

# Washington State Register

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DENNIS W. COOPER  
Code Reviser

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# 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.

1982 – 1983  
 DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY  
 ACTION

Issue No.	Closing Dates <sup>①</sup>			Distribution Date	First Agency Action Date <sup>③</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>②</sup> or 10 p. max. Non-OTS		
For Inclusion—	File no later than—			Count 20 days from—	For hearing/adoption on or after
83-01	Nov 24	Dec 8	Dec 22, 1982	Jan 5, 1983	Jan 25
83-02	Dec 8	Dec 22, 1982	Jan 5, 1983	Jan 19	Feb 8
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83-24	Nov 9	Nov 23	Dec 7	Dec 21	Jan 10, 1984

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

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

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

**WSR 83-02-060**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 1933—Filed January 5, 1983]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Child care agencies—Adult family homes minimum licensing/certification requirements, amending chapter 388-73 WAC.

This action is taken pursuant to Notice Nos. WSR 82-15-053, 82-20-030, 82-22-054 and 82-24-053 filed with the code reviser on July 19, 1982, September 30, 1982, November 1, 1982, and November 30, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.15.030 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 3, 1983.

By David A. Hogan, Director  
 Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1431, filed 9/10/79)

WAC 388-73-014 PERSONS AND ORGANIZATIONS SUBJECT TO LICENSING. Persons and organizations operating the following types of facilities are subject to licensing under chapter 74.15 RCW and RCW 74.08.044:

(1) "Group care facility" means an agency (~~which is~~) maintained and operated for the care of a group of children on a twenty-four hour basis.

(2) "Child placing agency" means an agency (~~which places~~) placing children for temporary care, continued care, or for adoption.

(3) "Maternity service" means an agency (~~which provides~~) providing or (~~arranges~~) arranging for care or services to expectant mothers regardless of age, before or during confinement, or (~~which provides~~) providing care as needed to mothers and their infants after confinement. See WAC 388-73-702.

(4) "Day care (~~center~~) facility" means an agency (~~which~~) regularly (~~provides~~) providing care for a group of children for periods of less than twenty-four hours. Separate requirements are adopted for the following subcategories of day care centers:

(a) A day care center provides for the care of thirteen or more children. No such center shall be located in a private family residence unless (~~that~~) the portion of the residence (~~to which~~) where the children have access is used exclusively for the children during the hours

the center is in operation or is separate from the usual living quarters of the family.

(b) A "mini-day care program" means:

(i) A day care center for the care of twelve or fewer children in a facility other than the family abode of the person or persons under whose direct care and supervision the child is placed; or

(ii) For the care of from seven through twelve children in the family abode of such person or persons.

(c) A family day care home means a home regularly providing care during part of the twenty-four hour day to six or fewer children.

~~((c))~~ (d) A day treatment program means an agency (~~which provides~~) providing care, supervision, and appropriate therapeutic and educational services during part of the twenty-four hour day for a group of persons under the age of eighteen years and (~~who are~~) the persons unable to adjust to full-time regular or special school programs or full-time family living because of disruptive behavior, family stress, learning disabilities or other serious emotional or social handicaps.

(5) "Foster family home" means a person(s) (~~who~~) regularly (~~provide(s)~~) providing care (~~during all or any part of the~~) on a twenty-four hour (~~day~~) basis to one or more children, expectant mothers, developmentally disabled adults or other adults in need of protection in the family abode of the person or persons under whose direct care and supervision the child, expectant mother or adult is placed. Separate requirements are adopted for the following subcategories of foster family homes:

(a) A family home for adults means a home (~~which~~) regularly (~~provides~~) providing care on a twenty-four hour basis for up to four developmentally disabled adults; or up to four adults in need of protection (~~who are recipients of financial assistance or Title XX services~~).

(b) A foster family home for children or expectant mothers means a home (~~which~~) regularly (~~provides~~) providing care on a twenty-four hour basis to one or more, but not more than four foster children under the age of eighteen years or to not more than three expectant mothers.

~~((c) A family day care home means a home which regularly provides care during part of the twenty-four hour day to six or fewer children.)~~

(6) "Crisis residential center" means an agency (~~which is operated~~) operating under contract with the department to provide temporary, protective care to children in a semisecure residential facility in the performance of duties specified and in the manner provided in (~~sections 15 through 34 and 78 through 82, chapter 155, Laws of 1979~~) RCW 13.32A.010 through 13.32A.200 and 74.13.032 through 74.13.036. Separate requirements are adopted for the following subcategories of crisis residential centers:

(a) A regional crisis residential center (~~which~~) is a structured group care facility whose primary and exclusive functions are those of a crisis residential center.

(b) A group care facility, a portion of which functions as a crisis residential center.

(c) Foster family home (~~which functions~~) functioning either partially or exclusively as a crisis residential

center and has been designated as a crisis residential center by the department.

#### NEW SECTION

✓ WAC 388-73-01950 FIRE STANDARDS. All group care facilities, day care centers, mini-day care centers, and maternity centers shall conform to the rules and regulations adopted by the Washington state fire marshal's office establishing minimum standards for the prevention of fire and for the protection of life and property against fire. The Washington state fire marshal's standards are found in chapter 212-55 WAC.

AMENDATORY SECTION (Amending Order 1431, filed 9/10/79)

✓ WAC 388-73-020 CERTIFICATION OF JUVENILE DETENTION FACILITY AND EXEMPT AGENCY. (1) An agency legally exempt from licensing may not be licensed. However, at ~~((its))~~ the agency's request, such agency may be certified by the department as meeting licensing and other pertinent requirements, if investigation proves such to be the case, to enable ~~((it))~~ the agency to be eligible for the receipt of funds or for other legitimate purposes. In such cases, unless otherwise clearly evident from the text, requirements and procedures for licensing apply equally to certification.

~~((2))~~ An agency may not receive funds from the department unless it is licensed or certified. Licensing per se does not obligate the department to make referrals or payment to an agency; additional requirements may be imposed for such purposes.

~~((3))~~ (2) Juvenile detention facilities operated by juvenile courts, shall be certified in accord with the provision of ~~((section 80, chapter 155, Laws of 1979))~~ RCW 74.13.034, and requirements promulgated pursuant thereto. Except as otherwise indicated by the text, the requirements for licensing group care facilities also apply to the certification of juvenile detention facilities.

AMENDATORY SECTION (Amending Order 1431, filed 9/10/79)

✓ WAC 388-73-024 LICENSES FOR HOMES SUPERVISED BY LICENSED AGENCY. Foster family homes certified by a licensed child-placing agency as meeting licensing requirements for foster family homes shall accept children only from the certifying child-placing agency or from the department when the child is in the legal custody and/or supervision of the department and each placement by the department is approved in writing by the child-placing agency responsible for supervision of the home. Licenses issued under this section are valid only as long as the homes remain under the supervision of the certifying licensed agency and operate in accordance with licensing requirements. This section does not apply to agencies which are certified (rather than licensed) in accordance with WAC 388-73-020.

AMENDATORY SECTION (Amending Order 1336, filed 9/8/78)

✓ WAC 388-73-042 RELIGIOUS ACTIVITIES. The rights of persons in care to observe the tenets of ~~((their))~~ the person's faith shall be respected and facilitated consistent with state and federal law. Persons shall not be punished for exercising these rights. A written description of any religious policies and practices will be submitted to the department and shall be provided to the child and, if possible, to the family upon admission.

AMENDATORY SECTION (Amending Order 1336, filed 9/8/78)

✓ WAC 388-73-050 ABUSE, NEGLECT, EXPLOITATION. Licensees shall protect persons, while in ~~((their))~~ the licensee's care, from child abuse~~(;)~~ or neglect ~~((and exploitation))~~ as defined ~~((herein:))~~ in RCW 26.44.020(12).

~~((1))~~ Abuse

(a) Physical abuse — the person has sustained physical damage, such as bruises, lacerations, fractures or burns as a result of a nonaccidental physical act or acts.

(b) Emotional abuse — the person has sustained emotional damage as shown by his/her behavior or physical manifestations, and/or whose health and welfare is endangered as a result of treatment received in the licensed facility.

~~(2)~~ Neglect

(a) Physical neglect — the person has sustained physical or material deprivation, such as not being adequately fed, clothed or bathed. Adequate medical care is lacking. The person does not receive the supervision necessary relative to his/her level of development.

(b) Emotional neglect — the person has sustained emotional damage as shown by his/her behavior or physical manifestations, or whose health and welfare is endangered by rejection, lack of love, attention, approval or security.

~~(3)~~ Exploitation

The person is forced to work at unreasonable tasks and/or for unreasonable periods of time, or is sexually abused, or is forced to commit criminal acts.)

AMENDATORY SECTION (Amending Order 1431, filed 9/10/79)

✓ WAC 388-73-058 EARNINGS, ALLOWANCES, PERSONAL BELONGINGS. Except for crisis residential centers ~~((and))~~ , juvenile detention facilities, and foster family homes, full-time child care providers shall give each child a regular allowance based on his~~(/)~~ or her age, needs and ability to handle money. Group care facilities shall account for allowances given and for children's earnings, if any, in a ledger or other appropriate record maintained for this purpose. When a person is discharged, he~~(/)~~ or she shall be permitted to take his~~(/)~~ or her personal belongings and all of his~~(/)~~ or her money, or be fully informed about the transfer of his~~(/)~~ or her money to another facility.

AMENDATORY SECTION (Amending Order 1336, filed 9/8/78)

✓ WAC 388-73-060 **WORK ASSIGNMENTS.** Persons under care shall not be used to carry the responsibility for basic maintenance of the facility and equipment. However, household tasks may be performed insofar as ~~((they are))~~ appropriate to the program and as part of a planned learning experience. Work assignments shall be appropriate to the age and physical condition of the person under care. Work assignments other than household tasks which are part of the treatment plan may be performed insofar as appropriate to the age and physical condition of the person under care and adequate monetary compensation shall be provided.

AMENDATORY SECTION (Amending Order 1336, filed 9/8/78)

✓ WAC 388-73-062 **TRANSPORTATION.** When a licensee provides transportation for persons under care:

(1) The vehicle shall be in safe operating condition. The driver shall have a current driver's license.

(2) There shall be at least one adult supervisor other than the driver in a vehicle when there are more than six preschool-aged children in the vehicle.

(3) Licensee or driver shall carry liability and medical insurance.

(4) Seat belts or other appropriate safety devices shall be provided for all passengers. The number of passengers shall not exceed the vehicle's seating capacity. Buses approved by the state patrol shall not be required to be equipped with seat belts.

AMENDATORY SECTION (Amending Order 1336, filed 9/8/78)

✓ WAC 388-73-068 **PERSONNEL POLICIES.** All agencies employing five or more persons shall have written policies covering qualifications and duties of staff and volunteers ~~((, hours of work, rate of payment, and fringe benefits))~~.

AMENDATORY SECTION (Amending Order 1431, filed 9/10/79)

✓ WAC 388-73-076 **SOCIAL STUDY-TREATMENT PLANS.** Except for juvenile detention facilities, the social service staff of each child-placing agency, day treatment program, maternity service, and group care facility shall:

(1) Develop or assemble from appropriate sources a written diagnostic social study on each child and expectant mother accepted for care. Except in the case of persons accepted for emergency care, the study shall serve as the basis of the person's admission to care. In such case, the study shall be completed within thirty days after admission if the person remains in care. The study shall contain in addition to the minimum information recorded as required by WAC 388-73-054 the following information:

(a) Child's school records ~~((grade placement, report cards and correspondence with schools)))~~, when possible. Where children attend school away from the facility, records mean grade placement, reports, and correspondence with schools. Where the facility has a school on the grounds, records shall mean transcripts and other records normally kept by a school.

(b) Copies of psychological or psychiatric evaluations, if any, of the child or expectant mother.

(c) A narrative description of the background of the child and his or her family, ~~((their))~~ the child's inter-relationships and the problems and behaviors ~~((which necessitate))~~ necessitating care away from own home, previous placement history, if any, and an evaluation as to need for the particular services and type of care ~~((which))~~ the licensee will provide. For American Indian children see WAC 388-73-044.

(2) Develop and implement a written treatment plan for each person accepted for care. Such plan shall outline the agency's treatment goals and methods of work with the individual and his or her family. The plan shall be updated at least quarterly to show progress toward achievement of goals and shall identify impediments to the return of the child to his or her own home, the home of relatives, or placement for adoption and steps taken or to be taken to overcome those impediments. No person shall be admitted to nor retained in an agency's program ~~((who))~~ where the person cannot be served effectively by ~~((that))~~ the program or ~~((who))~~ where the person can be served more appropriately by another available program.

(3) Whenever the treatment plan indicates the child may return to his ~~((/))~~ or her own home, the agency shall provide or arrange for services to child's parents. Where geographical or other conditions prevent the licensee from working directly with child's parents or another agency is already providing appropriate services, the licensee shall enter into an agreement with ~~((that))~~ the agency for joint planning and exchange of reports toward the end of reuniting the family, or shall make arrangements with another appropriate agency toward that end.

AMENDATORY SECTION (Amending Order 1336, filed 9/8/78)

✓ WAC 388-73-102 **SAFETY AND MAINTENANCE.** (1) The physical plant, premises, and equipment shall be maintained in a clean and sanitary condition, free of hazards and in good repair. Steps shall be provided with handrails as determined necessary by the department. Emergency lighting devices, such as flashlights, in operational condition shall be available. All flaking or deteriorating lead-based paint on exterior and interior surfaces, and equipment and toys ~~((which are))~~ accessible to preschool-age children shall be refinished with lead-free paint or other nontoxic material.

(2) In facilities ~~((which care))~~ caring for seven or more children, toilet rooms, kitchens, and other rooms subject to moisture shall have washable, impervious floors.

(3) In facilities caring for seven or more preschool children, electrical outlets shall be of a safety type, covered with blank plates, or otherwise made inaccessible to such children.

(4) There shall be provision for staff members to gain rapid access to any bedroom, toilet room, shower room, bathroom, or other room occupied by children should emergency need arise.

NEW SECTION

✓ WAC 388-73-103 WATER SAFETY. (1) Except for foster family homes, when a swimming pool is used at a child care agency, the swimming pool shall meet the requirements of chapter 248-98 WAC as applicable to public and semipublic pools.

(2) Pools shall be fenced with a locked gate to make the pool inaccessible to children when not in use.

(3) Except for foster family homes, a certified life-guard shall be in attendance at all times when children are using a swimming pool or swimming area.

(4) Portable wading pools shall be permitted if the portable wading pools are emptied and cleaned daily. Children shall be supervised at all times when wading.

(5) Hot tubs, spas, etc., shall be inaccessible when not in use and shall not be used by children without adult supervision.

AMENDATORY SECTION (Amending Order 1431, filed 9/10/79)

✓ WAC 388-73-108 BEDROOMS. In full-time care facilities:

(1) Hallways, kitchens, living rooms, dining rooms, and unfinished basements shall not be used as bedrooms. Every bedroom shall be an outside room permitting entrance of natural light. Separate sleeping quarters shall be furnished for each sex for children over six years of age. Multiple occupancy bedrooms shall provide not less than fifty square feet per occupant of floor area exclusive of closets. There shall be not less than thirty inches laterally between beds. In group-care facilities and maternity homes, single occupancy bedrooms shall provide at least eighty square feet of floor space. Each person in care shall have a bed of his(~~/~~) or her own. There shall be no more than four persons to a bedroom except in facilities licensed for more prior to the adoption of these rules.

