHILDREN - RATE BY NUMBER OF CHILDREN AS STATED IN NOTICE AND FINDING OF FINANCIAL RESPONSIBILITY				
	1	2	3	4	5 or more
(\$ 300 and below	\$ 60.00	\$ 105	\$ 135.00	\$ 150	\$ 150.00
325	62.50	110	142.50	160	162.50
350	65.00	115	150.00	170	175.00
375	67.50	120	157.50	180	187.50

((SCALE OF MINIMUM CONTRIBUTIONS FOR THE PARENT'S BENEFIT OF MINOR DEPENDENT CHILDREN - RATE BY NUMBER OF CHILDREN AS STATED IN NOTICE AND FINDING OF FINANCIAL RESPONSIBILITY

RESPONSIBLE PARENT'S MONTHLY NET INCOME TO NEAREST \$25.00	CONTRIBUTIONS FOR THE PARENT'S BENEFIT OF MINOR DEPENDENT CHILDREN - RATE BY NUMBER OF CHILDREN AS STATED IN NOTICE AND FINDING OF FINANCIAL RESPONSIBILITY				
	1	2	3	4	5 or more))
400	70.00	125	165.00	190	200.00
425	72.50	130	172.50	200	212.50
450	75.00	135	180.00	210	225.00
475	77.50	140	187.50	220	237.50
500	80.00	145	195.00	230	250.00
525	82.50	150	202.50	240	262.50
550	85.00	155	210.00	250	275.00
575	87.50	160	217.50	260	287.50
600	90.00	165	225.00	270	300.00
625	92.50	170	232.50	280	312.50
650	95.00	175	240.00	290	325.00
675	97.50	180	247.50	300	337.50
700	100.00	185	255.00	310	350.00
725	102.50	190	262.50	320	362.50
750	105.00	195	270.00	330	375.00
775	107.50	200	277.50	340	387.50
800	110.00	205	285.00	350	400.00
825	112.50	210	292.50	360	412.50
850	115.00	215	300.00	370	425.00
875	117.50	220	307.50	380	437.50
900	120.00	225	315.00	390	450.00
925	122.50	230	322.50	400	462.50
950	125.00	235	330.00	410	475.00
975	127.50	240	337.50	420	487.50
1,000	130.00	245	345.00	430	500.00
1,025	132.50	250	352.50	440	512.50
1,050	135.00	255	360.00	450	525.00
1,075	137.50	260	367.50	460	537.50
1,100	140.00	265	375.00	470	550.00
1,125	142.50	270	382.50	480	562.50
1,150	145.00	275	390.00	490	575.00
1,175	147.50	280	397.50	500	587.50
1,200	150.00	285	405.00	510	600.00
1,225	152.50	290	412.50	520	612.50
1,250	155.00	295	420.00	530	625.00
1,275	157.50	300	427.50	540	637.50
1,300	160.00	305	435.00	550	650.00
1,325	162.50	310	442.50	560	662.50
1,350	165.00	315	450.00	570	675.00
1,375	167.50	320	457.50	580	687.50
1,400	170.00	325	465.00	590	700.00
1,425	172.50	330	472.50	600	712.50
1,450	175.00	335	480.00	610	725.00
1,475	177.50	340	487.50	620	737.50
1,500	180.00	345	495.00	630	750.00
1,525	182.50	350	502.50	640	762.50
1,550	185.00	355	510.00	650	775.00
1,575	187.50	360	517.50	660	787.50
1,600	190.00	375	528.00	670	800.00
1,625	192.50	380	532.50	680	812.50
1,650	195.00	385	540.00	690	825.00
1,675	197.50	390	547.50	700	837.50
1,700	200.00	395	555.00	710	850.00
1,725	202.50	400	562.50	720	862.50
1,750	205.00	405	570.00	730	875.00
1,775	207.50	410	577.50	740	887.50
1,800	210.00	415	585.00	750	900.00
1,825	212.50	420	592.50	760	912.50
1,850	215.00	425	600.00	770	925.00
1,875	217.50	430	607.50	780	937.50
1,900	220.00	435	615.00	790	950.00
1,925	222.50	440	622.50	800	962.50
1,950	225.00	445	630.00	810	975.00
1,975	227.50	450	637.50	820	987.50
2,000	230.00	455	650.00	830	1,000.00))

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-11-160 PROCEDURE FOR RECONSIDERATION OF DECISION, CLARIFICATION OF DECISION OR FOR REHEARING.

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

WAC 388-14-220 SUBPOENA POWER. ((The recipient has a duty pursuant to RCW 74.04.290, "Subpoena of witnesses, books, records, etc.", to provide necessary information concerning the absent parent or parents of the child or children on whose behalf the recipient receives public assistance to enable and assist the department to establish paternity if necessary and/or to collect a child support debt from the absent parent or parents including putative fathers. Such information shall include, but is not limited to, the absent parent's name including putative fathers, address, telephone number, social security number, employment history, physical description and other data such as date and place of marriage, separation, divorce, dissolution and such other information as is deemed necessary and reasonable to enable the department to execute its child support collection and/or paternity determination responsibility.)) The chief, regional supervisors, district supervisors, claims officers and support enforcement officers III of the office of support enforcement are duly appointed officers empowered to issue subpoena of witnesses, books, records, etc., pursuant to RCW 74.04.290 and chapters 388-11 and 388-14 WAC as to matters they deem relevant to the performance of their duties.

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

WAC 388-14-370 COOPERATIVE ARRANGEMENTS WITH COURTS AND LAW ENFORCEMENT OFFICIALS. (1)

The office of support enforcement is herewith authorized to enter into cooperative arrangements and written agreements including financial arrangements with appropriate courts and law enforcement officials to assist the office of support enforcement in administering the state plan for support enforcement in order to assure optimum results under such program. These cooperative arrangements and written agreements also include entering into financial arrangements or agreements with such agencies and officials to provide for the investigation and prosecution of fraud directly related to paternity, child support, and other matters of common concern. The office of support enforcement is herewith authorized to enter into cooperative arrangements and written agreements with courts for the purpose of appointing attorneys to represent dependent children to establish support obligations and take other related collection and enforcement action pursuant to chapter 26.09 RCW.

(2) The office of support enforcement shall receive and distribute funds made available as payments to states to administer this plan (42 USC 655). The office of support enforcement shall also administer and distribute incentive payments to localities (42 USC 658). No payments may be made to any political subdivision, court or law enforcement official of the state of Washington under these provisions except in compliance with the requirements of agreements made between the office of support enforcement and the political subdivision, court or law enforcement official pursuant to this section. No incentive payments to localities may be made except for enforcement and collection of support rights assigned pursuant to WAC 388-24-108.

(3) In order to qualify for payments to states or incentive payments to localities, a political subdivision, court or law enforcement official of the state of Washington must obtain referral of the case or cases involved from the office of support enforcement and all support payments made subsequent to referral shall be paid to the office of support enforcement. In the case of actions under the Uniform Reciprocal Enforcement of Support Act initiated in another state, a political subdivision or law enforcement official of the state of Washington may obtain referral status by submitting documents as determined by agreement, to the office of support enforcement for acceptance under this plan.

(4) When a political subdivision of the state of Washington acting in compliance with the terms of an agreement entered into with the office of support enforcement or when a IV-D agency of another state under an approved Title IV-D plan or a political subdivision of another state pursuant to the approved Title IV-D plan makes the enforcement and collection of the support rights assigned under ((WAC 388-24-108)) 42 USC 602(a)(26)(A), the office of support enforcement is authorized

to pay to such political subdivision or other IV-D agency the following amounts from the amounts which would otherwise represent the share of the monies to be reimbursed to the federal government.

(a) An amount equal to ~~((25))~~ 15 percent of any amount collected and retained by the state of Washington to reduce or repay assistance payments which represent payment on the required support obligation ~~((owed for the first twelve months even if these months are not consecutive;~~

~~(b) An amount equal to ten percent of any amount collected and retained by the state of Washington to reduce or repay assistance payments which represent payment on the required support obligation owed for any month after the first twelve months for which collections are made;~~

~~(c) When a family receiving aid under a Title IV-A plan ceases receiving aid and begins receiving such aid again at a later date, a new twelve month period for payment of the 25 percent incentive shall commence;~~

~~(d) The 25 percent incentive described in subdivision (4)(a) shall be paid for any month in which amounts are collected, pursuant to an assignment under WAC 388-24-108, which represents payments on the required monthly support obligation owed for 12 months and shall continue to be paid for such amounts until the amounts that are collected equal the amount owed on the required support obligation for 12 months, even if the months during which such collections are made are not consecutive:);~~

~~((e)) (b) When more than one agency or jurisdiction within the state of Washington or more than one state is involved in enforcement or collection the amount of incentive stated above shall be allocated among such jurisdiction in a manner prescribed by instructions issued by the office of support enforcement of the department of health, education, and welfare.~~

NEW SECTION

WAC 388-14-375 NOTICE OF DEBT. Whenever, pursuant to RCW 74.20A.040, the office of support enforcement issues a notice of support debt accrued and/or accruing based upon a superior court order, a debtor may, within twenty days of the date of service of said notice, request in writing, an administrative hearing which hearing shall be held pursuant to chapter 34.04 RCW and the following rules and regulations of the department are herewith made applicable to this hearing:

WAC 388-08-055	388-08-180	388-08-220	388-08-520
388-08-083	388-08-190	388-08-375	388-08-600
388-08-150	388-08-200	388-08-390	388-11-070
388-08-160	388-08-210	388-08-400	388-11-090
388-08-170			

As a condition precedent to this hearing, the debtor shall pay to the office of support enforcement the periodic amount required by the superior court order for current and future support as each periodic amount comes due.

Said request for a hearing shall specify the defenses to liability and shall be served on the district office of support enforcement by certified mail, return receipt requested, or in the manner of a summons in a civil action.

The conditions stated above shall be satisfied prior to the hearing and shall continue in effect as jurisdictional requirements during the pendency of the hearing and during the pendency of any appeal made to the courts pursuant to chapter 34.04 RCW unless the court in its discretion makes other provision as to these matters.

In the request for hearing made pursuant to this section, the debtor shall state affirmatively and, at the hearing scheduled to hear the request for hearing, shall have the burden of proving defenses to the amount of arrears stated in the notice of support debt.

After evidence has been presented at a hearing, the hearing examiner shall determine the amount of support debt accrued prior to the date of service of the notice of support debt and shall issue his findings of fact, initial conclusions of law and initial decision within twenty days of the date of the hearing.

The hearing examiner in his initial decision, and the secretary or his designee in review of the proposed decision, shall be limited to:

(1) Determination of the amount of arrearages accrued prior to the date of service of the notice under the superior court order and shall have no authority to change, defer or modify the amount of monthly support due under the superior court order. Consideration of credit against the stated debt may only be given to money payments made to the caretaker or custodian of the children prior to the service of the

notice of debt upon the debtor unless otherwise specified in the superior court order;

(2) Correction of mathematical computation of the stated debt;

(3) Existence of superior court orders which have modified the superior court order in issue. Contempt orders and orders entered pursuant to chapters 26.21 or 26.20 RCW shall not be construed as modifications.

If the debtor fails to appear at the hearing, the hearing examiner shall, upon showing of valid service, enter a decision and order declaring the amount of support debt accrued stated in the notice to be assessed and determined and subject to collection action.

The hearing examiner shall file the original of the initial decision and order, signed by him with the secretary or his designee, and copies thereof shall be mailed by the hearing examiner to the office of support enforcement and to the appellant by certified mail to the last known address of the party. Within thirty days of receipt of the initial decision, either the appellant or the office of support enforcement may petition the secretary or his designee, in writing, for review of the initial decision and order. Such petition for review shall set forth in detail the basis for the requested review, and shall be mailed to the other party by certified or registered mail to the last known address of the party.

The petition shall be based on any one of the following causes materially affecting the substantial rights of the petitioner:

(a) Irregularity in the proceedings of the hearing examiner or adverse party, or any order of the hearing examiner, or abuse of discretion, by which the moving party was prevented from having a fair hearing;

(b) Misconduct of prevailing party;

(c) Accident or surprise which ordinary prudence could not have guarded against;

(d) Newly discovered evidence, material for the party making the application, which he could not with reasonable diligence have discovered and produced at the hearing;

(e) That there is no evidence or reasonable inference from the evidence to justify the decision, or that it is contrary to law or these rules;

(f) Error in mathematical computation;

(g) Error in the law occurring at the hearing and objected to at the time by the party making the application;

(h) That the moving party is unable to perform according to the terms of the order without further clarification;

(i) That substantial justice has not been done;

(j) Fraud or misstatement of facts, by any witness which materially affects the debt;

(k) Clerical mistakes in the decision arising from oversight or omission; and/or

(l) That the decision and order entered because the debtor failed to appear at the hearing should be vacated and the matter be remanded for a hearing upon showing of the grounds enumerated in RCW 4.72-.010 and CR 60.

In the event no petition for review is made as provided herein by any party, the initial decision and order of the hearing examiner shall be final as of the date of filing and becomes the decision and order of the department.

After the receipt of a petition for review, the secretary or his designee shall consider the initial decision and order, the petition or petitions for review, the record or any part thereof and such additional evidence and argument as he may in his discretion allow. The secretary or his designee may remand the proceedings to the hearing examiner for additional evidence or argument. The secretary or his designee may deny review of the initial decision and order and thereupon deny the petition or petitions at which time the initial decision and order shall be final as of the date of said denial and all parties shall forthwith be notified, in writing, of said denial by certified mail to the last known address of the parties. Unless the petition is denied, the secretary or his designee shall review the initial decision and order and shall make the final decision and order of the department. The final decision and order shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law. A copy of the decision and order, including the findings and conclusions, shall be mailed to each party to the appeal by certified mail to the last known address of the party. The secretary or his designee shall file a copy of the final decision and order with the clerk of the superior court.

