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CITATION

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

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DENNIS W. COOPER
Code Reviser

WASHINGTON STATE REGISTER

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

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

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

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

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

3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATTER

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

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

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

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

5. EFFECTIVE DATE OF RULES

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

6. EDITORIAL CORRECTIONS

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

7. INDEX AND TABLES

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

1981

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)
81-01	Jan 7, 1981	Jan 27	Dec 24, 1980	Dec 10	Nov 26
81-02	Jan 21	Feb 10	Jan 7	Dec 24, 1980	Dec 10
81-03	Feb 4	Feb 24	Jan 21	Jan 7	Dec 24, 1980
81-04	Feb 18	Mar 10	Feb 4	Jan 21	Jan 7
81-05	Mar 4	Mar 24	Feb 18	Feb 4	Jan 21
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81-07	Apr 1	Apr 21	Mar 18	Mar 4	Feb 18
81-08	Apr 15	May 5	Apr 1	Mar 18	Mar 4
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81-11	Jun 3	Jun 23	May 20	May 6	Apr 22
81-12	Jun 17	Jul 7	Jun 3	May 20	May 6
81-13	Jul 1	Jul 21	Jun 17	Jun 3	May 20
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81-20	Oct 21	Nov 10	Oct 7	Sep 23	Sep 9
81-21	Nov 4	Nov 24	Oct 21	Oct 7	Sep 23
81-22	Nov 18	Dec 8	Nov 4	Oct 21	Oct 7
81-23	Dec 2	Dec 22	Nov 18	Nov 4	Oct 21
81-24	Dec 16	Jan 5, 1982	Dec 2	Nov 18	Nov 4

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 immediate 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.

WSR 81-05-001
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 1595—Filed February 5, 1981]

I, N. Spencer Hammond, Ex. Asst. of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Supervision—Individual work release placement, adopting WAC 275-92-407.

This action is taken pursuant to Notice No. WSR 81-01-088 filed with the code reviser on December 19, 1980. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 72.65.100 which directs that the secretary of the Department of Social and Health Services has authority to implement the provisions of chapter 72.65 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 February 4, 1981.

By N. S. Hammond
Executive Assistant

NEW SECTION

WAC 275-92-407 SUPERVISION—INDIVIDUAL WORK RELEASE PLACEMENT. In cases of individual work release placement in a home, supervision shall be provided by a responsible citizen under formal agreement with the department. Such agreement shall provide for the monitoring of the work releasee's activities under such conditions as may be specified by the department and shall be under the general supervision of a work release officer. The agreement called for in this section shall be in place of the specific conditions of WAC 275-92-405, which shall not apply to individual work release placements.

WSR 81-05-002
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 1596—Filed February 5, 1981]

I, N. Spencer Hammond, of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to repayment of overpayment resulting from department error, amending WAC 388-44-127.

This action is taken pursuant to Notice No. WSR 81-01-110 filed with the code reviser on December 24, 1980. 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 the Department of Social and Health Services as authorized in RCW 74.08.090.

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

APPROVED AND ADOPTED February 4, 1981.

By N. S. Hammond
Executive Assistant

AMENDATORY SECTION (Amending Order 1298, filed 6/1/78)

WAC 388-44-127 REPAYMENT OF OVERPAYMENT RESULTING FROM DEPARTMENT ERROR. (1) Overpayments resulting from department error 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))~~ only if relief from liability ((is)) may not be granted to a recipient or former recipient pursuant to this section.

(2) When such an overpayment is discovered, and before ~~((it is established as an account receivable, the ESSO shall determine))~~ liability is imposed, the CSO must first determine that recovery would not be inequitable. Recovery shall be deemed inequitable if:

~~((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 in financial need at the time the overpayment occurred, and;~~

~~(b) The recipient did not receive assistance in excess of 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.))~~

(a) The department admitted or stated to the recipient or to the recipient's authorized representative that the recipient was entitled in whole or in part to the moneys or services overpaid, or acted in a manner which would reasonably lead that recipient to believe that he or she was eligible to receive in whole or in part the moneys or services overpaid; and

(b) The recipient retained or accepted the moneys or services overpaid on the faith of such an admission, statement, act or omission; upon which he or she had a right to rely; and

(c) The recipient would suffer an injury if the department were allowed to repudiate its admission, statement, act or omission.

"Injury," as used in this section includes the imposition of liability for repayment of a debt due the state.

~~((4))~~ (3) 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."

(4) If recovery would not be inequitable, the recipient shall be notified that he or she is liable for repayment of the debt. He or she shall also be informed as to the specific reasons why recovery would not be inequitable, including a copy of this rule, and as to his or her right to contest such decision.

(5) Department decisions made pursuant to this section shall be subject to fair hearing review in accordance with the procedures set forth in chapter 388-08 WAC and appropriate findings and conclusions shall be made on all of the factors made pertinent in this section.

WSR 81-05-003

NOTICE OF PUBLIC MEETINGS URBAN ARTERIAL BOARD [Memorandum—February 5, 1981]

Beginning at 9:30 a.m., Wednesday, February 18, 1981.

Minutes from UAB meeting on January 15, 1981.

Report of Chairman.

Staff presentation on procedures used to develop the UAB 1980 Six Year Construction Program.

Review proposed legislation which would provide a Series III UAB Program.

Review proposed Urban Arterial Board funding plan for projects submitted in the 1980 Six Year Construction Program based on a Series III UAB Program.

Proposed authorization of trust funds for construction of previously approved projects.

WSR 81-05-004

ADOPTED RULES CHIROPRACTIC EXAMINING BOARD [Order PL 371—Filed February 6, 1981]

Be it resolved by the Washington State Chiropractic Examining Board, acting at Seattle, Washington, that it does promulgate and adopt the annexed rules relating to the adoption of WAC 114-12-011, 114-12-021, 114-12-031 and 114-12-041 and repealing WAC 114-12-010, 114-12-020, 114-12-030 and 114-12-040.

This action is taken pursuant to Notice No. WSR 81-01-106 filed with the code reviser on December 24,

1980. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.25.025 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 27, 1981.

By James C. Burkett, D.C.
Chairman

NEW SECTION

WAC 114-12-011 COLLEGES—POLICY. (1) In determining a college's eligibility for accreditation the board may utilize, at its discretion, recognized chiropractic accrediting associations, recognized regional accrediting associations, and appropriate professional firms, agencies and individuals.

(2) Accreditation shall be primarily contingent upon a course of study which incorporates educationally sound practices and complies with the chiropractic educational requirements for the state of Washington.

(3) A college must have successfully graduated a class prior to making application for accreditation.

NEW SECTION

WAC 114-12-021 DEFINITIONS. The following terms are so defined for the purposes of this chapter:

(1) "Board" means the board of chiropractic examiners and/or its designee.

(2) "College" means an institution whose curriculum provides education leading to the acquiring of a professional degree in chiropractic.

(3) "Approval" and "accreditation" are used interchangeably.

NEW SECTION

WAC 114-12-031 ACCREDITATION OF COLLEGES—PROCEDURE. (1) Application and determination. A chiropractic college which desires to be accredited by the board may secure an application form by sending a written request to the secretary of the board. The applicant shall complete the application form and submit it to the secretary of the board, along with any accompanying documents. Recent photographs of the college or the buildings in which the college is located shall be submitted with the application. Within one hundred twenty days after the receipt of the completed application, the board shall consider the application, determine whether or not the college fulfills the requirements for accreditation, and deposit in the mails a notice of the board's determination, addressed to the applicant. If the board determines that the college is not worthy of accreditation, the notice shall set forth the reasons for denial. PROVIDED: The board may withhold making a

determination for a reasonable period of time for any justifiable cause upon giving notice to the applicant.

(2) Interrogatories. If the board desires, it may request the applicant to answer specific inquiries. The granting or the denial of accreditation may be contingent upon the applicants' response to such inquiries.

(3) Oath. The answers to the inquiries in the application, and any other inquiries, shall be sworn to before a notary public.

(4) Inspection. If the board desires, it may make the physical inspection of a particular college a condition for its being accredited. Such necessary on-campus visitation of reasonable cost shall be funded by the applicant.

(5) Duration. A college which is once accredited shall continue to be accredited for so long as it fulfills the requirements set forth by the board, or to be set forth by the board. Upon receiving convincing evidence that a college has ceased to fulfill the requirements, the board shall withdraw the accreditation of the college and shall inform the college of its reasons for doing so. A college shall inform the board of changes, if any, in status which could reasonably jeopardize the college's qualifications for accreditation. Such changes shall include, but are not limited to, changes in curriculum, administration, faculty, classrooms and equipment.

(6) Revocation of accreditation. Where the board receives evidence that an accredited institution is not complying with board criteria, it may, after meeting with institutional representatives, place the institution on probation. The institution shall be supplied with a written bill of particulars setting forth the specifics of the non-compliance. The board and chief administrative officer of the institution may agree on a mutually acceptable timetable and procedures for correction of the deficiencies or the board may set the timetable. Should the institution not make the corrections recommended, or should further deficiencies develop during the probation, the board may, after meeting with institutional representatives, revoke the accreditation of the college.

(7) Reinstatement of accredited status. Once the board has revoked the accredited status of an institution, it must reapply by submitting either a new self-study or an updated self-study as may be required by the board. The board's usual procedure for applicants for initial accreditation and petitions for renewal is applied to petitioners for reinstatement. The visitation team report, hearing evidence and supporting data must show not only correction of the deficiencies which led to the dis-accreditation but, in addition, compliance with the board's criteria.

(8) Appeal. An appeal of a decision adverse to the college must be filed with the board within thirty days of receipt of the board's written decision. To be valid the appeal must contain a certified copy of a formal action authorizing the appeal, taken by a lawfully constituted meeting of the governing body of the institution. The appeal is based on a review of self-evaluation documents, catalog, visitor's report, institution's response to visitor's report, pre-decision hearing of the board and board decision. Alleged improvements effective subsequent to the evaluation which can be verified only

through another on-site visit provide the basis for another evaluation, not for an appeal. An appeal does not include a dispute on a finding of fact unless appellant makes a prima facie showing that the finding is clearly erroneous in view of the reliable, probative and substantial evidence on the whole record before the board. The board shall meet to consider the appeal at its earliest opportunity, and send a formal reply to the appealing college within thirty days of such meeting, unless it extends the time for good cause shown.

NEW SECTION

WAC 114-12-041 COLLEGES—EDUCATIONAL STANDARDS REQUIRED FOR ACCREDITATION. (1) Objectives—the college shall:

- (a) Have clearly defined objectives.
- (2) Administration and organization—the college shall:
 - (a) Be incorporated as a non-profit institution and recognized as such by its state of domicile.
 - (b) Have full-time administrator.
 - (c) Have either a president or a dean of education with a doctor of chiropractic degree.
 - (d) Adopt policy of non-discrimination as to national origin, race, religion, or sex.
- (3) Educational offerings—the college shall:
 - (a) Provide educational offerings which prepare the student for successfully completing licensing examination and engaging in practice.
 - (b) Offer an educational program with a minimum of 4,000 in-class hours provided over a four year academic term.
 - (c) Have available syllabi for all courses.
 - (d) Offer chiropractic curriculum as follows: principles of chiropractic – 200 in-class hours; adjustive technique – 400 in-class hours; spinal roentgenology – 175 in-class hours; symptomatology and diagnosis – 425 in-class hours; clinic – 625 in-class hours.
 - (e) Offer 80 percent of the "principles of chiropractic" hours as study of the philosophy of chiropractic.
 - (f) Not include mechanotherapy, physiotherapy, acupuncture, acupressure, or dietary therapy or any other therapy in computation of the qualifying 4,000 classroom hours.
 - (g) Maintain a clinical program sufficient to fulfill the objectives of the college.
- (4) Faculty—the college shall:
 - (a) Provide sufficient faculty to support the educational program of the college.
 - (5) Students—the college shall:
 - (a) Select students on a non-discriminatory basis.
 - (b) Require that students maintain a 2.25 grade average and have no chiropractic subject grade less than 2.0.
 - (c) Require the student to complete a four-year academic program which meets all requirements of statute and rule for licensing to practice chiropractic in Washington state.
 - (6) Physical facilities and equipment—the college shall:
 - (a) Maintain a library of size and quality sufficient to serve the educational program.

- (b) Maintain a basic plant that facilitates the educational program.
- (c) Maintain clinic facilities that are of sufficient size and equipped appropriately to serve the student.
- (7) Financial—the college shall:
 - (a) Have adequate present and anticipated income to sustain a sound educational program.
 - (b) Have well formulated plans for financing existing and projected education programs.
 - (c) Have an annual audit of financial records by a CPA.
 - (d) Make records available for review by the board upon request.
- (8) Self-evaluation—the college shall:
 - (a) Have a program of continuing self-evaluation and such evaluation must be made available upon request by the board.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 114-12-010 COLLEGES—POLICY.
- WAC 114-12-020 COLLEGES—DEFINITIONS.
- WAC 114-12-030 COLLEGES—PROCEDURES.
- WAC 114-12-040 COLLEGES—GENERAL REQUIREMENTS AND RECOMMENDATIONS FOR APPROVAL.

WSR 81-05-005

ADOPTED RULES

ATHLETIC COMMISSION

[Order 80-2—Filed February 6, 1981]

Be it resolved by the State Athletic Commission, acting at the Seattle Airport Hilton, Seattle, Washington, that it does promulgate and adopt the annexed rules relating to WAC 36-12-190 Duties of state inspector, WAC 36-12-110 Referee, WAC 36-12-200 Contestants, WAC 36-12-260 Seconds, WAC 36-12-270 Matchmakers and WAC 36-12-480 Method of operation.

This action is taken pursuant to Notice No. WSR 81-01-116 filed with the code reviser on December 24, 1980. 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 Athletic Commission as authorized in chapter 67.08 RCW.

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

APPROVED AND ADOPTED January 28, 1981.

By Del Smith
Chairman

AMENDATORY SECTION (Amending Order 74-2, filed 11/17/76)

WAC 36-12-110 REFEREE. (1) Effective July 1, (~~(1977)~~) 1981 the fee for referee's license will be (~~(\$10.00)~~) \$15.00. The chief official of boxing contests shall be the referee, who shall have general supervision over bouts and take his place in the ring prior to each contest.

(2) The referee shall, before starting a contest, ascertain from each contestant the name of his chief second, and shall hold said chief second responsible for the conduct of his assistant seconds during the progress of the contest.

(3) The referee shall call contestants together before each bout for final instructions, at which time each contestant shall be accompanied by his chief second only. The principals after receiving instructions shall shake hands and retire to their corners. They shall not again shake hands until the beginning of the last round.

(4) No persons other than the contestants and the referee may enter the ring during the progress of a round.

(5) The referee shall inspect the bandages and the gloves and make sure that no foreign substances have been applied to either the gloves or any part of a boxer's head or body to the detriment of an opponent.

(6) Referees must wear dark trousers and shirt or uniforms subject to approval of the commission.

(7) All referees must take an annual physical and eye examination similar to that given to all applicants for boxers' and wrestlers' licenses and they shall be examined before officiating in any contest by the club physician before entering the ring the same as boxers and wrestlers; if such examinations indicate the referee is physically or otherwise disabled or incapacitated, such fact should be immediately reported, in writing, by the examining physician to the inspector in charge, who shall take appropriate action to replace such referee.

AMENDATORY SECTION (Amending Order 74-2, filed 11/17/76)

WAC 36-12-190 DUTIES OF STATE INSPECTOR. (1) They shall attend to the forwarding of all reports to the executive secretary of the commission; prepare reports on suspensions, applications for re-installment, and all other matters arising in their respective districts which require joint action by the commission.

(2) They shall have under their charge the issuing of licenses to boxers, managers, seconds, wrestlers, referees, timekeepers, clubs, physicians, judges, announcers and trainers. They shall investigate applications for club licenses and report same to the commission but shall not issue club licenses except upon the order of the commission. They shall not reinstate anyone under suspension or release fines or money held for forfeiture, these being matters for action by the commission's representative in

the form of certified checks made payable to the order of the state athletic commission of Washington.

(3) Inspectors shall report directly to the chief inspector of the district and be under his authority.

(4) Inspectors shall be in charge of all details of the contest that do not come under the jurisdiction of the other officials.

(5) Inspectors shall see that all necessary equipment is provided, that the contestants are ready on time, that the seconds are properly instructed in their duties, that the doctor's report and the statement of weights are delivered to the referee, and that all regulations pertaining to the proper conduct of the bout are enforced.

(6) Inspectors shall insist that clubs enforce the rule against gambling.

(7) Inspectors shall see that all seconds present a neat appearance and are attired according to the requirements of the rules.

(8) The referee's report shall be made on the form supplied for that purpose by the inspector. The referee shall sign the report in the presence of a state inspector after the termination of the show.

(9) In accordance with the law, each inspector shall receive for each contest officially attended a fee not to exceed one percent of the net gate of such contest up to a maximum of one hundred fifty dollars for closed circuit televised contests and three hundred dollars for all other contests. Fifty dollars shall be the ~~((maximum))~~ minimum charge for such fee with respect to closed circuit televised contests and twenty dollars for all other contests.

(10) Inspectors will check the number and places of ticket cans at the gates and see that they are sealed and padlocked. After the show have them opened and tickets counted under their supervision.

AMENDATORY SECTION (Amending Order 74-2, filed 11/17/76)

WAC 36-12-200 CONTESTANTS. (1) Effective July 1, ~~((1977))~~ 1981 the fee for wrestler's license will be ~~((\\$7.00))~~ \$15.00.

(2) Effective July 1, ~~((1977))~~ 1981 the fee for boxer's license will be ~~((\\$7.00))~~ \$15.00.

(3) Boxers and wrestlers may assume and use ring names, but the right to use any certain name is subject to the approval of the commission and may be denied either at the time of presenting application for license or later, should reason for such denial be brought before the commission.

(4) No professional boxer shall be allowed to sell tickets for any show in which he is engaged, on a commission basis or otherwise, on which he will receive remuneration for his services, as a boxer.

(5) Contestants shall report to the inspector in the dressing room at least one hour before they are due to appear in the ring.

(6) Contestants shall box in proper costume, including such foul proof protection cups as shall be listed as approved by the commission all of which shall be firmly adjusted before leaving the dressing room. Failure to obey this rule may result in a fine of not less than \$5.00

being imposed on the violator. Each boxer shall be equipped and use throughout the bout a custom made individually fabricated mouth guard.

(7) Boxers signed to engage in a contest must appear at scheduled ring time equipped with a pair of regulation trunks, which may be black, purple, dark green, dark red, dark blue or orange. These trunks must be of solid colors except white. They may be ornamented with a stripe around the belt and down the sides of a color which contrasts with the trunks, but which must also be chosen from one of the colors above specified. These trunks may bear a suitable emblem or insignia provided it is not of a commercial or advertising nature. The contestants shall not wear the same colors in the ring.

Boxers must wear regulation trunks which are loose fitting and made of light-weight cloth similar to an athlete's "running pants."

Tights will not be permitted.

The belt of the trunks shall not extend above the waist line.

Shoes shall be of soft material, and shall not be fitted with spikes, cleats, hard soles, or hard heels. Socks, rolled down to the tops of the shoes, may be of any color. No other apparel than above specified may be worn in the ring, except a bath robe, sweat clothes or jacket.

(8) The use of grease or other substances that might handicap an opponent is prohibited.

(9) Contestants must be clean and present a tidy appearance and be cleanly shaved.

(10) Any contestant absenting himself from a show in which he has signed or has been signed by his duly licensed manager, to appear, without a valid written excuse or furnishing a certificate from a commission physician in advance in case of a physical disability, automatically suspends himself for a period of sixty days. Any boxer who files a certificate from a commission physician stating that he is unable to fulfill a contract on account of physical disability must, on being restored to the eligible list fulfill his contract with the same opponent or a suitable substitute at the club specified in the contract within a reasonable time, such period to be set by the commission, unless the boxer is released from the contract by mutual agreement.

(11) A boxer must be in the city where appearing, forty-eight hours before the contest. Main event boxers scheduled to appear ~~((on [in]))~~ in cities of more than 75,000 population shall be present in such city at least five days in advance of the date on which the bout is scheduled for the purpose of training, publicity and for whatever other purposes the promoter may desire.

Any boxer or manager of boxers who violates this rule will be suspended and fined.

When a boxer competes in a bout of more than four rounds he will not be allowed to compete again until six days have elapsed.

When a boxer competes in a bout of four rounds or less, he will not be allowed to compete again until two days have elapsed.

(12) No one shall be allowed in the boxer's dressing room except his manager, seconds and commission or club representatives.

(13) In each application for a bout, the results of the last six bouts for each main event contestant shall be included in a sworn statement signed by the boxer, manager and promoter. This shall include a clause certifying that the boxer is in excellent physical condition and is not concealing an illness or injury.

AMENDATORY SECTION (Amending Rule .04.250, filed 9/22/60)

WAC 36-12-250 MANAGERS. (1) Manager's license fee will be (~~(\$25.00)~~) \$40.00 per annum.

(2) Managers must not sign a contract for the appearance of any boxer with whom he has not a written contract on file with the commission. Contracts between boxer and manager must be on a contract form approved by and furnished by the commission, except that any particular contract form not furnished by the commission may be approved by the commission as a whole. A contract between a manager and a boxer on file with the commission will be recognized until such time as a court of competent jurisdiction determines it to be of no further force and effect.

(3) Managers must not attempt to select or insist upon the selection of any designated referee in a bout in which a boxer under his management is to appear and shall not have the name of such referee written into the official contract, under penalty of a fine of not less than \$100.00. Managers cannot contribute to the pay of any referee under any circumstances.

(4) Managers who act as seconds for their own boxers, exclusively, are not required to take out a second's license.

(5) Contracts between manager and boxer are not transferable except with approval and consent of the commission and may be voided by the commission for cause. In case of a minor, the contract must be executed by his proper legal guardian. To settle dispute, birth certificate may be required.

(6) All contracts between manager and boxer must be in writing and signed in triplicate, the original filed with the commission for approval. Contracts must state the division of the boxer's earnings, which in no case shall allow the manager more than 33-1/3 per cent of the boxer's purse.

(7) No assignment of any part or parts of a boxer's or a manager's interest in a contract can be made without the written approval and consent of the commission.

(8) No manager shall be allowed to contract for the services of a boxer under his management for a match to take place on a date after the expiration of the contract between the boxer and the manager.

(9) Any boxer not under contract to a manager can make his own matches, sign contracts and need not apply for a manager's license to handle his own affairs.

(10) In cases where boxers sign contracts with managers the boxer's share of any purse which he may earn will not be less than 66-2/3 per cent.

(11) If a manager shall fail to make application for a license he shall forfeit all rights to boxers on whom he has filed contracts in this state and the boxer shall be free to sign contracts with other licensed managers.

Managers must file contracts on all boxers under their management.

(12) If a manager is doing business for a boxer not signed to a contract, such boxer must personally sign all contracts for appearances at licensed clubs and his signature must be properly witnessed.

(13) No boxer can have more than one manager without the express approval of the commission.

AMENDATORY SECTION (Amending Order 74-2, filed 11/17/76)

WAC 36-12-260 SECONDS. (1) Second's annual license fee effective July 1, (~~(1977)~~) 1981 will be (~~(\$5.00)~~) \$20.00.

(2) Seconds and managers acting as seconds must be neatly attired when in the ring and wear jerseys of plain colors and with sleeves. Sport shirts without ties are permissible. No advertising matter shall appear on the person or clothing of seconds or managers (~~(on-for)~~) or on the person or clothing of anyone appearing in the ring in any capacity.

(3) A second holding only a second's license shall not attempt to act as a manager, or assist in any way in procuring matches, or take a share of the boxer's earnings. If found guilty of such actions he shall be suspended.

(4) Seconds shall not be more than three in number, including "house assistant second."

(5) Seconds must not coach or in any way assist a principal during a round, or by word or action attempt to heckle or annoy his opponent. They must remain seated in place, and be silent.

(6) Before a bout the referee shall be informed of the identity of the chief second.

(7) No father, brother, mother, sister or wife of a boxer shall be allowed to act as his second unless special permission is obtained in writing from the commission.

(8) Fans may be used between rounds, swinging of towels prohibited. Seconds must not spray or forcefully throw water on a contestant.

(9) Seconds shall not enter a ring until the bell indicates the end of a round. They shall leave the ring at the sound of the timer's whistle ten seconds before a round is to begin, removing all obstructions, buckets, stools, etc., promptly at the sounding of the gong.

(10) Violations of the above rules shall be followed by ejection of offenders from the ring corner; and may result in indefinite suspension of the offenders and disqualification of their principal by the referee.

AMENDATORY SECTION (Amending Rule .04.270, filed 9/22/60)

WAC 36-12-270 MATCHMAKERS. (1) Matchmaker's license fee (~~(\$25.00)~~) \$40.00.

(2) Matchmakers must observe all the rules and requirements with respect to weight agreement and weighing-in, and the proper execution and filing of contracts.

(3) Matchmakers will be held responsible by the commission if they make matches in which one of the principals is outclassed. Persistent lack of judgment in this matter will be regarded as cause for canceling the

license of the matchmaker and the club which he represents, for the protection of both the boxers and the public.

(4) Managers are not allowed to have more than three boxers under their management in any one show without special permission in writing from the commission. Matchmakers must rigidly enforce this rule.

(5) A matchmaker can make matches for only one club unless special written permission is obtained from the commission, after a vote has been taken.

(6) Any promoter or matchmaker who deals with an unlicensed manager may have his license revoked or suspended and he may be subject to such fine as the commission may determine.

(7) Any promoter or matchmaker found guilty of managing a boxer shall have his license suspended, and in the case of a promoter, his club license may be revoked.

AMENDATORY SECTION (Amending Rule, filed 12/6/67)

WAC 36-12-480 METHOD OF OPERATION. The State Athletic Commission composed of three members appointed by the governor is generally responsible for the supervision, licensing and control of all boxing contests and wrestling matches or exhibitions conducted within the state. The commission functions through announced periodic official commission meetings, throughout the state, which are open to the public, and conducts hearings in accordance with the practice and procedural rules, WAC 36-08-010 through WAC 36-08-520 where required. State inspectors are appointed by the commission to perform various duties as contained in WAC 36-12-190. The commission also employs a secretary. Submissions, inquiries and requests may be directed to the Athletic Commission secretary, in care of the commission office, (~~210 East Union,~~) Olympia, Washington ((~~98501~~)) 98504 (telephone ((~~753-6478~~)) 753-3713).

WSR 81-05-006
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 81-12—Filed February 6, 1981]

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

I, Rolland A. Schmitten, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is severe problems with under-reporting of commercially harvested geoducks necessitated these corrective measures. Accurate

statistics are required for proper management of the 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 February 6, 1981.

By Rolland A. Schmitten

NEW SECTION

WAC 220-52-07500C GEODUCK HARVEST LOGS. *Notwithstanding the provisions of WAC 220-52-075, effective immediately until further notice, geoduck harvest logs must be completed in ink and signed in ink by the vessel operator, and all copies must be legible.*

NEW SECTION

WAC 220-69-24000C COMMERCIAL GEODUCK LANDINGS. (1) *Notwithstanding the provisions of WAC 220-69-240, effective immediately until further notice, it is unlawful for any person, partnership, association, corporation or similar entity receiving or purchasing geoducks from fishermen, firms or individuals, regardless of whether or not the receiving or purchaser holds a license as required under Title 75 RCW, to fail to completely, accurately and legibly prepare an appropriate State of Washington fish receiving ticket regarding each and every receipt or purchase of geoducks immediately upon the actual landing of said geoducks from the harvesting vessel onto the shore, or upon transfer to another vessel.*

NEW SECTION

WAC 220-69-25401C SHELLFISH RECEIVING TICKETS - GEODUCKS. (1) *Effective immediately until further notice, the following additional information is required on each completed fish receiving ticket reporting the receipt or purchase of geoducks.*

(a) *The vessel identification number of the vessel delivering geoducks must be written legibly across the top of the fish receiving ticket.*

(b) *The name of the diver delivering geoducks must be printed legibly on the fish receiving ticket.*

(c) *The diver delivering geoducks must sign the fish receiving ticket.*

(2) *All other information required to complete fish receiving tickets as provided in Chapter 220-69 WAC must be entered on fish receiving tickets reporting the receipt or purchase of geoducks.*

WSR 81-05-007
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION
 [Filed February 9, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Disclosure Commission intends to adopt, amend, or repeal rules concerning Agency lobbying—Reporting of lobbying by independent contractors, adopting WAC 390-20-054;

that such agency will at 9:00 a.m., Tuesday, March 24, 1981, in the Second Floor, Conference Room, Evergreen Plaza Building, 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., Tuesday, March 24, 1981, in the Second Floor, Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia.

The authority under which these rules are proposed is RCW 42.17.370(1).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to March 24, 1981, and/or orally at 9:00 a.m., Tuesday, March 24, 1981, Second Floor, Conference Room, Evergreen Plaza Building, Olympia, Washington.

Dated: February 9, 1981
 By: Graham E. Johnson
 Administrator

STATEMENT OF PURPOSE

Title: WAC 390-20-054 Agency lobbying—Reporting of lobbying by independent contractors.

Description of purpose: To provide interpretation of reporting of lobbying activity by an independent contractor on behalf of a public agency.

Statutory authority: RCW 42.17.370.

Summary of rule: (1) Requires contractor to register and report per RCW 42.17.150 and .170. (2) Permits agency to satisfy lobbyist employer report with L-5 entry.

Reasons supporting proposed action: Several recent requests for interpretation.

Agency personnel responsible for the drafting, implementation and enforcement: Graham E. Johnson, Administrator.

Person or organization proposing rule, and whether public, private, or governmental: Public Disclosure Commission (governmental—public).

Agency comments or recommendations regarding statutory language, implementation, enforcement, fiscal matters: [No information supplied by agency]

Whether rule is necessary as result of federal law or federal or state court action: No.

NEW SECTION

WAC 390-20-054 AGENCY LOBBYING—REPORTING OF LOBBYING BY INDEPENDENT CONTRACTORS. (1) An independent contractor who is retained to lobby on behalf of an agency

shall register and report as a lobbyist pursuant to RCW 42.17.150 and 42.17.170.

(2) An agency which retains an independent contractor as a lobbyist and reports all of its expenditures in connection therewith pursuant to RCW 42.17.190 shall not be obligated to file a report pursuant to RCW 42.17.180 with regard to that lobbyist.

WSR 81-05-008
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Order 1597—Filed February 9, 1981]

I, N. Spencer Hammond, Ex. Asst. of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to refugee assistance, amending WAC 388-55-010.

I, N. Spencer Hammond, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is these rules are necessary to comply with federal requirements.

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 the 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 February 5, 1981.

By N. S. Hammond
 Executive Assistant

Chapter 388-55 WAC
((ASIAN)) REFUGEE ASSISTANCE

AMENDATORY SECTION (Amending Order 1367, filed 1/17/79, effective 3/1/79)

WAC 388-55-010 ((INDOCHINESE)) REFUGEE ASSISTANCE. (1) Assistance shall be granted to ((Vietnamese, Cambodian and Laotian)) refugees within the provisions of Public Law ((95-145)) 96-212, the ((Indochinese)) Refugee Assistance Program.

(2) For the purpose of the refugee assistance program a refugee is defined as a ((Cambodian, Vietnamese or Laotian national)) person who has 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) A person from Cambodia, Laos, or Vietnam who is receiving Indochinese Refugee Assistance because he/she was:

((~~(a)~~) An individual)) (i) A person who has parole status as indicated by an INS (Immigration and Naturalization Service) Form I-94.

((~~(b)~~) An individual)) (ii) A person who has voluntary departure status as indicated by Form I-94.

((~~(c)~~) An individual)) (iii) A person who has conditional entry status as indicated by Form I-94.

((~~(d)~~) An individual)) (iv) A person 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)) (v) A person 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.

(b) A person from Cuba who is receiving assistance or services under Cuban Phase Down Program, who entered the United States on or after October 1, 1978.

Such persons must have:

(i) A registration card issued by the United States Cuban Refugee Center in Miami on or after October 1, 1978, and

(ii) INS documentation sufficient to establish that the person entered the United States on or after October 1, 1978, or verification with the United States Cuban Refugee Center of the refugee's date of entry.

(c) A person from Cambodia, Laos, or Vietnam who has parole status.

(i) Such persons must have a Form I-94 indicating that the person has been paroled under Section 212(d)(5) of the Immigration and Nationality Act (INA).

(ii) If the Form I-94 was issued on or after June 1, 1980, it must clearly indicate that the person has been paroled as a refugee or asylee.

(d) A person from Cuba who has been paroled as a refugee or asylee and who entered the United States on or after October 1, 1978.

(i) Such persons must have a Form I-94 indicating that the person has been paroled under Section 212(d)(5) of the INA.

(ii) If the Form I-94 was issued on or after April 21, 1980, it must clearly indicate that the person has been paroled as a refugee or asylee.

(e) An individual from any country other than Cambodia, Laos, Vietnam, or Cuba who has parole status as a refugee or asylee as evidenced by a Form I-94 indicating that the person has been paroled under Section 212(d)(5) of the INA as a refugee or asylee.

(f) An individual admitted from any country as a conditional entrant under Section 203(a)(7) of the INA. This must be indicated on the Form I-94.

(g) An individual from any country admitted as a refugee under Section 207 of the INA. This must be indicated on their Form I-94.

(h) An individual from any country who has been granted asylum under Section 208 of the INA. This must be indicated on their Form I-94.

(i) A person from any country who previously held one of the statuses identified above whose status has been changed to that of permanent resident alien.

(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.

(5) Requirements of categorical relatedness of federal assistance programs are waived for refugees under the refugee assistance program.

(6) Refugees terminated from the AFDC program because of refusal to comply with requirements, shall not be eligible for ~~(HRAP))~~ refugee assistance.

(7) 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. No resources which are not available, including property remaining in Vietnam, Laos or Cambodia, shall be considered in determining eligibility for financial assistance.

(8) 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.

(9) (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 sixteen, or who is under age twenty-one and is attending school or training full time, or who is age twenty-one or over and is attending school or training as approved by the department;

(ii) A person who is ill, incapacitated, or over sixty-five;

(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))~~) 388-57-025(3) through (7).

(c) Inability to communicate in English does not justify exemption from registration or acceptance of employment.

(10) Refusal of an employable adult refugee to register with the employment service without good cause shall result in the following actions. In addition, refusal to accept, continue or participate in a training or employment opportunity or referral, from any source, which is determined appropriate for that refugee by the CSO shall also result in the following actions:

(a) The ~~((ESSO))~~ CSO will provide counseling within seven days of ~~((recipients))~~ the individual's 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))~~ CSO.

(b) An employable adult refugee applicant who refuses a work or training opportunity or referral without good cause, as stated above within thirty days prior to application shall be ineligible for refugee assistance for thirty days from the date of the refusal. The dependent family of such an ineligible applicant may apply for and receive assistance if otherwise eligible.

(c) If the employable refugee recipient continues to refuse an offer of employment or training, assistance will be terminated thirty days after the date of his original refusal. The refugee shall be given at least ten 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, provided that the provisions for safeguarding information in chapter 388-48 WAC are met.

(iv) A decision by the refugee to accept employment or training, made at any time within the thirty-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 thirty days after the termination of assistance because of refusal to accept or continue employment or training.

(11) An employable adult refugee shall be exempt from the work registration requirements in subsections

(9) and (10) of this section for a period of sixty days after the person's date of entry into the United States.

(12) 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.

~~((+2))~~ (13)(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.

~~((+3))~~ (14) All refugee recipients who are sixty-five 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.

~~((+4))~~ (15)(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 (11)(a)))~~ Subsection (13)(a) of this section 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 of the six 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 of the six 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.

~~((+5))~~ (16) Refugee recipients shall have their continuing eligibility for financial and medical assistance redetermined at least once in every ~~((three))~~ six months of continuous receipt of assistance.

(17) The rules in subsections (1) through (16) of this section shall be effective February 1, 1981.

(18) Effective April 1, 1981, persons who meet the above criteria shall be eligible for refugee assistance only during the thirty-six month period beginning in the first month that the individual entered the United States.

WSR 81-05-009
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed February 9, 1981]

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 refugee assistance, amending WAC 388-55-010.

It is the intention of the secretary to file these rules on an emergency basis prior to the hearing.

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

N. Spencer Hammond
 Executive Assistant
 Department of Social and Health Services
 Mail Stop OB-44 C
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Jefferson, Olympia, Washington, Phone (206) 753-7015, by March 11, 1981. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Wednesday, March 25, 1981, in the Auditorium, Office Building #2, 12th and Franklin, 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, April 1, 1981, in William B. Pope's office, 4th Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 43.20A.550.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to March 25, 1981, and/or orally at 10:00 a.m., Wednesday, March 25, 1981, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: February 5, 1981

By: N. S. Hammond
 Executive Assistant

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Amend WAC 388-55-010.

Purpose of the rule or rule change is to amend the refugee assistance program to comply with P.L. 96-212.

Statutory authority: RCW 43.20.550[43.20A.550].

Summary of the rule or rule change:

Removes national origin as a consideration for eligibility under the Refugee Assistance Program;

Exempts refugees from work registration during the first 60 days from date of entry into the U.S.;

Lengthens eligibility review period from three months to six months for refugee assistance;

Effective April 1, 1981, limits eligibility for refugee assistance to 36 months from the recipient's month of entry to the U.S.

Imposes a 30 day sanction for applicants who quit work without good cause prior to applying for assistance.

Person or persons responsible for the drafting, implementation and enforcement of the rule:

Name of initiator: Gerry Nelson

Title: Program Manager

Office: Bureau of Income Maintenance

Phone: 3-3177

Mailstop: OB-31 C

These rules are necessary as a result of a Federal law, the Refugee Act of 1980 (P.L. 96-212) and implementing rules.

Chapter 388-55 WAC ((ASIAN)) REFUGEE ASSISTANCE

AMENDATORY SECTION (Amending Order 1367, filed 1/17/79, effective 3/1/79)

WAC 388-55-010 ((~~INDOCHINESE~~)) REFUGEE ASSISTANCE. (1) Assistance shall be granted to ((~~Vietnamese, Cambodian and Laotian~~)) refugees within the provisions of Public Law ((95-145)) 96-212, the ((~~Indochinese~~)) Refugee Assistance Program.

(2) For the purpose of the refugee assistance program a refugee is defined as a ((~~Cambodian, Vietnamese or Laotian national~~)) person who has 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) A person from Cambodia, Laos, or Vietnam who is receiving Indochinese Refugee Assistance because he/she was:

((~~(a) An individual~~)) (i) A person who has parole status as indicated by an INS (Immigration and Naturalization Service) Form I-94.

((~~(b) An individual~~)) (ii) A person who has voluntary departure status as indicated by Form I-94.

((~~(c) An individual~~)) (iii) A person who has conditional entry status as indicated by Form I-94.

((~~(d) An individual~~)) (iv) A person 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~~)) (v) A person 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.

(b) A person from Cuba who is receiving assistance or services under Cuban Phase Down Program, who entered the United States on or after October 1, 1978. Such persons must have:

(i) A registration card issued by the United States Cuban Refugee Center in Miami on or after October 1, 1978, and

(ii) INS documentation sufficient to establish that the person entered the United States on or after October 1, 1978, or verification with the United States Cuban Refugee Center of the refugee's date of entry.

(c) A person from Cambodia, Laos, or Vietnam who has parole status.

(i) Such persons must have a Form I-94 indicating that the person has been paroled under Section 212(d)(5) of the Immigration and Nationality Act (INA).

(ii) If the Form I-94 was issued on or after June 1, 1980, it must clearly indicate that the person has been paroled as a refugee or asylee.

(d) A person from Cuba who has been paroled as a refugee or asylee and who entered the United States on or after October 1, 1978.

(i) Such persons must have a Form I-94 indicating that the person has been paroled under Section 212(d)(5) of the INA.

(ii) If the Form I-94 was issued on or after April 21, 1980, it must clearly indicate that the person has been paroled as a refugee or asylee.

(e) An individual from any country other than Cambodia, Laos, Vietnam, or Cuba who has parole status as a refugee or asylee as evidenced by a Form I-94 indicating that the person has been paroled under Section 212(d)(5) of the INA as a refugee or asylee.

(f) An individual admitted from any country as a conditional entrant under Section 203(a)(7) of the INA. This must be indicated on the Form I-94.

(g) An individual from any country admitted as a refugee under Section 207 of the INA. This must be indicated on their Form I-94.

(h) An individual from any country who has been granted asylum under Section 208 of the INA. This must be indicated on their Form I-94.

(i) A person from any country who previously held one of the statuses identified above whose status has been changed to that of permanent resident alien.

(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.

(5) Requirements of categorical relatedness of federal assistance programs are waived for refugees under the refugee assistance program.

(6) Refugees terminated from the AFDC program because of refusal to comply with requirements, shall not be eligible for ((HRAP)) refugee assistance.

(7) 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. No resources which are not available, including property remaining in Vietnam, Laos or Cambodia, shall be considered in determining eligibility for financial assistance.

(8) 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.

(9) (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 sixteen, or who is under age twenty-one and is attending school or training full time, or who is age twenty-one or over and is attending school or training as approved by the department;

(ii) A person who is ill, incapacitated, or over sixty-five;

(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))) 388-57-025(3) through (7).

(c) Inability to communicate in English does not justify exemption from registration or acceptance of employment.

(10) Refusal of an employable adult refugee to register with the employment service without good cause shall result in the following actions. In addition, refusal to accept, continue or participate in a training or employment opportunity or referral, from any source, which is determined appropriate for that refugee by the CSO shall also result in the following actions:

(a) The ((ESSO)) CSO will provide counseling within seven days of ((recipients)) the individual's 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)) CSO.

(b) An employable adult refugee applicant who refuses a work or training opportunity or referral without good cause, as stated above within thirty days prior to application shall be ineligible for refugee assistance for thirty days from the date of the refusal. The dependent family of such an ineligible applicant may apply for and receive assistance if otherwise eligible.

(c) If the employable refugee recipient continues to refuse an offer of employment or training, assistance will be terminated thirty days after the date of his original refusal. The refugee shall be given at least ten 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, provided that the provisions for safeguarding information in chapter 388-48 WAC are met.

(iv) A decision by the refugee to accept employment or training, made at any time within the thirty-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 thirty days after the termination of assistance because of refusal to accept or continue employment or training.

(11) An employable adult refugee shall be exempt from the work registration requirements in subsections (9) and (10) of this section for a period of sixty days after the person's date of entry into the United States.

(12) 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.

((+2)) (13)(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.

((+3)) (14) All refugee recipients who are sixty-five 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.

((+4)) (15)(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 (+1)(a))) Subsection (13)(a) of this section 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 of the six 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 of the six 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.

((+5)) (16) Refugee recipients shall have their continuing eligibility for financial and medical assistance redetermined at least once in every ((three)) six months of continuous receipt of assistance.

(17) The rules in subsections (1) through (16) of this section shall be effective February 1, 1981.

(18) Effective April 1, 1981, persons who meet the above criteria shall be eligible for refugee assistance only during the thirty-six month period beginning in the first month that the individual entered the United States.

WSR 81-05-010

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 1720—Filed February 9, 1981]

I, M. Keith Ellis, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the adoption of WAC 16-608-001, 16-608-010 and 16-608-020 for the purpose of providing regulations for special livestock sales for other than public livestock markets.

This action is taken pursuant to Notice No. WSR 81-01-113 filed with the code reviser on December 24, 1980. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 16.65 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 February 9, 1981.

By M. Keith Ellis
Director

**CHAPTER 16-608 WAC
SPECIAL LIVESTOCK SALES**

WAC

- 16-608-001 Definitions.
- 16-608-010 Special Permits.
- 16-608-020 Membership.

NEW SECTION

WAC 16-608-001 DEFINITIONS. For the purpose of these regulations:

(1) "Farmers cooperative association" means any properly incorporated cooperative association whose membership is made up of livestock producers.

(2) "Association of livestock breeders" means any properly incorporated association whose membership is made up of livestock breeders. In addition, all definitions contained in RCW 16.65.010 shall apply.

NEW SECTION

WAC 16-608-010 SPECIAL PERMITS. Any farmers cooperative association or association of live-stock breeders, or farmer selling his own livestock on his own premises by auction or any other method, who is requesting the approval of the director for a special sale, shall make such request in writing at least fifteen days prior to such proposed sale date and such sale date shall be approved subject to the discretion of the director.

NEW SECTION

WAC 16-608-020 MEMBERSHIP. For the purpose of assuring that any sale proposed by a farmers cooperative association or association of livestock breeders is limited to the sale of their own livestock, any such association may be required to verify to the director that any person offering livestock for sale in such special sale was a member of the association at the time of the filing of any consignment application, contract or commitment.

WSR 81-05-011

EMERGENCY RULES

DEPARTMENT OF GAME

[Order 124—Filed February 9, 1981]

Be it resolved by the undersigned, Jack S. Wayland, Acting Director, Washington State Department of Game, that I promulgate and adopt at Olympia, Washington, as emergency rule of this governing body, the annexed rule relating to Skokomish and Humptulips rivers and Morse Creek to the taking of steelhead trout by treaty Indians, adopting WAC 232-32-133.

I, Jack S. Wayland, Acting Director, find an emergency exists and that the foregoing order adopting emergency rule WAC 232-32-133 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 and that observance of the requirements for adoption of permanent rules which are effective only upon expiration of 30 days after the date of filing is contrary to public interest as the statement of facts constituting such emergency reveals. A statement of the facts constituting such emergency is data gathered by Department of Game from information provided by fish buyers reporting sales of steelhead harvested by Treaty Indian fishermen from the Skokomish and Humptulips rivers and Morse Creek pursuant to the reporting system approved by the United States District Court in United States v. Washington, and information from Quinault Tribe and Point-No-Point Treaty Council indicates that the treaty share of harvestable steelhead for the Skokomish and Humptulips rivers and Morse Creek has been reached or will have been reached on the effective date of this order. Therefore, a closure of the Skokomish and Humptulips rivers and Morse Creek is necessary to assure non-treaty sports fishermen their right to take their share of those remaining steelhead.

Such rule is therefore adopted as an emergency.

This rule is promulgated under the authority of the Director of Game 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 this governing body, shall be forwarded to the Code Reviser for filing pursuant to chapter 34.04 RCW, and chapter 1-12 WAC.

APPROVED AND ADOPTED February 9, 1981.

Jack S. Wayland

NEW SECTION

WAC 232-32-133 CLOSURE OF THE SKOKOMISH AND HUMPTULIPS RIVERS AND MORSE CREEK TO THE TAKING OF STEEL-HEAD TROUT BY TREATY INDIANS. It shall be unlawful for all persons to take, fish for, or possess steelhead trout with gill nets and purse seine gear in the Skokomish and Humptulips rivers and Morse Creek: effective 12:00 Noon, February 11, 1981.

WSR 81-05-012
RULES OF COURT
STATE SUPREME COURT
[February 9, 1981]

IN THE MATTER OF THE
ADOPTION OF AMENDMENTS
TO JCrR 4.09.

NO. 25700-A-314
ORDER

The Judicial Council having recommended the adoption of amendments to JCrR 4.09 and having determined that the recommendations as amended by the Court will aid in the prompt and orderly administration of justice; Now, therefore, it is hereby

ORDERED:

- (a) That the amendments to JCrR 4.09 as attached hereto are adopted.
- (b) For the purposes of clarity, the interchange of section (d) and subsection (c)(2) have not been expressed in bill draft form.
- (c) That the amendments are to be published expeditiously in the Washington Reports and shall become effective February 20, 1981.

DATED at Olympia, Washington, this 9th day of February, 1981.

Robert F. Brachtenbach

Hugh J. Rosellini

Floyd V. Hicks

Charles F. Stafford

William H. Williams

Fred H. Dore

Robert F. Utter

James M. Dolliver

Carolyn R. Dimmick

RULE 4.09

EVIDENCE

(a) Rules of Evidence. The Rules of Evidence (ER) are applicable to criminal prosecutions.

(b) Confessions. With respect to confessions, in jury cases, the procedure set forth in CrR 3.5 shall apply, upon demand of the defendant.

(c) Test Reports by Experts.

(1) Generally. ~~Subject to section (d),~~ (T)he official written report of an expert witness which contains the results of any test of a substance or object which are relevant to an issue in a trial shall be admitted in evidence without further proof or foundation as prima facie evidence of the facts stated in the report if the report bears the following certification:

TEST CERTIFICATION

The undersigned certifies under penalty of perjury that:

- 1. He performed the test on the (substance) (object) in question,
- 2. The person from whom he received the (substance) (object) in question is: _____
- 3. The document on which this certificate appears or to which it is attached is a true and complete copy of my official report, and
- 4. Such document is a report of the results of a test which report and test were made by the undersigned who has the following qualifications and experience:

Signature

Title

Business Address and Phone

(2) Exclusion of Test Reports. The court shall exclude test reports otherwise admissible under section (c) if:

- (i) A copy of the certified report or certificate has not been delivered or mailed to the defendant or the defendant's lawyer at least 14 days prior to the trial date or, upon a showing of cause, such lesser time as the court deems proper, or

(ii) In the case of an unrepresented defendant, a copy of this rule in addition to a copy of the certified report or certificate has not been delivered or mailed to the defendant at least 14 days prior to the trial date or, upon a showing of cause, such lesser time as the court deems proper, or

(iii) At least 7 days prior to the trial date or, upon a showing of cause, such lesser time as the court deems proper, the defendant has delivered or mailed a written demand upon the prosecutor to produce the ~~Breathalyzer maintenance operator or other expert witness~~ at the trial.

(d) ~~Breathalyzer Maintenance Certificates. Subject to section (d):~~

(1) Admission of Certificate. In the absence of a request to produce a Breathalyzer maintenance operator made at least 7 days prior to trial or such lesser time as the court deems proper, certificates in the following form are admissible in any court proceeding held pursuant to RCW 46.61.506 for the purpose of determining whether a person was operating or in actual physical control of a motor vehicle while under the influence of intoxicating liquors:

BREATHALYZER MAINTENANCE AND CHEMICAL CERTIFICATION

I, _____, do certify under penalty of perjury as follows:

I am a maintenance operator possessing a valid permit or certificate issued to me by the state toxicologist by virtue of his rules, WAC 448, chapter 12, and RCW 46.61.506.

On _____ (date) at _____ (time) I examined, tested and calibrated a Breathalyzer machine with Serial No. _____ using a sealed ampule of chemicals with Control No. _____ according to the methods established and approved by the state toxicologist.

I further certify that said machine was, on that date, in proper working order, and that the chemicals in ampules with the above control number are suitable for use in this machine.

Breathalyzer Maintenance Operator

Dated _____

(2) Continuance. The court at the time of trial shall hear testimony concerning the alleged offense and, if necessary, may continue the proceedings for the purpose of obtaining the maintenance operator's presence for testimony concerning the working order of the Breathalyzer machine and his certification thereof. If, at the time the maintenance operator is produced, the prosecutor's Breathalyzer evidence is insufficient, a motion to suppress the results of such tests shall be granted.

WSR 81-05-013
ADOPTED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Order 81-3—Filed February 10, 1981]

I, Leon Flaherty, acting director of Labor and Industries, do promulgate and adopt at the office of the director, the annexed rules relating to safety standards for logging, housekeeping amendments to place illustrations in the proper section of the logging code, chapter 296-54 WAC.

This action is taken pursuant to Notice No. WSR 80-18-040 filed with the code reviser on December 3, 1980. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 34.04.025, 49.17.040 and 49.17.050 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 10, 1981.

By Leon Flaherty
Acting Director

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-559 YARDING—HELICOPTERS AND HELICOPTER CRANES. (1) Helicopters and helicopter cranes shall comply with any applicable regulations of the Federal Aviation Administration.

(2) Prior to each day's operation, a briefing shall be conducted. This briefing shall set forth the plan of operation for the pilot and ground personnel.

(3) A take-off path from the log pickup point shall be established, and shall be made known to all workers in that area before the first turn of logs is moved.

(4) The helicopter flight path to and from the drop zone shall be designated and no equipment or personnel (other than flight personnel necessary to assist landing and take-off) will occupy these areas during helicopter arrival or departure.

(5) The approach to the landing shall be clear and long enough to prevent tree tops from being pulled into the landing.

(6) The helicopter shall not pass over an area in which cutters are working at a height which would cause the rotor wash to inhibit a cutter's ability to safely control a tree or dislodge limbs.

(7) Drop zones shall be twice the nominal length of logs to be landed.

(8) The drop zone shall be no less than one hundred twenty-five feet from the loading or decking area.

(9) Separate areas shall be designated for landing logs and fueling the helicopter(s).

(10) The yarding helicopter shall be equipped with a siren to warn workers of any hazardous situation.

(11) Workers shall remain in the clear as chokers are being delivered, and under no circumstances will workers move under the helicopter that is delivering the chokers or take hold of the chokers before they have been released by the helicopter.

(12) Log pickup shall be arranged in a manner that the hook up crew will not work on slopes below felled and bucked timber.

(13) If the load must be lightened, the hook shall be placed on the ground on the uphill side of the turn before the hooker approaches to release the excess logs.

(14) Landing crew shall be in the clear before logs are dropped.

(15) One end of all the logs in the turn shall be touching the ground and lowered to an angle of not more than 45° from the horizontal before the chokers are released.

(16) Logs shall be laid on the ground and the helicopter will be completely free of the choker(s) before workers approach the logs.

(17) If the load will not release from the hook, the load and the hook shall be on the ground before workers approach to release the hook manually.

(18) Loads shall be properly slung. Tag lines shall be of a length that will not permit their being drawn up into rotors. Pressed sleeve, swedged eyes, or equivalent means shall be used for all freely suspended loads to prevent hand splices from spinning open or cable clamps from loosening.

(19) All electrically operated cargo hooks shall have the electrical activating device so designed and installed as to prevent inadvertent operation. In addition, these cargo hooks shall be equipped with an emergency mechanical control for releasing the load. The hooks shall be tested prior to each day's operation to determine that the release functions properly, both electrically and mechanically.

(20)(a) Personal protective equipment for employees receiving the load shall consist of complete eye protection and hard hats secured by chinstraps, and high visibility vests or outer garments.

(b) Loose-fitting clothing likely to flap in the downwash, and thus be snagged on hoist line, shall not be worn.

(21) Every practical precaution shall be taken to provide for the protection of employees from flying objects in the rotor downwash. All loose gear within one hundred feet of the place of lifting of the load, depositing the load, and all other areas susceptible to rotor downwash shall be secured or removed.

(22) Good housekeeping shall be maintained in all helicopter loading and unloading areas.

(23) The helicopter operator shall be responsible for size, weight, and manner in which loads are connected to the helicopter. If, for any reason, the helicopter operator believes the lift cannot be made safely, the lift shall not be made.

(24) Employees shall not perform work under hovering craft except for that limited period of time necessary to guide, secure, hook and unhook loads. Regardless of whether the hooking or unhooking of a load

takes place on the ground or other location in an elevated work position in structural members, a safe means of access and egress, to include an unprogrammed emergency escape route or routes, shall be provided for the employees hooking or unhooking loads.

(25) Static charge on the suspended load shall be dissipated with a grounding device before ground personnel touch the suspended load, or protective rubber gloves shall be worn by all ground personnel touching the suspended load.

(26) The weight of an external load shall not exceed the manufacturer's rating.

(27) Hoist wires or other gear, except for pulling lines or conductors that are allowed to "pay out" from a container or roll off a reel, shall not be attached to any fixed ground structure, or allowed to foul on any fixed structure.

(28) When visibility is reduced by dust or other conditions, ground personnel shall exercise special caution to keep clear of main and stabilizing rotors. Precautions shall also be taken by the employer to eliminate as far as practical reduced visibility.

(29) Signal systems between aircrew and ground personnel shall be understood and checked in advance of hoisting the load. This applies to either radio or hand signal systems. Hand signals shall be as shown in Figure 6.

(30) No unauthorized person shall be allowed to approach within fifty feet of the helicopter when the rotor blades are turning.

(31) Whenever approaching or leaving a helicopter with blades rotating, all employees shall remain in full view of the pilot and keep in a crouched position. Employees shall avoid the area from the cockpit or cabin rearward unless authorized by the helicopter operator to work there.

(32) Sufficient ground personnel shall be provided, when required, for safe helicopter loading and unloading operations.

(33) There shall be constant reliable communication between the pilot, and a designated employee of the ground crew who acts as a signalperson during the period of loading and unloading. This signalperson shall be distinctly recognizable from other ground personnel.

(34) Open fires shall not be permitted in an area that could result in such fires being spread by the rotor downwash.

(35) Under no circumstances shall the refueling of any type helicopter with either aviation gasoline or Jet B (Turbine) type fuel be permitted while the engines are running.

(36) Helicopters using Jet A (Turbine-Kerosene) type fuel may be refueled with engines running provided the following criteria is met:

(a) No unauthorized persons shall be allowed within fifty feet of the refueling operation or fueling equipment.

(b) A minimum of one thirty-pound fire extinguisher, or a combination of same, good for class A, B and C fires, shall be provided within one hundred feet on the upwind side of the refueling operation.

(c) All fueling personnel shall be thoroughly trained in the refueling operation and in the use of the available

fire extinguishing equipment they may be expected to utilize.

(d) There shall be no smoking, open flames, exposed flame heaters, flare pots or open flame lights within fifty feet of the refueling area or fueling equipment. All entrances to the refueling area shall be posted with "NO SMOKING" signs.

(e) Due to the numerous causes of static electricity, it shall be considered present at all times. Prior to starting refueling operations, the fueling equipment and the helicopter shall be grounded and the fueling nozzle shall be electrically bonded to the helicopter. The use of conductive hose shall not be accepted to accomplish this bonding. All grounding and bonding connections shall be electrically and mechanically firm, to clean unpainted metal parts.

(f) To control spills, fuel shall be pumped either by hand or power. Pouring or gravity flow shall not be permitted. Selfclosing nozzles or deadman controls shall be used and shall not be blocked open. Nozzles shall not be dragged along the ground.

(g) In case of a spill, the fueling operation shall be immediately stopped until such time as the person-in-charge determines that it is safe to resume the refueling operation.

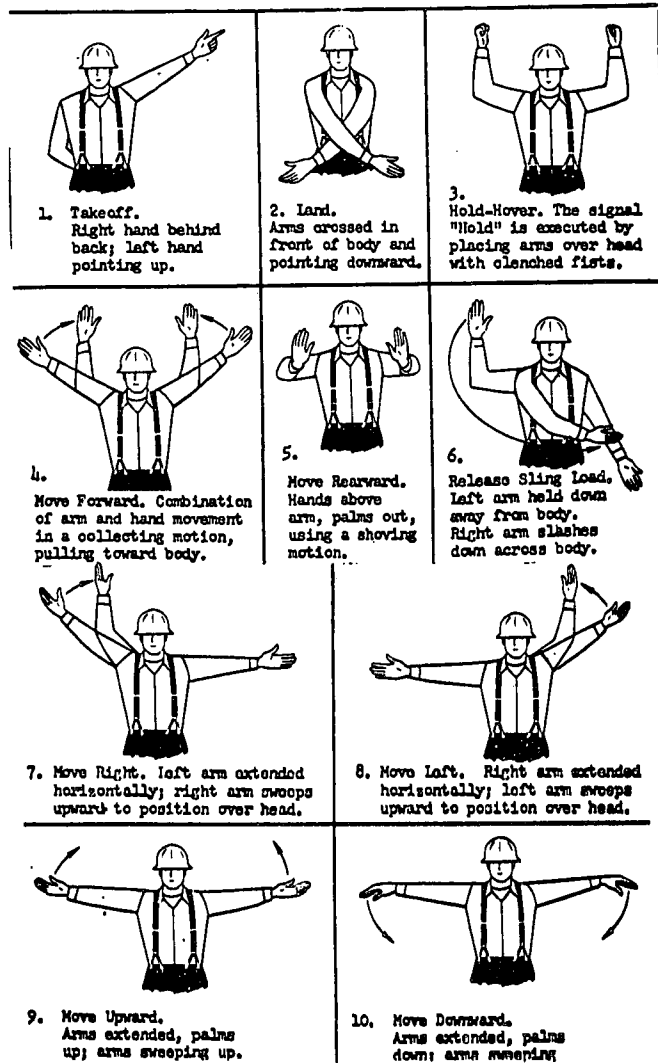
(h) When ambient temperatures have been in the 100 degree F. range for an extended period of time, all refueling of helicopters with the engines running shall be suspended until such time as conditions become suitable to resume refueling with the engines running.

(37) Helicopters with their engines stopped being refueled with aviation gasoline or Jet B (Turbine) type fuel, shall also comply with subsection (36) (a) through (g) of this section.

(38) Hook on persons in logging operations shall wear contrasting colored hard hats, with chinstraps, and high visibility vests or outer garments to enable the helicopter operator to readily identify their location.

(39) Riding the load or hook of a helicopter is prohibited except in the case of an emergency with the proper safety gear.

HELICOPTER HAND SIGNALS



NOTE: See Figures No. 7-A through 7-P, for Illustrations of Various Types of Cable Logging Systems.

See Figures No. 7-Q through 7-U, for Illustrations of Whistle Signals used on Various Cable Logging Systems.