(2) For each person in care there shall be a bed at least thirty inches wide with a clean, firm mattress, pillow, sheets, blankets, and (~~(pillow-cases))~~ pillowcases. Pillows shall be covered with waterproof material or be of a washable type. Waterproof mattress covers shall be provided for incontinent persons.

(3) The upper bunk of doubledeck beds are prohibited for use by preschool-age children, expectant mothers, and handicapped persons. When mother and (~~(child))~~ infant sleep in the same room, the room shall contain at least (~~(one-hundred))~~ eighty square feet of usable floor space. A crib or bassinet with a clean, firm mattress covered with a waterproof material shall be provided for the (~~(child))~~ infant. No more than one mother and her newborn infant(s) may occupy a bedroom.

(4) Bedding shall be clean; sheets and pillowcases shall be laundered weekly.

(5) No child over the age of one year shall share a bedroom with foster parents or agency staff. An adult must be on the same floor or within easy hearing distance and accessibility to where children under six years of age are sleeping.

(6) See WAC 388-73-146(7) for requirements for cribs for infants.

(7) Only rooms having unrestricted direct access to hallways, corridors, living rooms, day rooms, or such common use area shall be used as bedrooms.

AMENDATORY SECTION (Amending Order 1336, filed 9/8/78)

✓ WAC 388-73-118 TOILETS, LAVATORIES, AND BATHING FACILITIES. (1) There shall be at least one indoor flush type toilet and one lavatory with hot and cold or tempered running water. The following ratios of persons normally on the premises to facilities shall apply:

	TOILETS	LAVATORIES	BATHING FACILITIES
Day Care Centers Day Treatment Programs	2 minimum and 1:15 or major fraction	2 minimum and 1:15 or major fraction	None Required
Mini-Day Care Programs	1 minimum	1 minimum	None Required
Group Care Facilities Maternity Homes	2 minimum and 1:8 or major fraction	2 minimum and 1:8 or major fraction	1 minimum and 1:8 or major fraction
Family Home for Adults Foster Family Home Family Day Care Home	1 minimum	1 minimum	1 minimum

(2) Toilet and bathing facilities shall provide for privacy for persons of the opposite sex (~~(who are))~~ six years of age or older.

(3) Toilet, urinals, and handwashing sinks shall be of appropriate height for the children served or be provided with a safe and easily cleanable platform.

(4) For facilities licensed for the care of seven or more persons, lavatories and bathing facilities shall be provided with hot and cold or tempered running water (~~(which shall))~~ not (~~(exceed 110° F:))~~ exceeding one hundred ten degrees Fahrenheit for preschool or mentally retarded children and (~~(+20° F:))~~ one hundred twenty degrees Fahrenheit for all others.

(5) All bathing facilities shall have a conveniently located grab bar unless other safety measures, such as nonskid pads, are approved by the department (see subsection (8) ((below)) of this section). Preschool children shall not be left unattended in a bathtub.

(6) Equipment for toileting and toilet training of toddlers shall be provided and maintained in a sanitary condition at all times. Infants in diapers and (~~(those))~~ toddlers using toilet training equipment need not be included when determining the number of flush-type toilets required.

(7) Whenever urinals are provided, one toilet less than the number specified may be provided for each urinal



installed except ~~((that))~~ the number of toilets in such cases shall not be reduced to less than two-thirds of the minimum specified.

(8) In maternity homes bathing facilities shall have adequate grab bars in convenient places. All sleeping areas shall have at least one toilet and lavatory on the same floor.

(9) Soap and individual towels or disposable towels or approved other hand drying devices shall be provided.

AMENDATORY SECTION (Amending Order 1336, filed 9/8/78)

✓ WAC 388-73-132 HEALTH CARE PLAN. (1) All facilities providing direct care shall ~~((have a written plan of action to be taken in the event of medical emergencies and a plan for health supervision and arrangement for the provision of needed medical care))~~ maintain current written medical policies and procedures including first aid, care of minor illnesses, action to be taken in event of medical emergencies, infant care procedures when infants are under care, and general health practices.

(2) Agencies licensed for the care of ~~((seven))~~ thirteen or more persons and all group homes shall ~~((:~~

~~((a)))~~ arrange for the services of an advisory physician, physician's assistant or registered nurse to assist in the development and periodic review of the agency's health policies, procedures and practices. Emergency phone numbers shall be posted next to the phone.

~~((b) Maintain current, written medical policies and procedures including standing orders for first aid, care of minor illnesses, action to be taken in the event of medical emergencies, infant care procedures when infants are under care and general health practices:))~~

AMENDATORY SECTION (Amending Order 1431, filed 9/10/79)

✓ WAC 388-73-134 FIRST AID. (1) A person ~~((who has))~~ having completed a basic Red Cross first aid course or a first aid course approved by the department and training in ~~((cardio-pulmonary))~~ cardiopulmonary resuscitation shall be present at all times persons are under care or the licensee shall have a plan approved by the department to obtain such training except ~~((that))~~ for foster family homes, the "at all times" provision is not applicable. A list of the names of persons ~~((who have))~~ having completed such a course, and the dates of completion shall be maintained in the facility. The requirement for CPR training may be waived for persons when such training is contraindicated for medical reasons.

(2) First aid supplies, as needed to conform with ~~((the plan of action:))~~ first aid policies and procedures shall be readily available. First aid supplies shall include syrup of ipecac to be administered only on the advice of a physician or poison control center.

AMENDATORY SECTION (Amending Order 1336, filed 9/8/78)

✓ WAC 388-73-136 MEDICATIONS CONTROLLED BY LICENSEE. (1) All medications shall

be kept in an orderly fashion in locked storage or otherwise made inaccessible to unauthorized persons and shall be refrigerated when so required.

(2) External medications shall be stored separately (separate compartments) from internal medications.

(3) Medications must be stored in ~~((their))~~ the medication's original container. ~~((The container shall contain the patient's name and date of purchase.))~~

(4) Only the licensee or responsible designee shall disburse or have access to medications except for self-administered medications as provided for in WAC 388-73-138.

(5) Medications shall be disbursed only on the written approval of a parent, or person or agency ~~((who has))~~ having authority by court order to approve medical care.

(6) Prescription medications shall be disbursed only as specified on the prescription label or as otherwise authorized by a physician or other person legally authorized to prescribe medication.

(7) Except for foster family care and family day care, nonprescription medication shall be disbursed only as authorized by a physician or as based on established medical policy approved by a physician.

~~((6))~~ (8) Except for foster family homes, a record shall be kept of all medications disbursed and "as needed" medications shall be approved by a physician or registered nurse prior to disbursement.

~~((7))~~ (9) Unused medications shall be properly disposed of or returned to the parent or other responsible party.

AMENDATORY SECTION (Amending Order 1540, filed 9/9/80)

✓ WAC 388-73-140 HEALTH HISTORY, PHYSICAL EXAMINATIONS, IMMUNIZATIONS. This section is not applicable to crisis residential centers and juvenile detention facilities.

(1) A health history for each person under care shall be obtained when the person is accepted for care, if possible. ~~((This))~~ The health history shall include the date of the person's last physical examination, allergies, any special health problems, and for children, an immunization history.

(2) If a child has not been under regular medical supervision or has not had a physical examination by a physician, physician's assistant or certified registered nurse (nurse practitioner) within one year prior to admission, arrangements shall be made for an examination within thirty days.

(3) Yearly physical examinations are required for each child ~~((who is))~~ not under regular medical supervision.

(4) Prior to admission or within forty-five calendar days of the child's first day of attendance, each child shall present proof of full immunization for diphtheria, tetanus, pertussis (whooping cough), poliomyelitis, measles (rubeola), rubella (German measles) unless exempted by RCW 28A.31.108, and mumps as set forth in WAC 248-100-164(2). (Note: Appropriate forms and information may be obtained at the local health department. For the requirements applying to day care centers, see WAC 248-100-164.)

(5) Children (~~(who have)~~) not having received all immunizations as set forth in WAC 248-100-164(2) may be accepted on a conditional basis if immunizations are initiated and are completed as rapidly as is medically indicated. Exceptions to (~~(this)~~) the immunization requirement shall be made in the case of a parent or guardian (~~(who expresses)~~) expressing religious, philosophical, or personal objections by signing a statement to this effect; or there is a physician's statement that a valid medical reason exists to contraindicate immunization.

AMENDATORY SECTION (Amending Order 1540, filed 9/9/80)

WAC 388-73-142 TUBERCULOSIS, COMMUNICABLE DISEASE. (1) Each licensee, employee, adult volunteer, and other adult persons (~~(who have)~~) having regular contact with persons in care shall have a tuberculin skin test, by the Mantoux method, upon employment or licensing unless medically contraindicated.

(a) Persons whose TB skin test is positive (10 mm or more induration) shall have a chest x-ray within ninety days following the skin test.

(b) Routine periodic retesting or x-ray (biennial or otherwise) after the entry testing is not required.

(c) An entry test shall not be required of persons whose TB skin test has been documented as negative (less than 10 mm) within the last two years nor shall routine periodic retesting or x-ray (biennial or otherwise) be required of such persons.

(2) A record of skin test results, x-rays, or exemptions to such will be kept in the facility.

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

AMENDATORY SECTION (Amending Order 1540, filed 9/9/80)

WAC 388-73-144 NUTRITION. (1) Food served by each agency shall be planned (~~(in light of)~~) to meet the needs of the persons under care, taking into consideration (~~(their)~~) the persons' ages, developmental levels, individual differences, cultural background, any handicapping condition, and hours of care in the facility. To promote an educational and socializing environment during mealtimes, whenever possible, staff shall sit with the persons and eat the same foods.

(2) The use of raw milk is prohibited. Skim milk and reconstituted nonfat dry milk shall not be used for drinking purposes by children less than two and one-half years of age, except with the written permission of a physician. Dry milk and milk products may be reconstituted in the facility for drinking purposes for children over two and one-half years of age provided the preparation, service, and storage of said milk is in accordance with the requirements of chapter 248-84 WAC relating to potentially hazardous foods.

(3) Facilities licensed to care for seven or more persons shall record all food served. Daily menus, including all snacks required to be served, shall be prepared at least one week in advance, and dated (~~(and plainly posted)~~). A schedule of mealtimes shall be established and

posted. A menu shall specify a variety of foods to enable a person to consume adequate nutrients. Cycle menus, including snacks, shall provide at least two weeks of variety before repeating. Any substitutions shall be of comparable (~~(food)~~) nutrient value and recorded. (~~(These)~~) The menus shall be kept on file for a minimum of six months for review by the department.

(4) Nutrient concentrates, supplements, and modified diets (therapeutic and allergy diets) shall not be served except with the written instructions of a physician. The licensee shall obtain from the parent, responsible relative or physician (~~(must submit)~~) a written diet listing foods the person cannot have. (~~(This)~~) The list, with the person's name, must be (~~(plainly)~~) posted (~~(and followed by)~~) for staff to follow.

(5) Day care and day treatment - Children in care for five to ten hours shall be served food (~~(that provides)~~) providing at least one-third of the 1980 recommended dietary allowances set by the national research council. Children in care for more than ten hours (~~(shall be served food that provides at least one-half of the 1980 recommended dietary allowances)~~) except children in evening care, shall be offered an additional snack. Children (~~(who bring)~~) bringing sack (~~(tunches)~~) meals from home shall be provided additional foods to meet (~~(these)~~) the requirements. Licensees shall consult with parents as to what additional foods should be provided. Menus shall be posted where parents can view them.

(a) All children arriving before 7:00 a.m. (~~(who have)~~) not having received breakfast shall be offered a breakfast (~~(that provides)~~) providing at least one-fourth of the recommended dietary allowances.

(b) All children present shall be offered mid-morning and mid-afternoon snacks. If a breakfast was served to all children, then a mid-morning snack is not required. Children arriving after school shall be offered a snack.

(c) Between-meal snacks shall be provided (~~(that contribute)~~) contributing toward the daily food needs. Snacks shall consist of two or more of the following items, served in age-appropriate serving sizes:

- (i) Milk or milk products;
- (ii) Fruit and/or vegetables;
- (iii) Fruit and/or vegetable juices that are at least fifty percent real juice;
- (iv) Whole grain or enriched breads and/or cereal products;
- (v) Protein foods (animal or vegetable).

(d) The occasional serving of party foods (~~(which do)~~) not (~~(meet these)~~) meeting the requirements is not prohibited.

(6) Full-time care providers - Food shall be served in accordance with the 1980 recommended dietary allowances of the food and nutrition board, national research council, adjusted for age, sex, physical abilities, and activity of each person.

A minimum of three meals in each twenty-four hour period shall be provided, except (~~(that)~~) when a written request has been made to, and approved in writing by, the department, deviation may be made from this minimum. The time interval between the evening meal and breakfast shall be not more than fourteen hours.

AMENDATORY SECTION (Amending Order 1336, filed 9/8/78)

✓ WAC 388-73-146 ((INFANT)) CARE OF YOUNGER CHILDREN. This section is applicable only to day care centers and to mini-day care programs.

(1) Children under one month of age shall not be accepted for day care in mini-day programs and day care centers.

(2) Separate ((rooms and)) , safe play areas for children under one year or children ((who are)) not walking are required for facilities licensed to care for thirteen or more children. Children under one year of age shall be cared for in rooms or areas separate from older children, as approved by the department with not more than ten such children to a room or area and with handwashing facilities in each such room or area or convenient thereto.

(3) Diaper-changing places shall be sanitized between use for different children or protected by a disposable covering ((which is)) discarded after each use. Disposable towels or clean reusable towels ((which have)) having been laundered between children shall be used for cleaning children. Personnel shall wash ((their)) hands before and after diapering each child.

(4) Mini-day care programs and day care centers shall use disposable diapers, a commercial diaper service, or reusable diapers supplied by the child's family. Soiled reusable diapers shall be placed without rinsing into separate cleanable covered containers provided with waterproof liners prior to transport to laundry, parent, or acceptable disposal. Diapers shall be removed from the mini-day care centers and day care centers at least daily. Diaper-changing procedures shall be posted at the changing areas.

(5) Toilet training shall be initiated when readiness is indicated by the child and in consultation with the child's parents((?)) or placement agency.

(6) Feeding of infants - Formula feeding of infants (under one year of age) shall be on a schedule agreed upon by the child's parent(s), guardian, the placement agency, and the licensee.

(a) Feedings prepared on the premises of the facility:

(i) Any formula provided by the parent(s), guardian, placement agency, or licensee shall be in a ready-to-feed strength or require no preparation other than dilution with water at the day care facility.

(ii) If the container in which the feeding was purchased does not include a sanitized bottle and nipple, then transfer of ready-to-feed formula from the bulk container to the bottle and nipple feeding unit must be done in a sanitary manner in the kitchen.

(iii) Bottles filled on the premises of the facility should be refrigerated immediately if not used and contents discarded if not used within twelve hours.