Informal disposition of any hearing requested under this section is encouraged where feasible and not specifically precluded by law. Said cases may be disposed of by stipulation, agreed settlement, or consent order. The secretary or his designee shall approve any consent order disposing of a request for hearing unless specifically contrary to law.

If, at any time, the superior court enters judgment for an amount of debt at variance with the amount determined by the final order in these proceedings, said judgment shall supersede the final order in these proceedings. Any debt determined by the superior court in excess of the amount determined by the final order in these proceedings shall be the property of the department as assigned under 42 USC 602 (26)(a) or RCW 74.20.040. The department may act pursuant to chapters 74.20 or 74.20A RCW to obtain such a judgment, or to collect monies determined by such a judgment to be due and owing.

NEW SECTION

WAC 388-14-380 PETITION FOR HEARING AFTER TWENTY DAYS—STAY. (1) The responsible parent may, at any time within one year from the date of service of the notice of support debt accrued and/or accruing, petition the secretary or his designee for a hearing, as provided for but not previously granted pursuant to WAC 388-14-375, upon a showing of any of the grounds enumerated in RCW 4.72.010 and CR 60. A copy of said petition shall also be served on the district office of the office of support enforcement. The filing of such petition shall not stay any collection action being taken under chapter 74.20A RCW.

(2) Upon the assignment of the matter to a hearing examiner, the responsible parent may petition the hearing examiner for an order staying collection action pending the final decision of the department or the courts on any appeal made pursuant to chapter 34.04 RCW. The office of support enforcement shall be given notice of not less than five working days of the petition for stay of collection action.

The hearing examiner may, upon being satisfied of proper notice as provided above, issue a stay of future collection action conditioned in the same manner as provided above for a hearing requested in timely manner. The hearing examiner shall, on request of the office of support enforcement, also condition the stay on execution by the responsible parent and spouse, if any, of an assignment of earnings. The stay shall not require release of liens already filed. If conditions of the stay are not met, the office of support enforcement may resume collection action with notice to the responsible parent and the hearing examiner or the secretary or his designee as is appropriate. Undisbursed monies withheld by collection action taken prior to the date of issuance of the stay or by collection action taken pursuant to the terms of the stay, shall be held in trust by the office of support enforcement pending final order of the department or any appeal to the courts made pursuant to chapter 34.04 RCW to be distributed in accordance with said final order. Current and future support shall be disbursed to the custodial parent or as otherwise appropriate when received by the office of support enforcement. In the absence of a petition for a stay by the responsible parent, the office of support enforcement may also petition the hearing examiner to set temporary, current and future support which shall be governed by the same rules which apply to the petition for a stay by the responsible parent.

The conditions stated above shall continue in effect as jurisdictional requirements during the pendency of the hearing and during the pendency of any appeal made to the courts pursuant to chapter 34.04 RCW unless the court in its discretion makes other provision as to these matters. If the conditions stated above are not met, the office of support enforcement may immediately resume collection action pursuant to chapter 74.20A RCW with notice to the responsible parent and the hearing examiner or secretary or his designee as appropriate.

NEW SECTION

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

The intent and purpose of the conference board is to facilitate the informal speedy resolution of grievances by responsible parents and/or custodial parents. An applicant for a conference board proceeding must have made a reasonable attempt and have failed to resolve the grievance or issue with the line worker and/or lead worker before a conference board may act to attempt to resolve the issue.

Upon application by an aggrieved person in accordance with this section a conference board may be called by the regional supervisor (or his designee) responsible for the case at issue. The board shall be composed of the regional supervisor (or his designee) who shall serve as

chairman and two members appointed by the regional supervisor from supervisory staff of that region. The conference board shall dissolve upon issuance of decisions on matters for which it was appointed.

Nothing herein shall preclude the chief, office of support enforcement, from appointing a conference board for matters deemed appropriate.

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

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

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

(2) Review of denial of application for nonassistance support enforcement services;

(3) Review of allegations of error as to the distribution of support monies;

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

(5) Requests for exception to the office of support enforcement's obligation to establish paternity of a child which may be granted whenever the case involves incest, forcible rape or whenever legal proceedings for adoption are pending and it would not be in the best interests of the child to establish paternity; waiver of cooperation in establishing and enforcing the support obligation where the custodial parent establishes that cooperation will likely result in physical harm to the child or caretaker;

(6) Requests for deferral of support enforcement action;

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

(8) Any other matter requiring explanation of or application of policy or law to an issue raised on a specific case or clarification of facts in said case requested by an aggrieved person or referred by the chief, office of support enforcement.

The conference board's decision shall be in accordance with applicable statutes, case law, department of social and health services rules and regulations, published office of support enforcement manuals, support enforcement policy bulletins and the exercise of reasonable administrative discretion. The decision of the conference board which shall be in writing, shall represent the decision of a majority of the board and shall find the facts, applicable law, policies applied, and clearly state the decision. Decisions inconsistent with the above standards shall be vacated by the chief of the office of support enforcement and the issue remanded to the regional supervisor for issuance of a new decision in compliance with the standards.

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

Decisions to grant partial or total charge-off pursuant to RCW 74.20A.220 of arrears owed to the department of social and health services under RCW 74.20A.030, 74.20A.250 or 42 USC 602 (26)(a) shall be based on the following considerations:

(1) Error in fact resulting in incorrect computation or incorrect establishment of the alleged debt in whole or in part; or

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

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

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

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

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

WSR 78-04-102
PROPOSED RULES
DEPARTMENT OF GAME
 [Filed April 5, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and chapter 42.30 RCW, that the State Game Commission intends to adopt, amend, or repeal rules concerning:

Repeal WAC 232-28-200 1977 Hunting seasons and bag limits.

WAC 232-28-300 1977 Game management unit and area legal descriptions.

Adopt WAC 232-28-201 1978 Hunting seasons and bag limits.

WAC 232-28-301 1978 Game management unit and area legal descriptions;

that such agency will at 9 a.m., Monday, May 22, 1978, in the Hyatt House, 17001 Pacific Highway South, Seattle, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9 a.m., Monday, May 22, 1978, in the Hyatt House, 17001 Pacific Highway South, Seattle, WA.

The authority under which these rules are proposed is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 22, 1978, and/or orally at 9 a.m., Monday, May 22, 1978, Hyatt House, 17001 Pacific Highway South, Seattle, WA.

Dated: April 5, 1978

By: Wallace F. Kramer
 Chief, Wildlife Management Division

NEW SECTION

WAC 232-28-201 1978 HUNTING SEASONS AND BAG LIMITS.

Reviser's Note: The text and accompanying map comprising the 1978 Hunting seasons and bag limits and the 1978 Game management unit and area legal descriptions rules proposed by the Department of Game have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the proposed rules may be obtained from the main office of the Department of Game, 600 North Capitol Way, Olympia, WA 98504, and upon final adoption are available in pamphlet form from the Department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

NEW SECTION

WAC 232-28-301 1978 GAME MANAGEMENT UNIT AND AREA LEGAL DESCRIPTIONS.

Reviser's Note: The text and accompanying map comprising the 1978 Hunting seasons and bag limits and the 1978 Game management unit and area legal descriptions rules proposed by the Department of Game have been omitted from publication in the Register under the

authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the proposed rules may be obtained from the main office of the Department of Game, 600 North Capitol Way, Olympia, WA 98504, and upon final adoption are available in pamphlet form from the Department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

WSR 78-04-103
PROPOSED RULES
TRANSPORTATION COMMISSION
 [Filed April 5, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and 47.60.325, that the Washington State Transportation Commission intends to adopt, amend, or repeal rules concerning the adoption of a new Schedule of Tolls for the Washington State Ferry System and the repealing of the existing Schedule of Tolls as last amended by Order 11, Resolution 379, 380 filed 6/28/77;

that such agency will at 2:00 p.m., Tuesday, May 16, 1978, in the Highway Administration Building, Room 1D2, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 2:00 p.m., Tuesday, May 16, 1978, in the Highway Administration Building, Room 1D2, Olympia, WA.

The authority under which these rules are proposed is RCW 47.56.033 and 47.60.325.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 16, 1978, and/or orally at 2:00 p.m., Tuesday, May 16, 1978, Room 1D2, Highway Administration Building, Olympia, WA.

This notice is connected to and continues the matter noticed in Notice No. WSR 78-02-097 filed with the code reviser's office on January 31, 1978.

Dated: April 5, 1978

By: A. D. Andreas
 Toll Facilities Engineer

WSR 78-04-104
PROPOSED RULES
DEPARTMENT OF REVENUE
 [Filed April 5, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and chapter 42.30 RCW, that the Department of Revenue intends to adopt, amend, or repeal rules concerning WAC 458-20-154 Cemeteries, Crematories, Columbaria (Rule 154), to reflect the decision of the court in Evergreen-Washelli v. Revenue, 89 Wn 2d 660 (February 2, 1978);

that such agency will at 10:30 a.m., Tuesday, May 16, 1978, in the Large Conference Room, 1st Floor, General Admin. Bldg, Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 10:30 a.m., Thursday, June 1,

1978, in the Director's Office, General Admin. Bldg, Olympia, WA.

The authority under which these rules are proposed is RCW 82.01.060(2) and 82.32.300.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 16, 1978, and/or orally at 10:30 a.m., Tuesday, May 16, 1978, General Administration Building, Olympia, WA.

Dated: April 5, 1978
By: S. E. Tveden
Assistant Director

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70)

WAC 458-20-154 CEMETERIES, CREMATORIES, COLUMBARIA (RULE 154).

BUSINESS AND OCCUPATION TAX

RETAILING. The gross proceeds derived from the sale of tangible personal property taxable under the retail sales tax are also taxable under the retailing classification.

SERVICE AND OTHER BUSINESS ACTIVITIES. Income derived from rendition of interment ((charges)) services is taxable under the service and other business activities classification. ((In cases where no deed or certificate of ownership is given, charges for burial in lots, crypts, niches, etc., will be deemed to be)) Sales or transfers of plots, crypts, and niches for interment of human remains, irrespective of whether the document of transfer is called a deed or certificate of ownership, are charges ((made)) for the right of ((sepulcher)) interment, an interest similar to a license to use real estate, and the entire gross income therefrom is taxable under the service and other activities classification without any deduction for amounts set aside to funds for perpetual care.

RETAIL SALES TAX

Cemeteries, crematories and columbaria are subject to the provisions of the retail sales tax with respect to retail sales of boxes, urns, markers, vases, plants, shrubs, flowers, and other tangible personal property. ((The sale of lots, crypts and niches in cases where a deed or certificate of ownership is given is a sale of real estate and is not subject to the retail sales tax.

TAX ON CONVEYANCES

The provisions of the tax on conveyances apply to the sale of ground, lots, crypts, niches, etc., conveyed by deed or certificate of ownership where the interest in the property conveyed exceeds \$100.00. The consideration upon which the tax is based is the total charge made for the ground, lots, crypts, niches, etc., without any deduction for amounts set aside to funds for perpetual care.))

Revised ((April 1, 1959)) June 1, 1978.
Effective July 1, 1978.

**WSR 78-04-105
PROPOSED RULES
DEPARTMENT OF AGRICULTURE**
[Filed April 5, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and chapter 22.09 RCW, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning WAC 16-224-010 relating to the combining certain warehouses into stations;

that such agency will at 10:00 a.m., Friday, May 12, 1978, in the Warehouse Audit Office, N. 617 Fancher Rd., Spokane, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 4:00 p.m., Wednesday, May 31,

1978, in the Office of the Director of Agriculture, Olympia, WA.

The authority under which these rules are proposed is chapter 22.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 12, 1978, and/or orally at 10:00 a.m., Friday, May 12, 1978, Warehouse Audit Office, N. 617 Fancher Rd., Spokane, WA.

Dated: April 5, 1978
By: Art G. Losey
Assistant Director

AMENDATORY SECTION (Amending Order 1531, filed 6/1/77)

WAC 16-224-010 COMBINING CERTAIN WAREHOUSES INTO STATIONS. The department of agriculture will allow the following warehouses to combine certain warehouses into stations as follows:

(1) ~~((A.C.M. Feed Company))~~ ACM Feed & Grain, Inc., is combining Mabton ~~((and))~~, Prosser, and Hogue Ranch into one station—Prosser 722.

(2) Almira Farmers Warehouse Company is combining North Almira, South Almira, Highland, Govan, Almira, Hanson, and Hartline into one station — Almira 179.

(3) Auvil-Warner Company, Inc., is combining Belmont, Oakesdale, and Warner Siding into one station — Belmont 245.

(4) Berger & Plate of Washington is combining Tekoa, Tilma, Farmington, ~~((Latah))~~ Seltice, and Garfield into one station — Tekoa 471.

(5) Central Washington Grain Growers, Inc., is combining Almir~~((e))~~_a, Hanson, Hartline, Coulee City, Grand Coulee, Withrow, Supplee, Waterville, Douglas, Alstown, Mansfield, and Brewster into one station — Waterville 852.

(6) Cheney Grain Growers, Inc., is combining Cheney and Rodna into one station — Cheney 330.

(7) Columbia Bean & Produce Co., Inc., is combining Wheeler Block 89, Royal Slope, and Homestead into one station — Wheeler 282.

(8) Columbia Producers, Inc., is combining Warden and Royal City into one station — Warden 19.

(9) Davenport Union Warehouse Company is combining Davenport, Mondovi, Omans, and Hunters into one station — Davenport 289.

(10) Edwall Grain Growers, Inc., is combining Edwall, Canby, Waukon, Sprague, and Edens into one station — Edwall 4.

(11) Empire Seed Company is combining Othello, Royal Camp, and Royal City into one station — Othello 256.

(12) Fairfield Grain Growers, Inc., is combining Fairfield and Waverly into one station — Fairfield 525.

(13) Fuhrman's Feed & Farm Supply Co. is combining Kettle Falls and Colville into one station — Kettle Falls 46.

(14) Full Circle, Inc., is combining Wheeler, Warden, Quincy, Bruce, Royal City and Basin City into one station — Wheeler 887.