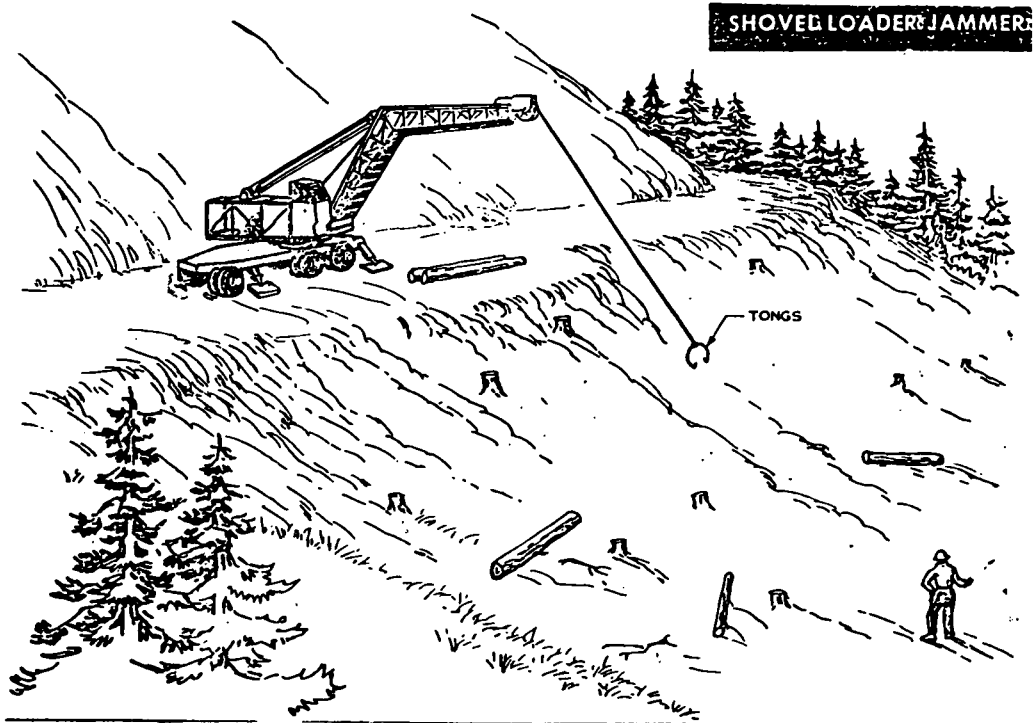


FIGURE 7-A

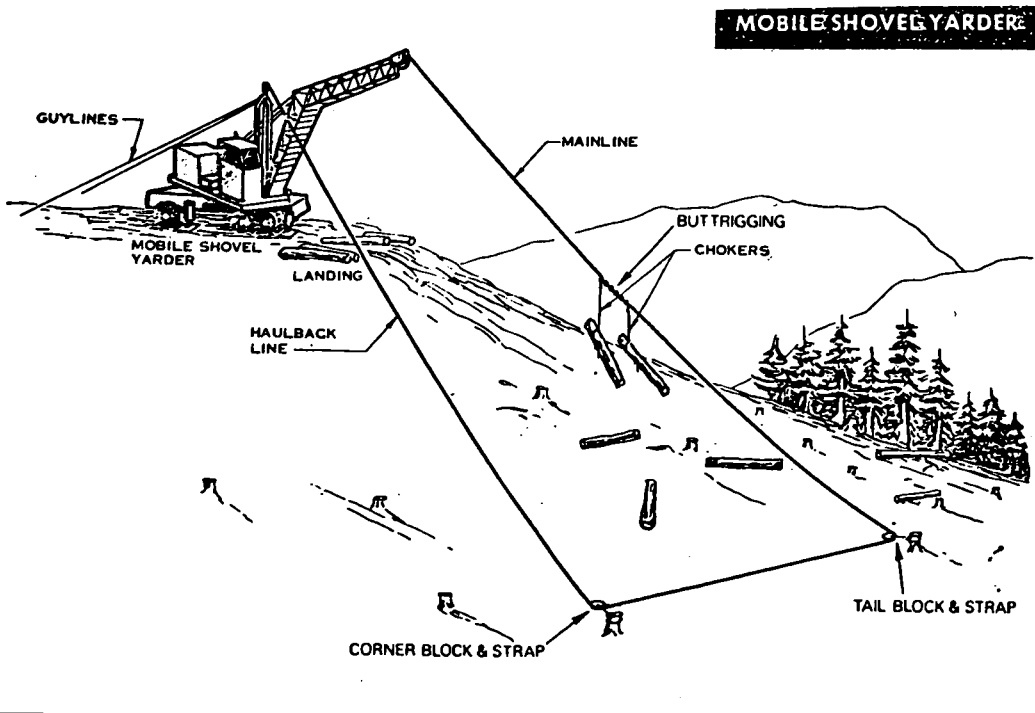


FIGURE 7-B

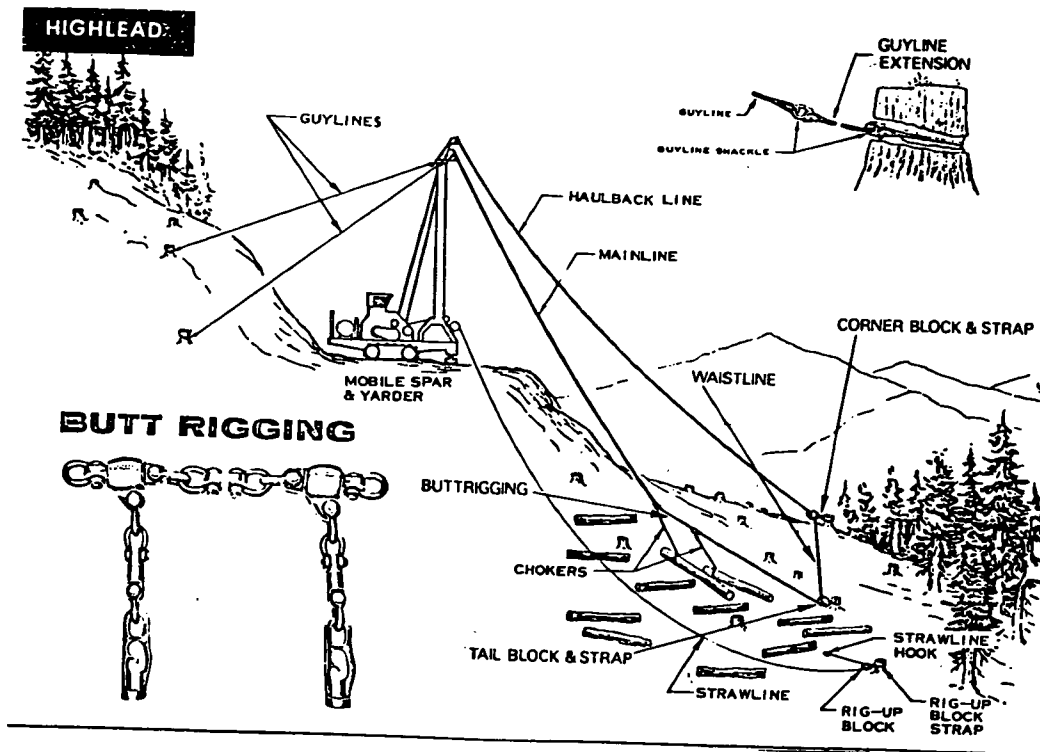


Figure 7-0

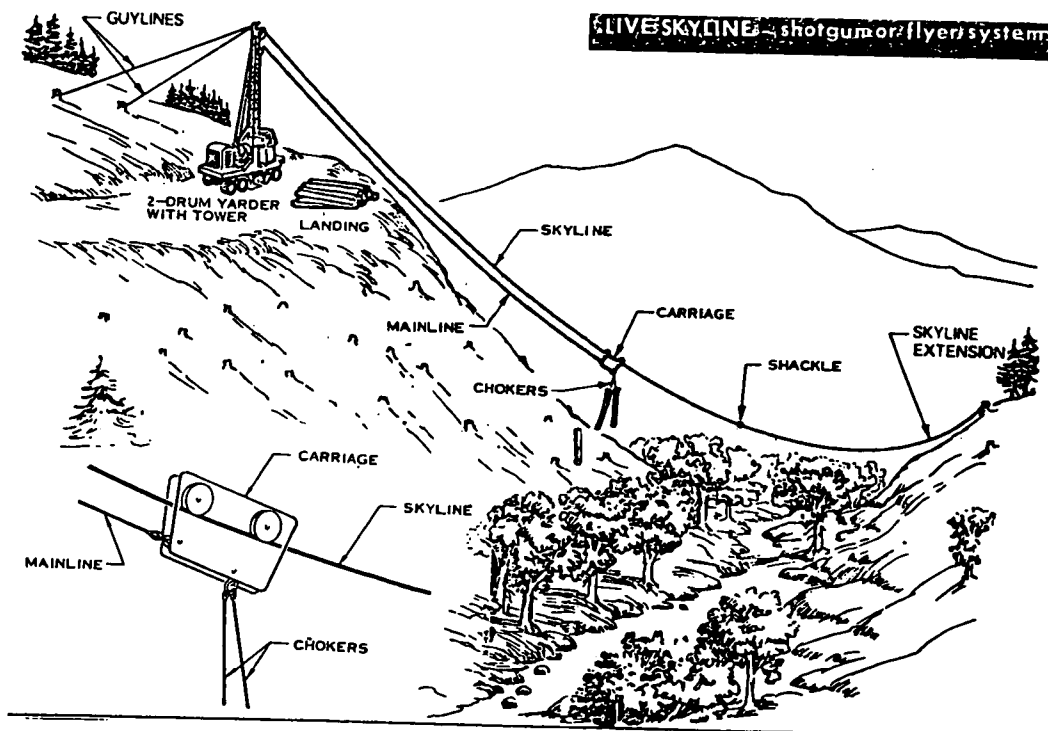


Figure 7-D

SLACK LINE SYSTEM

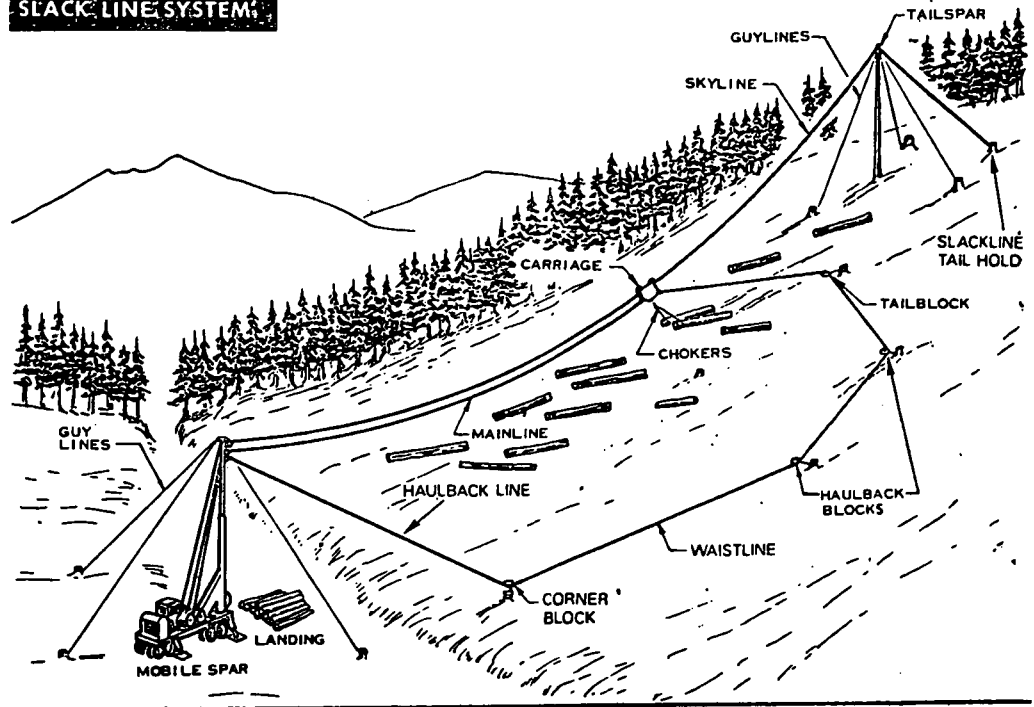
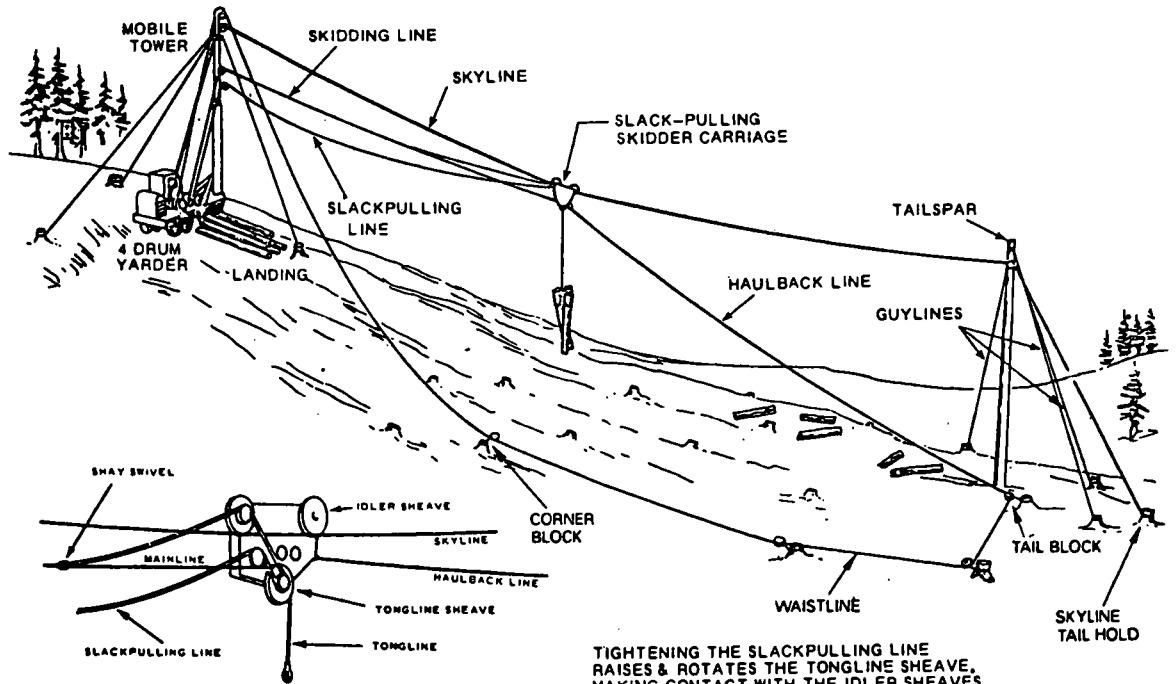


FIGURE 7.0.

SKIDDER SYSTEM



TIGHTENING THE SLACKPULLING LINE RAISES & ROTATES THE TONGLINE SHEAVE, MAKING CONTACT WITH THE IDLER SHEAVES, RESULTING IN A VISE LIKE GRIP ON THE TONGLINE. APPLYING A LOAD TO THE TONG LINE RELEASES THE GRIP.

Figure 7.1

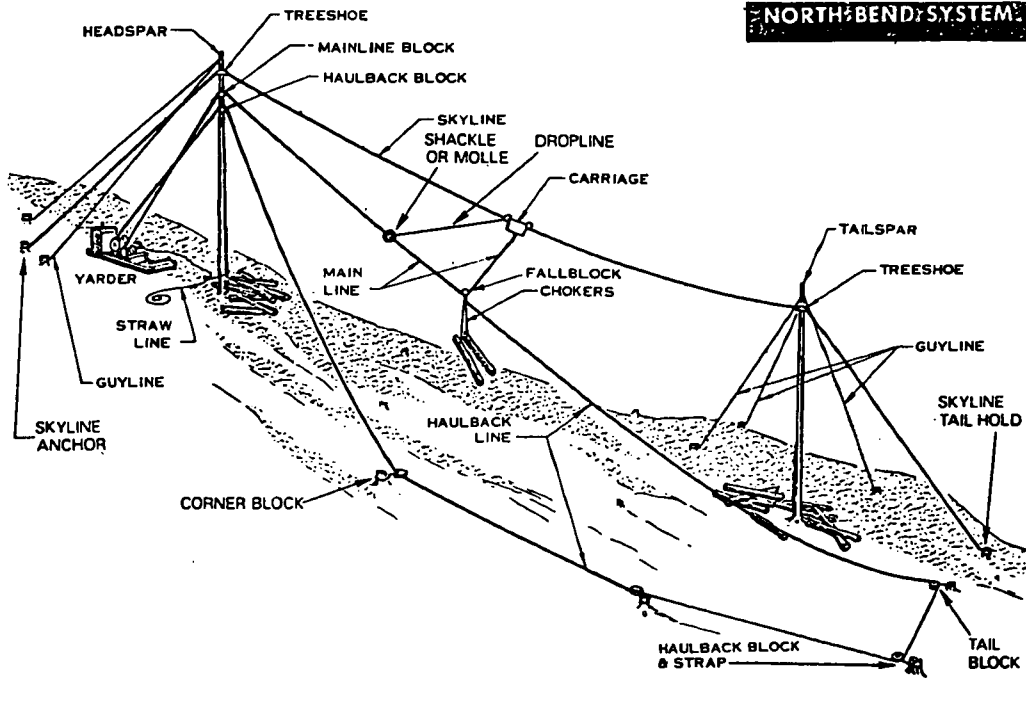


FIGURE 7-1

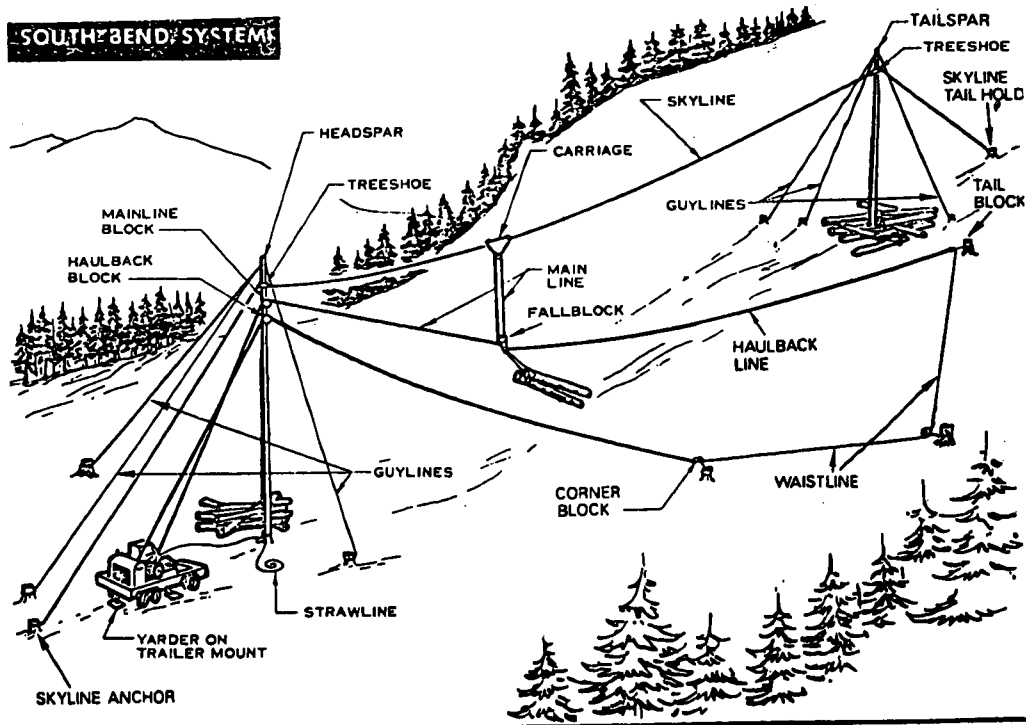


FIGURE 7-2

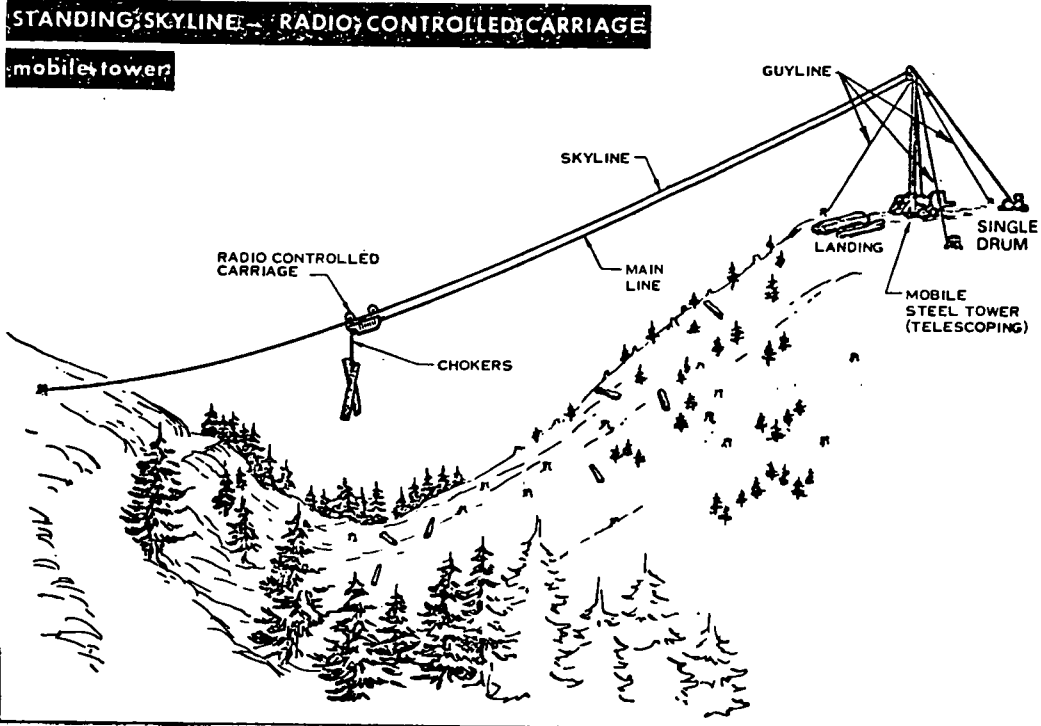


Figure 7-I

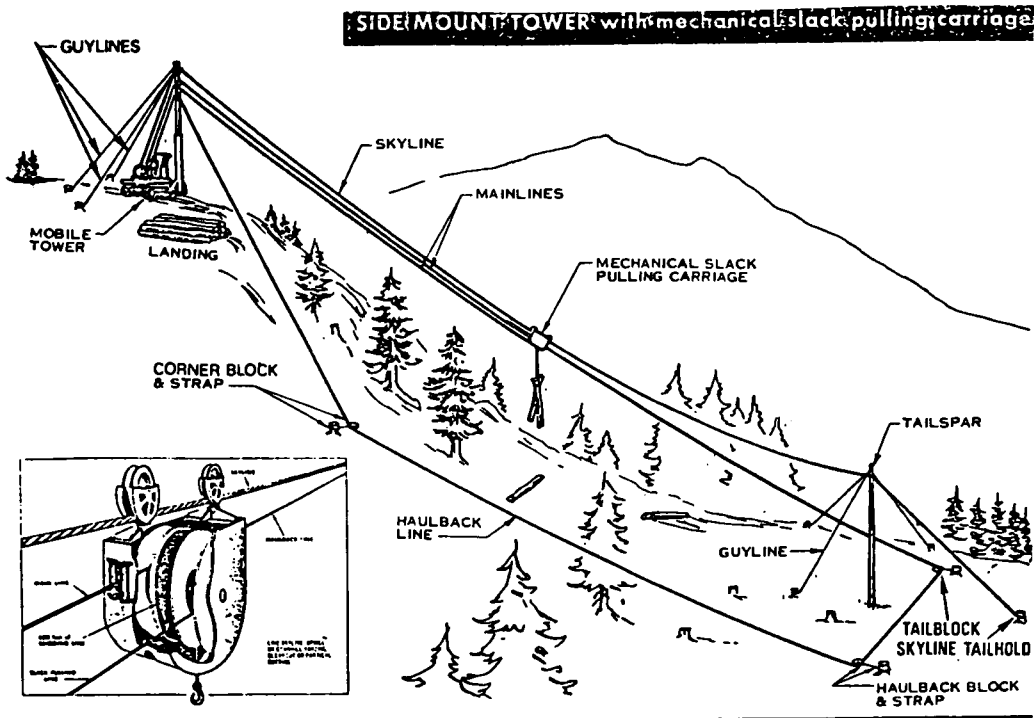


FIGURE 7-J

PARTIAL CUTTING WITH RUNNING SKYLINE

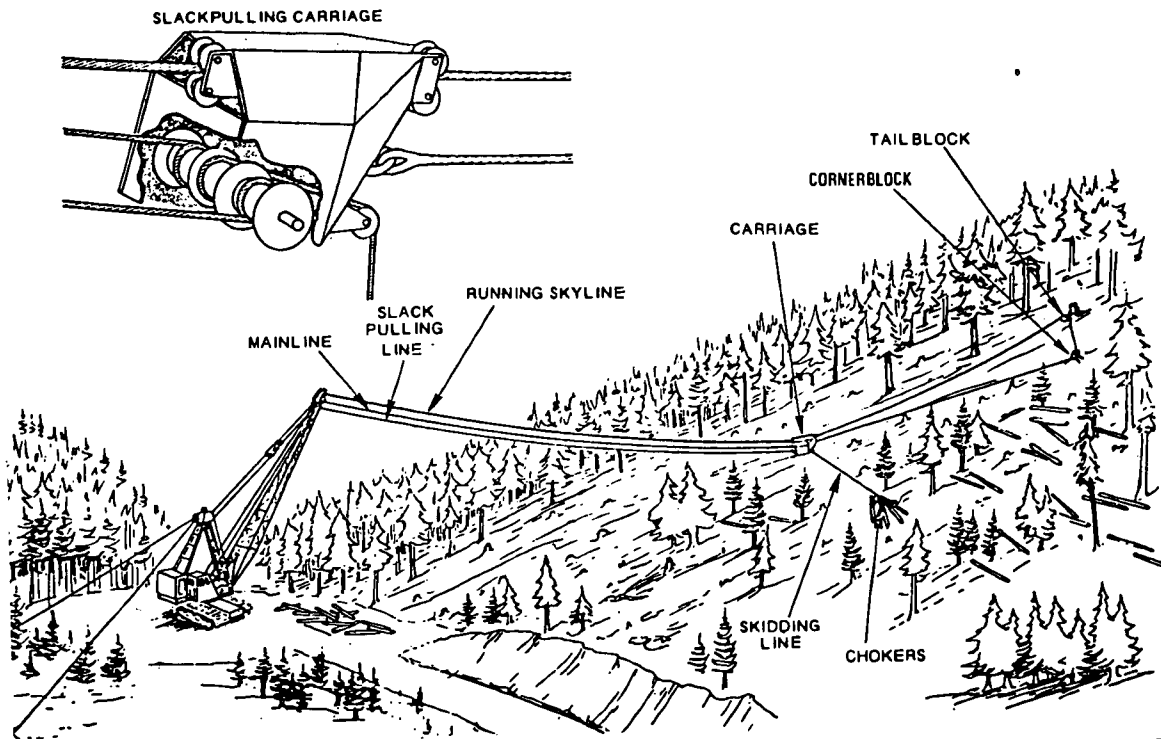


Figure 7-K

RUNNING SKYLINE with chokers (GRABINSKI)

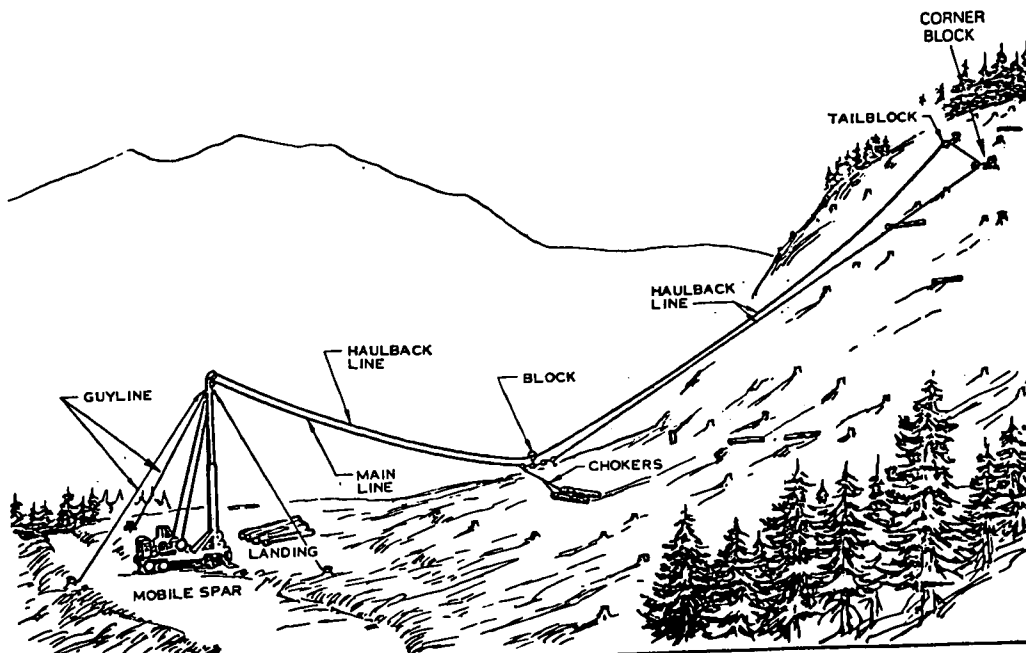


FIGURE 7-L

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RUNNING SKYLINE with mechanical grapple

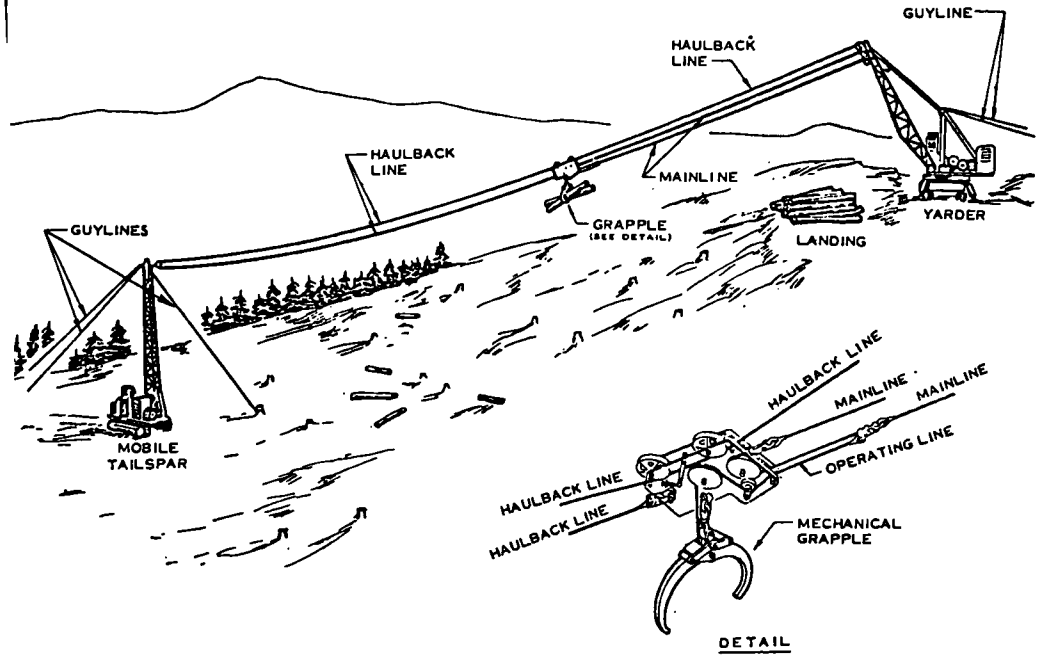


Figure 7-24

RUNNING SKYLINE with mechanical grapple

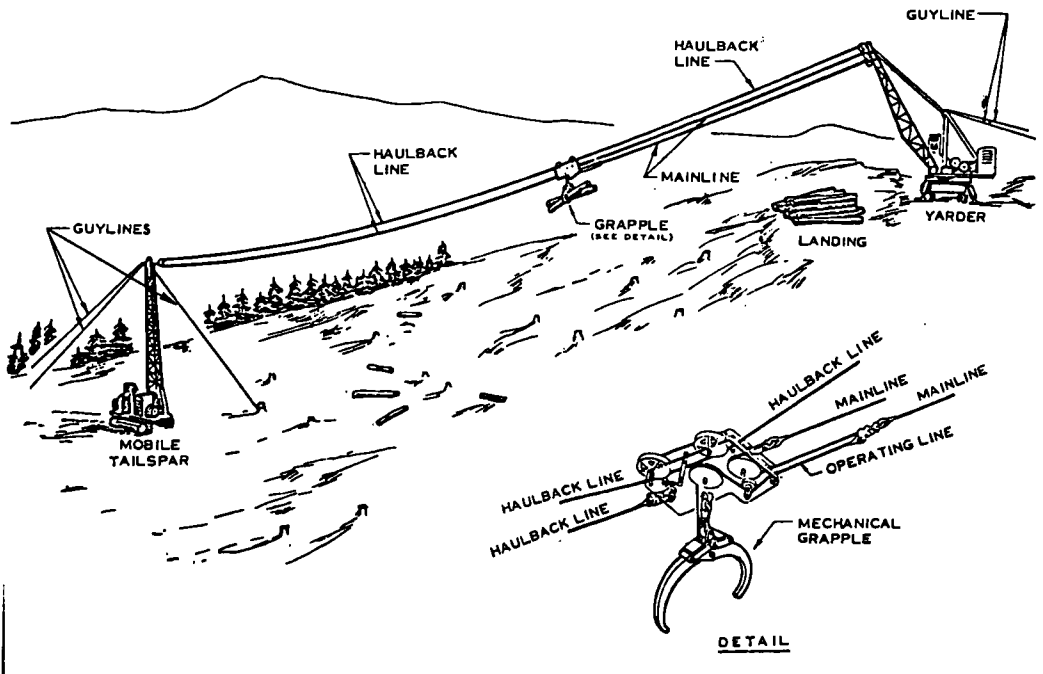


Figure 7-24

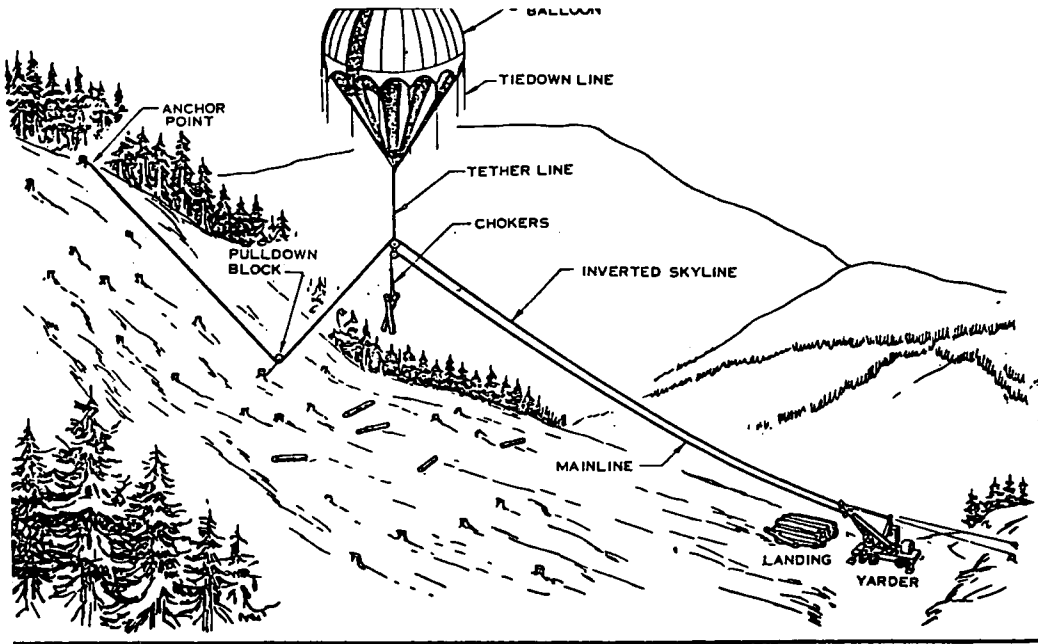


FIGURE 7-A

BALLOON LOGGING - haulback configuration

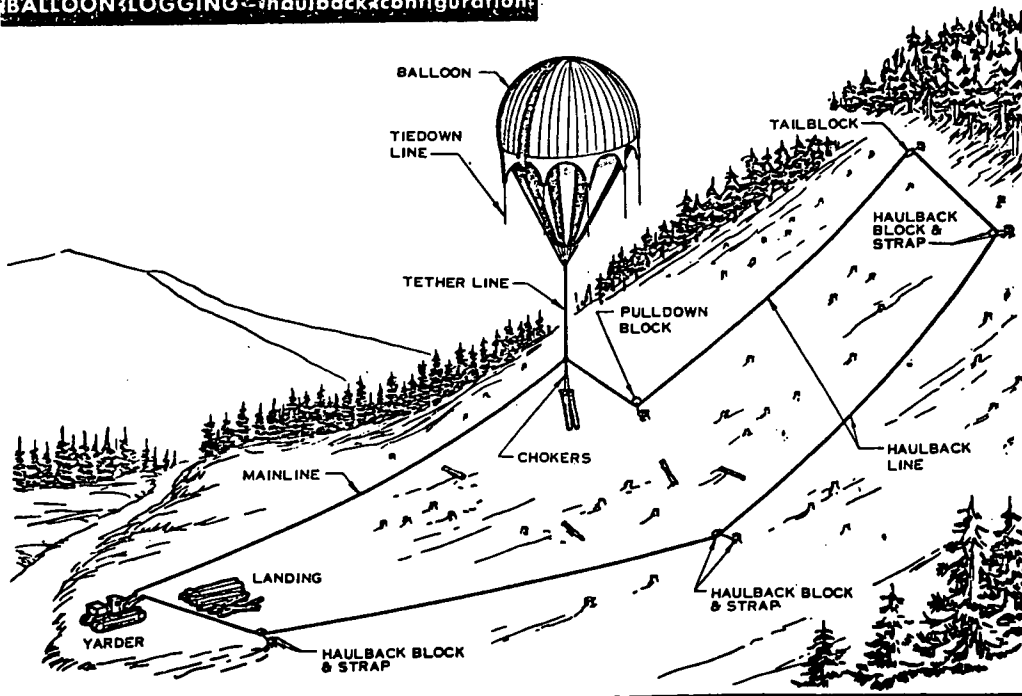


FIGURE 7-B

HIGH LEAD LOGGING WHISTLE SIGNALS

— Means longer spacing between signals.

1 short	Stop all lines.
3 short—3 short	Ahead slow on mainline.
3 short	Ahead on mainline.
2 short	Ahead on haulback.
2 short—2 short	Ahead slow on haulback.
3 short—1 short	Ahead on strawline.
3 short—1 short—3 short	Ahead slow on strawline.
4 short or more	Slack mainline.
2 short—4 short	Slack haulback.
3 short—1 short—4 short	Slack strawline.
3 short—2 short	Standing tight line.
1 short—1 short	Tight line while lines are running, or break if running tight.
3 short	When rigging is in: strawline back on haulback.
3 short / plus "X" number of shorts	When rigging is in: indicates number of sections of strawline back on rigging.
3 short—1 short—2 short	Strawline back on rigging.
1 short	When rigging is in: chaser inspect and repair rigging.
2 short	When rigging is in: no chokers back.
2 short—1 short / plus "X" number of shorts	Number of chokers back.
2 short—4 short	When rigging is in: slack haulback—hold all lines until 2 short blown.
3 medium	Hooker.
3 medium—4 short	Hooker and his crew.
5 long	Climber.
4 long	Foreman.
1 long—1 short	Start or stop work.
7 long—2 short	Man injured, call transportation and stretcher.
1 long—1 short repeated	Fire.
Grabinski System	
2 short—1 short	Slack mainline and haulback together.
2 long	Take off or put on rider block.

Figure 7-Q

SKIDDER WHISTLE SIGNALS

— Means longer spacing between signals.

1 short	Stops moving carriage—Stops or goes ahead on slack puller, as case may be, if carriage is stopped.
2 short	Go ahead on skidding line holding carriage.
1 short—2 short	Pick up skidding line, easy.

2 short—1 short	Shake up carriage to clear choker.
2 short—2 short	Ahead on receding line.
3 short	Ahead on carriage, holding at present level, using interlock.
3 short—3 short	Ahead easy on skidding line.
2 short—2 short—2 short	Slack skyline, cable down.
2 short—2 short—2 short—1 short	Pick up skyline, cable up.
2 short—2 short—4 short	Slack receding line.
2 short—4 short	Slack skidding line.
2 short—2 short—1 short	Tighten all lines.
1 short—4 short	Slack off slack puller.
1 short—2 short	Pick up slack puller when slack.
2 short—2 short / plus "X" number of shorts	When carriage is in: number of chokers wanted.
2 short—2 short—1 long	Bull choker.
1 short	When carriage is in: inspect butt rigging.
2 short—4 short / 1 short	For each additional ten feet of tong line.
1 long / plus "X" number of shorts	Number of coils of strawline wanted.
5 medium	Tail or second rigger.
5 medium—4 short	Tail or second rigger and his crew.
2 medium	Skidder head rigger.
3 medium—4 short	Hooker and his crew.
2 long	Ahead on transfer.
2 long—4 short	Slack transfer
1 short—3 short	Ahead on carriage with slack puller line.
1 long	Ahead on strawline.
1 long—4 short	Slack strawline.
1 long—3 short	Ahead easy on strawline.
5 long	Climber.
4 long	Foreman.
1 long—1 short	Start or stop work.
7 long—2 short	Man injured, call transportation and stretcher.
1 long—1 short repeated	Fire.

Figure 7-R

SLACKLINE WHISTLE SIGNALS

— Means longer spacing between signals.

2 short—2 short—2 short—1 short	First cable up when road has been changed and tail hold made fast.
2 short—2 short—2 short	Drop skyline.
1 short	Stop any moving line.
1 long	When logging, slack skyline.
2 short	Ahead on skyline.

1 long—2 short	Ahead easy on skyline.
3 short	Ahead on skidding line, holding haulback.
3 short—3 short	Ahead easy on skidding line with slack haulback.
4 short	Slack skidding line.
2 short—2 short / 2 short—2 short	Ahead easy on haulback with slack skidding line.
2 short—2 short	Ahead on haulback.
2 short—2 short—4 short	Slack haulback.
2 short / 3 short	Pick up skyline and skid.
2 short / 2 short—2 short	Pick up skyline and skin.
3 short—1 short	When carriage is in: strawline back on haulback.
3 short—1 short—2 short	When carriage is in: strawline back on carriage.
3 short—1 short	When strawline is out: ahead on strawline.
3 short—2 short	Tight line.
3 short—1 short—4 short	Slack strawline.
3 short—1 short—3 short	Pull easy on strawline.
2 long	Ahead on transfer.
2 long—4 short	Slack transfer.
2 long—2 short—2 short	When carriage is in: transfer back on carriage.
1 long / plus "X" number of shorts	When carriage is in: number of coils.
2 short—2 short—1 short / plus "X" number of shorts	When carriage is in: number of chokers.
1 short	When carriage is in: inspect rigging, repair and send back.
2 short—2 short—4 short	When carriage is in: slack haulback and hold all lines until 1 short is blown—then send back.
3 short—3 short	When carriage is in: send back powder.
5 medium	Tail rigger.
5 medium—4 short	Tail rigger and his crew.
3 medium	Head hooker.
3 medium—4 short	Second hooker and his crew.
5 long	Climber.
4 long	Foreman.
1 long—1 short	Start or stop work.
7 long—2 short	Man injured, call transportation and stretcher.
1 long—1 short repeated	Fire.

Figure 7-S

RUNNING SKYLINE WHISTLE SIGNALS

— Means longer spacing between signals

1 short	Stop all moving lines
---------	-----------------------

2 short	Skin carriage back
2 short—1 short	Slack haulback
2 short—2 short	Skin carriage easy
2 short—3 short	Standing tight line
1 short—2 short	Ahead on drop line
4 short	Slack drop line
1 short—4 short	Slack both mainlines
1 short—1 short	Stop drop line going up and move carriage forward
3 short	Move carriage forward
3 short—3 short	Move carriage forward easy
3 short—1 short	When strawline is out: Ahead on strawline
3 short—1 short—4 short	Slack strawline
3 short	When carriage is in: Strawline
3 short—X short	When carriage is in: Number sections
3 short—1 short—2 short	When carriage is in: Strawline back on carriage
2 short—X short	When carriage is in: Number of chokers
4 short	When carriage is in: Inspect rigging, repair and send back
1 short	When carriage is in: Hold all lines until 2 shorts, then send back
3 medium	Head hooker
3 medium—4 short	Hooker and his crew
4 long	Foreman
1 long—1 short	Start or stop work
7 long—2 short	Man injured; call transportation and stretcher
1 long—1 short (repeated)	Fire
3 short—1 long	Acknowledged by engineer to signify hazardous turn

Figure 7-T

TENSION SYSTEM SIGNALS

4	Release tension
1 short	Stop carriage and start unspooling tong line
1 short	Stop tong line
1 short	Resume unspooling tong line
1 short	Will stop any moving line or slack tong line when carriage is stopped
2 short—2 short	Go into interlock and go back
2 short—4 short	Slack haulback and let carriage down

After Turn is Set

2 short	Go ahead on tong line
2 short—3 short	Go ahead easy on tong line

- 3 short Go into interlock and take carriage to landing
- 3 short—3 short Ahead on carriage easy
- 1 short—2 short Increase tension on tong line when carriage is going in
- short—1 short Decrease tension on tong line when carriage is going in

Figure 7-U

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-565 LOG LOADING—SELF-LOADING LOG TRUCKS. (1) A safe means of access and egress shall be provided to the operator's loading work station.

(2) Self-loading log truck operators shall not unload their own load unless a positive means of securing the logs has been provided when binders and wrappers are removed.

(3) New self-loading log trucks purchased and put in operation after January 1, 1980, shall be equipped with:

- (a) A check valve installed on the jib boom; and
- (b) A seat that is offset from the point of attachment of the boom. The seat and boom structure shall rotate concurrently.

(4) The operator of a self-loading log truck shall not heel the log over his head.

STANDARD SIGNALS for LOADING LOGS



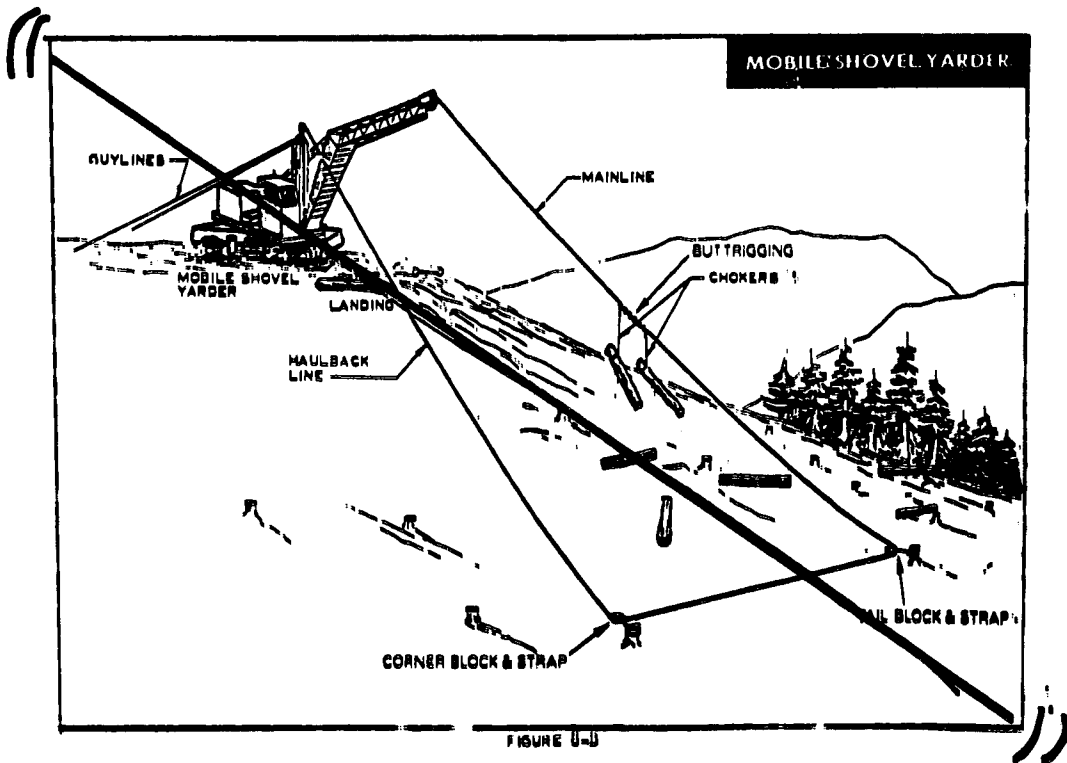
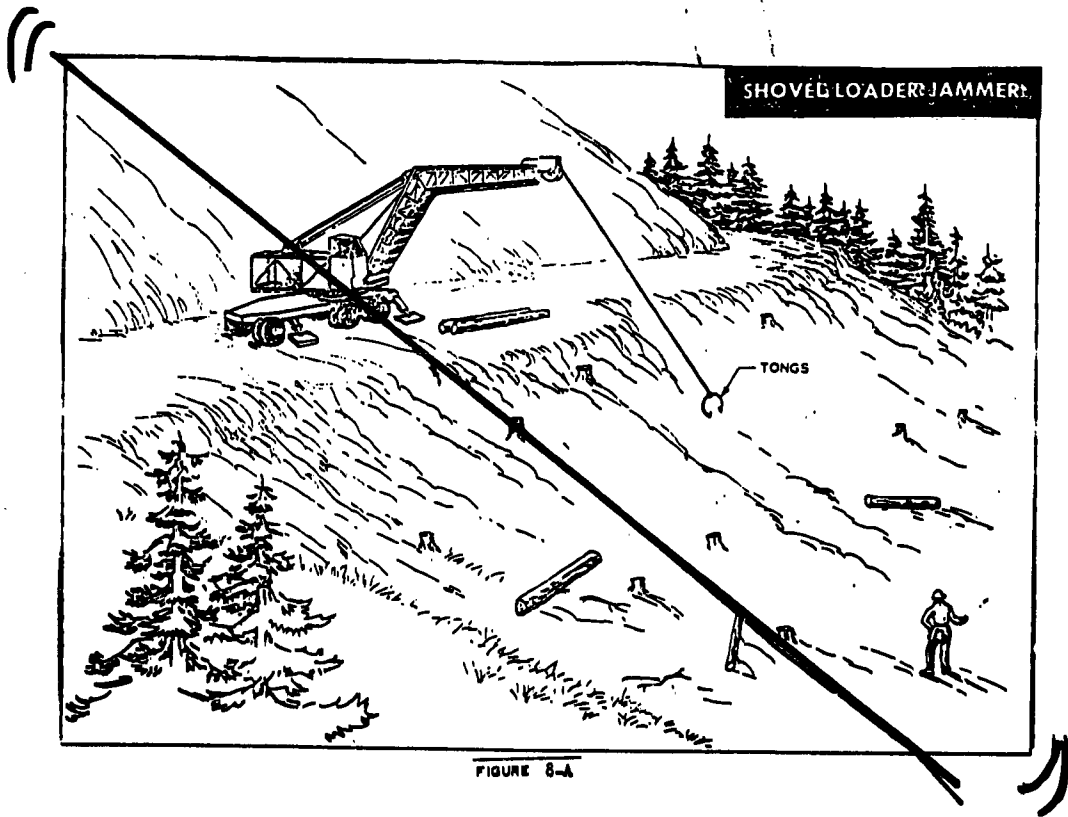
AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-567 MOTOR TRUCK LOG TRANSPORTATION—GENERAL REQUIREMENTS. (1) Prior to use, the operator shall make a complete daily inspection of the truck and trailer with particular attention to steering apparatus, lights and reflectors, brake boosters, brake hoses and connections, reaches, and hitches (couplings). The brakes shall be tested before and after movement of the vehicle. The operator shall submit a written list of necessary repairs to a person designated by the employer.

((NOTE: See Figures No. 8-A through 8-P, for Illustrations of Various Types of Cable Logging Systems.

See Figures No. 8-Q through 8-U, for Illustrations of Whistle Signals used on Various Cable Logging Systems.))

*Notes to file
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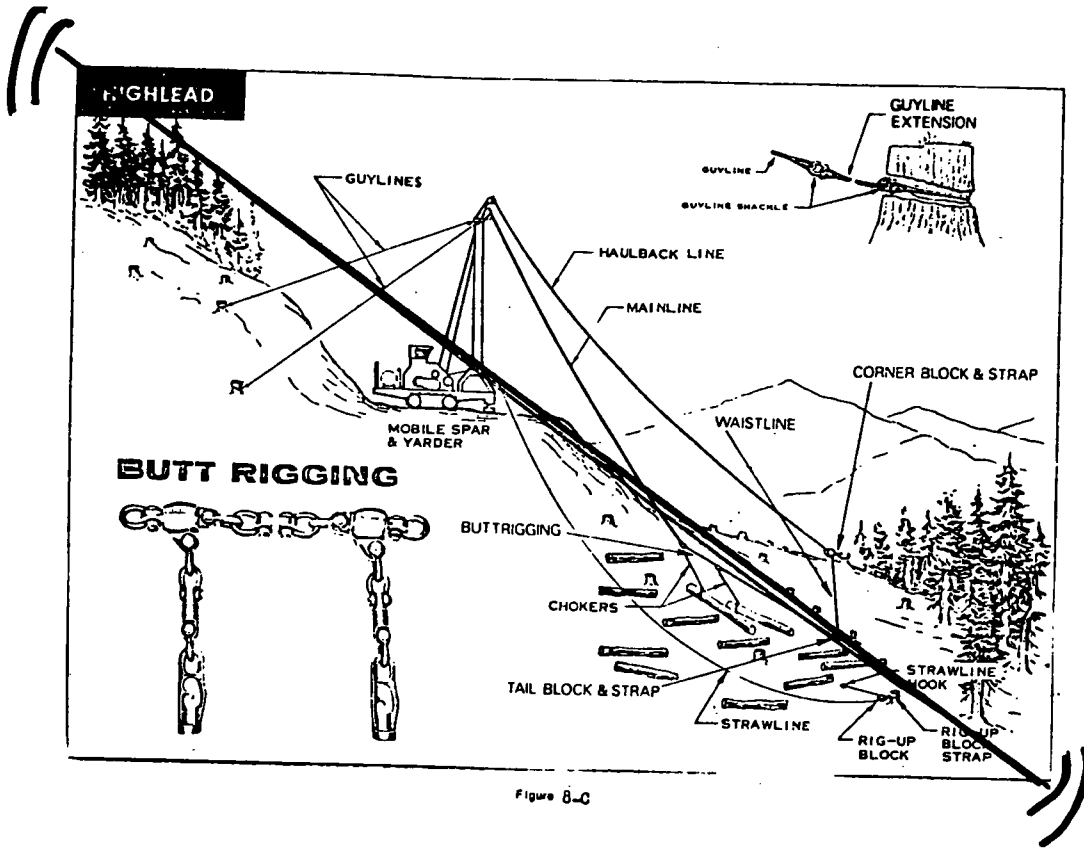


Figure 8-C

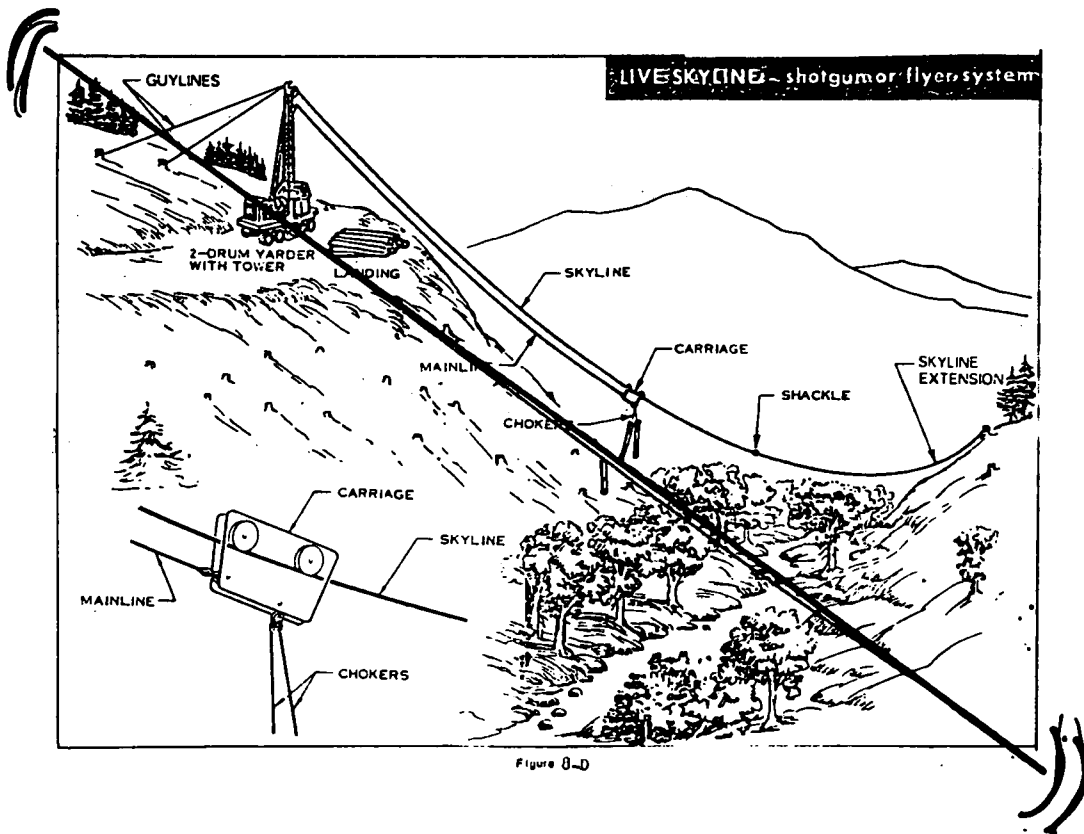
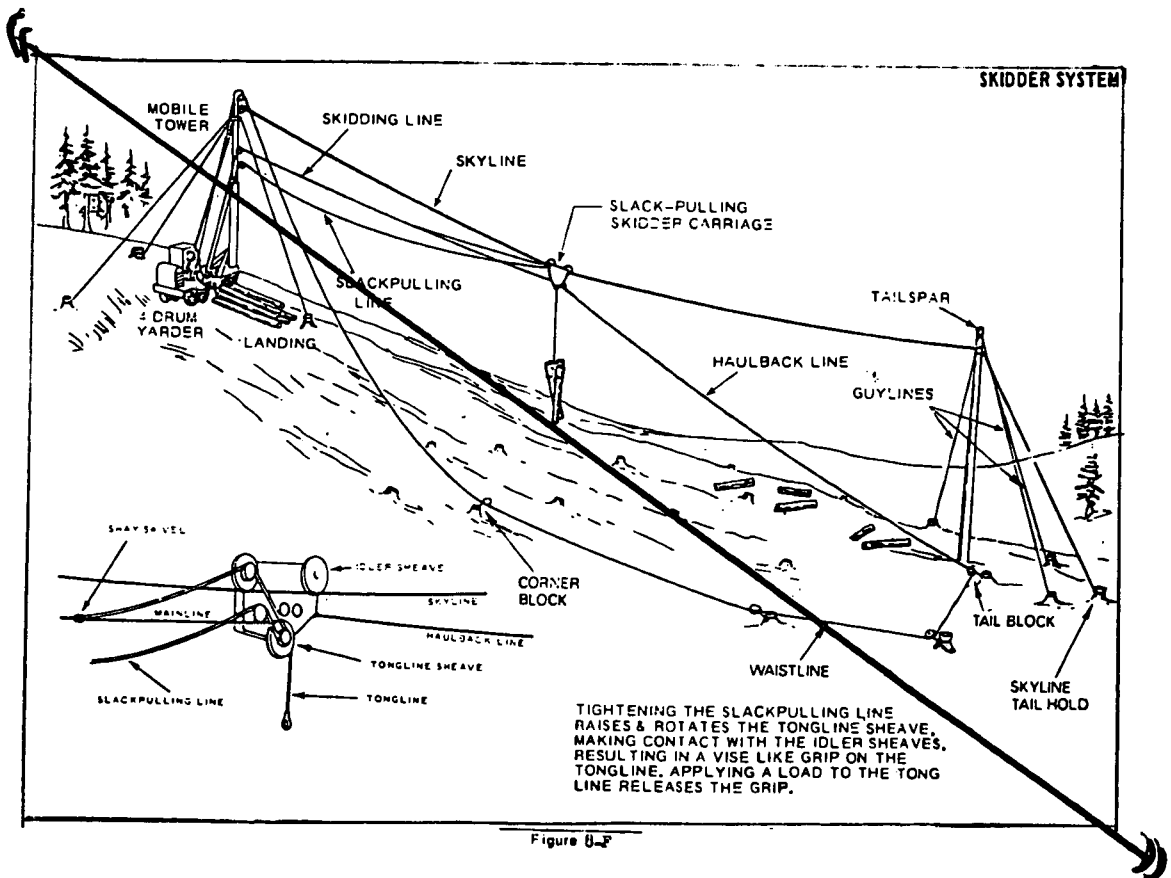
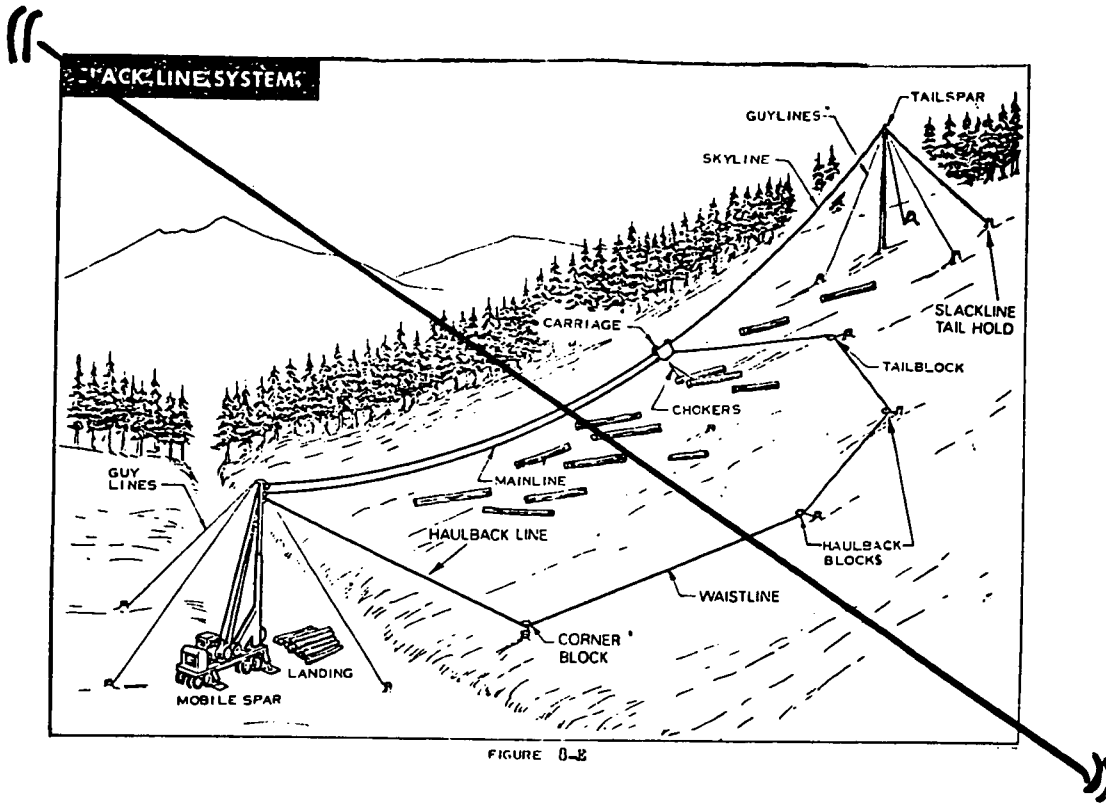
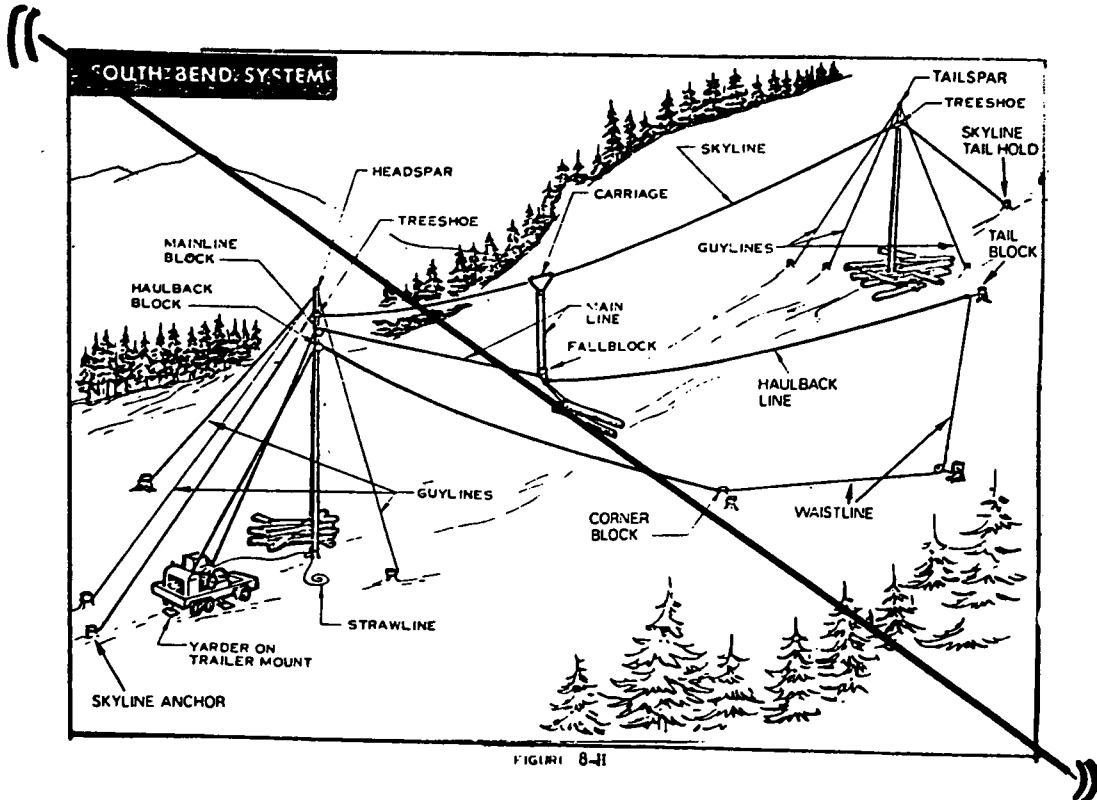
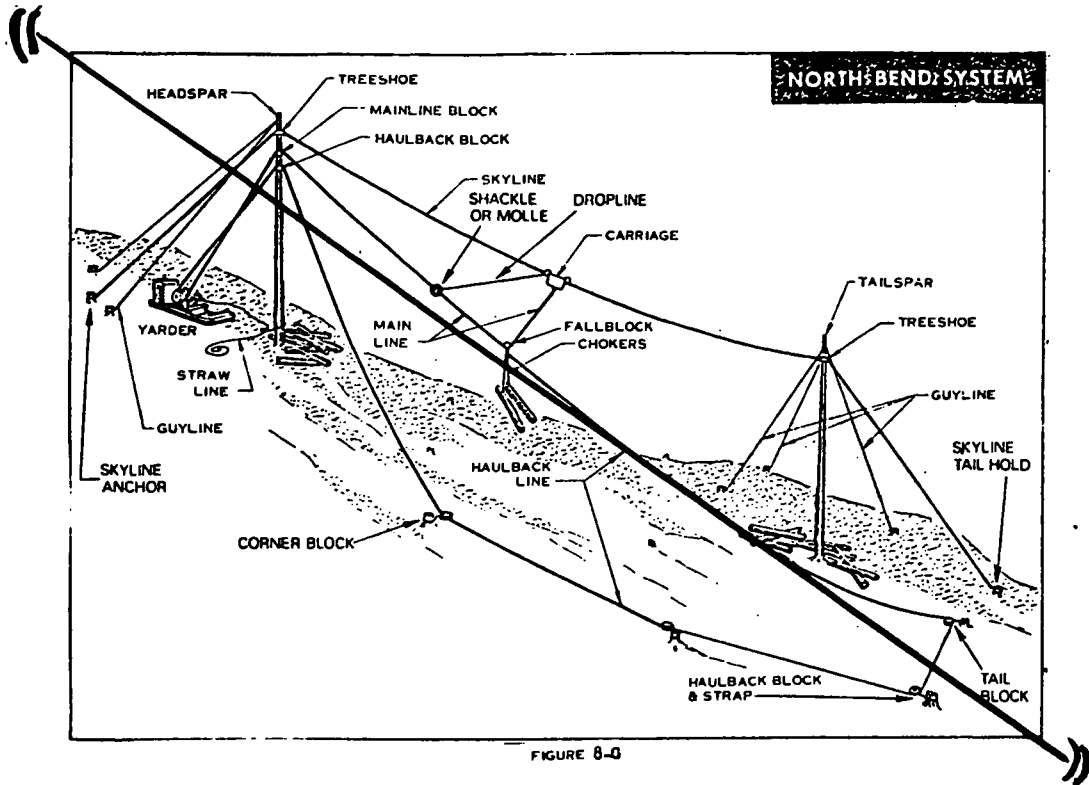
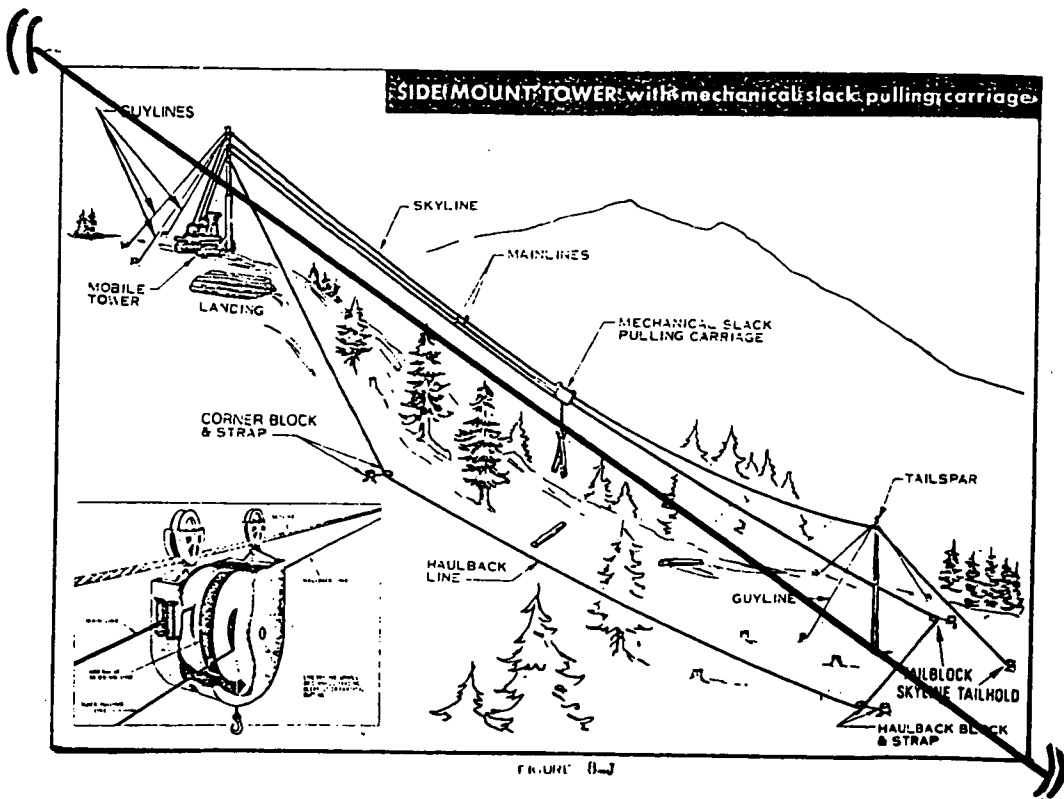
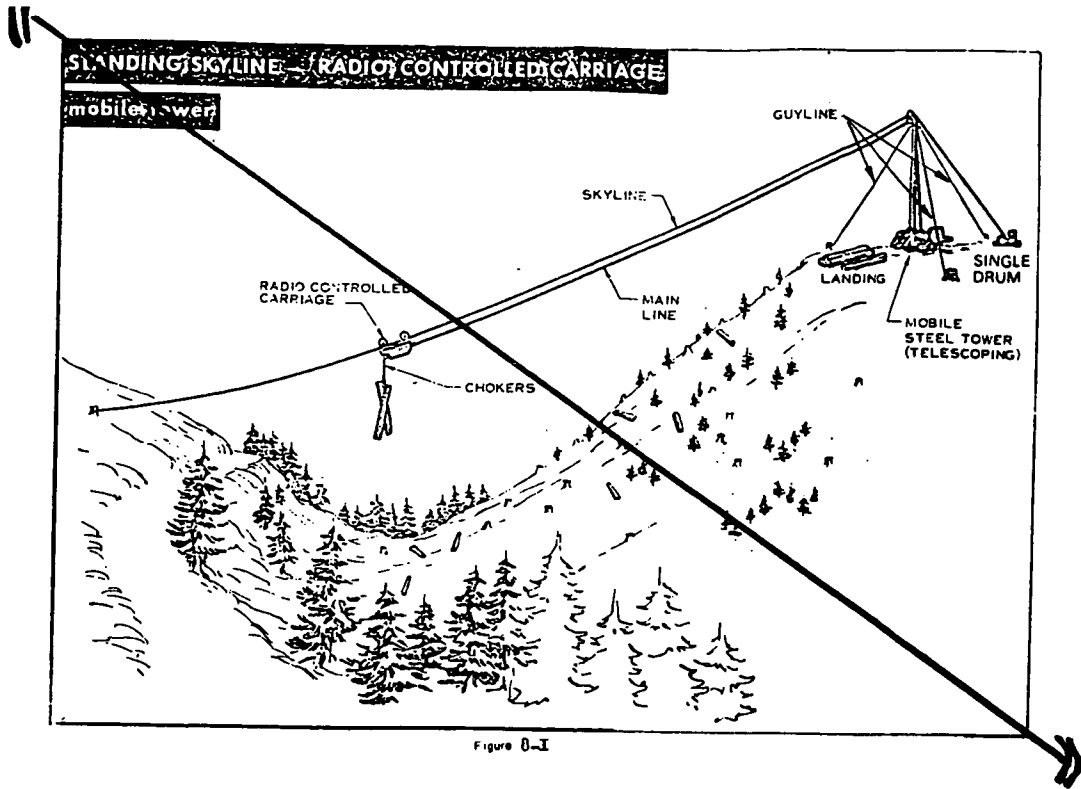
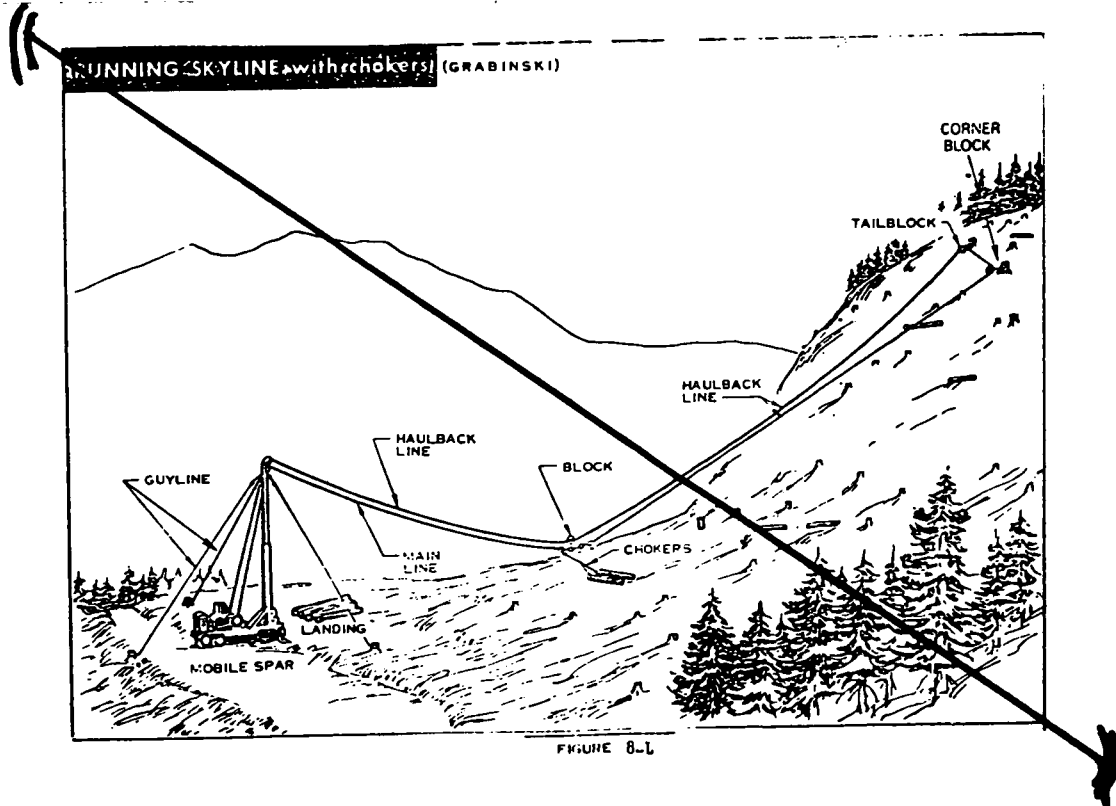
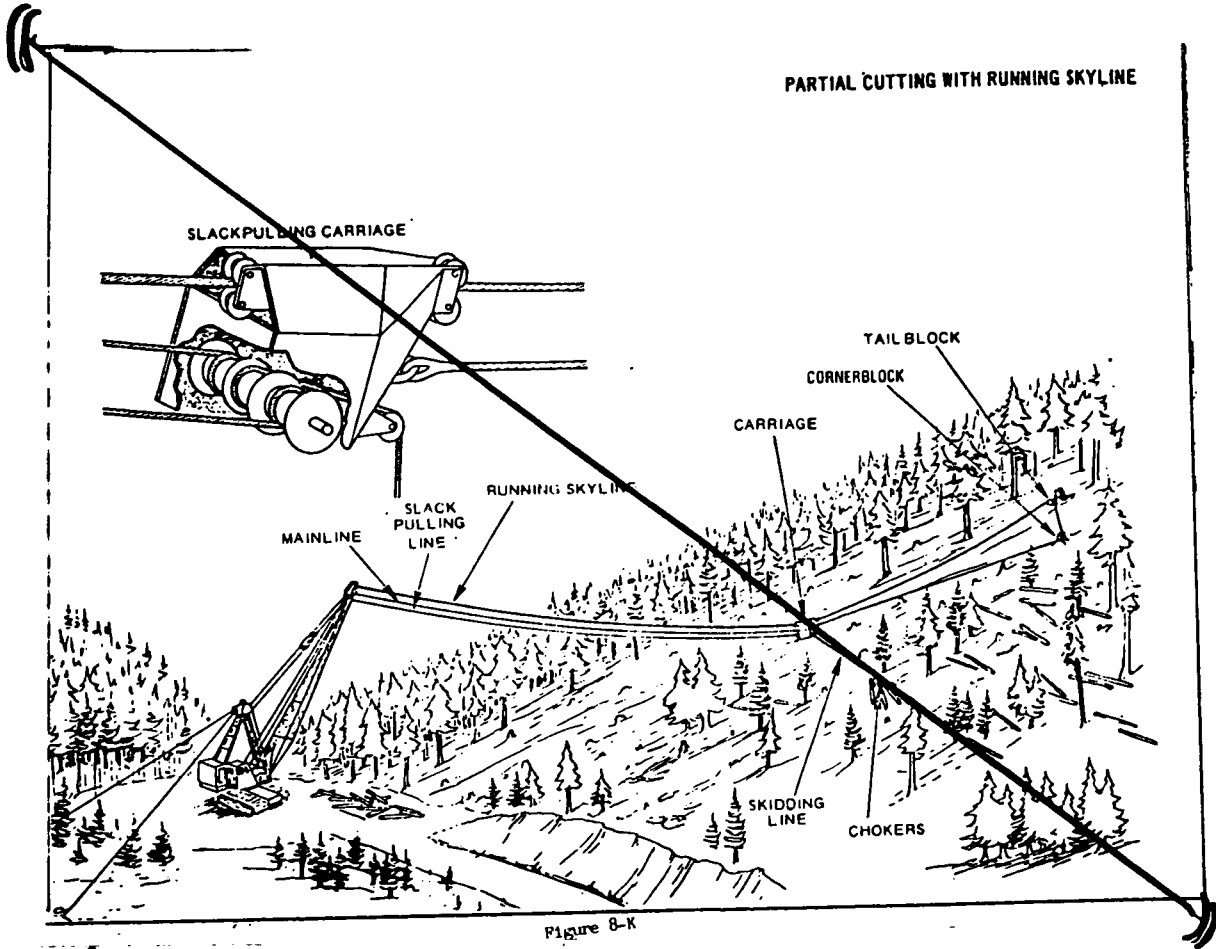