(iv) If bottles and nipples are to be reused by the facility, ((they)) the bottles and nipples must be sanitized by boiling for five minutes or more just prior to refilling. Terminal (one step) sterilization of bottles, nipples, and formula is acceptable.

(v) When more than one bottle-fed child is in care, bottles shall be labeled with the child's name and date

prepared. Milk for children requiring bottles but no longer on formula shall be poured from the original container into sanitized, labeled bottles. Sanitized nipples only shall be used on ((these)) the bottles.

(b) Feedings brought to the child care facility:

(i) Bottles brought into the facility shall have a label showing the child's name and date the bottle was prepared.

(ii) Bottles shall be refrigerated immediately upon arrival at the facility and contents discarded if not used within twelve hours.

(c) Bottles shall not be propped. ((Semi-solid)) Semi-solid foods shall be provided for infants at between four and five months of age, upon consultation with the parent((?)) or placement agency and/or with a physician when indicated. Infants too young to sit in high chairs shall be held in a ((semi-sitting)) semisitting position for all feedings. Infants six months of age or over ((who show)) showing a preference for holding their own bottles may do so provided an adult remains in the room and within observation range. Bottles shall be taken from the child when he((?)) or she finishes feeding or when the bottle is empty. See also WAC 388-73-144.

(7) Cribs - Cribs shall be made of wood, metal or approved plastic and have secure latching devices. Cribs purchased for the use of infants under six months of age shall have no more than two and three-eighths inches space between vertical slats. Cribs currently on hand ((which do)) not ((meet)) meeting the spacing requirement may be used provided crib bumpers or other effective methods are used to prevent the infant's body from slipping between the slats. Mattresses shall fit snugly to prevent the infant being caught between the mattress and crib side rails. Crib mattresses shall be waterproof and easily sanitized.

(8) Children's activities - Infants shall be provided opportunities for exercise, large and small muscle development, crawling and exploring, sensory stimulation, social interaction, and the development of communication and self-help skills. The facility shall provide suitable toys and equipment for infant care.

(9) Nursing consultation - Facilities caring for five or more infants shall arrange for regular consultation to include at least one monthly on-site visit by a registered nurse trained or experienced in the care of young children. In collaboration with the agency's administrative staff, the nurse shall be responsible for advising the agency on the operation of ((its)) the infant care program and on the implementation of ((its)) the child health program. The nurse's name and telephone number shall be posted or otherwise available in the agency.

AMENDATORY SECTION (Amending Order 1431, filed 9/10/79)

✓ WAC 388-73-304 CAPACITY. (1) No family home for adults shall be licensed for more than four adults.

(2) No foster family home for children shall be licensed for more than four foster children; nor more than a total of six children to include the foster parent's own minor children residing in the home.

(a) No home designated by the department as a "receiving home" shall be licensed for more than six foster children, such number to be reduced by the number of the foster parent's own minor children residing in the home;

(b) No home ~~((that))~~ otherwise ~~((meets these))~~ meeting the standards shall be denied a license for the care of at least one child or single family of children.

(3) No foster family home for expectant mothers will be licensed for more than three expectant mothers.

(4) No foster family home for children shall be licensed for more than two children under two years of age, such number to be reduced by the number of licensee's own children of such age.

(5) No family home shall be licensed for the care of more than two persons suffering mental or physical handicaps of such severity as to require nursing care, and then only if the licensee is qualified by training and/or experience to provide proper care and the person's treatment is under the supervision of a physician.

(6) No foster family home ~~((which functions))~~ functioning as a crisis residential center shall be licensed for the care of more than four children, including the foster parents' own minor children residing on the premises. No more than two children ~~((who require))~~ requiring crisis care may be in care at the same time. All such homes shall be two-parent homes and one or the other of the foster parents shall not be employed outside the home.

(7) A foster family home may, for purposes of respite care, exceed the foster family home licensed capacity by receiving foster children from another licensed foster home.

(a) Such an excess shall be permitted not more than three times in any calendar year and for not more than seventy-two hours.

(b) No foster home providing such care pursuant to subsection (7) of this section shall exceed its licensing capacity by more than twice the number of persons for which the foster family has been licensed.

(c) Prior approval shall be obtained from the placing agency, if any, and if not, the person's or persons' parents or guardian or responsible relative.

#### AMENDATORY SECTION (Amending Order 1336, filed 9/8/78)

√ WAC 388-73-310 FIRE SAFETY. (1) Every room used by persons under care, unless provided with two separate doors or one door leading directly to the outside, shall have a window of sufficient size and free of obstructions to be readily available for emergency escape or rescue.

(2) Every occupied area shall have access to at least one exit ~~((which does))~~ not ~~((pass))~~ passing through rooms or spaces subject to being locked or blocked from the opposite side.

(3) No space shall be used for residential purposes ~~((which is))~~ accessible only by ladder, folding stairs or a trap door.

(4) Every bathroom door lock shall be designed to permit the opening of the locked door from the outside in an emergency.

(5) Every closet door latch shall be such that the door can be opened from the inside.

(6) No stove or heater shall be so located as to block escape in case of malfunctioning and ensuing fire.

(7) Flammable, combustible or poisonous material shall be stored away from exits and in areas not accessible to persons under care.

(8) Open flame devices, heating and cooking appliances, and other similar products capable of igniting clothing shall not be left unattended or used in such a manner which could result in accidental ignition of clothing.

(9) All persons in care shall be instructed in emergency evacuation procedures and drills conducted at regular intervals to test and practice the procedure.

(10) There shall be readily available an approved 2A-rated fire extinguisher. Except for facilities licensed prior to June 3, 1983, an approved five pound or larger all purpose (A.B.C.) ((type)) fire extinguisher will be acceptable. (Where local fire authorities require installation of a different type or size of fire extinguisher, the requirement of the local authority shall apply.)

(11) A smoke detector shall be located in proximity to the area(s) where persons under care sleep.

(12) If question arises concerning fire danger, the local fire protection authority shall be consulted.

#### AMENDATORY SECTION (Amending Order 1336, filed 9/8/78)

√ WAC 388-73-504 PERSONNEL. A day treatment program shall have the following staff:

(1) A director responsible for the overall management of the agency's facilities and ~~((its))~~ operation, and a program supervisor responsible for the implementation and supervision of the agency's child care and treatment program. The director and the program supervisor may be one and the same person if he or she is qualified for both positions. One or the other shall normally be on the premises while the children are in care and another competent person left in charge during ~~((their))~~ the director's and/or program supervisor's temporary absence.

(a) The director shall be at least twenty-one years of age and shall have the management and supervisory skills necessary for the proper administration of the agency, including the maintenance of necessary records, the management of the agency's finances and the maintenance of positive relationship with staff, parents, and the community as evidenced by appropriate references and on-the-job performance.

(b) The program supervisor shall be at least twenty-one years of age and shall have a knowledge of child growth and development, the origin and treatment of deviant behavior, techniques of guiding children's behavior and the ability, in conjunction with the director, board, and other staff, to implement programs to meet the needs of the children served. He or she shall have at least a ~~((master's))~~ masters degree in social work, clinical psychology or closely related field.

(2) Psychiatrist - The agency shall receive regular consultation from a child psychiatrist.

(3) Psychologist - The agency shall provide or arrange for the services of a psychologist for the administration of psychological testing and related services if these services are not provided by the accredited school where the child is regularly enrolled.

(4) Teaching staff - The agency shall provide ~~(/)~~ or arrange for teaching ~~((staff))~~ by certified teachers qualified by training or experience in remedial education.

(5) Group counselors - Group counselors shall be persons ~~((who are))~~ qualified by training or by experience in the care of disturbed children.

AMENDATORY SECTION (Amending Order 1431, filed 9/10/79)

WAC 388-73-604 DAILY ACTIVITY PROGRAM. Except for juvenile detention facilities the agency shall submit a detailed written program description for departmental approval outlining the ~~((educational;))~~ recreational~~((;))~~ and therapeutic services to be provided to the child and his or her family, and a schedule of typical daily activities for persons in care ~~((, and a statement of religious practices, if any)).~~

AMENDATORY SECTION (Amending Order 1336, filed 9/8/78)

WAC 388-73-708 REQUIRED PERSONNEL. (1) A director ~~((shall be employed)), ((who is))~~ at least twenty-one years of age and ~~((who is))~~ a mature person especially equipped by training, experience, and personal qualities to insure an effective program, staff development, and efficient administration shall be employed. ~~((That person))~~ The director must possess an understanding of the program to be administered and have demonstrated such leadership and supervisory ability as will insure harmonious relationships and effective performance of agency personnel.

(2) Consultants ~~((and other specialists)). ((Specialists))~~ Consultants in mental health, education, religion, and law shall also be available as needed for work with agency staff, as well as with the parent. ~~((Specialists))~~ Consultants used by the agency shall meet the full requirements of professional competence in ~~((their))~~ the consultants' respective fields. ~~((There shall be a written agreement between the agency and each consultant specifying the conditions of consultation.))~~

(3) Residential staff. Residential programs providing twenty-four hour care to expectant mothers or to mothers and their infants shall employ residential staff in sufficient numbers to insure ~~((that))~~ the physical and emotional needs of the residents are met. Residential staff are staff ~~((who are))~~ in charge of supervision of the day-to-day living situation. Such staff may carry out maintenance tasks ~~((which do))~~ not ~~((detract))~~ detracting from ~~((their))~~ the staff's primary function.

(a) Residential staff shall be on duty in a ratio of one such staff to every eight mothers or major fraction thereof. When more than eight mothers are on the premises, at least two adults (including at least one residential care staff) shall be on duty. Additional staff may be required under certain circumstances, as required by the department.

(b) On duty staff may include persons ~~((who sleep))~~ sleeping on the premises but ~~((who))~~ are available to the residents as needed during the nighttime hours. In homes ~~((which care))~~ caring for fewer than ten persons, at least one staff shall be physically present with an additional person available "on call" at all times.

(4) Relief staff. Sufficient relief staff shall be available to allow all staff the equivalent of two days off a week.

AMENDATORY SECTION (Amending Order 1336, filed 9/8/78)

WAC 388-73-714 FAMILY LIFE EDUCATION. All maternity service programs shall provide or arrange for classes in family life ~~((such as)).~~ Examples of such services are: Home management and consumer education, child-rearing techniques, and family planning.

**WSR 83-03-001**  
**NOTICE OF PUBLIC MEETINGS**  
**CLARK COLLEGE**  
 [Memorandum—December 29, 1982]

The following are the dates on which the board of trustees of Clark Community College District No. 14 are scheduled to meet during 1983:

January 12	July 13
February 9	September 14
March 9	October 12
April 13	November 9
May 11	December 14
June 8	

**WSR 83-03-002**  
**NOTICE OF PUBLIC MEETINGS**  
**SEATTLE COMMUNITY COLLEGE DISTRICT**  
 [Memorandum—January 6, 1983]

The meeting of the Seattle Community College District VI board of trustees, which was scheduled for Tuesday, January 11, 1983, has been rescheduled for Thursday, January 20, 1983, at 6:30 p.m., the location to be announced.

**WSR 83-03-003**  
**ADOPTED RULES**  
**OFFICE OF FINANCIAL MANAGEMENT**  
 [Order 56—Filed January 7, 1983]

I, Joe Toller, director of the Office of Financial Management, do promulgate and adopt at the Office of the Director, Insurance Building, Olympia, Washington, the annexed rules relating to utilization of passenger motor vehicles, chapter 82-36 WAC.

This action is taken pursuant to Notice No. WSR 82-24-064 filed with the code reviser on December 1, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 43.41.130 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 6, 1983.

By Joe Taller  
Director

AMENDATORY SECTION (Amending Order 45, filed February 6, 1980)

✓ WAC 82-36-030 DEFINITIONS. As used in these rules and regulations, the following definitions will apply:

(1) Director. Means the director, office of financial management (OFM).

(2) Agency head. Means the head of any state agency.

(3) Passenger motor vehicle. Means any sedan, station wagon, bus or light truck which is designed for carrying ten passengers or less and is used primarily for the transportation of persons.

(4) Official State Business. Those activities performed by an official or employee of the state authorized volunteer, contractor, work experience program participant, student or employee of another governmental jurisdiction as directed by his ((superior)) or her supervisor in order to accomplish state programs or as required by the duties of his or her position or office.

(5) Commuter ride-sharing vehicle. Agencies may allow for the use of state-owned motor vehicles for commuter ride-sharing so long as the entire capital depreciation and operational expense of the commuter ride-sharing arrangement is paid by the commuters, and does not infringe upon the use of the vehicle for other official state business.

(6) Permanently assigned vehicle. A passenger motor vehicle which has been assigned to a state agency or an individual for a period greater than 30 days.

(7) Temporarily assigned vehicle. A passenger motor vehicle which has been assigned to a state agency for a period of 30 days or less.

(8) State agency. Shall include any state office, agency, commission, department or institution financed in whole or in part from funds appropriated by the legislature. It shall also include the state printer, but shall not include:

(a) The state supreme court or any agency of the judicial branch, or

(b) The legislature or any of its statutory, standing, special or interim committees.

(9) Commuting. Means travel by a state officer or employee to or from his or her official residence or other domicile to or from his or her official duty station or other place of work.

(10) "Commuter ride-sharing" means a car pool or van pool arrangement whereby a fixed group not exceeding fifteen persons including passengers and driver, is transported between their places of abode or termini near such places, and their places of employment or educational or other institutions, in a single daily round trip where the driver is also on the way to or from his or her place of employment or educational or other institution.

(11) NADA value. Means the average trade-in value shown in the current issue of the NADA Official Used Car Guide, Pacific Northwest edition, published by the National Automobile Dealers Used Car Guide Co.

(12) Agency transportation officer. The senior staff employee designated by the agency director as agency transportation officer in accordance with the Governor's Executive Order EO 74-07.

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

**WSR 83-03-004**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
[Filed January 7, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning Finance—Associated student body moneys, chapter 392-138 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on January 14, 1983.

The authority under which these rules are proposed is RCW 28A.58.115.

This notice is connected to and continues the matter in Notice Nos. WSR 82-23-048 and 83-02-002 filed with the code reviser's office on November 15, 1982, and December 23, 1982.

Dated: January 7, 1983

By: Frank B. Brouillet  
Superintendent of Public Instruction

**WSR 83-03-005**  
**ADOPTED RULES**  
**FOREST PRACTICES**  
**APPEALS BOARD**

[Order 82-1, Resolution No. 82-2—Filed January 7, 1983]

Be it resolved by the Forest Practices Appeals Board, acting at Conference Room, Suite 610, 1411 4th Avenue Building, Seattle, WA 98101, that it does adopt the annexed rules relating to regulations for practice and procedure before the board, amending WAC 223-08-020.

This action is taken pursuant to Notice No. WSR 82-21-057 filed with the code reviser on October 19, 1982. These rules shall take effect thirty days after they are

filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Forest Practices Appeals Board as authorized in RCW 76.09.230(4).