(15) The Garfield Union Warehouse Company is combining Garfield, Grinnell, Walters, Crabtree, Elberton, and Sokulk into one station — Garfield 24.

(16) Inland Empire Milling Company is combining Pine City and St. John into one station — St. John 706.

(17) Inland Empire Pea Growers Assoc., Inc., is combining Oakesdale, Garfield, Latah, Spangle, Waverly, West Fairfield, Fairfield, and Spokane into one station — Spokane 220.

(18) Lacrosse Grain Growers, Inc., is combining Lacrosse, Pampa, Gordon, Hooper, Schreck, and Hay into one station — Lacrosse 131.

(19) Lamont Grain Growers, Inc., is combining Lamont and Revere into one station — Lamont 476.

(20) Logan Feed, Inc., is combining Wapato, Harrah, and Toppenish into one station — Toppenish 104.

(21) Odessa Trading Company is combining Odessa, Nemo, Ruff, Laing, Batum, ~~((and))~~ Moody, and Schmierer into one station — Odessa 342.

(22) Odessa Union Warehouse Co-op is combining Odessa, Irby, ~~((and))~~ Lamona, ~~((into one station — Odessa 305;))~~ Lauer, Reiman, Jantz, Schoonover, and Packard into one station — Odessa 305; ((Lauer 420;)) Harrington, Mohler, and Downs into one station — Harrington 6; and Davenport, Egypt, and Rocklyn into one station — Davenport 872~~((:))~~; ~~((and Ephrata into one station — Ephrata 5;))~~

(23) Pendleton Grain Growers, Inc., is combining Prosser and Whitstran into one station - Prosser 648.

(24) Roy Peringer Seed Co. is combining Belmont and Pullman into one station - Belmont 1.

(25) Pioneer Elevators, Inc., is combining Chewelah, Colville, and Deer Park into one station - Chewelah 675.

(26) Pomeroy Grain Growers, Inc., is combining Pomeroy, Zumwalt, Houser, Dodge and Central Ferry into one station - Pomeroy 400.

(27) Quincy Farm Chemicals, Inc., is combining Quincy and Murphy's Corner into one station - Quincy 29.

(28) Reardan Grain Growers, Inc., is combining Reardan, Gravelle, Eleanor, Hite and Espanola into one station - Reardan 455.

(29) Ritzville Warehouse Company, Inc., is combining Ritzville, Tokio, Ralston, Marcellus, and Bengé into one station - Ritzville 295.

(30) Rockford Grain Growers, Inc., is combining Mead, Rockford, Valleyford, Freeman, and Mt. Hope into one station - Rockford 196.

(31) Rosalia Producers, Inc., is combining Rosalia, Plaza, Spring Valley, McCoy, Balder, Spangle, Squaw Canyon, and Pine City into one station - Rosalia 415.

(32) St. John Grain Growers, Inc., is combining St. John, Evan, Willada, Juno, ~~(and)~~ Sunset, and Pleasant Valley into one station - St. John 534.

(33) Spokane Seed Company is combining Spokane, ~~(and)~~ Colfax, and Plaza into one station - Spokane 452.

(34) Union Elevator & Warehouse Company, Inc., is combining Lind, Pizarro, Schray, ~~(and)~~ Paha, and Pence into one station - Lind 474.

(35) Uniontown Co-operative Association is combining Uniontown and Leon into one station - Uniontown 430.

(36) United Grain Growers, Inc., is combining Harrington, Mohler, Downs, Bluestem, Wilbur, Sherman, Wheatridge, Govan and Creston into one station - Harrington 807.

(37) Walla Walla Grain Growers, Inc., is combining Walla Walla, Baker-Langdon, Dixie, Port Kell~~(e)~~y, Sapolil, Tracy, Valley Grove, Spring Valley, Reser, Miller, ~~(and)~~ Whitman, Gardena, ~~(into one station - Walla Walla 462, and combining)~~ Clyde, Eureka, Pleasant View, Sheffler, Smith Springs, Rulo, Dry Creek, Ennis, and Paddock into one station - ~~(Clyde 823)~~ Walla Walla 462.

(38) Washtucna Grain Growers, Inc., is combining Washtucna, Sperry, Fletcher, and Sand Hills into one station - Washtucna~~(o)~~a 653.

(39) Western Farmers Association is combining Othello, Eltopia, ~~(Anatone)~~ Central Ferry, Wallula, Venner, Moses Lake, Ellensburg, Sprague, Keystone, Quincy, and Trinidad into one station - Wallula 91.

(40) Wheat Growers of Endicott, Inc., is combining Endicott, Thera, and Winona into one station - Endicott 524.

(41) Whitman County Growers, Inc., is combining Cashup, Glenwood, Manning, Mockonema, Steptoe, Thornton, Colfax, Albion, Busby, Ewartsville, Fallon, Parvin, Union Center, Whelan, and Pullman into one station - Colfax 74.

(42) Wilson Creek Union Grain & Trading Company is combining Stratford and Wilson Creek into one station - Wilson Creek 354.

(43) L.F. Zwiesler Company, Inc., is combining Ashue Siding and Harrah into one station - Ashue Siding 76.

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 78-04-106

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed April 5, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and chapters 15.58 and 17.21 RCW, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning WAC 16-230-115 and WAC 16-230-120 relating to special program fees on 2,4-D herbicide distributed in this state;

that such agency will at 10:00 a.m., Thursday, May 11, 1978, in the Conference Room, Ag Service Center, 2015 S. 1st, Yakima, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 4:00 p.m., Wednesday, May 31, 1978, in the Office of the Director of Agriculture, Olympia, WA.

The authority under which these rules are proposed is chapters 15.58 and 17.21 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 11, 1978, and/or orally at 10:00 a.m., Thursday, May 11, 1978, Conference Room, Ag Service Center, 2015 S. 1st, Yakima, WA.

Dated: April 5, 1978

By: Art G. Losey
Assistant Director

AMENDATORY SECTION (Order 1534, filed July 1, 1977)

WAC 16-230-115 PROCEDURE FOR COLLECTING SPECIAL PROGRAM FEES. (1) Each first distributor of a restricted use herbicide in this state shall pay to the department a fee of five cents per pound of active ingredient of restricted use herbicide distributed by such person during the year beginning July 1, ~~((1977))~~ 1978 and ending June 30, ~~((1978))~~ 1979: PROVIDED, That when computing the pounds of active ingredient on which the fees must be paid, distribution for use outside the state by the first distributor may be excluded.

(2) When more than one first distributor is involved in the distribution of a restricted use herbicide the initial first distributor meeting the criteria of WAC 16-230-110(1) is responsible for reporting the pounds of active ingredient of restricted use herbicides and paying the fee, unless the reporting and paying of fees have been made by another distributor of restricted use herbicides as per WAC 16-230-115(3).

(3) Any distributor other ~~((then))~~ than the first distributor may act as an agent in paying the special program fee: PROVIDED, That written agreement exists between the distributors, and: PROVIDED FURTHER, That such written agreement has been approved by the director.

AMENDATORY SECTION (Order 1534, filed July 1, 1977)

WAC 16-230-120 PROCEDURE FOR SUBMITTING REPORTS. (1) Each person made responsible by these regulations for the payment of fees for restricted use herbicides distributed in this state shall file a report with the department on January 1, ~~((1978))~~ 1979 and ~~((and))~~ July 1, ~~((1978))~~ 1979 showing the number of pounds of such restricted use herbicides distributed during the six calendar months immediately preceding the date the report is due. When verifying such reports, the department may accept sales records or other records accurately reflecting the poundage sold. The appropriate fee, no less than the five dollar minimum fee, shall be remitted with the report. The person required to file the report and pay the fee shall have a thirty day grace period. Such grace period shall expire on January 30, ~~((1978))~~ 1979 for the January 1, ~~((1978))~~ 1979 report and July 30, ~~((1978))~~ 1979 for the July 1, ~~((1979))~~ 1979 report.

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 78-04-107

PROPOSED RULES

STATE EMPLOYEES INSURANCE BOARD

[Filed April 5, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and chapter 41.05 RCW, that

the State Employees Insurance Board intends to adopt, amend, or repeal rules concerning:

Amend	182-12-115	Eligible Employees and Retirees.
New sections	182-08-131	Dependent's Medical Coverage Under Self Payment.
	182-08-171	Change In Employment Status.
	182-08-175	Self Payment of Premium While Receiving Worker's Compensation.
	182-12-122	Surviving Dependents Eligibility.
Repeal	182-12-125	Employee or Dependents Become Ineligible for State Group Coverage;

that such agency will at 9:00 a.m., Friday, May 12, 1978, in the Highways Material Lab Building, Tumwater, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Friday, May 12, 1978, in the Highways Material Lab Building, Tumwater, WA.

The authority under which these rules are proposed is chapter 41.05 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 11, 1978, and/or orally at 9:00 a.m., Friday, May 12, 1978, Highways Material Lab Building, Tumwater, WA.

Dated: April 5, 1978

By: C. H. Shay
Group Insurance Analyst

AMENDATORY SECTION (Amending Order 5646, filed 2/9/76)

WAC 182-12-115 ELIGIBLE EMPLOYEES. The following definitions of eligible employees shall apply for all State Employee Insurance Board Approved plans except as otherwise stated elsewhere in this ~~((section))~~ chapter:

(1) "Full-Time Employees." Those who work a full-time work week ~~((for their agency))~~ and are expected to be employed for ~~((more than))~~ six months or more.

(2) "Permanent Part-Time Employees." Those who do not work full-time, but who are under continuous employment ~~((by an agency))~~ and who are scheduled to work at least ~~((80 hours per month))~~ half-time for six months or more.

(3) "Career Seasonal Employees." Those who work at least ~~((80 hours per month))~~ half-time during a designated season for a minimum of three months per year and who have an understanding of continued employment ~~((with their agency))~~ season after season ~~((These employees))~~ become eligible ~~((to enroll))~~ when they return to ~~((State))~~ employment for their second ~~((±))~~ season ~~((± of employment))~~. Employees who work on a seasonal basis and do not elect to self pay during the break between seasons shall be treated as "new" employees on return to work in a following season.

(4) "Part-Time Faculty." Faculty who are employed for at least half-time on a quarter to quarter basis become eligible beginning with their second quarter of employment. Once enrolled, such faculty members are eligible to continue their insurance on a self-pay basis but do not receive the employer premium contribution in any quarter in which they do not work at least half-time. However, such continuation may not be for longer than four consecutive quarters in which a faculty member does not work at least half-time for one quarter.

(5) "Appointed and Elected Officials." Legislators are eligible on the date their term begins. All other elected and full-time appointed officials of the legislative and executive branches of State government are eligible on the date their term begins or they take the oath of office, whichever occurs first.

~~((5))~~ (6) "Judges." Justices of the supreme court and judges of the court of appeals and the superior courts become eligible on the date they take the oath of office.

~~((6))~~ (7) ~~((Retired State Employees - Retired employees))~~ "Retirees." Retirees are eligible for the medical plans if they are ~~((receiving a))~~ eligible for a monthly retirement income benefit from ~~((the Public Employees Retirement System, the State Teachers Retirement System, the State Judge's Retirement System, Washington State Patrol Retirement System, or the Teachers Insurance Annuity Association))~~ any state of Washington approved retirement system and those who are permanently and totally disabled and deferring receipt of a monthly retirement income benefit, provided they apply for retiree medical coverage before their SEIB active coverage ends. Retirees are not eligible for an employer premium contribution.

The surviving spouse of a deceased retiree may continue coverage in the medical program by premium withholding or direct payment or premiums. The state makes no premium contribution for retirees or their surviving spouse.

NEW SECTION

WAC 182-08-131 DEPENDENTS' MEDICAL COVERAGE UNDER SELF PAYMENT. If an employee or retiree acquires a new spouse or eligible dependent child during a period of self payment of premium, such dependents may be enrolled for medical coverage without evidence of insurability within thirty-one days after they become eligible. Coverage begins on the first of the month following their date of application, except that newborn children shall be covered from birth if enrolled within the enrollment period stated above. Evidence of insurability is required for late enrollment of dependents and coverage becomes effective on the first of the month following the date the application is approved by the insurance carrier.

NEW SECTION

WAC 182-08-171 CHANGE IN EMPLOYMENT STATUS. An employee who moves from an eligible to an otherwise noneligible position, i.e., temporary, intermittent or emergency, without a break in service, shall retain eligibility for the employer contribution during such employment. The same provision shall apply to an eligible exempt employee who moves to a noneligible position.

NEW SECTION

WAC 182-12-122 SURVIVING DEPENDENTS ELIGIBILITY. The following classes of surviving dependents may continue their coverage in the medical program by premium withholding or direct payment of premium: (1) Surviving dependents of a deceased retiree, and (2) surviving dependents of a deceased employee with ten or more years of credited service in any state of Washington approved retirement system which was of an eligible entity, as defined in WAC 182-12-111, at the time of the retiree/employee's death. Application for surviving dependents medical coverage must be made within thirty-one days from the date of death of the retiree/employee. Coverage is retroactive to the date retiree/employee medical coverage terminated. Surviving dependents are not eligible for an employer premium contribution. With regard to dependents of deceased employees, this rule applies to death occurring after January 1, 1978. Dependents of employees who died between January 1, 1978 and the effective date of this rule must apply for coverage no later than July 1, 1978, and their coverage will be effective July 1, 1978.

NEW SECTION

WAC 182-08-175 SELF PAYMENT OF PREMIUM WHILE RECEIVING WORKER'S COMPENSATION. Disabled employees who are receiving worker's compensation payments may continue their employee and dependent medical coverage on a self-payment basis until the earlier of: (1) The date they qualify for retiree coverage, or (2) twenty-nine months from the date their disability commenced.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-12-125 EMPLOYEE OR DEPENDENTS BECOME INELIGIBLE FOR STATE GROUP COVERAGE.