Figure 8-D









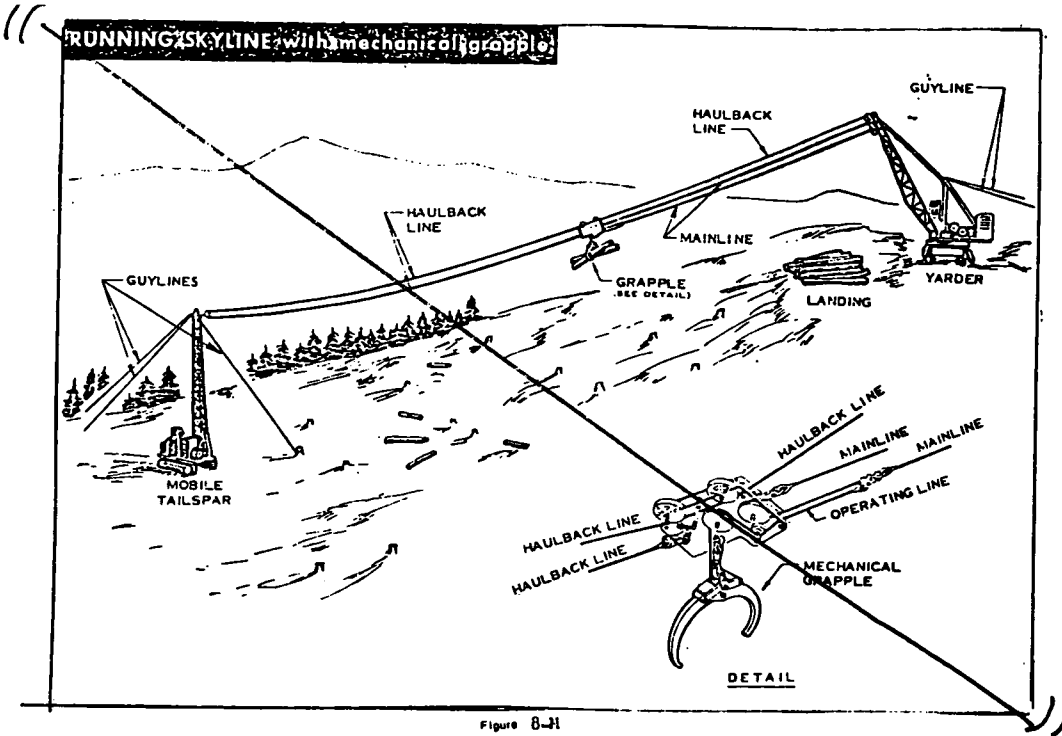


Figure 8-11

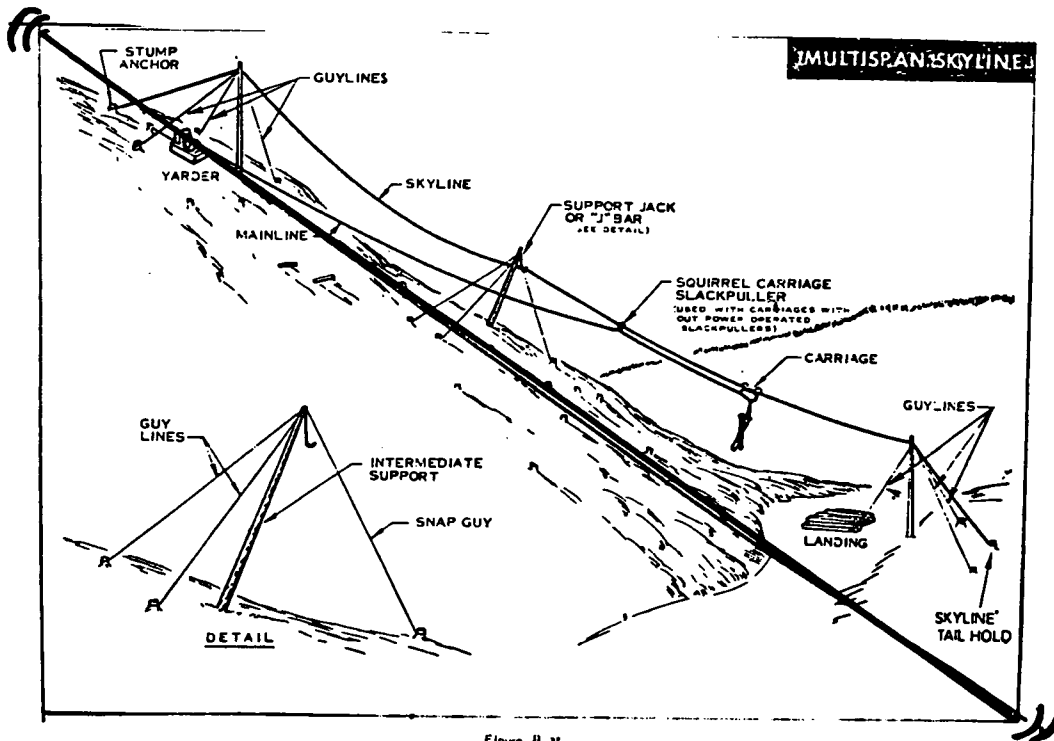
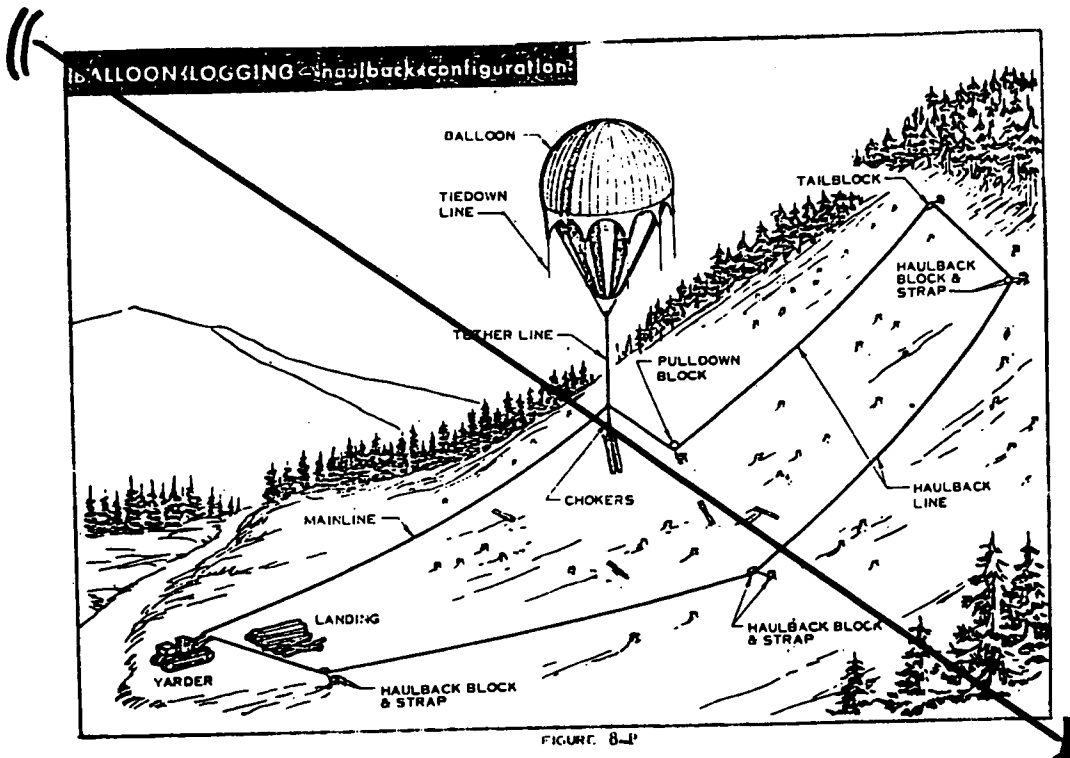
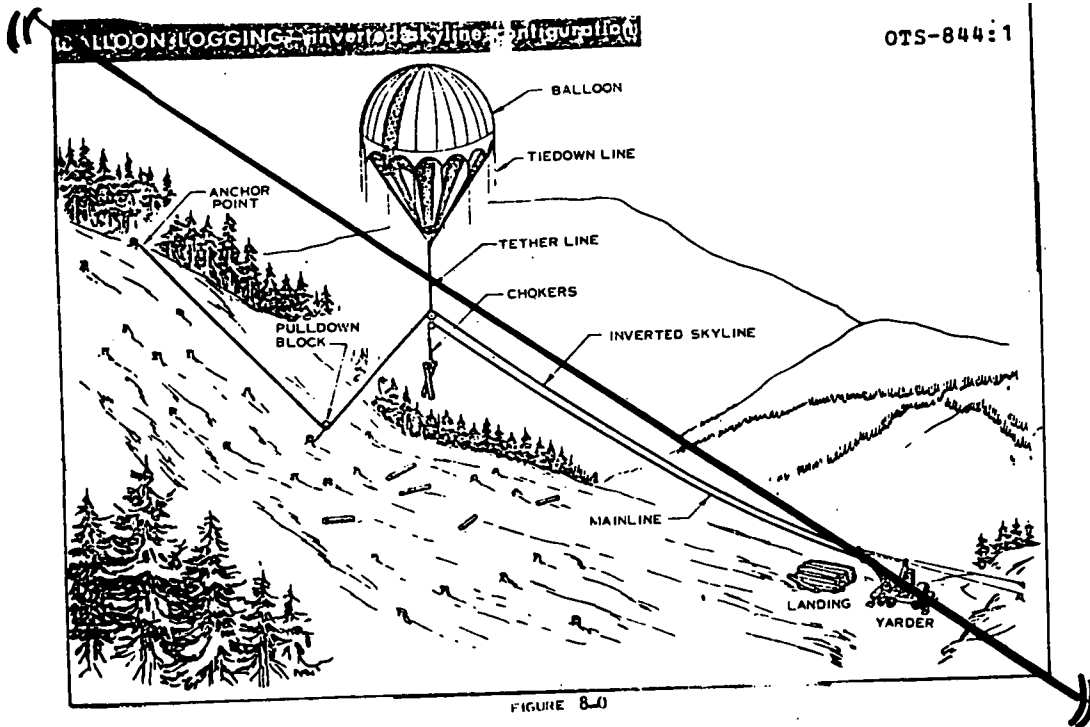


Figure 8-12



((HIGH LEAD LOGGING WHISTLE SIGNALS
 — Means longer spacing between signals.

- 1 short Stop all lines.
- 3 short=3 short Ahead slow on mainline.
- 3 short Ahead on mainline.
- 2 short Ahead on haulback.
- 2 short=2 short Ahead slow on haulback.
- 3 short=1 short Ahead on strawline.
- 3 short=1 short=3 short Ahead slow on strawline.
- 4 short or more Slack mainline.
- 2 short=4 short Slack haulback.
- 3 short=1 short=4 short Slack strawline.
- 3 short=2 short Standing tight line.
- 1 short=1 short Tight line while lines are running, or break if running tight.
- 3 short When rigging is in: strawline back on haulback.
- 3 short / plus "X" number of shorts When rigging is in: indicates number of sections of strawline back on rigging.
- 3 short=1 short=2 short Strawline back on rigging.
- 1 short When rigging is in: Chaser inspect and repair rigging.
- 2 short When rigging is in: no chokers back.
- 2 short=1 short / plus "X" number of shorts Number of chokers back.
- 2 short=4 short When rigging is in: slack haulback=hold all lines until 2 short blown.
- 3 medium Hooker.
- 3 medium=4 short Hooker and his crew.
- 5 long Climber.
- 4 long Foreman.
- 1 long=1 short Start or stop work.
- 7 long=2 short Man injured, call transportation and stretcher.
- 1 long=1 short repeated Fire.
- Grabinski System
- 2 short=1 short Slack mainline and haulback together.
- 2 long Take off or put on rider block.

Figure 8-Q

SKIDDER WHISTLE SIGNALS
 — Means longer spacing between signals.

- 1 short Stops moving carriage= Stops or goes ahead on slack puller, as case may be, if carriage is stopped.
- 2 short Go ahead on skidding line holding carriage.
- 1 short=2 short Pick up skidding line, easy.

- 2 short=1 short Shake up carriage to clear choker.
- 2 short=2 short Ahead on receding line.
- 3 short Ahead on carriage, holding at present level, using interlock.
- 3 short=3 short Ahead easy on skidding line.
- 2 short=2 short=2 short Slack skyline, cable down.
- 2 short=2 short=2 short=1 short Pick up skyline, cable up.
- 2 short=2 short=4 short Slack receding line.
- 2 short=4 short Slack skidding line.
- 2 short=2 short=1 short Tighten all lines.
- 1 short=4 short Slack off slack puller.
- 1 short=2 short Pick up slack puller when slack.
- 2 short=2 short / plus "X" number of shorts When carriage is in: number of chokers wanted.
- 2 short=2 short=1 long Bull choker.
- 1 short When carriage is in: inspect butt rigging.
- 2 short=4 short / 1 short For each additional ten feet of tong line.
- 1 long / plus "X" number of shorts Number of coils of strawline wanted.
- 5 Medium Tail or second rigger.
- 5 medium=4 short Tail or second rigger and his crew.
- 2 medium Skidder head rigger.
- 3 medium=4 short Hooker and his crew.
- 2 long Ahead on transfer.
- 2 long=4 short Slack transfer
- 1 short=3 short Ahead on carriage with slack puller line.
- 1 long Ahead on strawline.
- 1 long=4 short Slack strawline.
- 1 long=3 short Ahead easy on strawline.
- 5 long Climber.
- 4 long Foreman.
- 1 long=1 short Start or stop work.
- 7 long=2 short Man injured, call transportation and stretcher.
- 1 long=1 short repeated Fire.

Figure 8-R

SLACKLINE WHISTLE SIGNALS
 — Means longer spacing between signals.

- 2 short=2 short=2 short=1 short First cable up when road has been changed and tail hold made fast.
- 2 short=2 short=2 short Drop skyline.
- 1 short Stop any moving line.
- 1 long When logging, slack skyline.
- 2 short Ahead on skyline.

1 long = 2 short	.....	Ahead easy on skyline.
3 short	.....	Ahead on skidding line, holding haulback.
3 short = 3 short	.....	Ahead easy on skidding line with slack haulback.
4 short	.....	Slack skidding line.
2 short = 2 short / 2 short = 2 short	.....	Ahead easy on haulback with slack skidding line.
2 short = 2 short	.....	Ahead on haulback.
2 short = 2 short = 4 short	.....	Slack haulback.
2 short / 3 short	.....	Pick up skyline and skid.
2 short / 2 short	.....	Pick up skyline and skin.
3 short = 1 short	.....	When carriage is in: strawline back on haulback.
3 short = 1 short = 2 short	.....	When carriage is in: strawline back on carriage.
3 short = 1 short	.....	When strawline is out: ahead on strawline.
3 short = 2 short	.....	Tight line.
3 short = 1 short = 4 short	.....	Slack strawline.
3 short = 1 short = 3 short	.....	Pull easy on strawline.
2 long	.....	Ahead on transfer.
2 long = 4 short	.....	Slack transfer.
2 long = 2 short = 2 short	.....	When carriage is in: transfer back on carriage.
1 long / plus "X" number of shorts	.....	When carriage is in: number of coils.
2 short = 2 short = 1 short / plus "X" number of shorts	.....	When carriage is in: number of chokers.
1 short	.....	When carriage is in: inspect rigging, repair and send back.
2 short = 2 short = 4 short	.....	When carriage is in: slack haulback and hold all lines until 1 short is blown then send back.
3 short = 3 short	.....	When carriage is in: send back powder.
5 medium	.....	Tail rigger.
5 medium = 4 short	.....	Tail rigger and his crew.
3 medium	.....	Head hooker.
3 medium = 4 short	.....	Second hooker and his crew.
5 long	.....	Climber.
4 long	.....	Foreman.
1 long = 1 short	.....	Start or stop work.
7 long = 2 short	.....	Man injured, call transportation and stretcher.
1 long = 1 short repeated	.....	Fire.

Figure 8-S

RUNNING SKYLINE WHISTLE SIGNALS

— Means longer spacing between signals

1 short Stop all moving lines

2 short	.....	Skin carriage back
2 short = 1 short	.....	Slack haulback
2 short = 2 short	.....	Skin carriage easy
2 short = 3 short	.....	Standing tight line
1 short = 2 short	.....	Ahead on drop line
4 short	.....	Slack drop line
1 short = 4 short	.....	Slack both mainlines
1 short = 1 short	.....	Stop drop line going up and move carriage forward
3 short	.....	Move carriage forward
3 short = 3 short	.....	Move carriage forward easy
3 short = 1 short	.....	When strawline is out: Ahead on strawline
3 short = 1 short = 4 short	.....	Slack strawline
3 short	.....	When carriage is in: Strawline
3 short = X short	.....	When carriage is in: Number sections
3 short = 1 short = 2 short	.....	When carriage is in: Strawline back on carriage
2 short = X short	.....	When carriage is in: Number of chokers
4 short	.....	When carriage is in: Inspect rigging, repair and send back
1 short	.....	When carriage is in: Hold all lines until 2 shorts, then send back
3 medium	.....	Head hooker
3 medium = 4 short	.....	Hooker and his crew
4 long	.....	Foreman
1 long = 1 short	.....	Start or stop work
7 long = 2 short	.....	Man injured, call transportation and stretcher
1 long = 1 short (repeated)	.....	Fire
3 short = 1 long	.....	Acknowledged by engineer to signify hazardous turn

Figure 8-F

TENSION SYSTEM SIGNALS

4	.....	Release tension
1 short	.....	Stop carriage and start unspooling tong line
1 short	.....	Stop tong line
1 short	.....	Resume unspooling tong line
1 short	.....	Will stop any moving line or slack tong line when carriage is stopped
2 short = 2 short	.....	Go into interlock and go back
2 short = 4 short	.....	Slack haulback and let carriage down
After Turn is Set	.....
2 short	.....	Go ahead on tong line
2 short = 3 short	.....	Go ahead easy on tong line

~~3 short Go into interlock and take carriage to landing~~
~~3 short = 3 short Ahead on carriage easy~~
~~1 short = 2 short Increase tension on tong line when carriage is going in~~
~~short = 1 short Decrease tension on tong line when carriage is going in~~

Figure 8-U)

(2) Any defective parts that would make the vehicle unsafe to operate, shall be replaced or repaired before the vehicle is placed in service.

(3) All motor vehicles operated on public roads shall comply with the rules of the regulatory body having jurisdiction. Motor vehicles used on roads not under the control of the state department of transportation, counties or cities shall be equipped with accessories necessary for a safe operation including operable head lamps and at least two tail lamps and brake lamps which shall emit a red light plainly visible from a distance of one thousand feet to the rear and shall also have two reflectors visible at night from three hundred fifty feet when directly in front of properly adjusted motor vehicle head lamps.

(4) Truck tires worn beyond a point of safety or not meeting the safety requirements of the jurisdiction having authority as to tread wear and tire conditions, shall not be used.

(5) The driver shall do everything reasonably possible to keep his truck under control at all times and shall not operate in excess of a speed at which he can stop the truck in one-half the distance between him and the range of unobstructed vision.

(6) The area between the truck frame members, extending from the cab rearward as far as necessary to provide a safe work area, shall be covered with suitable nonslip type material. Log trucks which have logs scaled at stations shall be provided with a platform on each side extending outward from the frame members at least eighteen inches, and shall be eighteen inches long or as near this dimension as the design of the truck will permit. The treading surface of the platforms shall be of nonslip type material and the platform shall be capable of safely supporting a five hundred pound load.

(7) To protect the operator of vehicles from loads, a substantial bulkhead shall be provided behind the cab which shall extend up to the height of the cab.

(8) If logs must be scaled or branded while the loading operation is being carried on, the loading operation shall cease while the scaling or branding is being done so that the scaler or person doing the branding is not subjected to any hazards created by the loading operation.

(9) When at the dump or reload or where logs are scaled or branded on the truck, the logs shall be scaled or branded before the binders are released.

(10) All vehicles, where vision of the operator in the direction of travel is impaired by the load or vehicle, shall be moved only on a signal from a worker who shall

have a clear view in the direction in which the vehicle is to be moved.

(11) Where a bridge or other roadway structure is posted with a load limit sign, log truck drivers or operators of other heavy equipment are prohibited from driving a load in excess of the posted limit over such structure.

(12) Persons shall be allowed to ride only when in the cab of the log truck.

(13) All trucks shall keep to the right side of the road except where the road is plainly and adequately posted for left side travel.

(14) A method shall be provided to assure that the trailer will remain mounted on the truck while driving on highways or logging roads.

(15) When trucks are towed on any road, the person guiding the vehicle being towed shall, by prearranged signals, govern the speed of travel. The towing of vehicles shall be done at a reasonable speed and in a prudent manner. A tow cable or chain over fifteen feet in length shall have a white flag affixed at the approximate center, however, it is recommended that a rigid tow bar be used for this purpose.

(16) All air lines, air chambers and systems shall be free of leaks and be able to maintain air pressure on constant brake application with the motor shut-off for one minute, or air pressure does not drop more than 4 p.s.i. in one minute with the engine running at idling speed and the service brake applied.

(17) All rubber-tired motor vehicles shall be equipped with fenders. Mud flaps may be used in lieu of fenders whenever the motor vehicle is not designed for fenders.

(18) Seat belts and anchorages meeting the requirements of 49 CFR Part 571 (D.O.T. Federal Motor Vehicle Safety Standards) shall be installed and used in all motor vehicles.

(19) All trucks shall be equipped with doors with operable latches, or a safety bar or strap shall be provided in lieu of the door.

(20) All trucks shall be equipped with a means to protect the operator from inclement weather.

(21) Log trucks shall not approach a landing while there is danger from incoming logs.

(22) Log truck drivers shall stop their vehicle, dismount, check and tighten loose load wrappers and binders, either just before or immediately after leaving a private road to enter a public road.

WSR 81-05-014

**NOTICE OF PUBLIC MEETINGS
STATE BOARD OF EDUCATION**

[Memorandum—February 10, 1981]

The State Board of Education schedule of meeting dates and locations for the 1981 calendar year as filed with the State Code Reviser on September 15, 1980, WSR 80-13-045 and as amended by notice filed December 8, 1980, WSR 81-01-023, has been amended to change the locations of the March and May, 1981 meetings as follows:

Location of March 19-20, 1981 State Board of Education meeting has been changed from Educational Service District 113, 601 McPhee Road S.W., Olympia, Washington to the State Office Modular Building, 7510 Armstrong Street S.W., Tumwater, Washington 98504.

Location of May 14-15, 1981 State Board of Education meeting has been changed from Educational Service District 113, 601 McPhee Road S.W., Olympia, Washington to the State Office Modular Building, 7510 Armstrong Street S.W., Tumwater, Washington 98504.

The meetings will convene at 9:00 a.m. in the new location on the dates designated.

WSR 81-05-015

ADOPTED RULES

DEPARTMENT OF LICENSING

[Order RE 129—Filed February 10, 1981]

I, John Gonzalez, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the amending of WAC 308-124E-010, 308-124F-010, 308-124H-020, 308-124H-030, 308-124H-040, 308-124H-045, 308-124H-050 and 308-124H-060 and repealing WAC 308-124F-050, 308-124F-200 and 308-124G-010.

This action is taken pursuant to Notice No. WSR 80-15-089 filed with the code reviser on October 21, 1980. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Director of the Department of Licensing as authorized in RCW 18.85.040.

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

APPROVED AND ADOPTED February 9, 1981.

By John Gonzalez
Director

AMENDATORY SECTION (Amending Order RE 114, filed 7/2/75)

WAC 308-124E-010 ADMINISTRATION OF TRUST ACCOUNTS. The real estate broker shall be responsible for establishing ((a)) trust bank accounts in a recognized Washington state depository for money received from clients and for keeping trust account records as follows:

(1) The trust bank accounts shall be ((a)) demand deposit accounts designated as a trust account in the name (firm name) of the real estate broker as licensed.

~~((Rents collected in performing property management services may at the option of a licensed real estate broker be deposited in an identified trust account separate from other trust accounts maintained by the broker.))~~ Provided, individual transaction trust accounts may be in a separate, interest-bearing account if directed by written agreement signed by the principals to the transaction. The agreement must specify the distribution of accumulated interest.

(2) The real estate broker shall sign all real estate trust account checks or assume all responsibility for any person or persons authorized by the broker to sign such checks.

(3) All funds or moneys received for any reason pertaining to the sale, renting, leasing or option of real estate or business opportunities or contract or mortgage collections shall be deposited in the broker's real estate trust bank account not later than the first banking day following receipt thereof, except

(a) Checks received as earnest money deposits when the earnest money agreement states that a check is to be held for a specified length of time, and

(b) Funds or moneys received as rent, contract payments or mortgage payments on real estate or business opportunities or mortgages owned exclusively by the real estate broker or the broker's real estate firm.

(4) Each deposit made to the real estate trust bank account shall be identified on the duplicate deposit slip to the specific transaction to which it applies.

(5) The real estate trust bank account must be in agreement at all times with the outstanding trust liability. The balance shown in the checkbook must equal the total of the outstanding liability as shown in the clients' ledger.

(6) The broker shall prepare a monthly trial balance of the clients' ledger, reconciling the ledger with the trust account bank statement and the trust account checkbook.

(7) The debit entries made to a client's ledger sheet must show the date of the check, check number, the amount of the check, the name of payee and the item covered.

(8) The credit entries made to a client's ledger sheet must show the date of deposit, amount of deposit, item covered to include but not limited to earnest money deposit, down payment, rent, damage deposit, rent or lease deposit.

(9) All disbursements of trust funds shall be made by check, drawn on the real estate trust bank account, identified thereon to a specific real estate or business opportunity transaction. The number of each check, amount, date, payee, items covered and the specific transaction, rental, contract, mortgage or collection account must be shown on all check stubs or check register and agree exactly with the check written.

(10) Voided checks written on the real estate trust bank account shall have the "signature line" removed, be marked void, and be retained.

(11) A separate check shall be drawn on the real estate trust bank account, payable to the real estate broker as licensed, for each commission earned upon the final

closing of the real estate or business opportunity transaction or transactions. Each commission check shall be identified to the specific transaction to which it applies.

(12) Commissions due another real estate broker or real estate firm may be paid from the real estate trust bank account. Such commissions shall be paid upon receipt of the funds. Commissions shared with another broker shall constitute a reduction of the gross commission.

(13) No deposits to the real estate trust bank account shall be made of funds received:

(a) Of any kind that belong to the real estate broker or the real estate firm, including funds to "open" the bank account or to keep the account from being "closed".

(b) That do not pertain to a client's real estate or business opportunity sales transaction or received in connection with a client's rental, contract or mortgage collection account.

(14) No disbursements from the real estate trust bank account shall be made:

(a) For items not pertaining to a specific real estate or business opportunity transaction or rental, contract or mortgage collection account.

(b) In advance of the closing of a real estate or business opportunity transaction, or before the happening of a condition set forth in the earnest money receipt and agreement, to the seller or to an escrow agent or to any person or for any reason without a written release from both the purchaser and the seller; provided, that in the event the agreement terminates according to its own terms prior to closing, disbursement of funds may be made as provided by said agreement.

(c) Pertaining to a specific real estate or business opportunity transaction or rental, contract or mortgage collection account in excess of the actual amount held in the real estate trust bank account in connection with such account.

(d) In payment of a commission due any person licensed to the real estate broker or in payment of any "overhead expense". Such expenditures must be paid from the regular business bank account.

(e) For bank charges of any nature to include the cost of printing checks. Such charges are "overhead expense". Arrangements must be made with the bank to have any charges that may be applicable to the real estate trust bank account charged to the regular business bank account or to have the bank submit a separate monthly statement of such charges in order that they may be paid from the regular business bank account.

(f) Of funds received as damage deposit on a lease or rental to the landlord (lessor-owner) or to any person or persons without the specific written authority of the tenant (lessee). Such deposits belong to the (lessee) tenant and are to remain in the real estate trust bank account until the end of the tenancy when they are to be disbursed to the person or persons (tenant or landlord) entitled to the deposit.

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 RE 114, filed 7/2/75)

WAC 308-124F-010 REAL ESTATE OFFICE IN SAME BUILDING AS RESIDENCE REQUIREMENTS. A real estate broker may maintain an office in the building wherein the broker resides (~~(-PROVIDING; such))~~ Provided: (1) the office is separate from any living quarters; ((- AND PROVIDING That)) (2) the office is identified as a real estate office by a sign at the office entrance that is visible to the public; (3) the office entrance is open to the public and does not lead through any living quarters; (4) the office is in conformance with existing zoning; and (5) the office is accessible to the public by a reasonably locatable street address.

AMENDATORY SECTION (Amending Order RE 116, filed 4/30/76)

WAC 308-124H-020 ADMINISTRATION. (1) Each application from a private school, individual or agency seeking approval or consideration of courses shall designate one person responsible for administration of the real estate (~~(course to be conducted))~~ school.

~~((2))~~ Such person shall file with the real estate administrator, (~~(letters from employers))~~ evidence showing previous experience in educational administration or supervision or other activities related to education, and possessing experience in the area of real estate which that person or his instructors proposes to offer or teach.

~~((3))~~ In the case of a public community college, university, or vocational technical school, the head of the real estate department shall be conclusively presumed to meet the foregoing requirements.

(2) Any school, individual or agency requesting approval or consideration of courses shall not apply to itself, either as part of its name or in any manner, the designation of "college" or "university", unless it, in fact, meets the standards and qualifications and has been approved by the state agency having jurisdiction.

(3) No person operating a school, or acting as an instructor in an approved school shall in any way whatsoever use the school or course, directly or indirectly, to recruit real estate sales staff. Schools shall not use the trade name of any brokerage, or any part thereof, nor shall classes be conducted in the offices of any brokerage. The intent of this sub-paragraph is to ensure that no broker or brokerage shall gain an unfair advantage over his or her colleagues by conducting a school for salespeople.

(4) Real estate educational courses offered by national institutions with uniform scope and quality of representation may be approved regardless of the course location and instructors used.

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 RE 125, filed 10/23/78)

WAC 308-124H-030 FILING OF COURSES. Each proprietary school, individual, association or agency seeking approval of courses, must apply on a form provided by the director. Courses must meet the following:

(1) Each course ~~((must))~~ shall include at least one text book that is in general circulation or other instructional material. ~~((If no text book is in general circulation, other material may be submitted for approval.))~~

(2) Each course must add to the practical knowledge of the real estate profession.

(3) ~~((A statement must accompany the application justifying the need for the course(s).))~~ Each course must be supervised or under the direction of at least one natural person who meets the qualifications of WAC 308-124H-060.

(4) Each course must deal with substantive real estate subject matter such as, but not limited to, legal aspects of real estate, real estate principles and practices, real estate finance, appraising, deposit receipts and earnest money agreements. General sales motivation courses will not qualify.

(5) Each course must require a comprehensive examination or ~~((final))~~ examination(s) and a final grade.

(6) Each course must require a minimum of thirty hours of classroom work for the student; a classroom hour is a period of fifty minutes of actual classroom or workshop instruction. The time allotted for examinations shall not be applicable toward the minimum hours of course study.

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 RE 127, filed 6/27/79)

WAC 308-124H-040 APPROVAL OF COURSES. Each proprietary school, individual, association or agency seeking approval of a course or courses shall be required to file an application, on forms provided by the director, with the real estate administrator at least thirty days prior to the date of a regular meeting of the real estate commission. Applications which are completed and filed in a timely manner will be reviewed by the commission for recommendation to the director for consideration of approval or disapproval. The commission may recommend approval of courses solely for the broker requirement or solely for the second renewal requirement.

The director, with the advice of the real estate commission, may deny a course of instruction which, in the opinion of the director, does not meet the requirements of this chapter or meet the needs of the majority of licensees.

Upon approval or disapproval of a course or courses, the applicant will be so advised in writing by the director.

Any changes in course content, material or ~~((instructors))~~ the directors~~(;))~~ or ownership ~~((or location))~~ of schools must be submitted to the administrator within twenty days from date of such change for referral to the director and real estate commission for consideration of continued approval.

Any change in qualified course instructors, or instruction location must be submitted to the administrator prior to implementing such change, for approval by the director.

Approval may be withdrawn if the course is not conducted in accordance with this chapter or the school, or its owners, managers or employees, directly or indirectly, solicits information from applicants for a real estate license following the administration of any real estate examination to discover the content of and/or answer to any examination question or questions.

~~((Approval obtained prior to the effective date of these amended regulations shall expire on December 1, 1978. Subsequent approval and renewals shall expire on December 1, of each year thereafter.))~~

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

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

AMENDATORY SECTION (Amending Order RE 125, filed 10/23/78.)

WAC 308-124H-045 RECORD KEEPING. Upon approval of a course or courses, each proprietary school, individual, association or agency shall, for a period of six years, establish and maintain for each student a complete, accurate and detailed record which shall include the student's attendance, total number of hours of instruction undertaken, and completed areas of study in real estate subjects prescribed by these regulations.

Upon request, a copy of these records shall be made available to the director or student for purposes of determining whether the student~~((s have met))~~ has satisfied the provisions of RCW 18.85.090 and/or 18.85.095.

It shall be the responsibility of the proprietary school, individual, association or agency to furnish each student with a grade report or transcript showing name of course, final grade, number of clock hours earned, and beginning and ending dates of each course attended.

AMENDATORY SECTION (Amending Order RE 125, filed 10/23/78)

WAC 308-124H-050 ((RENEWAL)) REVIEW APPLICATIONS. ~~((Renewal applications must be filed on a form provided by the director with the real estate administrator not later than November 1. All courses will be reviewed for compliance with the requirements of this chapter before continuing approval may be considered.))~~ All approved courses shall be submitted to the director for review biennially for continued approval. The school shall make application on a form provided by the director. The application must be submitted not later

than thirty days prior to the expiration of two years after the effective date of approval, which date will henceforth be the review date. Approval of any course not submitted for review prior to thirty days before the biennial review date shall be cancelled. A cancelled course may be submitted for reapproval by making application as a new course.

((All renewal)) Review applications ((which are filed in a timely manner)) shall be submitted to the real estate commission for recommendation at the next scheduled commission meeting after thirty days from receipt of such application by the director ((for their recommendation)). Approval of a course remains in effect until the review application is acted upon by the commission and director. Upon approval or disapproval of a course or courses, the applicant will be so advised in writing by the director.

Courses which have received approval on or before January 1, 1981 will be assigned an annual review date by the director.

AMENDATORY SECTION (Amending Order RE 125, filed 10/23/78)

WAC 308-124H-060 TEACHERS ((AND/OR)) AND/OR INSTRUCTORS. Each course of instruction herein being considered for approval shall be under the supervision of a qualified teacher and/or instructor who shall be present in the classroom at all sessions; provided, that if the instructional methods include use of pre-recorded audio and visual instructional materials, presentation shall be under the supervision of a monitor who shall be present in the classroom at all sessions and a qualified teacher and/or instructor who shall at the minimum be available by telephone to respond to specific questions from students during the time the school is open for instructional purposes.

Any teacher or instructor must demonstrate competency in the field of real estate they propose to teach. Such competency shall be demonstrated by any of the following:

- (1) Two years of teaching experience or other specialized ((expertise)) experience approved by the director; or
- (2) Two years experience in the area of real estate which that person proposes to teach; and evidence of satisfactory completion of eight hours of training in teaching techniques as approved by the director.

All persons seeking to qualify as a teacher or instructor after April 1, 1979, must have met the qualifications of subsection (1) or (2) of this section.

REPEALER

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

- (1) WAC 308-124F-050 SUBDIVISION ADVERTISING—FILING WITH DIRECTOR.
- (2) WAC 308-124F-200 SUMMARY REVOCATION OF LICENSES.
- (3) WAC 308-124G-010 GUIDELINES FOR WAIVER.

WSR 81-05-016

ADOPTED RULES

DEPARTMENT OF LICENSING

[Order RE 128—Filed February 10, 1981]

I, John Gonzalez, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the amending of WAC 308-124H-005, 308-124-021, 308-124A-020, 308-124A-025, 308-124A-030 and 308-124A-100; adopting WAC 308-124A-110, 308-124A-120 and 308-124A-130; amending WAC 308-124A-200; adopting WAC 308-124A-410 and 308-124A-420; amending WAC 308-124B-040, 308-124B-110, 308-124B-120 and 308-124C-010 and repealing WAC 308-124A-310.

This action is taken pursuant to Notice No. WSR 80-15-088 filed with the code reviser on October 21, 1980. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Director of the Department of Licensing, as authorized in RCW 18.85.040.

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

APPROVED AND ADOPTED February 9, 1981.

By John Gonzalez
Director

AMENDATORY SECTION (Amending Order RE 114, filed 7/2/75)

WAC 308-124-005 ORGANIZATION. The principal location of the division of real estate is located on the ((third)) sixth floor, highways-licenses building, 12th and Franklin Street, Olympia, Washington 98504. The division maintains a Seattle office at ((the department of motor vehicles examining station,)) 320 north 85th street, Seattle, Washington 98103. The division maintains a Spokane office at 25 South Ferrall, Spokane, Washington 99202.

The real estate division of the business and professions administration of the department of ((motor vehicles)) licensing administers the Washington real estate license law, chapter 18.85 RCW. The real estate commission, composed of the director of the department of ((motor vehicles)) licensing and six ((board)) commission members, appointed by the governor from the real estate industry, prepares or reviews and approves examination questions for license applicants, holds real estate education conferences, advises the director as to the issuance of rules and regulations governing the activities of real estate brokers and salesmen and performs such other duties and functions as prescribed by chapter 18.85 RCW. Submissions and requests from the public may be directed to the real estate commission, Olympia, Washington. Information regarding real estate licenses, the real estate commission, or the real estate division, may be obtained by writing to the administrator, real

estate division, department of ~~((motor vehicles))~~ licensing, p.o. box 247, Olympia, Washington 98504.

AMENDATORY SECTION (Amending Order RE 125, filed 10/23/78)

WAC 308-124-021 DEFINITIONS. (~~"Actual experience as a full-time real estate salesperson" under the provisions of RCW 18.85.090 shall not include activities as a land development representative or temporary salesperson permit under the provisions of chapter 18-85-150 RCW.~~) (1) Words and terms used in these rules shall have the same meaning as each has under chapter 18.85 RCW unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicates that they be given some other meaning.

(2) "Designated broker" is the natural person designated by a corporation or partnership to act as a broker on behalf of the corporation or partnership. The designated broker must be an officer of the corporation or a general partner of the partnership and must be separately qualified for licensure as a real estate broker.

(3) "Principal owner" is a person who owns or controls, directly or indirectly, ten percent or more of a real estate brokerage, regardless of whether such interest stands in the person's true name or in the name of a nominee.

(4) "Individual broker" is the natural person who owns a sole proprietorship brokerage company and is the licensed broker of the firm.

(5) "Incorporated associate broker" is the natural person qualified as a broker who works with a broker and who is licensed as a corporation and whose license states that he or she is associated with a broker.

(6) "Administrator" is the person appointed by the director of the department of licensing to administer the real estate division of the department of licensing.

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 RE 120, filed 9/20/77)

WAC 308-124A-020 APPLICATION FOR A LICENSE - FINGERPRINTING. (~~A person making application for a real estate license or land development representative registration must, with the application, submit fingerprints of applicant on forms provided by the director.~~) All persons must submit fingerprint identification, on a form provided by the real estate division when making application for:

- (1) a real estate salesperson license;
- (2) an individual broker license;
- (3) a corporation or partnership broker license; or
- (4) a land development representative registration.

The applicant is not required to submit a new fingerprint form if he or she has filed a fingerprint form with the real estate division within one calendar year preceding the application.

AMENDATORY SECTION (Amending Order 114, filed 7/2/75)

WAC 308-124A-025 NOTICE REQUIRED OF INTENTION TO TAKE EXAMINATION. Any person desiring to take an examination for a real estate broker or real estate ~~((salesman))~~ salesperson license must file a completed application together with the correct fee~~(s)~~ and supporting documents with the real estate division of the department of licensing ~~((with the office of the director of motor vehicles prior to the date of such examination.))~~ The applicant will be assigned to the first available examination subsequent to determination of eligibility. The cutoff date for ~~((notice of))~~ eligibility for any specific examination is available to the applicant upon request. An applicant shall forfeit all examination fees for any examination or examinations for which the applicant has applied and does not take for any reason, other than through the fault or mistake of the real estate division.

AMENDATORY SECTION (Amending Order RE 114, filed 7/2/75)

WAC 308-124A-030 SUCCESSFUL APPLICANTS MUST APPLY FOR LICENSE. (1) Examination results are valid for one year only. Any person who has passed the examination for real estate broker or real estate ~~((salesman))~~ salesperson licensure must become licensed within one year from the date of such examination ~~((in order to become eligible for such license)).~~ Failure to comply with this provision will necessitate the taking and passing of another examination prior to licensure.

AMENDATORY SECTION (Amending Order RE 114, filed 7/2/75)

WAC 308-124A-100 APPLICANT FOR LICENSE PREVIOUSLY LICENSED IN ANOTHER STATE. Any ~~((resident of this state))~~ person making an application for examination who has previously been licensed in another state shall, ~~((with the application, furnish satisfactory proof))~~ evidence by a letter from ~~((the))~~ an administrative ~~((head))~~ officer of the real estate ~~((division))~~ agency of such other state ~~((bearing the official seal setting out))~~ that the applicant's relationship with such ~~((division))~~ state is and has been in good standing.

NEW SECTION

WAC 308-124A-110 APPLICATION FOR REAL ESTATE EXAMINATION, LICENSED IN FOREIGN STATE. Any person applying for a real estate broker or real estate salesperson examination who is actively licensed in another state, territory of the United States or province of the Dominion of Canada and has maintained his or her license in good standing may become licensed as a Washington resident real estate broker, associate broker or salesperson after passing an

examination on Washington law and real estate practices if he or she meets the minimum requirements established by RCW 18.85.090, RCW 18.85.095, and/or RCW 18.85.120 whichever is (are) applicable.

NEW SECTION

WAC 308-124A-120 APPLICATION FOR LICENSE BY EMPLOYING BROKER. A person who desires to be licensed as a real estate salesperson or associate broker shall make application on a form furnished by the director and signed by the broker or designated broker to whom the license will be issued. The branch manager may sign for the broker or designated broker for licenses to be issued to that branch office.

NEW SECTION

WAC 308-124A-130 SALESPERSON, ASSOCIATE BROKERS - TERMINATION OF SERVICES. A person licensed as salesperson or associate broker may perform duties and activities as licensed only under the direction and supervision of a licensed individual broker or designated broker and as a representative of such broker. This relationship may be terminated unilaterally by either the broker or salesperson or associate broker. Notice of such termination shall be given by the broker to the director without delay and such notice shall be accompanied by and include the surrender of the salesperson's or associate broker's license. The broker may not condition his or her surrender of license to the director upon performance of any act by the salesperson or associate broker. Notice of termination shall be provided by signature of the broker, or a person authorized by the broker to sign for the broker, on the surrendered license of the salesperson or associate broker.

AMENDATORY SECTION (Amending Order RE 114, filed 7/2/75)

WAC 308-124A-200 CORPORATE OR CO-PARTNERSHIP APPLICANTS FOR LICENSES - PROOF REQUIRED. (~~WAC 308-124A-010, WAC 308-124A-020 and 308-124A-100 shall apply to corporations or co-partnerships to the extent that each officer of such corporation or each partner of a co-partnership, under RCW 18.85.120(2) and 18.85.120(3) and 18.85.120(4) shall be required to furnish the proof required as to their individual character credit, and fingerprint identification.~~) The minimum qualifications for a corporation or partnership to receive a broker's license are:

(1) An officer in the corporation or a general partner in the partnership, as the case may be, shall be designated as the broker and shall separately qualify for a valid broker's license. The corporation or partnership and the designated broker are required to pay only a single license and license renewal fee.

(2) The applicant shall furnish a character and credit rating, WAC 308-124A-010 and fingerprint identification, WAC 308-124C-020 of the designated broker, officers, and principal owners of the corporation directly

involved in the company's Washington real estate activity and, in the case of a partnership, the general partners and all principal owners.

(3) If the applicant is a corporation, it shall furnish a list of its officers, directors, and principal owners, and their addresses. If the applicant is a partnership, it shall furnish a list of the members of the partnership and their addresses.

(4) If the applicant is a corporation, it shall furnish a copy of its articles of incorporation and current annual report. If the applicant is a partnership, it shall furnish a copy of its partnership agreement.

(5) If a corporation applies for licensure as an incorporated associate broker, the name of the incorporated associate broker as licensed to do business shall be the name of the natural person who is the designated broker for the corporation, and only one person may be licensed to each incorporated associate broker and that person shall be the corporation's designated broker.

NEW SECTION

WAC 308-124A-410 APPLICATION FOR BROKER LICENSE EXAMINATION - TWO YEARS SALES EXPERIENCE. To qualify for two years of actual experience as a full time real estate salesperson applicants for a real estate broker license examination shall provide evidence of either:

(1) a minimum of forty hours per week spent in real estate sales activity for the period; or

(2) a major source of income from real estate sales activity continuously for the period.

NEW SECTION

WAC 308-124A-420 APPLICATION FOR BROKER LICENSE EXAMINATION, OTHER QUALIFICATION OR RELATED EXPERIENCE. Applications for a real estate broker license examination by persons who do not possess two years of actual experience as a full time real estate salesperson as required by RCW 18.85.090 which show other and similar qualifications, or qualification by reason of practical experience in a business allied with or related to real estate (alternative qualifications or experience) shall be submitted to the administrator of the real estate division, P.O. Box 247, Olympia, Washington 98504. The application shall be accompanied by a letter requesting approval of alternative qualifications or experience and indicating the basis for such approval. The letter must include a detailed personal history or work resume, with appropriate documentation, and a letter from each of five persons describing from personal knowledge the qualifications and experience of the applicant. The following guidelines are provided as examples of experience which may qualify in lieu of two years of full time sales experience:

(1) Post-secondary education with major study in real estate together with one year experience as a real estate salesperson or one year experience under the provisions of subsections (2) - (7) below.

(2) Experience as an attorney at law with practice in real estate transactions for not less than one year.

(3) Five years' experience, with decision responsibility, in closing real estate transactions for escrow companies, mortgage companies, or similar institutions.

(4) Five years' experience as an officer of a commercial bank, savings and loan association, title company or mortgage company, involving all phases of real estate transactions.

(5) Five years' experience as a real property fee appraiser or salaried appraiser for a governmental agency.

(6) Five years' experience in all phases of land development, construction, financing, selling and leasing of residences, apartments or commercial buildings.

(7) Five years' experience in real estate investment, property management, or analysis of investments or business opportunities.

All time periods suggested in these guidelines shall be within the last seven years prior to the date of application.

AMENDATORY SECTION (Amending Order RE 114, filed 7/2/75)

WAC 308-124B-040 BRANCH OFFICES OPERATING UNDER ANOTHER NAME. It shall not be a violation of RCW 18.85.190 if a broker establishes one or more branch offices under a name or names different from that of the main office if the name or names are approved by the ~~((division))~~ director, so long as each branch office is clearly identified as a branch or division of the main office. No broker may establish branch offices under more than three names. Both the name of the branch office and of the main office must clearly appear on the sign identifying the branch office, ~~((if any;))~~ and in any advertisement or on any letterhead of any stationery or any forms, or signs used by the real estate firm on which either the name of the main or branch offices appears.

AMENDATORY SECTION (Amending Order RE 114, filed 7/2/75)

WAC 308-124B-110 DISPLAY OF LICENSES. Licenses of the real estate broker, all associate real estate brokers, branch managers, ~~((salesmen))~~ salespersons and ~~((temporary permittees))~~ land development representatives shall be displayed prominently in the office located at the address appearing on the individual license.

AMENDATORY SECTION (Amending Order RE 114, filed 7/2/75)

WAC 308-124B-120 CHANGE OF OFFICE LOCATION. The real estate broker shall notify the director of the change of location and mailing address of the broker's office by promptly ~~((completing and mailing))~~ filing a change of address application with the administrator (to:

**REAL ESTATE DIVISION
BUSINESS AND PROFESSIONS ADMINISTRATION
P.O. Box 247
Olympia, Washington 98504)**

together with the return of all licenses and ~~((a check for))~~ payment of the correct fees ~~((payable to the state treasurer))~~.

AMENDATORY SECTION (Amending Order RE 114, filed 7/2/75)

WAC 308-124C-010 ((BROKERS)) LICEN-SEE'S RESPONSIBILITIES. (1) The real estate broker shall be responsible for the custody, safety(;) and correctness of entries of all required real estate records. The broker retains this responsibility even though another person or persons may be assigned by the broker the duties of preparation, custody or recording.

(2) ~~((It shall be the responsibility of the individual or designated broker of a corporation or copartnership to obtain a copy of these rules and regulations. Such rules and regulations shall be on file in all the licensed offices for the ready availability and use of all licensees licensed to said broker.))~~ It is the responsibility of each and every licensee to obtain a copy of and be knowledgeable of and keep current with the rules implementing chapter 18.85 RCW.

REPEALER

The following section of the Washington Administrative Code is hereby repealed:

WAC 308-124A-310 SALESMAN SECOND RENEWAL REQUIREMENTS.

WSR 81-05-017

ADOPTED RULES

DEPARTMENT OF REVENUE

[Order PT 81-7—Filed February 11, 1981]

I, Glenn R. Pascall, director of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

- Amd WAC 458-16-110 Applications—Who must file, filing requirement, application forms, what covered, filing fee, financial statement, evidence of timely filing.
- Amd WAC 458-16-111 Filing fees, penalties and refunds.
- Amd WAC 458-16-120 Appeals and notice of determination.
- Amd WAC 458-16-130 Properties sold or acquired by property owner deemed to be exempt.
- Amd WAC 458-16-150 Cessation of use—Taxes collectible.
- Amd WAC 458-16-210 Nonprofit, nonsectarian organizations.
- Amd WAC 458-16-260 Day care centers, libraries, orphanages, homes for the aged, homes for sick or infirm, hospitals.
- Amd WAC 458-16-270 Schools and colleges.

This action is taken pursuant to Notice No. WSR 81-01-021 filed with the code reviser on December 8, 1980. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 84.36.865 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 11, 1981.
By Donald R. Burrows
Deputy Director

AMENDATORY SECTION (Amending Order PT 77-2, filed 5/23/77)

WAC 458-16-110 APPLICATIONS—WHO MUST FILE, FILING REQUIREMENT, APPLICATION FORMS, WHAT COVERED, FILING FEE, FINANCIAL STATEMENT, EVIDENCE OF TIME-LY FILING. All foreign national governments, cemeteries, nongovernmental nonprofit corporations, organizations, and associations, and soil and water conservation districts seeking exemption from ad valorem property taxation under the provisions of chapter 84.36 RCW shall make application for exemption with the State of Washington Department of Revenue(;-) General Administration Building, Olympia, ((Washington)) WA 98504.

(1) Initial applications, renewal applications and annual recertification for exemption shall be filed on or before March 31 in the assessment year for which exemption is sought with the Department of Revenue. Applications received after March 31, but prior to December 31 are subject to late filing penalties.

(a) Initial applications: An original claim for property tax exemption by an organization.

(b) Renewal application: Additional property claims by an organization currently exempt and the fourth year renewal.

(c) Recertifications: A certification on Department of Revenue forms, that the exempt status of the real and personal property owned by the exempt organization has not changed.

All applications and recertifications for exemption shall be filed on forms prescribed by the Department of Revenue and shall be signed by an authorized agent. On or before January 1 of each assessment year the department shall mail the approved forms to each legal owner ~~((previously listed as having exempt property, and to those who have requested such forms from the Department. In addition;))~~ that was granted an exemption for the previous assessment year. Applications shall be available from any Department of Revenue office or from any county assessor's office. No property shall be granted an exempt status without the owner first filing for exemption, for the specific property for which exemption is sought, and the filing shall be due regardless of whether or not the legal owner has received forms for exemption from the department.

To retain exempt status, applicants except nonprofit cemeteries must file a renewal application on or before March 31 of the fourth year following the date of the initial application and on or before March 31 of every fourth year thereafter~~((, and))~~. When an applicant previously granted exemption acquires or otherwise converts real property to exempt status, such applicant shall file a

renewal application within sixty days following the conversion of such real property to exempt status without penalty. Failure to file a renewal application within sixty days of conversion of such real property to exempt status shall result in a late filing penalty. See WAC 458-16-111 for computation of penalty.

In the years ~~((initial or))~~ renewal applications are not due, an applicant previously granted exemption shall annually file~~((, on forms prescribed by the department;))~~ a recertification ((that the exempt status of the real or personal property owned by the exempt organization has not changed. PROVIDED, That when said certification has not been filed by March 31 of the year prior to the year taxes would be due, it shall be deemed to have not been filed annually and the exemption has lapsed. The exemption claim must then be reestablished by the filing of a new application on forms prescribed by the Department of Revenue along with the appropriate filing fees and penalties); PROVIDED, That when the annual filing has not been made by March 31, the ten dollars per month filing penalty will apply. When the annual claim has not been filed by December 31 the exemption will lapse.

(2) The property covered by each application for property tax exemption, or renewal thereof, shall include all the real and personal property which is contiguous, and which is used as a homogeneous unit.

(a) The term "homogeneous unit" means property under the control of a single applicant, the operation and use of which is integrated with and directly related to the activity of the entity seeking exemption.

(b) The term "contiguous" means all property which is geographically one unit without separation except for separations caused by public streets and roads.

EXAMPLES:

A church owns a single piece of property upon which is constructed a church, parsonage, and elementary school. All three buildings are owned by the church and constitute a homogeneous unit in that they are integrated with and directly related to the activities of the church. This requires only one application because the property is geographically contiguous and is a homogeneous unit.

O corporation, the supervising entity of a nonprofit recognized religious denomination, holds title to five separate units in a county. The operation of each church unit is integrated with the activity of and supervised by O. To properly apply for an exemption for these five church units O would be required to file a separate application for each church unit as they are geographically separate.

No application shall be acted upon until complete. To be complete all filing fees and penalties for late filing must be paid, the legal description must be provided, and the use of the property must be identified.

Organizations claiming exemption under RCW ~~((84-36.040, RCW 84.36.050 and RCW))~~ 84.36.030 through 84.36.060 are required to ((file financial statements with the Department of Revenue on or before April 1. Such financial statements shall be for the accounting period for the fiscal year ending during the previous calendar

year)) provide financial information to the Department of Revenue upon request.

~~((Evidence of timely filing shall be made, if filed by mail, by means of the cover under which the application was sent, in that the cover must be postmarked no later than midnight of the last day on which the application, financial statement, or filing fee is required to be filed. If the due date falls upon a Saturday, Sunday, or legal holiday, the application, financial statement, or filing fee must be filed on the next day which is not a Saturday, Sunday, or legal holiday. If filed in person, evidence of time of filing shall be by the date stamp of the Department of Revenue office receiving the application.))~~

Property leased may be claimed by the lessor or lessee, provided the lessee has permission of the lessor to claim exemption. Property claimed by the lessee must be specifically identified by owner and location of the property. Claims for leased property must be accompanied by a complete copy of the lease agreement.

~~((Applications will be considered for the assessment year in which received, unless requested in writing to be held for the following or previous assessment year))~~ The Department of Revenue shall have access to all books and records necessary to determine if the requirements for exemption have been complied with. The Department of Revenue shall have the authority to request additional information relevant to the claim for exemption as the department deems necessary.

AMENDATORY SECTION (Amending Order PT 77-2, filed 5/23/77)

WAC 458-16-111 FILING FEES, PENALTIES AND REFUNDS. ((Fees and penalties collected under this rule are statutory and may not be waived for any reason.))

Filing Fee:

The filing fee of \$35.00 shall be collected before the Department of Revenue considers ~~((any of the following))~~ either an initial or renewal application (as defined in WAC 458-16-110) for property tax exemption.

~~((1) Original claims for exemption for property never claimed and approved for exemptions:~~

~~(2) Renewals for property previously exempt every fourth year:~~

~~(3) Property not recertified for exemption annually by the filing deadline of March 31 of the assessment year for which exemption is sought:~~

~~(4) Property acquired by a different ownership, although the new owner may subsequently be able to qualify or requalify the property for exemption.))~~

Late Penalties:

A late filing penalty of \$10.00 per month or portion of a month shall be collected before the Department of Revenue will consider any claim for property tax exemption when the completed claim is not filed by the due date. A claim will not be considered complete until ~~((a written request claiming exemption and identifying the property is filed with all filing fees and penalties that may be due))~~ an application identifying all of the property is filed with all fees and penalties that may be due. The due date is March 31 of the assessment year unless

the property is purchased or converted to an exempt use in which case the due date shall be sixty days after the conversion/acquisition date.

~~((The due date is March 31 of the assessment year, unless the property is converted to an exempt use after March 31 in which case it shall be 60 days after the conversion date.~~

Extension:

The due date may be extended in 30 day increments upon written request filed before the due date for good cause shown therein:

Refunds, [-]

Fees and penalties may be refunded only under the following circumstances:

(1) A duplicate claim for the same property is filed by the same legal owner for the same assessment year.

(2) A claim is improperly received by Department of Revenue and it has no authority to consider it. (Example: Claim filed by government entity.)

(3) A request is received in writing prior to the determination on forms provided by the Department of Revenue or its equivalent requesting withdrawal. The forms shall include:

(a) A listing of the property covered by the application.

(b) An acknowledgment the property is not entitled to exemption and all assessment levies, and taxes will be payable.

(c) A signed statement clearly withdrawing the claim for exemption. The requesting official must be the same person who signed the application or another person authorized by the legal owner.

The Department of Revenue has no authority to refund fees and/or penalties even though the claim is denied. The fees are intended to pay part of the cost of administration and are expended regardless of the determination.))

Refunds:

Fees and penalties will be refunded if:

(1) A duplicate claim for the same property is filed by the same legal owner for the same assessment year.

(2) A claim is improperly received by the Department of Revenue and it has no authority to consider it. (Example: Claim filed by government entity.)

(3) A request is received in writing prior to the department issuing a determination. The request shall include a signed statement clearly withdrawing the claim for exemption. The person requesting the withdrawal must be the same person who signed the application or another person authorized by the legal owner.

The Department of Revenue has no authority to refund fees or penalties after a determination is issued.

AMENDATORY SECTION (Amending Order PT 77-2, filed 5/23/77)

WAC 458-16-120 APPEALS AND NOTICE OF DETERMINATION. The Department of Revenue shall ~~((have access to all books and records necessary to determine if the requirements for exemption have been complied with. The Department of Revenue shall have~~

~~the authority to request additional information relevant to the claim for exemption as it deems necessary)) review each completed application and make a determination thereon, by August 1 or within thirty days whichever is later.~~

~~((Leased property may be claimed by the lessor or lessee, provided the lessee has permission of the lessor to file on the lessor's behalf. Property claimed by the lessee must be specifically identified by owner and location of the property. The Department of Revenue shall, prior to August 1 of the assessment year, review each application which is timely filed and accompanied by a filing fee, and make a determination thereon, or if received after August 1 within 30 days of receiving the completed application. The Department of Revenue shall notify each legal owner or his designated agent in writing and by mail of the determination, either approval, denial, or the portion approved or denied, which has been made upon the application and stating therein the reasons for its determination. A copy of each determination shall also be sent to each county assessor.))~~

Any property owner aggrieved by the department's denial of an exemption application may, within 30 days of notification thereof, petition the State Board of Tax Appeals at 1010 Cherry Street, Olympia, ((Washington)) WA 98504 for review. Any county assessor who feels the department's determination of exemption is unwarranted may, within 30 days after receiving a copy of the notification, petition the State Board of Tax Appeals for review. To determine whether an appeal ((is timely)) taken to the Board of Tax Appeals, ((the commencement of)) is timely the period for giving notice of appeal shall commence on the third day following the day upon which the notice was placed in the mail. (WAC 456-08-003, Board of Tax Appeals)

Appeal forms shall be available at the Board of Tax Appeals in Olympia and County Auditor's Offices except in King County where they are available at the Office of the Clerk of the County Council. Appeals shall be filed with the Board of Tax Appeals and, concurrently, a copy ((thereof)) shall be filed with the Department of Revenue ((at the same time)). The appellant shall prepare an original and three copies of the Notice of Appeal. ((The original shall be filed with the Board of Tax Appeals, a copy with the Department, if the property owner is the appellant, one copy of the notice must be served on the assessor of the county in which the property is located, when the assessor is the appellant, one copy of the notice must be served on the property owner, and one copy shall be retained in the appellant's files.)) They shall be distributed as follows:

(1) The original shall be filed with the Board of Tax Appeals.

(2) One copy shall be filed with the Department of Revenue.

(3) If the property owner is the appellant, one copy of the notice must be filed with the assessor of the county in which the property is located. If the assessor is the appellant, one copy of the notice must be provided to the property owner.

(4) One copy of the notice shall be retained in the appellant's files.

The State Board of Tax Appeals shall consider any appeals which are timely filed to determine (1) if the property is or is not entitled to an exemption, and (2) the amount or portion thereof.

Failure to timely file a claim for exemption is not subject to appeal.