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

APPROVED AND ADOPTED January 7, 1983.  
By Norman L. Winn  
Vice Chairman

AMENDATORY SECTION (Amending Order 82-1, filed 4/13/82)

WAC 223-08-020 BOARD ADMINISTRATION—QUORUM. ~~((Two members of the appeals board shall constitute a quorum for making final orders or decisions, or for promulgating rules and regulations relating to its procedures, and may act although one position on the appeals board be vacant (RCW 76.09.220). One member or designated agent may hold hearings and take testimony when designated by the appeals board to so do. The findings of such member or agent shall not become final until approved by a quorum of the board.))~~ A majority of the appeals board shall constitute a quorum for making orders or decisions, promulgating rules and regulations necessary for the conduct of its powers and duties, or transacting other official business, and may act though one position on the board be vacant. One or more members may hold hearings and take testimony to be reported for action by the board. The appeals board shall perform all the powers and duties granted to it in this chapter or as otherwise provided by law.

**WSR 83-03-006**  
**NOTICE OF PUBLIC MEETINGS**  
**STATE CONVENTION**  
**AND TRADE CENTER**  
[Memorandum—January 6, 1983]

The board of directors of the Washington State Convention and Trade Center, at a regular meeting held on December 16, 1982, adopted the following schedule of meetings for the calendar year 1983:

- January 20
- February 24
- March 17
- April 21
- May 19
- June 16
- July 21
- August 18
- September 22
- October 20
- November 17
- December 15

All meetings will commence at 3:00 p.m.

**WSR 83-03-007**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
[Order 83-01—Filed January 10, 1983]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing rules.

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is protection of widow rockfish stocks.

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

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

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

APPROVED AND ADOPTED January 7, 1983.  
By William R. Wilkerson  
Director

NEW SECTION

WAC 220-44-04000C **COASTAL BOTTOM-FISHING SEASONS** *Effective immediately until further notice it is unlawful to possess or transport through the waters of the state, or land in any Washington State port, any window rockfish (Sebastes entomelas) in excess of 75,000 pounds per vessel load or landing.*

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-44-04000A **COASTAL BOTTOM-FISHING SEASONS (82-167)**

WAC 220-44-04000B **COASTAL BOTTOM-FISHING SEASONS (82-186)**

**WSR 83-03-008**  
**ADOPTED RULES**  
**STATE PATROL**  
[Order 82-3—Filed January 11, 1983]

Be it resolved by the Washington State Patrol, acting at Olympia, Washington, that it does promulgate and adopt the annexed rules relating to transportation of

hazardous materials, hazardous waste, and radioactive waste materials, chapter 446-50 WAC.

This action is taken pursuant to Notice No. WSR 82-22-074 filed with the code reviser on November 2, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 46.48.170 which directs that the Washington State Patrol has authority to implement the provisions of RCW 46.48.170.

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 6, 1983.  
By Neil W. Maloney  
Chief

AMENDATORY SECTION (Amending Order 82-2, filed January 28, 1982)

✓ WAC 446-50-080 TRANSPORTATION REQUIREMENTS. (1) The Washington State Patrol acting by and through the Chief of the Washington State Patrol after conferring with the committee created by RCW 46.48.190 hereby adopts the following parts of Title 49 Code of Federal Regulations, including all appendices and amendments thereto, (~~in effect on the effective date of this rule:~~) as they exist on October 1982: 170 (Reserved), 171 General information, regulations, and definitions, 172 Hazardous materials table and hazardous materials communications regulations, 173 Shippers—General requirements for shipments and packaging, 177 Carriage on public highway, 178 Shipping container specifications, 180-189 (Reserved). Title 49 CFR, parts 100 through 199, relates to safety in the transportation of hazardous materials upon the public highways. This regulation is intended to apply only to the transportation of hazardous materials by highway in Washington, to the handling and storage operations incident to such transportation, and to the highway portion of an intermodal shipment of hazardous materials.

(2) Copies of Title 49 CFR, parts 100 through 199, now in force are on file at the Code Reviser's Office, Olympia, and at the Washington State Patrol Headquarters, Commercial Vehicle Enforcement Section, Olympia. Additional copies may be available for review at Washington State Patrol District Headquarters Offices, public libraries, Washington Utilities and Transportation, Bureau of Motor Carrier Safety Office, Olympia. Copies of the CFR may be purchased through the Superintendent of Documents, United States Government Printing Office, Washington, D. C. 20402.

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

WSR 83-03-009  
PROCLAMATION  
OFFICE OF THE GOVERNOR

Declaring an Emergency in Whatcom and Skagit Counties

Heavy rains, winds, and warming temperatures are causing flooding conditions, threatening life and resulting in destruction and damage to property in Whatcom and Skagit Counties.

The severity and magnitude of the destruction and damage are beyond the capabilities of the affected political subdivisions, and, subsequently, I find that a disaster affecting life, health, and property exists in Whatcom and Skagit Counties. These conditions constitute an emergency as defined by the Washington State Disaster Preparedness Plan and the Revised Code of Washington.

NOW, THEREFORE, I, John Spellman, Governor of the state of Washington, as a result of the aforementioned flooding and under the provisions of chapter 43.06 RCW, RCW 38.08.040, and RCW 38.52.060, do hereby proclaim that a State of Emergency exists in Washington State and that the Washington State Disaster Preparedness Plan be executed. The resources of the state of Washington are authorized to be employed to assist affected political subdivisions in a concerted effort to cope with the emergency. Additionally, the Department of Emergency Services is instructed to coordinate all state assistance, including the services of the Washington National Guard, to the affected areas. The Department is also instructed to determine whether Federal disaster assistance is needed.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia this 10th day of January, Nineteen Hundred and Eighty-Three.

John Spellman

Governor of Washington

BY THE GOVERNOR:

Laura E. Eckert

Assistant Secretary of State

WSR 83-03-010  
ADOPTED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Institutions)  
[Order 1935—Filed January 12, 1983]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at



Olympia, Washington, the annexed rules relating to recertification of mental health facilities, amending WAC 275-55-293.

This action is taken pursuant to Notice No. WSR 82-24-004 filed with the code reviser on November 18, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 71.05.560 which directs that the Department of Social and Health Services has authority to implement the provisions of RCW 71.04.540.

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

APPROVED AND ADOPTED January 12, 1983.

By David A. Hogan, Director  
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1775, filed 3/11/82)

✓WAC 275-55-293 CERTIFICATION PROCEDURE—WAIVERS—PROVISIONAL CERTIFICATION—RENEWAL OF CERTIFICATION. (1) In order to certify an agency's component or components, the department shall:

(a) Receive a formal request from the county-designated administrator of the evaluation and treatment program; and

(b) Conduct a site visit of the component or components including an inspection and examination of any records, procedures, materials, areas, programs, staff, and patients necessary to determine compliance with WAC 275-55-263, and the appropriate sections of WAC 275-55-271 through 275-55-291.

(2) The department shall issue full certification to a component only if the component is in full compliance with the applicable sections of this chapter.

(3) Variances from full compliance may be granted by the department in the form of a waiver, pursuant to the provisions of WAC 275-55-371.

(4) Provisional certification may be granted by the director to a component or components which are in substantial compliance with the applicable sections of this chapter. Such provisional certification shall specify the number and type of deficiencies temporarily allowed and the length of provisional status.

(5) Renewal of certification is required at least every other year, and ~~((staff))~~ may require a complete site visit of the ~~((affected))~~ component or components as specified in subsection (1)(b) of this section.

WSR 83-03-011  
ADOPTED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Institutions)

[Order 1936—Filed January 12, 1983]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to county plan for mental health, drug abuse, developmental disabilities, alcoholism, amending chapter 275-25 WAC.

This action is taken pursuant to Notice Nos. WSR 82-23-054 and 83-02-025 filed with the code reviser on November 16, 1982, and December 29, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 69.54.040 and 71.24.190 which directs that the Department of Social and Health Services has authority to implement the provisions of chapters 69.54 and 71.24 RCW.

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

APPROVED AND ADOPTED January 12, 1983.

By David A. Hogan, Director  
Division of Administration and Personnel

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

✓WAC 275-25-010 DEFINITIONS. (1) All terms used in this chapter (~~which are~~) not defined herein shall have the same meaning as indicated in the act.

(2) "Act" means:

(a) The Alcoholism Act (chapter 70.96 and 70.96A RCW) as now existing or hereafter amended, or

(b) The State and Local Services for Mentally Retarded and Developmentally Disabled Act (chapter 71.20 RCW) as now existing or hereafter amended, or

(c) ~~((The Community Mental Health Services Act (chapter 71.24 RCW) as now existing or hereafter amended))~~ Drug and alcohol rehabilitation, education programs—drug treatment centers (chapter 69.54 RCW) as now existing or hereafter amended.

(3) "County" means each county or two or more counties acting jointly.

(4) "Department" means the department of social and health services.

(5) "Indian" shall mean any:

(a) Person (~~who is~~) enrolled in or (~~who is~~) eligible for enrollment in a recognized Indian tribe; any person determined to be or eligible to be found to be an Indian by the secretary of the interior; and any Eskimo, Aleut or other Alaskan native.

(b) Canadian Indian person who is a member of a treaty tribe, Metis community or other nonstatus Indian community from Canada.

(c) Unenrolled Indian person (~~who is~~) considered to be an Indian by a federally or nonfederally recognized

Indian tribe or ~~((the))~~ by an urban Indian/Alaska community organization.

(6) "Plan" means the application a county ~~((submitted))~~ submits to the secretary for review and approval under the act(s); or ~~((an annual))~~ revision of an existing plan.

(7) "Population" means the most recent estimate of the aggregate number of persons located in the designated county as computed by ~~((the United States census bureau in accordance with that agency's latest report, or of))~~ the office of ~~((program planning and fiscal))~~ financial management.

(8) "Secretary" means the secretary of the department or such employee or such unit of the department as the secretary may designate.

AMENDATORY SECTION (Amending Order 1322, filed 7/28/78)

✓ WAC 275-25-020 PLAN DEVELOPMENT AND SUBMISSION. (1) All dates in this section refer to the ~~((year preceding the calendar year covered by the plan))~~ twelve-month period prior to the start of the state fiscal biennium.

(2) The requirements of this section shall apply to the following program areas:

- (a) ~~((Mental health~~
- ~~(b)))~~ Drug abuse,
- ~~((c))~~ (b) Developmental disabilities, and
- ~~((d))~~ (c) Alcoholism.

(3) The secretary shall announce the amount of funds ~~((available))~~ included in the department's biennial budget request to each county for each program area no later than ~~((August 1))~~ December 15. The secretary shall announce the actual amount of funds appropriated and available to each county as soon as possible after final passage of the biennial appropriations act.

(4) Each county ~~((or combination of counties))~~ shall submit a ~~((preliminary))~~ plan for each program area for the subsequent state fiscal biennium to the secretary no later than ~~((October))~~ March 1, ~~((including))~~ in the form and manner prescribed by the secretary in written guidelines issued no later than November 1. The plan shall include the following ~~((data))~~:

- (a) A statement of priorities;
- (b) A ~~((precise and definitive))~~ work statement, including a listing of ~~((a))~~ program components, anticipated ~~((services and subcontractors))~~ service volume, and other activities to be undertaken during the period covered by the plan;

(c) ~~((their))~~ The relationship ~~((to))~~ between the work statement and the priority statement~~((, and))~~;

(d) The method(s) for ~~((integrating))~~ administering the various program components and services;

~~((e))~~ (e) A ~~((forecast of all revenues and expenditures))~~ proposed budget;

~~((d))~~ (f) An evaluation of progress in meeting the work statement in the current ~~((years plan))~~ contract~~((:))~~; and

~~((e))~~ A county and/or agency client participation schedule based on client ability to pay. PROVIDED; That, no client may be denied service because of inability to pay.))

(g) Such other information as the secretary may require in the written guidelines.

~~((5))~~ The preliminary plan shall be accompanied by a letter of transmittal signed by the county governing body or county executive. Such transmittal shall not be construed as approval or adoption of the preliminary plan by the county governing body or county executive.

~~((6))~~ (5) The secretary shall ~~((make))~~ send a written ~~((comment))~~ review of the plan to each county ~~((regarding the preliminary plan))~~ within thirty days after receipt of the plan. The review shall set forth the secretary's findings and conditions for final approval of the plan.

~~((7))~~ (6) Each county shall submit ~~((its final plan))~~ a response to the written review for each program area ~~((immediately after its adoption by the county governing body, but in no case later than December 15))~~ by May 15, or thirty days after receipt of the secretary's written review, whichever is later. ~~((The final plan shall include all of the data items in WAC 275-25-020(4) except that the forecast of revenues and expenditures shall be replaced by the adopted budget.))~~ The response to the written review shall include:

(a) Responses to all conditions set forth in the secretary's review of the plan;

(b) Any amendments to the plan desired by the county; and

(c) A letter by the county governing body or county executive indicating adoption of the plan as modified by the county's response to the written review.

(7) The secretary shall review the response submitted by the county pursuant to subsection (6) of this section and approve the plan if the response meets the conditions set forth in the written review. The secretary shall advise the county of approval or denial of approval within fifteen days after receipt of the response. The county may submit amendments or additional responses and ask for reconsideration at any time.

(8) Each county shall submit a contract proposal for each program area within forty-five days of the announcement by the secretary of the actual amount of funds appropriated and available, pursuant to subsection (3) of this section. The contract proposal shall include:

(a) A work statement, as described in subsection (4)(b) of this section;

(b) A list of the intended subcontractors, if any, and the services to be provided by each;

(c) A budget for the contract period; and

(d) A letter from the county governing body or county executive indicating approval of the contract proposal.

~~((8))~~ (9) The secretary may ~~((request such additional information and documentation, or changes in the plan, as are reasonably necessary prior to granting approval or denial))~~ modify deadlines for submission of plans, responses to written reviews or contract proposals when, in the secretary's judgment, the modification would enable the county to improve the program or planning process.

~~((9))~~ (10) The secretary may ~~((grant provisional approval of an adopted plan, or portion of an adopted plan, and require the applicant to revise the adopted plan prior to granting approval))~~ authorize the county to

continue providing services in accordance with the previous plan and contract, and reimburse at the average level of the previous contract, in order to continue services until the contract is executed.

~~((10) The secretary shall inform the county of the approval, provisional approval, or denial of an adopted plan within thirty days after receipt of the plan.~~

~~(11) A county whose adopted plan has been approved by the secretary may submit a modified plan to the secretary for review and approval at any time.~~

~~(12) Preparation, submission, and processing of a county's plan shall not be delayed due to any appeal, administrative review, or proceedings pursuant to the Administrative Procedure Act.)~~

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

WAC 275-25-030 PROGRAM OPERATION—GENERAL PROVISIONS. (1) The provisions of this section shall apply to all programs operated under authority of the act(s).

(2) The county and all contractors and subcontractors must comply with all applicable law or rule governing the department's approval of payment of funds for the program(s). Verification may be in the manner and to the extent requested by the secretary.

(3) No state funds will be paid to a county for costs of services provided by the county or other person or organization who or which was not licensed, certified, and/or approved as required by law or by rule whether or not the plan was approved by the secretary.

(4) The secretary may impose such reasonable fiscal and program reporting requirements as he or she deems necessary for effective program management.

(5) Funding.