WSR 78-04-108
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
 [Filed April 5, 1978]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and chapter 15.49 RCW, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning WAC 16-316-800, 16-316-810, 16-316-820, 16-316-830 and 16-316-840 relating to varieties eligible for seed certification;

that such agency will at 10:00 a.m., Wednesday, May 10, 1978, in the Department of Agriculture, 406 General Adm. Bldg., Olympia, WA conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 4:00 p.m., Wednesday, May 10, 1978, in the Director's Office, Department of Agriculture, Olympia, WA.

The authority under which these rules are proposed is chapter 15.49 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to May 10, 1978 and/or orally at 10:00 a.m., Wednesday, May 10, 1978, Department of Agriculture, 406 General Adm. Bldg., Olympia, WA.

Dated: March 31, 1978

By: Art G. Losey
 Assistant Director

AMENDATORY SECTION (Order 1568, filed March 1, 1978)

WAC 16-316-800 GRASS VARIETIES ELIGIBLE. (1) Following are the grass varieties eligible and the certifying scheme for each:

Bentgrass:	Astoria Colonial*** Highland Colonial** Seaside Creeping*** Smaragd (Emerald) Creeping**
Big Bluegrass:	Sherman**
Canada Bluegrass:	Reubens**Pat
Kentucky Bluegrass:	A20-6*p A-34**p((at) Adelphi**pat Baron**pat Birka*pvpV Bonnieblue**pat Bono*pvpV Cheri(Golf)*p Cougar* Delta* Fylking**pat Georgetown**p Geronimo*p Glade**pat Kenblue* I-13**p Majestic**pat Merion** Newport** Nugget* Parade*p((vp) Park** Plush*p Prato**p Ram I*pvpV

S-21**p
 Touchdown*pvp
 Troy**p
 Victa*p

Mountain Brome:

Smooth Brome:

Deertongue:

Fescue:

Orchardgrass:

Perennial Ryegrass:

Timothy:

Wheatgrass:

Bromar**

Baylor*p
 Blair*p
 Manchar**
 Sac**
 Saratoga*

Tioga*

Cascade Chewings**
 Dawson Red*p
 Novorubra Red*p
 Pennlawn Red*
 Alta Tall**
 Wintergreen Red*
 ((Scalois)) Scaldis Hard*pvp
 Ruby Red*p
 Durar Hard**
 Covar Sheep**
 Fawn Tall*

Latar**
 Pennlate*
 Potomac*

Cropper*p
 Diplomat*pvpV
 NK-100*p
 Yorktown*pvpV
 Norlea*p
 Pennfine*pvpV
 Pelo**p
 Yorktown II*p
 Manhattan*p
 Clair**
 Champlain*
 Climax*
 Pronto*p

Witmar Beardless**
 Fairway Crested*
 Nordan Crested**
 Amur Intermediate***
 Greengar
 Intermediate**
 Oahe Intermediate*
 Tegmar Intermediate*
 Siberian**
 Greenleaf Pubescent*
 Luna Pubescent**
 Topar Pubescent**
 Primar Slender**
 Sodar Streambank**
 Critana Thickspike**
 Alkar Tall**

(2) VARIETY RESTRICTIONS. (a) Pennlate Orchardgrass: Life of stand limited to six years. Maximum of three seed crops on foundation.

(b) Pennfine Perennial Ryegrass: Maximum of two seed crops on foundation, four seed crops on certified.

(c) Deertongue: Life of stand limited to six 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.

AMENDATORY SECTION (Order 1568, filed March 1, 1978)

WAC 16-316-810 RED CLOVER VARIETIES ELIGIBLE. (1) Following are the red clover varieties eligible and the certification scheme for each:

Arlington*	Lakeland*
Chesapeake*	Pennscott*
E-688*p	Prosper*p
Florex*p	Redland*p
Florie*	Redman*p
Kenland*	
Kenstar*pvpV	

(2) VARIETY RESTRICTIONS. Kenstar: No seed production permitted year of seeding.

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 (Order 1568, filed 3/1/78)

WAC 16-316-820 ALFALFA VARIETIES ELIGIBLE. (1) Following are the alfalfa varieties eligible and the certification scheme for each:

A-24**p	Saranac*
A-59**p	Saranac AR*pvpV
Agate*	
Anchor*pvp	SX10*p
Apalachee*	Team*
	Tempo*p
Apollo*pvp	
Arc*	Thor*p
Arnim*p	Titan*p
Atlas*pvp	
Atra-55*p	((Fravois*))
Baker*pvp	Vernal*
((Bonus*p))	Vanguard*pvp
	WL-220*p
((Chime*p))	Warrior*p
Citation*pvp	Washoe*
Conquest*p	
Dawson	Weevlchek*p
Delta**	((WL-202*p))
Depuits*p	((WL-210*p))
G-777*p	WL-215*p
Glacier*p	
Gladiator*p	WL-219*p
Honeoye*pvpV	
Iroquois*	
Ladak**	WL-307*p
Ladak 65*p	
Marathon*p	
Mesilla**	
Narragansett**	WL-318*p
NCW-20**	123*p
Nugget*pvpV	((t67*p))
Olympic*pvp	
Phytor*p	521*p
((Polar-1*p))	520*p
((Rambler**))	
Ramsey*p	
Rahger**	530*p
((Reamer**))	

(2) VARIETY RESTRICTION. Baker: The length of stand, including the year of establishment, shall not exceed the following:

- (a) breeder seed, 2 years;
- (b) foundation seed, 3 years with a fourth year option dependent on breeder approval;
- (c) certified seed, 6 years both inside and outside of the area of adaptation.

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 (Order 1505, filed 3/31/77)

WAC 16-316-830 BEAN VARIETIES ELIGIBLE. (1) Following are the bean varieties eligible and the certification scheme for each:

Red Mexican: Bigbend** Rufus**

Pinto:	((U of I-111**)) U of I 114***
Pink:	Gloria** Roza** Sutter** Viva**
Small White:	Chief** Aurora** Bonus**
Kidney:	Royal Red**
Snap Bean:	Yakima** Apollo**

AMENDATORY SECTION (Order 1505, filed 3/31/77)

WAC 16-316-840 WHITE CLOVER AND TREFOIL VARIETIES ELIGIBLE. (1) Following are the varieties eligible and the certification scheme for each:

((Ladino-Clover**))
 Merit Ladone Clover*
 Pilgrim Ladino Clover*
 Tillman White Clover**
 ((Louisiana-S-1-White-Clover**))
 Cascade Birdsfoot Trefoil**
 ((Marshfield-Big-Trefoil**))
 Viking Birdsfoot Trefoil**

- * These varieties are certified on a limited generation basis where: Foundation seed is eligible to produce certified seed; Certified seed is not eligible for recertification.
- ** These varieties are certified on the generation basis where: Foundation seed is eligible to produce registered seed((.)); Registered seed is eligible to produce certified seed; Certified seed is not eligible for recertification.
- *** These varieties are not certified on a generation basis: Certified seed is eligible to produce certified seed.

p = Proprietary
 pat = Patent
 pvp = Plant Variety Protected
pvpV = Plant Variety Protected plus to be sold by variety name only as a class of certified seed

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.

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106-156-015	AMD-P 78-04-009	106-276-110	AMD-P 78-04-009	132L-325-010	NEW-P 78-02-071
106-156-016	AMD-P 78-04-009	106-276-200	AMD-P 78-04-009	132L-325-020	NEW-P 78-02-071
106-156-020	AMD-P 78-04-009	106-276-210	AMD-P 78-04-009	132L-325-030	NEW-P 78-02-071
106-156-022	AMD-P 78-04-009	106-276-220	AMD-P 78-04-009	132L-325-040	NEW-P 78-02-071
106-156-023	AMD-P 78-04-009	113-12-150	NEW-P 78-03-086	132L-325-050	NEW-P 78-02-071
106-156-025	AMD-P 78-04-009	113-12-160	NEW-P 78-03-086	132L-325-060	NEW-P 78-02-071
106-156-026	AMD-P 78-04-009	113-12-161	NEW-P 78-03-086	132M-325-010	NEW C 78-04-072
106-156-027	AMD-P 78-04-009	113-12-165	NEW-P 78-03-086	132M-325-020	NEW C 78-04-072
106-156-030	AMD-P 78-04-009	113-12-170	NEW-P 78-03-086	132M-325-030	NEW C 78-04-072
106-156-040	AMD-P 78-04-009	113-12-175	NEW-P 78-03-086	132M-325-040	NEW C 78-04-072
106-156-051	AMD-P 78-04-009	113-12-180	NEW-P 78-03-086	132M-325-050	NEW C 78-04-072
106-156-052	AMD-P 78-04-009	114-12-010	AMD-P 78-03-064	132M-325-060	NEW C 78-04-072
106-156-053	AMD-P 78-04-009	114-12-020	AMD-P 78-03-064	132P-104-011	AMD-P 78-02-054
106-156-056	AMD-P 78-04-009	114-12-030	AMD-P 78-03-064	132R-175-090	AMD 78-02-017
106-156-060	AMD-P 78-04-009	114-12-040	AMD-P 78-03-064	132R-175-150	AMD 78-02-017
106-156-061	AMD-P 78-04-009	114-12-135	NEW-P 78-03-064	132R-175-160	NEW 78-02-017
106-156-063	AMD-P 78-04-009	120	-P 78-02-057	132R-175-App.A	REP 78-02-017
106-156-064	AMD-P 78-04-009	120	-P 78-02-103	139-04-010	AMD 78-02-032
106-156-065	AMD-P 78-04-009	120	-P 78-03-012	139-14-010	NEW 78-02-037
106-156-066	AMD-P 78-04-009	131-16-410	AMD-P 78-04-066	139-16-010	AMD 78-02-033
106-156-075	AMD-P 78-04-009	131-28-025	AMD-P 78-04-067	139-18-010	AMD 78-02-034
106-156-076	AMD-P 78-04-009	131-28-026	AMD-P 78-04-067	139-20-010	AMD 78-02-035
106-160-001	AMD-P 78-04-009	131-28-027	AMD-P 78-04-067	139-22-010	AMD 78-02-036
106-160-002	AMD-P 78-04-009	131-28-041	AMD-P 78-04-067	162-04-024	NEW 78-02-065
106-160-005	AMD-P 78-04-009	131-28-045	AMD-P 78-04-067	162-04-026	NEW 78-02-065
106-160-006	AMD-P 78-04-009	132C-104-005	REP-P 78-02-090	162-04-050	NEW 78-02-065
106-160-007	AMD-P 78-04-009	132C-104-010	REP-P 78-02-090	162-08-024	REP 78-02-065
106-160-010	AMD-P 78-04-009	132C-104-015	REP-P 78-02-090	162-08-026	REP 78-02-065
106-160-015	AMD-P 78-04-009	132C-104-020	REP-P 78-02-090	162-08-050	REP 78-02-065
106-160-016	AMD-P 78-04-009	132C-104-025	REP-P 78-02-090	162-08-093	AMD 78-02-065
106-160-017	AMD-P 78-04-009	132C-104-030	REP-P 78-02-090	172-114-010	AMD-E 78-03-078
106-160-020	AMD-P 78-04-009	132C-104-035	REP-P 78-02-090	172-114-010	AMD-P 78-04-010
106-160-021	AMD-P 78-04-009	132C-104-045	REP-P 78-02-090	172-114-020	AMD-E 78-03-078
106-160-023	AMD-P 78-04-009	132C-104-050	REP-P 78-02-090	172-114-020	AMD-P 78-04-010
106-160-024	AMD-P 78-04-009	132C-104-055	REP-P 78-02-090	172-114-030	AMD-E 78-03-078
106-160-026	AMD-P 78-04-009	132C-104-060	NEW-P 78-02-089	172-114-030	AMD-P 78-04-010
106-160-027	AMD-P 78-04-009	132C-104-070	NEW-P 78-02-089	172-114-040	AMD-E 78-03-078
106-160-030	AMD-P 78-04-009	132C-285-010	NEW 78-02-062	172-114-040	AMD-P 78-04-010
106-160-031	AMD-P 78-04-009	132H-120-200	AMD-P 78-03-022	172-114-050	AMD-E 78-03-078
106-160-032	AMD-P 78-04-009	132H-120-205	NEW-P 78-03-022	172-114-050	AMD-P 78-04-010
106-160-035	AMD-P 78-04-009	132H-160	AMD-P 78-02-021	172-114-060	AMD-E 78-03-078
106-160-040	AMD-P 78-04-009	132H-160-180	AMD 78-04-026	172-114-060	AMD-P 78-04-010
106-164-901	AMD-P 78-04-009	132I-160-030	AMD-P 78-04-065	172-114-070	AMD-E 78-03-078
106-164-910	AMD-P 78-04-009	132J-128-060	AMD-P 78-03-076	172-114-070	AMD-P 78-04-010
106-164-912	AMD-P 78-04-009	132J-128-070	AMD-P 78-03-076	172-114-090	AMD-E 78-03-078
106-168-001	AMD-P 78-04-009	132L-20-010	AMD 78-04-043	172-114-090	AMD-P 78-04-010
106-168-002	AMD-P 78-04-009	132L-20-020	AMD 78-04-043	172-114-110	AMD-E 78-03-078
106-168-005	AMD-P 78-04-009	132L-20-040	AMD 78-04-043	172-114-110	AMD-P 78-04-010
106-168-040	AMD-P 78-04-009	132L-20-050	AMD 78-04-043	172-150-165	NEW-P 78-03-027
106-168-050	AMD-P 78-04-009	132L-20-060	AMD 78-04-043	172-180-010	AMD-P 78-03-028
106-172-700	AMD-P 78-04-009	132L-20-080	AMD 78-04-043	172-180-020	AMD-P 78-03-028
106-172-711	AMD-P 78-04-009	132L-20-100	AMD 78-04-043	172-180-030	AMD-P 78-03-028
106-172-721	AMD-P 78-04-009	132L-20-120	AMD 78-04-043	172-180-040	AMD-P 78-03-028
106-172-731	AMD-P 78-04-009	132L-20-140	AMD 78-04-043	173-02	REP 78-02-041
106-172-733	AMD-P 78-04-009	132L-20-150	AMD 78-04-043	173-03-010	NEW 78-02-041
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106-172-740	AMD-P 78-04-009	132L-20-170	AMD 78-04-043	173-03-030	NEW 78-02-041
106-172-750	AMD-P 78-04-009	132L-22-010	AMD 78-04-043	173-03-040	NEW 78-02-041
106-172-761	AMD-P 78-04-009	132L-22-020	AMD 78-04-043	173-03-050	NEW 78-02-041
106-172-763	AMD-P 78-04-009	132L-22-030	AMD 78-04-043	173-03-060	NEW 78-02-041
106-172-765	AMD-P 78-04-009	132L-22-040	AMD 78-04-043	173-03-070	NEW 78-02-041
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106-276-001	AMD-P 78-04-009	132L-22-070	AMD 78-04-043	173-03-100	NEW 78-02-041
106-276-005	AMD-P 78-04-009	132L-22-080	AMD 78-04-043	173-14-010	AMD-P 78-04-063
106-276-010	AMD-P 78-04-009	132L-24-010	AMD 78-04-043	173-14-020	AMD-P 78-04-063
106-276-030	AMD-P 78-04-009	132L-24-020	AMD 78-04-043	173-14-030	AMD-P 78-04-063
106-276-040	AMD-P 78-04-009	132L-24-030	AMD 78-04-043	173-14-040	AMD-P 78-04-063