AMENDATORY SECTION (Amending Order PT 77-2, filed 5/23/77)

WAC 458-16-130 PROPERTIES SOLD OR ACQUIRED BY PROPERTY OWNER DEEMED TO BE EXEMPT. As required by RCW 84.36.855, property which is transferred or converted by an exempt body to ((private)) taxable ownership or use shall be subject to a prorata portion of ((the)) taxes allocable to that property for the remaining portion of that year, after the date of ((recording)) the execution of the instrument of sale, contract or exchange ((RCW 84.40.360), and shall be subject to the provisions of RCW 84.40.350 through 84.40.390), or the conversion to a taxable use as provided in RCW 84.40.350 through 84.40.390. Property exempted pursuant to RCW 84.36.030, 84.36.040, 84.36.050 and 84.36.060 is also subject to the provisions of RCW 84.36.810.

When any property owner determined to be, or ((who)) could be, exempt under chapter 84.36 RCW acquires ownership of property which was in other ownership as of January 1 ((such property owner shall prove that,)) or converts property from a taxable to an exempt use must apply for and provide proof that under the specific RCW section and appropriate WAC, the property is entitled to exemption or continued exemption from time of transfer or conversion. Organizations seeking exemption under the provisions of this rule shall, within 60 days of conversion to an exempt use, make application to the Department of Revenue, or shall make a request for an extension of time, in writing, prior to the expiration of the 60 day period. If the extension is requested for good cause, therein the department may grant an extension.

If filed after the expiration of the 60 day period ((and any extension granted,)) a late filing penalty shall be ((due)) imposed pursuant to WAC 458-16-111 and RCW 84.36.825.

When organizations acquire or convert property to an exempt use, the property will upon approval of the application for exemption, be entitled to a cancellation of the prorata portion of taxes payable for the remaining portion of the year from the date of acquisition or conversion plus exemption for the following year.

AMENDATORY SECTION (Amending Order 77-2, filed 5/23/77)

WAC 458-16-150 CESSATION OF USE—TAXES COLLECTIBLE. Upon cessation of any use exempted under RCW 84.36.030 ((through)), 84.36.040 and 84.36.060, ((except RCW 84.36.032 and 84.36.045,)) the taxes that would have been paid had the property not been exempt during the seven ((7)) years preceding, or for the life of the exemption, if such be less than seven years, shall be collectible.

Upon cessation of a use exempted under RCW 84.36.050, the taxes that would have been paid had the property not been exempt during the three years preceding, or for the life of the exemption, if such be less than three years, shall be collectible, plus a tax at the same rate as the property tax rate for that year, on the amount of profit from the sale of the property. If the school or college has operated for more than ten years the rollback will not be implemented.

The property owner, county assessor, or any other public official having information or knowledge of any change in use, including lease or rental of all or a part of such properties, which may constitute cessation of use, shall notify the department of any such changes in use which may be brought to their attention. The department shall notify the current property owner, and the legal owner previously granted exemption, of the reported change in use and shall examine the property to determine if the reported change ~~((in use))~~ has taken place. The property owner shall have 30 days from the time of notification by the department to submit any information which may be relevant to the question of changing use.

The department shall determine, upon the information supplied by the assessor or the public official, the property owner, or from the inspection of the property, whether ~~((in fact))~~ such a cessation of use as warrants ~~((collection of taxes payable))~~ the rollback has occurred.

The county treasurer, upon notification from the Department of Revenue, shall compute the taxes payable, together with interest, at the same rate and computed in the same manner as that upon delinquent property taxes. If such a cessation of use involves a portion of the total property, the taxes collectible shall attach to only that portion affected.

This rule shall be effective for those applications granted under chapter 84.36 RCW in assessment year 1974, and years thereafter: PROVIDED, That if the cessation of use resulted solely from ~~((the following, the provisions of this section shall not apply:~~

~~(1) Transfer to an organization, association, or corporation for a use which also qualifies and is granted exemption under the provisions of chapter 84.36 RCW;~~

~~(2) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain, in anticipation of the exercise of such power;~~

~~(3) Official action by an agency of the State of Washington or by the county or city within which the property is located which disallows the present use of such property;~~

~~(4) A natural disaster such as a flood, windstorm, earthquake, or other such calamity, rather than by virtue of the act of the organization, association, or corporation changing the use of such property;~~

~~(5) Relocation of the activity and use to another location or site except for the undeveloped property of camp facilities exempted under RCW 84.36.030 {84.36.030}) one of the five conditions identified as (3)(a) through (e) in RCW 84.36.810, the provisions of this section shall not apply.~~

Lease or rental of all or part of such properties may constitute a cessation of use and knowledgeable authorities should report same to the Department of Revenue.

"Relocation of the activity" means the use of another location or site for the same activity that was carried on at the original site to the extent that it is a new location or site, or it is an existing site whose facilities have expanded to accommodate the relocated activity.

Property exempted for an intended use, but never put to such use will be subject to a rollback for the life of the exemption when sold or put to a disqualifying use, or when it is determined the intended use will not be achieved.

AMENDATORY SECTION (Amending Order PT 77-2, filed 5/23/77)

WAC 458-16-210 NONPROFIT, NONSECTARIAN ORGANIZATIONS. The real and personal property owned by nonsectarian organizations is exempt from taxation, provided that:

(1) The organization is nonprofit and is organized and conducted primarily for nonsectarian purposes~~((;and))~~,
 (2) the property is solely used, or to the extent used, for character-building, benevolent, protective or rehabilitative social services directed at persons of all ages, and
 (3) if these organizations were not conducting these activities the government would provide this service.

~~((f))~~ These are the primary uses and the word "fraternal" is not among them, therefore, organizations whose main function is fraternal would not qualify under this section.~~((g))~~

This exemption extends to property of nonprofit, nonsectarian organizations which are used for benevolent, protective or rehabilitative social services and those which are actually related to those purposes. If any portion of the property of the organization is used for commercial rather than nonsectarian purposes, that portion must be segregated and taxed.

AMENDATORY SECTION (Amending Order PT 77-2, filed 5/23/77)

WAC 458-16-260 DAY CARE CENTERS, LIBRARIES, ORPHANAGES, HOMES FOR THE AGED, HOMES FOR SICK OR INFIRM, HOSPITALS. Buildings, grounds, and other real and personal property to the extent used by the following institutions are exempt from taxation~~((;))~~:

(1) Day care centers, as defined by RCW 74.15.020;

(2) Free public libraries;

(3) Orphanages and orphan asylums;

(4) Homes for the aged;

(5) Homes for the sick or infirm; ~~((and))~~

(6) Hospitals for the sick~~((;))~~ including any portion of the hospital building or other buildings used as a nurse's home or residence for hospital employees, or operated as a portion of the hospital unit.

To qualify under this rule, the organization must be nonprofit~~((, in that no part of the income of which is paid directly or indirectly to its members, stockholders, officers, directors, or trustees, except))~~. Nonprofit means

no part of the organization's income may be paid directly, or indirectly to its members, stockholders, officers, directors, or trustees except:

(a) In the form of services rendered by the organization, association, or corporation in accordance with its purposes and by-laws ~~((and))~~.

(b) The salary or compensation paid to officers of such organization, association, or corporation is for actual services rendered and compares to the salary or compensation of like positions within the public services of the state.

Any portion of property owned by an organization which is used in a manner not furthering the purposes of the institution, (for example, hospital property used ~~((free of rent))~~ by a physician for private practice~~((:))~~) must be segregated and taxed. (AGO 7-3-1935)

Property owned by an organization exempt under this rule which ~~((is under construction at the time of assessment))~~ is irrevocably dedicated to the purposes of the organization is included in this exemption~~((:))~~: PROVIDED, That the organization ~~((which owns the property))~~ can evidence ~~((the))~~ irrevocable intent to put the property to a qualifying use. The forms of proof set forth in WAC 458-16-200 may be utilized for this purpose. To be exempted, the property must be in use or under construction which is designed for use.

The superintendent or manager of the organization claiming exemption under this statute shall allow the Department of Revenue access to the books and records of the organization and shall make, under oath, a report to the department showing that the income and receipts thereof, including donations to it, have been applied to the actual expenses of operating and maintaining it, or for its capital expenses and to no other purposes, also including a statement of the receipts and the disbursements of said organization.

Real property owned by any organization, corporation, or association exempted under the provisions of RCW 84.36.040 which is leased or rented to another individual or organization shall be segregated and taxed. An exemption may be granted to the real or personal property leased or rented by any organization, corporation, or association exempted under the provisions of RCW 84.36.040 and used exclusively by it: PROVIDED, That the benefit of the exemption inures to the user. Such property must be specifically identified as leased in filing for exemption.

For the purposes of this rule a "hospital" is an organization primarily engaged in providing medical, surgical, nursing and/or related health care services in the prevention, diagnosis or treatment of human disease, pain, injury, disability, deformity or physical condition, or mental illness or retardation, and the equipment and facilities used by such organization to deliver such services on an inpatient basis. This definition shall include any portion of a hospital building, or other buildings used in

connection therewith, and the equipment therein, operated as a portion of the hospital unit, or used as a residence for persons engaged or employed in the operation of a hospital.

AMENDATORY SECTION (Amending Order PT 77-2, filed 5/23/77)

WAC 458-16-270 SCHOOLS AND COLLEGES.

The property owned or used by any nonprofit school or college within this state shall be exempt to the extent that:

(1) The property is used solely for educational purposes, or the revenue derived therefrom, be devoted exclusively to the support and maintenance of such institutions, provided such revenue is derived from an incidental, not commercial, use. An example of which would be the occasional lease of the gymnasium, field house, or auditorium;

(2) The real property so exempt shall not exceed four hundred ~~((400))~~ acres in extent and shall be used exclusively for college or campus purposes. College or campus purposes shall be construed to mean that the need for such property would be nonexistent, but for the presence of such school or college and which are principally designed to further the educational functions of such college or schools;

(3) The institution must be open to all persons on equal terms. However, there is no limitation on the types of courses which the institution may offer. *Wilson's Modern Business College v. King County*, 4 Wn.2d 636 (1940); AGO 1927-1927, p. 854.

Real property of institutions exempted under this rule which are owned, controlled, rented or leased for the purpose of deriving revenue from it, shall not be exempt and must be segregated and taxed whether or not such revenue is devoted to educational purposes. AGO 5-10-1944; *Wilson's Modern Business College v. King County*, 4 Wn.2d 636 (1940).

Institutions claiming exemption within this rule shall allow the Department of Revenue access to all books and records of the institution and shall annually make, under oath, a report to the department showing that the income and receipts thereof, including donations to it, have been applied to the actual expenses of operating and maintaining it or for capital expenses for endowments, the income of which shall be used for the operation, maintenance or capital expenditures and to no other purpose, also including a statement of the receipts and disbursements of said organization. In addition, institutions claiming exemption under this rule shall submit a list of all property claimed to be exempt, the purpose for which it is used, the revenue derived from it during the preceding year, the use to which the revenue was applied, the number of students in attendance at the institution, the total revenues of the institution and the source from which they were derived, and the purposes to which such revenues were applied, giving the items ~~((of))~~ of such revenues and expenditures in detail.

WSR 81-05-018
ADOPTED RULES
DEPARTMENT OF REVENUE
 [Order PT 81-6—Filed February 11, 1981]

I, Glenn R. Pascall, director of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

New	WAC 458-16-011	Senior citizen and disabled persons exemption—Gross income.
New	WAC 458-16-012	Senior citizens and disabled persons exemption—Adjusted gross income.
New	WAC 458-16-013	Senior citizens and disabled persons exemption—Disposable income.
New	WAC 458-16-079	Senior citizen and disabled persons exemption—Refunds—Late filings.
Amd	WAC 458-16-010	Senior citizen and disabled persons exemption—Definitions.
Amd	WAC 458-16-020	Senior citizen and disabled persons exemption—Qualifications for exemption.
Amd	WAC 458-16-050	Senior citizen and disabled persons exemption—Amount of exemption.
Amd	WAC 458-16-060	Senior citizen and disabled persons exemption—Transfer of exemption.
Amd	WAC 458-16-070	Senior citizen and disabled persons exemption—Cancellation.

This action is taken pursuant to Notice No. WSR 81-01-070 filed with the code reviser on December 17, 1980. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 84.36.389 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 11, 1981.

By Donald R. Burrows
Deputy Director

AMENDATORY SECTION (Amending Order PT 76-1, filed 4/7/76)

WAC 458-16-010 SENIOR CITIZEN AND DISABLED PERSONS EXEMPTION—DEFINITIONS.

(1) The term "residence" ~~((shall))~~ means a single family dwelling unit whether such unit be separate or part of a multi-unit dwelling~~(;)~~ and includes the land on which the dwelling stands not to exceed one acre. The term also includes a share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides. It includes a single family dwelling situated upon leased lands and upon lands the fee of which is vested in the United States ((or)),₁ any instrumentality thereof including an Indian tribe ((or m))₂ the state of Washington,₁ or its political subdivisions. Also included is a mobile home which has substantially lost its identity as a mobile unit by being fixed in location upon land owned~~((-[;] leased))~~ or rented by

the owner of said mobile home and placed on a foundation, posts, or blocks with fixed pipe connections ~~((with))~~ for sewer, water or other utilities even though it may be listed and assessed by the county assessor as personal property.

The residence must have been ~~((regularly))~~ occupied by the person claiming the exemption as the principal or main residence of the claimant. It does not include a residence used merely as a vacation home. For purposes of this exemption, principal or main residence means a residence the claimant resides at or dwells in for more than six months each year. Items to be considered in verifying residency can be ownership of another residence, voter registration and vehicle licensing.

(2) The term "real property" for the purposes of WAC 458-16-010 through 458-16-079 includes subsection (1) of this section and the land on which a mobile home is located if both the land and mobile home are owned by a qualified claimant.

(3) The term "preceding calendar year" ((shall)) means the calendar year preceding the year in which the claim for exemption is filed.

~~((3))~~ (4) "Department" ((shall)) means the State Department of Revenue.

~~((4))~~ The term "real property" for the purposes of WAC 458-16-010 through 458-16-070 shall include subsection (1) of this section and the land on which a mobile home is located if both the land and mobile home are owned by a qualified claimant.

~~(5) "Combined income" shall mean the total income from all sources whatsoever for both the claimant and spouse, if any. It shall include such items as investment income in the form of dividends from stock, interest on savings accounts and bonds, capital gains, gifts and inheritances, and net rental income from real estate. It shall also include income from pensions, disability payments, retirement pay and annuities. Reimbursement for losses is not to be considered as income. Only two-thirds (2/3) of social security, federal civil service, and/or railroad retirement benefits will be considered as income. Combined income shall not include any ascertainable return of capital or investment. Any gain realized from the sale of the claimants residence shall not be considered as income if the gain is reinvested in a replacement residence within eighteen (18) months of its realization:)~~

(5) "Combined disposable income" means the disposable income of the person claiming the exemption, plus the disposable income of his or her spouse, and the disposable income of each cotenant occupying the residence for the preceding calendar year. Disposable income is defined in WAC 458-16-013.

(6) "Cotenant" means a person who resides with the person claiming the exemption and who has an ownership interest in the residence.

~~((6))~~ (7) "Owned" ((shall)) includes "contract purchase" as well as "in fee"~~(l)~~. It shall also include an owner who has transferred the property under a revocable trust agreement if the claimant has full use of the property and is able to revoke the trust and take ownership. A life estate retained in a property shall not be

considered as ownership.)), a "life estate," and any "lease for life."

A residence owned by a marital community ((shall be)) or owned by cotenants is deemed to be owned by each spouse or cotenant.

((7)) (8) The term "regular gainful employment" ((is used to indicate any)) means consistent or habitual labor or service((s)) which results in an increase in wealth or earnings. ((The usage is sufficiently broad to include the performance of any function or activity, whether initiated by the person performing or by any other person. It also is broad enough to include any payment therefor whether in money or in goods, so long as the person performing realizes a gain, as opposed to a loss, from any source. It is not necessary that the gain be "wages" in any technical sense, or that the arrangement under which the labor or service is performed be the conventional one of employer or employee. Judicial consideration of the meaning of the term indicates, however, that a woman acting as a housewife, for her husband and family only, is not engaged in "gainful employment".

(8) "Regular" shall mean consistent or habitual.))

(9) The term "family" includes a single person, any number of related persons, or a group not exceeding a total of eight related and nonrelated(;) nontransient persons living as a single nonprofit housekeeping unit. The term does not, however, include a boarding or rooming house.

(10) "Replacement residence" ((shall)) means a residence that qualifies for the exemption contained in WAC 458-16-010 through ((458-16-070)) 458-16-079 except for the time requirement contained in WAC 458-16-020(1).

(11) "Physical disability" ((shall)) means the condition of being disabled, resulting in the inability to pursue an occupation because of physical impairment. A doctor's signed statement ((shall)) constitutes proof of such disability and shall be required before the exemption may be granted. This statement shall indicate the expected period or term of the disability.

(("Regularly occupy" shall mean to dwell or occupy indefinitely without intent to change. Temporary absences such as being confined to a hospital or nursing home for medical purposes shall not be considered as evidencing an intent to change residence or occupancy.)) "Remainderman" means one who is entitled to the remainder of the estate after a particular estate has expired; that is, a person having legal right to the real estate at the death of the life tenant or some other named time.

(13) "Remainder" means an estate in land which does not become possessory until a designated time in the future.

(14) "Lease for life" means a lease that terminates upon the demise of the lessee.

(15) "Life estate" means an estate whose duration is limited to the life of the party holding it or of some other person.

(16) "Ownership by a marital community" means property owned in common by both spouses. Property held in separate ownership by one spouse is not owned

by the marital community. The person claiming the exemption must own the property for which exemption is claimed. Example: A person qualifying for the exemption by virtue of age or disability cannot claim exemption on a residence owned by the person's spouse as a separate estate outside the marital community unless the person has a life estate therein.

(17) "Excess levies" are all voter approved in accordance with RCW 84.52.050, with the exception of port district, public utility district and emergency medical service district levies.

(18) "Claimant" means a person who is entitled to and has been approved for the exemption contained in WAC 458-16-010 through 458-16-079.

(19) "Annuity" means a payment of a fixed sum of money at regular intervals of time. This includes the proceeds of life insurance contracts (other than lump sum payments), unemployment compensation, disability payments, welfare receipts and others that do not constitute payments for the care of dependent children.

NEW SECTION

WAC 458-16-011 SENIOR CITIZEN AND DISABLED PERSONS EXEMPTION—GROSS INCOME. "Gross income" is defined as all income from whatever source derived except for the following: (The following does not include those items to be added back pursuant to RCW 84.36.383.).

(1) Death payments:

(a) Proceeds of life insurance contracts which are paid by reason of the death of the insured; or

(b) Amounts paid by an employer which are paid by reason of death of the employee but is limited to an amount of five thousand dollars.

(2) Gifts and inheritances; gross income does not include the value of property acquired by gift, bequest, devise, or inheritance. This value includes either the property or the amount of proceeds from the sale of the property to the extent it does not include capital gain.

(3) Compensations for injuries or sickness which are received from the following that do not constitute a pension or annuity:

(a) Lump sum amounts received under workmen's compensation for personal injuries or sickness;

(b) Lump sum amounts received by tort (suit) or agreement on account of personal injuries or sickness;

(c) Lump sum amounts received through accident or health insurance for personal injuries or sickness.

(4) Amounts received under accident or health plans; reimbursement for expended medical costs.

(5) Contributions by employer to accident and health plans; contributions by the employer to accident or health plans for compensation (through insurance or otherwise) to his employees for personal injuries or sickness.

(6) Rental value of parsonages; a minister of the gospel does not include in gross income:

(a) The rental value of the home furnished to him as part of his compensation; or

(b) The rental allowance paid to him as part of his compensation to the extent used by him to rent or provide a home.

(7) Income from discharge of indebtedness:

(a) Special rule of exclusion; no amount shall be included in gross income by reason of the discharge, in whole or in part, within the taxable year, of any indebtedness for which the taxpayer is liable, or subject to which the taxpayer holds property, if:

(i) The indebtedness was incurred or assumed:

(A) By a corporation; or

(B) By an individual in connection with property used in his trade or business; and

(ii) Such taxpayer makes and files a consent to the regulations prescribed under section 1017 in the Federal Internal Revenue Code (relating to adjustment of basis) then in effect at such time and in such manner as the Secretary of the Treasury or his delegate by regulations prescribes. In such case, the amount of any income of such taxpayer attributable to any unamortized premium (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be allowed as a deduction;

(b) Railroad corporation; (not applicable).

(8) Improvements by lessee on lessor's property; gross income does not include income (other than rent) derived by a lessor of real property on the termination of a lease, representing the value of such property attributable to buildings erected or other improvements made by the lessee.

(9) Income tax paid by lessee corporation: (Applicable only to corporations).

(10) Recovery of bad debts, prior taxes, and delinquent accounts:

(a) General rule; gross income does not include income attributable to the recovery during the taxable year of a bad debt, prior tax, or delinquency amount, to the extent of the amount of the recovery exclusion with respect to such debt, tax, or amount;

(b) Definitions: For purposes of subsection (a) of this section:

(i) Bad debt: The term "bad debt" means a debt on account of the worthlessness or partial worthlessness of which a deduction was allowed for a prior taxable year;

(ii) Prior tax: The term "prior tax" means a tax on account of which a deduction or credit was allowed for a prior taxable year;

(iii) Delinquency amount: The term "delinquency amount" means an amount paid or accrued on account of which a deduction or credit was allowed for a prior taxable year and which is attributable to failure to file return with respect to a tax, or pay a tax, within the time required by the law under which the tax is imposed, or failure to file return with respect to a tax or pay a tax;

(iv) Recovery exclusion: The term "recovery exclusion," with respect to a bad debt, prior tax, or delinquency amount, means the amount, determined in accordance with regulations prescribed by the Secretary of the Treasury or his delegate, of the deductions or credits allowed, on account of such bad debt, prior tax, or delinquency amount, which did not result in a reduction of the taxpayer's tax under this subtitle (not including the accumulated earnings tax imposed by the Federal Internal Revenue Code, section 531 or the tax on personal holding companies imposed by section 541)

or corresponding provisions of prior income tax laws (other than subchapter E of chapter 2 of the Internal Revenue Code of 1939, relating to World War II excess profits tax), reduced by the amount excludable in previous taxable years with respect to such debt, tax, or amount under this section;

(c) Special rules for accumulated earnings tax and for personal holding company tax. In applying subsections (a) and (b) for the purpose of determining the accumulated earnings tax under the Federal Internal Revenue Code, section 531 or the tax under section 541 (relating to personal holding companies):

(i) A recovery exclusion allowed for purposes of this subtitle (other than section 531 or section 541) shall be allowed whether or not the bad debt, prior tax, or delinquency amount resulted in a reduction of the tax under section 531 or the tax under section 541 for the prior taxable year; and

(ii) Where a bad debt, prior tax, or delinquency amount was not allowable as a deduction or credit for the prior taxable year for purposes of this subtitle other than of section 531 or section 541 but was allowable for the same taxable year under section 531 or section 541, then a recovery exclusion shall be allowable if such bad debt, prior tax, or delinquency amount did not result in a reduction of the tax under section 531 or the tax under section 541.

(11) Sports programs conducted by the American National Red Cross:

(a) General rule: In the case of a taxpayer which is a corporation primarily engaged in the furnishing of sports programs, gross income does not include amounts received as proceeds from a sports program conducted by the taxpayer if:

(i) The taxpayer agrees in writing with the American National Red Cross to conduct such sports program exclusively for the benefit of the American National Red Cross;

(ii) The taxpayer turns over to the American National Red Cross the proceeds from such sports program, minus the expenses paid or incurred by the taxpayer:

(A) Which would not have been so paid or incurred but for such sports program; and

(B) Which would be allowable as a deduction under the Federal Internal Revenue Code, section 162 (relating to trade or business expenses) but for subsection (b) of this section; and

(iii) The facilities used for such program are not regularly used during the taxable year for the conduct of sports programs to which this subsection applies.

For purposes of this subsection, the term "proceeds from such sports program" includes all amounts paid for admission to the sports program, plus all proceeds received by the taxpayer from such program or activities carried on in connection therewith.

(12) Income of state, municipalities, etc.: This exclusion is only considered if:

(a) The contract was made prior to September 8, 1916, and dealt with the acquisition or operation of a public utility; or

(b) A contract was entered into prior to May 29, 1928, relating to the acquisition of a bridge.

(13) Contributions to the capital of a corporation: Contributions to a corporation by its shareholders, not in consideration of goods or services.

(14) Scholarships and fellowship grants: General rule; in the case of an individual, gross income does not include:

(a) Any amount received:

(i) As a scholarship at an educational institution, (as defined in the Federal Internal Revenue Code, section 151 (e)(4)); or

(ii) As a fellowship grant, including the value of contributed services and accommodations; and

(b) Any amount received to cover expenses for:

(i) Travel;

(ii) Research;

(iii) Clerical help; or

(iv) Equipment;

Which are incident to such a scholarship or to a fellowship grant, but only to the extent that the amount is so expended by recipient.

(15) Meal or lodging furnished for the convenience of the employer:

There shall be excluded from gross income of an employee the value of any meals or lodging furnished to him by his employer for the convenience of the employer but only if:

(a) In the case of meals, the meals are furnished on the business premises of his employer; or

(b) In the case of lodging, the employee is required to accept such lodging on the business premises of his employer as a condition of his employment.

In determining whether meals or lodging are furnished for the convenience of the employer, the provisions of an employment contract or of a state statute fixing terms of employment shall not be determinative of whether the meals or lodging are intended as compensation.

(16) Certain reduced uniform services retirement pay: This exclusion pertains to that portion of Federal Military Retirement pay that is forfeited to provide an annuity for a surviving spouse and/or surviving eligible children.

(17) Amounts received under qualified group legal services plans: Gross income of an employee, his spouse, or his dependents, does not include:

(a) Amounts contributed by an employer on behalf of an employee, his spouse, or his dependents under a qualified group legal services plan; or

(b) The value of legal services provided, or amounts paid for legal services, under a qualified group legal services plan.

(18) Amounts received under insurance contracts for certain living expenses: General rule; in the case of an individual whose principal residence is damaged or destroyed by fire, storm, or other casualty, or who is denied access to his principal residence by governmental authorities because of the occurrence or threat of occurrence of such a casualty, gross income does not include amounts received by such individual under an insurance contract which are paid to compensate or reimburse such individual for living expenses incurred for himself

and members of his household resulting from the loss of use or occupancy of such residence.

(19) Qualified transportation provided by employer: Gross income of an employee does not include the value of qualified transportation provided by the employer between the employee's residence and place of employment.

(20) Cafeteria cost sharing payments: An employer's contribution to a cafeteria plan on behalf of an employee.

(21) Certain cost sharing payments: Are payments received from federal or state funds primarily for the purpose of conserving soil, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

(22) Educational assistance programs: Educational assistance means the payment, by an employer, of expenses for the education of the employee (including, but not limited to, tuition, fees, books and supplies).

NEW SECTION

WAC 458-16-012 SENIOR CITIZENS AND DISABLED PERSONS EXEMPTION—ADJUSTED GROSS INCOME. "Adjusted gross income" is gross income as defined in WAC 458-16-011 minus the following deductions:

After arriving at gross income, the following deductions are allowable to the extent they do not include amounts deducted for loss or depreciation.

(1) Trade and business deductions: The expenses which are attributable to a trade or business carried on by the taxpayer, if such trade or business does not consist of the performance of services by the taxpayer as an employee.

(2) Trade and business deductions of employees:

(a) Reimbursed expenses. The deductions which consist of expenses paid or incurred by the taxpayer, in connection with the performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer.

(b) Expenses for travel away from home. The deductions allowed by the Federal Internal Revenue Code, part VI (Sec. 161 and following) which consist of expenses of travel, meals, and lodging while away from home, paid or incurred by the taxpayer in connection with the performance by him of services as an employee.

(c) Transportation expenses. The deductions which consist of expenses of transportation paid or incurred by the taxpayer in connection with the performance by him of services as an employee.

(d) Outside salesmen. The expenses which are attributable to a trade or business carried on by the taxpayer, if such trade or business consists of the performance of services by the taxpayer as an employee and if such trade or business is to solicit, away from the employer's place of business, business for the employer.

(3) Deductions attributable to rents and royalties. The expenses which are attributable to property held for the production of rents or royalties.

(4) Pension, profit-sharing, annuity, and bond purchase plans of self-employed individuals. Contributions toward these plans made on behalf of such individual.

(5) Moving expenses. The expense of moving from one permanent duty station to another.

NEW SECTION

WAC 458-16-013 SENIOR CITIZENS AND DISABLED PERSONS EXEMPTION—DISPOSABLE INCOME. "Disposable income" means the adjusted gross income as defined in WAC 458-16-012 and in the Federal Internal Revenue Code as amended prior to January 1, 1980, plus certain items to the extent they are not included in or have been deducted from adjusted gross income. (RCW 84.36.383)

(1) Disposable income is adjusted gross income plus the following to the extent they were deducted or not included:

- (a) Capital gains;
 - (b) Amounts deducted for loss;
 - (c) Amounts deducted for depreciation;
 - (d) Pension and annuity receipts;
 - (e) Military pay and benefits;
 - (f) Veterans benefits;
 - (g) Federal Social Security Act and Railroad Retirement Benefits;
 - (h) Dividend receipts;
 - (i) Interest received on state and municipal bonds.
- (2) Capital gains is the difference between
- (a) the cost of the property plus improvements, and
 - (b) the selling price of the property less any sales expense.

If payment of the capital gain is over a period of time, the amount to be added to disposable income will be calculated over the same period.

AMENDATORY SECTION (Amending Order PT 74-6, filed 9/11/74)

WAC 458-16-020 SENIOR CITIZEN AND DISABLED PERSONS EXEMPTION—QUALIFICATIONS FOR EXEMPTION. A person shall be exempt from any legal obligation to pay all or a portion of the real property taxes due and payable in the year following the year in which a claim is filed if the following qualifications are met:

(1) The property taxes must have been imposed upon a residence which ~~((has been regularly))~~ was occupied by the person claiming the exemption ~~((during the two calendar years preceding the year in which the exemption claim is filed, or the property taxes must have been imposed upon a residence which was occupied by the person claiming the exemption))~~ as a principal place of residence as of January 1 ~~((st))~~ of the year in which the claim is filed ~~((and the person claiming the exemption must also have been a resident of the State of Washington for the last three calendar years preceding the year in which the claim is filed))~~.

(2) The person claiming the exemption must have owned as defined in WAC 458-16-010, at the time of filing, the residence on which the property taxes have been imposed.

(3) The person claiming the exemption must have been ~~((sixty-two years of age or older on January 1st of the year in which the exemption claim is filed, or must~~

~~have been,))~~ at the time of filing ~~((retired from regular gainful employment by reason of physical disability))~~:

(a) Sixty-one years of age or older on January 1 of the year in which the exemption claim is filed; or

(b) Retired from regular gainful employment by reason of physical disability; or

(c) A surviving spouse of a person who was receiving the exemption at the time of their death, if the surviving spouse was, or attains the age of fifty-seven in the year of the claimant's death.

(4) The amount that the person shall be exempt from an obligation to pay shall be calculated on the basis of combined disposable income, as defined in RCW 84.36.383 and WAC 458-16-010 through 458-16-013. If the person claiming the exemption was retired for two months or more of the preceding year, the combined disposable income of such person including his or her spouse and any cotenant shall be calculated by multiplying the average monthly combined disposable income of such person during the months such person was retired by twelve.

(5) Confinement of the person to a hospital or nursing home will not jeopardize the exemption if the residence is temporarily unoccupied or if the residence is occupied by a spouse and/or person financially dependent on the claimant for support, or by a person residing there for caretaker or security reasons only and the claimant is not receiving monetary consideration for this occupancy.

AMENDATORY SECTION (Amending Order PT 74-6, filed 9/11/74)

WAC 458-16-050 SENIOR CITIZEN AND DISABLED PERSONS EXEMPTION—AMOUNT OF EXEMPTION. The amount that the person shall be exempt from an obligation to pay, shall be calculated ~~((;))~~ on the basis of the combined disposable income ~~((; from all sources whatsoever;))~~ of the person claiming the exemption and his or her spouse or cotenant, for the preceding calendar year ~~((;))~~ in accordance with the following schedule:

INCOME RANGE

- ~~(((\$4,000))~~ \$10,000 or less - Exempt from regular property taxes on up to ~~(((\$5,000))~~ \$15,000 valuation, plus 100% of excess levies.
- ~~((More than \$4,000 but less than \$5,001~~ - Exempt from 100% of excess levies.
- ~~— \$5,001 to \$6,000 —~~ Exempt from 50% of excess levies.)
- \$10,001 to \$14,000 = Exempt from 100% of excess levies.

AMENDATORY SECTION (Amending Order PT 74-6, filed 9/11/74)

WAC 458-16-060 SENIOR CITIZEN AND DISABLED PERSONS EXEMPTION—TRANSFER OF

EXEMPTION. Any person who sells, transfers, or is displaced from their residence may transfer their exemption status to a replacement residence, but no claimant shall receive an exemption on more than the equivalent of one residence in any year. The amount of exemption transferred shall be based upon the following:

(1) If the ~~((transferee(s) have))~~ claimant has not paid any of the current years taxes on their former residence they shall be allowed to claim exemption on all of the current year's unpaid taxes on the replacement residence.

(2) If the ~~((transferee(s) have))~~ claimant has paid the first half of the current year's taxes on their former residence, then the exemption ~~((will only apply to))~~ can only be claimed for the unpaid second half taxes of the replacement residence.

(3) If the ~~((transferee(s) have))~~ claimant has paid the entire tax on their former residence, then no exemption will be allowed on the replacement residence.

The qualifications in WAC 458-16-020(1) and (2) shall be considered as being complied with on the replacement residence, if the claimant would have met those qualifications on his former residence.

AMENDATORY SECTION (Amending Order PT 74-6, filed 9/11/74)

WAC 458-16-070 SENIOR CITIZEN AND DISABLED PERSONS EXEMPTION—CANCELLATION. As the exemption contained in WAC 458-16-010 through ~~((WAC 458-16-070))~~ 458-16-079 is a personal exemption and is considered claimed when the property tax is paid, it shall cease to exist and be cancelled upon transfer of the property or upon the claimant's demise (unless the spouse is also qualified) ((or transfer of the property. In such a case, any portion of that year's taxes due and owing in the year of the cancelling event which have not yet been paid shall be levied and collected at the full rate)). In such a case, any previous years or portion of that year's taxes due and/or owing in the year of the cancelling event which have not yet been paid shall be levied and collected without consideration of the exemption: PROVIDED, That if it can be shown that the taxes, whether current or delinquent, will be paid from the nondeceased claimants' proceeds of the sale, the exemption shall continue through the claimants' period of ownership.

If the exemption results in no taxes being due, the exemption shall be considered as claimed, if the qualified claimant still owns the property, as of the tax payable date of February 15.

NEW SECTION

WAC 458-16-079 SENIOR CITIZEN AND DISABLED PERSONS EXEMPTION—REFUNDS—LATE FILINGS. That portion of taxes paid as a result of mistake, inadvertence, or lack of knowledge by any person who would have qualified for this exemption may be refunded for up to three years after the taxes were paid as provided in chapter 84.69 RCW.

The petition for property tax refund must be accompanied by the approved application for exemption for each year the refund is sought. This is to provide proof that they met the requirements of the exemption in effect for the year in which the taxes were levied.

Any late filings for the exemption after the taxes have been levied or after they are delinquent may be accepted by the assessor or treasurer.

RCW 84.56.400 authorizes the June board to consider "the assessment of property exempted by law from taxation". If the claim is instituted by the property owner, the certified mail notice need not be sent as required by RCW 84.56.400.

The assessor or treasurer may accept the applications for exemption, correct the assessment and/or tax rolls and then refer to the June board for approval.

In those cases where the correction is needed for a previous year's assessment, the department, at the assessor's request, will reconvene that June board to approve corrections.

WSR 81-05-019
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed February 11, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and chapter 19.28 RCW, that the Department of Labor and Industries, intends to adopt, amend, or repeal rules concerning the amending of chapters 296-46 and 296-401 WAC, rules and regulations for installing electric wires and equipment and administrative rules, WAC 296-46-110, 296-46-130, 296-46-140, 296-46-150, 296-46-335, 296-46-350, 296-46-355, 296-46-424, 296-46-493, 296-46-500, 296-46-910 Appendix F; WAC 296-401-020, 296-401-080, 296-401-100, 296-401-140, 296-401-150, 296-401-160, and 296-401-180; adopting WAC 296-46-115, 296-46-355, 296-46-501 and 296-46-506; and repealing WAC 296-46-40101, 296-46-510, 296-46-515, 296-46-520, 296-46-525 and 296-401-050. Also adopting the 1981 edition of the National Electrical Code;

and that the adoption, amendment, or repeal of such rules will take place at 10:00 a.m., Monday, February 27, 1981, in the Office of the Director of the Department of Labor and Industries, 3rd Floor, General Administration Building, Olympia, Washington.

The authority under which these rules are proposed is RCW 19.28.060.

This notice is connected to and continues the matter noticed in Notice No. WSR 81-01-115 filed with the code reviser's office on December 24, 1980.

Dated: February 10, 1981

By: Michael E. Tardif

Assistant Attorney General

Department of Labor and Industries

WSR 81-05-020

ADOPTED RULES

DEPARTMENT OF REVENUE

[Order PT 81-8—Filed February 11, 1981]

I, Glenn R. Pascall, director of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd	WAC 458-18-010	Deferral of special assessments and/or property taxes—Definitions.
Amd	WAC 458-18-020	Deferral of special assessments and/or property taxes—Qualifications.
Amd	WAC 458-18-030	Deferral of special assessments and/or property taxes—Declaration to defer—Filing—Forms.
Amd	WAC 458-18-050	Deferral of special assessments and/or property taxes—Declarations to renew deferral—Filing—Forms.
Amd	WAC 458-18-080	Deferral of special assessments and/or property taxes—Duties of the department of revenue—State treasurer.
Amd	WAC 458-18-100	Deferral of special assessments and/or property taxes—When payable—Collection—Partial payment.

This action is taken pursuant to Notice No. WSR 81-01-067 filed with the code reviser on December 17, 1980. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 84.38.180 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 11, 1981.

By Donald R. Burrows
Deputy Director

AMENDATORY SECTION (Amending Order PT 76-1, filed 4/7/76)

WAC 458-18-010 DEFERRAL OF SPECIAL ASSESSMENTS AND/OR PROPERTY TAXES—DEFINITIONS. (1) "Claimant" means a retired person who elects to defer payment of the special assessments and/or real property taxes on his or her residence. If two individuals of a household seek to defer, they must determine between them as to who the claimant shall be.

(2) "Consumer price index" ((~~shall~~)) means the consumer price index for urban wage earners and clerical workers as compiled by the Bureau of Labor Statistics of the United States Department of Labor.

(3) "Department" means the Washington State Department of Revenue.

(4) "Equity value" means the amount by which the true and fair value of a residence as shown on the county property tax rolls for the year the deferral is to be made exceeds the total amount of all liens, obligations and encumbrances against the property.

(5) "Owned" includes possession under a contract of sale, deed of trust, joint tenancy, or tenancy in common.

((~~It~~)) Ownership also includes a person who has transferred the property under a revocable trust agreement if the claimant has full use of the property and is able to revoke the trust and take ownership. A share interest in cooperative housing or a life estate retained in a property shall not be considered as ownership. Ownership by a marital community shall be deemed to be owned by each spouse. Property held in the ownership of one spouse is not to be considered as owned by a marital community and must be qualified by the legal owner. "Cotenant" means two or more individuals who reside together, who jointly own the residence, and who otherwise meet the requirements of this section.

(6) "Special assessment" means the charge or obligation imposed by a city, town, county or other municipal corporation upon property specially benefited by a local improvement as provided in chapters:

(a) 35.44 RCW—Local improvements—Assessments and reassessments (cities and towns)

(b) 36.88 RCW—County road improvement districts (counties)

(c) 36.94 RCW—Sewer, water and drainage systems (counties)

(d) 53.08 RCW—Powers (port districts)

(e) 54.16 RCW—Powers (public utility districts)

(f) 56.20 RCW—Utility local improvement districts (sewer districts)

(g) 57.16 RCW—Comprehensive Plan—Local improvement districts (water districts)

(h) 86.09 RCW—Flood control districts—1937 Act (flood control)

(i) 87.03 RCW—Irrigation districts generally (irrigation)

along with any others that may be relevant.

The term does not include the charge or obligation for services specially benefiting property not involving the construction of permanent improvements to real property, e.g., mosquito control, weed control, etc.

(7) "Real property taxes" means ad valorem property taxes levied on a residence in this state in the preceding year.

(8) "Preceding calendar year" ((~~shall~~)) means the calendar year preceding the year in which the declaration to defer special assessments and/or real property taxes are filed.

(9) The term "residence" ((~~shall~~)) means a single family dwelling unit whether such unit be separate or part of a multiunit dwelling, and includes the land on which the dwelling stands not to exceed one acre. It includes a single family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the State of Washington or its political subdivisions. Also included is a mobile home which has substantially lost its identity as a mobile unit by being fixed in location upon land owned, leased or rented by the owner of said mobile home and placed on a foundation, posts, or blocks with fixed pipe connections with sewer, water or other utilities even though it may be listed and assessed by the county assessor as personal property.

The residence must have been ((~~regularly~~)) occupied by the person claiming the deferral as the principal or

main residence of the claimant. It does not include a residence used merely as a vacation home.

For purposes of this deferral, principal or main residence means a residence the claimant resides at or dwells in for more than six months each year. Items to be considered in verifying residency can be ownership of another residence, voter registration and vehicle licensing.

(10) The term "real property" for the purposes of WAC 458-18-010 through 458-18-100 ~~((shalt))~~ includes all residences, as defined in subsection (9) of this section, and the land on which a mobile home is located if both the land and mobile home are owned by a qualified claimant.

~~(11) ("Combined income" shall mean the total income from all sources whatsoever for both the claimant and spouse, if any. It shall include such items as investment income in the form of dividends from stock, interest on savings accounts and bonds, capital gains, gifts and inheritances, and net rental income from real estate. It shall also include income from pensions, disability payments, retirement pay and annuities. Reimbursement for losses is not to be considered as income. Only two-thirds (2/3) of social security, federal civil service, and/or railroad retirement benefits will be considered as income. Combined income shall not include any ascertainable return of capital or investment. Any gain realized from the sale of the claimants residence shall not be considered as income if the gain is reinvested in a replacement residence within eighteen (18) months of its realization.) "Reside permanently" and/or "regularly occupy" shall mean to dwell or occupy indefinitely without intent to change. Temporary absences, such as being confined to a hospital or nursing home for medical purposes, shall not be considered as evidencing an intent to change residence or occupancy.~~

(12) "Combined disposable income" means the disposable income of the person claiming the deferral, plus the disposable income of his or her spouse, and the disposable income of each cotenant occupying the residence for the year preceding the year the taxes were levied. Disposable income shall be as defined in WAC 458-16-013 as now or hereafter amended.

~~((+2))~~ (13) The term "gainful employment" is used to indicate any labor or services which results in an increase in wealth or earnings. The usage is sufficiently broad to include the performance of any function or activity, whether initiated by the person performing or by any other person. It also is broad enough to include any payment therefor, whether in money or in goods, so long as the person performing realizes a gain, as opposed to a loss, from any source. It is not necessary that the gain be "wages" in any technical sense, or that the arrangement under which the labor or service is performed be the conventional one of employer or employee. Judicial consideration of the meaning of the term indicates, however, that a woman acting as a housewife, for her husband and family only, is not engaged in "gainful employment".

~~((+3))~~ (14) "Regular" ~~((shalt))~~ means consistent or habitual.

~~((+4))~~ (15) The term "family" includes a single person, any number of related persons, or a group not exceeding a total of eight related and nonrelated, non-transient persons living as a single non-profit house keeping unit. The term does not, however, include a boarding or rooming house.

~~((+5))~~ (16) "Physical disability" ~~((shalt))~~ means the condition of being disabled, resulting in the inability to pursue an occupation because of a physical impairment. A doctor's statement shall constitute proof of such disability and shall be required before the exemption may be granted.

~~((+6))~~ (17) "Retired" ~~((shalt))~~ means to have withdrawn oneself from regular gainful employment.

~~((+7))~~ (18) "Fire and casualty insurance" means a policy with an insurer that is authorized to insure property in this state by the State Insurance Commission.

~~((+8) "Reside permanently" and/or "regularly occupy" shall mean to dwell or occupy indefinitely without intent to change. Temporary absences such as being confined to a hospital or nursing home for medical purposes shall not be considered as evidencing an intent to change residence or occupancy.)~~

(19) "Lien" ~~((shalt))~~ means any interest in property given to secure payment of a debt or performance of an obligation, and shall include a deed of trust. It shall include the total amount of assessments and/or property taxes deferred and the interest thereon.

AMENDATORY SECTION (Amending Order PT 76-1, filed 4/7/76)

WAC 458-18-020 DEFERRAL OF SPECIAL ASSESSMENTS AND/OR PROPERTY TAXES—QUALIFICATIONS FOR DEFERRAL. A retired person may elect to defer payment of special assessments and/or real property taxes on his residence up to eighty percent of the amount of his equity value in said property if the following conditions are met:

(1) The special assessments and/or property taxes must have been imposed upon a residence: (a) which has been regularly occupied by the claimant during the two calendar years preceding the year in which the declaration to defer is filed~~((;))~~, or (b) which was occupied by the claimant as a principal place of residence as of January ~~((1st))~~ 1 of the year in which the declaration is filed and the claimant must also have been a resident of the State of Washington for the last three calendar years preceding the year in which the declaration is filed.

(2) The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed.

~~(3) ((The claimant must have been sixty-two years of age or older on January 1st of the year in which the declaration to defer is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of physical disability.))~~ The person claiming the deferral must have been:

(a) Sixty-one years of age or older on January 1st of the year in which the declaration to defer is filed, or

(b) At the time of filing retired from regular gainful employment by reason of physical disability, or

(c) A surviving spouse of a person who was receiving the deferral at the time of their death, if the surviving spouse was fifty-seven years of age or older on January 1st of the year in which the deferral is filed or attained the age of fifty-seven in the year of the claimant's death.

(4) The claimant (~~(and/or)~~), his or her spouse, and any cotenants must not have received a combined income, from all sources whatsoever, during the preceding calendar year which exceeds the following amounts:

(a) For declarations filed in 1976—eight thousand dollars;

(b) For declarations filed in subsequent years, an amount equal to the previous year's income limit adjusted by the percentage change in the consumer price index for the twelve-month period ending September (~~(31st)~~) 30 of the previous year.

(5) The claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the state of Washington and shall designate the state as a loss payee upon said policy.

(6) In the case of special assessment deferral, the claimant must have opted for payment of such special assessments on the installment method if such method was available.

AMENDATORY SECTION (Amending Order PT 76-1, filed 4/7/76)

WAC 458-18-030 DEFERRAL OF SPECIAL ASSESSMENTS AND/OR PROPERTY TAXES—DECLARATIONS TO DEFER—FILING—FORMS.

(1) ~~Declarations to defer ((shall be filed with the county assessor between January 1 and July 1 of the year prior to the year the deferral is to be made)) special assessments and/or real property taxes for any year shall be filed no later than thirty days before the tax or assessment is due, however, for administrative purposes claimants should be encouraged to file in the assessment year.~~ All declarations to defer shall be made and signed by the claimant. If the claimant is unable to make his or her own declaration, it may be made and signed by a duly authorized agent or by a guardian or other person charged with care of the person or property of such claimant.

(2) The declaration to defer shall be made solely upon forms prescribed by the Department of Revenue and supplied by the county assessor. Such forms shall contain the following:

(a) Name and address of the claimant.

(b) Legal description and parcel number of the property to which the deferral applies. If the property described upon the assessment rolls by the assessor contains more than one (~~((+))~~) acre, the claimant must supply a complete and accurate legal description that encompasses the residence and that does not contain more than one (~~((+))~~) acre.

(c) An affirmation that the claimant meets the conditions of WAC 458-18-020 including, but not limited to (~~(-; -) (a)~~): (i) The amount and type of income received the previous calendar year, and (~~((b))~~) (ii) the name, address, policy number, and amount of fire and casualty insurance carried on the residence.

(d) A list of all members of the claimants household.

(e) The claimant's equity in his residence including all liens, obligations and encumbrances against the property.

(f) Information concerning any special assessments to be deferred.

(g) The names of other parties with an interest in the residence to which the deferral applies.

(h) Signatures of other parties in interest designating the claimant.

(i) Signature of any mortgagee, contract purchase holder and/or beneficiary under a deed of trust.

(j) An affirmation that the claimant is aware of the lien of the deferred special assessments and/or real property taxes and when the lien becomes payable.

(k) A numbering system approved by the department.

(l) Any other pertinent information the department deems relevant.

AMENDATORY SECTION (Amending Order PT 76-1, filed 4/7/76)

WAC 458-18-050 DEFERRAL OF SPECIAL ASSESSMENTS AND/OR PROPERTY TAXES—DECLARATIONS TO RENEW DEFERRAL—FILING—FORMS. (1) ~~Declarations to defer assessments and/or real property taxes for all years following the first year ((may)) shall be made by filing a "Declaration to Renew Deferral" with the county assessor ((between January 1 and July 1 of each year of the year prior to the year the deferral is to be made)) no later than thirty days before the tax or assessment is due, however, for administrative purposes claimants should be encouraged to file in the assessment year.~~ If the claimant is unable to make his or her renewal declaration, it may be made and signed by a duly authorized agent or by a guardian or other person charged with care of the person or property of such claimant.

(2) Such "Declaration to Renew Deferral" will be made solely upon forms prescribed by the department and supplied by the county assessor. The "Declaration to Renew Deferral" form shall include, but not be limited to, those requirements contained in WAC 458-18-030(2)(a), (2)(c), (2)(e), (2)(f), (2)(j), (2)(k) and (2)(l).

AMENDATORY SECTION (Amending Order PT 76-1, filed 4/7/76)

WAC 458-18-080 DEFERRAL OF SPECIAL ASSESSMENTS AND/OR PROPERTY TAXES—DUTIES OF THE DEPARTMENT OF REVENUE—STATE TREASURER. The department shall: (1) publish prior to December 31 of each year the maximum amount of income, as adjusted by WAC (~~((458-12-020(4)))~~) 458-18-020(4), that a claimant may have received that year to qualify for deferral;

(2) Notify the county assessor (~~((prior to August 31))~~) as soon as possible of any Declaration to Defer, where any factor appears to disqualify the claimant;

(3) Certify to the State Treasurer prior to February 15 of the amount due the respective treasurers for any special assessments and/or real property taxes deferred for that year;

(4) File liens against the property upon which a deferral has been made with the respective auditors or recorders of the counties in which the property is located. Such liens will be filed annually at the time payment is made by the State Treasurer;

(5) Notify the county assessor prior to December 31 of each year of those claimants and the properties upon which the assessments and/or taxes have been paid by the state and the amount of the liens, including the accrued interest, upon those properties as of the last day of December.

The department may audit any "Declaration to Defer" and/or "Declaration to Renew Deferral" it deems necessary.

The State Treasurer shall pay, before delinquency, to the county treasurers and the treasurers of the respective local improvement districts the amounts certified by the Department of Revenue. The amount paid shall be distributed to the districts which levied the taxes.

AMENDATORY SECTION (Amending Order PT 76-1, filed 4/7/76)

WAC 458-18-100 DEFERRAL OF SPECIAL ASSESSMENTS AND/OR PROPERTY TAXES—WHEN PAYABLE—COLLECTION—PARTIAL PAYMENT. (1) Any special assessments and/or real property taxes deferred shall become payable together with interest: (a) Upon the conveyance of property which has a deferred special assessment and/or real property tax lien upon it.

(b) Upon the death of the claimant except when the surviving spouse is qualified and elects to incur the lien and continue the deferment by (i) filing an original "Declaration to Defer" within ninety ~~((90))~~ days of the claimant's death and (ii) continuing to meet the qualifications of WAC 458-18-010 through 458-18-100 ~~((and (iii) the property being the residence of the spouse))~~.

When a surviving spouse elects to continue the deferment, the spouse then becomes the claimant and is fully subject to the conditions of WAC 458-18-010 through 458-18-100.

(c) Upon condemnation of property with a deferred special assessment and/or real property tax lien upon it by a public or private body exercising the power of eminent domain: **PROVIDED**, That if the assessed value of the property not condemned exceeds the amount of the liens, including interest, the claimant may elect to have the liens set over to the property retained: **PROVIDED FURTHER**, That the amount of the lien allowed to be set over shall not exceed 80% of the claimant's equity in the retained property.

(d) At such time as the claimant ceases to reside permanently in the residence upon which the deferral has been granted. If the cessation occurs between filing the declaration and December 15 of that year, the deferral shall not be allowed.

(e) Upon the failure of the claimant to have or keep in force fire and casualty insurance in sufficient amount to protect the interest of the State of Washington or failure to keep the state listed as a loss payee upon said policy.

Subsection (1)(b) shall take precedence over subsection (1)(d).

Once a deferral has been granted, the various conditions contained within WAC 458-18-010 through 458-18-100 may prohibit the claimant from qualifying for further deferrals, but any obligations resulting from deferrals previously granted will become due and payable only upon occurrence of the conditions set forth in subsection (1) of this section.

(2) Upon occurrence of any condition requiring the payment of any deferred special assessments and/or real property taxes, the county treasurer shall proceed to collect the same in the manner provided for in chapter 84.56 RCW. For purposes of collection of the deferred taxes and interest, provisions of chapters 84.56, 84.60, and 84.64 RCW shall be applicable. When these moneys are collected, they shall be credited to a special account in the county treasury and shall then be remitted to the State Treasurer within thirty ~~((30))~~ days from collection with remittance advice to the Department of Revenue. The State Treasurer shall deposit the moneys in the state general fund.

(3) Any person may at any time pay a part or all of the deferred assessments and/or taxes including the interest, but such payment shall not affect the deferred tax status of the property. Any payment made shall be credited to the oldest deferred amount and shall be prorated between interest and the deferred assessments and/or taxes.

WSR 81-05-021

ADOPTED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 1605—Filed February 11, 1981]

I, N. Spencer Hammond, Ex. Asst. of the Department of Social and Health Services do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd ch. 388-11 WAC Support of dependent children—Alternative method.

Amd ch. 388-14 WAC Support enforcement.

This action is taken pursuant to Notice No. WSR 81-01-111 filed with the code reviser on December 24, 1980. 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 the Department of Social and Health Services as authorized in RCW 74.08.090.

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

APPROVED AND ADOPTED February 11, 1981.

By N. S. Hammond
Executive Assistant

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

WAC 388-11-011 DEFINITIONS. (1) "Locate" for purposes of this chapter shall mean service of the notice and finding of financial responsibility in a manner prescribed by WAC 388-11-040.

(2) "Reasonable efforts to locate" shall mean any of the following actions taken on a case:

(a) Mailing of the notice and finding of financial responsibility by certified mail, return receipt requested to an address, reasonably believed by office of support enforcement to be a mailing address of the responsible parent (~~(; and presentation of said notice by the United States Postal Service to the address prior to the expiration of the sixty-day period specified in WAC 388-11-065(9) without effecting a locate of the responsible parent~~); or

(b) Referral to a sheriff, other server of process or locate service or other agent or employee of the department for locate activities if the responsible parent is not located under (a) above or if no known mailing address exists but the information which office of support enforcement has, reasonably indicates that the responsible parent can be located; or

(c) When service cannot be accomplished, tracing activity as stated below:

(i) Checking of local telephone directories and attempts by telephone or mail to contact the applicant/recipient, applicant/custodian, relatives of the responsible parent, past or present employers or the postal authorities when appropriate;

(ii) Contacting state agencies, union, financial, or fraternal organizations available on the local level to which the responsible parent is known to have had contact or membership.

(d) Referral to state parent locator service when tracing efforts under (c) above are exhausted;

(e) Referral to the attorney general, a prosecuting attorney or the internal revenue service for specific legal or collection action.

(3) "The date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought" shall mean the date payment of an AFDC-R, AFDC-E, AFDC-FC or state only foster care grant is authorized or September 1, 1979, whichever is later.

(4) "Department" means the state department of social and health services. For purposes of chapter 388-11 WAC, unless otherwise clearly indicated, "department" shall mean the chief, office of support enforcement or his designee.

(5) "Secretary" means the secretary of the department of social and health services, or the secretary's designee or authorized representative, which for purposes of chapter 388-11 WAC shall mean the designee of the secretary, the chief, office of hearings or his designee.

(6) "Hearing examiner" shall mean the hearing examiner employed by the department of social and health services who hears the testimony and makes the initial decision under chapter 388-11 WAC.

(7) "Dependent child" means any person under the age of twenty-one who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States.

(8) "Superior court order" means any judgment or order of the superior court of the state of Washington ordering payment of a set or determinable amount of support moneys, or an order of a court of comparable jurisdiction of another state ordering payment of a set or determinable amount of support moneys. Orders of the superior court which fail to expressly require payment of support by a responsible parent or orders which fail to specifically relieve the responsible parent of the support obligation shall not constitute a superior court order.

(9) "Responsible parent" means the natural parent, adoptive parent, or stepparent of a dependent child.

(10) "Stepparent" means the present spouse of the person who is either the mother, father, or adoptive parent of a dependent child, and such status shall exist and continue as provided for by RCW 26.16.205 until the relationship is terminated by death or dissolution of marriage.

(11) "Support moneys" means any moneys paid to satisfy a support obligation whether denominated as child support, spouse support, alimony, maintenance, or any other such moneys intended to satisfy an obligation for support of any person or satisfaction in whole or in part of arrears or delinquency on such an obligation.

(12) "Future" support or "future and current" support or "future/current" support shall mean support moneys paid to satisfy the support obligation for the instant or present month as opposed to satisfaction of support obligations owed for previous and past months which, having been unpaid, are delinquent.

(13) "Debt," "arrears," "delinquency," "past support," shall all mean the amount owed for a period of time prior to the instant month but is owed for a period of time in the past.

(14) "Need" means the necessary costs of food, clothing, shelter, and medical attendance for the support of a dependent child or children.

(15) "Good cause" means that there is substantial reason or legal justification for delay, including a showing of those grounds enumerated in RCW 4.72.010 and CR60 and allegation is made of a defense under WAC 388-11-065.

(16) "Assignment pursuant to RCW 74.20A.040" shall mean the assignment made by an applicant/custodian of support rights pursuant to WAC 388-14-310.

(17) Fraud for the purposes of WAC 388-11-115 means (a) the representation of the existence or nonexistence of a fact; (b) its materiality; (c) its falsity; (d) the speaker's knowledge of its truth; (e) his/her intent that it should be acted on by the person to whom it is made; (f) ignorance of its falsity on the part of the person to whom it is made; (g) the latter's reliance on the truth of the representation; (h) his/her right to rely upon it; and (i) his/her subsequent damage.

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

WAC 388-11-105 REVIEW OF INITIAL DECISION. Within thirty days of service of the initial decision, either the appellant or the office of support enforcement may petition the secretary or the secretary's 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:

(1) 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;

(2) Misconduct of prevailing party;

(3) Accident or surprise which ordinary prudence could not have guarded against;

(4) Newly discovered evidence, material for the party making the application, which he could not with reasonable diligence have discovered and produced at the hearing;

(5) 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;

(6) Error in mathematical computation;

(7) Error in the law occurring at the hearing and objected to at the time by the party making the application;

(8) That the moving party is unable to perform according to the terms of the order without further clarification;

(9) That substantial justice has not been done;

(10) Fraud or misstatement of facts by any witness, pertaining to any defense provided for in WAC 388-11-065;

(11) Clerical mistakes in the decision arising from oversight or omission; and/or

(12) 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 or CR60.

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. No appeal may be taken therefrom to the courts and the debt created is subject to collection action.

After receipt of a petition for review, the secretary or the secretary's 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 or her discretion allow. The secretary or the secretary's designee may remand the proceedings to the hearing examiner for additional evidence ((or)), argument, and/or for entry of findings of fact, conclusions of law and an initial decision in conformance with the order of remand. The secretary or the

secretary's 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 the secretary's 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. The initial findings of fact, conclusions of law, and decision and order shall not be modified unless the findings of fact are unsupported by substantial evidence in view of the entire record and/or unless the applications of law in the initial decision are incorrect in the reasoned opinion of the review examiner. 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 decision and order shall authorize collection action, as appropriate, under chapter 74.20A RCW.

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

WAC 388-11-115 FRAUD—VACATION OF DECISION. (1) Any initial decision, final decision or consent order may be vacated if the decision or order was based upon fraud by any witness or party.

(2) The motion to vacate shall be filed within a ((reasonably)) reasonable period after the date that the fraud has been discovered or should have been discovered.

AMENDATORY SECTION (Amending Order 1305, filed 6/15/78)

WAC 388-11-135 SERVICE. Service of the decision and order or notice of hearing pursuant to WAC 388-11-120 or 388-11-130 shall be by mailing a copy of the decision ((and)) and order or notice of hearing to the last known address of the appellant by certified mail, and by mailing a copy of said decision and order or notice of hearing to the last known address of appellant's attorney or other representative at the hearing, if any.

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

WAC 388-11-140 MODIFICATION. Based upon a showing of good cause and a material change in circumstances, either the responsible parent or the office of support enforcement may petition the secretary or the secretary's designee to issue an order requiring the responding party to show cause why a decision previously entered determining responsibility for periodic future support payments, consent order or a final determination for periodic future support payments pursuant to WAC 388-11-050, ought not be prospectively modified. The petition must be accompanied by a supporting affidavit setting forth the particular facts relied upon. On receipt of the petition and affidavit, the secretary or the secretary's designee shall issue to the petitioner the show

cause order setting forth the time, date, and place of the show cause hearing.

The hearing 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.

The petitioner shall serve the responding party with a copy of the petition, affidavit, and show cause order in the manner of a summons in a civil action or by certified mail, return receipt requested.

An order to appear and show cause under this modification provision may not issue unless the previous decision, determination pursuant to WAC 388-11-150 or consent order of which modification is requested was entered pursuant to RCW 74.20A.055 and there is no superior court order for support. The hearing examiner, on petitions to modify, shall consider the standards set forth in WAC 388-11-100. If the responding party fails to appear at the hearing, the hearing examiner shall grant relief as a default order based upon the prayer for relief in the petition and affidavit. Within thirty days of entry of the default order, the defaulting party may petition the secretary or the secretary's designee pursuant to WAC 388-11-105 to vacate the default order upon a showing of any of the grounds enumerated in RCW 4.72.010 or CR60. If the petitioner 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 the 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 the secretary's designee pursuant to WAC 388-11-105.

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 a final determination for periodic future support payments pursuant to WAC 388-11-050.

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

WAC 388-11-150 CONSENT ORDER. In the absence of a superior court order, informal disposition of any contested case or petition or order to show cause for modification wherein a debt is claimed pursuant to chapter 171, sections 17 and/or 22, Laws of 1979 ex. sess. [RCW 74.20.320][RCW 74.20.330], RCW 74.20-.040, 74.20A.030, 26.16.205 and/or 74.20A.250 is encouraged where feasible and not specifically precluded by law. Said cases may be disposed of by stipulation, agreed settlement, or consent order. The hearing examiner shall approve any consent order disposing of a contested case unless specifically contrary to law. Informal disposition on consent order shall be deemed to be a request for hearing granting jurisdiction to the hearing examiner to approve said consent order without the necessity of testimony or hearing, upon presentation by the office of support enforcement. If said negotiation as to a consent order is commenced within twenty days of

service on the responsible parent of the notice and finding of financial responsibility, and such negotiations fail, a hearing shall be scheduled and held within thirty days of the breakdown of negotiations. The obligation to pay support or repay the debt, unpaid when due, stated in the consent order is subject to collection action. Consent orders are not subject to review pursuant to WAC 388-11-105 but are subject to modification pursuant to WAC 388-11-140 and may be vacated for fraud pursuant to WAC 388-11-115.

AMENDATORY SECTION (Amending Order 1305, filed 6/15/78)

WAC 388-14-220 SUBPOENA POWER. The chief, (~~regional supervisors, district supervisors, claims officers and support enforcement officers~~ ~~HH~~) of the office of support enforcement (~~are~~) or his designee is a duly appointed (~~officers~~) officer 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~~) he deems relevant to the performance of (~~their~~) his duties.

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

WAC 388-14-302 NONASSISTANCE - SUPPORT ENFORCEMENT—PERSONS ELIGIBLE.
(1) Any resident of the state of Washington who is a physical and legal custodian or guardian of a person who is a resident of the state of Washington and who is not a recipient of public assistance for whom a support obligation is owed and who is not receiving adequate support (as defined by WAC 388-14-100) from persons owing a duty to pay support may apply for nonassistance support enforcement services to establish or enforce or collect an obligation for support including accrued arrears: PROVIDED, That the office of support enforcement may also act to establish paternity where it is a necessary part of establishing support obligations for nonassistance clients. When the person(s) owing the duty to pay support is deceased or is eligible for or receiving (~~old age or disability insurance~~) social security benefits, public assistance moneys, supplemental security income, or is participating in any other governmental, private charity or other rehabilitation program providing benefits at less than the standards in WAC 388-29-100, the application cannot be accepted.

(2) Any person who has been provided support enforcement services as a result of an approved application for public assistance may also apply for nonassistance support enforcement services effective with the date of termination of public assistance. An application made prior to termination shall not be effective until the first of the month following termination from assistance. Support enforcement services may be continued by the office of support enforcement for a period of time not to exceed four months following last month in which public assistance was paid as a continuation of actions maintained as a result of an assignment pursuant to WAC 388-24-108 and 388-14-200. During such four month

period, all support moneys collected except those collected to satisfy arrears assigned to the department under chapter 171, sections 17 and 22, Laws of 1979 ex. sess. [RCW 74.20.320][RCW 74.20.330], 42 USC 602(a)(26)(A), RCW 74.20A.250 and/or 74.20A.030 shall be remitted to the children's custodian without deduction of fees for nonassistance services.

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

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, custodial parent or other person feels aggrieved by actions taken by the office of support enforcement pursuant to chapters 74.20, 74.20A RCW, or Title IV-D of the Social Security Act (Title 42 USC).

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

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

If the grievance or issue presented in an application for conference board does not involve a factual dispute, or if the disputed fact(s) even if resolved in favor of the applicant would not provide a basis upon which relief could be granted to the applicant by a conference board acting in accordance with the standards provided for herein, the ~~((regional supervisor))~~ chief or his designee may take such action as he/she deems appropriate and to that end he/she may individually exercise any of the authority provided for in this regulation. If an apparent factual dispute exists the conference board shall be composed of the ~~((regional supervisor))~~ chief or his designee, who shall serve as chairman, and two staff members, ~~if deemed necessary,~~ appointed by the ~~((regional supervisor))~~ chief or his designee ~~((or alternatively the chief, office of support enforcement, may appoint the conference board from the 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 or termination of nonassistance support enforcement services;
- (3) Review of allegations of error as to the distribution of support moneys;
- (4) Resolution of amounts of arrears claimed due and rate of repayments;
- (5) Requests to release or refund moneys taken pursuant to RCW 74.20A.080 to provide for the reasonable necessities of responsible parent or parents and minor children in their home;
- (6) 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) Requests to waive interest pursuant to RCW 74.20A.190;
- (9) Requests to waive or defer the nonassistance support enforcement fee pursuant to RCW 74.20.040;
- (10) Any other matter requiring explanation of or application of policy or law to an issue in a specific case or clarification of facts in said case.