(a) A ~~((plan)) contract~~ must be ~~((approved by the secretary)) negotiated and executed between the department and the county prior to ((the granting of state funds)) any reimbursement by the department for services to be provided under the ((plan)) contract, except as provided for in WAC 275-25-020(10). The department shall not execute the contract unless the county's plan has been approved pursuant to WAC 275-25-020(7).~~

(b) Payments to counties shall be made on the basis of ~~((monthly))~~ vouchers submitted to the department for costs incurred under ~~((an approved plan))~~ the contract. The form and content of the vouchers shall be specified by the department.

(c) The secretary may make advance payments to counties, where such payments would facilitate sound program management. The secretary shall withhold advance payments from counties failing to meet the requirements of WAC 275-25-020 until such requirements are met. Any county failing to meet the requirements of WAC 275-25-020 after advance payments have been made shall repay said advance payment within thirty days of notice by the department that the county is not in compliance.

(d) If the department receives evidence ~~((that))~~ a county or ~~((contractor))~~ subcontractor performing under the ~~((plan))~~ contract is:

(i) Not in compliance with applicable state law or rule; or

(ii) Not in substantial compliance with the ~~((plan))~~ contract; or

(iii) Unable or unwilling to provide such records or data as the secretary may reasonably require, then the secretary may withhold all or part of subsequent monthly disbursement to the county until such time as satisfactory evidence of corrective action is forthcoming. Such withholding or denial of funds shall be subject to appeal pursuant to the Administrative Procedure Act (chapter 34.04 RCW).

(6) ~~((Contracting))~~ Subcontracting. A county may ~~((contract))~~ subcontract for the performance of any of the services specified in the ~~((approved plan))~~ contract. All ~~((contracts and))~~ subcontracts shall include:

(a) A precise and definitive work statement including a description of the services to be provided;

(b) Specific agreement by the ~~((contractor))~~ subcontractor to abide by the act(s) and the rules;

(c) Specific authority for the secretary and the state auditor to inspect all records and other material ~~((which))~~ the secretary deems pertinent to the ~~((contract))~~ subcontract; and agreements by the ~~((contractor))~~ subcontractor that such records will be made available for inspection;

(d) Specific authority for the secretary to make periodic inspection of the ~~((contractor's))~~ subcontractor's program or premises in order to evaluate performance under the contract between the department and the county.

(e) Specific agreement by the ~~((contractor))~~ subcontractor to provide such program and fiscal data as the secretary may reasonably require.

(7) Records: Maintenance. Client records shall be maintained for every client for whom services are provided and shall document: Client demographic data; diagnosis or problem statement; treatment or service plan; treatment or services provided including medications prescribed.

~~((8) Records: Confidentiality:~~

~~(a) Medical or treatment records and information regarding clients obtained pursuant to the administration of the acts and these rules shall be confidential. Such records shall not be published or open to public inspection, except that such records and information:~~

~~(i) Shall in their entirety be subject to the inspection of the secretary or of his or her authorized representatives for the purpose of program review, evaluation and research, comparative cost studies, and other responsible purposes.~~

~~(ii) Shall be released pursuant to WAC 275-55-260 except as otherwise provided by law.~~

~~(b) Under all circumstances current patient authorizations shall be sought in writing when any exchange of patient information is anticipated. Whether or not patient authorization is received, the patient must be informed that information may be released to other primary treatment agencies for purposes of providing services and to the department for purposes of program evaluation and research.~~

~~(c) Client records shall be maintained at all times on the site of the agency providing service except where information is exchanged pursuant to this section. Where such information is exchanged the agency providing the patient information shall retain the original records and shall provide the recipient agency with information in the form of legible and durable copy.~~

~~(d) A client shall have the right to review his/her treatment records with a staff member. PROVIDED; That information confidential to other individuals shall not be reviewed by the client.~~

~~(9)) (8) Liability. Neither the promulgation of these rules nor anything contained in these rules shall be construed as affecting the relative status or civil rights or liabilities between the county and community agency, and/or any other person, partnership, corporation, association, or other organization performing services under a ((plan)) contract or required herein and their employees, persons receiving services, or the public generally; nor shall the use or implied use herein of the word "duty" or "responsibility" or both import or imply liability other than provided for by the statutes or general laws of the state of Washington, to any person for injuries due to negligence predicated upon failure to perform on the part of an applicant, or a board established under the act(s), or an agency, or ((its)) said agency's employees, or persons performing services on ((its)) said agency's behalf, but failure to comply with any compulsory rules shall be cause for the department to refuse to provide funds under the ((plan)) contract.~~

AMENDATORY SECTION (Amending Order 1726, filed 12/2/81)

✓ WAC 275-25-340 FUNDING FORMULA—ALCOHOLISM. (1) ~~((The department will establish and publish annually the allocation of funds available to the counties for alcoholism services))~~ For the purposes of this section, "county" shall mean the legal subdivision of the state, regardless of any agreement with another county to provide alcoholism services jointly.

~~(2) Of the state funds appropriated by the legislature for ((such)) alcoholism services ((shall be distributed according to the following:)), the department may allocate funds for state-wide services, special projects, emergency needs, and~~

~~((a)) not more than nine percent to the department for administration.~~

~~((b) Sufficient funds to continue the current level of service of the state-wide intensive inpatient treatment programs for which the department currently contracts.~~

~~(c) Sufficient funds to continue at their current level of service the following special projects:~~

~~(i) State employees alcoholism program;~~

~~(ii) Long-term alcoholism treatment programs for which the department currently contracts:))~~

~~(3) The remainder is to be ((distributed)) allocated to the counties(, and each county is to receive a sum calculated according to the county's percentage of the total distribution to all counties. Such percentage is equal to the population of the county divided by the population of all counties as last determined by the office of program planning and fiscal management)) based on the ratio of~~

county population to state population: PROVIDED, That((;)) each county shall ((receive)) be allocated at least ((fifteen)) fifty-one thousand two hundred dollars each biennium, subject to availability of appropriated funds. The minimum sum shall be adjusted each biennium in proportion to the general inflation allowance authorized by the legislature.

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

✓ WAC 275-25-530 FUNDING FORMULA—DEVELOPMENTAL DISABILITIES. (1) For the purposes of this section, "county" shall mean the legal subdivision of the state, regardless of any agreement with another county to provide developmental disabilities services jointly.

~~(2) The ((annual)) allocation of funds to counties shall be based on the following criteria:~~

~~((+)) (a) The department may withhold up to ten percent of allocated funds to provide funding for new programs, for state-wide priority programs, and for emergency needs.~~

~~((+)) (b) Each county shall be guaranteed a minimum amount for basic developmental disabilities services subject to the availability of state and federal funds.~~

~~((+)) (c) The remainder of the funds shall be distributed either on a county per capita basis or on a rate per client basis, whichever will more equitably support developmental disabilities programs.~~

AMENDATORY SECTION (Amending Order 1726, filed 12/2/81)

✓ WAC 275-25-810 DRUG ABUSE SERVICES.

(1) ~~The plan for each county ((or combination of counties)) shall address service requirements for each of the following modalities:~~

- ~~(a) Outpatient treatment services,~~
- ~~(b) ((Day)) Methadone treatment services,~~
- ~~(c) Residential treatment services,~~
- ~~(d) Inpatient treatment services,~~
- ~~(e) ((Prison/jail)) Emergency treatment services,~~
- ~~(f) ((Rehabilitation services)) Court evaluations, and~~
- ~~(g) ((Intervention services,~~
- ~~(h)) Prevention services(, and~~
- ~~(i) Support services)).~~

~~(2) Where provision of a service within the county is not appropriate, the plan shall specify how the service will be made available to county residents.~~

AMENDATORY SECTION (Amending Order 1322, filed 7/28/78)

✓ WAC 275-25-840 FUNDING FORMULAE. (1) For the purposes of this section, "county" shall mean the legal subdivision of the state, regardless of any agreement with another county to provide drug abuse services jointly.

~~(2) The ((annual)) allocation of funds appropriated from state revenues for drug abuse services shall be based on the following criteria:~~

~~((1))~~ (a) The department may withhold up to twenty-five percent of ~~((allocated))~~ appropriated state funds for ~~((statewide))~~ state-wide programs, special projects, and emergency needs.

~~((2))~~ (b) Each county shall ~~((receive five))~~ be allocated ten thousand dollars for ~~((basic))~~ community drug abuse services each biennium, subject to availability of state funds.

~~((3))~~ (c) The remainder of ~~((allocated))~~ appropriated state funds shall be ~~((distributed on a per capita basis, based on the most recent estimates of population size by the office of financial management))~~ allocated to counties based on the ratio of county population to state population.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- ✓(1) WAC 275-25-700 MENTAL HEALTH PROGRAMS—WAC SECTION NUMBERS.
- ✓(2) WAC 275-25-710 DEFINITIONS—MENTAL HEALTH AND DRUG TREATMENT.
- ✓(3) WAC 275-25-720 PRIORITIES.
- ✓(4) WAC 275-25-730 SERVICES—MENTAL HEALTH AND DRUGS.
- ✓(5) WAC 275-25-740 CLINICAL REQUIREMENTS.
- ✓(6) WAC 275-25-750 STAFFING REQUIREMENTS.
- ✓(7) WAC 275-25-760 STATE HOSPITALS—REFERRAL.
- ✓(8) WAC 275-25-770 FUNDING FORMULA—MENTAL HEALTH.
- ✓(9) WAC 275-25-820 ANNUAL PERFORMANCE AND STATUS REPORT.
- ✓(10) WAC 275-25-830 COUNTY MANAGEMENT.

**WSR 83-03-012**  
**PROPOSED RULES**  
**LIQUOR CONTROL BOARD**  
 [Filed January 12, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning English language capability required during operating hours, new section WAC 314-12-125;

that the agency will at 9:30 a.m., Wednesday, February 23, 1983, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 66.08.030 and 66.98.070.

The specific statute these rules are intended to implement is RCW 66.24.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 23, 1983.

Dated: January 12, 1983

By: Robert D. Hannah  
 Chairman

#### STATEMENT OF PURPOSE

Title: WAC 314-12-125 English Language Capability Required During Operating Hours.

Description of Purpose: WAC 314-12-125 is intended to deal with presently existing problems occurring at licensed premises where neither the licensee nor any of the employees is able to read, and converse with customers and law enforcement personnel in, the English language. The problem arises in two basic areas. The first is lack of ability on the part of the licensee or his employees to determine if requirements of law are being met, and the second is inability on the part of board enforcement personnel, and local law enforcement personnel, to properly investigate and determine if requirements of law are being met. This rule will eliminate this problem.

Statutory Authority: RCW 66.08.030 and 66.98.070.

Statutes Implemented by the Rule: RCW 66.24.010.

Summary of Rule: WAC 314-12-125 requires that a licensee must have on his licensed premises at all times when liquor is being sold at least one person employed who is able to read, and converse with customers and law enforcement personnel in, the English language. This requirement is to insure compliance with the liquor laws and rules of the board relating to sale of liquor. Failure by a licensee to provide the English language capability required by this rule constitutes good and sufficient cause for revocation of license privileges.

Reasons Supporting Proposed Action: The board's enforcement division, and local law enforcement personnel have, on numerous occasions, encountered severe problems in licensed premises while attempting to determine whether or not the law and the rules of the board relating to the sale, service and consumption of liquor were being complied with because the personnel on duty either could not, or pretended not to, speak English. Also, it is obvious that the proper checking and questioning of identification written in the English language cannot be accomplished unless someone is present on the licensed premises who can read, speak and understand the English language. This rule will require that English language capability be present on a licensed premises while liquor is being sold and consequently will be of great benefit to all citizens of Washington by making it possible to insure compliance with liquor laws and rules and to detect those persons who may be violating said law and rules. Note that this rule does not require that a person must speak English in order to obtain a liquor license, but merely requires that during those times when it is a licensee's responsibility to administer and enforce the laws relating to sale of liquor, that the licensee provide such capability, through employees, to insure that this is accomplished.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Ray

Hensel, Supervisor, License Division, Capital Plaza Building, Olympia, WA 98504, 753-6259; and Bob Obenland, Chief Enforcement Officer, Capital Plaza Building, Olympia, WA 98504, 753-6270.

Person or Organization Proposing Rule: This rule was proposed by the Liquor Control Board.

Agency Comments: This rule will enable the board to better accomplish its mission of enforcing the liquor laws of the state of Washington and the rules of the board by insuring that each licensed operation has the capability to accomplish its statutory responsibilities.

Necessity of Rule: This rule was not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: Cost impact for both small and larger businesses is estimated to be minimal to zero.

Discussion: For those licensees who already have someone employed during operating hours who can read, speak and understand the English language, the cost impact would be zero. For those who currently do not, the cost impact would be either zero or minimal depending on what personnel changes would be made.

#### NEW SECTION

WAC 314-12-125 ENGLISH LANGUAGE CAPABILITY REQUIRED DURING OPERATING HOURS. (1) In order to establish compliance with the liquor laws (Title 66 RCW) and rules of the board (Chapter 314 WAC) including, but not limited to, the requirements relating to the checking of identification and dealing with underage or apparently intoxicated persons, a licensee must have on the licensed premises at all times when liquor is being sold at least one person employed who is able to read, and converse with customers and law enforcement personnel in, the English language.

(2) Failure by a licensee to provide the English language capability required by this rule will constitute good and sufficient cause for revocation of license privileges.

**WSR 83-03-013**  
**PROPOSED RULES**  
**LIQUOR CONTROL BOARD**  
[Filed January 12, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning:

Amd WAC 314-16-120 Conduct on licensed premises.  
Amd WAC 314-52-110 Advertising by retail licensees;

that the agency will at 10:30 a.m., Wednesday, February 23, 1983, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 66.08.030, 66.08.060 and 66.98.070.

The specific statute these rules are intended to implement is RCW 66.44.200, 66.08.060 and 66.08.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 23, 1983.

Dated: January 12, 1983

By: Robert D. Hannah  
Chairman

#### STATEMENT OF PURPOSE

Title: WAC 314-16-120 Conduct on Licensed Premises.

Description of Purpose: The amendment to WAC 314-16-120 is intended to eliminate the possibility of intoxicated persons being forced out of licensed premises and onto the highways by a licensee who is merely attempting to comply with board rules in good faith.

Statutory Authority: RCW 66.08.030 and 66.98.070.

Statute Implemented by the Rule: RCW 66.44.200.

Title: WAC 314-52-110 Advertising by Retail Licensees.

Description of Purpose: The amendment to WAC 314-52-110 is intended to eliminate advertising by licensees which has the effect of inducing rapid consumption of drinks at a lowered price for a short period of time ("happy hour"). This amendment is intended to reduce the possibility of inducement leading to economically motivated overconsumption and thereby to encourage moderation and reduce, to some degree, the likelihood of driving while intoxicated.

Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070.

Statutes Implemented by the Rule: RCW 66.08.060 and 66.08.010.

Summary of Rule: WAC 314-16-120 currently prohibits licensees from permitting disorderly, boisterous or intoxicated persons on licensed premises. The amendment would remove penalties for allowing intoxicated persons to be on licensed premises so long as they were not boisterous or disorderly, and so long as they were not served any liquor (see RCW 66.44.200). WAC 314-52-110 regulates advertising by retail licensees. The amendment to this rule would prohibit advertising of "happy hour" or any other similar scheme designed to induce consumption by offering lower priced drinks during a short period of time.