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173-14-060	AMD-P 78-04-063	173-800-010	REP-P 78-03-083	173-800-350	REP-P 78-03-083
173-14-062	AMD-P 78-04-063	173-800-010	REP C 78-04-090	173-800-350	REP C 78-04-090
173-14-064	AMD-P 78-04-063	173-800-015	REP-P 78-03-083	173-800-355	REP-P 78-03-083
173-14-070	AMD-P 78-04-063	173-800-015	REP C 78-04-090	173-800-355	REP C 78-04-090
173-14-080	AMD-P 78-04-063	173-800-020	REP-P 78-03-083	173-800-360	REP-P 78-03-083
173-14-090	AMD-P 78-04-063	173-800-020	REP C 78-04-090	173-800-360	REP C 78-04-090
173-14-100	AMD-P 78-04-063	173-800-030	REP-P 78-03-083	173-800-370	REP-P 78-03-083
173-14-110	AMD-P 78-04-063	173-800-030	REP C 78-04-090	173-800-370	REP C 78-04-090
173-14-115	AMD-P 78-04-063	173-800-035	REP-P 78-03-083	173-800-375	REP-P 78-03-083
173-14-120	AMD-P 78-04-063	173-800-035	REP C 78-04-090	173-800-375	REP C 78-04-090
173-14-130	AMD-P 78-04-063	173-800-040	REP-P 78-03-083	173-800-380	REP-P 78-03-083
173-14-140	AMD-P 78-04-063	173-800-040	REP C 78-04-090	173-800-380	REP C 78-04-090
173-14-150	AMD-P 78-04-063	173-800-040	REP C 78-04-090	173-800-380	REP C 78-04-090
173-14-160	REP-P 78-04-063	173-800-050	REP-P 78-03-083	173-800-390	REP-P 78-03-083
173-14-170	AMD-P 78-04-063	173-800-050	REP C 78-04-090	173-800-390	REP C 78-04-090
173-14-174	NEW-P 78-04-063	173-800-060	REP-P 78-03-083	173-800-400	REP-P 78-03-083
173-14-180	AMD-P 78-04-063	173-800-060	REP C 78-04-090	173-800-400	REP C 78-04-090
173-14-190	AMD-P 78-04-063	173-800-070	REP-P 78-03-083	173-800-405	REP-P 78-03-083
173-24	AMD-P 78-03-018	173-800-070	REP C 78-04-090	173-800-405	REP C 78-04-090
173-24-010	AMD-P 78-02-076	173-800-080	REP-P 78-03-083	173-800-410	REP-P 78-03-083
173-24-010	AMD C 78-04-015	173-800-080	REP C 78-04-090	173-800-410	REP C 78-04-090
173-24-030	AMD-P 78-02-076	173-800-090	REP-P 78-03-083	173-800-420	REP-P 78-03-083
173-24-030	AMD C 78-04-015	173-800-090	REP C 78-04-090	173-800-420	REP C 78-04-090
173-24-060	AMD-P 78-02-076	173-800-100	REP-P 78-03-083	173-800-425	REP-P 78-03-083
173-24-060	AMD C 78-04-015	173-800-100	REP C 78-04-090	173-800-425	REP C 78-04-090
173-24-070	AMD-P 78-02-076	173-800-105	REP-P 78-03-083	173-800-440	REP-P 78-03-083
173-24-070	AMD C 78-04-015	173-800-105	REP C 78-04-090	173-800-440	REP C 78-04-090
173-24-080	AMD-P 78-02-076	173-800-110	REP-P 78-03-083	173-800-442	REP-P 78-03-083
173-24-080	AMD C 78-04-015	173-800-110	REP C 78-04-090	173-800-442	REP C 78-04-090
173-24-100	AMD-P 78-02-076	173-800-120	REP-P 78-03-083	173-800-444	REP-P 78-03-083
173-24-100	AMD C 78-04-015	173-800-120	REP C 78-04-090	173-800-444	REP C 78-04-090
173-24-110	AMD-P 78-02-076	173-800-140	REP-P 78-03-083	173-800-450	REP-P 78-03-083
173-24-110	AMD C 78-04-015	173-800-140	REP C 78-04-090	173-800-450	REP C 78-04-090
173-24-140	AMD-P 78-02-076	173-800-145	REP-P 78-03-083	173-800-460	REP-P 78-03-083
173-24-140	AMD C 78-04-015	173-800-145	REP C 78-04-090	173-800-460	REP C 78-04-090
173-24-150	AMD-P 78-02-076	173-800-150	REP-P 78-03-083	173-800-465	REP-P 78-03-083
173-24-150	AMD C 78-04-015	173-800-150	REP C 78-04-090	173-800-465	REP C 78-04-090
173-166-010	NEW-E 78-02-007	173-800-160	REP-P 78-03-083	173-800-470	REP-P 78-03-083
173-166-010	NEW-P 78-02-077	173-800-160	REP C 78-04-090	173-800-470	REP C 78-04-090
173-166-010	NEW 78-04-019	173-800-170	REP-P 78-03-083	173-800-480	REP-P 78-03-083
173-166-020	NEW-E 78-02-007	173-800-170	REP C 78-04-090	173-800-480	REP C 78-04-090
173-166-020	NEW-P 78-02-077	173-800-180	REP-P 78-03-083	173-800-485	REP-P 78-03-083
173-166-020	NEW 78-04-019	173-800-180	REP C 78-04-090	173-800-485	REP C 78-04-090
173-166-030	NEW-E 78-02-007	173-800-190	REP-P 78-03-083	173-800-490	REP-P 78-03-083
173-166-030	NEW-P 78-02-077	173-800-190	REP C 78-04-090	173-800-490	REP C 78-04-090
173-166-030	NEW 78-04-019	173-800-200	REP-P 78-03-083	173-800-495	REP-P 78-03-083
173-166-040	NEW-E 78-02-007	173-800-200	REP C 78-04-090	173-800-495	REP C 78-04-090
173-166-040	NEW-P 78-02-077	173-800-210	REP-P 78-03-083	173-800-500	REP-P 78-03-083
173-166-040	NEW 78-04-019	173-800-210	REP C 78-04-090	173-800-500	REP C 78-04-090
173-166-050	NEW-E 78-02-007	173-800-220	REP-P 78-03-083	173-800-510	REP-P 78-03-083
173-166-050	NEW-P 78-02-077	173-800-220	REP C 78-04-090	173-800-510	REP C 78-04-090
173-166-050	NEW 78-04-019	173-800-230	REP-P 78-03-083	173-800-520	REP-P 78-03-083
173-166-060	NEW-E 78-02-007	173-800-230	REP C 78-04-090	173-800-520	REP C 78-04-090
173-166-060	NEW-P 78-02-077	173-800-240	REP-P 78-03-083	173-800-530	REP-P 78-03-083
173-166-060	NEW 78-04-019	173-800-240	REP C 78-04-090	173-800-530	REP C 78-04-090
173-201-010	AMD 78-02-043	173-800-250	REP-P 78-03-083	173-800-535	REP-P 78-03-083
173-201-020	AMD 78-02-043	173-800-250	REP C 78-04-090	173-800-535	REP C 78-04-090
173-201-025	NEW 78-02-043	173-800-260	REP-P 78-03-083	173-800-540	REP-P 78-03-083
173-201-030	REP 78-02-043	173-800-260	REP C 78-04-090	173-800-540	REP C 78-04-090
173-201-035	NEW 78-02-043	173-800-270	REP-P 78-03-083	173-800-545	REP-P 78-03-083
173-201-040	REP 78-02-043	173-800-270	REP C 78-04-090	173-800-545	REP C 78-04-090
173-201-045	NEW 78-02-043	173-800-280	REP-P 78-03-083	173-800-550	REP-P 78-03-083
173-201-050	AMD 78-02-043	173-800-280	REP C 78-04-090	173-800-550	REP C 78-04-090
173-201-060	REP 78-02-043	173-800-300	REP-P 78-03-083	173-800-570	REP-P 78-03-083
173-201-070	AMD 78-02-043	173-800-300	REP C 78-04-090	173-800-570	REP C 78-04-090
173-201-080	AMD 78-02-043	173-800-310	REP-P 78-03-083	173-800-580	REP-P 78-03-083
173-201-085	NEW 78-02-043	173-800-310	REP C 78-04-090	173-800-580	REP C 78-04-090
173-201-090	AMD 78-02-043	173-800-320	REP-P 78-03-083	173-800-600	REP-P 78-03-083
173-201-100	AMD 78-02-043	173-800-320	REP C 78-04-090	173-800-600	REP C 78-04-090
173-201-110	AMD 78-02-043	173-800-330	REP-P 78-03-083	173-800-650	REP-P 78-03-083
173-201-120	AMD 78-02-043	173-800-330	REP C 78-04-090	173-800-650	REP C 78-04-090
173-201-130	REP 78-02-043	173-800-340	REP-P 78-03-083	173-800-652	REP-P 78-03-083
173-201-140	AMD 78-02-043	173-800-340	REP C 78-04-090	173-800-652	REP C 78-04-090
		173-800-345	REP-P 78-03-083	173-800-660	REP-P 78-03-083