The decision, including a decision to deny a request for a conference board, shall be in accordance with applicable statutes, case law, department of social and health services rules and regulations, published office of support enforcement manuals, support enforcement policy bulletins and the exercise of reasonable administrative discretion. The decision shall be in writing, and shall find the facts, applicable law, policies applied, and clearly state the decision. If the decision is the result of a conference board, that decision shall represent the decision of a majority of the board. Decisions inconsistent with the above standards 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, chapter 171, sections 17 and 22, Laws of 1979 ex. sess. [RCW 74.20.320][RCW 74.20.330], or 42 USC 602(a)(26)(A) shall be based on the following

considerations which shall be found and stated in the written decision of the conference board fully justifying the action taken:

- (1) Error in law or bona fide legal defects which materially diminish chances of collection; or
- (2) Substantial hardship to minor children in the household of the responsible parent or other minor children for whom the responsible parent actually provides support which hardship is to be measured against income standards for public assistance and consideration of all available income, property and resources of the responsible parent and the necessity to apportion the income and resources of the responsible parent on an equitable basis with the children for whom the arrears accrued; or
- (3) Costs of collection action in the future which are greater than the amount to be charged off; or
- (4) 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 ((the conference board process)) 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 81-05-022

ATTORNEY GENERAL OPINION

Cite as: AGLO 1981 No. 3

[February 10, 1981]

BONDS—STATE—MUNICIPAL—INTEREST—CREDITING INTEREST EARNED ON INVESTMENT OF BOND PROCEEDS

In the absence of a statute, charter provision, ordinance or bond covenant to the contrary, interest earned on the investment of state or municipal bond proceeds is to be credited to the building or other project fund into which those bond proceeds themselves were placed and not to the bond redemption fund.

Requested by:

Honorable A. L. "Slim" Rasmussen
State Sen., 29th District
407-B Legislative Building
Olympia, Washington 98504

WSR 81-05-023

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 81-14—Filed February 13, 1981]

I, Rolland A. Schmitt, director of the Washington Department of Fisheries, do promulgate and adopt at

Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, Rolland A. Schmitt, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is this order is necessary to prevent harvest of mature herring from small stocks now spawning in the Gulf of Georgia.

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 February 13, 1981.

By Rolland A. Schmitt
Director

NEW SECTION

WAC 220-49-02000 **CLOSED AREA—HERRING** Notwithstanding the provisions of WAC 220-29-020, effective 12:00 noon February 16, 1981 until further notice, is is unlawful to take, fish for or possess herring for commercial purposes with any type of gear in Marine Fish-Shellfish Catch Reporting Area 20A.

WSR 81-05-024

NOTICE OF PUBLIC MEETINGS

STATE LIBRARY

[Memorandum—February 13, 1981]

Following are meeting dates for the following:

Washington State Library Commission

- March 12, 1981 – Timberland Regional Library Service Center, Olympia
- June 11, 1981
- September 10, 1981
- December 10, 1981

Washington Library Network Computer Services Council

- March 10, 1981
- June 9, 1981
- September 8, 1981
- December 8, 1981

WLN Executive Council

- March 26, 1981
- May 29, 1981

September 4, 1981
November 20, 1981

WSR 81-05-025
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed February 16, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and chapter 19.28 RCW, that the Department of Labor and Industries, intends to adopt, amend, or repeal rules concerning the amending of chapters 296-46 and 296-401 WAC, rules and regulations for installing electric wires and equipment and administrative rules, WAC 296-46-110, 296-46-130, 296-46-140, 296-46-150, 296-46-335, 296-46-350, 296-46-355, 296-46-424, 296-46-493, 296-46-500, 296-46-910 Appendix F; WAC 296-401-020, 296-401-080, 296-401-100, 296-401-140, 296-401-150, 296-401-160 and 296-401-180; adopting WAC 296-46-115, 296-46-355, 296-46-501 and 296-46-506; and repealing WAC 296-46-40101, 296-46-510, 296-46-515, 296-46-520, 296-46-525 and 296-401-050. Also adopting the 1981 edition of the National Electrical Code;

and that the adoption, amendment, or repeal of such rules will take place at 10:00 a.m., Friday, February 27, 1981, in the Office of the Director of the Department of Labor and Industries, 3rd Floor, General Administration Building, Olympia, Washington.

The authority under which these rules are proposed is RCW 19.28.060.

This notice is connected to and continues the matter noticed in Notice Nos. WSR 81-01-115 and 81-05-019 filed with the code reviser's office on December 24, 1980.

Dated: February 16, 1981
By: Leon Flaherty
Acting Director

WSR 81-05-026
PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed February 17, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Licensing, intends to adopt, amend, or repeal rules concerning the amending of WAC 308-50-080 Temporary or itinerant activities prohibited and repealing WAC 308-50-055 Medical certification. (A copy of the proposed rules is shown below; however, changes may be made at the public hearing.);

that such agency will at 10:00 a.m., Friday, March 27, 1981, in the 4th Floor Conference Room, Highways-Licenses Building, Olympia, Washington 98504, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 10:00 a.m., Friday, March 27,

1981, in the 4th Floor Conference Room, Highways-Licenses Building, Olympia, Washington 98504.

The authority under which these rules are proposed is RCW 18.35.140.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to March 27, 1981, and/or orally at 10:00 a.m., Friday, March 27, 1981, 4th Floor Conference Room, Highways-Licenses Building, Olympia, Washington 98504.

Dated: February 9, 1981
By: Joan Baird
Administrator
Division of Prof. Licensing

STATEMENT OF PURPOSE

Title: WAC 308-50-080 Temporary or itinerant activities prohibited. WAC 308-50-055 Medical certification.

Description Of Purpose: WAC 308-50-080 is to be amended to eliminate the requirement for reporting to the department when and where temporary or itinerant activities will be prior to use. WAC 308-50-055 is to be repealed to eliminate the requirement that each licensee or trainee submit medical certification from freedom from disease once each year.

Statutory Authority: RCW 18.35.140.

Summary Of Proposed Rule And Reasons Supporting Action: WAC 308-50-080 prohibits testing of hearing by licensees at temporary or itinerant locations except under certain conditions and requires that when such testing is to be done, the licensee report on the time and location of such activity prior to engaging in same. It is proposed to amend WAC 308-50-080 by deleting the prior reporting requirement of subsection (2). It has been determined by the department that this requirement is no longer needed as a means of protecting the consumer and is hence serving no useful purpose. WAC 308-50-055 requires that each licensee or trainee submit medical certification of freedom from infectious or contagious disease once each year. It has been determined that annual reporting does little or nothing to assure that the licensee or trainee will be free from infectious or contagious disease for the entire year. This process places an unnecessary and expensive burden upon the practitioner.

Responsible Department Personnel: In addition to the director and deputy director, the following agency personnel have knowledge of, and responsibility for, drafting, implementing and enforcing this rule: Cheryl Lux Duryea, Assistant Director, Busn. and Prof. Admin., Highways-Licenses Bldg., P. O. Box 9649, Olympia, WA 98504, 234-1369 (SCAN), 753-1369 (COMM); and Joan

Baird, Administrator, Div. of Prof. Licensing, Highways-Licenses Bldg., P. O. Box 9649, Olympia, WA 98504, 234-6974 (SCAN), 753-6974 (COMM).

Name Of Person Or Organization Proposing Rule: This amendment and repealer is proposed by the Department of Licensing, Division of Professional Licensing.

Agency Comments: The intent of amending WAC 308-50-080 is to remove a reporting requirement which is no longer needed. The intent of repealing WAC 308-50-055 is to remove a reporting requirement that places a burden on the practitioner with little resulting protection to the public.

The proposed amendment and repealer are not the result of federal law or federal or state court action.

AMENDATORY SECTION (Amending Order PL 159, filed 2/8/74)

WAC 308-50-080 TEMPORARY OR ITINERANT ACTIVITIES PROHIBITED. (((+))) Except as otherwise provided in these rules and regulations, it is prohibited to test the hearing of the public or to fit and dispense hearing aids at temporary or itinerant locations in this state unless WAC 308-50-110 and 308-50-130 are followed.

(((2) The department shall be notified when and where such locations will be prior to use.))

REPEALER

The following section of the Washington Administrative Code is hereby repealed:

WAC 308-50-055 MEDICAL CERTIFICATION.

WSR 81-05-027

ADOPTED RULES

DEPARTMENT OF FISHERIES

[Order 81-13—Filed February 17, 1981—Eff. April 1, 1981]

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

This action is taken pursuant to Notice No. WSR 81-01-117 filed with the code reviser on December 24, 1980. Such rules shall take effect at a later date, such date being April 1, 1981.

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

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

APPROVED AND ADOPTED January 29, 1981.

By Rolland A. Schmitt
Director

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-105 RIVER MOUTH DEFINITIONS. When pertaining to food fish angling, unless otherwise defined, any reference to the mouths of rivers or streams shall be construed to include those water of any river or stream including sloughs and tributaries upstream and inside of a line projected between the outermost uplands at the mouth. The term "outermost upland" shall be construed to mean those lands not covered by water during an ordinary high tide. The following river mouths are hereby otherwise defined:

- Abernathy Creek - Highway 4 Bridge.
- Bear River - Highway 101 Bridge.
- Bone River - Highway 101 Bridge.
- Chehalis River - U.P. Railway Bridge in Aberdeen.
- Chinook River - The tide gates at the Highway 101 Bridge.

Cowlitz River - A line projected across the river between two fishing boundary markers set on each bank of the river approximately one-half mile downstream from the lowermost railroad bridge crossing the Cowlitz River.

- Duwamish River - First Avenue South Bridge.
- Elk River - Highway 105 Bridge.
- Entiat River - Highway 97 Bridge.
- Germany Creek - Highway 4 Bridge.
- Hoquiam River - Highway 101 Bridge.
- Humptulips River - Highway 109 Bridge.
- Johns River - Highway 105 Bridge.
- Lake Washington Ship Canal - Line 400 feet below the fish ladder at the Chittenden Locks.

Lewis River - A straight line running from a marker on Austin Point ((through the Warrior Rock Range Front)) south across the Lewis River to a marker on the opposite shore.

- Methow River - Highway 97 Bridge.
- Mill Creek - Highway 4 Bridge.
- Naselle River - Highway 101 Bridge.
- North Nemah River - Line from markers approximately one-half mile below the Highway 101 Bridge.
- Niawiakum River - Highway 101 Bridge.
- North River - Highway 105 Bridge.
- Palix River - Highway 101 Bridge.
- Puyallup River - 11th Street Bridge.
- Samish River - The Samish Island Bridge (Bayview-Edison Road).

Sammamish River - Kenmore Highway Bridge.
Skagit River (North Fork) - A line projected from the white monument on the easterly end of Ika Island to the terminus of the jetty with McGlinn Island.

Skagit River (South Fork) - A line projected from the flashing red four-second navigational light true north to its intersection with the old jetty shown on U.S.C.G.S. chart No. 6450.

- Skamokawa Creek - Highway 4 Bridge.
- Snohomish River - Greater Northern Railway Bridges crossing main river and sloughs.
- South Nemah River - Lynn Point 117 degrees true to the opposite shore.
- Tucannon River - State Highway 261 Bridge.

Washougal River - A straight line from the Crown Zellerbach pumphouse southeasterly across the Washougal River to the east end of the Highway 14 Bridge near the upper end of Lady Island.

Wenatchee River - Lowermost Burlington Northern Railroad Bridge immediately downstream from Highway 97.

White Salmon River - Highway 14 Bridge.

Little White Salmon River - At boundary markers on river bank downstream from the federal salmon hatchery.

Willapa River - Highway 101 Bridge.

Yakima River - Highway 240 Bridge.

NEW SECTION

WAC 220-56-131 ELLIOTT BAY PUBLIC FISHING PIER UNDERWATER ARTIFICIAL REEF AREA. (1) It is unlawful to take, fish for or possess food fish or shellfish taken by any means from within the boundaries of the underwater artificial reef surrounding the Elliott Bay Public Fishing Pier as described in subsection (2) of this section, except while fishing from the Elliott Bay Public Fishing Pier.

(2) Elliott Bay Public Fishing Pier Underwater Artificial Reef Area: Those waters lying south and westerly of the northwestern end of Elliott Bay Park inside of a line from the shore end of the access walkway for the Terminal 86 grain terminal dock, southerly 375' to the junction of the access walkway and the terminal dock, then northwesterly 700' to the easternmost reef marker buoy, then northwesterly 600' to the westernmost reef marker buoy, then north 300' to the shore at the north entrance to the Elliott Bay Park.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-135 EDMONDS AND ELLIOTT BAY FISHING PIERS. (1) It ~~((shall be))~~ is unlawful to take, fish for or possess for personal use, those species of food fish or shellfish designated in this section from the Edmonds and Elliott Bay Public Fishing Piers contrary to the following bag limits:

(a) Rockfish (Scorpaenidae) - all species, 5 fish per day, not less than 10 inches in length.

Kelp greenling (*Hexagrammos decagrammus*) - 3 fish per day.

Pacific (true) cod (*Gadus macrocephalus*), Pacific tom cod (*Microgadus proximus*), and Walleye pollock (*Theragra chalcogrammus*) - 10 fish in the aggregate per day.

Surfperch (*Embiotocidae*) - all species - 10 fish per day.

Cabezon (*Scorpaenichthys marmoratus*) - 3 fish per day.

Flounders (*Bothidae* and *Pleuronectidae*) - all species, except Pacific halibut (*Hippoglossus stenolepis*) - 10 fish per day.

(b) Octopus - closed to harvest.

(2) It ~~((shall be))~~ is unlawful to operate more than one hand dip net, one ring net or one shellfish pot per angler on or from the Edmonds Public Fishing Pier.

(3) All other provisions of chapter 220-56 WAC shall apply.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-205 HOOK REGULATIONS—FRESHWATER SALMON ANGLING. (1) Nonbuoyant lures are defined as lures that do not have enough buoyancy to float in freshwater ~~((and))~~. Nonbuoyant lures other than natural bait lures must have no more than one single hook and that hook must not exceed 3/4 inch from point to shank. Nonbuoyant natural bait lures may have up to two single hooks not exceeding 3/4 inch from point to shank.

(2) Buoyant lures are defined as lures that have enough buoyancy to float in freshwater and may have any number of hooks.

(3) No leads, weights or sinkers may be attached below the lure or less than 12 inches above the lure.

(4) ~~((It shall be unlawful to take, fish for or possess salmon in the areas listed below with nonbuoyant lures unless they meet the requirements for nonbuoyant lures as defined in subsection (1)).~~

~~Columbia River - From marker one mile upstream from mouth of Spring Creek at Ringold Pond downstream to the Richland-Pasco Highway 410 Bridge, and during the period September 1 through October 15, those north bank Columbia River waters below Spring Creek National Fish Hatchery, from boundary marker at Broughton Mill east to the Federal boundary marker located downriver from the Spring Creek fishway.~~

~~Capitol Lake~~

~~Carbon River~~

~~Cowecman River~~

~~Cowlitz River upstream from the mouth of the Toutle River~~

~~Dungeness River~~

~~Elokomin River~~

~~Grays River~~

~~Green River (King County) - August 1 through November 30)~~

~~Humptulips River (September 15 through December 31)~~

~~Icicle River (Saturday preceding Memorial Day through June 30)~~

~~Kalama River upstream from Interstate 5 Bridge~~

~~Klickitat River~~

~~Lewis River (North Fork)~~

~~Lewis River (East Fork) upstream from Interstate 5 Bridge~~

~~Naselle River~~

~~North Nemah River~~

~~Salmon Creek (Clark County)~~

~~Samish River~~

~~Sammamish River (Slough)~~

~~Satsop River upstream from the mouth of Cook Creek~~

~~Stillaguamish River~~

~~Toutle River~~

~~Toutle River (North Fork)~~

~~Washougal River~~

~~White Salmon River (September 1 through October 15)~~

Willapa River
Wind River

(5) ~~Effective April 1, 1981,~~) It ~~((shall be))~~ is unlawful to take, fish for or possess salmon in any freshwater areas of the state with nonbuoyant lures unless they meet the requirements for nonbuoyant lures as defined in subsection (1) of this section. This subsection does not apply to Lake Washington, that portion of the Columbia River below Bonneville Dam or that portion of the Chehalis River below the mouth of the Satsop River.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-225 SALMON ANGLING HOURS—FRESHWATER. It ~~((shall be))~~ is unlawful to take, fish for or possess salmon for personal use in all freshwater areas ~~((with the exception of the Columbia River, Chehalis River, Snake River, Willapa River and the Duwamish River downstream of the First Avenue South Bridge))~~ of the state from one hour after official sunset to one hour before official sunrise.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-285 SHAD AND STURGEON—AREAS AND SEASONS. It ~~((shall be))~~ is lawful the entire year to take, fish for and possess sturgeon and shad for personal use by angling in those waters lying ~~((within))~~ downstream from a point one mile below any rack, dam or other obstruction concurrent with salmon angling boundaries provided for in chapter 220-57 WAC, except that in the Snake River it is lawful to take fish for or possess sturgeon or shad by angling in Snake River waters lying downstream from a point 400 feet below any dam, rock or obstruction.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-295 STURGEON—UNLAWFUL ACTS. (1) It ~~((shall be))~~ is unlawful to possess in the field or transport for personal use any sturgeon from which either the head or tail or both have been removed.

(2) It is unlawful to use a gaff in the restraint, handling or landing of any sturgeon which is not of legal size.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-315 CRABS, SHRIMP, CRAWFISH—GEAR. (1) It ~~((shall be))~~ is lawful to take, fish for and possess crabs, shrimp, and crawfish taken for personal use by hand or with hand dip nets, ring nets, shellfish pots, and any hand-operated instrument that will not penetrate the shell ~~((—PROVIDED, That))~~.

(2) It ~~((shall be))~~ is unlawful to use more than two ~~((ring nets, two shellfish pots or one ring net and one shellfish pot))~~ units of gear at any one time except that

in Puget Sound waters it is unlawful to use at any one time more than two units of gear for the purpose of taking crabs and two additional units of gear for the purpose of taking shrimp. One unit of gear is equivalent to one ring net or one shellfish pot.

(3) It is unlawful for any person to operate a shellfish pot not attached to a buoy bearing that person's name, except that a second person may assist the pot owner in operation of the gear.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-320 SHELLFISH GEAR—UNLAWFUL ACTS. (1) It ~~((shall be))~~ is unlawful for the owner or operator of any personal-use shellfish gear to leave such gear unattended in the waters of the state unless said gear is marked with a buoy to which shall be affixed in a visible and legible manner the name and address of the operator. The line attaching the buoy to the pot must be weighted so that it (the line) does not float on the water's surface. The following additional requirements apply to buoys attached to unattended shellfish pots:

(a) All buoys must consist of durable material and remain floating above the water's surface when at least 5 pounds of weight are attached. It is unlawful to use bleach, antifreeze or detergent bottles, paint cans or any other container.

(b) The entire buoy must be fluorescent yellow if attached to shrimp gear.

(c) The buoy must be half fluorescent red and half white if attached to crab gear.

(d) The number of pots attached to each buoy must be marked on the buoy in a manner that is visible and legible at all times.

(2) It ~~((shall be))~~ is unlawful for any person using shellfish traps for personal-use shellfishing to allow said traps to become uncovered by water.

(3) It ~~((shall be))~~ is unlawful to take, fish for or possess crab taken with shellfish pot gear that are equipped with tunnel triggers or other devices which prevent free exit of crabs under the legal limit unless such gear is equipped with not less than one escape ring not less than 4-1/8 inches inside diameter located in the upper half of the crab pot.

(4) It ~~((shall be))~~ is unlawful to take, fish for or possess shrimp taken for personal use with shellfish pot gear in the waters of Hood Canal southerly of the site of the Hood Canal Floating Bridge unless such gear meets the following requirements:

(a) The top, bottom, and at least one-half of the area of the sides of the shellfish pots ~~((shall))~~ must have the minimum mesh size defined below.

(b) The minimum mesh size for shrimp pots is defined as a square or rectangular mesh such that the inside distance between any knot or corner and each adjacent knot or corner shall be no less than 7/8-inch: PROVIDED, That the shortest inside diagonal of each mesh shall be no less than 1-1/8 inches.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-340 GENERAL PROVISIONS—CLAMS, COCKLES, MUSSELS—GEAR. (1) It ~~((shall be))~~ is lawful to take, dig for and possess clams (including razor clams), cockles, and mussels taken for personal use by hand or with hand-operated forks, picks, mattocks and shovels, and with cylindrical cans or tubes: PROVIDED, That when used for digging razor clams, the opening of these cans or tubes be either circular or elliptical; with the circular can/tube having a minimum outside diameter of 4 inches and the elliptical can/tube having a minimum dimension of 4 inches long and 3 inches wide outside diameter.

(2) Each digger, including holders of razor clam disability permits, must have his or her limit in a separate container.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-350 HARDSHELLS, COCKLES, MUSSELS—AREAS AND SEASONS. (1) It ~~((shall be))~~ is lawful to take, dig for and possess clams, cockles, borers and mussels taken for personal use on Puget Sound the entire year: PROVIDED, That it ~~((shall be))~~ is unlawful to take, dig for or possess such shellfish taken for personal use:

(a) West of the tip of Dungeness Spit from April 1 through October 31.

(b) Garrison Bay: All state- and federally-owned tidelands south of a boundary marker located approximately 1,010 yards southerly of Bell Point are closed to clam digging the entire year. Those tidelands north of the above-described boundary marker are open to harvest the entire year.

(c) All state-owned tidelands at Camano Island State Park from the most northerly launch ramp southeast to the most southeasterly boundary shall be closed to the personal-use harvest of all clams from January 1, 1980 through December 31, 1981.

(d) From that portion of the Sequim Bay State Park public beach from the launch ramp ~~((northwest))~~ south-east to the park boundary through ~~((December 31, 1980))~~ March 31, 1983.

(e) Saltwater State Park—All state-owned tidelands at Saltwater State Park shall be closed to the personal-use harvest of all species of clams from June 16 through December 31.

(f) Twanoh State Park—All state-owned tidelands at Twanoh State Park shall be closed to the personal-use harvest of all species of clams from June 16 through December 31.

(g) Shine Tidelands—A 1.5-acre plot (160'x400') located 1/4 mile north of the west approach to the former Hood Canal Floating Bridge shall be closed to clam digging the entire year.

(h) Fry Cove, Thurston County Parks—A 1-acre gravel plot (290'x140') located 1/4 mile north of Fry Cove on Eld Inlet shall be closed to clam digging the entire year.

(2) It shall be lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams, taken for personal use in Grays Harbor and Willapa Harbor the entire year; and from the Pacific Ocean beaches from November 1 through March 31.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-365 RAZOR CLAMS—UNLAWFUL ACTS. It ~~((shall be))~~ is unlawful to return any razor clams to the ~~((ocean))~~ beach ~~((as in a mutilated))~~ or water regardless of size or condition, and all razor clams taken for personal use ~~((shall))~~ must be retained by the digger as a part of his possession limit.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-380 OYSTERS—AREAS AND SEASONS. It ~~((shall be))~~ is unlawful to take, fish for or possess oysters taken for personal use from the waters of the state from July 15 through September 15: PROVIDED, That:

(1) It ~~((shall be))~~ is unlawful to take oysters for any purpose from state oyster reserves without written permission of the director of fisheries.

(2) All state-owned tidelands at the Hoodspout Salmon Hatchery are closed to personal-use harvest of oysters through December 31, 1980. All state-owned tidelands at Belfair State Park are closed to personal-use harvest of oysters through March 31, 1983. All federally-owned tidelands at Seal Rock Forest Service campground are closed to personal-use harvest of oysters from July 15 through ((March 31, 1981)) May 14. All state-owned tidelands at Twanoh State Park shall be closed to personal-use harvest of oysters from June 16 through December 31.

(3) It shall be unlawful to pick or take oysters for personal use from waters measuring more than two feet in depth at the time of removal.

(4) It shall be lawful for private beach owners to harvest oysters for their own personal use from their own tidelands.

AMENDATORY SECTION (Amending Order 79-7, filed 1/30/79, effective 4/1/79)

WAC 220-57-137 CARBON RIVER. Bag limit B - October 1 through November 30: Downstream from old bridge abutments near the east end of Bridge Street in Orting to confluence with Puyallup River. Chinook salmon over 28 inches must be released. Closed to the taking of pink salmon in odd-numbered years.

NEW SECTION

WAC 220-57-138 CHAMBERS CREEK. Bag limit B - October 1 through November 30: Downstream from a set of markers 400 feet below the Boise-Cascade dam (immediately upstream from the Boise-Cascade West Tacoma Mill).

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-140 CHEHALIS RIVER. Bag limit ~~((A))~~ C - ~~((open entire year))~~ April 1 through July 31; Bag limit A - August 1 through March 31: Downstream from markers approximately 1/2-mile upstream from the Porter Bridge to the Union Pacific Railroad Bridge in Aberdeen. All chinook salmon over 28 inches caught upstream from the mouth of the Satsop River must be released.

AMENDATORY SECTION (Amending Order 76-14, filed 3/15/76, effective 5/1/76)

WAC 220-57-150 CLALLAM RIVER. Bag limit ~~((E))~~ D - July 1 through November 30: Downstream from the confluence of Boulder Creek, located approximately one mile upstream of the uppermost Highway 12 Bridge.

AMENDATORY SECTION (Amending Order 79-7, filed 1/30/79, effective 4/1/79)

WAC 220-57-155 CLEARWATER RIVER (JEFFERSON COUNTY). Bag limit C - ~~((October))~~ July 1 through October 31: Downstream from the mouth of the Snahapish River.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-160 COLUMBIA RIVER. (1) Bag limit A - June 1 through December 31: Downstream from Chief Joseph Dam to the Richland-Pasco Highway 12 Bridge. From October 15 through December 31, chinook salmon over 28 inches taken upstream from a marker at Ringold Wasteway must be released. The following are closed waters:

(a) Chief Joseph Dam - waters between the upstream line of Chief Joseph Dam to a line perpendicular to the thread of the stream from a point 400 feet downstream from the west end of the tailrace deck.

(b) Wells Dam - waters between the upstream line of Wells Dam to a point 400 feet below the spawning channel discharge stream.

(c) Rocky Reach, Rock Island and Wanapum Dams - waters between the upstream line of these dams to a point 1,000 feet downstream.

(d) Priest Rapids Dam - waters between the upstream line of Priest Rapids Dam and a point 1,500 feet downstream.

(e) Jackson (Moran) Creek - waters within 500 feet of the mouth.

(2) Waters downstream from the Richland-Pasco Highway 12 Bridge to Bonneville Dam: Bag limit A - January 1 through March ~~((31))~~ 15; Closed ~~((April 1))~~ March 16 through May 31; Bag limit C - June 1 through August 7; Bag limit A - August 8 through December 31. The following are closed waters:

(a) McNary Dam - waters between the upstream line of McNary Dam downstream to a line across the river from the red and white marker on the Oregon shore on a

line that intersects the downstream end of the wingwall of the boat lock near the Washington shore.

(b) John Day Dam - from the upstream line of John Day Dam to markers approximately 3,000 feet downstream, except that fishing is permitted up to 400 feet below the fishway entrance from the Washington shore.

(c) The Dalles Dam - from the upstream line of The Dalles Dam to the upstream side of the Interstate Bridge at The Dalles, except that fishing is permitted up to 400 feet below the fishway entrance from the Washington shore.

(d) Spring Creek - waters within 1/4 mile of the U.S. Fish & Wildlife Service Hatchery grounds between posted boundary markers located 1/4 mile on either side of the fish ladder entrance.

(3) Bag limit A - open August 1 through March ~~((31))~~ 15; closed ~~((April 1))~~ March 16 through May 31; Bag limit C - June through July 31: That portion downstream from Bonneville Dam to the Megler-Astoria Bridge, with the exception of the following closed waters:

Waters between the upstream line of Bonneville Dam and the downstream power line crossing between the Washington shore and Bradford Island, thence on a direct line through the westernmost steel mooring dolphin in the navigation channel to the Oregon shore provided that it shall be lawful to fish from the Washington shore to within 600 feet of the spillway dam, with bait-lure presentation restricted to rod-and-reel casting only. All other modes of terminal gear transport to set baits are prohibited.

(4) Waters downstream from the Megler-Astoria Bridge to a line projected true north and south through Buoy 10; Bag limit F during those times after August 1 that the waters of the Pacific Ocean are open to salmon angling. At all other times the bag limit shall be the same as that in effect for Columbia river waters between Bonneville Dam and the Megler-Astoria Bridge. The possession limit of fresh salmon shall not exceed two daily bag limits. Additional salmon may be possessed in a frozen or processed form.

AMENDATORY SECTION (Amending Order 76-14, filed 3/15/76, effective 5/1/76)

WAC 220-57-185 DEEP CREEK (CLALLAM COUNTY). Bag limit ~~((E))~~ D - July 1 through November 30.

AMENDATORY SECTION (Amending Order 79-7, filed 1/30/79, effective 4/1/79)

WAC 220-57-205 DOSEWALLIPS RIVER. Bag limit B - October 15 through January 31: Downstream from the Highway 101 Bridge. Closed to the taking of pink salmon in ~~((1979))~~ odd-numbered years.

AMENDATORY SECTION (Amending Order 79-7, filed 1/30/79, effective 4/1/79)

WAC 220-57-210 DUCKABUSH RIVER. Bag limit B - October 15 through January 31: Downstream from the Highway 101 Bridge. Closed to the taking of pink salmon in ~~((1979))~~ odd-numbered years.

AMENDATORY SECTION (Amending Order 79-7, filed 1/30/79, effective 4/1/79)

WAC 220-57-215 DUNGENESS RIVER. Bag limit B - October 15 through December 31: Downstream from markers at former Taylor Bridge site approximately one mile below the state salmon hatchery rack. Chinook salmon over 28 inches must be released. Closed to the taking of pink salmon in ~~((1979))~~ odd-numbered years.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-220 DUWAMISH RIVER. ~~((+))~~ Bag limit B - ~~((Saturday preceding Memorial day))~~ July 1 through November 30: Upstream from the First Avenue South Bridge to the Highway 405 Bridge.

~~((2))~~ Bag limit H - ~~open the entire year. Downstream from the First Avenue South Bridge.~~

AMENDATORY SECTION (Amending Order 76-14, filed 3/15/76, effective 5/1/76)

WAC 220-57-225 EAST TWIN RIVER. Bag limit ~~((E))~~ D - July 1 through November 30.

AMENDATORY SECTION (Amending Order 77-3, filed 1/28/77, effective 3/1/77)

WAC 220-57-230 ELK RIVER. ~~((+))~~ Bag limit C - July 1 through January 31: Downstream from the confluence of the West Fork and the Middle Fork to the Highway 105 Bridge.

~~((2))~~ Bag limit F - ~~September 15 through August 15: downstream from the Highway 105 Bridge.~~

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-235 ~~((ELOKOMIN))~~ ELOCHOMAN RIVER. (1) Bag limit A - September 1 through December 31: Downstream from mouth of the West Fork.

(2) Closed from a point 100 feet above the upper hatchery rack to the ~~((Elokomin))~~ Elochoman Salmon Hatchery Bridge located 400 feet below the upper hatchery rack. Closed from the department of fisheries temporary rack downstream to Foster (Risk) Road Bridge while this rack is installed in river.

AMENDATORY SECTION (Amending Order 79-7, filed 1/30/79, effective 4/1/79)

WAC 220-57-240 ELWHA RIVER. Bag limit ~~((A))~~ B - October 15 through December 31: Chinook salmon over 28 inches must be released. Closed to the taking of pink salmon in ~~((1979))~~ odd-numbered years.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-255 GREEN RIVER (COWLITZ COUNTY). (1) Bag limit A - September 1 through November 30 ~~((Upstream from salmon hatchery intake:~~

~~(2))~~ Bag limit A - September 1 through December 31 - ~~downstream from salmon hatchery intake to the mouth is open to the taking of salmon with lawful fly fishing tackle only. Legal flies are limited to single-hook artificial flies measuring no more than 1/2 inch between shank and point.~~

~~(3))~~ That portion of the Green River 400 feet above to 400 feet below the barrier dam at the Toutle Salmon Hatchery is closed to the taking of salmon the entire year).

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-260 GREEN RIVER (KING COUNTY). ~~((+))~~ Bag limit B - ~~Saturday preceding Memorial Day through July 31: Downstream from markers 400 feet below City of Tacoma headworks dam to Highway 405 Bridge.~~

~~(2))~~ Bag limit B - ~~((August))~~ July 1 through November 30: Downstream from the Porter Bridge (Auburn Eighth Street NW Bridge) to Highway 405 Bridge.

AMENDATORY SECTION (Amending Order 79-7, filed 1/30/79, effective 4/1/79)

WAC 220-57-265 HAMMA HAMMA RIVER. Bag limit B - October 15 through January 31: Downstream from the Highway 101 Bridge. Closed to the taking of pink salmon in ~~((1979))~~ odd-numbered years.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-270 HOH RIVER. (1) Special bag limit ~~((A))~~ - Saturday preceding Memorial Day through ~~((October 31))~~ September 15: Downstream from a marker approximately a quarter mile above Highway 101 Bridge to the National Park boundary at Oil City the bag limit is six salmon not less than 10 inches, not more than two of which may exceed 24 inches in length.

(2) Bag limit C - September 16 through October 31: Downstream from a marker approximately a quarter mile above Highway 101 Bridge to the National Park Boundary at Oil City.

(3) Bag limit C - Saturday preceding Memorial Day through October 31: Upstream from a marker approximately one-quarter mile above Highway 101 Bridge to the National Park Boundary near the confluence of the South Fork.

AMENDATORY SECTION (Amending Order 76-14, filed 3/15/76, effective 5/1/76)

WAC 220-57-275 HOKO RIVER. Bag limit ~~((E))~~ D - July 1 through November 30: Downstream from the Ozette Highway Bridge.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-300 JOHNS RIVER. ~~((+))~~ Bag limit A - July 1 through January 31: Downstream from

old M&B Logging Camp Bridge at upper boundary of Johns River Game Range to Highway 105 Bridge.

~~((2) Bag limit F – open entire year: Downstream from Highway 105 Bridge:))~~

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-310 KALAMA RIVER. (1) Bag limit A – Saturday preceding Memorial Day through November 30: From Summers Creek upstream to the 6420 Road (approximately one mile above the gate at the end of the county road) is open to the taking of salmon with lawful fly fishing tackle only. Legal flies are limited to single-hook artificial flies measuring not more than 1/2 inches between shank and point.

(2) Bag limit A – Saturday preceding Memorial Day through November 30: Downstream from the mouth of Summers Creek to the markers at the Kalama Falls (Upper) Salmon Hatchery.

(3) Bag limit A – open the entire year: Downstream from a point 1,000 feet below the fishway at the upper salmon hatchery, with the following exception: During the period September 1 through October 31, that portion of the Kalama River from markers at the Lower Kalama Hatchery pumphouse (intake) downstream to the natural gas pipeline crossing at Mahaffey's Campground will be open for fly fishing only.

October 1 through December 31: Chinook salmon over 28 inches caught in the area downstream from a point 1,000 feet below the fishway at the upper salmon hatchery to the natural gas pipeline must be released.

(4) During the time the department of fisheries temporary rack is installed just below the Modrow Bridge, that portion of the river from the ~~((rack, downstream 400 feet))~~ Modrow Bridge to a set of markers 1,500 feet below the temporary rack will be closed to angling.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-315 KLUCKITAT RIVER. (1) Bag limit A – June 1 through ~~((December))~~ January 31: Downstream from the Fisher Hill Bridge approximately 1-1/2 miles above the mouth.

(2) Bag limit C – ~~((July 1))~~ Saturday preceding Memorial Day through November 30 – downstream from the Lydel Bridge to ~~((the Fisher Hill Bridge approximately 1-1/2 miles above the mouth))~~ a point 400 feet below the No. 5 fishway.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-319 LEWIS RIVER. (1) Mainstem – bag limit A – open entire year: Downstream from East Fork to mouth.

(2) East Fork:

(a) Bag limit A – open entire year: Downstream from the LaCenter Bridge.

(b) Bag limit A – July 1 through ~~((November 30))~~ December 31: Downstream from Lucia Falls to the LaCenter Bridge. From October 1 through November 30 chinook salmon over 28 inches must be released.

(3) North Fork:

(a) Bag limit A – January 1 through September 30: Downstream from overhead power lines below Ariel Dam.

(b) Bag limit A – open entire year: From markers approximately 700 feet upstream from the salmon hatchery building to East Fork.

AMENDATORY SECTION (Amending Order 76-14, filed 3/15/76, effective 5/1/76)

WAC 220-57-325 LYRE RIVER. Bag limit ~~((E))~~ D – July 1 through November 30.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-345 NISQUALLY RIVER. Bag limit B – July 1 through January 31: Downstream from military tank-crossing bridge located one mile upstream from the mouth of Muck Creek. Closed to the taking of pink salmon in odd-numbered years.

AMENDATORY SECTION (Amending Order 79-7, filed 1/30/79, effective 4/1/79)

WAC 220-57-350 NOOKSACK RIVER. (1) Bag limit B – July 1 through March 31: Downstream from the confluence of North and South Forks to Lummi Indian Reservation boundary.

(2) Bag limit D – September 1 through October 31: (North Fork) downstream from Maple Creek to mouth of North Fork. The entire Nooksack River is closed to the taking of pink salmon in ~~((1979))~~ odd-numbered years.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-370 PUYALLUP RIVER. Bag limit B – July 1 through November 30: Downstream from the mouth of the Carbon River to the 11th Street Bridge. Closed to the taking of Pink Salmon in odd-numbered years.

AMENDATORY SECTION (Amending Order 76-14, filed 3/15/76, effective 5/1/76)

WAC 220-57-375 PYSHT RIVER. Bag limit ~~((E))~~ D – July 1 through November 30: Downstream from the confluence of Green Creek.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-385 QUILLAYUTE RIVER. Bag limit A – May ~~((4))~~ 23 through October 31: Outside the boundaries of the Quillayute Indian Reservation and Olympic National Park.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-405 SAMISH RIVER. Bag limit B – September 1 through November 30: Downstream from

Interstate 5 Bridge to a line running north across the river from the Gun Club Dock located approximately 200 yards downstream from Samish Island Bridge. Chinook salmon over 28 inches must be released.

AMENDATORY SECTION (Amending Order 76-14, filed 3/15/76, effective 5/1/76)

WAC 220-57-420 SEKIU RIVER. Bag limit ((€)) D - July 1 through November 30: Downstream from the confluence of the north and south forks.

AMENDATORY SECTION (Amending Order 77-3, filed 1/28/77, effective 3/1/77)

WAC 220-57-425 SKAGIT RIVER. (1) Bag limit B - July 1 through December 31: downstream from the mouth of the Cascade River to Gilligan Creek. Chinook over 28 inches ((and all pink salmon)) must be released.

(2) Bag limit B - June 16 through April 15 downstream from Gilligan Creek. The entire Skagit River is closed to the taking of pink salmon in odd-numbered years.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-435 SKYKOMISH RIVER. Bag limit B - July 1 through December 31: Downstream from the confluence of North and South Forks. Closed to the taking of pink salmon in odd-numbered years.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-450 SNOHOMISH RIVER. Bag limit B - July 1 through December 31: Downstream from confluence of Skykomish and Snoqualmie Rivers. Closed to the taking of pink salmon in odd-numbered years.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-455 SNOQUALMIE RIVER. Bag limit B - July 1 through December 31. Closed to the taking of pink salmon in odd-numbered years.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-460 SOLEDUCK RIVER. Bag limit A - May ((*) 23) through October 31: Downstream from Concrete pump station at Soleduck Hatchery.

AMENDATORY SECTION (Amending Order 79-7, filed 1/30/79, effective 4/1/79)

WAC 220-57-465 STILLAGUAMISH RIVER. Bag limit B - July 1 through January 31: Downstream from confluence of North and South forks. ((Chinook salmon over 28 inches must be released:)) Closed to the taking of pink salmon in ((+1979)) odd-numbered years.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-480 TOUTLE RIVER. (1) Bag limit A - open entire year: Downstream from mouth of North Fork.

(2) North Fork - bag limit A - ((Saturday preceding Memorial Day through December 31)) Open entire year: Downstream from ((Weyerhaeuser Railroad Bridge above)) the mouth of the Green River ((mouth to the South Fork)).

September 1 through October 31 - taking of salmon from the area between the Weyerhaeuser Railroad Bridge and the Cook Road Bridge is open to the taking of salmon with lawful fly fishing tackle only. Legal flies are limited to single-hook artificial flies measuring no more than 1/2 inch between shank and point.

AMENDATORY SECTION (Amending Order 76-14, filed 3/15/76, effective 5/1/76)

WAC 220-57-500 WEST TWIN RIVER. Bag limit ((€)) D - July 1 through November 30.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-505 WHITE SALMON RIVER. Bag limit A - ((open entire year)) August 8 through December 31: Downstream from points 1,200 feet north of Highway 14 Bridge. (Little) White Salmon River (Drano Lake): Bag limit A - August ((+)) 8 through ((April 30)) December 31: Downstream from markers on point of land downstream and across from Federal salmon hatchery.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57A-005 AMERICAN LAKE (PIERCE COUNTY). ((Bag limit I - April 20 through October 31)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57A-010 ARMSTRONG LAKE (SNOHOMISH COUNTY). ((Bag limit I - April 20 through September 1)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57A-012 BAKER LAKE (WHATCOM COUNTY). Bag limit I - April ((20)) 26 through October 31.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57A-040 CUSHMAN LAKE (MASON COUNTY). Bag limit I - April ((20)) 26 through October 31.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57A-065 DUCK LAKE (GRAYS HARBOR COUNTY). Bag limit I - April ((20)) 26 through October 31.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57A-080 GOODWIN LAKE (SNOHOMISH COUNTY). ((Bag limit I - April 20 through October 31)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 76-14, filed 3/15/76, effective 5/1/76)

WAC 220-57A-090 HEWITT LAKE (THURSTON COUNTY). ((Bag limit I - open)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57A-095 HICKS LAKE (THURSTON COUNTY). ((Bag limit I - April 20 through October 31)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57A-115 MERIDIAN LAKE (KING COUNTY). ((Bag limit I - April 20 through October 31)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57A-120 MERWIN LAKE (RESERVOIR). Bag limit I - April ((20)) 26 through November 30.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57A-135 ROESIGER LAKE. ((Bag limit I - April 20 through October 31)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 77-3, filed 1/28/77, effective 3/1/77)

WAC 220-57A-145 SAMMAMISH LAKE. Bag limit B - ((open entire year)) August 16 through December 31: waters within 1/4 mile of the mouth of Issaquah Creek are closed to salmon angling at all times. Closed to the taking of sockeye salmon.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57A-152 SHANNON RESERVOIR (SKAGIT COUNTY). Bag limit I - April ((20)) 26 through October 31.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57A-155 SHOECRAFT LAKE (SNOHOMISH COUNTY). ((Bag limit I - April 20 through September 1)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 76-14, filed 3/5/76, effective 5/1/76)

WAC 220-57A-160 SPRAGUE LAKE (LINCOLN COUNTY). ((Bag limit I - open)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 77-3, filed 1/28/77, effective 3/1/77)

WAC 220-57A-175 LAKE WASHINGTON. (1) Waters north of the Evergreen Point Floating Bridge - bag limit B - August 16 through ((May)) December 31.

(2) Waters south of the Evergreen Point Floating Bridge - bag limit B - ((December 1)) October through ((May)) December 31.

NOTE: Waters within a 1,000-foot radius of the mouth of the Cedar River are closed to salmon angling at all times.

(3) It ((shall be)) is unlawful to take, fish for or possess sockeye salmon in Lake Washington the entire year.

AMENDATORY SECTION (Amending Order 77-3, filed 1/28/77, effective 3/1/77)

WAC 220-57A-180 WASHINGTON SHIP CANAL, LAKE (INCLUDING LAKE UNION). (1) Bag limit B - August 16 through ((May)) December 31: west of University Bridge, to eastern end of the north wingwall of the Chittendon Locks. Waters between the University Bridge and the concrete abutment ends east of the Montlake Bridge and waters between the eastern end of the north wingwall of the Chittendon Locks and the Railroad Bridge west of the Locks are closed to salmon angling at all times.

(2) It shall be unlawful to take, fish for or possess sockeye salmon the entire year.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57A-185 WILDERNESS LAKE (KING COUNTY). ((Bag limit I - April 20 through September 1)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57A-190 WYNOOCHEE RESERVOIR (GRAYS HARBOR COUNTY). Bag limit I - April ((20)) 26 through October 31.

WSR 81-05-028
ADOPTED RULES
BOARD OF HEALTH
[Order 208—Filed February 18, 1981]

Be it resolved by the Washington State Board of Health, acting at Spokane, Washington, that it does promulgate and adopt the annexed rules relating to On-site sewage disposal—Definitions, amending WAC 248-96-020.

This action is taken pursuant to Notice No. WSR 81-02-042 filed with the code reviser on January 7, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

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

The undersigned hereby declare that they have 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 11, 1981.

By John B. Conway
Chairman
Robert H. Barnes MD
Irma Goertzen
Ronald L. Jacobus
John A. Beare MD
Secretary

AMENDATORY SECTION (Amending Order 196, filed 3/20/80)

WAC 248-96-020 DEFINITIONS. (1) "Approved" - The term "approved" shall mean acceptable by the health officer as stated in writing.

(2) "Cover" - shall mean fill material that is used to cover a subsurface disposal area to a maximum depth of 18 inches.

(3) "Fill" - shall mean soil materials that have been displaced from their original location.

(4) "Ground water" - subsurface water occupying the zone of saturation.

(5) "Health officer" - the health officer of the city, county, city-county, or district health department or his authorized representative.

(6) "Larger on-site sewage disposal system" - any on-site sewage system with design flows, at any common point, between 3,500, to 14,500 gpd or developments having 10, but no more than 49 service connections. On-site systems receiving state or federal grants, or systems

using mechanical treatment or lagoons with ultimate design flows above 3,500 gpd are excluded from this definition. Excluded systems are governed by chapter 173-240 WAC.

(7) "On-site sewage disposal system" - any system of piping, treatment devices, or other facilities that convey, store, treat, or dispose of sewage on the property where it originates or on adjacent or nearby property under the control of the user where the system is not connected to a public sewer system.

(8) "Person" - any individual, corporation, company, association, society, firm, partnership, joint stock company, or any branch of state or local government.

(9) "Public sewer system" - a sewerage system which is owned or operated by a city, town, municipal corporation, county, political subdivision of the state, or other approved ownership consisting of a collection system and necessary trunks, pumping facilities and a means of final treatment and disposal and under permit from the department of ecology.

(10) "Secretary" - the secretary of the state department of social and health services or his authorized representative.

(11) "Septic tank" - a watertight receptacle which receives the discharge of sewage from a building sewer, and is designed and constructed so as to permit separation of settleable and floating solids from the liquid, detention and digestion of the organic matter, prior to discharge of the liquid portion.

(12) "Sewage" - the water-carried human or domestic waste from residences, building, industrial establishments or other places, together with such ground water infiltration, and other wastes as may be present.

(13) "Subdivision" - a division of land, as defined in chapter 58.17 RCW, now or as hereafter amended, including short subdivisions.

(14) "Surface water" - any body of water, whether fresh or marine, or watercourse, including lakes, impoundments and streams.

WSR 81-05-029
ADOPTED RULES
BOARD OF HEALTH
[Order 209—Filed February 18, 1981]

Be it resolved by the Washington State Board of Health, acting at Spokane, Washington, that it does promulgate and adopt the annexed rules relating to:

- Amd WAC 248-18-001 Definitions.
- Amd WAC 248-18-010 Exemptions and interpretations.
- Amd WAC 248-18-500 through 248-18-999 New construction regulations.

This action is taken pursuant to Notice Nos. WSR 80-18-047 and 81-03-038 filed with the code reviser on December 3, 1980 and January 15, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 70.41.30[70.41.030] and is intended to administratively implement the statute.

The undersigned hereby declare that they have 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 11, 1981

By John B. Conway

Chairman

Robert H. Barnes MD

Irma Goertzen

Ronald L. Jacobus

John A. Beare MD

Secretary

AMENDATORY SECTION (Amending Order 135, filed 12/6/76)

WAC 248-18-001 DEFINITIONS. For the purposes of these regulations, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise.

(1) "Accredited" means approved by the Joint Commission on Accreditation of Hospitals or the Bureau of Hospitals of the American Osteopathic Association.

(2) "Acute cardiac care unit" means an intensive care unit for patients with heart problems.

(3) "Agent", when used in a reference to a medical order or a procedure for a treatment, means any power, principle or substance, whether physical, chemical or biological, which is capable of producing an effect upon the human body.

(4) All adjectives and adverbs such as adequate, approved, qualified, reasonable, reputable, satisfactory, sufficiently, or suitable, used in these rules and regulations to qualify a person, a procedure, equipment or building shall be as determined by the Washington State Department of Social and Health Services.

(5) "Board" means the Washington State Board of Health.

(6) "Department" means the Washington State Department of Social and Health Services.

(7) "He, him, his or himself" means a person of either sex, male or female, and does not mean preference for nor exclude reference to either sex.

(8) "Hospital" means any institution, place, building or agency which provides accommodations, facilities, and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care, of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. "Hospital" as used in this act does not include

hotels, or similar places furnishing only food and lodging, or simply domiciliary care; nor does it include clinics, or physicians' offices where patients are not regularly kept as bed patients for twenty-four hours or more; nor does it include nursing homes, as defined and which come within the scope of chapter 18.51 RCW; nor does it include maternity homes, which come within the scope of chapter 18.46 RCW; nor does it include psychiatric hospitals, which come within the scope of chapter 71.12 RCW; nor any other hospital, or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental conditions. Furthermore, nothing in this act or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any hospital conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denomination.

(9) "Intensive care unit" means a special physical and functional unit for the segregation, concentration and close or continuous nursing observation and care of patients who are critically, seriously or acutely ill and in need of intensive, highly skilled nursing service.

(10) "Legend drugs" are those drugs bearing the manufacturer's legend, "Federal law prohibits dispensing without a prescription".

(11) "Licensed practical nurse", abbreviated L.P.N., means a person duly licensed by the Washington State Board of Practical Nurse Examiners to practice practical nursing.

(12) "May" means permissive or discretionary ~~((with))~~ on the part of the board or the department.

(13) "Medical staff" means those physicians appointed by the governing authority to practice in the hospital.

(14) "New construction" means any of the following started after adoption of these rules and regulations:

(a) New buildings to be used as hospitals;

(b) Additions to existing buildings to be used as hospitals;

(c) Conversion of existing buildings or portions thereof for use as hospitals;

(d) Alterations other than minor alterations to existing hospitals ~~((except where an exemption has been granted by the Secretary of the State Department of Social and Health Services or his designee under WAC 248-18-010(4)(b))).~~

(15) "Nursing home unit" means a group of beds for the accommodation of patients who, because of chronic illness or physical infirmities, require skilled nursing care and related medical services but who are not acutely ill and not in need of the highly technical or specialized services ordinarily a part of hospital care.

(16) "Patient" means a person who is receiving (or has received) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative health services at the hospital.

(17) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(18) "Pharmacy" refers to the central area in a hospital where drugs are stored and are issued to hospital departments or where prescriptions are filled.

(19) "Pharmacist" refers to one currently registered as a pharmacist in the state of Washington under the provisions of chapter 18.64 RCW.

(20) "Physician" means a doctor of medicine or a doctor of osteopathy duly licensed in the state of Washington.

(21) "Physician's assistant" means a person who is not a physician but is practicing medicine in accordance with the provisions of chapter 18.71A RCW and the rules and regulations promulgated thereunder or in accordance with provisions of chapter 18.57A RCW and the rules and regulations promulgated thereunder.

(22) "Prescription" means an order for drugs for a specific patient given by a duly licensed physician, dentist or other person legally authorized to write prescriptions, transmitted to a pharmacist for dispensing to the specific patient.

(23) "Psychiatric unit" means a separate portion of the hospital specifically reserved for the care of mental patients (a part of which may be "open" and a part locked), as distinguished from "seclusion rooms" which are part of the general nursing unit in which psychiatric care and treatment are not the primary service.

(24) "Referred outpatient diagnostic service" means a service which is: Provided to a person who is receiving his medical diagnosis, treatment and other health care services from one or more sources outside the hospital; limited to diagnostic tests and examinations which do not involve the administration of a parenteral injection, the use of a local or general anesthesia or the performance of a surgical procedure; and ordered by a health care practitioner, legally permitted to order such tests and examinations, to whom the hospital reports the findings and results of the tests and examinations.

(25) "Registered nurse" means a graduate or professional nurse duly licensed under the provisions of the law regulating the practice of registered nursing in the state of Washington and is practicing in accordance with the rules and regulations promulgated thereunder.

(26) "Respiratory isolation" means the prevention of transmission of pathogenic organisms by means of droplets and droplet nuclei that are coughed, sneezed, or breathed into the environment.

(27) "Restraint" means any apparatus used for the purpose of preventing or limiting free body movement. This shall not be interpreted to include a safety device as defined herein.

(28) "Safety device" means a device used to safeguard a patient who because of his developmental level or condition is particularly subject to accidental self-injury.

(29) "Shall" means compliance is mandatory.

(30) "Should" means a suggestion or recommendation, but not a requirement.

(31) "Surgical procedure" means any manual or operative procedure performed upon the body of a living human being for the purpose of preserving health, diagnosing or curing disease, repairing injury, correcting deformity or defect, prolonging life or relieving suffering

and involving any of the following: Incision, excision, or curettage of tissue or an organ; suture or other repair of tissue or an organ including a closed as well as an open reduction of a fracture; extraction of tissue including the premature extraction of the products of conception from the uterus; an endoscopic examination with use of a local or general anesthesia; or assisting a woman during the birth of a child and expulsion of the afterbirth.

(32) "Tuberculous patient" means a person who is receiving diagnostic or treatment services because of suspected or known tuberculosis.

AMENDATORY SECTION (Amending order 142, filed 2/8/77)

WAC 248-18-010 EXEMPTIONS AND INTERPRETATIONS. (1) If a hospital that is required to be licensed under this act, does not normally provide a particular service or department, the section or sections of these regulations relating to such service or department will not be applicable.

(2) The state board of health may, in its discretion, exempt certain hospitals from complying with parts of these regulations which pertain to health and sanitation, when it has been found after thorough investigation and consideration that such exemption may be made in an individual case without placing the safety or health of the patients in the hospitals involved in jeopardy.

The state board of health hereby delegates to the director of the health services division of the department of social and health services the authority to grant said exemptions pursuant to the standards contained in chapter 248-18 WAC relating to the subject matter for which the exemption is requested, subject to the provisions contained herein. If an application for an exemption is recommended for denial by the director of the health services division, the recommendations shall be reviewed by the board of health at its next meeting. If an application is recommended to be granted by the director, it shall be reviewed in accordance with subdivision (b) of this subsection.

(a) Such reviews shall not be considered contested cases as that term is defined in chapter 34.04 RCW. Statements and written material regarding the application may be presented to the board at or before its meeting wherein the application for exemption will be considered. Allowing cross examination of witnesses in such matters shall be within the discretion of the board.

(b) Written summaries of all exemptions proposed to be granted by the director of the health services division shall be sent to all members of the board of health and shall include written forms upon which the members may indicate approval or disapproval of the exemption request. No exemption granted by the director of the health services division shall take effect for thirty days following notice of the tentative exemption approval being sent to the members of the board of health. If any member of the board of health shall fail to respond, or shall disagree with the proposed exemption request, within the above thirty-day period, the exemption shall not take effect until reviewed and approved by the entire board at its next regular meeting.

(3) The secretary of the department of social and health services or his designee may, upon written application:

(a) Exempt any hospital from complying with the patient room size, ceiling height, and window area requirements when the room for which the exemption is requested does not place the safety or health of the patients in the room in jeopardy;

(b) Grant an exemption to any hospital from the hospital regulations requiring alterations to meet new construction standards when the proposed alteration will serve to correct deficiencies or will upgrade the facility in order to provide better patient care and will not create any additional deficiencies.

(4) The secretary of the department of social and health services or his designee may, upon written application of a hospital, allow the substitution of procedures, materials, or equipment for those specified in these regulations when such procedures, materials, or equipment have been demonstrated to his satisfaction to be at least equivalent to those prescribed. The secretary or his designee shall send a written response to a hospital which has applied for approval of a substitution. The response shall approve or disapprove the substitution and shall be issued within thirty working days after the department has received all the information necessary to the review of the application.

(5) A hospital may, upon submission of a written request to the secretary of the department of social and health services or his designee, obtain an interpretation of a rule or regulation contained in chapter 248-18 WAC. The secretary or his designee shall, in response to such a request, send a written interpretation of the rule or regulation within thirty working days after the department has received complete information relevant to the requested interpretation.

(6) A hospital may submit a written request for an interpretation of a rule or regulation contained in chapter 248-18 WAC directly to the state board of health.

~~((AH))~~ (7) A copy of each exemption((s)) or substitution((s)) granted or interpretation issued pursuant to the ((foregoing)) provisions of this section shall be reduced to writing and filed with the department and the hospital.

AMENDATORY SECTION (Amending Order 119, filed 5/23/75)

WAC 248-18-500 APPLICABILITY OF THESE REGULATIONS GOVERNING HOSPITAL CONSTRUCTION. (1) These regulations apply to new construction of hospitals which are covered by RCW 70.41.020 (section 2, chapter 267, Laws of 1955).¹ New construction shall include any of the following started after promulgation of these regulations:

- (a) New buildings to be used as hospitals;
- (b) Additions to existing buildings to be used as hospitals;
- (c) Conversions of existing buildings or portions thereof for use as hospitals;
- (d) Alterations other than minor alterations to existing hospitals(~~, except where an exemption has been granted by the secretary of the department of social and~~

~~health services or his designee under WAC 248-18-010(4)(b))~~.

(2) These regulations cover the facilities generally required within a hospital, with the following provisions.

(a) Omission of required facilities for some services may be permitted provided definite arrangement has been made for adequate services from suitably located facilities outside the hospital.

(b) Hospitals which will restrict services to legally allowable and customarily recognized limitations may be permitted to omit required facilities for the services which are not to be provided.

(c) Facilities provided, which are not specifically required by these regulations, must be adequate for the services to be performed and must meet the objectives of these regulations.

NOTE:

¹See WAC 248-18-505(11) for definition of "Hospital".

AMENDATORY SECTION (Amending Order 119, filed 5/23/75)

WAC 248-18-505 DEFINITIONS. All adjectives and adverbs such as adequate, approved, suitable, properly, or sufficient used in these regulations to qualify a requirement shall be determined by the Washington State Department of Social and Health Services.

(1) Alterations:

(a) "Alterations" means structural or functional changes in any room or area within an existing hospital.

(b) "Minor alterations" means any structural or functional modification within existing hospitals which does not change the approved use of the room or area. (Minor alterations performed under this definition do not require prior approval of the department; however, this does not constitute a release from applicable requirements contained in chapter 248-18 WAC).

(2) "Area", except when used in reference to a major section of the hospital, means a portion of a room which contains the equipment essential to carrying out a particular function and is separated from other facilities of the room by a physical barrier or adequate space.

(3) "Bathing facility" means a bathtub or shower. Does not include sitz baths or other fixtures designed primarily for therapy.

(4) "Board" means the State Board of Health.

(5) "Clean", when used in reference to a room, area or facility, means space and/or equipment for storage and handling of supplies and/or equipment which are in a sanitary or sterile condition.

(6) "Department" means the Washington State Department of Social and Health Services.

(7) "Facilities" means a room or area and/or equipment to serve a specific function.

(8) "Faucet controls":

(a) "Wrist control" means water supply controls at least four inches overall horizontal length designed and installed to be operated by the wrists.

(b) "Elbow control" means water supply controls at least six inches overall horizontal length designed and installed to be operated by the elbows.

(c) "Knee control" means the water supply is through a mixing valve designed and installed to be operated by the knee.

(d) "Foot control" means the water supply is through a mixing valve designed and installed to be operated by the foot.

(9) "Grade" means the level of the ground adjacent to the building measured at required windows. The ground must be level or slope downward for a distance of at least ten feet from the wall of the building. From there the ground may slope upward not greater than an average of one foot vertical to two feet horizontal within a distance of eighteen feet from the building.

(10) "Handwashing facility" means a lavatory or a sink properly designed and equipped to serve for handwashing purposes.

(11) "Hospital" means, as defined in RCW 70.41.020, "any institution, place, building, or agency which provides accommodations, facilities, and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care, of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. "Hospital" as used in this act does not include hotels, or similar places furnishing only food and lodging, or simply domiciliary care; nor does it include clinics, or physicians' offices where patients are not regularly kept as bed patients for twenty-four hours or more; nor does it include nursing homes, as defined and which come within the scope of chapter 18.51 RCW; nor does it include maternity homes, which come within the scope of chapter 18.46 RCW; nor does it include psychiatric hospitals, which come within the scope of chapter 71.12 RCW; nor any other hospital, or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental conditions. Furthermore, nothing in this act or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any hospital conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denominations."

(12) "Intensive care unit" means a special physical and functional unit for the segregation, concentration, and close or continuous nursing observation and care of patients who are critically, seriously or acutely ill and in need of intensive, highly skilled nursing service.

(13) "Island tub" means a bathtub placed in a room to permit free movement of a stretcher, patient lift or wheelchair to at least one side of the tub and movement of people on both sides and at the end of the tub.

(14) "Lavatory" means a plumbing fixture of adequate design and size for washing hands.

(15) "New construction" means any of the following:

(a) New buildings to be used as hospitals;

(b) Additions to existing buildings to be used as hospitals;

(c) Conversions of existing buildings or portions thereof for use as hospitals;

(d) Alterations other than minor alterations to existing hospitals except where an exemption has been granted by the Secretary of the Washington State Department of Social and Health Services, or his designee under WAC 248-18-010(4)(b).

(16) "Nursing home unit" means a group of beds for the accommodation of patients who, because of chronic illness or physical infirmities, require skilled nursing care and related medical services but who are not acutely ill and not in need of the highly technical or specialized services ordinarily a part of hospital care.

(17) "May" means ~~((at the discretion of the Washington State))~~ permissive or discretionary on the part of the board or the department ((of Social and Health Services)).

(18) "Movable equipment" means equipment which is not built-in, fixed or attached to the building.

(19) "Observation room" means a room for close nursing observation and care of one or more outpatients for a period of less than twenty-four consecutive hours.

(20) "Patient care areas" means all nursing service areas of the hospital in which direct patient care is rendered and all other areas of the hospital in which diagnostic or treatment procedures are performed directly upon a patient.

(21) "Physical barrier" means a partition or similar space divider designed to prevent splash or spray between room areas.

(22) "Psychiatric unit" means a separate portion of the hospital specifically reserved for the care of psychiatric patients (a part of which may be "open" and a part locked), as distinguished from "seclusion rooms" which are part of a general nursing unit in which psychiatric care and treatment are not the primary service.

(23) "Recovery unit" means a special physical and functional unit for the segregation, concentration and close or continuous nursing observation and care of patients for a period of less than twenty-four hours immediately following anesthesia, obstetrical delivery, surgery, or other diagnostic or treatment procedures which may produce shock, respiratory obstruction or depression or other serious states.

(24) "Room" means a space set apart by floor to ceiling partitions on all sides with proper access to a corridor and with all openings provided with doors or windows.

(25) "Shall" means mandatory.

(26) "Should" means a suggestion or recommendation, but not a requirement.

(27) "Sinks":

(a) "Clinic service sink (siphon jet)" means a plumbing fixture of adequate size and proper design for waste disposal with siphon jet or similar action sufficient to flush solid matter of at least two and one-eighth inch diameter.

(b) "Scrub sink" means a plumbing fixture of adequate size and proper design for thorough washing of hands and arms, equipped with knee or foot control and gooseneck spout.

(c) "Service sink" means a plumbing fixture of adequate size and proper design for filling and emptying mop buckets.

(28) "Soiled", when used in reference to a room, area or facility, means space and equipment for collection and/or cleaning of used or contaminated supplies and equipment and/or collection and/or disposal of wastes.

(29) "Stretcher" means a four wheeled cart designed to serve as a litter for the transport of an ill or injured person in a recumbent position.

(30) "Through traffic" means traffic for which the origin and destination are outside the room or area which serves as a passageway.

(31) "Toilet" means a room containing at least one water closet.

(32) "Water closet" means a plumbing fixture for defecation fitted with a seat and device for flushing the bowl of the fixture with water.

AMENDATORY SECTION (Amending Order 193, filed 2/26/80)

WAC 248-18-510 PROGRAMS, DRAWINGS AND CONSTRUCTION. (1) Professional design services. Drawings and specifications for new construction shall be prepared by, or under the direction of, an architect registered in the state of Washington, and shall include plans and specifications prepared by consulting professional engineers for the various branches of the work where appropriate; except the services of a registered professional engineer may be used in lieu of the services of an architect if work involves engineering only. If the work involved is believed to be not extensive enough to require professional design services, a written description of the proposed construction should be submitted to the department for a determination of the applicability of this regulation.

(2) Submission for review. The program and drawings for new construction shall be submitted in the following stages for review. Each room, area and item of fixed equipment and major movable equipment shall be identified on all drawings to demonstrate that the required facilities for each function have been provided.

(a) A written program containing, at a minimum, information concerning services to be provided and operational methods to be used which will affect the extent of facilities required by these regulations. If the project involves an addition or alteration which materially increases the bed capacity of the hospital, the program shall contain a thorough appraisal of all existing supporting services to determine their adequacy for the increased number of patients.

(b) Preliminary drawings of the new construction including major equipment. For alterations and additions, a functional layout of the existing building must be included. The hospital should be designed so that it may be expanded to provide for anticipated future needs. The future additions and their proposed functions should be designated on the preliminary plans.

(c) Detailed working drawings and specifications including mechanical and electrical work.

(d) If carpets are to be used, the following information is to be submitted for review:

(i) A floor plan showing areas to be carpeted and adjoining areas. These areas shall be labeled, according to function, and the proposed carpeted areas coded on the plan and keyed to the appropriate carpet sample.

(ii) One 3" x 5" sample of each carpet type, labeled to identify the following:

(A) Manufacturer; and

(B) Specific company designation (trade name and number).

(iii) Information showing that proposed carpeting meets the specifications as listed in WAC 248-18-718(5).

(iv) Carpets may be used in the following nonpatient occupied areas: administrative areas, lobbies, lounges, chapels, waiting areas, nurses' station, dining rooms, corridors, equipment alcoves opening onto carpeted corridors. Carpets are not permitted in any areas of the surgery or delivery suites. Carpets may be used in other areas only upon written approval of such use by the department.

(v) Carpets may be used in the following patient occupied areas: Patient rooms (excluding toilets, bathrooms, and designated isolation rooms), coronary care units, recovery rooms (not within surgical suites), labor rooms (not within delivery suites), corridors within patient occupied areas, dayrooms, equipment alcoves opening onto carpeted corridors. Carpets may be used in other areas only upon written approval of such use by the department.

(3) Construction.

(a) Construction, of other than minor alterations, shall not be commenced until the final drawings and specifications have been stamped "construction authorized" by the department. Such authorization by the department does not constitute release from the requirements contained in these regulations.

(b) Compliance with these regulations does not constitute release from the requirements of applicable state and local codes and ordinances. These regulations must be followed where they exceed other codes and ordinances.

(c) Notification shall be given the department when construction is commenced. If construction takes place in or near occupied areas, adequate provision shall be made for the safety and comfort of patients.

(d) Construction shall be completed in compliance with the final drawings and specifications. Addenda or modifications which might affect the fire safety or functional operation shall be submitted for review by the department.

(4) Department's reports on reviews or on-site construction inspections. The department shall identify the sections and items of chapter 248-18 WAC under which a requirement is stated or a deficiency noted in any written report on a review of a functional program, drawings or specifications and in any report on an on-site inspection of a construction project.

AMENDATORY SECTION (Amending Order 119, filed 5/23/75)

WAC 248-18-515 DESIGN AND CONSTRUCTION STANDARDS, GENERAL. (1) Exemptions,

substitutions and interpretations. (~~The secretary of the state department of social and health services, or his designee may, in his discretion, grant exemptions from these regulations for alterations within an existing hospital~~) Exemptions, approval of substitutions and interpretations related to design and construction standards may be obtained pursuant to the provisions of WAC 248-18-010((+)(b)).