Reasons Supporting Proposed Action: WAC 314-16-120 has the effect of requiring licensees to remove intoxicated persons from their premises or face penalties directed at their license privileges. The effect of compliance with this rule has, on some occasions, resulted in intoxicated persons who are forced to leave licensed premises, becoming involved in incidents involving driving while intoxicated. Removal of penalties for allowing an intoxicated person to remain on licensed premises will have the effect of eliminating some possible incidents of driving while intoxicated. The rule, as proposed to be amended, will still prohibit any boisterous or disorderly person from being permitted to remain on licensed premises, and RCW 66.44.200 prohibits sales of liquor to any intoxicated person. Consequently, an intoxicated person on licensed premises will only be permissible if he or she is in the process of sobering up and is not being

disorderly or boisterous. WAC 314-52-110, as amended, will minimize the inducement to rapid consumption of a number of drinks over a short period of time due to economic reasons. The effect of this rule will be to reduce the likelihood of incidents involving driving while intoxicated.

**Agency Personnel Involved:** In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Bob Obenland, Chief Enforcement Officer, Capital Plaza Building, Olympia, Washington 98504, 753-6270; Ray Hensel, Supervisor, License Division, Capital Plaza Building, Olympia, Washington 98504, 753-6259; and Bill Burkett, Information Officer, Capital Plaza Building, Olympia, Washington 98504, 753-6276.

**Person or Organization Proposing Rule:** These rule amendments were proposed by the Liquor Control Board.

**Agency Comments:** It is believed that both of these rule amendments will have the effect of reducing the likelihood of incidents involving driving while intoxicated.

**Necessity of Rule:** This rule was not made necessary as a result of federal law or federal or state court action.

**Small Business Economic Impact Statement:** Cost impact for both small and large businesses is estimated to be minimal.

**Discussion:** The amendments to WAC 314-16-120 and 314-52-110 will not require any additional expenditures by either small or large business.

**AMENDATORY SECTION** (Amending Order 53, filed 2/15/77, effective 3/18/77)

WAC 314-16-120 CONDUCT ON LICENSED PREMISES. ~~((RULE 27))~~ (1) No licensee, or employee thereof, shall be disorderly, boisterous or intoxicated on the licensed premises, or on any public premises adjacent thereto which are under the licensee's control, nor shall any licensee, or employee thereof, permit any disorderly~~((:))~~ or boisterous ~~((or intoxicated))~~ person to be thereon; nor shall any licensee, or employee thereof, use or allow the use of profane or vulgar language thereon.

(2) No licensee, or employee thereof, shall consume liquor of any kind while working on the licensed premises. (See WAC 314-16-050, Closing Hours.)

**AMENDATORY SECTION** (Amending Order 108, Resolution 117, filed 8/11/82)

WAC 314-52-110 ADVERTISING BY RETAIL LICENSEES.

(1) Every advertisement by a retail licensee shall carry the licensed trade name or the registered franchise name or the trademark name. The term "trade name" shall be defined as the "licensed trade name" as it appears on the license issued to the licensee: PROVIDED, HOWEVER, That such words as tavern, cafe, grocery, market, food store, food center, delicatessen, wine shop, beer parlor and other similar words used to identify the type of business licensed, and numbers used to identify chain licensees of the same trade name, shall neither be required nor prohibited as part of the trade name in advertisements: AND PROVIDED FURTHER, That advertisements by public Class H licensees may also refer to cocktails, bar, lounge and/or the "room name." The term "room name" shall be defined as the name of the room designated as the cocktail lounge and/or the dining room if both are in the same room.

(2) Beer, wine or spirituous liquor shall not be advertised, offered for sale or sold at less than cost, or as a loss leader, as defined in, or other than as provided in the Unfair Practices Act, chapter 19.90 RCW.

(3) No advertising by any licensee of the Board shall contain any inducement to rapid consumption of a number of drinks due to a lowered price for a certain period of time. Terms such as happy hour, attitude adjustment hour, and other language similarly designed to

induce the public to consume lower priced drinks during a short period of time shall be prohibited in any and all liquor advertising.

### WSR 83-03-014

#### EMERGENCY RULES

#### COMMISSION ON EQUIPMENT

[Order 83-01-01—Filed January 12, 1983]

Be it resolved by the Commission on Equipment, acting at 4242 Martin Way, Olympia, WA 98504, that it does adopt the annexed rules relating to traction devices, chapter 204-24 WAC.

We, the Commission on Equipment, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the changes will make more efficient use of tire chains on vehicles and combinations of vehicles over 10,000 pounds and will enhance compliance with the rules. Because the need for chains is limited to winter months the changes must be enacted immediately to be of benefit toward the preservation of public safety during this winter season.

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

This rule is promulgated pursuant to RCW 46.37.420 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 10, 1983.

By Neil W. Moloney  
Chairman

**AMENDATORY SECTION** (Amending Order No. 82-07-01, filed July 29, 1982)

WAC 204-24-030 STANDARDS FOR STUDDED TIRES. Studded tires shall meet the following specifications:

(1) Studs shall be metal, tipped with tungsten carbide.

(2) Metal studs shall be inserted only in a new tire or a newly-recapped tire which has molded in the tread the "pin-holes" into which metal studs are to be inserted. Studs shall not be inserted in any new tire or newly-recapped tire after it has been driven on a vehicle.

(3) Metal studs may be installed only by the tire manufacturer, or by a tire dealer or tire jobber who shall install the metal studs in conformance with the manufacturer's specifications.

(4) When a tire is sold or offered for sale as a studded tire or when studs are installed in a new tire or a newly-recapped tire, there shall be a minimum of seventy metal studs evenly spaced around the tread of the tire.

(5) A tire shall contain a minimum of fifty-six metal studs at all times in order to qualify as a "studded tire" or as an approved traction device where traffic control signs marked "Chains" or "~~(Other Approved Traction Devices are)~~ Snow Tires Required" are posted.

(6) Metal studs shall not be installed in any tire of a vehicle which has a gross vehicle weight of ten thousand (10,000) pounds or over.

(7) School buses and fire department equipment tires are exempt from Item (6) of this regulation.

AMENDATORY SECTION (Amending Order No. 82-07-01, filed July 29, 1982)

WAC 204-24-040 TRACTION DEVICES. The following equipment items are approved by the Commission on Equipment for use as traction devices wherever traction devices are required by the Transportation Commission:

(1) Tire chains meeting the standards in ~~((WAC 204-24-020))~~ chapter 204-22 WAC.

(2) Studded tires meeting the standards in WAC 204-24-030.

(3) ~~((Garnet tires.))~~

(4) Snow tires. An approved snow tire shall have the following tread characteristics:

(a) A minimum of 4/32 inch tread, measured in the center portion of the tire at three locations equally spaced around the circumference of the tire.

(b) A relatively aggressive tread pattern designed primarily to provide additional starting, stopping, and driving traction on snow or ice. The tread shall have ribs, lugs, blocks or buttons the edges of which are at an angle greater than thirty degrees to the tire circumferential centerline.

(c) On at least one side of the tread design, the shoulder lugs protrude at least 1/2-inch in a direction generally perpendicular to the direction of travel.

(d) Tires manufactured to meet these specifications shall be permanently labeled on at least one sidewall with the words "Mud and Snow" or any contraction using the letters "M" and "S" (e.g. MS, M/S, M-S, M & S, etc.).

~~((5))~~ Special tires specifically designed to improve stopping, traction, and cornering abilities of the tire on ice or snow may be approved by the Commission on Equipment as an approved traction device.

**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 82-07-01, filed July 29, 1982)

WAC 204-24-050 USE OF TIRE CHAINS OR OTHER TRACTION DEVICES. (1) Vehicles under 10,000 pounds gross vehicle weight.

(a) When traffic control signs marked "Snow Tires Required" are posted by the Transportation Commission it shall be unlawful for any vehicle to enter the controlled area without having mounted on its drive wheels at least one of the traction devices meeting the requirements of WAC 204-24-040.

(b) When traffic control signs marked "Chains Required" are posted by the Transportation Commission it shall be unlawful for any vehicle to enter the controlled area without having mounted on its drive wheels tire chains meeting the standards in ~~((WAC 204-24-020))~~ chapter 204-22 WAC.

(i) Exception for all wheel drive vehicles. When "Chains Required" signs are posted, all-wheel drive vehicles shall be exempt from the chain requirement when all wheels are in gear and are equipped with approved traction devices as specified in WAC 204-24-040 provided that tire chains for at least one set of drive wheels are carried in the vehicle.

(2) Vehicles or combinations of vehicles over 10,000 pounds gross vehicle weight.

(a) When traffic control signs marked "Snow Tires Required" or "Chains Required" are posted by the Transportation Commission it shall be unlawful for any vehicle or combination of vehicles to enter the controlled area without having mounted on its wheels tire chains ~~((in conformance with subsection (2)(b) of this section.))~~ as follows:

~~((b) When traffic control signs marked "Chains Required" are posted by the Transportation Commission it shall be unlawful for any vehicle or combination of vehicles to enter the controlled area without having mounted on its wheels tire chains as follows.))~~

(i) Single vehicles, including but not limited to trucks, truck-tractors, buses and school buses: A minimum of two drive tires chained, one on each side of the vehicle, both on the same axle.

(ii) Two vehicle combinations, including but not limited to truck and trailer, or truck tractor and semi-trailer: A minimum of two drive wheels chained, one on each side of the vehicle and both on the same axle, and one trailer wheel chained on the last axle of the trailer. ~~((If the trailer or semi-trailer has tandem rear axles, the chained wheel may be on either of the last two axles.))~~ Trailers or semi-trailers equipped with tandem rear axles are exempt from this requirement.

(iii) Three-vehicle combinations, including but not limited to truck tractor, semi-trailer and full trailer: A minimum of four drive wheels chained and two trailer wheels chained. The trailer wheel chains shall be on the last trailer in the combination and at least one such chain shall be on a tire on the last axle, or if the trailer has tandem rear axles, the chained wheel may be on either of the last two axles.

(iv) Combinations of vehicles specially permitted to carry over 80,000 pounds gross vehicle weight: A minimum of four drive ~~((tires))~~ wheels chained ~~((all on the same axle))~~ and ~~((two))~~ one trailer wheel ~~((s))~~ chained ~~((; one on each side))~~. The trailer wheel chain ~~((s))~~ shall be on the last axle of the trailer ~~((in the combination and at least one such chain shall be on a tire on the last axle, or if the trailer has tandem rear axles, the chained tire may be on either of the last two axles))~~. Except in three vehicle combinations, trailers equipped with tandem rear axles are exempt from this requirement.

(c) All vehicles over 10,000 pounds gross vehicle weight shall carry a minimum of two extra chains or adequate chain repair equipment for use in the event



that road conditions require the use of more chains than the minimums stated in subsection (2)(~~(b)~~)(a) of this section or in the event that chains in use are broken or otherwise made useless: Provided, that highway maintenance vehicles operated by the Department of Transportation for the purpose of snow removal and its ancillary functions are exempt from this requirement.

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 7607, filed September 14, 1976)

WAC 204-24-070 APPROVAL OF TIRE CHAINS OR TRACTION DEVICES. Any tire chain, wheel chains, studded tires(~~(f)~~), or other traction devices meeting the standards in ~~(WAC 204-24-020)~~ chapter 204-22 WAC, WAC 204-24-030, and WAC 204-24-040 shall be considered as an approved type chain, studded tire, or other traction device by the state Commission on Equipment.

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 83-03-015  
ADOPTED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)

[Order 1934—Filed January 12, 1983]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to food stamps, amending chapter 388-54 WAC.

This action is taken pursuant to Notice No. WSR 82-24-033 filed with the code reviser on November 23, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.04.510 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 12, 1983.

By David A. Hogan, Director  
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1558, filed 10/20/80)

✓ WAC 388-54-670 (~~HOUSEHOLD DETERMINATION STUDENTS~~) STUDENT ELIGIBILITY.

(1) (~~No individual~~) Any person who is (~~a member of a household otherwise eligible to participate in the program shall be eligible to participate as a member of that or any other household if the individual is~~):

(a) Between the ages of eighteen and sixty years; and

(b) Physically and mentally fit; and

(c) Enrolled (~~and attending~~) at least half-time in an institution (~~recognized by a federal, state or local government agency as providing post-high school~~) of higher education shall be ineligible to participate in the food stamp program, unless that person complies with the eligibility requirements of subsection (~~(2)~~) (3) of this section.

(2) Institution of higher education shall be any institution which normally requires a high school diploma or equivalency certificate for enrollment including, but not limited to, colleges, universities, and vocational or technical schools at the post-high school level.

(~~(2)~~) (3) In order to be eligible, (~~(a)~~) any student as defined in subsection (1) of this section shall meet at least one of the following criteria:

(a) Be employed for a minimum of twenty hours per week and be paid for such employment or if self-employed, be employed for a minimum of twenty hours per week and receive weekly earnings at least equal to the federal minimum hourly wage multiplied by twenty hours;

(b) Participate in a federally financed work study program during the regular school year;

(c) (~~Be the head of a~~) Provide more than half the support of one or more dependent household (~~(f)~~) members or be the spouse of (~~such head~~) containing one or more other persons) a person who (~~are dependents of that individual because he/she supplies~~) provides more than half (~~of their total~~) the support (~~(includes expenditures for food, shelter, clothing, education, medical and dental care, recreation, transportation and similar necessities) during the calendar year;~~) of one or more dependent household members. In determining if a household member provides more than half the support, the following applies:

(i) If the dependent is a spouse, a minor child under the control of the student or spouse, or a relative of the student or spouse, such as a parent or grandparent, and that relative has little or no income of their own, the student shall be considered as providing the support for that person regardless of the income sources from which the student derives that support.

(ii) In the case of other dependents, such as unrelated adults, minor children not under the parental control of the student or spouse, or related adults who have their own source of income, determine whether the student or spouse provides these individuals with half of their support during the certification period. Total support is the sum of:

(A) The fair rental value of lodging furnished.

(B) All expenses paid or incurred directly by or for the dependent, such as food, clothing, medical expenses and dental care, recreation, transportation, and similar necessities.

(C) A proportionate share of these or similar expenses that cannot be attributed directly to a particular individual, such as the cost of food bought in common for the entire household.

(iii) To qualify for the exemption in subsection (3)(c)(i) and (ii) of this section, the student or spouse must provide from their own funds or in-kind contributions for over half of the individual's support needs regardless of the source of the funds.

(d) Be enrolled in an institution of higher education as a result of participation in the work incentive program under Title IV of the Social Security Act, as amended.

~~((3))~~ (4) ~~((Once))~~ Enrollment status of a student ~~((enrolls in an))~~ shall begin on the first day of the school term of the institution of higher education~~(;)~~. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation and recess unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer school).

~~((4))~~ (5) ~~((Enrollment))~~ Eligibility as a result of participation in the work incentive program under Title IV of the Social Security Act shall be deemed to continue as long as the student maintains continuous enrollment as specified in subsection ~~((3) above)~~ (4) of this section.

~~((5))~~ (6) The income and resources of an ineligible student living with a household shall not be considered in determining eligibility or level of benefits of the household.