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173-800-690	REP-P	78-03-083	180-78-020	NEW-P	78-04-084	180-80-258	REP-P	78-04-086
173-800-690	REP C	78-04-090	180-78-025	NEW-P	78-04-084	180-80-260	REP-P	78-04-086
173-800-695	REP-P	78-03-083	180-78-030	NEW-P	78-04-084	180-80-265	REP-P	78-04-086
173-800-695	REP C	78-04-090	180-78-035	NEW-P	78-04-084	180-80-275	REP-P	78-04-086
173-800-710	REP-P	78-03-083	180-78-040	NEW-P	78-04-084	180-80-280	AMD-P	78-04-086
173-800-710	REP C	78-04-090	180-78-045	NEW-P	78-04-084	180-80-304	REP-P	78-04-086
173-800-810	REP-P	78-03-083	180-78-050	NEW-P	78-04-084	180-80-305	REP-P	78-04-086
173-800-810	REP C	78-04-090	180-78-055	NEW-P	78-04-084	180-80-310	REP-P	78-04-086
173-800-830	REP-P	78-03-083	180-78-060	NEW-P	78-04-084	180-80-510	REP-P	78-04-086
173-800-830	REP C	78-04-090	180-78-065	NEW-P	78-04-084	180-80-520	REP-P	78-04-086
173-800-840	REP-P	78-03-083	180-78-070	NEW-P	78-04-084	180-80-522	REP-P	78-04-086
173-800-840	REP C	78-04-090	180-78-075	NEW-P	78-04-084	180-80-525	REP-P	78-04-086
173-800-910	REP-P	78-03-083	180-78-080	NEW-P	78-04-084	180-80-533	REP-P	78-04-086
173-800-910	REP C	78-04-090	180-78-085	NEW-P	78-04-084	180-80-535	REP-P	78-04-086
173-801-010	NEW-P	78-03-083	180-79-005	NEW-P	78-04-082	180-80-540	REP-P	78-04-086
173-801-010	NEW C	78-04-090	180-79-010	NEW-P	78-04-082	180-80-545	REP-P	78-04-086
173-801-020	NEW-P	78-03-083	180-79-015	NEW-P	78-04-082	180-80-550	REP-P	78-04-086
173-801-020	NEW C	78-04-090	180-79-020	NEW-P	78-04-082	180-80-600	REP-P	78-04-086
173-801-030	NEW-P	78-03-083	180-79-025	NEW-P	78-04-082	180-80-610	AMD	78-03-013
173-801-030	NEW C	78-04-090	180-79-030	NEW-P	78-04-082	180-80-610	REP-P	78-04-086
173-801-040	NEW-P	78-03-083	180-79-035	NEW-P	78-04-082	180-80-700	REP-P	78-04-086
173-801-040	NEW C	78-04-090	180-79-040	NEW-P	78-04-082	180-80-710	REP-P	78-04-086
173-801-045	NEW-P	78-03-083	180-79-045	NEW-P	78-04-082	180-80-720	REP-P	78-04-086
173-801-045	NEW C	78-04-090	180-79-050	NEW-P	78-04-082	180-80-730	REP-P	78-04-086
173-801-050	NEW-P	78-03-083	180-79-055	NEW-P	78-04-082	180-80-740	REP-P	78-04-086
173-801-050	NEW C	78-04-090	180-79-060	NEW-P	78-04-082	180-84-010	REP-P	78-04-087
173-801-060	NEW-P	78-03-083	180-79-065	NEW-P	78-04-082	180-84-560	REP-P	78-04-087
173-801-060	NEW C	78-04-090	180-79-070	NEW-P	78-04-082	180-84-565	REP-P	78-04-087
173-801-070	NEW-P	78-03-083	180-79-075	NEW-P	78-04-082	180-90-120	AMD-P	78-04-088
173-801-070	NEW C	78-04-090	180-79-080	NEW-P	78-04-082	180-90-160	AMD-P	78-04-088
173-801-080	NEW-P	78-03-083	180-79-085	NEW-P	78-04-082	180-95-005	NEW	78-03-014
173-801-080	NEW C	78-04-090	180-79-090	NEW-P	78-04-082	180-95-010	NEW	78-03-014
173-801-090	NEW-P	78-03-083	180-79-095	NEW-P	78-04-082	180-95-020	NEW	78-03-014
173-801-090	NEW C	78-04-090	180-79-100	NEW-P	78-04-082	180-95-030	NEW	78-03-014
173-801-100	NEW-P	78-03-083	180-79-105	NEW-P	78-04-082	180-95-040	NEW	78-03-014
173-801-100	NEW C	78-04-090	180-79-110	NEW-P	78-04-082	180-95-050	NEW	78-03-014
173-801-110	NEW-P	78-03-083	180-79-112	NEW-P	78-04-082	180-95-060	NEW	78-03-014
173-801-110	NEW C	78-04-090	180-79-115	NEW-P	78-04-082	182-08-131	NEW-P	78-04-107
173-801-120	NEW-P	78-03-083	180-79-120	NEW-P	78-04-082	182-08-160	AMD-E	78-02-014
173-801-120	NEW C	78-04-090	180-79-125	NEW-P	78-04-082	182-08-160	AMD	78-03-021
173-801-130	NEW-P	78-03-083	180-79-130	NEW-P	78-04-082	182-08-170	AMD	78-02-015
173-801-130	NEW C	78-04-090	180-79-135	NEW-P	78-04-082	182-08-171	NEW-P	78-04-107
173-805-020	AMD-P	78-03-084	180-79-150	NEW-P	78-04-082	182-08-175	NEW-P	78-04-107
173-805-020	AMD C	78-04-091	180-79-155	NEW-P	78-04-082	182-08-190	AMD	78-02-015
173-805-030	AMD-P	78-03-084	180-79-160	NEW-P	78-04-082	182-12-111	NEW	78-02-015
173-805-030	AMD C	78-04-091	180-79-165	NEW-P	78-04-082	182-12-115	AMD-P	78-04-107
173-805-070	AMD-P	78-03-084	180-79-170	NEW-P	78-04-082	182-12-120	NEW-P	78-04-107
173-805-070	AMD C	78-04-091	180-79-175	NEW-P	78-04-082	182-12-125	REP-P	78-04-107
173-805-120	AMD-P	78-03-084	180-79-180	NEW-P	78-04-082	184-01-010	REP	78-03-023
173-805-120	AMD C	78-04-091	180-79-185	NEW-P	78-04-082	184-01-020	REP	78-03-023
173-805-121	NEW-P	78-03-084	180-79-190	NEW-P	78-04-082	184-01-025	REP	78-03-023
173-805-121	NEW C	78-04-091	180-79-195	NEW-P	78-04-082	184-01-030	REP	78-03-023
173-805-125	REP-P	78-03-084	180-79-200	NEW-P	78-04-082	184-01-035	REP	78-03-023
173-805-125	REP C	78-04-091	180-79-205	NEW-P	78-04-082	184-01-040	REP	78-03-023
173-805-130	AMD-P	78-03-084	180-79-210	NEW-P	78-04-082	184-01-050	REP	78-03-023
173-805-130	AMD C	78-04-091	180-79-215	NEW-P	78-04-082	184-01-060	REP	78-03-023
174-104-010	AMD-P	78-02-116	180-79-230	NEW-P	78-04-082	184-01-070	REP	78-03-023
180-16-165	REP-P	78-04-083	180-79-235	NEW-P	78-04-082	184-01-07001	REP	78-03-023
180-16-167	AMD-P	78-04-083	180-79-240	NEW-P	78-04-082	184-03-010	REP	78-03-023
180-16-191	NEW-P	78-04-083	180-79-245	NEW-P	78-04-082	184-03-020	REP	78-03-023
180-16-195	NEW-P	78-04-083	180-79-250	NEW-P	78-04-082	184-03-030	REP	78-03-023
180-16-200	NEW-P	78-04-083	180-80-195	REP-P	78-04-086	184-03-040	REP	78-03-023
180-16-205	NEW-P	78-04-083	180-80-200	AMD	78-03-013	184-03-050	REP	78-03-023
180-16-210	NEW-P	78-04-083	180-80-200	REP-P	78-04-086	184-03-060	REP	78-03-023
180-16-215	NEW-P	78-04-083	180-80-201	REP-P	78-04-086	184-03-070	REP	78-03-023
180-16-220	NEW-P	78-04-083	180-80-202	REP-P	78-04-086	184-03-080	REP	78-03-023
180-16-225	NEW-P	78-04-083	180-80-205	AMD-P	78-04-086	184-03-090	REP	78-03-023
180-16-230	NEW-P	78-04-083	180-80-217	REP-P	78-04-086	184-03-100	REP	78-03-023
180-16-235	NEW-P	78-04-083	180-80-220	REP-P	78-04-086	184-03-110	REP	78-03-023
180-16-240	NEW-P	78-04-083	180-80-245	REP-P	78-04-086	184-03-120	REP	78-03-023
180-56-315	AMD-P	78-04-083	180-80-247	REP-P	78-04-086	184-05-010	REP	78-03-023
180-78-005	NEW-P	78-04-084	180-80-250	REP-P	78-04-086	184-05-020	REP	78-03-023
180-78-010	NEW-P	78-04-084	180-80-251	REP-P	78-04-086	184-05-030	REP	78-03-023

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
184-05-040	REP	78-03-023	184-16-040	REP	78-03-023
184-05-050	REP	78-03-023	184-16-050	REP	78-03-023
184-05-060	REP	78-03-023	184-16-060	REP	78-03-023
184-05-070	REP	78-03-023	184-20-010	REP	78-03-023
184-05-080	REP	78-03-023	184-20-020	REP	78-03-023
184-05-090	REP	78-03-023	184-20-030	REP	78-03-023
184-05-100	REP	78-03-023	184-20-040	REP	78-03-023
184-05-110	REP	78-03-023	184-20-050	REP	78-03-023
184-05-120	REP	78-03-023	184-20-060	REP	78-03-023
184-05-130	REP	78-03-023	184-20-070	REP	78-03-023
184-05-140	REP	78-03-023	184-20-080	REP	78-03-023
184-05-150	REP	78-03-023	184-20-090	REP	78-03-023
184-08-010	REP	78-03-023	184-20-100	REP	78-03-023
184-08-020	REP	78-03-023	184-20-110	REP	78-03-023
184-08-030	REP	78-03-023	184-20-120	REP	78-03-023
184-08-040	REP	78-03-023	184-20-130	REP	78-03-023
184-08-050	REP	78-03-023	184-20-140	REP	78-03-023
184-08-070	REP	78-03-023	184-20-App.A	REP	78-03-023
184-08-080	REP	78-03-023	186-12-010	REP	78-03-023
184-08-090	REP	78-03-023	186-12-050	REP	78-03-023
184-08-100	REP	78-03-023	186-12-060	REP	78-03-023
184-08-110	REP	78-03-023	186-12-100	REP	78-03-023
184-08-120	REP	78-03-023	186-12-110	REP	78-03-023
184-08-130	REP	78-03-023	186-12-120	REP	78-03-023
184-08-140	REP	78-03-023	186-12-200	REP	78-03-023
184-08-150	REP	78-03-023	186-12-210	REP	78-03-023
184-08-160	REP	78-03-023	186-12-300	REP	78-03-023
184-08-170	REP	78-03-023	186-12-310	REP	78-03-023
184-08-180	REP	78-03-023	186-12-330	REP	78-03-023
184-08-190	REP	78-03-023	186-12-350	REP	78-03-023
184-08-200	REP	78-03-023	186-12-400	REP	78-03-023
184-08-210	REP	78-03-023	204-24-050	AMD	78-02-091
184-08-220	REP	78-03-023	204-24-070	AMD	78-02-091
184-08-230	REP	78-03-023	204-64-010	NEW-E	78-02-092
184-08-240	REP	78-03-023	204-64-010	NEW-P	78-02-093
184-08-250	REP	78-03-023	204-64-020	NEW-E	78-02-092
184-08-260	REP	78-03-023	204-64-020	NEW-P	78-02-093
184-08-270	REP	78-03-023	204-64-040	NEW-E	78-02-092
184-08-275	REP	78-03-023	204-64-040	NEW-P	78-02-093
184-08-280	REP	78-03-023	204-64-060	NEW-E	78-02-092
184-08-290	REP	78-03-023	204-64-060	NEW-P	78-02-093
184-08-300	REP	78-03-023	204-64-080	NEW-E	78-02-092
184-08-310	REP	78-03-023	204-64-080	NEW-P	78-02-093
184-08-320	REP	78-03-023	204-64-100	NEW-E	78-02-092
184-08-330	REP	78-03-023	204-64-100	NEW-P	78-02-093
184-08-340	REP	78-03-023	204-64-120	NEW-E	78-02-092
184-08-350	REP	78-03-023	204-64-120	NEW-P	78-02-093
184-08-360	REP	78-03-023	204-66-080	AMD-P	78-02-106
184-08-370	REP	78-03-023	212-02-020	AMD-P	78-03-015
184-08-380	REP	78-03-023	212-02-020	AMD-C	78-04-076
184-08-390	REP	78-03-023	212-02-030	AMD-P	78-03-015
184-08-400	REP	78-03-023	212-02-030	AMD-C	78-04-076
184-08-410	REP	78-03-023	220-20-015	AMD-P	78-03-093
184-08-420	REP	78-03-023	220-22-030	AMD-P	78-03-097
184-08-430	REP	78-03-023	220-22-330	AMD-P	78-03-097
184-08-440	REP	78-03-023	220-22-400	AMD-P	78-03-097
184-08-450	REP	78-03-023	220-24-010	AMD-P	78-03-093
184-08-460	REP	78-03-023	220-24-020	AMD-P	78-03-093
184-08-470	REP	78-03-023	220-28-007BOE	REP-E	78-02-006
184-08-480	REP	78-03-023	220-28-007BOF	NEW-E	78-02-006
184-08-490	REP	78-03-023	220-28-007BOF	REP-E	78-02-051
184-08-500	REP	78-03-023	220-28-007COD	REP-E	78-02-006
184-08-540	REP	78-03-023	220-28-00800J	REP-E	78-02-051
184-08-550	REP	78-03-023	220-28-008AOB	REP-E	78-02-006
184-08-560	REP	78-03-023	220-28-008DOB	REP-E	78-02-006
184-08-570	REP	78-03-023	220-28-011AOB	REP-E	78-02-051
184-08-580	REP	78-03-023	220-28-01200D	REP-E	78-02-051
184-08-590	REP	78-03-023	220-28-012A0B	REP-E	78-02-051
184-09-010	REP	78-03-023	220-28-012D0D	REP-E	78-02-051
184-09-020	REP	78-03-023	220-28-01300D	NEW-E	78-02-051
184-12-010	REP	78-03-023	220-28-013AOA	REP-E	78-02-051
184-16-010	REP	78-03-023	220-32-03000G	NEW-E	78-02-075
184-16-020	REP	78-03-023	220-32-03600A	NEW-E	78-03-067
184-16-030	REP	78-03-023	220-32-04000A	NEW-E	78-02-075
220-32-05200E	NEW-E	78-02-075	220-32-05700A	NEW-E	78-02-075
220-36-0100J	REP-E	78-01-033	220-44-020	AMD-P	78-02-111
220-44-020	AMD-P	78-03-093	220-44-020	AMD-C	78-04-039
220-44-030	NEW-P	78-02-111	220-44-030	NEW-C	78-04-039
220-44-040	NEW-P	78-02-111	220-44-040	NEW-C	78-04-039
220-47-001	AMD-P	78-03-097	220-47-001	AMD-P	78-03-097
220-47-311	AMD-P	78-03-097	220-47-31100S	REP-E	78-01-033
220-47-312	AMD-P	78-03-097	220-47-312	AMD-P	78-03-097
220-47-313	AMD-P	78-03-097	220-47-313	AMD-P	78-03-097
220-47-314	AMD-P	78-03-097	220-47-324	AMD-P	78-03-097
220-47-401	AMD-P	78-03-097	220-47-401	AMD-P	78-03-097
220-47-402	AMD-P	78-03-097	220-47-402	AMD-P	78-03-097
220-47-403	AMD-P	78-03-097	220-47-403	AMD-P	78-03-097
220-47-411	AMD-P	78-03-097	220-47-411	AMD-P	78-03-097
220-47-412	AMD-P	78-03-097	220-47-412	AMD-P	78-03-097
220-47-413	AMD-P	78-03-097	220-47-413	AMD-P	78-03-097
220-47-414	AMD-P	78-03-097	220-47-414	AMD-P	78-03-097
220-47-41400A	REP-E	78-01-033	220-47-415	AMD-P	78-03-097
220-47-415	AMD-P	78-03-097	220-47-426	AMD-P	78-03-097
220-48-080	AMD-P	78-02-111	220-48-080	AMD-P	78-02-111
220-48-096	AMD-P	78-02-111	220-48-096	AMD-C	78-04-039
220-48-096	AMD-C	78-04-039	220-48-096	AMD-P	78-02-111
220-48-09600A	NEW-E	78-02-112	220-48-09600A	NEW-E	78-02-112
220-48-09600B	NEW-E	78-04-016	220-48-098	NEW-P	78-02-111
220-48-098	NEW-P	78-04-039	220-48-098	NEW-C	78-04-039
220-48-098A	NEW-E	78-04-059	220-48-09800A	NEW-E	78-04-059
220-49-06000A	REP-E	78-02-051	220-49-06000A	REP-E	78-02-051
220-49-02000A	NEW-E	78-04-053	220-52-01900B	NEW-E	78-02-022
220-52-01900B	NEW-E	78-02-022	220-52-04600A	REP-E	78-01-033
220-52-04600A	REP-E	78-01-033	220-56-010	AMD	78-03-034
220-56-010	AMD	78-03-034	220-56-013	AMD	78-03-034
220-56-020	AMD	78-03-034	220-56-020	AMD	78-03-034
220-56-022	AMD	78-03-034	220-56-030	AMD	78-03-034
220-56-030	AMD	78-03-034	220-56-040	AMD	78-03-034
220-56-040	AMD	78-03-034	220-56-060	AMD	78-03-034
220-56-064	AMD	78-03-034	220-56-064	AMD	78-03-034
220-56-065	AMD	78-03-034	220-56-065	AMD	78-03-034
220-56-080	AMD	78-03-034	220-56-080	AMD	78-03-034
220-56-08000B	NEW-E	78-01-033	220-56-08000B	REP-E	78-04-016
220-56-08000B	REP-E	78-04-016	220-56-082	AMD	78-03-034
220-56-082	AMD	78-03-034	220-56-084	AMD	78-03-034
220-56-084	AMD	78-03-034	220-56-086	AMD	78-03-034
220-56-086	AMD	78-03-034	220-56-088	AMD	78-03-034
220-56-088	AMD	78-03-034	220-57-001	AMD	78-03-034
220-57-001	AMD	78-03-034	220-57-200	AMD	78-03-034
220-57-200	AMD	78-03-034	220-57-255	AMD	78-03-034
220-57-270	AMD	78-03-034	220-57-270	AMD	78-03-034
220-57-290	AMD	78-03-034	220-57-310	AMD	78-03-034
220-57-310	AMD	78-03-034	220-57-320	AMD	78-03-034
220-57-385	AMD	78-03-034	220-57-460	AMD	78-03-034
220-57-460	AMD	78-03-034	220-57-480	AMD	78-03-034
220-57-515	AMD	78-03-034	220-57-515	AMD	78-03-034
220-57-16000A	NEW-E	78-04-055	220-57A-005	AMD	78-03-034
220-57A-005	AMD	78-03-034	220-57A-010	AMD	78-03-034
220-57A-010	AMD	78-03-034	220-57A-030	AMD	78-03-034
220-57A-040	AMD	78-03-034	220-57A-040	AMD	78-03-034
220-57A-065	AMD	78-03-034	220-57A-080	AMD	78-03-034
220-57A-080	AMD	78-03-034			