(2) Industry standards, guides and codes adopted by reference.

(a) At least annually, and no later than October 1 of each year, the department shall submit to the board for adoption an up-dated list of industry standards, guides and codes which are adopted by reference in those sections of chapter 248-18 WAC which govern hospital construction.

(b) Preliminary drawings for a hospital construction project shall conform to the industry standards, guides and codes which appear in the current chapter 248-18 WAC which shall constitute the applicable standards, guides and codes for the duration of the construction project with the following exceptions:

(i) Upon written request of a hospital, the department may issue written approval of use of a more recent edition of an industry standard, guide or code which has been adopted by the board since development of the preliminary drawings for a hospital construction project. The more recent edition of the standard, guide or code shall then apply to the project.

(ii) The most recent edition of an industry standard, guide or code which has been adopted by the board shall apply to a hospital construction project if the design of the project has not progressed to the point that construction has been authorized by the department in accordance with WAC 248-18-510(3)(a) within two years after the first submission of the preliminary drawings for the project which were developed in accordance with an earlier edition of the standard, guide or code.

(3) Format.

(a) In general, regulations concerning the size, location and major equipment of rooms and areas are placed under headings for particular departments or facilities. Some service facilities which are common to several departments or units are grouped under "GENERAL REQUIREMENTS FOR SERVICE FACILITIES", WAC 248-18-710. Mechanical and electrical requirements and detailed architectural requirements are included in "GENERAL DESIGN REQUIREMENTS", WAC 248-18-718.

(b) Equipment included in these regulations is that which is frequently built in or attached to the building. Equipment which is customarily movable is not included.

(c) For every WAC section, the title caption denotes the category of facilities, requirements or information to which the contents of the particular section relates.

(d) In "New Construction Regulations", requirements are differentiated from items which are permissive, suggestive, recommendatory or explanatory in the following manner.

(i) "Optional. SHALL MEET REQUIREMENTS, IF INCLUDED", following the title caption for a WAC section, indicates the particular unit, service, department or other category of facilities (which the title caption denotes) is only suggested or recommended and not mandatory, but must comply with applicable regulations if included in the hospital.

(ii) In some instances, the title caption for a WAC section denotes a unit, service, department or other category of facilities which is required ONLY under certain circumstances. The circumstances under which such category of facilities is required are stated following the title caption. Such a category of facilities must meet applicable regulations if included in the hospital.

(iii) Within a WAC section, requirements are written in capital letters.

(iv) Permissive, suggestive, recommendatory or explanatory items within a WAC section are written in lower case. Inclusion of any equipment, area, room, unit, service or other facility which is only suggested or recommended (lower case) is optional. Such equipment, area, room, unit, service or other facility shall meet requirements (capital letters) if included in the hospital.

WSR 81-05-030

EMERGENCY RULES

BOARD OF HEALTH

[Order 206—Filed February 18, 1981]

Be it resolved by the Washington State Board of Health, acting at Seattle, Washington, that it does promulgate and adopt the annexed rules relating to Certificate of need, amending chapter 248-19 WAC.

We, the Washington State Board of Health, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the fact constituting such emergency is failure to enact a certificate of need program on January 1, 1981, has caused the Department of Social and Health Services to be in noncompliance with federal and state laws resulting in the potential loss of federal funds for health services in the state.

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

This rule is promulgated pursuant to RCW 70.38.135 and is intended to administratively implement the statute.

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

APPROVED AND ADOPTED January 26, 1981.

By John B. Conway

 Chairman
Irma Goertzen

Robert H. Barnes MD

John A. Beare MD

 Secretary

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-200 PURPOSE OF CHAPTER 248-19 WAC. The following rules and regulations are adopted pursuant to chapter ~~((161, Laws of 1979 extraordinary session (46th Legislative Session) [chapter 70.38 RCW], the State Health Planning and Resources Development Act.))~~ 70.38 RCW for the purpose of establishing a certificate of need program which is consistent with the provisions of ~~((Public Law 93-641, the National Health Planning and Resources Development Act of 1974 and the provisions of the State Health Planning and Resources Development Act))~~ Title XV of the Public Health Service Act as amended by the Health Planning and Resources Development Amendments of 1979 (Public Law 96-79).

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-210 PURPOSE OF CERTIFICATE OF NEED PROGRAM. The purpose of the certificate of need program is to ensure the obligation of capital expenditures, the development and offering of ((new)) institutional health services, and the acquisition of major medical equipment are consistent with the public policy of the state of Washington, set forth in ~~((section 1, chapter 161, Laws of 1979 extraordinary session (46th Legislative Session) [RCW 70.38.015]-))~~ RCW 70.38.015.

"(1) That planning for promoting, maintaining, and assuring a high level of health for all citizens of the state, and for the provision of health services, health manpower, health facilities, and other resources is essential to the health, safety, and welfare of the people of the state. Such planning is necessary on both a state-wide and regional basis and must maintain responsiveness to changing health and social needs and conditions. The marshaling of all health resources to assure the quality and availability of health services to every person must be the goal of such planning, which must likewise assure optimum efficiency, effectiveness, equity, coordination, and economy in development and implementation to reach that goal;

(2) That the development and offering of new institutional health services should be accomplished in a manner which is orderly, timely, economical, and consistent with the effective development of necessary and adequate means of providing quality health care for persons to be served by such facilities without unnecessary duplication or fragmentation of such facilities;

(3) That the development of health resources, including the construction, modernization, and conversion of health facilities, should be accomplished in a planned, orderly fashion, consistent with identified priorities; ~~((and))~~

(4) That the development and maintenance of adequate health care information and statistics essential to effective health planning and resources development be accomplished; and

(5) That the strengthening of competitive forces in the health services industry, wherever competition and consumer choice can constructively serve to advance the purposes of quality assurance, cost effectiveness, and access, should be implemented."

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-220 DEFINITIONS. For the purposes of ~~((these regulations))~~ chapter 248-19 WAC, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise.

(1) "Acute care facilities" means hospitals and ambulatory surgical facilities.

(2) "Affected persons" means the ~~((person whose proposal is being reviewed))~~ applicant, the health systems agency for the health service area in which the proposed ~~((new institutional health service))~~ project is to be ~~((offered or developed))~~ located, health ~~((systems))~~ service agencies serving contiguous health ((systems)) service areas, health care facilities and health maintenance organizations located in the health service area in which the project is proposed to be located which provide ((institutional health)) services similar to the services under review, health care facilities and health maintenance organizations, which, prior to receipt by the department of the proposal being reviewed, have formally indicated an intention to provide similar services in the future, third-party payers who reimburse health care facilities for services in the health service area in which the project is proposed to be located, any agency which establishes rates for health care facilities or health maintenance organizations ((in the state, and those members of the public who are to be served by the proposed new institutional health services)) located in the health service area in which the project is proposed to be located, any person residing within the geographic area served or to be served by the applicant, and any person who regularly uses health care facilities within that geographic area.

(3) "Ambulatory care facility" means any place, building, institution or distinct part thereof which is not a health care facility as defined in this section and which is operated for the purpose of providing health services to individuals without providing such services with board and room on a continuous twenty-four hour basis. The term "ambulatory care facility" includes the offices of private physicians, whether for individual or group practice.

(4) "Ambulatory surgical facility" means a facility, not a part of a hospital, which provides surgical treatment to patients not requiring inpatient care in a hospital. This term does not include a facility in the offices of private physicians or dentists, whether for individual or

group practice, if the privilege of using such facility is not extended to physicians or dentists outside the individual or group practice.

~~((4))~~ (5) "Applicant," except as used in WAC 248-19-390, means any person ~~((or any individual with a ten percent or greater financial interest in a partnership or corporation or other comparable legal entity that))~~ who proposes to ~~((offer or develop a new institutional health service))~~ engage in any undertaking which is subject to review under the provisions of ~~((the State Health Planning and Resources Development Act and Public Law 93-641, or to undertake expenditures in preparation for such offering or development of such a service))~~ chapter 70.38 RCW and Title XV of the Public Health Service Act as amended by Public Law 96-79.

"Applicant," as used in WAC 248-19-390, means any person or individual with a ten percent or greater financial interest in a partnership or corporation or other comparable legal entity that engages in any undertaking which is subject to review under the provisions of chapter 70.38 RCW and Title XV of the Public Health Service Act as amended by Public Law 96-79.

~~((5))~~ (6) "Annual implementation plan" means a description of objectives which will achieve goals of the health systems plan and specific priorities among the objectives. The annual implementation plan is for a one-year period and must be reviewed and amended as necessary on an annual basis.

~~((6))~~ (7) "Board" means the Washington state board of health.

~~((7))~~ (8) "Capital expenditure" means an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by a facility as its own contractor), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance. Where a person makes an acquisition under lease or comparable arrangement, or through donation, which would have required certificate of need review if the acquisition had been made by purchase, such acquisition shall be deemed a capital expenditure. Capital expenditures include donations of equipment or facilities to a health care facility, which if acquired directly by such facility, would be subject to review under the provisions of this chapter and transfer of equipment or facilities for less than fair market value if a transfer of the equipment or facilities at fair market value would be subject to such review: PROVIDED, HOWEVER, That the following categories of expenditures shall not be considered capital expenditures for the purposes of this chapter:

(a) The acquisition of nondepreciating assets including land.

(b) Costs associated with the refinancing of existing debt.

~~((8))~~ (9) "Certificate of need" means a written authorization by the secretary for a person to implement a proposal for one or more ~~((particular new institutional health services))~~ undertakings.

~~((9))~~ (10) "Certificate of need unit" means that organizational unit of the department which is responsible for the management of the certificate of need program.

~~((10))~~ (11) "Commencement of construction" means whichever of the following occurs first: Giving notice to proceed with construction to a contractor for a construction project; beginning site preparation or development (, excavation and); excavating or starting the foundation for a construction project; or beginning alterations, modification, improvement, extension or expansion of an existing building.

~~((11))~~ (12) "Construction" means the erection, building, alteration, remodeling, modernization, improvement, extension or expansion of a physical plant of a health care facility or the conversion of a building or portion thereof to a health care facility.

~~((12))~~ (13) "Council" means the state health coordinating council established under the provisions of ~~((Public Law 93-641))~~ chapter 70.38 RCW and ~~((the State Health Planning and Resources Development Act))~~ Title XV of the Public Health Service Act as amended by Public Law 96-79.

~~((13))~~ "Defined population" means the population that is or may reasonably be expected to be served by an existing or proposed health care facility. "Defined population" shall also include persons who prefer to receive the services of a particular recognized school or theory of medical care. "Defined population" shall not be limited to a geographical area.)

(14) "Days," except when called "working days," means calendar days which are counted by beginning with the day after the date of the act, event or occurrence from which the designated period of time begins to run. If the last day of the period so counted should fall on a Saturday, Sunday or legal holiday observed by the state of Washington, a designated period shall run until the end of the first working day which follows the Saturday, Sunday or legal holiday.

"Working days" exclude all Saturdays and Sundays, January 1, February 12, the third Monday in February, the last Monday of May, July 4, the first Monday in September, November 11, the fourth Thursday in November, the day immediately following Thanksgiving day and December 25. Working days are counted by beginning with the first working day after the date of the act, event or occurrence from which a designated period of time begins to run.

(15) "Department" means the Washington state department of social and health services.

~~((15))~~ "Development" or "to develop," when used in connection with health services means undertaking those activities which upon their completion will result in the offering of a new institutional health service or the incurring of a financial obligation in relation to the offering of such a service: PROVIDED, HOWEVER, That this term shall not be interpreted to include long-range planning or site acquisition or activities involved in preparation to offer or develop including community needs assessment and feasibility or marketing studies.)

(16) "Expenditure minimum" means one hundred fifty thousand dollars for the twelve-month period beginning with October 1979, and for each twelve-month period thereafter the figure in effect for the preceding twelve-month period adjusted to reflect the change in

the preceding twelve-month period, in an index established by rules and regulations by the department for the purpose of making such adjustment.

(17) "Health care facility" means hospitals, psychiatric hospitals, tuberculosis hospitals, nursing homes, both skilled nursing facilities and intermediate care facilities, kidney disease treatment centers including freestanding hemodialysis units, ambulatory surgical facilities, rehabilitation facilities, and home health agencies, and includes such facilities when owned and operated by the state or a political subdivision or instrumentality of the state and such other facilities as required by Title XV of the Public Health Service Act as amended by Public Law 93-641 and implementing regulations, but does not include Christian Science ((sanitoriums)) sanitoriums operated or listed and certified by the First Church of Christ Scientist, Boston, Massachusetts.

((17)) (18) "Health maintenance organization" means ((any entity defined under RCW 48.46.020(1) and any other)) a public or private organization, organized under the laws of ((any)) the state, which:

(a) Is a qualified health maintenance organization under Title XIII, Section 1310(d) of the Public Health Service Act; or

(b)(i) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: Usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out-of-area coverage;

((b)) (ii) Is compensated (except for copayments) for the provision of the basic health care services listed in ((the preceding (a) of this definition)) (b)(i) of this subsection to enrolled participants ((on a predetermined)) by a payment which is paid on a periodic ((rate)) basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and

((c)) (iii) Provides physicians' services primarily ((f)) (A) directly through physicians who are either employees or partners of such organization, or ((f)) (B) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

((The term "health maintenance organization for which assistance may be provided under Title XIII" means a health maintenance organization which is qualified under section 1310(d) of the Public Health Service Act or a health maintenance organization which the secretary of the United States department of health, education and welfare determines, upon the basis of an application and the submission of any information and assurances which he finds necessary, may be eligible for assistance under Title XIII of the Public Health Service Act.

((18)) (19) "Health services" means clinically related (i.e., preventive, diagnostic, curative, rehabilitative, or palliative) services and includes alcoholism, drug abuse((;)) and mental health services.

((19)) (20) "Health systems agency" means a public regional planning body or a private nonprofit corporation which is organized and operated in a manner that

is consistent with the laws of the state of Washington and Public Law 93-641 and which is capable of performing each of the functions described in ((section 8 of the State Health Planning and Resources Development Act)) RCW 70.38.085 and is capable as determined by the secretary of the United States department of health((, education and welfare)) and human services, upon recommendation of the governor or the council, of performing each of the functions described in the federal law, ((Public Law 93-641)) Title XV of the Public Health Service Act as amended by Public Law 96-79.

"Appropriate health systems agency" means the health systems agency for the health service area in which a particular project is to be located.

((20)) (21) "Health systems plan" means a plan established by a health systems agency which is a detailed statement of goals and resources required to reach those goals as described in ((Public Law 93-641. Goals describe a healthful environment and health systems in the health service area which, when developed, will assure that quality health services will be available and accessible in a manner which assures continuity of care, at reasonable cost, for all residents of the area, are responsive to the unique needs and resources of the health service area, and take into account national guidelines for health planning policy and state-wide health needs and priorities. The health systems plan is for a period longer than one year and must be reviewed and amended as necessary on an annual basis)) the federal law, Title XV of the Public Health Service Act as amended by Public Law 96-79.

((21)) (22) "Home health agency" means ((a public agency or private organization or subdivision of such an agency or organization which is primarily engaged in providing nursing services and other therapeutic services (e.g., physical therapy, occupational therapy, nutritionist's services, and social services), within a defined geographic area, on a part-time, intermittent or visiting basis to ill or disabled persons in residences which are their homes)) any entity which is or is to be certified as a provider of home health services in the Medicaid or Medicare program.

((22)) (23) "Hospital" means any institution, place, building or agency or distinct part thereof which qualifies or is required to qualify for a license under chapter 70.41 RCW or any state owned and operated institution which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment and care of injured, disabled, or sick persons, or rehabilitation services of injured, disabled, or sick persons. Such term includes tuberculosis hospitals but does not include psychiatric hospitals.

((23)) (24) "Hospital commission" means the Washington state hospital commission established pursuant to chapter 70.39 RCW.

((24)) (25) "Inpatient" means a person who receives health care services with board and room in a health care facility on a continuous twenty-four hour a day basis.

(26) "Institutional health services" means health services provided in or through health care facilities and

entailing annual direct operating costs of at least seventy-five thousand dollars for the twelve-month period beginning with October 1979, and for each twelve-month period thereafter the figure in effect for the preceding twelve-month period adjusted to reflect the change in the preceding twelve-month period in an index established by rules and regulations by the department.

~~((25))~~ (27) "Intermediate care facility" means any institution or distinct part thereof which is certified as an intermediate care facility for participation in the Medicaid (Title XIX of the Social Security Act) program.

~~((26))~~ (28) "Kidney disease treatment center" means any place, institution, building or agency or a distinct part thereof which is equipped and operated to provide services, which include dialysis services, to persons who have end stage renal disease.

~~((27))~~ (29) "Long-range health facility plan" means a document prepared by each hospital which contains a description of its plans for substantial changes in its facilities and services for three years.

(30) "Major medical equipment" means a single unit of medical equipment or a single system of components which is used for the provision of medical and other health services and which costs in excess of one hundred fifty thousand dollars, except that such term does not include dental equipment or medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of section 1861(s) of such act. If the equipment is acquired for less than fair market value, the term "cost" includes the fair market value.

~~((28))~~ (31) "May" means permissive or discretionary.

~~((29))~~ "New institutional health services" means one or more of the following:

(a) The construction, development, or other establishment of a new health care facility including a health care facility owned, operated or otherwise utilized by a health maintenance organization;

(b) Any expenditure by or on behalf of a health care facility, including a health care facility owned, operated or otherwise utilized by a health maintenance organization, in excess of one hundred and fifty thousand dollars which under generally accepted accounting principles consistently applied is a capital expenditure, excluding: (i) Expenditures for site acquisition, (ii) acquisition of existing acute care health facilities and health maintenance organizations, and (iii) expenditures solely for the termination or reduction of beds or of a health service;

(c) Any acquisition, except of a site or an existing acute care facility, by or on behalf of a health care facility (including a health care facility owned, operated or otherwise utilized by a health maintenance organization) under lease or comparable arrangement, or through donation, which would be subject to certificate of need review if the acquisition were by purchase;

(d) A change in bed capacity of a licensed health care facility, including a health care facility owned, operated

or otherwise utilized by a health maintenance organization, which increases the total number of licensed beds or redistributes beds among facility and service categories of acute care, skilled nursing, intermediate care, and boarding home care if the bed redistribution is to be effective for a period in excess of six months;

(e) In a health care facility which is not required to be licensed, a change in bed capacity which increases the total number of beds, distributes beds among various categories or relocates such beds from one physical facility or site to another by more than ten beds or more than ten percent of total bed capacity as defined by the department, whichever is less, over a two-year period;

(f) Any health services which are offered in or through a health care facility, including a health care facility owned, operated or otherwise utilized by a health maintenance organization, which were not offered on a regular basis by, in, or through such health care facility within the twelve-month period prior to the time such services would be offered;

(g) Any expenditure by or on behalf of a health care facility, including a health care facility owned, operated or otherwise utilized by a health maintenance organization, in excess of one hundred and fifty thousand dollars made in preparation for the offering or development of a new institutional health service and any arrangement or commitment made for financing the offering, or development of the new institutional health service (expenditures in preparation for the offering of a new institutional health service shall include expenditures for architectural designs, plans, working drawings and specifications but shall exclude expenditures for feasibility surveys for health maintenance organizations and expenditures for the construction, development or other establishment of a facility or services by a health maintenance organization which are not provided in or through a health care facility owned, operated or otherwise utilized by the health maintenance organization); and

(h) Radiological diagnostic health services which are offered in, at, through, by or on behalf of a health care facility, including a health care facility owned, operated or otherwise utilized by a health maintenance organization, which are provided by fixed or mobile computed tomographic scanning equipment except where these services are an addition to or replacement of the same service offered in, at, through, by or on behalf of the health care facility. "Radiological diagnostic services," as used in this section shall be interpreted to include services offered in space leased or made available to any person by the health care facility. The service provided by a computed tomographic head scanner shall not be considered the same service as that provided by a computed tomographic body scanner. The service provided by a computed tomographic fixed scanner shall not be considered the same service as that provided by a computed tomographic mobile scanner.

~~((30))~~ (32) "Nursing home" means any home, place, institution, building or agency or distinct part thereof which operates or maintains facilities providing convalescent or chronic care, or both, for a period in excess of twenty-four consecutive hours for three or more patients

not related by blood or marriage to the operator, who, by reason of illness or infirmity, are unable properly to care for themselves. Convalescent and chronic care may include, but not be limited to, any or all procedures commonly employed in waiting on the sick, such as administration of medicines, preparation of special diets, giving of bedside nursing care, application of dressings and bandages, and carrying out of treatment prescribed by a duly licensed practitioner of the healing arts. The term "nursing home" includes any such entity which is owned and operated by the state or which is licensed or required to be licensed under the provisions of chapter 18.51 RCW and any other intermediate care facility or skilled nursing facility as these terms are defined in this section ((of definitions)). The term "nursing home" does not include: General hospitals or other places which provide care and treatment for the acutely ill and maintain and operate facilities for major surgery or obstetrics or both; psychiatric hospitals as defined in this section; private establishments, other than private psychiatric hospitals, licensed or required to be licensed under the provisions of chapter 71.12 RCW; boarding homes licensed under the provisions of chapter 18.20 RCW; or any place or institution which is operated to provide only board, room and laundry to persons not in need of medical or nursing treatment or supervision.

~~((31))~~ (33) "Obligation," when used in relation to a capital expenditure, means the following has been incurred by or on behalf of a health care facility ((or a health maintenance organization)):

(a) An enforceable contract has been entered into by a health care facility ((or health maintenance organization)) or by a person proposing such capital expenditure on behalf of the health care facility ((or health maintenance organization)) for the construction, acquisition, lease or financing of a capital asset; or

(b) A formal internal commitment of funds by a health care facility ((or health maintenance organization)) for a force account expenditure which constitutes a capital expenditure((:)); or

(c) In the case of donated property, the date on which the gift is completed in accordance with state law.

~~((32))~~ (34) "Offer," when used in connection with health services, means the health facility ((or health maintenance organization)) provides or holds itself out as capable of providing or as having the means for the provision of one or more specific health services.

~~((33))~~ (35) "Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district.

~~((34))~~ "Persons directly affected" means the following: The person whose certificate of need application is being reviewed; members of the public who are to be served by the proposed new institutional health services; health care facilities and health maintenance organizations located in the health service area in which the service is proposed to be offered or developed which provide services similar to the proposed services under review; health care facilities and health maintenance

organizations which, prior to receipt of the certificate of need application by the department, have formally indicated to the department an intention to provide such similar services in the future, and any agency which establishes rates for health care facilities or health maintenance organizations located in the health service area in which the new institutional health service is proposed to be offered or developed.

~~((35))~~ (36) "Predevelopment expenditures" means capital expenditures ((for the development of site, architectural, structural, mechanical or electrical drawings and specifications. Predevelopment expenditures exclude expenditures for the following: Calling or advertising for construction bids, awarding of a construction contract, incurring an obligation for construction materials or labor, and site preparation or other activities involved in the commencement of construction)), the total of which exceeds the expenditure minimum, which are made for architectural designs, plans, drawings or specifications in preparation for the acquisition or construction of physical plant facilities. "Predevelopment expenditures" exclude any obligation of a capital expenditure for the acquisition or construction of physical plant facilities and any activity which may be considered the "commencement of construction" as this term is defined in this section.

~~((36))~~ (37) "Project" means any and all ((new institutional health services)) undertakings which may be or are proposed in a single certificate of need application or for which a single certificate of need is issued.

~~((37))~~ (38) "Psychiatric hospital" means any institution or distinct part thereof which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons and which is licensed or required to be licensed under the provisions of chapter 71.12 RCW ((and any institution which)) or is owned and operated by the state or by a political subdivision or instrumentality of the state ((and is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons)).

(39) "Rehabilitation facility" means an inpatient facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other health services which are provided under competent professional supervision.

~~((38))~~ (40) "Secretary" means the secretary of the Washington state department of social and health services or his designee.

~~((39))~~ (41) "Shall" means compliance is mandatory.

~~((40))~~ (42) "Skilled nursing facility" means any institution or distinct part thereof which is certified as a skilled nursing facility for participation in the Medicare (Title XVIII) or Medicaid (Title XIX) program.

~~((41))~~ (43) "State health plan" means a document, described in ((Public Law 93-641)) Title XV of the Public Health Service Act, developed by the department((:)) and ((approved by)) the ((state health coordinating)) council ((which recommends priorities for changes in the health system of the state to achieve the

~~desired health status of the citizens of the state and describes the relationship of these priorities to national health priorities and to the priorities of the health systems agencies of the state as set forth in their health systems plans)) in accordance with RCW 70.38.065.~~

~~((42)) (44) "State Health Planning and Resources Development Act" means chapter ((161, Laws of 1979 extraordinary session (46th Legislative Session)) chapter 70.38 RCW)) 70.38 RCW.~~

~~(45) "Undertaking" means any action which, according to the provisions of chapter 248-19 WAC, is subject to the requirements for a certificate of need or an exemption from the requirements for a certificate of need.~~

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-230 APPLICABILITY OF CHAPTER 248-19 WAC. (1) ((All new institutional health services offered or developed within the state by any person shall be subject to review under the certificate of need program and)) The following undertakings shall be subject to the provisions of chapter 248-19 WAC, with the exceptions provided for in this section.¹

((2) For the purposes of chapter 248-19 WAC "new institutional health services" shall include any and all of the following:))

(a) The construction, development, or other establishment of a new health care facility ((including a health care facility owned, operated or otherwise utilized by a health maintenance organization;))

(b) ((Any)) Capital expenditure by or on behalf of a health care facility((, including a health care facility owned, operated or otherwise utilized by a health maintenance organization, in excess of one hundred and fifty thousand dollars which under generally accepted accounting principles consistently applied is a capital expenditure, excluding: (i) Expenditures for site acquisition, (ii) acquisition of existing acute care health facilities and health maintenance organizations, and (iii) expenditures solely for the termination or reduction of beds or of a health service;)) which (i) Is associated with the addition of a substantial health service not provided by or on behalf of the facility within the previous twelve months or which is associated with the termination of a substantial health service provided in or through the facility, or

(ii) Which exceeds the expenditure minimum as defined by WAC 248-19-220(16). The costs of any studies, surveys, designs, plans, working drawings, specifications, and other activities (including staff effort and consulting and other services which under generally accepted accounting principles are not properly chargeable as an expense of operation and maintenance) essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which such expenditure is made shall be included in determining the amount of the expenditure. Functional programming and general long range planning activities, including marketing surveys and feasibility studies, are not to be included when determining whether an expenditure exceeds the expenditure minimum.

~~(c) ((Any acquisition, except of a site or an existing acute care facility, by or on behalf of a health care facility (including a health care facility owned, operated or otherwise utilized by a health maintenance organization) under lease or comparable arrangement, or through donation, which would be subject to certificate of need review if the acquisition were by purchase,~~

~~(d)) A change in bed capacity of a licensed health care facility((, including a health care facility owned, operated or otherwise utilized by a health maintenance organization;)) which increases the total number of licensed beds or redistributes beds among facility and service categories of acute care, skilled nursing, intermediate care, and boarding home care if the bed redistribution is to be effective for a period in excess of six months(;)).~~

~~((e) In)) (d) The obligation of any capital expenditure by or on behalf of a health care facility which is not required to be licensed(;)) for a change in bed capacity which increases the total number of beds, ((distributes)) redistributes beds among various categories, ((or relocates such beds from one physical facility or site to another)) by more than ten beds or more than ten percent of total bed capacity as defined by the department, whichever is less, over a two-year period(;)).~~

~~(e) Acquisition of major medical equipment:~~

~~(i) If the equipment will be owned by or located in an inpatient health care facility, or~~

~~(ii) If the equipment is not to be owned by or located in a health care facility and the department finds, consistent with WAC 248-19-403, that: (A) The equipment will be used to provide services for inpatients of a hospital on other than a temporary basis in the case of a natural disaster, a major accident, or equipment failure; or (B) the person acquiring such equipment did not notify the department of the intent to acquire such equipment at least thirty days before entering into contractual arrangements for such acquisition.~~

~~(f) The acquisition of an existing health care facility which the department has determined, in accordance with the provisions of subsection (2) of this section, is subject to review;~~

~~(g) Any new institutional health services which are offered ((in or through)) by or on behalf of a health care facility((, including a health care facility owned, operated or otherwise utilized by a health maintenance organization;)) and which were not offered on a regular basis by((, in;)) or ((through)) on behalf of such health care facility within the twelve-month period prior to the time such services would be offered(;)).~~

~~((g)) (h) Any expenditure by or on behalf of a health care facility((, including a health care facility owned, operated or otherwise utilized by a health maintenance organization;)) in excess of ((one hundred and fifty thousand dollars)) the expenditure minimum made in preparation for ((the offering or development of a new institutional health service)) any undertaking under this subsection and any arrangement or commitment made for financing ((the offering or development of the new institutional health service (f)) such undertaking. Expenditures ((in)) of preparation ((for the offering of a new institutional health service)) shall include expenditures~~

for architectural designs, plans, working drawings and specifications (~~but shall exclude expenditures for feasibility surveys for health maintenance organizations and expenditures for the construction, development or other establishment of a facility or services by a health maintenance organization which are not provided in or through a health care facility owned, operated or otherwise utilized by the health maintenance organization~~); and

~~(h) Radiological diagnostic health services which are offered in, at, through, by or on behalf of a health care facility, including a health care facility owned, operated or otherwise utilized by a health maintenance organization, which are provided by fixed or mobile computed tomographic scanning equipment except where these services are an addition to or replacement of the same service offered in, at, through, by or on behalf of the health care facility. "Radiological diagnostic services," as used in this section shall be interpreted to include services offered in space leased or made available to any person by the health care facility. The service provided by a computed tomographic head scanner shall not be considered the same service as that provided by a computed tomographic body scanner. The service provided by a computed tomographic fixed scanner shall not be considered the same service as that provided by a computed tomographic mobile scanner).~~

(2) At least thirty days before any person acquires or enters into a contract to acquire an existing health care facility, the person shall provide written notification to the department and the appropriate health systems agency, and in the case of a hospital, the hospital commission, of the person's intent to acquire the facility.

(a) Written notification of intent to be considered valid shall be made in a form and manner acceptable to the secretary and shall include:

(i) the name and address of the health care facility to be acquired;

(ii) the name and address of the person who intends to acquire the health care facility;

(iii) a description of the means by which the health care facility would be acquired, including the total capital expenditures associated with the acquisition, and the intended date of incurring the contractual obligation to acquire the health care facility;

(iv) the name and address of the person from whom the facility is to be acquired; and

(v) a description of any changes in institutional health services or bed capacity proposed by the person who would acquire the health care facility.

(b) A certificate of need shall be required for the obligation of a capital expenditure to acquire by purchase, or under lease or comparable arrangement, an existing health care facility if

(i) a written notification of intent to acquire an existing health care facility is not provided in accordance with WAC 248-19-230(2), or

(ii) the department finds within fifteen working days after receipt of a written notification to acquire a health care facility that the services or bed capacity of the facility will be changed in being acquired.

(c) Within fifteen working days after receipt of a written notification of intent, the department shall send written notice to the person intending to acquire the health care facility, indicating:

(i) whether the written notification constitutes a valid notification, as prescribed in subdivision (a) of this subsection and, if such notification is valid,

(ii) whether such acquisition is subject to certificate of need review.

(d) If the department fails to make a determination within thirty days after receipt of a valid notice, the health care facility may be acquired without a certificate of need.

(3) With respect to ambulatory care facilities and inpatient health care facilities which are controlled (directly or indirectly) by a health maintenance organization or combination of health maintenance organizations, the provisions of chapter 248-19 WAC shall apply only to the offering of inpatient institutional health services, the acquisition of major medical equipment and the obligation of capital expenditures for the offering of inpatient institutional health services, and then only to the extent that such offering, acquisition or obligation is not exempt under the provisions of WAC 248-19-405.

(4) The extension, on more than an infrequent basis, of a home health agency's services to a population residing in a county not previously regularly included in the service area of that home health agency during the preceding twelve months constitutes extension of home health services beyond its defined geographic area and shall be considered the development or establishment of a new home health agency.

~~((3))~~ (5) No person shall (offer or develop a new institutional health service, or undertake a capital expenditure in preparation for such offering or development,) engage in any undertaking which is subject to certificate of need review under the provisions of this chapter unless a certificate of need authorizing such (new institutional health services) undertaking has been issued and remains valid or an exemption has been granted in accordance with the provisions of this chapter.

~~((4))~~ (6) No person may divide a project in order to avoid review requirements under any of the thresholds specified in this section.

~~((5))~~ (7) The department may issue certificates of need permitting predevelopment expenditures only, without authorizing ((the development or offering of new institutional health services)) any subsequent undertaking with respect to which such ((pre-development)) predevelopment expenditures are made.

~~((6))~~ (8) A certificate of need application ((which was submitted and declared complete)), the review of which had begun but upon which final action had not been taken prior to January 1, ((1980)) 1981, shall be reviewed and final action taken based on chapter 70.38 RCW and chapter 248-19 WAC as in effect prior to January 1, ((1980)) 1981.

~~((7))~~ (9) Certificates of need issued prior to January 1, ((1980)) 1981, shall not be terminated and the periods of validity of such certificates of need shall not be

modified under the provisions of chapter 248-19 WAC which become effective January 1, ~~((1980))~~ 1981.

~~((8))~~ The review process and the requirement for a certificate of need shall be waived for new institutional health services in a project which is in accord with the following requirements:

(a) ~~The project shall not have been subject to certificate of need review prior to January 1, 1980 and shall meet one of the following conditions:~~

(i) ~~The project has been reviewed under the provisions of Section 1122 of the Social Security Act and found to be in conformance with the standards, criteria and plans described in 42 CFR 100.104(a)(2) prior to January 1, 1980, or~~

(ii) ~~An application for review of the project under the provisions of Section 1122 of the Social Security Act has been submitted and declared complete but final action upon the application has not been taken prior to January 1, 1980, or~~

(iii) ~~An obligation, as defined in WAC 248-19-220, has been incurred prior to January 1, 1980 for the project, which is not subject to review under the provisions of Section 1122 of the Social Security Act.~~

~~(b) The~~ (10) A project for which certificate of need review was waived under the provisions of WAC 248-19-230(8) as in effect January 1, 1980, to January 1, 1981, shall ~~((be))~~ have been completed by January 1, 1981, or, in the case of a construction project, commencement of construction shall have occurred by January 1982. If this requirement is not met, the ~~((new institutional health service(s) included in the))~~ project shall become subject to the requirements for a certificate of need.

NOTE:

¹Where a hospital is part of a larger institution, such as a university, the components of the larger institution (e.g., a component conducting medical research) not related to the hospital will not be considered part of the hospital, whether or not the hospital is a distinct legal entity. Similarly, when there is a legal entity, the primary activity of which is operating a hospital, but which also operates a distinct research component, the research component will not be considered part of the hospital. In these cases, the component conducting medical research that is distinct from the hospital and that neither provides inpatient services nor uses revenues derived from patient charges at the hospital to finance its operations will not be considered part of the hospital.

Further, expenditures by a component of a larger institution, such as a university, which is distinct from a separate health care facility component, such as the university's hospital, will not be viewed as being "by a health care facility." Thus, a capital expenditure by a university medical school that is a distinct component of the university will not be considered to be "by" the hospital of the university. In finding that the medical school is distinct, the department must find at least that the revenues derived from patient charges at the hospital of the university are not used for operating expenses of the medical school.

If a capital expenditure exceeds the expenditure minimum, for it to be required to be subject to review, the department must find that it is "on behalf of" a health care facility. Such an expenditure is also required to be subject to review if it is for the acquisition of major medical equipment and meets the conditions set forth in WAC 248-19-230(1)(f). The same analysis would apply to a distinct research component of a legal entity, the primary activity of which is operating a hospital.

²A person may enter into a contractual arrangement at an earlier date, provided such contractual arrangement is contingent upon a determination by the department that a certificate of need is not needed or upon issuance of a certificate of need.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-240 APPLICABILITY DETERMINATION. (1) Any person ~~((needing))~~ wanting to know whether ~~((a particular project the person plans to undertake))~~ an action the person is considering is subject to certificate of need requirements~~((;))~~ (chapter 248-19 WAC~~((;))~~) should submit a written request ~~((in a form acceptable to the secretary))~~ to the certificate of need unit ~~((of the department))~~ requesting a formal determination of applicability of the certificate of need requirements to the ~~((project))~~ action.

(a) A copy of a written request for determination of applicability shall be sent simultaneously to the appropriate health systems agency ~~((for the health service area in which the project is to be located or take place))~~ and, in the case of a hospital project, to the hospital commission.

(b) The written request shall be in a form prescribed by the department and contain an explicit description of the ~~((particular project, including))~~ action. The description shall include the nature and extent of any construction, changes in services and the estimated total costs of the ~~((project))~~ action.

(2) The department may request such additional written information as is reasonably necessary to making an applicability determination on the ~~((particular project))~~ action.

(3) ~~((The department shall consult with the health systems agency and, when appropriate, the hospital commission in making an applicability determination.~~

(4)) The department shall respond in writing to a request for an applicability determination within thirty days of receipt of all the information needed for such determination. In the written response, the department shall ~~((set forth))~~ state the reasons for its determination that the ~~((project))~~ action is or is not subject to certificate of need requirements.

~~((5))~~ (4) Information or advice given by the department as to whether ~~((a project))~~ an action is subject to certificate of need requirements shall not be considered an applicability determination unless it is in written form in response to a written request submitted in accordance with provisions of this section.

~~((6))~~ (5) A written applicability determination on ~~((a particular project))~~ an action in response to a written request and based on written information shall be binding upon the department: PROVIDED, The nature, extent or cost of the ~~((project))~~ action does not significantly change.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-250 SANCTIONS FOR VIOLATIONS. The department may take or cause to be taken any action against a person who has failed to comply with certificate of need regulations which is provided for in ~~((chapter 161, Laws of 1979 extraordinary session (46th Legislative Session)[chapter 70.38 RCW], the State Health Planning and Resources Development Act. Section 12 of this act provides:))~~ RCW 70.38.125.

~~((4) The secretary of the department, in the case of a new health facility, shall not issue any license, and the insurance commissioner, in the case of a new health maintenance organization, shall not issue any certificate of registration, unless and until a prior certificate of need shall have been issued by the department for the offering or development of such new health facility or new health maintenance organization respectively.~~

~~(5) Any person who offers or develops a new institutional health service without first being granted a certificate of need by the secretary of the department shall be liable to the state in an amount not to exceed one hundred dollars a day for each day of such unauthorized offering or development. Such amounts of money shall be recoverable in an action brought by the attorney general on behalf of the state in the superior court of any county in which the unauthorized offering or development occurred. Any amounts of money so recovered by the attorney general shall be deposited in the state general fund.~~

~~(6) The department may bring any action to enjoin a violation or the threatened violation of the provisions of this chapter or any rules and regulations adopted pursuant to this chapter, or may bring any legal proceeding authorized by law, including but not limited to the special proceedings authorized in Title 7 RCW, in the superior court in the county in which such violation occurs or is about to occur, or in the superior court of Thurston county.¹)~~

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-260 PERIODIC REPORTS ON DEVELOPMENT OF PROPOSALS. (1) During April of each year, each health care facility and ~~((each health maintenance organization))~~ any other person developing proposals subject to certificate of need review shall submit to the department a report ((regarding any development of a proposal for a new institutional health service)) which ((is under consideration)) describes each such undertaking. Such report shall be submitted in a form prescribed by the department.

(2) If the appropriate health systems agency ((for the health service area in which a health care facility or health maintenance organization is located)) requires submission of reports, on at least an annual basis, regarding ((development of proposals on at least an annual basis)) undertakings which are under consideration, the department shall accept a copy of each such report sent to the health systems agency in lieu of the report required under ~~((WAC 248-19-260(1)))~~ subsection (1) of this section.

(3) Submission to the department of a long-range plan which includes all ~~((new institutional health services))~~ undertakings which are under consideration by a health care facility or ((health maintenance organization)) other person shall be accepted as meeting ((this)) the requirement of this section for a periodic report ((on the development of proposals for new institutional health services)).

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-270 LETTER OF INTENT. Any person planning to develop a construction project ~~((or a new health service))~~ shall submit a letter of intent to the department at the earliest possible opportunity in the course of planning such construction project ~~((or new health service)).~~

(1) The letter of intent shall inform the department of the nature and scope of the project, clearly describing the size and extent of any new or expanded services which will be included.

(2) A copy of the letter of intent shall be sent to the health systems agency for the health service area in which the project is to be located and, in the case of a hospital project, to the hospital commission.

(3) The letter of intent submitted in accordance with the provisions of this section does not constitute "notice of intent" with respect to the acquisition of existing health care facilities, as required by WAC 248-19-230(2) or to the acquisition of major medical equipment, as required by WAC 248-19-403.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-280 SUBMISSION AND WITHDRAWAL OF APPLICATIONS. (1) General.

(a) A person proposing ((a new institutional health service)) an undertaking which is subject to review shall, prior to the date on which the certificate of need review of such ((service)) undertaking begins, submit a complete certificate of need application in such form and manner and containing such information as the department, after consultation with health systems agencies and the hospital commission, has prescribed and published as necessary to such a certificate of need application.

~~((a))~~ (i) The information, which the department prescribes and publishes as required for a certificate of need application, shall be limited to the information which is necessary for the department to perform a certificate of need review and, shall vary in accordance with and be appropriate to the ((purpose for which a particular review is being conducted)) category of review or the type of proposed project: PROVIDED, HOWEVER, That the required information shall include that which is necessary to determining whether the proposed project meets applicable criteria.

~~((b))~~ (ii) Information regarding a certificate of need application which is submitted by an applicant after the department has given "notification of the beginning of review" in the manner prescribed by WAC 248-19-310 shall be submitted in writing to the department, the health systems agency, and for hospital projects, to the hospital commission.

~~((c))~~ (iii) Except as provided in WAC 248-19-325 no information regarding a certificate of need application, which is submitted by an applicant after ((a health systems agency or the hospital commission makes a final decision and recommendation for submission to the department;)) the conclusion of a public hearing conducted

under the provisions of WAC 248-19-320 or the date on which the appropriate health systems agency takes final action on the application, whichever occurs first, shall be considered by the department in reviewing and taking action on a certificate of need application. An exception to this rule shall be made when, during its final review period, the department finds an unresolved pivotal issue requires submission of further information by an applicant and the applicant agrees to an extension of the review period in order to resolve this issue as provided for in WAC 248-19-330(2)(b), 248-19-340(2)(c), 248-19-350(4) and 248-19-355(2)(d). The department shall furnish copies of its request to the applicant for such additional information to the appropriate health systems agency and, for a hospital project, to the hospital commission. The department shall give public notice of such request for additional information through the same newspaper in which the "notification of beginning of review" for the project was published. The notice shall identify the project, the nature of the unresolved issue and the information requested of the applicant and shall state the period of time allowed for receipt of written comments from interested persons.

~~((2))~~ (b) A person submitting a certificate of need application shall simultaneously submit copies of such application to the certificate of need unit of the department, the appropriate health systems agency ~~((for the health service area in which the proposed project is to be located))~~ and, in the case of a hospital project, to the hospital commission.

~~((a))~~ (i) The original and ~~((one copy))~~ two copies of the application shall be submitted to the certificate of need unit of the department.

~~((b))~~ (ii) At least three and such additional copies of the application as may be required by the health systems agency ~~((for the health service area in which the proposed project is to be located;))~~ shall be submitted to the appropriate health systems agency.

~~((c))~~ (iii) For a hospital project, one copy shall be submitted to the hospital commission.

~~((3))~~ Within a fifteen calendar day screening period, the department, the appropriate health systems agency and, for a hospital project, the hospital commission shall each screen the application to determine whether the information provided in the application is complete and as explicit as is necessary for a certificate of need review. This screening period shall begin on the first day after which the department, the health systems agency and, when appropriate, the hospital commission have each received copies of the application.

(4) (c) On or before the last day of the applicable screening period for a certificate of need application, as prescribed in subsections (2) and (3) of this section, the department shall send a written notice to the person who submitted the application stating whether or not the application has been declared complete. If ~~((the))~~ an application has been found to be incomplete, the notice from the department shall specifically identify the portions of the application in which the information provided has been found to be insufficient or indefinite and

request the supplemental information needed to complete the application. ~~((This))~~ The notice from the department shall incorporate the findings as to insufficient or indefinite application information which have been transmitted to the department by the health systems agency and the hospital commission.

~~((5))~~ (d) The department shall not ~~((require))~~ request any supplemental information of a type which has not been prescribed and published as being necessary to a certificate of need application for the type of project being proposed.

~~((6))~~ The department shall return an incomplete certificate of need application to the person who submitted the application if the department has not received a response to a request for the supplemental information needed to complete the application within forty-five calendar days after such request was sent.

(7) (e) A response to the department's request for information to supplement an incomplete application ~~((;))~~ shall be written and submitted to the same agencies and in the same numbers as required for an application under the ~~((preceding WAC 248-19-280(2)))~~ provisions of subsection (1)(b) of this section.

~~((8))~~ A person who submits a response to the department's request for supplemental information to complete a certificate of need application within forty-five days after the request was sent by the department shall have the right to exercise one of the following options:

(a) Submission of a written request that the incomplete application be reviewed without supplemental information;

(b) Submission of written supplemental information with a written request that review of the certificate of need application begin without the department's notification of the applicant as to whether the supplemental information is adequate to complete the application; or

(c) Submission of written supplemental information and a written request that such information be screened and the applicant be given opportunity to submit further supplemental information if the application is still incomplete.

(9) After receipt of a request for review of a certificate of need application, submitted in accordance with the preceding WAC 248-19-280(8)(a) or (b), the department shall give notification of the beginning of review in the manner prescribed for a complete application in WAC 248-19-310.

(10) If a person requests the screening of supplemental information in accordance with WAC 248-19-280(8)(c), such screening shall be carried out in the same number of days and in the same manner as required for an application under the preceding WAC 248-19-280(3) and (4). The process of submitting and screening supplemental information may be repeated until the department declares the certificate of need application complete, the applicant requests that review of the incomplete application begin, or the one hundred twentieth day after the beginning of the first screening period for the application, whichever occurs first. The department shall return an application to the applicant if it is still incomplete on the one hundred twentieth day after the beginning of the first screening period and the

~~applicant has not requested review of such incomplete application.~~

~~(11) A certificate of need application shall be withdrawn from the certificate of need review process if the department receives a written request for withdrawal of the application from the person who submitted the application at any time before final action on such application has been taken by the secretary.~~

~~(12) A new submission of a certificate of need application shall be required for a certificate of need review of any new institutional health service for which the department has returned an incomplete application in accordance with the preceding WAC 248-19-280(6) or (10), or for which a certificate of need application has been withdrawn in accordance with the preceding WAC 248-19-280(11).~~

~~(13) If an applicant amends an application during the review process, the department after consultation with the appropriate health systems agency and, in the case of a hospital project, the hospital commission will determine whether or not the amendment constitutes a new application.)~~

(2) Emergency, expedited and regular reviews.

(a) The department, the appropriate health systems agency, and the hospital commission for a hospital project, shall within a fifteen-day period, screen the application to determine whether the information provided in the application is complete and as explicit as is necessary for a certificate of need review. This screening period shall begin on the first day after which the department, the health systems agency and, for hospital projects, the hospital commission, have each received copies of the application.

(b) The department shall return an incomplete certificate of need application to the person who submitted the application if the department has not received a response to a request for the supplemental information sent in accordance with subsection (1)(c) of this section within forty-five days after such request was sent.

(c) A person who submits a response to the department's request for supplemental information to complete a certificate of need application within forty-five days after the request was sent by the department, in accordance with subsection (1)(c) of this section, shall have the right to exercise one of the following options:

(i) Submission of written supplemental information and a written request that such information be screened and the applicant be given opportunity to submit further supplemental information if the application is still incomplete;

(ii) Submission of written supplemental information with a written request that review of the certificate of need application begin without the department notifying the applicant as to whether the supplemental information is adequate to complete the application; or

(iii) Submission of a written request that the incomplete application be reviewed without supplemental information.

(d) After receipt of a request for review of a certificate of need application, submitted in accordance with subsection (2)(c) (i) or (iii) of this section, the department shall give notification of the beginning of review in

the manner prescribed for a complete application in WAC 248-19-310.

(e) If a person requests the screening of supplemental information in accordance with subsection (2)(c)(i) of this section, such screening shall be carried out in the same number of days and in the same manner as required for an application in accordance with the provisions of subsection (1)(c) and (2)(a) of this section. The process of submitting and screening supplemental information may be repeated until the department declares the certificate of need application complete, the applicant requests that review of the incomplete application begin, or the one hundred twentieth day after the beginning of the first screening period for the application, whichever occurs first. The department shall return an application to the applicant if it is still incomplete on the one hundred twentieth day after the beginning of the first screening period and the applicant has not requested review of such incomplete application.

(3) Amendment of certificate of need applications.

(a) Applications for emergency review. If an applicant amends an application during the screening period, the department, after consultation with the appropriate health systems agency and, in the case of a hospital project, the hospital commission shall determine whether the amended application constitutes a new application. An application which is amended during the review period shall be considered a new application.

(b) Application for expedited or regular review.

(i) If an applicant amends an application during the screening or review period, the department, after consultation with the appropriate health systems agency and, in the case of a hospital project, the hospital commission shall determine whether the amended application constitutes a new application.

(ii) To provide any affected person the opportunity for a public hearing on an amended application, the department may extend the expedited review period as necessary to conduct such public hearing and complete the review process.

(4) Submission of an amendment to an application. An amendment to an application shall be submitted to the same agencies and in the same numbers as required for an application under the provisions of subsection (1)(b) of this section.

(5) Withdrawal of applications. A certificate of need application shall be withdrawn from the certificate of need process if the department receives a written request for withdrawal of the application from the person who submitted the application at any time before final action on such application has been taken by the secretary.

(6) Resubmission of applications withdrawn or returned as incomplete. A submission of a new certificate of need application shall be required for a certificate of need review of any undertaking for which the department has returned an incomplete application in accordance with subsection (2)(b) of this section, or for which a certificate of need application has been withdrawn in accordance with subsection (5) of this section. The content of the application should be updated as necessary before resubmission.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)WAC 248-19-300 CATEGORIES OF REVIEW.

~~(1) ((In the review of any certificate of need application)) Except as provided for in subsection (2)(c) of this section for certain applications received during the period January 1, 1981, through December 31, 1981, one of the following review processes shall be used in the review of any certificate of need application: ((Regular)) Emergency review, ((emergency)) expedited review or ((expedited)) concurrent review.~~

~~(2) Determination of review process.~~

~~The department, after ((consulting)) any necessary consultation with the appropriate health systems agency and, if a hospital project, the hospital commission, shall determine which review process will be used in the review of a given certificate of need application.~~

~~(a) ((Regular review.~~

~~The regular process shall be used in the review of a certificate of need application unless the department has determined, after receipt of a written consent from the appropriate health systems agency, that an expedited or emergency review process will be used in the review of such application.~~

~~(b)) Emergency review.~~

~~(i) Beginning January 1, 1981, an emergency review may, with the written consent of the appropriate health systems agency, be conducted when an immediate capital expenditure is required in order for a health care facility to maintain or restore basic and essential patient services.~~

~~(ii) The department may, after consulting with the appropriate health systems agency and, for a hospital project, the hospital commission, determine that an application submitted for emergency review does not qualify for such review. Such a determination and notification to the applicant shall be made within five days after receipt of the application. When the department makes a determination that an application is not subject to emergency review procedures, the application ((may, with the written consent of the appropriate health systems agency, be reviewed according to the expedited review process)) will be reviewed under another review process which is appropriate for the type of undertaking proposed. The department will notify the applicant of the other process under which the application will be reviewed.~~

~~((c)) (b) Expedited review.~~

~~(i) Beginning January 1, 1981, an expedited review shall be conducted on a certificate of need application for ((a hospital's project when)) the following:~~

~~(A) All projects which do not involve health services or the addition, replacement, expansion or alteration of facilities for health services.~~

~~(B) Projects proposed for the correction of deficiencies as described in WAC 248-19-415.~~

~~(C) The replacement of equipment having similar functional capability and which does not result in the offering or development of any new health services.~~

~~(D) Installation, replacement, or improvement of energy conservation and mechanical and electrical systems.~~

~~(E) Demonstration or research projects related to new technology: PROVIDED, That such projects do not involve a change in bed capacity, or the provisions of a new institutional health service.~~

~~(F) Acquisition of an existing health care facility.~~

~~(G) Projects which are limited to predevelopment expenditures.~~

~~(ii) An expedited review shall be conducted on a certificate of need application for a hospital's project when:~~

~~(A) The hospital has developed a long-range facility plan in accordance with the provisions of ((section 14 of the State Health Planning and Resources Development Act)) RCW 70.38.145;~~

~~(B) When an application has been found to be consistent with the applicant's long-range health facility plan and the applicable health systems plan, annual implementation plan and state health plan; and~~

~~(C) When there has not been a significant change, since the long-range health facility plan was approved, in existing health facilities of the same type or in the need for such health facilities and services((-and)).~~

~~((D) The appropriate health systems agency has given the department a written consent to an expedited review of the project.~~

~~(ii) An expedited review may, with the written consent of the appropriate health systems agency, be conducted for a project, the type, scope and location of which has been specifically described and provided for in a current health systems plan, annual implementation plan or state health plan.~~

~~(iii) An expedited review may, with the written consent of the appropriate health systems agency, be conducted for a project which is for the correction of fire, safety or health deficiencies cited by appropriate licensing or accrediting authorities or physical plant alterations which would eliminate functional obsolescence: PROVIDED, That such project does not involve the replacement or addition of inpatient rooms, additions to or partial or complete replacement of the facilities, or the expansion or addition of health services;~~

~~(iv) An expedited review may, with the written consent of the appropriate health systems agency, be conducted for any of the following types of projects: PROVIDED, That such a project appears to have a minimal impact on the health care system:~~

~~(A) Replacement of equipment having similar functional capability and not resulting in the offering or development of any new health services;~~

~~(B) Purchase, lease, donation or substantial acquisition by comparable arrangement of a nonacute care health care facility;~~

~~(C) Construction of nonclinical improvements outside a health care facility such as parking facilities, landscaping, lighting and similar projects;~~

~~(D) A project which is limited to predevelopment expenditures and does not involve the development or offering of new institutional health services with respect to which such predevelopment expenditures are to be made;~~

~~(E) New institutional health services involving capital costs of less than one hundred and fifty thousand dollars and projected annual operating costs of less than one~~

~~hundred and fifty thousand dollars per year for the first three years of operation;~~

~~(F) Projects involving an increase in licensed bed capacity of 10 percent or 10 beds whichever is less, and~~

~~(G) Replacement or improvement of nonpatient systems (e.g., air conditioning, energy conservation, administrative systems);~~

~~(v) Prior to January 1, 1984, an expedited review of a hospital project may be conducted when:~~

~~(A) The hospital has developed a long-range plan in accordance with a common form for such plan developed by the department in cooperation with the health systems agency and the hospital commission;~~

~~(B) The certificate of need application for the project has been found to be consistent with the hospital's long-range health facility plan and the applicable health systems plan, annual implementation plan and state health plan;~~

~~(C) There has not been a significant change, since the long-range health facility plan was approved, in existing health facilities of the same type or in the need for such health facilities and services, and~~

~~(D) The appropriate health systems agency has given the department a written consent to an expedited review of the project;))~~

~~(iii) When the determination is made that an application which is received between January 1, 1981 and December 31, 1981, does not qualify for review under the expedited review process, the application will be reviewed under the regular review process. When the determination is made that an application which is received on or after December 31, 1981, does not qualify for review under the expedited review process, the applicant shall be notified that the application is subject to review under the provisions of subsection (2)(c) of this section and the application shall be returned to the applicant unless it was received during the fifteen-day period prescribed for the submission of applications to be reviewed during an appropriate scheduled concurrent review process.~~

~~(c) Regular review process. The regular review process shall be used for any application received during the period January 1, 1981, through December 1, 1981, unless the department has determined that the emergency or expedited review process will be used in the review of such application.~~

~~(3) Preapplication determination of expedited review. Any person planning to submit a certificate of need application for a particular project may, prior to the preparation of such application, obtain a determination as to whether the project will be given an expedited review by submission of a written request for such determination to the department.~~

~~(a) A written request for a determination as to whether an application for a particular project will qualify for an expedited review shall be submitted in a form and manner and contain such information as the department may, after consultation with the health systems agencies and the hospital commission, prescribe and publish as necessary to such a determination. The person submitting the request for the determination shall~~

~~simultaneously submit a copy of the request to the appropriate health systems agency and, in the case of a hospital project, to the hospital commission.~~

~~(b) The department shall consult with the appropriate health systems agency and, in the case of a hospital project, the hospital commission before determining that an application for a proposed project will be given an expedited review.~~

~~(c) The department shall respond in writing to a request for a determination as to whether a project will be given an expedited review within ((thirty calendar)) fifteen working days of the first day on which the department, the appropriate health systems agency and, if a hospital project, the hospital commission has each received the written request. ((The department shall not make a determination that a project will be given an expedited review without the written consent of the appropriate health systems agency;))~~

~~(d) A written determination by the department that an application will be given an expedited review shall be binding upon the department, the health systems agency and, if a hospital project, the hospital commission: PROVIDED, The nature, location, or extent of the project does not significantly change and there is not a significant increase in the estimated cost of the project.~~

~~((4) Review processes for regular, expedited and emergency certificate of need applications shall be in accordance with WAC 248-19-330, 248-19-340 and 248-19-350.))~~

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-310 NOTIFICATION OF BEGINNING OF REVIEW. (1) Notice required. The department shall provide written ((notice)) notification of the beginning of the review of a certificate of need application and notification of the beginning of the review of a proposed withdrawal of a certificate of need to ((persons directly)) affected persons (other than persons residing within the geographic area served or to be served by the applicant, any persons who regularly use health care facilities within that geographic area, and third-party payers who reimburse health care facilities for services in the health service area in which the project is proposed to be located) and ((notice to the public to be served by the proposed project of the beginning of the review of a certificate of need application. Such notice shall be given within twenty calendar days after receipt of a complete application unless the department has determined the certificate of need application is to be reviewed under an emergency review process)) any other person who has submitted a written request that the person's name be on the mailing list for such notice. Notification of the beginning of the review of a certificate of need application shall be provided to persons residing within the geographic area served or to be served by the applicant, to any person who regularly uses health care facilities within that geographic area, and third-party payers who reimburse health care facilities for services in the health service area in which the project is proposed to be located, through a newspaper of general circulation in the health service area of the project.

(2) Specific notice requirements.

(a) The department shall give "notification of the beginning of review" of an application after the department, the appropriate health systems agency and, for a hospital project, the hospital commission have each received a complete application or the applicant's request, submitted in accordance with WAC 248-19-280 (2)(c) or (3)(e) that review of the application begin. Such notice shall be given according to the following requirements.

(i) Emergency review. When an application is being reviewed under the emergency review process, required notices shall be given within five working days following the receipt of a complete application or the applicant's written request that review of the application begin.

(ii) Concurrent review. When an application is being reviewed under the concurrent review process, required notices shall be given within five working days after the end of the period allowed for applicants' response to screening letters.

(iii) Expedited and regular review. When an application is being reviewed under the expedited or regular review process, required notices shall be given within five days of a declaration that the application is complete or the applicant's request that review of the application begin.

(b) The department shall give notification of the beginning of the review of a proposed withdrawal of a certificate of need when it determines that there may be good cause to withdraw a certificate of need.

((a)) (c) The notices shall include:

(i) ((The proposed review schedule)) A general description of the project;

(ii) In the case of a proposed withdrawal of a certificate of need, the reasons for the proposed withdrawal;

(iii) The proposed review schedule;

(iv) The period within which one or more affected persons ((directly affected by the review)) may request the ((department to)) conduct of a public hearing during the review((- PROVIDED, Such persons have not been afforded such opportunity for a public hearing by the appropriate health systems agency)); ((and))

(v) The name and address of the agency to which a request for a public hearing should be sent; and

((iii)) (vi) The manner in which notification will be provided of the time and place of any hearing so requested.

((b) Notice to the public to be served by the proposed project shall be through a newspaper of general circulation in the health service area of the project.

(2) A regular or expedited review of a certificate of need application shall begin on the date the department sends notification to persons directly affected and the public notice on the beginning of the review, except, in the case of a project proposed by a health maintenance organization, the review period shall begin on the date all information needed for a complete application is received by the department, the applicable health systems agency and, if a hospital project, the hospital commission.

(3) Written notification to persons directly affected and the public notice on the beginning of an emergency

review shall be sent on the fifth working day after all the information needed for a complete application is received by the department, the appropriate health systems agency and, if a hospital project, the hospital commission. A public hearing will not be conducted on an application reviewed on an emergency review basis.

(4) The review of a certificate of need application according to emergency review process shall begin on that day by which the department, the appropriate health systems agency, and the hospital commission in the case of hospital projects, have each received copies of the application:))

(d) The notices to other affected persons shall be mailed on the same date the notice to the public is mailed to the newspaper for publication.

(3) Beginning of review.

(a) Review of a certificate of need application under the expedited, regular or concurrent review process shall begin on the day the department sends notification of the beginning of review to the general public and other affected persons.

(b) Review of a certificate of need application under emergency review shall begin on the first day after the date on which the department, the appropriate health systems agency and, for a hospital project, the hospital commission have determined the application is complete, or have each received a written request to begin review submitted by the applicant in accordance with WAC 248-19-280(2)(c).

(c) Review of a proposed withdrawal of a certificate of need shall begin on the day the department sends notification of the beginning of review to the general public and to other affected persons.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-320 PUBLIC HEARINGS. (1) "Opportunity for a public hearing," as used in this section, shall mean a public hearing will be conducted if a valid request for such a hearing has been submitted by one or more affected persons ((directly affected by the proposed project for which a particular certificate of need application is under review)).

(2) The department shall provide opportunity to affected persons ((directly affected)) for a public hearing on:

(a) A certificate of need application which is under review, unless the application is being reviewed according to the emergency review process; and

(b) The proposed withdrawal of a certificate of need. ((a)) This requirement for a public hearing shall be deemed satisfied if the appropriate health systems agency has provided opportunity for such a public hearing to "affected persons ((directly affected))" as this term is defined in WAC 248-19-220((3+)): PROVIDED, HOWEVER, That the department has delegated the responsibility for such hearing to the appropriate health systems agency, and such health systems agency has followed public hearing procedures required under the provisions of this section.

~~((b) If the appropriate health systems agency defines "persons directly affected" to whom it affords opportunity for such a public hearing to exclude one or more persons included in the definition of this term in WAC 248-19-220(31), the department shall conduct such a public hearing if:~~

~~(i) The health systems agency has not scheduled and given notice of a public hearing on the particular certificate of need application which is under review, and~~

~~(ii) The department receives a valid request for a public hearing on the particular certificate of need application from one or more "persons directly affected" who are excluded in the health systems agency's definition of such term.)~~

~~(3) To be valid, a request for a public hearing on a certificate of need application ((under review)) or on the proposed withdrawal of a certificate of need shall:~~

~~(a) Be submitted in writing;~~

~~(b) Be received by the ((department)) agency identified in the "notification of beginning of review" within ((fourteen calendar)) fifteen days after ((["]Notification on Beginning of Review" was given by the department for the particular certificate of need application)) the date on which the department's "notification of beginning of review" for the particular certificate of need application or proposed withdrawal of a certificate of need was published in a newspaper of general circulation; and~~

~~(c) Include identification of the particular certificate of need application or proposed certificate of need withdrawal for which the public hearing is requested and the full name, complete address and signature of the person making the request.~~

~~(4) ((At least ten calendar days prior to a public hearing conducted by the department on a certificate of need application,)) The department or the health systems agency to which the department delegated responsibility for public hearings shall give written notice of ((such)) a public hearing ((to persons directly affected and notice to the public)) conducted pursuant to this section.~~

~~(a) Written notice shall be given to affected persons and the public at least fifteen days prior to the beginning of the public hearing.~~

~~(b) The notices shall include: Identification of the certificate of need application or certificate of need on which the public hearing is to be conducted and the date, time and place of the public hearing.~~

~~((b)) (c) Notice to the general public to be served by the proposed project to which the certificate of need application or certificate of need pertains shall be through a newspaper of general circulation in the health service area of the proposed project. The notices to other affected persons shall be mailed on the same date the notice to the public is mailed to the newspaper for publication.~~

~~(5) In a public hearing on a certificate of need application or on a proposed withdrawal of a certificate of need, any person shall have the right to be represented by counsel and to present oral or written arguments and evidence relevant to the matter which is the subject of the hearing. Any person affected by the matter may~~

conduct reasonable questioning of persons who make relevant factual allegations.

(6) The department or health systems agency, whichever conducts the hearing, shall maintain a verbatim record of a public hearing and shall not impose fees for the hearing.

~~((5)) (7) The department shall not be required to conduct a public hearing on a certificate of need application which is being reviewed according to the emergency review procedure.~~

NEW SECTION

WAC 248-19-325 PROHIBITION OF EX PARTE CONTACTS. (1) There shall be no "ex parte contact" respecting an application for a certificate of need after whichever of the following occurs first: The commencement of a public hearing on an application for a certificate of need or proposed withdrawal of a certificate of need, or final action of the appropriate health systems agency and hospital commission.

(a) The term "ex parte contact" shall be interpreted to mean any oral or written communication respecting an application for a certificate of need or proposed withdrawal of a certificate of need between:

(i) An applicant for or holder of a certificate of need, any person acting on behalf of such an applicant or holder, or any person opposed to the issuance of or in favor of the withdrawal of a certificate of need, and

(ii) Any person in the department who exercises any responsibility respecting the application for or withdrawal of the certificate of need.

(b) Notwithstanding the provisions of subsection (1)(a) of this section, "ex parte contact" shall not be construed to include:

(i) Communication limited to requesting and giving status reports on any matter or proceeding relating to the review of a certificate of need application or proposed withdrawal of a certificate of need application;

(ii) Information related to the application for or proposed withdrawal of a certificate of need which has been incorporated in the record of administrative proceedings prior to the beginning of a public hearing on such application or withdrawal held according to the provisions of WAC 248-19-320 or before final action on such application or proposed withdrawal has been taken by the appropriate health systems agency or hospital commission, or

(iii) Information incorporated in the record of a public hearing held in accordance with WAC 248-19-320 on such application or proposed withdrawal of a certificate of need.

(2) The department shall consider information regarding an application for or proposed withdrawal of a certificate of need, the submission of which is not consistent with subsection (1) of this section, only if the following conditions are met.

(a) The information shall be writing.

(b) The person submitting the information shall affirm that such information was not reasonably available prior to the commencement of the public hearing or final action by the health systems agency or hospital commission.

(c) Upon receipt of such information, the department shall make a determination as to whether the information is substantive and material to the department's final decision to issue, deny or withdraw the certificate of need.

(i) If such information is material to the department's decision, the department shall, within five working days of the receipt of such information, send notice to affected persons, other than persons residing within the geographic area served or to be served by the applicant, persons who regularly use health care facilities within that geographic area, and third-party payers who reimburse health care facilities for services in the health service area in which the project is proposed to be located. Notice to persons residing within the geographic area served or to be served by the applicant, persons who regularly use health care facilities within that geographic area, and third-party payers who reimburse health care facilities for services in the health service area in which the project is proposed to be located shall be through a newspaper of general circulation in the appropriate health service area. The notice shall

(A) Describe the general nature of the information received;

(B) Identify the project to which the information pertains, and

(C) Establish the date by which any request for a public hearing must be submitted to the department.