~~((6))~~ (7) The remainder of the household in which the ineligible student resides shall be certified, if otherwise eligible.

**AMENDATORY SECTION** (Amending Order 1720, filed 11/18/81)

WAC 388-54-740 INCOME—DEDUCTIONS. In computing net income, only the following deductions shall be allowed:

(1) A standard deduction of eighty-five dollars per household per month.

(2) An earned income deduction of eighteen percent of gross earned income. Earnings which are excluded in WAC 388-54-735 shall not be included in gross earned income for purposes of computing earned income deductions.

(3) Payments for the care of a child or other dependent when necessary for a household member to accept or continue employment, seek employment, or attend training or education preparatory to employment.

The amount to be deducted for child care shall be the amount actually paid not to exceed one hundred ~~((and))~~ fifteen dollars. The dependent care deduction in combination with the shelter deduction shall not exceed one hundred ~~((and))~~ fifteen dollars.

(4) Shelter costs in excess of fifty percent of the household's income after ~~((the above))~~ deducting standard, earned income, and dependent care deductions. The shelter deductions alone or in combination with the dependent care deduction~~(;)~~ shall not exceed one hundred ~~((and))~~ fifteen dollars.

(a) "Shelter costs" mean rent or mortgage payment plus taxes on a dwelling and property, insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated, assessments, and utility costs such as heat and cooking fuel, electricity, water, garbage, sewage disposal, and basic service fee for one telephone (plus tax), and initial installation fees for utility services. One-time deposits shall not be included as shelter costs.

Shelter costs shall also include continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments.

(b) Shelter costs for a home not occupied because of employment, training away from home, illness or abandonment caused by casualty loss or natural disaster shall be allowed if:

- (i) The household intends to return to the house;
- (ii) The current occupants, if any, are not claiming shelter costs for food stamp purposes; or
- (iii) The home is not being leased or rented during the household's absence.

(c) Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood.

(d) Standardized amounts shall be used to compute the shelter costs for utilities such as heat and cooking fuel, electricity, water, garbage, sewage disposal, and telephone.

	Food Stamp Utility Standards	
	Persons in Household	
	November 1, <del>((1981))</del> 1982 thru April 30, <del>((1982))</del> 1983	May 1, <del>((1982))</del> 1983 thru October 31, <del>((1982))</del> 1983
1	\$ <del>((136.00))</del> 137	\$ <del>((86.00))</del> 87
2	<del>((146.00))</del> 148	<del>((92.00))</del> 93
3	<del>((158.00))</del> 160	<del>((96.00))</del> 97
4	<del>((168.00))</del> 170	<del>((100.00))</del> 101
5	<del>((177.00))</del> 180	<del>((108.00))</del> 109
6	<del>((189.00))</del> 191	<del>((113.00))</del> 114
7	<del>((196.00))</del> 198	<del>((118.00))</del> 119
8	<del>((203.00))</del> 205	<del>((121.00))</del> 122
9	<del>((213.00))</del> 215	<del>((126.00))</del> 127
10 or more	<del>((222.00))</del> 224	<del>((132.00))</del> 133

(e) Households which do not incur any separate utility charges or which are billed separately for only telephone costs, water, sewage, and garbage collection fees shall not be entitled to claim the standard utility allowance.

(f) If a household is not entitled to the standard utility allowance, it may claim actual utility expenses for any utility which it does pay separately, except the telephone.

(g) If a household requests and can verify that its utility bills are higher than the standards, the actual utility costs shall be used.

(i) The telephone standard, for families incurring telephone costs, but not entitled to claim the single standard, is ten dollars.

(ii) A household shall be allowed to switch to or from the standard during its certification period.

(h) The telephone allowance applies to households which are not entitled to claim the overall standard, but which have telephone expenses.

(5) Households which contain one or more members who are sixty years of age or older, receive supplemental security income (SSI), or receive social security disability payments under Title II of the Social Security Act shall be authorized, effective January 1, 1980:

(a) A dependent care deduction up to one hundred ~~((and))~~ fifteen dollars as specified in WAC 388-54-740(3), and

(b) An excess shelter deduction as specified in WAC 388-54-740(4) for the monthly amount that exceeds fifty percent of the household's monthly income after all applicable deductions have been made.

(6) An individual who is sixty years of age or older, or receives supplemental security income (SSI), or receives social security disability, or has received emergency SSI from the Social Security Administration shall be authorized effective January 1, 1980, a deduction for unreimbursable monthly medical expenses over thirty-five dollars.

(a) Allowable medical expenses are:

(i) The cost of maintaining an attendant, homemaker, home health aide, housekeeper and/or child care service. These expenses, which could be claimed either as a medical or child care expense, must be considered as medical expenses;

(ii) The cost of medical insurance;

(iii) Medicare premiums related to coverage under Title XVIII of the Social Security Act;

(iv) Any cost-sharing on spend-down expenses incurred by Medicaid (medical only) recipients;

(v) Hospitalization or outpatient treatment, nursing care, and nursing home care including payments by the household for an individual who was a household member immediately prior to entering a hospital or licensed nursing home;

(vi) Prescription drugs and other over-the-counter medication (including insulin) when prescribed or approved by a licensed practitioner or other qualified health professional;

(vii) The cost of medical supplies, sick-room equipment (including rental) or other prescribed equipment;

(viii) Dentures, hearing aids, prosthetics, and ~~((eye glasses))~~ eyeglasses prescribed by an optometrist or physician skilled in eye disease;

(ix) Securing and maintaining a seeing eye dog including the cost of dog food and veterinarian bills;

(x) Reasonable cost of transportation and lodging to obtain medical treatment or services.

(b) Nonallowable expenses are:

(i) The cost of health and hospital insurance which pays in lump-sum settlements or which continue mortgage or loan payments while the beneficiary is disabled; and

(ii) The cost of special diets.

AMENDATORY SECTION (Amending Order 1720, filed 11/18/81)

✓ WAC 388-54-785 ISSUANCE—MONTHLY ALLOTMENTS. (1) Effective October 1, 1982, based upon a thirty-day month, the department shall issue to households making initial application a coupon allotment valued in direct proportion to the number of days remaining from the date of application to the end of the initial month of eligibility.

(2) The department shall determine the value of the allotment a household receives (taking into consideration the requirement within subsection (1) of this section to ~~((pro-rate))~~ prorate the initial month's allotment) by ~~((subtracting thirty percent of))~~ multiplying the household's net monthly income by thirty percent, rounding the product up to the next whole dollar if it ends with one through ninety-nine cents, subtract the result from the thrifty food plan for ~~((that))~~ the appropriate household size. If the computation results in an allotment of one dollar, three dollars or five dollars, the amount shall be rounded up to two dollars, four dollars or six dollars, respectively.

Household Size	Effective 10/1/82
	Thrifty Food Plan Amounts
1	\$ ((70))75
2	((+28))139
3	((+83))199
4	((233))253
5	((277))300
6	((332))360
7	((367))398
8	((419))455
9	((472))512
10	((525))569
Each additional member	+((53))57

(3) All one- and two-person households shall receive a minimum monthly allotment of ten dollars except in the initial benefit month wherein a household may receive a pro rata allotment of less than ten dollars.

REPEALER

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

✓ WAC 388-54-810 ISSUANCE SIXTY DAY CONTINUATION OF BENEFITS.

**WSR 83-03-016**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 1937—Filed January 12, 1983]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

- Amd WAC 388-86-075 Outpatient and emergency care.
- Amd WAC 388-87-013 Conditions of payment—Hospital care.
- Amd WAC 388-87-070 Payment—Hospital care.
- Amd WAC 388-99-060 Scope of care for medically needy.

This action is taken pursuant to Notice No. WSR 82-24-054 filed with the code reviser on November 30, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

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

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

APPROVED AND ADOPTED January 12, 1983.

By David A. Hogan, Director  
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1685, filed 7/29/81)

✓ WAC 388-86-075 OUTPATIENT AND EMERGENCY CARE. (1) No authorization is required for categorically needy or limited casualty program-medically needy recipients to receive outpatient service, acute and emergent outpatient surgical care and other emergency care performed on an outpatient basis in a hospital. Justification for the service must be presented for payment.

(2) ~~((A recipient of the limited casualty program-medically needy may receive services without approval, and is required to make a copayment not to exceed three dollars for each emergency room visit.~~

~~((3)))~~ A recipient of the limited casualty program-medically indigent must have medical consultant approval for emergency room services.

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

✓ WAC 388-87-013 CONDITIONS OF PAYMENT-HOSPITAL CARE. (1) ~~((A))~~ All hospital ~~((must request approval of admission for nonemergent conditions from the))~~ admissions require local medical consultant ~~((before payment is made for services provided to recipients of the state funded programs))~~ approval. Prior approval of the local medical consultant is required for all nonemergent hospital admissions.

(2) Neither the department nor the recipient will ~~((not))~~ be responsible for payment for additional days of hospitalization in the case of a hospitalized recipient when the PAS limitations have been exceeded and the provider has not ~~((requested an extension within termination of service or an extension request has been denied))~~ obtained local medical consultant approval unless prior contractual arrangements are made by the department for a specified length of stay. ~~((Payment for the additional days spent in the hospital would then depend upon any private agreement or contract between the provider and the patient:))~~

(3) A beneficiary of Title XVIII medicare who is not in a state institution shall use his nonrenewable lifetime

hospitalization reserve of sixty days before payment for hospitalization will be made from Title XIX funds.

~~((4) A deductible not to exceed one-half the payment the department makes for the first day of inpatient hospital care for each admission is the responsibility of the limited casualty program-medically needy recipient:))~~

AMENDATORY SECTION (Amending Order 1873, filed 9/1/82)

✓ WAC 388-87-070 PAYMENT-HOSPITAL CARE. The department will pay hospital costs of eligible persons who are patients in general hospitals when such hospitals meet the criteria as defined in RCW 70-

41.020. ~~Except for nonallowable revenue codes and the salary and wage component determination described in this subsection, reimbursable cost will be determined by the application of the ratio of hospital commission approved operating expense and total rate setting revenue. Changes in the salary and wage component will be determined by the secretary, after consideration of legislative policy with regard to public employees and after consideration of the amount of increases being financed by the department for other providers of medical assistance services. Recipients of medicaid funded hospital services must have been approved as financially and medically eligible for hospitalization. They are:~~

- (1) Categorically needy recipients,
- (2) Limited casualty program recipients ~~((A deductible not to exceed one-half the payment the department makes for the first day of inpatient hospital care for each admission is the responsibility of the limited casualty program-medically needy recipients)),~~
- (3) Recipients of continuing general assistance.

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

✓ WAC 388-99-060 SCOPE OF CARE FOR MEDICALLY NEEDY. (1) The medical coverage under the limited casualty-medically needy program will include inpatient hospital services; outpatient hospital and rural health clinic services; physician and clinic services; prescribed drugs; dentures; prosthetic devices; eyeglasses; skilled nursing facility services; intermediate care facility services; intermediate care facility services for the mentally retarded; home health services; laboratory and x-ray services; and medically necessary transportation.

(2) ~~((A medically needy recipient deductible not to exceed one-half the payment the department makes for the first day of inpatient hospital care shall apply to each hospital admission.~~

~~((3) A medically needy recipient copayment not to exceed three dollars shall apply to each emergency room visit.~~

~~((4)))~~ For other conditions and limitations under which these services may be provided, refer to appropriate service in chapter 388-86 WAC.

~~((5)))~~ (3) A request for an exception to policy shall not be approved without review by the division of medical assistance.

**WSR 83-03-017**  
**EMERGENCY RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**  
 [Order 187—Filed January 12, 1983]

Be it resolved by the state Game Commission, acting at Kennewick, Washington, that it does adopt the annexed rules relating to emergency declaration, dogs may be taken into custody or destroyed, WAC 232-12-04501. Dogs pursuing, harassing, attacking or killing deer or elk in certain counties may be taken into custody or destroyed.

We, the state Game Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is deep and crusted snow has moved deer and elk into lowland areas and made them vulnerable to pursuit, harassment, attack or being killed by dogs running loose. Instances of deer being killed by dogs have been documented.

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

This rule is promulgated pursuant to RCW 77.12.315 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 11, 1983.

By Archie U. Mills  
 Chairman

NEW SECTION

*WAC 232-12-04501 EMERGENCY DECLARATION, DOGS MAY BE TAKEN INTO CUSTODY OR DESTROYED. Pursuant to the determination by the Director of Game that a severe problem exists in Okanogan County, the State Game Commission declares that an emergency exists, and that effective January 12, 1983, in Okanogan County it is lawful for wildlife agents to take into custody, or destroy if necessary, any dog found pursuing, harassing, attacking or killing deer or elk. Wildlife agents who take into custody or destroy a dog pursuant to this rule and RCW 77.12.315 are immune from civil or criminal liability arising from their actions.*

**WSR 83-03-018**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**  
 [Memorandum—January 12, 1983]

This is to notify you that the regular monthly meetings of the state Personnel Board for 1983 will be held on the second Thursday of each month unless revised throughout the course of the year.

The meetings will convene at 10:00 a.m. in the Board Room at the Department of Personnel, 600 South Franklin, Olympia, WA 98504.

The dates of the meetings are as follows:

- January 13, 1983
- February 10, 1983
- March 10, 1983
- April 14, 1983
- May 12, 1983
- June 9, 1983
- July 14, 1983
- August 11, 1983
- September 8, 1983
- October 13, 1983
- November 10, 1983
- December 8, 1983

**WSR 83-03-019**  
**PROCLAMATION**  
**OFFICE OF THE GOVERNOR**

Terminating Earlier Emergency Proclamations

I, John Spellman, Governor of the state of Washington, pursuant to chapter 43.06.210 RCW, hereby terminate the following emergency proclamations:

<u>Date</u>	<u>Subject</u>	<u>Area</u>
January 16, 1981	Flooding	Jefferson County
October 16, 1981	Landslide	Ferry County
November 20, 1981	Windstorms/Flooding	Entire State
November 29, 1981	Flooding	Whatcom County
January 29, 1982	Flooding	Whatcom County
December 17, 1982	Flooding	Tidal Shorelines
December 17, 1982	Flooding	Western Washington

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia this 12th day of January, Nineteen Hundred and Eighty-Three.

John Spellman

\_\_\_\_\_  
 Governor of Washington

BY THE GOVERNOR

Ralph Munro

\_\_\_\_\_  
 Secretary of State

WSR 83-03-020  
ADOPTED RULES  
DEPARTMENT OF  
GENERAL ADMINISTRATION  
(Division of Banking)  
[Order 51—Filed January 13, 1983]

WSR 83-03-021  
ADOPTED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)  
[Order 1938—Filed January 13, 1983]

I, Michael D. Edwards, Supervisor of Banking, do promulgate and adopt at Olympia, Washington, the annexed rules relating to purchase or sale of United States government securities, amending WAC 50-12-080.

This action is taken pursuant to Notice Nos. WSR 82-22-082 and 83-01-081 filed with the code reviser on November 3, 1982, and December 17, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Division of Banking, Department of General Administration, as authorized in RCW 30.04.030.

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 10, 1983.