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
220-57A-095	AMD	78-03-034	232-32-103	NEW-E	78-02-028	248-33-100	AMD	78-03-060
220-57A-115	AMD	78-03-034	232-32-104	NEW-E	78-02-029	248-55	NEW-P	78-03-056
220-57A-120	AMD	78-03-034	232-32-105	NEW-E	78-02-040	248-60A-010	REP-P	78-03-123
220-57A-125	AMD	78-03-034	232-32-106	NEW-E	78-02-044	248-60A-020	REP-P	78-03-123
220-57A-155	AMD	78-03-034	232-32-107	NEW-E	78-02-047	248-60A-030	REP-P	78-03-123
220-57A-185	AMD	78-03-034	232-32-108	NEW-E	78-02-080	248-60A-040	REP-P	78-03-123
220-57A-190	AMD	78-03-034	232-32-109	NEW-E	78-03-026	248-60A-050	REP-P	78-03-123
220-105-045	AMD	78-03-034	232-32-110	NEW-E	78-03-073	248-60A-060	REP-P	78-03-123
220-105-046	NEW	78-03-034	232-32-111	NEW-E	78-04-047	248-60A-070	REP-P	78-03-123
220-105-047	NEW	78-03-034	232-32-200	REP-E	78-03-020	248-60A-080	REP-P	78-03-123
220-69-220	AMD	78-03-031	232-32-300	REP-E	78-03-026	248-60A-090	REP-P	78-03-123
229-69-230	AMD	78-03-031	232-32-300A	REP-E	78-02-080	248-60A-100	REP-P	78-03-123
220-69-231	AMD	78-03-031	232-32-300B	NEW-E	78-02-010	248-60A-110	REP-P	78-03-123
220-69-232	AMD	78-03-031	232-32-300B	REP-E	78-02-080	248-60A-120	REP-P	78-03-123
220-69-233	AMD	78-03-031	236-12-001	AMD-P	78-03-091	248-60A-130	REP-P	78-03-123
220-69-234	AMD	78-03-031	236-12-010	AMD-P	78-03-091	248-60A-140	REP-P	78-03-123
220-69-235	AMD	78-03-031	236-12-011	AMD-P	78-03-091	248-60A-150	REP-P	78-03-123
220-69-254	AMD	78-03-031	236-12-012	AMD-P	78-03-091	248-60A-160	REP-P	78-03-123
220-69-255	AMD	78-03-031	236-12-013	NEW-P	78-03-091	248-60A-170	REP-P	78-03-123
220-69-271	AMD	78-03-031	236-12-020	AMD-P	78-03-091	248-61-001	REP-P	78-03-122
220-69-280	AMD	78-03-031	236-12-030	AMD-P	78-03-091	248-61-010	REP-P	78-03-122
220-100-020	AMD-P	78-03-092	236-12-040	AMD-P	78-03-091	248-61-015	REP-P	78-03-122
220-100-040	AMD-P	78-03-092	236-12-050	AMD-P	78-03-091	248-61-020	REP-P	78-03-122
220-100-045	NEW-P	78-03-092	236-12-060	AMD-P	78-03-091	248-61-030	REP-P	78-03-122
220-100-050	AMD-P	78-03-092	236-12-061	NEW-P	78-03-091	248-61-040	REP-P	78-03-122
220-100-060	AMD-P	78-03-092	236-12-080	AMD-P	78-03-091	248-61-050	REP-P	78-03-122
220-100-080	AMD-P	78-03-092	236-12-085	AMD-E	78-03-090	248-61-060	REP-P	78-03-122
220-100-100	REP-P	78-03-092	236-12-085	AMD-P	78-03-091	248-61-070	REP-P	78-03-122
220-100-110	AMD-P	78-03-092	236-12-090	REP-P	78-03-091	248-61-080	REP-P	78-03-122
220-100-120	NEW-P	78-03-092	236-12-120	AMD-P	78-03-091	248-61-090	REP-P	78-03-122
230-02-350	AMD-P	78-01-034	236-12-130	AMD-P	78-03-091	248-61-100	REP-P	78-03-122
230-02-350	AMD	78-03-061	236-12-131	NEW-P	78-03-091	248-61-110	REP-P	78-03-122
230-02-415	NEW-P	78-04-080	236-12-132	NEW-P	78-03-091	248-61-120	REP-P	78-03-122
230-04-060	AMD-P	78-04-080	236-12-133	NEW-P	78-03-091	248-61-130	REP-P	78-03-122
230-04-070	AMD-P	78-04-080	236-12-140	AMD-P	78-03-091	248-61-140	REP-P	78-03-122
230-04-140	NEW-P	78-04-080	236-12-220	AMD-P	78-03-091	248-61-150	REP-P	78-03-122
230-04-141	NEW-P	78-04-080	236-12-225	AMD-P	78-03-091	248-61-160	REP-P	78-03-122
230-04-170	AMD-P	78-04-080	236-12-290	AMD-P	78-03-091	248-61-170	REP-P	78-03-122
230-04-190	AMD-P	78-03-082	236-12-300	AMD-P	78-03-091	248-61-180	REP-P	78-03-122
230-04-190	AMD-P	78-04-080	236-12-320	AMD-P	78-03-091	248-100-450	AMD	78-03-059
230-04-200	AMD-P	78-04-080	236-12-330	REP-P	78-03-091	250-20-021	AMD-P	78-02-085
230-04-290	AMD-P	78-04-080	236-12-340	NEW-P	78-03-091	250-40-050	AMD-P	78-02-084
230-04-310	AMD-P	78-04-080	236-12-410	REP-P	78-03-091	251-04-020	AMD-P	78-04-100
230-04-332	REP-P	78-04-080	236-12-420	REP-P	78-03-091	251-06-060	AMD-P	78-03-098
230-04-405	NEW-P	78-04-080	236-12-440	AMD-P	78-03-091	251-06-065	AMD-P	78-04-100
230-04-450	AMD-P	78-04-080	236-12-500	NEW-P	78-03-091	251-06-070	AMD-P	78-04-100
230-04-452	NEW-P	78-04-080	236-12-600	NEW-P	78-03-091	251-08-100	AMD-P	78-04-100
230-12-080	AMD-P	78-04-080	236-49-050	REP	78-02-060	251-08-110	AMD-P	78-04-100
230-40-250	AMD-P	78-04-080	236-60-001	NEW	78-02-066	251-08-112	AMD-P	78-04-100
230-25-110	NEW-P	78-01-034	236-60-005	NEW	78-02-066	251-09-025	AMD-P	78-04-100
230-25-110	AMD	78-03-061	236-60-010	NEW	78-02-066	251-09-030	AMD-P	78-04-100
230-25-220	AMD-P	78-02-102	236-60-020	NEW	78-02-066	251-09-090	AMD-P	78-04-100
230-25-220	AMD-E	78-03-063	236-60-030	NEW	78-02-066	251-10-055	AMD-P	78-04-100
230-25-220	AMD	78-04-032	236-60-040	NEW	78-02-066	251-10-140	AMD-P	78-04-100
230-25-260	NEW-P	78-02-102	236-60-050	NEW	78-02-066	251-12-095	NEW-P	78-04-100
230-25-260	NEW	78-04-032	236-60-060	NEW	78-02-066	251-12-240	AMD-P	78-04-100
232-12-065	NEW	78-02-055	236-60-070	NEW	78-02-066	251-18-030	AMD-P	78-04-100
232-12-240	AMD	78-02-055	236-60-080	NEW	78-02-066	251-14-040	AMD-P	78-03-098
232-12-350	AMD	78-02-055	236-60-090	NEW	78-02-066	251-18-070	AMD	78-02-094
232-12-405	NEW	78-02-055	236-60-100	NEW	78-02-066	251-18-110	AMD	78-02-094
232-28-200	REP-P	78-04-102	248-14-001	AMD-P	78-03-124	251-18-115	AMD	78-02-094
232-28-201	NEW-P	78-04-102	248-14-230	AMD-P	78-01-036	251-18-140	AMD	78-02-094
232-28-300	REP-P	78-04-102	248-14-230	AMD-P	78-03-124	251-18-140	AMD-P	78-04-100
232-28-301	NEW-P	78-04-102	248-14-240	AMD-P	78-01-036	251-18-160	AMD-P	78-04-100
232-28-600000A	NEW-E	78-03-002	248-14-240	AMD-P	78-03-124	251-18-176	AMD-P	78-04-100
232-28-600000A	REP-E	78-03-073	248-14-245	NEW-P	78-03-124	251-18-181	AMD	78-02-094
232-28-600000B	NEW-E	78-03-025	248-14-250	AMD-P	78-03-124	251-18-181	AMD-P	78-04-100
232-28-600000C	NEW-E	78-03-026	248-14-255	NEW-P	78-03-124	251-18-230	AMD	78-02-094
232-28-600000D	NEW-E	78-03-073	248-14-260	AMD-P	78-03-124	251-18-240	AMD	78-02-094
232-28-700	NEW	78-03-087	248-14-265	NEW-P	78-01-036	251-18-260	AMD-P	78-04-100
232-28-800	NEW-P	78-02-046	248-14-270	AMD-P	78-01-036	251-18-330	AMD	78-02-094
232-32-101	NEW-E	78-02-026	248-14-270	AMD-P	78-03-124	251-18-340	AMD	78-02-094
232-32-101	REP-E	78-03-073	248-14-401	NEW-P	78-03-124	251-20-010	NEW-P	78-04-100
232-32-102	NEW-E	78-02-027	248-18-245	AMD	78-03-058	251-20-020	NEW-P	78-04-100