(ii) If such information is not material to the department's decision, the information shall be placed in the record of administrative proceedings; copies shall be furnished by the department to the appropriate health systems agency, the hospital commission in the case of a hospital project, and to the applicant or holder of the certificate of need if the information was submitted by a person other than the applicant or holder.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-330 REGULAR REVIEW PROCESS. (1) The regular review process shall not exceed ninety days from the beginning of the review period and shall be conducted in accordance with the following subdivisions of this subsection unless the review period is extended in accordance with the provisions of subsection (2) of this section (~~(, WAC 248-19-330(2)(a) and (b), and (4) and (5). PROVIDED, HOWEVER, That in the case of a review of a new institutional health service proposed by a health maintenance organization, no review shall take longer than ninety days from the beginning of the review period)~~).

~~((2)) (a) Within sixty ((calendar)) days from the first day of the review period the health systems agency and, in the case of a hospital project, the hospital commission, shall submit written findings and recommendations on a certificate of need application to the department unless the health systems agency or hospital commission has requested and received an extension of this review period from the department.~~

~~((a) The department may extend the review period of a health systems agency and, in the case of a hospital project, the hospital commission for a period up to thirty~~

~~calendar days upon receipt of a written request from one of these agencies:~~

~~(b) The department may grant further extensions of a review period to a health systems agency or, in the case of a hospital project, the hospital commission: PROVIDED, The person who submitted the certificate of need application gives written consent to such further extension:~~

~~((3)) (b) The department shall complete its final review and the secretary shall make his decision on a certificate of need application within thirty ((calendar)) days of the end of the review period or extended review period of the health systems agency and, in the case of a hospital project, the hospital commission(~~(, unless the department extends its final review period in accordance with the provisions of WAC 248-19-330(4) or (5))~~).~~

~~(2) The review period for a regular review may be extended according to the following provisions.~~

~~(a) The review period for the health systems agency or, in the case of a hospital project, the hospital commission, may be extended for up to an additional thirty days upon the written request of either of these advisory review agencies when such additional time is needed to complete the review and submit written findings and recommendations to the department. The department may grant further extensions to this review period: PROVIDED, The person who submitted the certificate of need application gives written consent to such further extensions.~~

~~((4)) (b) If an issue, which is pivotal to the secretary's decision remains unresolved, the department may notify the person who submitted the application that additional relevant information is needed and, with the applicant's written consent, extend its final review period up to but not exceeding thirty ((calendar)) days after receipt of the information. Such pivotal issues include but are not limited to pending action for medicare or medicaid decertification, license revocation or patient trust fund violation or termination of a provider agreement.~~

~~((5)) (c) The department may extend either the review period for the health systems agency and the hospital commission or the department's final review period upon receipt of a written request of the person who submitted the application: PROVIDED, HOWEVER, That such an extension shall not exceed sixty ((calendar)) days.~~

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-340 EXPEDITED REVIEW PROCESS. (1) The expedited review process shall not exceed fifty ((calendar)) days from the beginning of the review period unless extended in accordance with the provisions of subsection (2) of this section (~~(, WAC 248-19-340(3), (4), (6), or (7). PROVIDED, HOWEVER, That in the case of a review of a new institutional health service proposed by a health maintenance organization, no review shall take longer than ninety days from the beginning of the review period)~~): PROVIDED, HOWEVER, That the appropriate health systems agency consents in writing to a thirty-day review period and does not need

to conduct a public hearing in accordance with WAC 248-19-320. If the health systems agency does not consent to a thirty-day review period, the expedited review process shall not exceed eighty days from the beginning of the review period.

~~((2) When the term of an expedited review is fifty calendar days)) (a) If the review period for the health systems agency is thirty days, the health systems agency(;) and, in the case of a hospital project, the hospital commission, shall submit written findings and recommendations to the department within thirty ((calendar)) days of the beginning of the review ((process)) period. If the review period for the health systems agency is sixty days, the health systems agency and, in the case of a hospital project, the hospital commission, shall submit written findings and recommendations to the department within sixty days of the beginning of the review period.~~

~~((3) The expedited review process shall be extended to a period of eighty calendar days by the department at the request of the health systems agency, or, in the case of a hospital project, at the request of the hospital commission when one of these advisory review agencies requires sixty calendar days to complete and submit written findings and recommendations to the department.~~

~~(4) The department may grant further extensions of the expedited review period to the health systems agency, and in the case of a hospital project, to the hospital commission. PROVIDED, The person who submitted the certificate of need application gives written consent to such further extensions.~~

~~(5)) (b) The department shall complete its final review and the secretary shall make his decision on a certificate of need application under an expedited review within twenty ((calendar)) days of the end of the review period or extended review period of the health systems agency and, in the case of a hospital project, the hospital commission(, unless the department extends its final review period in accordance with the provisions of WAC 248-19-340(6) or (7)).~~

(2) The review period for an expedited review may be extended according to the following provisions.

(a) If the health systems agency has consented to a thirty-day review period, the review period may be extended for up to an additional thirty days when the health systems agency conducts a public hearing in accordance with the provisions of WAC 248-19-320 or when additional time is needed by the health systems agency or, in the case of a hospital project, the hospital commission, to complete the review and submit written findings and recommendations to the department. The department may grant further extensions to this review period: PROVIDED, The person who submitted the certificate of need application gives written consent to further extension.

(b) The department may extend its final review if a public hearing is requested in accordance with the provisions of WAC 248-19-320 and the hearing is conducted by the department. Such extension may be for an additional period of up to thirty days.

~~((6)) (c) If an issue, which is pivotal to the secretary's decision remains unresolved, the department~~

may notify the person who submitted the application that additional relevant information is needed and, with the applicant's written consent, extend its final expedited review period up to but not exceeding thirty ((calendar)) days after receipt of the information. Such pivotal issues include but are not limited to pending action for medicare or medicaid decertification, license revocation or patient trust fund violation or termination of a provider agreement.

~~((7)) (d) The department may extend either the expedited review period for the health systems agency and the hospital commission or the department's final review period upon receipt of a written request of the person who submitted the application: PROVIDED, HOWEVER, That such an extension shall not exceed sixty ((calendar)) days.~~

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-350 EMERGENCY REVIEW PROCESS. (1) The emergency review process shall not exceed fifteen working days from the beginning of the review period.

(2) Written findings and written recommendations of the health systems agency, and in the case of hospital projects, the hospital commission, shall be submitted to the department within ten working days after the beginning of the emergency review period ((for a project under emergency review)).

(3) The department shall complete its final review and the secretary shall make his decision on an emergency certificate of need application within fifteen working days after the beginning of the review period unless the department extends its final review period in accordance with the provisions of ((WAC 248-19-350)) subsection (4) of this section.

(4) If an issue, which is pivotal to the secretary's decision remains unresolved, the department may notify the person who submitted the application that additional relevant information is needed and, with the applicant's written consent, extend its final emergency review period up to but not exceeding thirty ((calendar)) days after receipt of the information. Such pivotal issues include but are not limited to pending action for medicare or medicaid decertification, license revocation or patient trust fund violation or termination of a provider agreement.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-360 BASES FOR FINDINGS AND ACTION ON APPLICATIONS. (1) The findings of the department's review of certificate of need applications and the secretary's action on such applications shall, with the exceptions provided for in WAC 248-19-410 ((for health maintenance organizations,)) and 248-19-415 be based on determinations as to:

(a) Whether the proposed project is needed ((to meet health care needs of the defined population to be served));

(b) Whether the proposed project is financially feasible ((with respect to both the capital costs and projected operational costs));

(c) Whether the proposed project will meet the criteria for structure and process of care identified in WAC 248-19-390, and

(d) Whether the proposed project will foster containment of the costs of health care.

(2) The secretary's decision on a certificate of need application shall be consistent with the state health plan in effect, except in emergency circumstances which pose a threat to the public health. A finding of inconsistency shall not be based solely on the fact that a proposed project is not specifically referenced in the state health plan.

(3) Criteria contained in WAC 248-19-370, 248-19-380, 248-19-390, and 248-19-400 shall be used by the department in making the required determinations.

(a) In the use of criteria for making the required determinations, the department shall consider:

(i) The relationship of the proposed project to the applicable health systems plan (HSP) and annual implementation plan (AIP), and the state health plan (SHP);

(ii) The standards in the state health plan which have been identified to be used for certificate of need review purposes and are applicable to the type of project under review;

(iii) In the event that standards in the state health plan do not address, in sufficient detail for a required determination, the services or facilities for health services which are proposed, the department may consider standards which are not in conflict with the state health plan in accordance with subsection (3)(b) of this section.

(iv) The findings and recommendations of the health systems agency and the hospital commission (in relation to the immediate and long-range financial feasibility of a hospital project as well as the probable impact of such project on the cost of and charges for providing health services by the hospital); and

~~((iii))~~ (v) The relationship of the proposed project to the long-range plan (if any) of the person proposing the project.

(b) The department may consider any of the following in its use of criteria for making the required determinations:

(i) Nationally recognized standards from professional organizations;

(ii) Standards developed by professional organizations in Washington state;

(iii) Federal Medicare and Medicaid certification requirements;

(iv) State licensing regulations;

(v) The hospital commission's policies, guidelines and regulations;

(vi) Applicable standards which have been developed by other individuals, groups or organizations with recognized expertise related to ((the)) a proposed ((new institutional health services)) undertaking; and

(vii) The written findings and recommendations of individuals, groups or organizations with recognized expertise related to ((the proposed new institutional health

services)) a proposed undertaking, with whom the department consults during the review of an application.

(c) ~~((The department shall identify the criteria and standards it will use prior to or during the screening of a certificate of need application in accordance with WAC 248-19-280(4)) At the request of an applicant the department shall identify the criteria and standards it will use prior to the submission and screening of a certificate of need application: PROVIDED, HOWEVER, That when a person requests identification of criteria and standards prior to the submission of an application, the person shall submit such descriptive information on a project as is determined by the department to be reasonably necessary in order to identify the applicable criteria and standards. The department shall respond to such request within fifteen working days of its receipt. In the absence of an applicant's request under this subsection, the department shall identify the criteria and standards it will use during the screening of a certificate of need application. The department shall inform the applicant about any consultation services it will use in the review of a certificate of need application prior to the use of such consultation services.~~

(d) Representatives of the department or consultants whose services are engaged by the department may make an on-site visit to a health care facility ((or health maintenance organization)), or other place for which a certificate of need application is under review or for which a proposal to withdraw a certificate of need is under review when the department deems such an on-site visit is necessary and appropriate to the department's review of a proposed project.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-370 DETERMINATION OF NEED. ~~((1) Health maintenance organization project.))~~

The determination of need for any ((health maintenance organization)) project((; with the exception provided for in WAC 248-19-410(1)(a)(i);)) shall be based on the following criteria.

~~((a) The project is needed to meet the special needs and circumstances of enrolled members or reasonably anticipated new members of the health maintenance organization or proposed health maintenance organization.~~

~~(b) The services proposed are not available from nonhealth maintenance organization providers or other health maintenance organizations in a reasonable and cost-effective manner which is consistent with the basic method of operation of the health maintenance organization or proposed health maintenance organization.~~

~~In assessing the availability of these health services from these providers, the department shall consider only whether the services from these providers:~~

~~(i) Would be available under a contract of at least five years duration;~~

~~(ii) Would be available and conveniently accessible through physicians and other health professionals associated with the health maintenance organization or proposed health maintenance organization (for example—~~

~~whether physicians associated with the health maintenance organization have or will have full staff privileges at a nonhealth maintenance organization hospital);~~

~~(iii) Would cost no more than if the services were provided by the health maintenance organization or proposed health maintenance organization; and~~

~~(iv) Would be available in a manner which is administratively feasible to the health maintenance organization or proposed health maintenance organization.~~

~~(2) Project which is not a health maintenance organization project.~~

~~The determination of need for any project, which is not a health maintenance organization project, shall be based on the following criteria:~~

~~(a)) (1) The ((defined)) population served or to be served has need for ((services of the type proposed,)) the project and other services and facilities of the type proposed are not or will not be sufficiently available ((in sufficient supply)) or accessible to meet ((the needs of the defined population)) that need. The assessment of the conformance of a project with this criterion shall include, but need not be limited to, consideration of the following:~~

~~(a) In the case of a reduction, relocation, or elimination of a service, the need that the population presently served has for the service, the extent to which the need will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care;~~

~~(b) In the case of health services or facilities proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities similar to those proposed;~~

~~(c) In the case of an application by an osteopathic or allopathic facility for a certificate of need to construct, expand or modernize a health care facility, acquire major medical equipment, or add services, the need for that construction, expansion, modernization, acquisition of equipment, or addition of services on the basis of the need for and the availability in the community of services and facilities for osteopathic and allopathic physicians and their patients, and the impact on existing and proposed institutional training programs for doctors of osteopathy and medicine at the student, internship, and residency training levels; and~~

~~(d) In the case of a project which does not involve health services, the contribution of the project toward overall management and support of such services.~~

~~((b) The proposed project will not unnecessarily duplicate any other available health service of the type proposed.~~

~~(c) Other services of the type proposed are not or will not be sufficiently accessible to meet the needs of the defined population. The assessment of the conformance of a project with this criterion shall include, but not be limited to, consideration as to whether:~~

~~(i) Access of low income persons, racial and ethnic minorities, women, physically and mentally handicapped persons, and other underserved groups to the services~~

~~proposed is commensurate with such persons' need for the health services (particularly those needs identified in the applicable health systems plan, annual implementation plan and state health plan as deserving of priority); and~~

~~(ii) In the case of the relocation of a facility or service, or the reduction or elimination of a service the present needs of the defined population for that facility or service, including the needs of underserved groups, will continue to be met by the proposed relocation or by alternative arrangements:))~~

~~(2) All residents of the service area, including low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly are likely to have adequate access to the proposed health service(s). The assessment of the conformance of a project with this criterion shall include, but not be limited to, consideration as to whether the proposed services makes a contribution toward meeting the health related needs of members of medically underserved groups which have traditionally experienced difficulties in obtaining equal access to health services, particularly those needs identified in the applicable health systems plan, annual implementation plan, and state health plan as deserving of priority. Such consideration shall include an assessment of the following:~~

~~(a) The extent to which medically underserved populations currently use the applicant's services in comparison to the percentage of the population in the applicant's service area which is medically underserved, and the extent to which medically underserved populations are expected to use the proposed services if approved;~~

~~(b) The past performance of the applicant in meeting obligations, if any, under any applicable federal regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal financial assistance (including the existence of any unresolved civil rights access complaints against the applicant);~~

~~(c) The extent to which Medicare, Medicaid and medically indigent patients are served by the applicant; and~~

~~(d) The extent to which the applicant offers a range of means by which a person will have access to its services (e.g., outpatient services, admission by house staff, admission by personal physician).~~

~~((d)) (3) ((Alternative uses of the resources required by a project, including health manpower, management personnel, and funds for capital and operating needs, are not reasonably available for the provision of other health services which are of higher priority as indicated by)) The resources for the proposed project are not needed for higher priority alternative uses identified in applicable health plans.~~

~~((e)) (4) The applicant has substantiated any of the following special needs and circumstances which the proposed project is to serve.~~

~~((f)) (a) The special needs and circumstances of entities such as medical and other health professions schools, multidisciplinary clinics and specialty centers which provide a substantial portion of their services or resources, or both, to individuals not residing in the~~

health service areas in which the entities are located or in adjacent health service areas.

((~~ii~~)) (b) The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.

((~~iii~~)) (c) The special needs and circumstances of osteopathic hospitals and nonallopathic services.

(5) The project will not have an adverse effect on health professional schools and training programs. The assessment of the conformance of a project with this criterion shall include consideration of:

(a) The effect of the means proposed for the delivery of health services on the clinical needs of health professional training programs in the area in which the services are to be provided; and

(b) If proposed health services are to be available in a limited number of facilities, the extent to which the health professions schools serving the area will have access to the services for training purposes.

(6) If appropriate, the project fosters competition. The assessment of conformance to this criterion shall include consideration of the following:

(a) Factors identified in the state health plan which influence the effect of competition on the supply of health services of the type being reviewed;

(b) Improvements or innovations in the financing and delivery of health services which foster competition and serve to promote quality assurance and cost effectiveness; or

(c) Community or regional circumstances where competition and consumer choice constructively serve to advance the purposes of quality assurance, cost effectiveness and access.

(7) The project is needed to meet the special needs and circumstances of enrolled members or reasonably anticipated new members of a health maintenance organization or proposed health maintenance organization and the services proposed are not available from nonhealth maintenance organization providers or other health maintenance organizations in a reasonable and cost-effective manner which is consistent with the basic method of operation of the health maintenance organization or proposed health maintenance organization. In assessing the availability of these health services from these providers, the department shall consider only whether the services from these providers:

(a) Would be available under a contract of at least five years duration;

(b) Would be available and conveniently accessible through physicians and other health professionals associated with the health maintenance organization or proposed health maintenance organization (for example - whether physicians associated with the health maintenance organization have or will have full staff privileges at a nonhealth maintenance organization hospital);

(c) Would cost no more than if the services were provided by the health maintenance organization or proposed health maintenance organization; and

(d) Would be available in a manner which is administratively feasible to the health maintenance organization or proposed health maintenance organization.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-390 CRITERIA FOR STRUCTURE AND PROCESS OF CARE. A determination that a project fosters an acceptable or improved quality of health care shall be based on the following criteria.

(1) A sufficient supply of qualified staff for the project, including both health manpower and management personnel, are available or can be recruited.

(2) The ~~((project))~~ proposed service(s) will have an appropriate relationship, including ~~((organization))~~ organizational relationship, to ancillary and support services, and ancillary and support services will be sufficient to support any health services included in the proposed project.

(3) There is reasonable assurance that the project will be in conformance with ~~((federal and state laws, rules, regulations and standards))~~ applicable ~~((to health care facilities and services))~~ state licensing requirements and, if the applicant is or plans to be certified under the Medicaid or Medicare program, with the applicable conditions of participation related to those programs.

(4) The proposed project will promote continuity in the provision of health care ~~((to the defined population and will)),~~ not result in an unwarranted fragmentation of services, and have an appropriate relationship to the service area's existing health care system.

(5) There is reasonable assurance that the services to be provided through the proposed project will be provided in a manner that ensures safe and adequate care to the public to be served and in accord with applicable federal and state laws, rules, and regulations. The assessment of the conformance of a project to this criterion shall include but not be limited to consideration as to whether:

(a) The applicant has no history, in this state or elsewhere, of a criminal conviction which is reasonably related to the applicant's competency to exercise responsibility for the ownership or operation of a health care facility, a denial or revocation of a license to operate a health care facility, a revocation of a license to practice a health profession, or a decertification as a provider of services in the Medicare or Medicaid program because of failure to comply with applicable federal conditions of participation; or

(b) If the applicant has such a history, whether the applicant has affirmatively established to the department's satisfaction by clear, cogent and convincing evidence that the applicant can and will operate the proposed project for which the certificate of need is sought in a manner that ensures safe and adequate care to the public to be served and conforms to applicable federal and state requirements.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-400 DETERMINATION OF COST CONTAINMENT. A determination that a proposed project will foster cost containment shall be based on the following criteria.

(1) ~~Less costly and equally or more effective alternatives ((such as shared services, merger, contract services, and different methods of service provision)) are not available or practicable.~~

(2) ~~((The costs and methods of)) In the case of a project involving construction ((are reasonable and efficient)):~~

(a) The costs and methods of construction and energy provision are reasonable, and

(b) The project will probably not have an unreasonable impact on the costs and charges to the public of providing health services by other persons.

(3) ~~The ((costs and methods of energy provision are reasonable and efficient, and)) project takes into consideration the special needs and circumstances of health care facilities with respect to the need for energy conservation.~~

(4) ~~The ((proposed)) project will promote efficiency or productivity.~~

NEW SECTION

WAC 248-19-403 MAJOR MEDICAL EQUIPMENT NOT OWNED BY OR LOCATED IN A HEALTH CARE FACILITY. (1) For purposes of this section, purchases, donations and leases of major medical equipment shall be considered acquisitions of such equipment. An acquisition of major medical equipment through a transfer of such equipment for less than fair market value shall be considered an acquisition of major medical equipment if its fair market value is at least one hundred fifty thousand dollars.

(2) Before any person enters into a contractual arrangement¹ to acquire major medical equipment which is not to be owned by or located in a health care facility, such person shall submit a valid notice to the department and the appropriate health systems agency of the intent to acquire the equipment.

(a) The notices to the department and the appropriate health systems agency shall be submitted in writing at least thirty days before entering into contractual arrangements to acquire the equipment with respect to which the notice is given.

(b) To be valid, a notice shall include:

(i) A complete description of the major medical equipment to be acquired and the health services to be provided with such equipment;

(ii) The name, address, and general description of the facility in which the equipment is to be located;

(iii) The date on which any contractual arrangement for acquisition of the equipment was or is to be entered into;

(iv) A statement as to whether the equipment is to be used for any hospital's inpatients and, if so, whether such use will be only on a temporary basis in the case of a natural disaster, a major accident or equipment failure.

(3) The acquisition of major medical equipment which is not to be owned by or located in a health care facility shall be subject to review if the department finds that:

(a) The written notice of intent to acquire the equipment was not submitted in accordance with the provisions of subsection (2) of this section; or

(b) The equipment will be used to provide services to a hospital's inpatients on other than a temporary basis in the case of a natural disaster, a major accident, or equipment failure.

(4) Within fifteen working days after receipt of a valid notice of intent to acquire the major medical equipment, the department shall respond to the person who submitted the notice of intent, informing such person as to whether the acquisition of the equipment is subject to certificate of need review. A copy of the response shall be sent to the appropriate health systems agency. If the department fails to make a determination within thirty days after the receipt of a valid notice, the major medical equipment may be acquired without a certificate of need.

(5) If a person has acquired major medical equipment not located in a health care facility which the department has determined was not subject to review under the provisions of subsections (2), (3) and (4) of this section and subsequently proposes to use such equipment to serve inpatients of a hospital on other than a temporary basis in the case of a natural disaster, a major accident, or equipment failure, the proposed new use of the major medical equipment shall be subject to certificate of need review.

NOTE:

¹A person may enter into a contractual arrangement at an earlier date, provided such contractual arrangement is contingent upon a determination by the department that a certificate of need is not needed, or upon issuance of a certificate of need.

NEW SECTION

WAC 248-19-405 EXEMPTIONS FROM REQUIREMENTS FOR A CERTIFICATE OF NEED.

(1) Provisions for exemptions. The secretary shall grant an exemption from the requirements for a certificate of need for the offering of an inpatient institutional health service, the acquisition of major medical equipment for the provision of an institutional health service or the obligation of a capital expenditure in excess of one hundred fifty thousand dollars for the provision of an inpatient institutional health service to any entity which meets the eligibility requirements set forth in subdivision (a) of this subsection for such an exemption and submits an application for an exemption which meets the requirements of subdivision (b) of this subsection.

(a) Eligibility requirements. To be eligible for an exemption from the requirements for a certificate of need for the offering of an inpatient institutional health service, the acquisition of major medical equipment for the provision of an inpatient institutional health service, or the obligation of a capital expenditure in excess of one hundred fifty thousand dollars for the provision of an institutional health service, an applicant entity shall be one of the following:

(i) A health maintenance organization or a combination of health maintenance organizations if:

(A) The organization or combination of organizations has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals;

(B) The facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals; and

(C) At least seventy-five percent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled in such organization or organizations in the combination;

(ii) A health care facility if:

(A) The facility primarily provides or will provide inpatient health services;

(B) The facility is or will be controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations which has, in the service area of the organization or service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals;

(C) The facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals; and

(D) At least seventy-five percent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with such organization or organizations in the combination; or

(iii) A health care facility (or portion thereof) if:

(A) The facility is or will be leased by a health maintenance organization or combination of health maintenance organizations which has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals and, on the date the application for an exemption is submitted, at least fifteen years to remain in the term of the lease;

(B) The facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals; and

(C) At least seventy-five percent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with such organization;

(b) Requirements for an application for exemption. An application for an exemption from a certificate of need shall meet the following requirements.

(i) The application for an exemption shall have been submitted at least thirty days prior to the offering of the institutional health service, acquisition of major medical equipment, or obligation of the capital expenditure to which the application pertains. A copy of the application for the exemption shall be sent simultaneously to the appropriate health systems agency and, in the case of a hospital, to the hospital commission.

(ii) A complete application shall be submitted in such form and manner as has been prescribed by the department. The information which the department prescribes shall include:

(A) All of the information required to make a determination that the applicant entity qualifies in accordance with subdivision (a) of this subsection; and

(B) A complete description of the offering, acquisition, or obligation to which the application pertains.

(2) Action on an application for exemption.

(a) Within thirty days after receipt of a complete application for exemption from certificate of need requirements, the department shall send the applicant a written notice that the exemption has been granted or denied. A copy of such written notice shall be sent simultaneously to the appropriate health systems agency and, in the case of a hospital, to the hospital commission.

(b) The secretary shall deny an exemption if he finds the applicant has not met the requirements of subsections (1) (a) and (b) of this section. Written notice of the denial shall include the specific reasons for the denial.

(c) In the case of an application for a proposed health care facility (or portion thereof) which has not begun to provide institutional health services on the date the application for an exemption is submitted, the secretary shall grant the exemption if he determines the facility (or portion thereof) will meet the applicable requirements of subsection (1)(a) of this section when the facility first provides health services.

(d) If the secretary fails to grant or deny an exemption in accordance with the provisions of this section within thirty days after receipt of a complete application for such exemption, the applicant for the exemption may seek a writ of mandamus from superior court pursuant to chapter 7.16 RCW.

(3) Subsequent sale, lease or acquisition of exempt facilities or equipment. Subsequent sale, lease, or acquisition of exempt health care facilities (or portions thereof) or medical equipment for which an exemption was granted under the provisions of subsection (2) of this section, any acquisition of a controlling interest in such facility or equipment, and any use of such facility or equipment by a person other than the one to whom the exemption was granted, shall meet one of the following conditions:

(a) A certificate of need for the purchase, lease, acquisition of controlling interest in, or use of such facility or equipment, shall have been applied for and issued by the department; or

(b) The department shall have determined, after receipt of an application for an exemption, submitted in accordance with subsection (1) of this section, that the requirements of either subsection (1)(a)(i) or subsection (1)(a)(ii)(A) and (B) are met.

(4) The method of payment for services (i.e., prepaid or fee for service) shall not be considered relevant in determining whether an undertaking of a health maintenance organization qualifies for an exemption under this section.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-410 REVIEW AND ACTION ON HEALTH MAINTENANCE ORGANIZATION PROJECTS. ((1) Title XIII health maintenance organization projects.

~~(a) In the case of a new institutional health service which is proposed to be provided by or through a health maintenance organization for which assistance may be provided under Title XIII of the Public Health Service Act and which consists of (or includes) the construction,~~

~~development or establishment of a new inpatient health care facility, the department shall determine whether utilization of the facility by members of the applicant will account for at least seventy-five percent of the projected annual inpatient days, as determined in accordance with the recommended occupancy levels under the state health plan, and:~~

~~(i) Where the department determines that these members will account for less than seventy-five percent of these patient days, the application for the project shall be reviewed in accordance with WAC 248-19-360, with the use of WAC 248-19-370(2) for determination of need for the project, or~~

~~(ii) Where the department determines that these members will account for at least seventy-five percent of these patient days, the application for the project shall be reviewed in accordance with the provisions of the following WAC 248-19-410(1)(b):~~

~~(b) The findings of the department's review of any certificate of need application for a new institutional health service of a health maintenance organization for which assistance may be provided under Title XIII of the Public Health Service Act and the basis for the secretary's action on such application, with the exceptions provided for in the preceding WAC 248-19-410(1)(a)(i), shall be limited to determination of need based on WAC 248-19-370(1).~~

~~(2) Health maintenance organization projects, general:~~

~~(a) The review of a certificate of need application for a new institutional health service which is proposed to be provided by or through a health maintenance organization, for which assistance may not be provided under Title XIII of the Public Health Service Act, shall be in accordance with WAC 248-19-360.~~

~~(b) A certificate of need shall not be denied for any new institutional health service proposed to be provided by or through any health maintenance organization under the following circumstances:~~

~~(i) When the department has granted a certificate of need which authorized the development of the service, or expenditures in preparation for such offering or development, and when the offering of this new institutional health service will be consistent with the basic objectives, time schedules, and plans of the previously approved application. PROVIDED, That the department may impose a limitation on the duration of the certificate of need, or~~

~~(ii) Solely because there is a health maintenance organization of the same type, as specified in Section 1310(b) of the Public Health Service Act, in the same area, or solely because the services being reviewed are not discussed in the applicable health systems plan, annual implementation plan or state health plan.))~~

~~(1) Undertakings requiring a certificate of need. A certificate of need shall be required for any undertaking which, in accordance with WAC 248-19-230, is subject to the provisions of chapter 248-19 WAC, unless an exemption has been granted for such undertaking under the provisions of WAC 248-19-405.~~

~~(2) Required approval. The secretary shall issue a certificate of need for a proposed project if the certificate~~

of need applicant for the proposed project is a health maintenance organization or a health care facility controlled (directly or indirectly) by a health maintenance organization and the department finds the proposed project meets the criteria set forth in WAC 248-19-370(8).

(3) Limitation on denials. The secretary shall not deny a certificate of need to a health maintenance organization or a health care facility controlled (directly or indirectly) by a health maintenance organization solely because a proposed project is not discussed in the applicable health systems plan, annual implementation plan or state health plan.

(4) Sale, acquisition or lease of facilities or equipment for which a certificate of need has been issued. A health care facility (or portion thereof) or medical equipment for which a certificate of need has been issued under the provisions of this section shall not be sold or leased and a controlling interest in such facility or equipment or in a lease of the facility or equipment shall not be acquired unless an exemption or a certificate of need for such sale, lease or acquisition has been granted by the secretary.

NEW SECTION

WAC 248-19-415 PROJECTS PROPOSED FOR THE CORRECTION OF DEFICIENCIES. (1) For the purposes of this section, "correction of deficiencies" shall mean one or more of the following:

(a) Eliminating or preventing imminent safety hazards as defined by federal, state or local fire, building, or life safety codes or regulations; or

(b) Complying with state licensing standards; or

(c) Complying with accreditation or certification standards which must be met to receive reimbursement under Titles XVIII or XIX of the Social Security Act.

(2) An application which is submitted for a project which is limited to the correction of deficiencies, as defined in subsection (1) of this section, shall be approved unless the department finds, after consultation with the appropriate health systems agency, that:

(a) The facility or service with respect to which such capital expenditure is proposed is not needed; or

(b) That the obligation of such capital expenditures is not consistent with the state health plan in effect.

(3) A determination that a facility or service is not needed shall be made only if the department finds that the facility or service has been identified in the state health plan as not being needed.

(4) An application, which is submitted for the correction of deficiencies, shall be reviewed under the expedited review process, in accordance with WAC 248-19-340, unless it qualifies for emergency review in accordance with WAC 248-19-350.

(5) An application reviewed under the provisions of this section shall be approved only to the extent that the capital expenditure is needed for the correction of the deficiency.

(6) If the department finds that any portion of the project or the project as a whole is not needed for the correction of deficiencies, such portion or entire project shall be reviewed in accordance with WAC 248-19-360,

248-19-370, 248-19-380, 248-19-390, and 248-19-400.

(7) If the department finds that a proposed capital expenditure is needed to correct deficiencies, as defined in subsection (1) of this section, the criteria in WAC 248-19-370 shall not be applied to the consideration of the project.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-420 WRITTEN FINDINGS AND ACTIONS ON CERTIFICATE OF NEED APPLICATION. (1) Written findings.

(a) The findings of the department's review of a certificate of need application shall be stated in writing and include the basis for the secretary's decision as to whether a certificate of need is to be issued or denied for the proposed project.

(b) In making its findings and taking action on a certificate of need application, the department shall use all criteria contained in chapter 248-19 WAC ((248-19-370, 248-19-380, 248-19-390 and 248-19-400)) which are applicable to the proposed project(:(:)).

(i) The written findings shall identify any criterion which the department has decided is not applicable to the particular project and give the reason for such decision.

(ii) The secretary may deny a certificate of need if the applicant has not provided the information which is necessary to a determination that the project meets all applicable criteria and which the department has prescribed and published as necessary to a certificate of need review of the type proposed: **PROVIDED, HOWEVER,** That the department has requested such information in a screening letter sent in accordance with WAC 248-19-280((††))(1)(c).

(c) ((A decision that a project for the provision of inpatient health services is needed shall not be made nor a certificate of need for such project be issued unless the department makes the following findings:

(i) Findings as to the efficiency and appropriateness of the use of existing inpatient facilities providing inpatient services similar to those proposed;

(ii) Findings as to the capital and operating costs for the project and their potential impact on patient charges;

(iii) Findings as to the efficiency and appropriateness of the proposed new institutional health service;

(iv) A finding that superior alternatives to the proposed inpatient services, in terms of cost, efficiency, and appropriateness do not exist and that the development of such alternatives is not practicable.

(v) In the case of new construction, a finding that alternatives to the new construction (e.g., modernization or sharing arrangements) have been considered and have been implemented to the extent practicable;

(vi) A finding that patients will experience serious problems in terms of cost, availability or accessibility or quality of care in obtaining inpatient care of the type proposed in the absence of the proposed new service; and

(vii) In the case of the addition of beds for the provision of skilled nursing care or intermediate care, a finding that relationship of the addition to the plans of other

~~agencies of the state responsible for planning and financing long-term care (including home health services) has been considered.)~~ The department shall make written findings on the extent to which the project meets the criteria set forth in WAC 248-19-370 (1) and (3) when the secretary issues a certificate of need directly related to the provision of health services, beds, or major medical equipment: **PROVIDED, HOWEVER,** That no such written finding shall be necessary for projects for the correction of deficiencies of the types described in WAC 248-19-415 and for projects proposed by or on behalf of a health maintenance organization or a health care facility which is controlled, directly or indirectly, by a health maintenance organization.

(d) When, as a part of concurrent review proceedings, the secretary makes a decision to approve an application or applications and to disapprove other competing applications, he shall provide a specific written statement of reasons for determining the approved application or applications to be superior.

(2) Separability of application and action. When a certificate of need application is for multiple services or multiple components or the proposed project is to be multiphased, the secretary may take individual and different action on separable portions of the proposed project.

(3) Conditional certificate of need.

(a) The secretary in making his decision on a certificate of need application may decide to issue a conditional certificate of need if the department finds that the project is justified only under specific circumstances: **PROVIDED, HOWEVER,** That conditions shall relate directly to the project being reviewed and to review criteria.

(b) When the department finds that a project for which a certificate of need is to be issued does not satisfy the review criteria set forth in WAC 248-19-370 (1) and (3), the secretary may impose a condition or conditions that the applicant take affirmative steps so as to satisfy those review criteria. In evaluating the accessibility of the project, the current accessibility of the facility as a whole shall be taken into consideration.

(c) The conditions attached to a certificate of need may be released by the secretary upon the request of the health care facility or health maintenance organization for which the certificate of need was issued: **PROVIDED,** It can be substantiated that the conditions are no longer valid and the release of such conditions would be consistent with the purposes of ((the State Health Planning and Resources Development Act)) chapter 70.38 RCW.

(4) Distribution of written findings and statement of decision.

(a) A copy of the department's written findings and statement of the secretary's decision on a certificate of need application shall be sent to:

(i) The person who submitted the certificate of need application;

(ii) The health systems agency for the health service area in which the proposed project is to be located;

(iii) The hospital commission, if the proposed project is for a hospital; ((and))

(iv) In the case of a project proposed by a health maintenance organization, the appropriate regional office of the United States department of health(~~(, education and welfare))~~ and human services; and

(v) When the secretary issues a certificate of need for a project which does not satisfy the review criteria set forth in WAC 248-19-370 (1) and (3), the appropriate regional office of the department of health and human services.

(b) The written findings and statement of the secretary's decision on a certificate of need application shall be available to others who request the certificate of need unit to provide access to a copy of such findings and statement.

(5) Explanation of inconsistency with the health systems agency recommendation or plan. The department shall send to the applicant and to the appropriate health systems agency a detailed, written statement as to the reasons why a decision which the secretary has made on a certificate of need application is inconsistent with any of the following:

(a) The health systems agency's recommendation as to the action to be taken on the certificate of need application;

(b) The goals of the applicable health systems plan; ~~((and))~~ or

(c) The priorities of the applicable annual implementation plan.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-430 PROVISION FOR RECONSIDERATION DECISION. (1) Any person may, for good cause shown, request a public hearing for the purpose of reconsideration of the secretary's decision on a certificate of need application or withdrawal of a certificate of need.¹

(2) The department shall conduct a reconsideration hearing if it finds the request is in accord with the following requirements.

(a) The request for a reconsideration hearing shall be written, be received by the department within thirty days of the department's decision on the certificate of need application or withdrawal of the certificate of need, state in detail the grounds which the person requesting the hearing believes to show good cause, and be signed by the person making the request.

(b) Grounds which the department may deem to show good cause for a reconsideration hearing shall be limited to the following:

(i) Significant relevant information not previously considered by the department ((which is sufficiently important to modify or reverse the department's findings and decision)) which, with reasonable diligence, could have been presented before the department made its decision;

(ii) Information on significant changes in factors or circumstances relied upon by the department in making its findings and decision; or

(iii) Evidence the department materially failed to follow adopted procedures in reaching a decision.

(3) A reconsideration hearing shall be conducted in accordance with procedures for predecision and post-decision meeting on certificate of need applications which are established and published by the department and shall commence within thirty days after receipt of the request for the hearing.

(4) Notification of a public reconsideration hearing on a certificate of need application or withdrawal of a certificate of need shall be sent prior to the date of such hearing by the department to the following:

(a) The person who requested the reconsideration hearing;

(b) The person who submitted the certificate of need application which is under reconsideration or the holder of the certificate of need;

(c) The health systems agency for the health service area in which the proposed project is to be offered or developed;

(d) The hospital commission, if the proposed project is a hospital project; and to

(e) Other persons who request the department to send them such notification.

(5) The department shall, within forty-five days after the conclusion of a reconsideration hearing, make written findings which state the basis of the decision made after such hearing.

(6) The secretary may, upon the basis of the department's findings on a reconsideration hearing, issue or re-issue, amend ~~((or))~~, revoke, or withdraw a certificate of need or impose or modify conditions on a certificate of need for the project about which the reconsideration hearing was conducted.

NOTE:

¹No fee will be charged for a reconsideration hearing.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-440 ISSUANCE, SUSPENSION, DENIAL, REVOCATION AND TRANSFER OF A CERTIFICATE OF NEED. (1) Issuance of a certificate of need.

(a) The secretary shall issue a certificate of need to the person who submitted the certificate of need application for the proposed project or a separable portion of the proposed project only if the department's findings and decision are that the project or the separable portion of the proposed project is consistent with the applicable criteria contained in chapter 248-19 WAC ~~((248-19-370, 248-19-380, 248-19-390, 248-19-400 and 248-19-410)).~~ In issuing a certificate of need, the secretary shall specify the maximum capital expenditure which may be obligated under the certificate and prescribe the cost components to be included in determining the capital expenditure which may be obligated under such certificate.

(b) The secretary may issue a conditional certificate of need for a proposed project if it is justified only under specific circumstances. The conditions specified in a conditional certificate of need must directly relate to the project being reviewed and to criteria contained in chapter 248-19 WAC.

(2) Suspension of a certificate of need.

(a) Grounds for which the ((department)) secretary may suspend a certificate of need shall include, but not be limited to, suspicion of fraud, misrepresentation, false statements, misleading statements, evasion or suppression of material fact in the application for a certificate of need or any of its supporting materials.

(b) The ((department)) secretary shall issue an order for any suspension of a certificate of need to the person to whom the certificate of need had been issued.

(i) Such order shall state the reason for the suspension.

(ii) A copy of such order of suspension shall be sent to the appropriate health systems agency and, if for a hospital project, the hospital commission.

(c) A suspension of a certificate of need shall not exceed one hundred twenty calendar days.

(i) The department shall review the facts and circumstances relevant to the suspension and the secretary shall reinstate, amend or revoke a certificate of need within the one hundred twenty calendar days.

(ii) The ((department)) secretary shall send written notice of its decision on a suspended certificate of need to the person to whom the certificate of need had been issued. A copy of such notice shall be sent to the appropriate health systems agency and, if a hospital project, to the hospital commission.

(3) Denial of a certificate of need.

The secretary shall send written notification of denial of a certificate of need for a proposed project or a separable portion of a proposed project to the person who submitted the certificate of need application for the proposed project for which the certificate of need is not issued.

(a) Such notification shall state the reasons for the denial of a certificate of need.

(b) Copies of such notification shall be sent to the appropriate health systems agency and, if for a hospital project, to the hospital commission.

(4) Continuing effect of a denial.

In any case in which a proposed project or separable portion of the proposed project has been denied a certificate of need, another certificate of need application for such proposed project or separable portion thereof shall not be accepted by the department or reviewed under the provisions of chapter 248-19 WAC following the denial unless the department determines:

(a) There is a substantial change in existing or proposed health facilities or services in the area to be served by the project; or

(b) There is a substantial change in the need for the facilities or services of the type proposed in the area to be served by the project; or

(c) Three years have lapsed since the submission of the application for the certificate of need which was denied.

(5) Revocation of a certificate of need.

(a) The ((department)) secretary may revoke a certificate of need for fraud, misrepresentation, false statements, misleading statements, evasion or suppression of material facts in the application of a certificate of need, or in any of its supporting materials.

~~(b) ((A certificate of need shall be revoked two years or, if the department granted an extension of the certificate of need, two years and six months, from the date on which it was issued, unless it can be substantiated that substantial and continuing progress toward the commencement of the project has been made.~~

~~(c) The department may revoke a certificate of need if, after commencement of the project, the person to whom the certificate of need was issued fails, to make reasonable and continuing progress toward completion of the project.~~

~~(d)) The secretary shall send written notification of a revocation of a certificate of need to the person to whom the certificate of need had been issued.~~

(i) The notice of revocation shall include a statement of the reasons for such revocation.

(ii) A copy of a notice of revocation shall be sent to the appropriate health systems agency and, if a hospital project, to the hospital commission.

(6) Transfer or assignment of a certificate of need. A certificate of need which has been issued to one person shall not be transferred or assigned to another person without the written approval of the secretary.

(a) The person to whom the certificate of need was originally issued shall submit to the department a written request that the certificate of need be transferred to another person and give the full name and complete address of the other person.

(b) The person to whom the current holder of the certificate of need wishes to transfer the certificate shall send a written request for such transfer on a form and in such a manner as prescribed and published by the department.

(c) The ((department)) secretary, after ((consulting)) the department's consultation with the appropriate health systems agency and, for a hospital project, the hospital commission shall:

(i) Transfer the certificate of need;

(ii) Deny the transfer of the certificate of need and send written notice of the denial and the reasons for such denial to the persons who requested the transfer; or

(iii) If the person, who wishes to receive the certificate of need, plans to modify the project for which the certificate was issued, notify such person that an application for a new or amended certificate of need is necessary.

(7) Secretary's failure to act. If the secretary fails to issue or deny a certificate of need in accordance with the provisions of chapter 248-19 WAC, the applicant for the certificate of need may seek a writ of mandamus from superior court pursuant to chapter 7.16 RCW.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-450 CIRCUMSTANCES FOR WHICH AN AMENDED CERTIFICATE OF NEED IS REQUIRED. (1) An amended certificate of need shall be required for any of the following modifications of a project for which a certificate of need was issued:

(a) An addition of a new service;

(b) An expansion of a service beyond that which was included in the certificate of need application on which the issuance of the certificate of need was based;

(c) An increase in the inpatient bed capacity; or

(d) A significant reduction in the scope of a project for which a certificate of need has been issued without a commensurate reduction in the cost of the project, or the project cost increases (as represented in bids on a construction project or final cost estimate(s) acceptable to the person to whom the certificate of need was issued) when the total of such increases exceeds ~~((five))~~ twelve percent or ~~((twenty-five))~~ fifty thousand dollars, whichever is greater, over ~~((the cost estimate which was included in the application for the certificate of need))~~ the maximum capital expenditure specified by the secretary in issuing the certificate of need: PROVIDED, HOWEVER, That the review of such reductions or cost increases shall be restricted to the continued ((financial feasibility)) conformance of the project with the criteria contained in WAC 248-19-380 and 248-19-400.

(2) An application for an amended certificate of need shall be submitted in accordance with the provisions of WAC 248-19-280.

(3) An application for an amended certificate of need may be reviewed under the expedited review process set forth in WAC 248-19-340.

(4) The department shall provide a written determination as to the requirement for an amended certificate of need within twenty-one days after receipt of a request for such determination.

NEW SECTION

WAC 248-19-475 WITHDRAWAL OF A CERTIFICATE OF NEED. (1) The secretary may withdraw a certificate of need if the department determines, after consultation with the appropriate health systems agency and, in the case of a hospital project, the hospital commission, that the holder of a certificate is not meeting the timetable specified in the certificate of need application for making services or equipment available or completing the project and is not making a good faith effort to meet such timetable.

(2) In reviewing a proposed withdrawal of a certificate of need, the department shall adhere to the provisions of WAC 248-19-310, 248-19-320, 248-19-325 and 248-19-430.

(3) The review period for a proposed withdrawal of a certificate of need shall not exceed ninety days unless extended by the department to allow sufficient time for the conduct of a public hearing pursuant to the provisions of WAC 248-19-320. The review period of the appropriate health systems agency and, in the case of a hospital project, the hospital commission shall not exceed sixty days unless extended by the department at the written request of the health systems agency to allow sufficient time for the conduct of a public hearing pursuant to the provisions of WAC 248-19-320. Such extension shall not exceed thirty days.

(4) The findings of the department's review of a proposed withdrawal of a certificate of need shall be stated in writing and include the basis for the secretary's decision as to whether the certificate of need is to be withdrawn for a proposed project. A copy of the

department's written findings and statement of the secretary's decision on the proposed withdrawal of a certificate of need shall be sent to:

(a) The holder of the certificate of need;

(b) The health systems agency for the health service area in which the proposed project is to be located;

(c) The hospital commission, if the proposed project is for a hospital; and

(d) In the case of a project proposed by a health maintenance organization, the appropriate regional office of the United States department of health and human services.

(5) The written findings and statement of the secretary's decision on the proposed withdrawal of a certificate of need shall be available to others who request the certificate of need unit to provide access to a copy of such findings and statement.

(6) The department shall send to the appropriate health systems agency a detailed, written statement as to the reasons why a decision which the secretary has made is inconsistent with any of the following:

(a) The health systems agency's recommendation as to the action to be taken;

(b) The goals of the applicable health systems plan; or

(c) The priorities of the applicable annual implementation plan.

(7) When a certificate of need is for multiple services or multiple components or the proposed project is to be multiphased, the secretary may take individual and different action regarding withdrawal of the certificate of need on separable portions of the certificate of need.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-480 RIGHT AND NOTICE OF APPEAL. (1) Any affected person ~~((denied a certificate of need for a project or a separable portion of a project or whose certificate of need was amended, suspended or revoked by the secretary))~~ may request and shall be afforded the opportunity for an administrative hearing on the secretary's decision to issue or deny a certificate of need for a project or a separable portion of a project, to grant or deny an exemption requested under WAC 248-19-405, to suspend or revoke a certificate of need, or to withdraw or not withdraw a certificate of need.

(2) ~~((A health systems agency shall be afforded the opportunity for an administrative hearing regarding a secretary's decision on a certificate of need application which is inconsistent with the health systems agency's recommendation as to the action to be taken on such application.~~

~~((3))~~ To be effective, a request for an administrative hearing shall be in writing and received by the department within thirty ~~((calendar))~~ days after the person ~~((or health systems agency))~~ requesting the hearing ~~((;))~~ received the particular decision of the department which is being appealed.

~~((4))~~ (3) An administrative hearing shall be conducted in accordance with the provisions of chapter 34.04 RCW ~~((by an agency, other than the department, designated by the governor)).~~

~~((5))~~ (4) ~~The decision of the ((agency that)) official who conducts an administrative hearing shall be made in writing within forty-five days after the conclusion of the hearing and the written decision shall be sent to the applicant, the appropriate health systems agency, and the department. The department shall make the written findings available to others upon request.~~

~~((6))~~ (5) ~~The decision of the ((agency that)) official who conducts an administrative hearing shall be considered the final decision¹ of the ((department)) secretary; however, the ((agency that)) official who conducts an administrative hearing may remand the matter to the department for further action or consideration.~~

NOTE:

¹Chapter 34.04 RCW provides entitlement to judicial review to any person aggrieved by a final decision in a contested case, whether such decision is affirmative or negative in form.

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-490 CERTIFICATE OF NEED PROGRAM REPORTS. (1) ~~The department shall prepare and publish annual reports containing information on certificate of need reviews in progress, reviews completed in the preceding twelve month period, and a general statement of the findings and decisions made in the course of those reviews.~~

(2) ~~Upon request, the department shall provide notification(, upon request,) to ((providers of)) health ((services)) care facilities and to other persons ((subject to certificate of need review)) of the status of the department's review of ((new institutional health services)) projects subject to review and the findings made in the course of such review.~~

AMENDATORY SECTION (Amending Order 188, filed 11/30/79)

WAC 248-19-500 PUBLIC ACCESS TO RECORDS. ~~The general public shall have access in accordance with the provisions of chapter 42.17 RCW to ((certificate of need)) all applications reviewed by the department and to all other written materials ((pertinent)) essential to ((such reviews, according to the provisions of chapter 42.17 RCW)) any review by the department pursuant to the provisions of chapter 248-19 WAC.~~

WSR 81-05-031
PROPOSED RULES
DEPARTMENT OF GAME
(Game Commission)
[Filed February 18, 1981]

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:

New	WAC 232-28-803	1981 Mountain goat, sheep and moose hunting seasons.
New	WAC 232-21-101	Gold prospecting.
Amd	WAC 232-12-360	Steelhead fishing permit punch card.
Rep	WAC 232-28-001	1977 Mountain goat, sheep and moose hunting seasons.
Rep	WAC 232-28-100	1977 Upland migratory game bird seasons.
Rep	WAC 232-28-200	1977 Hunting seasons and bag limits.
Rep	WAC 232-28-300	1977 Game management unit and area legal descriptions.
Rep	WAC 232-28-400	1977 Upland game bird and migratory waterfowl seasons.
Rep	WAC 232-28-500	Trapping seasons and regulations 1977-1978.
Rep	WAC 232-28-600	1978 Washington game fish seasons and catch limits.
Rep	WAC 232-21-100	Gold prospecting.
Rep	WAC 232-28-802	1980 Mountain goat, sheep and moose hunting seasons;

that such agency will at 9:00 a.m., Monday, April 6, 1981, in the Vance Tye Motor Inn, 500 Tye Drive, 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., Monday, April 6, 1981, in the Vance Tye Motor Inn, 500 Tye Drive, Olympia, 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 April 6, 1981, and/or orally at 9:00 a.m., Monday, April 6, 1981, Vance Tye Motor Inn, 500 Tye Drive, Olympia, WA.

Dated: February 18, 1981

By: Wallace F. Kramer
Wildlife Enforcement Chief

STATEMENT OF PURPOSE

Title: Amendatory section WAC 232-12-360 STEELHEAD FISHING PERMIT PUNCH CARD.

Summary: Amends the above WAC to allow the releasing of steelhead in waters designed as catch and release without the angler having to punch his steelhead permit punch card.

Agency Personnel Responsible for Drafting Rules and Implementation:

Jack D. Ayerst, Chief, Fisheries Management, Department of Game, 600 N. Capitol Way, Olympia, WA 98504, Telephone: 206-753-2934.

Enforcement: Wallace F. Kramer, Chief, Wildlife Enforcement, Department of Game, 600 N. Capitol Way, Olympia, WA 98504, Telephone: 206-753-2865.

Proponents or Opponents: As this regulations is proposed for adoption, proponents or opponents are unknown at this time.

Comments: Comments will be on record in the minutes of the meeting in the Director's office of the Department of Game after the April 6, 1981 State Game Commission meeting is held.

STATEMENT OF PURPOSE

Title: New section WAC 232-21-101
GOLD PROSPECTING.

Summary: Adopts rules and regulations relating to mineral prospecting.

Agency Personnel Responsible for Drafting Rules and Implementation:

Eugene S. Dziedzic, Chief, Habitat Management Division, Department of Game, 600 N. Capitol Way, Olympia, WA 98504, Telephone: 206-753-2903.

Enforcement: Wallace F. Kramer, Chief, Wildlife Enforcement, Department of Game, 600 N. Capitol Way, Olympia, WA 98504, Telephone: 206-753-2865.

Proponents and Opponents: As this regulation is proposed for adoption, proponents or opponents are unknown.

Comments: All comments will be on record in the minutes in the Director's office of the Department of Game after the April 6, 1981 State Game Commission meeting is held.

STATEMENT OF PURPOSE

Title: New section WAC 232-28-803 1981 MOUNTAIN GOAT, SHEEP AND MOOSE HUNTING SEASONS.

Summary; Adopts rules and regulations relating to the 1981 Mountain Goat, Sheep, and Moose Hunting Seasons.

Agency Personnel Responsible for Drafting Rules and Implementation: Richard J. Poelker, Chief, Wildlife Management Division, Department of Game, 600 N. Capitol Way, Olympia, WA 98504, Telephone: 206-753-2921.

Enforcement: Wallace F. Kramer, Chief, Wildlife Enforcement, Department of Game, 600 N. Capitol Way, Olympia, WA 98504, Telephone: 206-753-2865.

Proponents or Opponents: As this regulation is proposed for adoption, proponents or opponents are unknown.

Comments: All comments will be on record in the minutes in the Director's office of the Department of Game after the April 6, 1981 State Game Commission meeting is held.

STATEMENT OF PURPOSE

Title: Repealer WAC 232-28-001, WAC 232-28-100, WAC 232-28-200, WAC 232-28-300, WAC 232-28-400, WAC 232-28-500, WAC 232-28-600, WAC 232-21-100, WAC 232-28-802.

Summary: This will repeal all outdated rules and regulations relating to game, fish and trapping seasons that are no longer in effect.

Agency Personnel Responsible for Drafting Rules and Implementation:

Richard J. Poelker, Chief, Wildlife Management Division, Department of Game,

600 N. Capitol Way, Olympia, WA 98504, Telephone: 206-753-2921.

Enforcement: Wallace F. Kramer, Chief, Wildlife Enforcement, Department of Game, 600 N. Capitol Way, Olympia, WA 98504, Telephone: 206-753-2865.

Proponents or Opponents: As these regulations are proposed for deletion, proponents or opponents are unknown.

Comments: All comments will be on record in the minutes in the Director's office of the Department of Game after the April 6, 1981 State Game Commission meeting is held.

AMENDATORY SECTION (Amending order #75, filed 10/17/75)

WAC 232-12-360 STEELHEAD FISHING PERMIT PUNCH CARD. (1) It shall be unlawful for any person, except a treaty Indian possessing a valid federal or treaty fishing identification card, to fish for steelhead trout (~~over twenty inches in length~~) without first having in his possession a valid steelhead fishing permit.

(2) Steelhead fishing permits shall bear a number, which number shall be entered by the dealer on the fishing license of the person holding the steelhead fishing permit.

(3) The number of the applicant's fishing license shall be copied by the dealer on the steelhead fishing permit and on the stub of the permit which stub shall be retained by the license dealer. The word "juvenile" shall be entered in lieu of the license number on cards issued to juveniles.

(4) Immediately upon taking a steelhead trout over twenty inches in length, the holder of a steelhead fishing permit shall completely remove from the card one punch and shall enter on the corresponding space the date of the catch and the name of the water in which the fish was caught(;-) except in waters designated catch and release by the Department of Game, the steelhead punch card need not be punched if released.

(5) Every person possessing a steelhead fishing permit shall, by June 1, following the year of its issuance, return such card to any authorized license dealer or shall mail such permit card to the Department of Game.

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 Sections

WAC 232-21-101 Gold Prospecting.

WAC 232-28-803 1981 Mountain Goat, Sheep and Moose Hunting Seasons.

Reviser's Note: The text comprising the 1981 Mountain Goat, Sheep, and Moose Hunting Seasons and Gold Prospecting 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, Washington, 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.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 232-28-001	1977 MOUNTAIN GOAT, SHEEP AND MOOSE HUNTING SEASONS
WAC 232-28-100	1977 UPLAND MIGRATORY GAME BIRD SEASONS
WAC 232-28-200	1977 HUNTING SEASONS AND BAG LIMITS.
WAC 232-28-300	1977 GAME MANAGEMENT UNIT AND AREA LEGAL DESCRIPTIONS
WAC 232-28-400	1977 UPLAND GAME BIRD AND MIGRATORY WATERFOWL SEASONS

WAC 232-28-500 TRAPPING SEASONS AND REGULATIONS 1977-1978
 WAC 232-28-600 1978 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS
 WAC 232-21-100 GOLD PROSPECTING
 WAC 232-28-802 1980 MOUNTAIN GOAT, SHEEP AND MOOSE HUNTING SEASONS

WSR 81-05-032
PROPOSED RULES
COMMISSION FOR
VOCATIONAL EDUCATION
 [Filed February 18, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and 28B.05.050, that the Commission for Vocational Education, intends to adopt, amend, or repeal rules concerning WAC 490-600-030 Definitions and 490-600-071 Minimum cancellation and refund policy, of the rules promulgated pursuant to the Educational Services Registration Act, chapter 28B.05 RCW;

that such agency will at 9:30 a.m., Thursday, March 26, 1981, in the Educational Service District #113, 601 McPhee Road S.W., Olympia, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at approximately 10:00 a.m., Thursday, March 26, 1981, in the Educational Service District #113, 601 McPhee Road S.W., Olympia.

The authority under which these rules are proposed is RCW 28B.05.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to March 23, 1981, and/or orally at 9:30 a.m., Thursday, March 26, 1981, Educational Service District #113, 601 McPhee Road S.W., Olympia.

Dated: February 18, 1981

By: Homer J. Halverson
 Executive Director

STATEMENT OF PURPOSE

In accordance with the requirements of chapter 34.04 RCW, the Washington State Commission for Vocational Education submits the following general statement of the purpose and implementation of the proposed amendments to chapter 490-600 WAC.

Title: WAC 490-600-030 Definitions. WAC 490-600-071 Minimum cancellation and refund policy.

Authority: RCW 28B.05.050 (Educational Services Registration Act)

Purpose: To amend the rules promulgated pursuant to the Educational Services Registration Act.

Summary and Reasons Supporting Proposed Action: The proposed amendment adds definitions for "Residential school," "Registration fee," and "Seminars and workshops." The proposed amendment also rearranges WAC 490-600-071, Minimum Cancellation

and Refund Policy, so it is easier to follow and adds a refund policy for seminars and workshops.

Agency and Personnel Responsible: Henry L. Polis, Deputy Director, Commission for Vocational Education, Mail Stop LS-10, Olympia, 98504, Phone: 753-0891 (Scan 234-0891)

Action Proposed By: Commission for Vocational Education.

AMENDATORY SECTION (Amending Order 79-2, Resolution 79-38-2, Filed December 21, 1979)

WAC 490-600-030 DEFINITIONS. The definitions set forth in this section are intended to supplement the definitions contained in the act and shall apply throughout this rule, unless the context clearly indicates to the contrary.

(1) "Commission" shall mean the commission for vocational education.

(2) "Charitable institution, organization or agency" shall mean any public or private not-for-profit entity organized substantially to provide or promote services to the general public without charge or for nominal payment and which substantially relies on contributions from the general public, private organizations, the United States, or any state or political subdivision thereof for its operating expenses.

(3) "Institutional accreditation" shall mean certification by an accrediting agency or association that an educational institution as a whole is capable of achieving its educational objectives and of fulfilling its commitment to students.

(4) "Representatives of the public" means representatives who are laymen in the sense that they are not educators in, or members of the profession for which the students are being prepared, nor in any way are directly related to the institutions or programs being evaluated.

(5) "The act" means the Educational Services Registration Act (SSB 2434), chapter 188, Laws of 1979 first extraordinary session, 46th Legislative Session.

(6) "Commissioners" means the voting members of the commission of vocational education holding office pursuant to WAC 490-04A-020.

(7) "School director/manager" means the individual directly responsible for the educational management of a school; its courses, instruction, schedules, facilities, equipment, student services, records management, etc.

(8) "Registrant" means any private vocational school registered under the provision of the act.

(9) "Avocational or recreational" means instruction which clearly is not being offered for the purpose of providing the student with employable skills or with competencies that upon completion of the program, course or class would be customarily applied to gainful employment.

(10) "Supervisor" shall mean that staff person directly responsible for the staff, equipment, instruction, schedules, etc., of a vocational program area (DE, T&I, B&OE, etc.) or department of the institution.

(11) "Learning period" means the time needed to learn technical competencies of the occupation about which they will instruct. Such competency can be obtained through the completion of an appropriate college or technical school training program, apprenticeship training to journeyman level, or intensive on-the-job training of commensurate duration.

(12) "Ownership" of a school means: (a) In the case of a school owned by an individual, that individual; (b) in the case of a school owned by a partnership, all full, silent, and limited partners; (c) in the case of a school owned by a corporation, the corporation, its directors, officers, and each shareholder owning shares of issued and outstanding stock aggregating at least ten percent of the total of the issued and outstanding shares.

(13) "Gross tuition charges" shall mean for bonding purposes, all charges to the student which have been included in the enrollment agreement or contract, PROVIDED that the charges to defray costs to the institution for equipment and supplies actually used by the student for instructional purposes shall not be included.

(14) "Private vocational school" shall mean an educational institution providing training, the objective of which is to prepare persons to enter, continue in, or upgrade themselves in gainful employment in

recognized professions or occupations which do not require a baccalaureate or higher degree.

(15) "Correspondence and/or home study school" shall mean that the instructional format of the school involves the sequential mailing or distribution of lessons to the student, who studies the material, completes a lesson examination, and returns the examination to the school. The school then grades the lesson/examination (and in some instances provides additional comments and instruction), and returns the graded lesson to the student along with the next set of instructional materials.

(16) "Accrediting agency or association" shall mean an educational agency or association of regional or national scope which has adopted criteria reflecting the qualities of sound educational practices, and also provides peer evaluations of institutions to determine whether or not said institutions operate at basic levels of quality.

(17) "Residential school" shall mean in addition to the usual meeting of a permanent facility, the use of temporary facilities such as rented conference rooms or classrooms for instruction scheduled over a period of more than three calendar days.

(18) "Seminars and workshops" shall be inclusive of all educational services that are scheduled and concluded within a period not exceeding three calendar days.

(19) "Registration fee" shall be limited to those expenses incurred by an institution in processing applications and establishing a student record system. In respect to seminars and workshops, it may be inclusive of any identified charges for meals, refreshments or parking, but in no case shall it exceed a total of \$100.

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 80-3, filed 10/9/80)

WAC 490-600-071 MINIMUM CANCELLATION AND REFUND POLICY. The intent of the minimum cancellation and refund policy, is to see that each applicant/student is assured minimum conditions of refund, and that the school will be assured of its integrity if it meets these minima. Many schools, however, have more liberal practices and the commission encourages such practices.

The school must state its policy and schedule of refunds in clear language that can be easily understood. The policy must apply to all terminations, for any reason, by either party.

~~((1)) Enrollment agreements. The enrollment agreement form must clearly outline the obligations of both the school and the student, and provide details of the cancellation and refund policy of the school. A copy of the enrollment agreement and other data covering student costs must be furnished the applicant before any payment is made. No enrollment agreement is binding until it has been accepted in writing by an appropriate official at the school.~~

(1) General Application of Cancellation and Refund Policies

(a) Termination date

~~((2) Termination date.))~~ (i) Residential schools. The termination date for resident schools for refund computation purposes is the last date of actual attendance by the student. The school may require notice of cancellation or withdrawal to be given by certified mail provided this requirement is stated in the enrollment agreement. The school may require that notice be made by parent or guardian if the student is below legal age.

If a student fails, without written explanation to proper institutional authorities, to attend classes for a period of thirty days during which resident classes are in session, the institution shall officially terminate the student from the program or course of instruction, notify the student in writing that enrollment has been terminated effective the thirtieth calendar day, and shall refund tuition and fees according to its published refund policy.

(ii) Correspondence schools. The termination date for correspondence schools shall be based upon the last lesson completed by the student providing that the student notifies the institution of the desire to cancel within sixty days after submitting the last lesson.

(iii) Seminars and workshops. The termination date for seminars or workshops shall be based upon written notification from the student and received by the institution prior to the opening hour of the seminar or workshop.

(b) Extra expenses. Items of extra expense to the student, such as housing, board, instructional supplies or equipment, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other extra charges for which the student has contracted or paid in advance

need not be considered in tuition refund computations provided they are separately shown in the enrollment agreement, catalog, or in other published data furnished to the student before enrollment, and provided further that the student received the complete materials or services during the period the student was actually enrolled. When items of major extra expense are separately shown for this purpose the school must also state its policy for reasonable settlement of such charges in the event of early termination of the student and in no event shall the charges be more than the actual value of the materials or services used by the student.

(c) If promissory notes or contracts for tuition are sold or discounted to third parties, students or their financial sponsors must sign a statement authorizing such sales, and the school must comply with its cancellation and refund policy. Schools must notify all third parties of the cancellation and refund policy of the school.

(d) Institutions shall modify a student's contract and provide a pro rata refund to the student for any arbitrary and unilateral change by the institution that reduces contracted training time, which reduces course content, or other actions which adversely affect the training time or course content. The burden of proof that such changes did not adversely affect the student rests with the school if any dispute arises over a failure to apply such pro rata refund.

(e) A school year for resident schools is defined by the period of time that the required learning experiences are fully available to the student. The definition of a "school year" must be established by resident schools for refund computation purposes and be published in the school's catalog.

(i) For courses longer than one school year in length, the cancellation and refund policy shall apply to the stated course price attributable to each school year.

(ii) All of the stated course price attributable to the period beyond the first year will be refunded when the student terminates during the first year.

(iii) Percentage of course completion shall be computed on the basis of the amount of time in the course as expressed in clock, quarter, or semester hours or other academic periods as listed in the catalog.

(f) Upon cancellation, all money due the student shall be refunded within thirty days.

~~((3))~~ (2) Refund policy: Resident schools. Details of the ((school's)) educational institution's own definite and established refund policy for cancellations and terminations must, as a minimum, comply with the following requirements:

(a) Rejection. An applicant rejected by the school shall be entitled to a refund of all moneys paid, less any standard application fee, not to exceed twenty-five dollars.

(b) Three-day cancellation. All moneys paid by an applicant will be refunded if requested within three business days after signing an enrollment agreement and making an initial payment.

(c) Other cancellation. Any applicant subsequently requesting cancellation, but before entering school and starting the course, shall be entitled to a refund of all moneys paid minus a fee of ten percent of the contract price of the course, but in no event may the school retain more than one hundred dollars.

(d) Initial participation. For a student terminating training after entering school and starting the course of training but within the first week, or first 10 percent of the program, whichever is less, the tuition charges made by the school shall not exceed ten percent of the contract price of the course plus the registration fee not to exceed one hundred dollars, but in no event more than three hundred dollars.

(e) After first week or 10 percent of the program. For a student terminating training after completing one week, or 10 percent of the program, whichever is less, but within the first twenty-five percent of the course, the tuition charges made by the school shall not exceed twenty-five percent of the contract price of the course plus a registration fee not to exceed one hundred dollars.

(f) After twenty-five percent. For a student terminating training after completing twenty-five percent but less than fifty percent of the course, the tuition charges made by the school shall not exceed fifty percent of the contract price of the course plus the registration fee of not more than one hundred dollars, and thereafter,

(g) The institution may retain one hundred percent of the stated tuition plus the registration fee which may not exceed one hundred dollars.

(h) Special cases. In case of student prolonged illness or accident, death in the family, or other circumstances that make it impractical to complete the course, the school shall make a settlement which is reasonable and fair to both.

(3) Refund policy: Correspondence and/or home study schools. Details of the educational institution's own definite and established refund policy for cancellations and terminations must, as a minimum, comply with the following requirements.

(a) An enrollment may be canceled by an applicant student within three days from the day on which the enrollment agreement is signed. An applicant student requesting cancellation in whatever manner within this time shall be given a refund of all money paid to the school or its representatives.