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251-20-030	NEW-P 78-04-100	275-27-630	NEW-P 78-01-038	296-27-060	AMD-E 78-04-078
252-20-040	AMD-P 78-04-051	275-27-630	NEW 78-04-003	296-27-060	AMD-P 78-04-079
251-20-040	NEW-P 78-04-100	275-27-635	NEW-P 78-01-038	296-27-077	NEW-E 78-04-078
251-20-050	NEW-P 78-04-100	275-27-635	NEW 78-04-003	296-27-077	NEW-P 78-04-079
251-20-060	NEW-P 78-04-100	275-27-640	NEW-P 78-01-038	296-27-120	AMD-E 78-04-078
251-22-200	AMD-P 78-04-100	275-27-640	NEW 78-04-003	296-27-120	AMD-P 78-04-079
252-32-002	AMD-P 78-02-088	275-27-660	NEW-P 78-01-038	296-27-140	AMD-E 78-04-078
252-32-002	AMD-P 78-04-052	275-27-660	NEW 78-04-003	296-27-140	AMD-P 78-04-079
252-32-539	AMD-P 78-02-078	275-27-665	NEW-P 78-01-038	296-27-150	AMD-E 78-04-078
260-70-010	AMD-P 78-03-095	275-27-665	NEW 78-04-003	296-27-150	AMD-P 78-04-079
260-70-020	AMD-P 78-03-095	275-27-680	NEW-P 78-01-038	296-37-010	REP-P 78-04-079
260-70-050	AMD-P 78-03-095	275-27-680	NEW 78-04-003	296-37-020	REP-P 78-04-079
260-70-060	AMD-P 78-03-095	275-27-685	NEW-P 78-01-038	296-37-030	REP-P 78-04-079
260-70-070	AMD-P 78-03-095	275-27-685	NEW 78-04-003	296-37-040	REP-P 78-04-079
260-70-080	AMD-P 78-03-095	275-32-115	NEW 78-03-030	296-37-050	REP-P 78-04-079
260-70-090	AMD-P 78-03-095	275-32-125	NEW 78-03-030	296-37-060	REP-P 78-04-079
260-70-170	AMD-P 78-03-095	275-32-135	NEW 78-03-030	296-37-070	REP-P 78-04-079
260-70-200	AMD-P 78-03-095	275-32-145	NEW 78-03-030	296-37-071	REP-P 78-04-079
260-70-220	AMD-P 78-03-095	275-32-155	NEW 78-03-030	296-37-072	REP-P 78-04-079
275-16-010	AMD 78-03-029	275-32-165	NEW 78-03-030	296-37-080	REP-P 78-04-079
275-16-020	REP 78-03-029	275-32-175	NEW 78-03-030	296-37-081	REP-P 78-04-079
275-16-030	AMD 78-03-029	275-34-010	NEW-P 78-03-117	296-37-082	REP-P 78-04-079
275-16-040	AMD 78-03-029	275-34-020	NEW-P 78-03-117	296-37-090	REP-P 78-04-079
275-16-045	NEW 78-03-029	275-34-030	NEW-P 78-03-117	296-37-100	REP-P 78-04-079
275-16-050	REP 78-03-029	275-34-040	NEW-P 78-03-117	296-37-110	REP-P 78-04-079
275-16-060	REP 78-03-029	275-34-050	NEW-P 78-03-117	296-37-300	REP-P 78-04-079
275-16-070	REP 78-03-029	275-34-060	NEW-P 78-03-117	296-37-310	REP-P 78-04-079
275-16-080	REP 78-03-029	275-34-070	NEW-P 78-03-117	296-37-320	REP-P 78-04-079
275-16-090	REP 78-03-029	275-34-080	NEW-P 78-03-117	296-37-330	REP-P 78-04-079
275-16-100	REP 78-03-029	275-34-090	NEW-P 78-03-117	296-37-340	REP-P 78-04-079
275-20-010	AMD 78-03-029	275-34-100	NEW-P 78-03-117	296-37-350	REP-P 78-04-079
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275-20-035	NEW 78-03-029	284-50-455	NEW-P 78-03-077	296-37-380	REP-P 78-04-079
275-20-040	REP 78-03-029	284-50-460	NEW-P 78-03-077	296-37-390	REP-P 78-04-079
275-20-050	REP 78-03-029	284-50-465	NEW-P 78-03-077	296-37-395	REP-P 78-04-079
275-20-060	REP 78-03-029	286-04-020	AMD 78-03-032	296-37-400	REP-P 78-04-079
275-20-070	REP 78-03-029	286-04-060	NEW-P 78-02-101	296-37-410	REP-P 78-04-079
275-25-510	REP-P 78-01-037	286-04-060	NEW 78-03-032	296-37-420	REP-P 78-04-079
275-25-510	REP 78-04-002	286-06-020	AMD 78-03-032	296-37-430	REP-P 78-04-079
275-25-520	AMD-P 78-01-037	286-06-040	AMD 78-03-032	296-37-440	REP-P 78-04-079
275-25-520	AMD 78-04-002	286-06-060	AMD 78-03-032	296-37-450	REP-P 78-04-079
275-25-525	REP-P 78-01-037	286-06-140	AMD 78-03-032	296-37-460	REP-P 78-04-079
275-25-525	REP 78-04-002	286-16-010	AMD 78-03-032	296-37-510	NEW-P 78-04-079
275-27-020	AMD-P 78-01-039	286-16-020	AMD 78-03-032	296-37-515	NEW-P 78-04-079
275-27-020	AMD 78-04-033	286-16-030	AMD 78-03-032	296-37-520	NEW-P 78-04-079
275-27-040	AMD-P 78-01-039	286-16-040	AMD 78-03-032	296-37-525	NEW-P 78-04-079
275-27-040	AMD 78-04-033	286-16-070	AMD 78-03-032	296-37-530	NEW-P 78-04-079
275-27-050	AMD-P 78-01-039	286-16-080	AMD 78-03-032	296-37-535	NEW-P 78-04-079
275-27-050	AMD 78-04-033	286-20-010	AMD 78-03-032	296-37-540	NEW-P 78-04-079
275-27-060	AMD-P 78-01-039	286-20-030	REP 78-03-032	296-37-545	NEW-P 78-04-079
275-27-060	AMD 78-04-033	286-24-010	AMD 78-03-032	296-37-550	NEW-P 78-04-079
275-27-230	AMD-P 78-01-039	286-24-020	AMD 78-03-032	296-37-555	NEW-P 78-04-079
275-27-230	AMD 78-04-033	286-24-040	AMD 78-03-032	296-37-560	NEW-P 78-04-079
275-27-300	NEW-P 78-01-039	286-26-010	AMD 78-03-032	296-37-565	NEW-P 78-04-079
275-27-300	NEW 78-04-033	286-26-020	AMD 78-03-032	296-37-570	NEW-P 78-04-079
275-27-310	NEW-P 78-01-039	286-26-030	AMD 78-03-032	296-37-575	NEW-P 78-04-079
275-27-310	NEW 78-04-033	286-26-040	AMD 78-03-032	296-37-580	NEW-P 78-04-079
275-27-320	NEW-P 78-01-039	286-26-050	REP 78-03-032	296-37-585	NEW-P 78-04-079
275-27-320	NEW 78-04-033	286-26-060	AMD 78-03-032	296-46-110	AMD 78-02-098
275-27-400	AMD-P 78-01-039	286-26-070	AMD 78-03-032	296-46-140	AMD 78-02-098
275-27-400	AMD 78-04-033	296-24-020	AMD-P 78-04-079	296-46-150	AMD 78-02-098
275-27-500	AMD-P 78-01-039	296-24-040	AMD-P 78-04-079	296-46-200	AMD 78-02-098
275-27-500	AMD 78-04-033	296-24-045	NEW-P 78-04-079	296-46-220	AMD 78-02-098
275-27-600	NEW-P 78-01-038	296-24-060	AMD-P 78-04-079	296-46-242	NEW 78-02-098
275-27-600	NEW 78-04-003	296-24-955	AMD-P 78-04-079	296-46-244	NEW 78-02-098
275-27-605	NEW-P 78-01-038	296-27-010	AMD-E 78-04-078	296-46-250	REP 78-02-098
275-27-605	NEW 78-04-003	296-27-010	AMD-P 78-04-079	296-46-260	REP 78-02-098
275-27-610	NEW-P 78-01-038	296-27-020	AMD-E 78-04-078	296-46-265	REP 78-02-098
275-27-610	NEW 78-04-003	296-27-020	AMD-P 78-04-079	296-46-270	AMD 78-02-098
275-27-615	NEW-P 78-01-038	296-27-030	AMD-E 78-04-078	296-46-320	REP 78-02-098
275-27-615	NEW 78-04-003	296-27-030	AMD-P 78-04-079	296-46-350	AMD 78-02-098
275-27-620	NEW-P 78-01-038	296-27-050	AMD-E 78-04-078	296-46-390	AMD 78-02-098
275-27-620	NEW 78-04-003	296-27-050	AMD-P 78-04-079	296-46-400	REP 78-02-098

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
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296-46-402	REP	78-02-098	297-20-030	REP	78-03-023
296-46-424	AMD	78-02-098	297-25-010	REP	78-03-023
296-46-425	REP	78-02-098	297-25-020	REP	78-03-023
296-46-426	AMD	78-02-098	297-25-030	REP	78-03-023
296-46-450	REP	78-02-098	297-25-040	REP	78-03-023
296-46-460	REP	78-02-098	297-25-050	REP	78-03-023
296-46-480	AMD	78-02-098	297-30-010	REP	78-03-023
296-46-492	NEW	78-02-098	297-30-020	REP	78-03-023
296-46-493	NEW	78-02-098	297-30-030	REP	78-03-023
296-46-495	NEW	78-02-098	297-30-040	REP	78-03-023
296-46-500	AMD	78-02-098	297-30-050	REP	78-03-023
296-46-510	AMD	78-02-098	297-30-060	REP	78-03-023
296-46-515	AMD	78-02-098	297-30-070	REP	78-03-023
296-46-525	AMD	78-02-098	297-30-080	REP	78-03-023
296-46-590	NEW	78-02-098	297-35-010	REP	78-03-023
296-46-59005	NEW	78-02-098	297-35-020	REP	78-03-023
296-46-59010	NEW	78-02-098	297-35-030	REP	78-03-023
296-46-900	AMD	78-02-098	297-35-040	REP	78-03-023
296-46-910	NEW	78-02-098	297-35-050	REP	78-03-023
296-46-App.A	REP	78-02-098	297-35-060	REP	78-03-023
296-46-App.B	REP	78-02-098	297-35-070	REP	78-03-023
296-52-010	AMD-P	78-04-079	297-35-080	REP	78-03-023
296-52-012	AMD-E	78-04-001	297-35-090	REP	78-03-023
296-52-020	AMD-E	78-04-001	297-35-100	REP	78-03-023
296-52-030	AMD-E	78-04-001	297-35-110	REP	78-03-023
296-52-090	AMD-E	78-04-001	297-35-120	REP	78-03-023
296-62-07335	NEW-E	78-04-022	297-35-130	REP	78-03-023
296-62-07335	NEW-P	78-04-079	297-35-140	REP	78-03-023
296-62-07341	NEW-E	78-04-044	297-35-150	REP	78-03-023
296-62-07341	NEW-P	78-04-079	297-35-160	REP	78-03-023
296-62-07345	NEW-E	78-04-044	297-40-010	REP	78-03-023
296-62-07345	NEW-P	78-04-079	297-40-040	REP	78-03-023
296-104-050	AMD-E	78-03-036	297-40-050	REP	78-03-023
296-104-050	AMD	78-03-057	297-40-060	REP	78-03-023
296-104-065	AMD-E	78-03-036	297-40-070	REP	78-03-023
296-104-065	AMD	78-03-057	297-40-080	REP	78-03-023
296-104-170	AMD-E	78-03-036	297-40-090	REP	78-03-023
296-104-170	AMD	78-03-057	297-40-100	REP	78-03-023
296-104-235	AMD-E	78-03-036	297-40-110	REP	78-03-023
296-104-235	AMD	78-03-057	297-40-120	REP	78-03-023
296-104-245	AMD-E	78-03-036	297-40-130	REP	78-03-023
296-104-245	AMD	78-03-057	297-40-140	REP	78-03-023
296-104-250	REP-E	78-03-036	297-40-150	REP	78-03-023
296-104-250	REP	78-03-057	297-40-160	REP	78-03-023
296-104-275	REP-E	78-03-036	297-40-170	REP	78-03-023
296-104-275	REP	78-03-057	297-40-180	REP	78-03-023
296-104-280	REP-E	78-03-036	297-40-190	REP	78-03-023
296-104-280	REP	78-03-057	297-40-200	REP	78-03-023
296-104-285	NEW-E	78-03-036	297-40-210	REP	78-03-023
296-104-285	NEW	78-03-057	297-40-220	REP	78-03-023
296-104-315	AMD-E	78-03-036	297-40-230	REP	78-03-023
296-104-315	AMD	78-03-057	297-40-240	REP	78-03-023
296-116-300	AMD	78-02-008	297-40-250	REP	78-03-023
296-116-320	AMD	78-02-008	297-40-260	REP	78-03-023
296-116-351	AMD	78-02-008	297-40-265	REP	78-03-023
296-126-200	NEW	78-03-004	297-40-270	REP	78-03-023
296-126-202	NEW	78-03-004	297-40-280	REP	78-03-023
296-126-204	NEW	78-03-004	297-40-290	REP	78-03-023
296-126-206	NEW	78-03-004	297-40-300	REP	78-03-023
296-126-208	NEW	78-03-004	297-40-310	REP	78-03-023
296-126-210	NEW	78-03-004	297-40-320	REP	78-03-023
296-126-212	NEW	78-03-004	297-40-330	REP	78-03-023
296-126-214	NEW	78-03-004	297-40-340	REP	78-03-023
296-126-216	NEW	78-03-004	297-40-350	REP	78-03-023
296-126-218	NEW	78-03-004	297-40-360	REP	78-03-023
296-126-220	NEW	78-03-004	297-40-370	REP	78-03-023
296-126-222	NEW	78-03-004	297-40-380	REP	78-03-023
296-126-224	NEW	78-03-004	297-40-390	REP	78-03-023
296-126-226	NEW	78-03-004	297-40-400	REP	78-03-023
296-305-005	AMD-P	78-04-079	297-40-410	REP	78-03-023
297-10-010	REP	78-03-023	297-40-420	REP	78-03-023
297-15-010	REP	78-03-023	297-40-430	REP	78-03-023
297-20-010	REP	78-03-023	297-40-440	REP	78-03-023
297-40-450	REP	78-03-023			
297-40-460	REP	78-03-023			
297-40-470	REP	78-03-023			
297-40-480	REP	78-03-023			
297-40-490	REP	78-03-023			
297-40-500	REP	78-03-023			
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297-40-520	REP	78-03-023			
297-40-530	REP	78-03-023			
297-40-540	REP	78-03-023			
297-40-550	REP	78-03-023			
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297-45-020	REP	78-03-023			
297-50-010	REP	78-03-023			
297-50-020	REP	78-03-023			
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297-50-040	REP	78-03-023			
297-50-050	REP	78-03-023			
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297-50-100	REP	78-03-023			
297-50-110	REP	78-03-023			
297-50-120	REP	78-03-023			
297-50-130	REP	78-03-023			
297-50-140	REP	78-03-023			
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