(b) From three days after the day on which the enrollment agreement is signed and until the time the school receives the first completed lesson assignment from the student, upon cancellation, the school is entitled to the registration fee of either twenty-five dollars or fifteen percent of the tuition whichever is less.

(c) After receipt of the first completed lesson assignment, if the student requests cancellation, the school shall be entitled to a tuition charge which shall not exceed the following:

(i) Up to and including the first ten percent of the course, the registration fee plus ten percent of the tuition.

(ii) After completing ten percent of the course and up to and including the completion of twenty-five percent of the course, the registration fee plus twenty-five percent of the tuition.

(iii) After completing twenty-five percent of the course and up to and including completion of fifty percent of the course, the registration fee plus fifty percent of the tuition.

(iv) If the student completes more than half of the course, the full tuition. The amount of the course completed shall be the completed lesson assignments received for service by the school as compared to the total lesson assignments in the course.

(d) The amount of the course completed shall be the number of completed lesson assignments received by the institution as a percentage of the total lesson assignments in the course.

(e) The refund policy shall pertain to all charges with the exception of charges for materials that are not returned to the institution in their original condition within fifteen days of withdrawal or termination.

((*) Application of policy. A school year for resident schools is defined by the period of time that the required learning experiences are fully available to the student. The definition of a "school year" must be established by resident schools for refund computation purposes and be published in the school's catalog.

(a) For courses longer than one school year in length, the cancellation and refund policy shall apply to the stated course price attributable to each school year.

(b) All of the stated course price attributable to the period beyond the first year will be refunded when the student terminates during the first year.

(c) Percentage of course completion shall be computed on the basis of the amount of time in the course as expressed in clock, quarter, or semester hours or other academic periods as listed in the catalog.

(d) Any moneys due the applicant or student shall be refunded within thirty days after cancellation or termination:))

(4) Refund policy: Seminars and workshops. Details of the educational institution's own definite and established refund policy for cancellations and terminations must, as a minimum, comply with the following requirements:

(a) Rejection. An applicant rejected by the institution shall be entitled to a refund of all monies paid.

(b) Three-day cancellation. All moneys paid by an applicant in advance shall be refunded if written notification is received by the institution within three calendar days of initial payment and providing the notification is received at least five calendar days prior to the scheduled seminar or workshop.

(c) Other cancellation. An applicant requesting cancellation within five calendar days of the scheduled seminar or workshop but before the initial session shall be entitled to a refund of all monies paid minus a fee of 10% of the contract price plus any pre-identified charges for parking and/or meals, but in no event may the school retain more than one hundred dollars.

(d) The applicant shall not be entitled to any refund after the scheduled seminar or workshop has opened its initial session.

((5) Extra expenses. Items of extra expense to the student, such as housing, board, instructional supplies or equipment, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other extra charges for which the student has contracted or paid in advance need not be considered in tuition refund computations provided they are separately shown in the enrollment agreement, catalog, or in other

published data furnished to the student before enrollment, and provided further that the student received the complete materials or services during the period the student was actually enrolled. When items of major extra expense are separately shown for this purpose the school must also state its policy for reasonable settlement of such charges in the event of early termination of the student and in no event shall the charges be more than the actual value of the materials or services used by the student.

(6) If promissory notes or contracts for tuition are sold or discounted to third parties, students or their financial sponsors must sign a statement authorizing such sales, and the school must comply with its cancellation and refund policy. Schools must notify all third parties of the cancellation and refund policy of the school.

(7) Institutions shall modify a student's contract and provide a pro rata refund to the student for any arbitrary and unilateral change by the institution that reduces contracted training time, which reduces course content, or other actions which adversely affect the training time or course content. The burden of proof that such changes did not adversely affect the student rests with the school if any dispute arises over a failure to apply such pro rata refund.

(8) For correspondence and/or home study schools the following applies as minimum refund policies:

(a) An enrollment may be canceled by an applicant student within three days from the day on which the enrollment agreement is signed. An applicant student requesting cancellation in whatever manner within this time shall be given a refund of all money paid to the school or its representatives.

(b) From three days after the day on which the enrollment agreement is signed and until the time the school receives the first completed lesson assignment from the student, upon cancellation, the school is entitled to the registration fee of either twenty-five dollars or fifteen percent of the tuition up to one hundred dollars, whichever is less.

(c) After receipt of the first completed lesson assignment, if the student requests cancellation, the school shall be entitled to a tuition charge which shall not exceed the following:

(i) Up to and including the first ten percent of the course, the registration fee plus ten percent of the tuition.

(ii) After completing ten percent of the course and up to and including the completion of twenty-five percent of the course, the registration fee plus twenty-five percent of the tuition.

(iii) After completing twenty-five percent of the course and up to and including completion of fifty percent of the course, the registration fee plus fifty percent of the tuition.

(iv) If the student completes more than half of the course, the full tuition. The amount of the course completed shall be the completed lesson assignments received for service by the school as compared to the total lesson assignments in the course.

(d) Upon cancellation, all money due the student shall be refunded within thirty days:))

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

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

WSR 81-05-033
PROPOSED RULES
COMMISSION FOR
VOCATIONAL EDUCATION
[Filed February 18, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and 28C.04.060, that the Commission for Vocational Education, intends to amend rules concerning local program/craft advisory committees, amending WAC 490-36A-030;

that such agency will at 9:30 a.m., Thursday, March 26, 1981, in the Educational Service District #113, 601

McPhee Road S.W., Olympia, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at approximately 10:00 a.m., Thursday, March 26, 1981, in the Educational Service District #113, 601 McPhee Road S.W., Olympia.

The authority under which these rules are proposed is RCW 28C.04.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to March 23, 1981, and/or orally at 9:30 a.m., Thursday, March 26, 1981, Educational Service District #113, 601 McPhee Road S.W., Olympia.

Dated: February 18, 1981

By: Homer J. Halverson
Executive Director

STATEMENT OF PURPOSE

In accordance with the requirements of chapter 34.04 RCW, the Washington State Commission for Vocational Education submits the following general description of the purpose and implementation of the proposed amendments to WAC 490-36A-030, Local Program/Craft Advisory Committees:

Title: WAC 490-36A-030, Local Program/Craft Advisory Committees.

Authority: RCW 28C.04.060.

Purpose: To amend the conditions for approval of local educational agency programs. Summary and Reasons Supporting Proposed Action: Primary amendment is additional language that will require a favorable written endorsement from the local program/craft advisory committee for all applications for new or expanded programs. The endorsement shall include evidence, in the form of a listing, of advisory committee knowledge of all like programs offered within the service area by any other public or private agency or school. The amendment will assure that all like programs have been reviewed to avoid unnecessary duplication. Other minor editorial amendments are also being proposed.

Agency and Personnel Responsible: Henry L. Polis, Deputy Director, Commission for Vocational Education, Mail Stop LS-10, Olympia 98504, Phone: 753-0891 (Scan 234-0891).

Action Proposed By: Commission for Vocational Education.

AMENDATORY SECTION (Amending Order 79-1, Resolution 78-32-3, filed 1/16/79)

WAC 490-36A-030 LOCAL PROGRAM/CRAFT ADVISORY COMMITTEES. (1) Each eligible recipient shall provide documentation that a program or craft advisory committee has been empanelled for each craft or program area, including disadvantaged and handicapped, at the most specific occupational level appropriate to the identified skill level for which training is given, except that where evidence is presented with the application for approval that a general advisory committee is more appropriate, such a committee will be allowable.

Each eligible recipient shall also provide evidence that a bona fide effort is being made to assure the effective functioning of each committee. Evidence of the empanelling could include:

- (a) Written documentation of appointments;
- (b) Written documentation of acceptance by the appointees;
- (c) Other types of verification.

(2) Evidence of a bona fide effort being made could be reflected in meeting minutes, which indicate:

- (a) That an adequate number of meetings were held to assure that the input provided a positive effect on the program;
- (b) That adequate prior notification of meeting dates and times have been given;
- (c) That meetings have been scheduled on dates and at times to assure maximum employer and employee attendance; and
- (d) Other corroboration of intent.

(3) The local program/craft advisory committee will have equal representation of employers and employees engaged in the occupation for which training is given.

(4) All applications for new or expanded program implementation shall include a favorable written endorsement from the local program/craft advisory committee. The endorsement shall include evidence, in the form of a listing, of advisory committee knowledge of all like programs offered within the service area by any other public or private agency or school.

(5) For programs preparing students for entry into, or upgrading in, apprenticeable trades, the applicable Joint Apprenticeship Training Committee (JATC) shall be invited to be represented equally with one or more employer and employee members or designees. Where satisfactory evidence is furnished indicating that JATC members or designees are unavailable, a committee may be empanelled composed of persons who are familiar with the occupation and geographic area served by the particular program.

~~((5))~~ (6) The responsibility for empanelling members of the local advisory committees is exclusively that of the local eligible recipient.

~~((6))~~ (7) The general responsibility of a local program/craft advisory committee is to act in an advisory capacity without administrative or supervisory responsibility. Since a local program/craft advisory committee, to be effective, must provide advice in the planning, development and evaluation of vocational programs, the activities outlined below are not to be considered all inclusive of the activities said committee may perform to assist the vocational educator and/or local eligible recipient.

~~((7))~~ (8) Specific activities in which the program/craft advisory committee can be involved are:

- (a) Advise on current job needs;

(b) Evaluate the relevance of programs being offered by the eligible recipient in meeting current job needs in the occupational area for which the advisory committee was organized;

(c) Recommend program startup, continuance, discontinuance and enrollment level, that generally conforms with statewide job opportunities forecasts, unless available data indicates a variance is called for due to changes in the economy. For example, the committee can assist the vocational educator to: Make community surveys; determine and verify need for training; review past accomplishments and forecast trends; counsel and guide students in relation to the world of work; provide accurate occupational information;

(d) Make recommendations that will assure the curriculum content is consistent with current skills and knowledge of the occupations. For example, the committee can assist the vocational educator: To evaluate the programs; to plan facilities and establish standards for shop and lab planning; to establish standards for selecting equipment and instructional materials; to recognize new technical developments which require changes in the curriculum; by offering guidance and support in technical matters; to select production work to be used as instructional vehicles for accomplishing course objectives; to determine criteria for evaluating student performance; and to develop cooperative work experience programs for students;

(e) Make recommendations to assure that the instructors are experienced and knowledgeable in the occupation. For example, the committee can assist the vocational educator to: Encourage teacher training of recruits from industry; determine criteria for selecting instructors; recommend and/or recruit qualified instructors;

(f) Assist the vocational educator: By providing tangible evidence that industry is supporting the program; by providing financial, legislative and moral support; by interpreting the program to the community, to unions, to employers; by securing donations of equipment and

supplies; by finding placement opportunities for students; and by placing an emphasis on providing recruitment and placement opportunities to both sexes in programs considered nontraditional in nature.

((#)) (9) If a bona fide member of an advisory committee is in disagreement with the decision of the appointing eligible recipients to the startup, continuance or discontinuance of a program about which ((she/he)) the member has been appointed to give advice, said member may achieve recourse by taking the following action:

(a) Presenting ((her/his)) arguments and evidence to the local administration according to the procedures established by the local agency;

(b) If satisfactory resolution of the disagreement has not taken place within ten days of the receipt of the communication by the local administration, the ((complainant)) complainant may present ((his/her)) arguments to the state agency having jurisdiction over the operation of the program, according to procedures established by that agency, with copies to CVE and other affected agencies.

(c) If satisfactory resolution is again not achieved within twenty days of the receipt of the information by the parent agency, the ((complainant)) complainant may present ((her/his)) arguments and evidence, orally and in writing, to the commission.

(d) The commission will determine whether a hearing will be held before it, or whether a formal adjudication proceeding is required.

WSR 81-05-034
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed February 18, 1981]

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 San Juan County, amending WAC 173-19-360;

that such agency will at 2:00 p.m., Tuesday, March 24, 1981, in the Hearings Room, Department of Ecology, Air and Land Offices, Rowsix, 4224 Sixth Avenue S.E., Lacey, WA, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 2:00 p.m., Thursday, April 9, 1981, in the Hearings Room, Department of Ecology, Air and Land Offices, Rowsix, 4224 Sixth Avenue S.E., Lacey, WA.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 3, 1981, and/or orally at the hearing as shown above.

Dated: February 18, 1981

By: Donald W. Moos
 Director

STATEMENT OF PURPOSE

Title: Amending WAC 173-19-360 San Juan County.

Description of purpose: Adoption of revised shoreline master program into the state master program, chapter 173-19 WAC.

Statutory authority: RCW 90.58.120 and 90.58.200.

Summary of rule: The amendment adopts revisions to the shoreline master program for San Juan County.

Reasons supporting proposed action: Shoreline master programs and revisions thereto are developed by local government and submitted to the Department of Ecology for approval. The programs do not become effective until adopted by the department in accordance with the Administrative Procedure Act.

Agency personnel responsible for the drafting, implementation and enforcement: Susan Wenke, Department of Ecology, Mail Stop PV-11, Olympia, WA 98504, 753-4388.

Person or organization proposing rule, and whether public, private, or governmental: Department of Ecology - state government.

Agency comments or recommendations regarding statutory language, implementation, enforcement, fiscal matters: None.

Whether rule is necessary as a result of federal law or federal or state court action: No.

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/31/80)

WAC 173-19-360 SAN JUAN COUNTY. San Juan County master program approved May 28, 1976. Revision approved October 29, 1976. Revision approved April 9, 1981.

WSR 81-05-035
PROPOSED RULES
DEPARTMENT OF LICENSING
(Cosmetology Examining Committee)
 [Filed February 18, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Director, Department of Licensing, intends to adopt, amend, or repeal rules concerning the adoption of WAC 308-24-382 Examination for licensing and 308-24-384 Scope of examinations and repealing WAC 308-24-380 Examination for licensing;

that such agency will at 9:00 a.m., Monday, April 6, 1981, in the Third Floor Conference Room, Highways-Licenses Building, 12th and Franklin, 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., Monday, April 6, 1981, in the Third Floor Conference Room, Highways-Licenses Building, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 18.18.020.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to March 30, 1981, and/or orally at 9:00 a.m., Monday, April 6, 1981, Third Floor Conference Room, Highways-Licenses Building, 12th and Franklin, Olympia, Washington.

Dated: February 18, 1981

By: Deloris E. Spice
 Executive Secretary

STATEMENT OF PURPOSE

Agency: Department of Licensing.

Purpose: To readopt regulations concerning the conduct and scope of the cosmetology examination, deleting any reference to specific cosmetology textbooks.

Statutory Authority: These rules are adopted pursuant to RCW 18.18.020.

Reason Action Is Proposed: These rules are being filed to permit more flexibility in the selection of cosmetology textbooks and to separate the examination regulations into more manageable sections.

Rule Summary: WAC 308-24-382 Examination for licensing and 308-24-384 Scope of examinations.

Responsible Departmental Personnel: In addition to the Director, the following agency personnel have knowledge and responsibility for drafting, implementing and enforcing this rule: Dee Spice, Executive Secretary, Business and Professions Administration, Third Floor, Highways-Licenses Building, Olympia, Washington 98504, 234-3834 (Scan) and 753-3834 (Comm).

Proponents: These rules were proposed by the Department of Licensing.

NEW SECTION

WAC 308-24-382 EXAMINATION FOR LICENSING. (1) All applicants must at their scheduled time for examination, present the admittance card or letter previously sent to them by the Division of Professional Licensing. Applicants must appear for the practical portion of the examination in washable, professional uniforms of one of the following types:

- (a) A white uniform dress, or
- (b) A white tunic or jacket and a white or dark colored skirt, or
- (c) A white tunic or jacket and white or dark colored slacks or pants.

(2) Applicants for cosmetology operator or manicurist examination, who submitted their application prior to the completion of the minimum hours of instruction, must at the time of examination present written certification that they have completed the minimum curriculum and training as prescribed by chapter 18.18 RCW and chapter 308-24 WAC.

(3) It is the applicant's responsibility to furnish or procure the individual supplies and equipment required for the practical examination. Also, it is the sole responsibility of the cosmetology operator or manicurist applicant to provide a suitable model upon which the applicant will be required to demonstrate certain skills or techniques during the practical examination phase. These models must meet the following requirements:

- (a) Be at least 15 years of age;
- (b) The model's hair must be clean and of sufficient length that a minimum of one inch may be removed by cutting and with sufficient hair remaining so that examinee may perform the services or functions as set forth in WAC 308-24-380 (5)(a).

The model's fingernails must have not less than one-eighth inch of free edge. Free edge is defined as the end portion of the nail plate extending over the fingertip.

(d) The model must be free from any infectious or contagious disease of the head, scalp, hair, face, neck, hands or nails such as acne, tinea or herpes simplex. The examining committee reserves the right to disqualify any model who, in their opinion, may be a carrier of an infectious or contagious disease.

NOTE: Applicants are prohibited from using any person who is: A registered cosmetology or manicuring student; licensed in any branch of cosmetology; or a cosmetology school owner. Additionally, because of limitation of physical space or facilities, an applicant may only use

one individual to serve as the model for all phases of the practical examination for which the applicant is scheduled.

NEW SECTION

WAC 308-24-384 SCOPE OF EXAMINATIONS. (1) Written examinations:

(a) Cosmetology operator — The written portion of this examination will include questions relating to the following branches of hair-dressing and cosmetology:

- (i) Hairstyling and shampooing;
- (ii) Hair coloring and bleaching;
- (iii) Permanent waving and chemical hair relaxing;
- (iv) Hair shaping;
- (v) Scalp and hair treatments;
- (vi) Manicuring;
- (vii) Facials, makeup and theory of massage;
- (viii) Anatomy and physiology;
- (ix) Hygiene, sanitation and sterilization;

(x) Salon management, state cosmetology laws and regulations, professional ethics and other practices of cosmetology.

(b) Manicurist — The written portion of this examination will include questions relating to the following branches of manicuring:

- (i) Manicuring as defined in RCW 18.18.010(5);
- (ii) Hygiene, sanitation and sterilization;
- (iii) Anatomy and physiology;

(iv) Salon management, state cosmetology law and regulations, ethics and other practices of manicuring.

(c) Cosmetology instructor operator — The written portion of this examination will include questions relating to educational psychology, instructional planning, training aids, testing and student evaluation.

(2) Practical examinations:

(a) Cosmetology operator — The practical portion of this examination may include an actual demonstration of or in the following functions or branches:

- (i) Facials;
- (ii) Scalp treatments;
- (iii) Haircuts (razor, scissor dry or scissor wet);
- (iv) Shampooing;
- (v) Hair coloring and bleaching;
- (vi) Fingerwaves;
- (vii) Permanent waving;
- (viii) Chemical straightening;
- (ix) Thermal curling or waving;
- (x) Hairstyling;
- (xi) Manicuring.

(b) Manicurist — The practice portion of this examination may include an actual demonstration of or in the following functions or branches:

- (i) Manicuring;
- (ii) Pedicuring;
- (iii) Facial treatments including makeup;
- (iv) Arches/Lash/Brow treatments.

(c) Cosmetology instructor operator — The practical portion of this examination will be graded based upon applicant's demonstration of teaching skills and the lesson plans submitted as directed by the examining committee.

(3) The examination shall consist of written and oral questions and answers and practical tests. Passing grades shall be based on the standard on one hundred percent. An applicant who receives a passing grade of not less than seventy-five percent in all branches, shall be entitled to a license. Those applicants who do not obtain a score of seventy-five percent in all branches of the examination will fail the examination.

(4) Any applicant for cosmetology or manicuring license having failed the examination may apply for reexamination at the next scheduled examination upon payment of reexamination fee. Such applicants will be reexamined in those branches failed. However, if the applicant again fails to successfully pass the examination, he or she may be required to return to an approved cosmetology school for additional instruction, as determined by the committee, before he may be reexamined in those branches. Any applicant who fails to obtain the additional training to be reexamined and be licensed within three years following original examination date, shall be required to take the entire licensing examination.

(5) The examining committee recognizes that there are many textbooks offering instruction in the theory and practice of cosmetology

and does not intend to endorse any one textbook or to limit the textbooks any licenses school may use to instruct its students. Therefore, in the event a dispute arises over the answer to the test question, the committee will rely on the majority of information found in the most widely used textbooks in the schools as the authority in determining which answers may be credited as correct or incorrect.

REPEALER

The following section of the Washington Administrative Code is hereby repealed:

WAC 308-24-380 EXAMINATION FOR LICENSING.

WSR 81-05-036
PROPOSED RULES
DEPARTMENT OF FISHERIES
[Filed February 18, 1981]

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

that such agency will at 1:00 p.m., Tuesday, March 24, 1981, in the Bishop Center, Grays Harbor College, Aberdeen, Washington, and at 1:00 p.m., Wednesday, March 25, 1981, in Conference Room H, Seattle Center, Seattle, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 2:00 p.m., Thursday, April 2, 1981, in the Washington Department of Fisheries Conference Room, 115 General Administration Building, Olympia, WA.

The authority under which these rules are proposed is RCW 75.08.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to March 24, 1981, and/or orally at 1:00 p.m., Tuesday, March 24, 1981, Bishop Center, Grays Harbor College, Aberdeen, Washington.

Dated: February 18, 1981

By: Rolland A. Schmitt
Director

STATEMENT OF PURPOSE

Title: WAC 220-95-010 Application to sell—Qualification, WAC 220-95-012 Marginal production and WAC 220-95-017 Bonus payments.

Description: Modifies Gear Reduction Program Rules to comply with federal guidelines.

Statutory Authority: RCW 75.28.530.

Summary of rule: Requires documentation of catch records to prove eligibility for gear reduction program, provides for bonus payments to secure early retirement, narrows eligibility to prevent misuse of funds.

Reasons supporting proposed action: These rules are necessary to obtain funding available through the Salmon Enhancement Act.

Agency personnel responsible for:

Drafting: Suzanne Shaw, Room 115, General Administration Building, Phone: 754-2429.

Implementation: Mary Jelvik, Room 115, General Administration Building, Phone: 753-6571.

Enforcement: R. Hachtel, Room 115, General Administration Building, Phone: 753-6585.

Person or organization proposing rule: Washington Department of Fisheries.

Agency comments: None.

This rule results from the Federal Salmon Enhancement Act.

AMENDATORY SECTION (Amending Order 79-111, filed 10/18/79)

WAC 220-95-010 APPLICATION TO SELL—QUALIFICATION. (1) All persons desiring to offer to sell qualified commercial salmon fishing vessels, equipment, gear, nets, and/or licenses and permits to the Washington State Department of Fisheries gear reduction program ((~~shall~~)) must complete, and submit, a notarized Application for Survey of Commercial Salmon Fishing Vessel on a form supplied by the department. Said application ((~~shall~~)) must be submitted to the program's manager and ((~~shall~~)) contain at least the following information in full:

(a) Applicant's name, address, phone number, and date of birth.

(b) Description of the vessel, equipment, gear and of the title to same.

(c) Description of all current appropriate Washington commercial fishing licenses and delivery permits issued to the applicant and to the vessel.

(d) List of all claims against the vessel.

(e) Description of the vessel's insurance coverage.

(2) (a) No vessel may be offered for sale to, or purchased by, the department unless it is currently licensed to fish or deliver fish within Washington and unless the vessel is qualified pursuant to the terms of RCW 75.28.455 and 75.28.510.

(b) The gear reduction program will make purchases of vessels, gear and licenses only from the individual or company who was the vessel's owner of record on December 22, 1980. Eligibility will be established using Department of Fisheries license records. Any person contesting ineligibility must document that they were the vessel owner on December 22, 1980, contrary to department records.

(3) Any individual or company applying to participate in the program ((on more than one occasion shall be placed at the bottom of any priority listing utilized by the gear reduction program)) may sell no more than one vessel to the program until all applicants have had an opportunity to participate.

(4) Any fisherman who has sold a vessel and license to the program and accepted program retraining benefits is ineligible for further participation.

(5) In order to prevent misuse of program funds, any person who has sold a vessel and/or license to the program is eligible to sell only those vessels and/or licenses owned at the time of the previous sale.

NEW SECTION

WAC 220-95-012 MARGINAL PRODUCTION. (1) In order to sell license, gear and vessel to the program, a commercial salmon fisherman must document a cumulative average catch in the top 95 percent of their respective fleet's average annual production during the base period 1973-1977. Fishermen landing catches below this level will be eligible to sell only licenses to the program.

(2) In order to sell license, gear and vessel to the program, a salmon charter license holder must demonstrate, in the form of income tax records, a level of income derived from charter fishing generated by the license for sale of at least \$4,000 in Washington State in any one of the years 1978, 1979, and 1980. Salmon license holders with an income of less than \$4,000 for 1978, 1979, or 1980 are eligible to sell only licenses to the program.

NEW SECTION

WAC 220-95-017 BONUS PAYMENTS. The department may pay bonus dollar amounts, in addition to fair market value, to an individual or company selling vessels and licenses to the program, in order to secure the early retirement of an individual from all Washington salmon fisheries.

Table of WAC Sections Affected

Key to Table

Symbols:

- AMD = Amendment of existing section
- NEW = New section not previously codified
- REP = Repeal of existing section
- AM/DE = Amendment and Decodification of existing section
- RECOD = Recodification of previously codified section

Suffixes:

- P = Proposed action
- E = Emergency action
- W = Withdrawal of proposed action
- No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
16-86-095	REP-E 81-04-025	98-16-010	NEW-P 81-02-055	132B-12-087	REP-P 81-04-005
16-231-020	AMD-P 81-02-047	98-16-020	NEW-P 81-02-055	132B-12-090	REP-P 81-04-005
16-231-020	AMD-W 81-03-067	98-16-030	NEW-P 81-02-055	132B-12-093	REP-P 81-04-005
16-231-020	AMD-P 81-03-070	98-20-010	NEW-P 81-02-055	132B-12-096	REP-P 81-04-005
16-231-025	AMD-P 81-02-047	106-116-042	AMD-P 81-04-050	132B-12-099	REP-P 81-04-005
16-231-025	AMD-W 81-03-067	106-116-050	AMD-P 81-04-050	132B-12-102	REP-P 81-04-005
16-231-025	AMD-P 81-03-070	106-116-102	AMD-P 81-04-050	132B-12-105	REP-P 81-04-005
16-231-115	AMD-P 81-02-045	106-116-201	AMD-P 81-04-050	132B-12-108	REP-P 81-04-005
16-231-115	AMD-W 81-03-065	106-116-204	AMD-P 81-04-050	132B-12-111	REP-P 81-04-005
16-231-115	AMD-P 81-03-068	106-116-205	AMD-P 81-04-050	132B-12-114	REP-P 81-04-005
16-231-120	AMD-P 81-02-045	106-116-304	AMD-P 81-04-050	132B-12-117	REP-P 81-04-005
16-231-120	AMD-W 81-03-065	106-116-305	AMD-P 81-04-050	132B-12-120	REP-P 81-04-005
16-231-120	AMD-P 81-03-068	106-116-306	AMD-P 81-04-050	132B-12-123	REP-P 81-04-005
16-231-125	AMD-P 81-02-045	106-116-403	AMD-P 81-04-050	132B-12-126	REP-P 81-04-005
16-231-125	AMD-W 81-03-065	106-116-513	AMD-P 81-04-050	132B-12-129	REP-P 81-04-005
16-231-125	AMD-P 81-03-068	106-116-514	AMD-P 81-04-050	132B-12-132	REP-P 81-04-005
16-231-130	AMD-P 81-02-045	106-116-515	AMD-P 81-04-050	132B-12-135	REP-P 81-04-005
16-231-130	AMD-W 81-03-065	106-116-521	AMD-P 81-04-050	132B-12-138	REP-P 81-04-005
16-231-130	AMD-P 81-03-068	106-116-603	AMD-P 81-04-050	132B-12-141	REP-P 81-04-005
16-232-010	AMD-P 81-02-046	106-116-901	AMD-P 81-04-050	132B-12-144	REP-P 81-04-005
16-232-010	AMD-W 81-03-066	113-12-200	NEW-P 81-04-020	132B-12-147	REP-P 81-04-005
16-232-010	AMD-P 81-03-069	114-12-010	REP 81-05-004	132B-12-150	REP-P 81-04-005
16-232-025	AMD-P 81-02-046	114-12-011	NEW 81-05-004	132B-12-153	REP-P 81-04-005
16-232-025	AMD-W 81-03-066	114-12-020	REP 81-05-004	132B-12-156	REP-P 81-04-005
16-232-025	AMD-P 81-03-069	114-12-021	NEW 81-05-004	132B-12-159	REP-P 81-04-005
16-608-001	NEW 81-05-010	114-12-030	REP 81-05-004	132B-12-162	REP-P 81-04-005
16-608-010	NEW 81-05-010	114-12-031	NEW 81-05-004	132B-12-165	REP-P 81-04-005
16-608-020	NEW 81-05-010	114-12-040	REP 81-05-004	132B-12-168	REP-P 81-04-005
16-750-010	AMD-P 81-02-041	114-12-041	NEW 81-05-004	132B-12-171	REP-P 81-04-005
34-02-010	NEW-P 81-04-068	132B-12-003	REP-P 81-04-005	132B-12-174	REP-P 81-04-005
34-02-020	NEW-P 81-04-068	132B-12-006	REP-P 81-04-005	132B-12-177	REP-P 81-04-005
34-02-030	NEW-P 81-04-068	132B-12-009	REP-P 81-04-005	132B-12-180	REP-P 81-04-005
34-04-010	NEW-P 81-04-068	132B-12-012	REP-P 81-04-005	132B-12-183	REP-P 81-04-005
34-04-020	NEW-P 81-04-068	132B-12-015	REP-P 81-04-005	132B-12-186	REP-P 81-04-005
34-04-030	NEW-P 81-04-068	132B-12-018	REP-P 81-04-005	132B-12-189	REP-P 81-04-005
34-04-040	NEW-P 81-04-068	132B-12-021	REP-P 81-04-005	132B-12-192	REP-P 81-04-005
34-04-050	NEW-P 81-04-068	132B-12-024	REP-P 81-04-005	132B-12-195	REP-P 81-04-005
34-04-060	NEW-P 81-04-068	132B-12-027	REP-P 81-04-005	132B-12-198	REP-P 81-04-005
34-04-070	NEW-P 81-04-068	132B-12-030	REP-P 81-04-005	132B-12-201	REP-P 81-04-005
34-04-080	NEW-P 81-04-068	132B-12-033	REP-P 81-04-005	132B-12-204	REP-P 81-04-005
34-04-090	NEW-P 81-04-068	132B-12-036	REP-P 81-04-005	132B-12-207	REP-P 81-04-005
34-04-100	NEW-P 81-04-068	132B-12-039	REP-P 81-04-005	132B-12-210	REP-P 81-04-005
34-04-110	NEW-P 81-04-068	132B-12-042	REP-P 81-04-005	132B-12-213	REP-P 81-04-005
34-04-120	NEW-P 81-04-068	132B-12-045	REP-P 81-04-005	132B-12-216	REP-P 81-04-005
34-06-010	NEW-P 81-04-068	132B-12-048	REP-P 81-04-005	132B-12-219	REP-P 81-04-005
36-12-110	AMD 81-05-005	132B-12-051	REP-P 81-04-005	132B-12-222	REP-P 81-04-005
36-12-190	AMD 81-05-005	132B-12-054	REP-P 81-04-005	132B-12-225	REP-P 81-04-005
36-12-200	AMD 81-05-005	132B-12-057	REP-P 81-04-005	132B-12-228	REP-P 81-04-005
36-12-250	AMD 81-05-005	132B-12-060	REP-P 81-04-005	132B-12-231	REP-P 81-04-005
36-12-260	AMD 81-05-005	132B-12-063	REP-P 81-04-005	132B-12-234	REP-P 81-04-005
36-12-270	AMD 81-05-005	132B-12-066	REP-P 81-04-005	132B-12-237	REP-P 81-04-005
36-12-480	AMD 81-05-005	132B-12-069	REP-P 81-04-005	132B-12-240	REP-P 81-04-005
67-32-150	AMD-P 81-03-049	132B-12-072	REP-P 81-04-005	132B-12-243	REP-P 81-04-005
67-32-180	AMD 81-03-048	132B-12-075	REP-P 81-04-005	132B-12-246	REP-P 81-04-005
67-32-310	AMD-P 81-03-049	132B-12-078	REP-P 81-04-005	132B-12-249	REP-P 81-04-005
67-32-910	AMD-P 81-03-049	132B-12-081	REP-P 81-04-005	132B-12-252	REP-P 81-04-005
98-12-020	NEW-P 81-02-055	132B-12-084	REP-P 81-04-005	132B-12-255	REP-P 81-04-005

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
132B-12-258	REP-P	81-04-005	132M-136-070	AMD-W	81-04-026
132B-12-261	REP-P	81-04-005	132M-136-075	NEW-W	81-04-026
132B-12-264	REP-P	81-04-005	132M-136-090	AMD-W	81-04-026
132B-12-267	REP-P	81-04-005	132M-140-020	REP-W	81-04-026
132B-12-270	REP-P	81-04-005	132M-150-003	REP-W	81-04-026
132B-12-273	REP-P	81-04-005	132M-150-006	REP-W	81-04-026
132B-12-276	REP-P	81-04-005	132M-150-009	REP-W	81-04-026
132B-12-279	REP-P	81-04-005	132M-150-012	REP-W	81-04-026
132B-12-282	REP-P	81-04-005	132M-150-015	REP-W	81-04-026
132B-12-285	REP-P	81-04-005	132M-150-018	REP-W	81-04-026
132B-12-288	REP-P	81-04-005	132M-150-021	REP-W	81-04-026
132B-12-291	REP-P	81-04-005	132M-150-024	REP-W	81-04-026
132B-12-294	REP-P	81-04-005	132M-150-027	REP-W	81-04-026
132B-12-297	REP-P	81-04-005	132M-150-030	REP-W	81-04-026
132B-12-300	REP-P	81-04-005	132M-150-033	REP-W	81-04-026
132B-12-303	REP-P	81-04-005	132M-150-036	REP-W	81-04-026
132B-12-306	REP-P	81-04-005	132M-150-039	REP-W	81-04-026
132B-12-309	REP-P	81-04-005	132M-150-042	REP-W	81-04-026
132B-12-312	REP-P	81-04-005	132M-150-045	REP-W	81-04-026
132B-12-315	REP-P	81-04-005	132M-150-048	REP-W	81-04-026
132B-12-318	REP-P	81-04-005	132M-150-051	REP-W	81-04-026
132B-12-321	REP-P	81-04-005	132M-150-054	REP-W	81-04-026
132B-12-324	REP-P	81-04-005	132M-150-057	REP-W	81-04-026
132B-12-327	REP-P	81-04-005	132M-150-060	REP-W	81-04-026
132B-12-330	REP-P	81-04-005	132M-150-063	REP-W	81-04-026
132B-12-333	REP-P	81-04-005	132M-160-015	NEW-W	81-04-026
132B-12-336	REP-P	81-04-005	132M-160-020	REP-W	81-04-026
132B-12-339	REP-P	81-04-005	132M-160-030	REP-W	81-04-026
132B-12-342	REP-P	81-04-005	132M-160-040	NEW-W	81-04-026
132B-12-345	REP-P	81-04-005	132M-168-010	REP-W	81-04-026
132B-12-348	REP-P	81-04-005	132M-168-020	REP-W	81-04-026
132B-12-351	REP-P	81-04-005	132M-168-030	REP-W	81-04-026
132B-12-354	REP-P	81-04-005	132M-168-040	REP-W	81-04-026
132B-12-357	REP-P	81-04-005	132M-168-050	REP-W	81-04-026
132B-12-360	REP-P	81-04-005	132V-22-010	AMD-E	81-03-047
132B-12-363	REP-P	81-04-005	132V-22-010	AMD-P	81-03-061
132B-128-020	AMD-P	81-04-005	132V-22-020	AMD-E	81-03-047
132B-276-040	AMD-P	81-04-005	132V-22-020	AMD-P	81-03-061
132H-220-200	AMD-P	81-03-077	132V-22-030	AMD-E	81-03-047
132K-20-070	AMD-P	81-03-023	132V-22-030	AMD-P	81-03-061
132K-112-200	REP-P	81-03-022	132V-22-040	AMD-E	81-03-047
132L-26-030	AMD	81-03-036	132V-22-040	AMD-P	81-03-061
132L-26-035	AMD	81-03-036	132V-22-050	AMD-E	81-03-047
132L-26-050	AMD	81-03-036	132V-22-050	AMD-P	81-03-061
132L-112-200	AMD	81-03-037	132V-22-060	AMD-E	81-03-047
132L-112-210	AMD	81-03-037	132V-22-060	AMD-P	81-03-061
132L-112-280	AMD	81-03-037	132V-22-100	AMD-E	81-03-047
132M-104-010	AMD-W	81-04-026	132V-22-100	AMD-P	81-03-061
132M-112-010	NEW-W	81-04-026	132V-22-200	AMD-E	81-03-047
132M-112-011	NEW-W	81-04-026	132V-22-200	AMD-P	81-03-061
132M-113-010	NEW-W	81-04-026	139-24-010	REP	81-04-014
132M-113-015	NEW-W	81-04-026	143-06-010	AMD-P	81-03-034
132M-113-020	NEW-W	81-04-026	143-06-020	AMD-P	81-03-034
132M-113-025	NEW-W	81-04-026	143-06-030	AMD-P	81-03-034
132M-113-030	NEW-W	81-04-026	143-06-040	AMD-P	81-03-034
132M-113-035	NEW-W	81-04-026	143-06-050	AMD-P	81-03-034
132M-113-040	NEW-W	81-04-026	143-06-060	AMD-P	81-03-034
132M-113-045	NEW-W	81-04-026	143-06-070	AMD-P	81-03-034
132M-113-050	NEW-W	81-04-026	143-06-080	AMD-P	81-03-034
132M-115-010	NEW-W	81-04-026	143-06-090	AMD-P	81-03-034
132M-115-020	NEW-W	81-04-026	143-06-100	AMD-P	81-03-034
132M-115-030	NEW-W	81-04-026	143-06-110	AMD-P	81-03-034
132M-115-040	NEW-W	81-04-026	143-06-120	AMD-P	81-03-034
132M-116-010	AMD-W	81-04-026	143-06-130	AMD-P	81-03-034
132M-120-060	AMD-W	81-04-026	143-06-140	AMD-P	81-03-034
132M-120-070	AMD-W	81-04-026	143-06-150	AMD-P	81-03-034
132M-120-075	NEW-W	81-04-026	143-06-990	AMD-P	81-03-034
132M-120-090	AMD-W	81-04-026	172-114-010	AMD	81-03-012
132M-136-010	REP-W	81-04-026	172-114-020	AMD	81-03-012
132M-136-020	AMD-W	81-04-026	172-114-030	AMD	81-03-012
132M-136-030	AMD-W	81-04-026	172-114-040	AMD	81-03-012
132M-136-040	REP-W	81-04-026	172-114-050	AMD	81-03-012
132M-136-050	AMD-W	81-04-026	172-114-060	AMD	81-03-012
132M-136-060	AMD-W	81-04-026	172-114-070	AMD	81-03-012
172-114-080	AMD	81-03-012			
172-114-090	AMD	81-03-012			
172-114-100	REP	81-03-012			
172-114-110	REP	81-03-012			
173-14-140	AMD	81-04-027			
173-14-150	AMD	81-04-027			
173-14-155	NEW	81-04-027			
173-14-180	AMD	81-04-027			
173-14-190	REP	81-04-027			
173-19-210	AMD-W	81-04-065			
173-19-2521	AMD-P	81-02-050			
173-19-3514	AMD-P	81-03-080			
173-19-360	AMD-P	81-05-034			
173-19-400	AMD-P	81-02-050			
173-19-470	AMD-P	81-02-051			
173-164-050	AMD-P	81-04-067			
173-400-110	AMD	81-03-003			
173-490-020	AMD	81-03-003			
173-490-040	AMD	81-03-003			
173-490-203	AMD	81-03-003			
173-511-010	NEW	81-04-028			
173-511-020	NEW	81-04-028			
173-511-030	NEW	81-04-028			
173-511-040	NEW	81-04-028			
173-511-050	NEW	81-04-028			
173-511-060	NEW	81-04-028			
173-511-070	NEW	81-04-028			
173-511-080	NEW	81-04-028			
173-511-090	NEW	81-04-028			
173-511-100	NEW	81-04-028			
180-16-220	AMD-P	81-04-046			
180-55-005	NEW-P	81-04-044			
180-55-010	NEW-P	81-04-044			
180-55-015	NEW-P	81-04-044			
180-55-020	NEW-P	81-04-044			
180-55-025	NEW-P	81-04-044			
180-55-030	NEW-P	81-04-044			
180-55-035	NEW-P	81-04-044			
180-55-040	NEW-P	81-04-044			
180-55-045	NEW-P	81-04-044			
180-55-050	NEW-P	81-04-044			
180-55-055	NEW-P	81-04-044			
180-55-060	NEW-P	81-04-044			
180-55-065	NEW-P	81-04-044			
180-55-070	NEW-P	81-04-044			
180-55-075	NEW-P	81-04-044			
180-55-080	NEW-P	81-04-044			
180-55-085	NEW-P	81-04-044			
180-55-090	NEW-P	81-04-044			
180-55-095	NEW-P	81-04-044			
180-55-100	NEW-P	81-04-044			
180-55-105	NEW-P	81-04-044			
180-55-110	NEW-P	81-04-044			
180-55-115	NEW-P	81-04-044			
180-55-120	NEW-P	81-04-044			
180-55-125	NEW-P	81-04-044			
180-55-130	NEW-P	81-04-044			
180-55-135	NEW-P	81-04-044			
180-56-305	REP	81-04-045			
180-56-306	REP	81-04-045			
180-56-307	REP	81-04-045			
180-56-310	REP	81-04-045			
180-56-315	REP	81-04-045			
180-56-320	REP	81-04-045			
180-56-325	REP	81-04-045			
180-56-330	REP	81-04-045			
180-56-335	REP	81-04-045			
180-56-340	REP	81-04-045			
180-56-345	REP	81-04-045			
180-56-350	REP	81-04-045			
180-56-355	REP	81-04-045			
180-56-360	REP	81-04-045			
180-56-365	REP	81-04-045			
180-56-370	REP	81-04-045			

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
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180-56-380	REP	81-04-045	212-55-020	NEW-P	81-03-051
182-08-111	AMD	81-03-014	212-55-025	NEW-P	81-03-051
182-08-300	NEW	81-03-014	212-55-030	NEW-P	81-03-051
204-36-060	AMD	81-04-043	212-55-035	NEW-P	81-03-051
204-38-030	AMD-E	81-04-039	212-55-040	NEW-P	81-03-051
204-38-040	AMD-E	81-04-039	212-55-045	NEW-P	81-03-051
204-38-050	AMD-E	81-04-039	212-55-050	NEW-P	81-03-051
204-38-030	AMD-P	81-04-041	212-55-055	NEW-P	81-03-051
204-38-040	AMD-P	81-04-041	212-55-060	NEW-P	81-03-051
204-38-050	AMD-P	81-04-041	212-55-065	NEW-P	81-03-051
204-66-180	AMD-P	81-04-040	212-55-070	NEW-P	81-03-051
212-10-010	NEW	81-04-058	212-55-075	NEW-P	81-03-051
212-10-015	NEW	81-04-058	212-55-080	NEW-P	81-03-051
212-10-020	NEW	81-04-058	212-55-085	NEW-P	81-03-051
212-10-025	NEW	81-04-058	212-55-090	NEW-P	81-03-051
212-10-030	NEW	81-04-058	212-55-095	NEW-P	81-03-051
212-10-035	NEW	81-04-058	212-56-001	REP-P	81-03-051
212-10-040	NEW	81-04-058	212-56-005	REP-P	81-03-051
212-10-045	NEW	81-04-058	212-56-010	REP-P	81-03-051
212-10-050	NEW	81-04-058	212-56-015	REP-P	81-03-051
212-10-055	NEW	81-04-058	212-56-020	REP-P	81-03-051
212-10-060	NEW	81-04-058	212-56-025	REP-P	81-03-051
212-52-001	AMD	81-03-081	212-56-030	REP-P	81-03-051
212-52-005	AMD	81-03-081	212-56-035	REP-P	81-03-051
212-52-010	REP	81-03-081	212-56-040	REP-P	81-03-051
212-52-012	NEW	81-03-081	212-56-045	REP-P	81-03-051
212-52-015	REP	81-03-081	212-56-050	REP-P	81-03-051
212-52-020	AMD	81-03-081	212-56-055	REP-P	81-03-051
212-52-025	AMD	81-03-081	212-56-060	REP-P	81-03-051
212-52-027	NEW	81-03-081	212-56-065	REP-P	81-03-051
212-52-035	REP	81-03-081	212-57-001	REP-P	81-03-051
212-52-037	NEW	81-03-081	212-57-005	REP-P	81-03-051
212-52-040	AMD	81-03-081	212-57-010	REP-P	81-03-051
212-52-045	AMD	81-03-081	212-57-015	REP-P	81-03-051
212-52-050	AMD	81-03-081	212-57-020	REP-P	81-03-051
212-52-055	AMD	81-03-081	212-57-025	REP-P	81-03-051
212-52-060	AMD	81-03-081	212-57-030	REP-P	81-03-051
212-52-065	AMD	81-03-081	212-57-035	REP-P	81-03-051
212-52-070	AMD	81-03-081	212-57-040	REP-P	81-03-051
212-52-075	AMD	81-03-081	212-57-045	REP-P	81-03-051
212-52-080	AMD	81-03-081	212-57-050	REP-P	81-03-051
212-52-090	AMD	81-03-081	212-57-055	REP-P	81-03-051
212-52-095	AMD	81-03-081	212-57-060	REP-P	81-03-051
212-52-100	AMD	81-03-081	212-57-065	REP-P	81-03-051
212-52-105	AMD	81-03-081	212-57-070	REP-P	81-03-051
212-52-110	AMD	81-03-081	212-58-001	REP-P	81-03-051
212-52-115	AMD	81-03-081	212-58-005	REP-P	81-03-051
212-52-120	AMD	81-03-081	212-58-010	REP-P	81-03-051
212-52-125	AMD	81-03-081	212-58-015	REP-P	81-03-051
212-54-001	NEW-P	81-03-051	212-58-020	REP-P	81-03-051
212-54-005	NEW-P	81-03-051	212-58-025	REP-P	81-03-051
212-54-010	NEW-P	81-03-051	212-58-030	REP-P	81-03-051
212-54-015	NEW-P	81-03-051	212-58-035	REP-P	81-03-051
212-54-020	NEW-P	81-03-051	212-58-040	REP-P	81-03-051
212-54-025	NEW-P	81-03-051	212-58-045	REP-P	81-03-051
212-54-030	NEW-P	81-03-051	212-58-050	REP-P	81-03-051
212-54-035	NEW-P	81-03-051	212-58-055	REP-P	81-03-051
212-54-040	NEW-P	81-03-051	212-58-060	REP-P	81-03-051
212-54-045	NEW-P	81-03-051	212-58-065	REP-P	81-03-051
212-54-050	NEW-P	81-03-051	212-58-070	REP-P	81-03-051
212-54-055	NEW-P	81-03-051	212-59-001	REP-P	81-03-051
212-54-060	NEW-P	81-03-051	212-59-005	REP-P	81-03-051
212-54-065	NEW-P	81-03-051	212-59-010	REP-P	81-03-051
212-54-070	NEW-P	81-03-051	212-59-015	REP-P	81-03-051
212-54-075	NEW-P	81-03-051	212-59-020	REP-P	81-03-051
212-54-080	NEW-P	81-03-051	212-59-025	REP-P	81-03-051
212-54-085	NEW-P	81-03-051	212-59-030	REP-P	81-03-051
212-54-090	NEW-P	81-03-051	212-59-035	REP-P	81-03-051
212-54-095	NEW-P	81-03-051	212-59-040	REP-P	81-03-051
212-54-100	NEW-P	81-03-051	212-59-045	REP-P	81-03-051
212-55-001	NEW-P	81-03-051	212-59-050	REP-P	81-03-051
212-55-005	NEW-P	81-03-051	212-59-055	REP-P	81-03-051
212-55-010	NEW-P	81-03-051	212-59-060	REP-P	81-03-051
212-59-065	REP-P	81-03-051			
212-60-001	REP-P	81-03-051			
212-60-005	REP-P	81-03-051			
212-60-010	REP-P	81-03-051			
212-60-015	REP-P	81-03-051			
212-60-020	REP-P	81-03-051			
212-60-025	REP-P	81-03-051			
212-60-030	REP-P	81-03-051			
212-60-035	REP-P	81-03-051			
212-60-040	REP-P	81-03-051			
212-60-045	REP-P	81-03-051			
212-60-050	REP-P	81-03-051			
212-60-055	REP-P	81-03-051			
212-60-060	REP-P	81-03-051			
212-60-065	REP-P	81-03-051			
212-60-070	REP-P	81-03-051			
212-61-001	REP-P	81-03-051			
212-61-010	REP-P	81-03-051			
212-61-015	REP-P	81-03-051			
212-61-020	REP-P	81-03-051			
212-61-025	REP-P	81-03-051			
212-61-030	REP-P	81-03-051			
212-61-035	REP-P	81-03-051			
212-61-040	REP-P	81-03-051			
212-61-045	REP-P	81-03-051			
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212-61-060	REP-P	81-03-051			
212-61-065	REP-P	81-03-051			
212-62-001	REP-P	81-03-051			
212-62-005	REP-P	81-03-051			
212-62-010	REP-P	81-03-051			
212-62-015	REP-P	81-03-051			
212-62-020	REP-P	81-03-051			
212-62-025	REP-P	81-03-051			
212-62-030	REP-P	81-03-051			
212-62-035	REP-P	81-03-051			
212-62-040	REP-P	81-03-051			
212-62-045	REP-P	81-03-051			
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212-62-060	REP-P	81-03-051			
212-62-065	REP-P	81-03-051			
212-62-070	REP-P	81-03-051			
212-63-001	REP-P	81-03-051			
212-63-005	REP-P	81-03-051			
212-63-010	REP-P	81-03-051			
212-63-015	REP-P	81-03-051			
212-63-020	REP-P	81-03-051			
212-63-025	REP-P	81-03-051			
212-63-030	REP-P	81-03-051			
212-63-035	REP-P	81-03-051			
212-63-040	REP-P	81-03-051			
212-63-045	REP-P	81-03-051			
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212-63-055	REP-P	81-03-051			
212-63-060	REP-P	81-03-051			
212-63-065	REP-P	81-03-051			
212-63-070	REP-P	81-03-051			
212-64-001	AMD-P	81-03-051			
212-64-005	AMD-P	81-03-051			
212-64-010	REP-P	81-03-051			
212-64-015	AMD-P	81-03-051			
212-64-020	AMD-P	81-03-051			
212-64-025	AMD-P	81-03-051			
212-64-030	AMD-P	81-03-051			
212-64-033	NEW-P	81-03-051			
212-64-035	AMD-P	81-03-051			
212-64-037	NEW-P	81-03-051			
212-64-039	NEW-P	81-03-051			
212-64-040	AMD-P	81-03-051			
212-64-043	NEW-P	81-03-051			
212-64-045	AMD-P	81-03-051			

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
212-64-050	AMD-P	81-03-051	220-57-140	AMD	81-05-027
212-64-055	AMD-P	81-03-051	220-57-150	AMD	81-05-027
212-64-060	AMD-P	81-03-051	220-57-155	AMD	81-05-027
212-64-065	AMD-P	81-03-051	220-57-160	AMD	81-05-027
212-64-067	NEW-P	81-03-051	220-57-185	AMD	81-05-027
212-64-068	NEW-P	81-03-051	220-57-205	AMD	81-05-027
212-64-069	NEW-P	81-03-051	220-57-210	AMD	81-05-027
212-64-070	AMD-P	81-03-051	220-57-215	AMD	81-05-027
212-65-001	NEW-P	81-03-051	220-57-220	AMD	81-05-027
212-65-005	NEW-P	81-03-051	220-57-225	AMD	81-05-027
212-65-010	NEW-P	81-03-051	220-57-230	AMD	81-05-027
212-65-015	NEW-P	81-03-051	220-57-235	AMD	81-05-027
212-65-020	NEW-P	81-03-051	220-57-240	AMD	81-05-027
212-65-025	NEW-P	81-03-051	220-57-255	AMD	81-05-027
212-65-030	NEW-P	81-03-051	220-57-260	AMD	81-05-027
212-65-035	NEW-P	81-03-051	220-57-265	AMD	81-05-027
212-65-040	NEW-P	81-03-051	220-57-270	AMD	81-05-027
212-65-045	NEW-P	81-03-051	220-57-275	AMD	81-05-027
212-65-050	NEW-P	81-03-051	220-57-300	AMD	81-05-027
212-65-055	NEW-P	81-03-051	220-57-310	AMD	81-05-027
212-65-060	NEW-P	81-03-051	220-57-315	AMD	81-05-027
212-65-065	NEW-P	81-03-051	220-57-319	AMD	81-05-027
212-65-070	NEW-P	81-03-051	220-57-325	AMD	81-05-027
212-65-075	NEW-P	81-03-051	220-57-345	AMD	81-05-027
212-65-080	NEW-P	81-03-051	220-57-350	AMD	81-05-027
212-65-085	NEW-P	81-03-051	220-57-370	AMD	81-05-027
212-65-090	NEW-P	81-03-051	220-57-375	AMD	81-05-027
212-65-095	NEW-P	81-03-051	220-57-385	AMD	81-05-027
212-65-100	NEW-P	81-03-051	220-57-405	AMD	81-05-027
220-20-010	AMD	81-02-053	220-57-420	AMD	81-05-027
220-20-012	AMD	81-02-053	220-57-425	AMD	81-05-027
220-28-00400L	NEW-E	81-02-052	220-57-435	AMD	81-05-027
220-28-008FOM	REP-E	81-02-037	220-57-505	AMD	81-05-027
220-28-012FOG	NEW-E	81-02-052	220-57A-005	AMD	81-05-027
220-28-01300U	NEW-E	81-03-035	220-57A-010	AMD	81-05-027
220-28-013G0H	NEW-E	81-03-035	220-57A-012	AMD	81-05-027
220-32-02200E	NEW-E	81-03-044	220-57A-040	AMD	81-05-027
220-32-03000B	NEW-E	81-04-003	220-57A-065	AMD	81-05-027
220-32-04000J	NEW-E	81-03-044	220-57A-080	AMD	81-05-027
220-32-04200D	NEW-E	81-03-043	220-57A-090	AMD	81-05-027
220-32-05100Q	NEW-E	81-04-003	220-57A-095	AMD	81-05-027
220-32-05700H	NEW-E	81-03-044	220-57A-115	AMD	81-05-027
220-44-030	AMD	81-02-053	220-57A-120	AMD	81-05-027
220-44-040	AMD	81-02-053	220-57A-135	AMD	81-05-027
220-48-080	AMD	81-02-053	220-57A-145	AMD	81-05-027
220-48-09001	NEW	81-02-053	220-57A-152	AMD	81-05-027
220-48-091	AMD	81-02-053	220-57A-155	AMD	81-05-027
220-48-09100C	NEW-E	81-03-031	220-57A-160	AMD	81-05-027
220-48-092	AMD	81-02-053	220-57A-175	AMD	81-05-027
220-48-096	AMD	81-02-053	220-57A-180	AMD	81-05-027
220-48-098	AMD	81-02-053	220-57A-185	AMD	81-05-027
220-48-100	AMD	81-02-053	220-57A-190	AMD	81-05-027
220-49-02000B	REP-E	81-03-030	220-69-23501	NEW	81-03-032
220-49-02000C	NEW-E	81-03-030	220-69-24000C	NEW-E	81-05-006
220-49-02000D	NEW-E	81-05-023	220-69-241	AMD	81-03-032
220-49-022	AMD	81-02-053	220-69-25401C	NEW-E	81-05-006
220-49-023	AMD	81-02-053	220-69-25402	NEW	81-03-032
220-52-05300H	NEW-E	81-04-060	220-69-25501	NEW	81-03-032
220-52-07500C	NEW-E	81-05-006	220-69-26402	NEW	81-03-032
220-56-105	AMD	81-05-027	220-69-265	AMD	81-03-032
220-56-131	NEW	81-05-027	220-69-26501	NEW	81-03-032
220-56-135	AMD	81-05-027	220-95-010	AMD-P	81-05-036
220-56-205	AMD	81-05-027	220-95-012	NEW-P	81-05-036
220-56-225	AMD	81-05-027	220-95-017	NEW-P	81-05-036
220-56-285	AMD	81-05-027	230-02-418	NEW-P	81-04-072
220-56-295	AMD	81-05-027	230-04-145	NEW-P	81-04-072
220-56-315	AMD	81-05-027	230-04-147	NEW-P	81-04-072
220-56-320	AMD	81-05-027	230-04-190	AMD	81-03-045
220-56-340	AMD	81-05-027	230-04-200	AMD	81-03-045
220-56-350	AMD	81-05-027	230-04-200	AMD-P	81-04-072
220-56-365	AMD	81-05-027	230-30-015	AMD-P	81-04-072
220-56-380	AMD	81-05-027	232-12-360	AMD-P	81-05-031
220-57-137	AMD	81-05-027	232-21-100	REP-P	81-05-031
220-57-138	NEW	81-05-027	232-21-101	NEW-P	81-05-031
232-28-001	REP-P	81-05-031	248-14	AMD-P	81-03-004
232-28-100	REP-P	81-05-031	248-14-285	AMD	81-03-005
232-28-200	REP-P	81-05-031	248-18	AMD-P	81-03-038
232-28-300	REP-P	81-05-031	248-18-001	AMD	81-05-029
232-28-400	REP-P	81-05-031	248-18-010	AMD	81-05-029
232-28-500	REP-P	81-05-031	248-18-500	AMD	81-05-029
232-28-600	REP-P	81-05-031	248-18-505	AMD	81-05-029
232-28-702	REP	81-04-018	248-18-510	AMD	81-05-029
232-28-703	NEW	81-04-018	248-18-515	AMD	81-05-029
232-28-802	REP-P	81-05-031	248-19	AMD-P	81-03-039
232-28-803	NEW-P	81-05-031	248-19	AMD-P	81-04-013
232-32-126	REP-E	81-02-021	248-19-200	AMD-E	81-05-030
232-32-127	NEW-E	81-02-021	248-19-210	AMD-E	81-05-030
232-32-128	NEW-E	81-03-009	248-19-220	AMD-E	81-05-030
232-32-129	NEW-E	81-03-010	248-19-230	AMD-E	81-05-030
232-32-130	NEW-E	81-03-033	248-19-240	AMD-E	81-05-030
232-32-131	NEW-E	81-04-017	248-19-250	AMD-E	81-05-030
232-32-132	NEW-E	81-04-057	248-19-260	AMD-E	81-05-030
232-32-133	NEW-E	81-05-011	248-19-270	AMD-E	81-05-030
248-14	AMD-P	81-03-004	248-19-280	AMD-E	81-05-030
248-14-285	AMD	81-03-005	248-19-300	AMD-E	81-05-030
248-18	AMD-P	81-03-038	248-19-310	AMD-E	81-05-030
248-18-001	AMD	81-05-029	248-19-320	AMD-E	81-05-030
248-18-010	AMD	81-05-029	248-19-325	NEW-E	81-05-030
248-18-500	AMD	81-05-029	248-19-330	AMD-E	81-05-030
248-18-505	AMD	81-05-029	248-19-340	AMD-E	81-05-030
248-18-510	AMD	81-05-029	248-19-350	AMD-E	81-05-030
248-18-515	AMD	81-05-029	248-19-360	AMD-E	81-05-030
248-19	AMD-P	81-03-039	248-19-370	AMD-E	81-05-030
248-19	AMD-P	81-04-013	248-19-390	AMD-E	81-05-030
248-19-200	AMD-E	81-05-030	248-19-400	AMD-E	81-05-030
248-19-210	AMD-E	81-05-030	248-19-403	NEW-E	81-05-030
248-19-220	AMD-E	81-05-030	248-19-405	NEW-E	81-05-030
248-19-230	AMD-E	81-05-030	248-19-410	AMD-E	81-05-030
248-19-240	AMD-E	81-05-030	248-19-415	NEW-E	81-05-030
248-19-250	AMD-E	81-05-030	248-19-420	AMD-E	81-05-030
248-19-260	AMD-E	81-05-030	248-19-430	AMD-E	81-05-030
248-19-270	AMD-E	81-05-030	248-19-440	AMD-E	81-05-030
248-19-280	AMD-E	81-05-030	248-19-450	AMD-E	81-05-030
248-19-300	AMD-E	81-05-030	248-19-475	NEW-E	81-05-030
248-19-310	AMD-E	81-05-030	248-19-480	AMD-E	81-05-030
248-19-320	AMD-E	81-05-030	248-19-490	AMD-E	81-05-030
248-19-325	NEW-E	81-05-030	248-19-500	AMD-E	81-05-030
248-19-330	AMD-E	81-05-030	248-22-060	REP-P	81-04-012
248-19-340	AMD-E	81-05-030	248-22-070	REP-P	81-04-012
248-19-350	AMD-E	81-05-030	248-22-080	REP-P	81-04-012
248-19-360	AMD-E	81-05-030	248-22-090	REP-P	81-04-012
248-19-370	AMD-E	81-05-030	248-96-020	AMD-P	81-02-042
248-19-390	AMD-E	81-05-030	248-96-020	AMD	81-05-028
248-19-400	AMD-E	81-05-030	251-04-020	AMD-P	81-04-051
248-19-403	NEW-E	81-05-030	251-10-055	AMD-P	81-04-051
248-19-405	NEW-E	81-05-030	251-10-110	AMD-P	81-04-051
248-19-410	AMD-E	81-05-030	251-10-112	NEW-P	81-04-051
248-19-415	NEW-E	81-05-030	251-10-113	NEW-P	81-04-051
248-19-420	AMD-E	81-05-030	251-12-240	AMD-P	81-04-051
248-19-430	AMD-E	81-05-030			
248-19-440	AMD-E	81-05-030			
248-19-450	AMD-E	81-05-030			
248-19-475	NEW-E	81-05-030			
248-19-480	AMD-E	81-05-030			
248-19-490	AMD-E	81-05-030			
248-19-500	AMD-E	81-05-030			

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
251-18-330	AMD-P	81-04-051	296-27-16007	NEW-P	81-03-071
251-22-240	AMD-P	81-04-023	296-27-16009	NEW-P	81-03-071
261-20	AMD-P	81-02-036	296-27-16011	NEW-P	81-03-071
261-20-010	NEW-P	81-02-035	296-27-16013	NEW-P	81-03-071
261-20-020	NEW-P	81-02-035	296-27-16015	NEW-P	81-03-071
261-20-030	NEW-P	81-02-035	296-27-16017	NEW-P	81-03-071
261-20-040	NEW-P	81-02-035	296-27-16021	NEW-P	81-03-071
261-20-050	NEW-P	81-02-035	296-27-16023	NEW-P	81-03-071
261-20-060	NEW-P	81-02-035	296-27-16025	NEW-P	81-03-071
261-20-065	NEW-P	81-02-035	296-37-510	AMD-E	81-02-029
261-20-070	NEW-P	81-02-035	296-37-550	AMD-E	81-02-029
261-20-080	NEW-P	81-02-035	296-46	AMD-P	81-05-019
275-16-010	AMD-E	81-04-032	296-46	AMD-P	81-05-025
275-16-010	AMD-P	81-04-038	296-54-559	AMD	81-05-013
275-16-015	NEW-E	81-04-032	296-54-565	AMD	81-05-013
275-16-015	NEW-P	81-04-038	296-54-567	AMD	81-05-013
275-16-035	NEW-E	81-04-032	296-79	AMD-P	81-03-006
275-16-035	NEW-P	81-04-038	296-79-140	AMD	81-03-007
275-16-040	REP-E	81-04-032	296-79-170	AMD	81-03-007
275-16-040	REP-P	81-04-038	296-79-180	AMD	81-03-007
275-16-055	NEW-E	81-04-032	296-79-220	AMD	81-03-007
275-16-055	NEW-P	81-04-038	296-79-29029	AMD	81-03-007
275-16-065	NEW-E	81-04-032	296-79-300	AMD	81-03-007
275-16-065	NEW-P	81-04-038	296-116-185	AMD-P	81-03-072
275-16-075	NEW-E	81-04-032	296-116-300	AMD-P	81-03-072
275-16-075	NEW-P	81-04-038	296-401	AMD-P	81-05-019
275-16-085	NEW-E	81-04-032	296-401	AMD-P	81-05-025
275-16-085	NEW-P	81-04-038	308-04-001	NEW-E	81-03-046
275-16-095	NEW-E	81-04-032	308-04-001	NEW-P	81-04-071
275-16-095	NEW-P	81-04-038	308-16-211	AMD	81-03-015
275-16-105	NEW-E	81-04-032	308-16-212	AMD	81-03-015
275-16-105	NEW-P	81-04-038	308-16-215	AMD	81-03-015
275-20-030	AMD-P	81-02-023	308-16-216	AMD	81-03-015
275-92-407	NEW	81-05-001	308-16-217	AMD	81-03-015
275-93-040	AMD	81-03-076	308-16-218	NEW	81-03-015
284-15-010	NEW	81-03-082	308-24-305	AMD	81-03-016
284-15-020	NEW	81-03-082	308-24-320	AMD	81-03-016
284-15-030	NEW	81-03-082	308-24-380	REP-P	81-05-035
284-15-040	NEW	81-03-082	308-24-382	NEW-P	81-05-035
284-15-050	NEW	81-03-082	308-24-384	NEW-P	81-05-035
289-13-070	AMD	81-03-029	308-24-403	AMD	81-03-016
289-13-075	NEW	81-03-029	308-24-404	AMD	81-03-016
289-13-110	AMD	81-03-029	308-24-430	AMD	81-03-016
289-13-170	AMD	81-03-029	308-33-011	AMD	81-02-031
289-14	AMD-P	81-04-062	308-33-015	REP	81-02-031
289-15	NEW-P	81-04-062	308-33-020	AMD	81-02-031
289-15-220	NEW-P	81-04-063	308-33-030	AMD	81-02-031
289-16	NEW-P	81-04-062	308-36-020	AMD-P	81-04-047
289-16-230	NEW-P	81-04-063	308-37-100	NEW-P	81-02-032
289-18	NEW-P	81-04-062	308-37-110	NEW-P	81-02-032
289-19	NEW-P	81-04-062	308-37-120	NEW-P	81-02-032
289-20	NEW-P	81-04-062	308-37-130	NEW-P	81-02-032
289-22	NEW-P	81-04-062	308-37-140	NEW-P	81-02-032
289-24	NEW-P	81-04-062	308-38-100	NEW-P	81-02-032
289-30-060	NEW-P	81-04-064	308-38-110	NEW-P	81-02-032
296-17-895	AMD	81-04-024	308-38-120	NEW-P	81-02-032
296-17-904	NEW	81-04-024	308-38-130	NEW-P	81-02-032
296-17-905	AMD	81-04-024	308-38-140	NEW-P	81-02-032
296-17-907	NEW	81-04-024	308-38-150	NEW-P	81-02-032
296-17-910	AMD	81-04-024	308-38-160	NEW-P	81-02-032
296-17-911	NEW	81-04-024	308-39-100	NEW-P	81-02-032
296-17-912	NEW	81-04-024	308-39-110	NEW-P	81-02-032
296-17-913	NEW	81-04-024	308-39-120	NEW-P	81-02-032
296-17-914	NEW	81-04-024	308-40-101	AMD-P	81-04-047
296-17-915	NEW	81-04-024	308-50-055	REP-P	81-05-026
296-17-916	NEW	81-04-024	308-50-080	AMD-P	81-05-026
296-17-917	NEW	81-04-024	308-52-020	REP	81-03-079
296-17-919	NEW	81-04-024	308-52-040	AMD	81-03-079
296-17-91901	NEW	81-04-024	308-52-110	REP	81-03-079
296-17-91902	NEW	81-04-024	308-52-120	AMD	81-03-079
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