By Michael D. Edwards  
Supervisor of Banking

AMENDATORY SECTION (Amending Order 28, filed 9/10/74)

WAC 50-12-080 PURCHASE OR SALE OF UNITED STATES GOVERNMENT SECURITIES—RESALE OR REPURCHASE AGREEMENT. The purchase or sale of securities of, or fully guaranteed as to principal and interest by, the United States government and agencies thereof, or a fractional undivided interest therein by a bank, under an agreement or agreements to resell or repurchase the interest transferred, or a portion thereof, at the end of a stated period, ~~((is not a borrowing subject to RCW 30.04.140 nor an obligation subject to the lending limit of RCW 30.04.110))~~ shall not constitute an obligation subject to the lending limit of RCW 30.04.110, an indebtedness or liability of the bank within the meaning of RCW 30.04.150, a borrowing for the purposes of reloaning within the meaning of RCW 30.04.160, nor a pledge or hypothecation of securities or assets of the bank to a depositor or creditor within the meaning of RCW 30.04.140.

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

- New WAC 388-08-435 Separate hearing regarding disclosure of investigative and intelligence files.
- Amd WAC 388-320-220 Exemption to public records disclosure.

This action is taken pursuant to Notice No. WSR 82-24-058 filed with the code reviser on December 1, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 34.04.020 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 12, 1983.

By David A. Hogan, Director  
Division of Administration and Personnel

NEW SECTION

✓WAC 388-08-435 SEPARATE HEARING REGARDING DISCLOSURE OF INVESTIGATIVE AND INTELLIGENCE FILES. (1) In the event a fair hearing regarding public assistance or food stamp program is being conducted under chapter 388-08 WAC, the appellant shall be advised of his or her right to seek inspection of the data. If the appellant seeks disclosure of any data maintained by the office of special investigation which is subject to the exemption contained in WAC 388-320-220(3), the following process shall be followed to determine whether, on a case-by-case basis, such disclosure shall be ordered:

- (a) The appellant or his or her representative shall file a written request with the office of hearings or the hearings examiner, if one has been appointed, no later than fifteen days prior to the hearing.
- (b) The request must identify the type of information sought.
- (c) The request shall state the reasons why the requester believes disclosure of the information is necessary.
- (d) The request shall identify the local community service office or the office of special investigation field office where the appellant would review the documents.
- (e) The office of hearings or examiner shall forward a copy of the request to the office of special investigation at the main office of special investigation in Olympia.
- (f) Upon a showing of good cause by the appellant, the fifteen-day notice period may be shortened by the hearings examiner.

(2) Within ten days of receipt of a properly filed request, the office of special investigation shall determine whether any of the documents sought are within the exemptions for disclosure listed in WAC 388-320-220(3)(a). Such documents, if any, shall be sealed in an envelope clearly designated as confidential documents of the office of special investigation. These documents shall then be placed in the office of special investigation file. The office of special investigation shall then notify the appellant or representative in writing of the office of special investigation's action and his or her right to a disclosure hearing. If any information has been placed in a sealed envelope and excluded from disclosure, the notice shall state the specific exemption or exemptions of WAC 388-320-220(3) relied upon for this action. The notice shall provide the appellant a ten-day opportunity to inspect the office of special investigation file by the person or his or her representative who is the subject of the fair hearing at the appropriate community service office or office of special investigation field office as designated by the appellant. In no event shall the investigative file leave the physical control of the designated office of special investigation records custodian: PROVIDED, That appellant may copy all documents not sealed in an envelope as confidential material as provided in WAC 388-320-140.

(3) If no amended request for disclosure pursuant to WAC 388-08-430(4) is filed properly, the issue of disclosure will be regarded as moot.

(4) If the appellant wants further disclosure, the appellant shall file an amended request for disclosure with the hearings examiner. The examiner shall schedule a separate, in camera hearing to be held for the purpose of determining whether and to what extent disclosure of information exempted in WAC 388-320-220(3) should be allowed.

(a) The department shall have the burden of proving, by a preponderance of the credible evidence, the necessity exists for protecting confidential information which clearly outweighs the interests of disclosure.

(b) Either party may offer witnesses to testify on the issue of disclosure. In the event the appellant calls witnesses from the state, investigative, law enforcement, or penology agencies as adverse witnesses, the appellant may ask leading questions.

(c) Attendance shall be limited to the parties, the parties' representatives, the hearings examiner, and any witnesses to be called: PROVIDED, That upon the request of either party, or upon the examiner's own motion, the hearings examiner may exclude from the hearing witnesses not testifying.

(d) In determining whether any information should be disclosed to the appellant, the hearings examiner shall review the information, but shall not disclose the information to the appellant.

(e) The hearings examiner shall enter an initial order pursuant to WAC 388-08-408 containing written findings of fact and conclusions of law:

(i) If the information sought is pertinent to any ongoing criminal investigation, disclosure shall only be ordered by a superior court of this state.

(ii) The hearings examiner shall order nondisclosure of specific information consistent with the requirements of WAC 388-320-220 after making findings of fact showing:

(A) The information sought to be disclosed is inadmissible and immaterial to establishing a defense; and

(B) Specific investigative or intelligence information, which cannot be deleted from any specific records sought, is clearly necessary to protect any vital governmental function, ongoing criminal investigation, or individual's right of privacy; and

(C) After weighing the public interest in protecting the flow of information against the individual's right to prepare his or her defense, the evidence demonstrates it is necessary that particular intelligence or investigative information not be disclosed.

(iii) An order for disclosure shall state the times and methods for inspection of the documents. In no event shall such decision compel the release of original documents but, rather, where release is ordered, copies shall be provided. Copying documents is governed by WAC 388-320-140.

(f) Each party has the right to file a petition for review, pursuant to WAC 388-08-409, for review of the initial order. There shall be no disclosure pursuant to an initial decision until all review proceedings have been exhausted.

#### AMENDATORY SECTION (Amending Order 1609, filed 2/19/81)

WAC 388-320-220 EXEMPTIONS TO PUBLIC RECORDS DISCLOSURE. Nondisclosable records are those exempted by law, including:

(1) Personal information in any files concerning a client to the extent required by RCW 42.17.310(1)(a) and/or 74.04.060, including departmental evaluations of information received from providers of services, is exempt from disclosure to the general public. However, disclosure may be made to the client or the client's representative, except as otherwise prohibited by these rules(;;).

(2) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss, as required by RCW 42.17.310(1)(h)(;;).

(3) Data (including information revealing the identity of persons who file complaints, ~~((except as the complainant may authorize))~~ if disclosure would endanger any person's life, physical safety or property) contained in intelligence, investigative, and other related files compiled by investigative, law enforcement or penology agencies, and state agencies vested with the responsibility to discipline members of any profession ~~(- This data is nondisclosable to the extent required by RCW 42.17.310(1)(d) and (c), RCW 10.97.080, chapter 446-20 WAC, and 28 C.F.R. 20, but disclosable to the extent required by 45 C.F.R. 205.10(a)(13)(i) and RCW 74.08.070;)~~ PROVIDED, That pursuant to the rules set forth in chapter 388-08 WAC, the hearings examiner may make determinations in the following program

areas only: Public assistance and/or food stamp programs as to whether the circumstances of a particular case, when weighing the public interest in protecting the flow of information against the individual's right to prepare his or her defense, necessitates nondisclosure of particular intelligence or investigative information: PROVIDED FURTHER, That nothing in this regulation shall be deemed to deny adequate opportunity to the appellant or his or her representative, to examine any intelligence or investigative information to be used by the agency at the hearing. As used in these regulations, intelligence and investigative information includes the following:

(a) Allegations or complaints of suspected criminal activity;

(b) Identification of informants, complainants, any person whose life or limb may be endangered by such disclosure, and potential witnesses regarding alleged criminal activity;

(c) Identification of and reports concerning criminal suspects other than the person who is the subject of the fair hearing;

(d) Assessments, reports, notes or voice recordings of law enforcement officials or officials of a criminal justice agency, as defined in RCW 10.97.030, concerning the person who is the subject of the fair hearing, informants or potential witnesses; and

(e) Criminal history information relating to persons or organizations other than the person or persons who are the subject of the fair hearing.

(4) Vocational rehabilitation records to the extent required by 45 C.F.R. 1361.47 and WAC 490-500-550((;)).

(5) Certain juvenile justice or juvenile care records to the extent required by chapter 13.50 RCW((;)).

(6) Records of the state registrar of vital statistics to the extent required by RCW 70.58.095((;)).

(7) Alcohol and drug abuse patient records to the extent required by 42 C.F.R. Chapter 1 Part II or other federal law or regulation((;)).

(8) Office of support enforcement information regarding location of parents to the extent required by RCW 74.20.280((;)).

(9) Adoption and voluntary termination of parent-child relationship records to the extent required by chapter 26.32 RCW, and financial information received from adoptive parents to the extent required by RCW 74.13.121((;)).

(10) Mental illness and inebriacy records to the extent required by RCW 71.05.390((;)).

(11) Personal information in files maintained for an employee of the department to the extent required by RCW 42.17.310(1)(b)((;)).

(12) Deliberative material, as opposed to facts upon which a decision is based, contained in preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended((;)), except that a specific record shall be disclosable when publicly cited by the department in connection with any action to the extent required by RCW 42.17.310(1)(i)((;)).

(13) Records ~~((which are))~~ relevant to a controversy to which the department is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the department and the office of the attorney general privileged under RCW 5.60.060(2)((;)).

(14) The central registry of reported cases of child abuse or abuse of developmentally disabled persons to the extent required by RCW 26.44.070((;)).

(15) Records of patients and inmates of state institutions to the extent required by RCW 72.01.290((;)).

(16) Records concerning applicants or recipients of support enforcement activities, as required by 45 C.F.R. 302.18((;)).

(17) Nursing home records, to the extent required by RCW 18.51.190 and 70.124.010((;)).

(18) Competitive contract procurement instruments, such as a request for proposals or an invitation for bids, prior to ~~((their))~~ the release to potential bidders; proposals and bids received in response to competitive contract procurement instruments until either the public opening of bids or, for proposals, the contractor and the department have signed the contract, pursuant to RCW 43.20A.050.

**WSR 83-03-022**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Order 82-41—Filed January 13, 1983]

I, Sam Kinville, director of Labor and Industries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to danger trees within reach of landings, roads, rigging, buildings or work areas shall be either felled before regular operations begin or work shall be arranged so that employees are exposed to minimum hazards involved, amending WAC 296-54-507(6).

I, Sam Kinville, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is in the Mount St. Helens Volcano blast area, most trees are either dead or standing, broken off at various heights or blown down completely. Logging in proximity to the standard defective trees pose all the special hazards common to working around snags and/or danger trees. This chapter requires that all such trees be felled or brought down by other appropriate means whenever such trees are a hazard to personnel. Certain federal rules require some snags must be left standing as wildlife habitat trees. This is a direct conflict with chapter 296-54 WAC. These rules are necessary to ensure that no person working within the surrounding area of these standing snags and/or danger trees is killed



or severely injured before the department has the opportunity to adopt permanent rules.

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

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

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

APPROVED AND ADOPTED January 13, 1983.

By Sam Kinville  
Director

AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

WAC 296-54-507 MANAGEMENT'S RESPONSIBILITY. In addition to observance of the general safety and health standards:

(1) The employer shall assume the responsibility of safety training for new employees.

(2) The employer shall assume the responsibility of work assignments so that no employee shall be allowed to work in a position or location so isolated that he is not within ordinary calling distance of another employee who can render assistance in case of emergency. In any operation where cutting, yarding, loading, or a combination of these duties is carried on, there shall be a minimum of two employees who shall work as a team and shall be in visual or hearing contact with one another to allow prompt awareness of injury or cessation of work activity of one employee by the other. No employee shall be left alone for a period of time to exceed fifteen minutes without visual or hearing contact. In addition, there shall be some system of back-up communication in the near proximity to enable an employee to call for assistance in case of emergency.

NOTE: This does not apply to operators of motor vehicles, watchmen or certain other jobs which, by their nature, are singular employee assignments. However, a definite procedure for checking the welfare of all employees during their working hours shall be instituted and all employees so advised.

(3) The employer shall establish a method of checking the employees in from the woods at the end of each shift. Each immediate supervisor shall be responsible for his crew being accounted for. This standard also includes operators of all movable equipment.

(4) Prior to the commencement of logging operations in a new area or setting, a safety meeting shall be held and a plan shall be developed and implemented whereby management shall ascertain by direct supervision that the work is being carried out with special emphasis on safety and safe work practices.

(5) When extreme weather or other extreme conditions are such that additional hazards arise, additional

precautions shall be taken to assure safe operations. If the operation cannot be made safe because of the aforementioned conditions, the work shall be discontinued until safe to resume.

(6) Danger trees within reach of landings, roads, rigging, buildings or work areas shall be either felled before regular operations begin or work shall be arranged so that employees (~~shall not be~~) are exposed to minimum hazards involved.

NOTE: In the Mount St. Helens Volcano blast area, most trees are either dead and standing, broken off at various heights or blown down completely. Logging in proximity to the standing defective trees pose all the special hazards common to working around snags and/or danger trees. This chapter requires that all such trees be felled or brought down by other appropriate means whenever such trees are a hazard to personnel. The Federal Land Policy and Management Act of 1976 (Public Law 94-579), the Endangered Species Act of 1973 (Public Law 93-205), the Wilderness Act of 1964 (Public Law 88-577) and the Revised Code of Washington 76.04.222, administered by the Washington State Department of Natural Resources under WAC 222-30-020, all require that some snags must be left standing as wildlife habitat trees.

(a) In the intent of reducing exposure of personnel to a minimum, the following rules shall be adhered to:

(i) Prior to commencement of logging, a plan shall be agreed to between the land owner (U.S.F.S., D.N.R. or private land owner) and the logging contractor or supervisor as to which lone snags or designated snag areas are to be left standing.

(ii) If snag areas or islands are left, the areas shall be designated as a "no work area." The perimeter of the affected areas shall be flagged and/or marked so as to be clearly distinguishable.

(iii) If lone snags and/or danger trees are left, each one shall be clearly marked.

(iv) Lone snags in work areas shall be limited to fifteen feet in height and shall be of sound enough wood capable of standing through the expected logging period of that respective unit.

(b) No running lines of yarding equipment shall run through or come closer than fifteen feet to a "no work area." No tail or haulback blocks shall be hung on standing snags and/or danger trees. When working in the rigging adjacent to a "no work area," all personnel shall be positioned at least one and one-half times the height of the tallest snag and/or danger tree, in distance, from the "no work area" before a go-ahead signal is given. During cat logging, no equipment shall enter into a "no work area" nor shall any logs be yarded from a "no work area."

(7) Management shall ensure that intoxicating beverages and narcotics are not permitted or used by employees on or in the vicinity of the work site. Management shall cause employees under the influence of alcohol or

*narcotics to be removed from the work site. This requirement does not apply to employees taking prescription drugs and/or narcotics as directed by a physician providing such use shall not endanger the employee or others.*

**WSR 83-03-023**  
**PROPOSED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Filed January 13, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules concerning WAC 480-140-040 and 480-140-160 relating to utility company budgets. The proposed amendatory section is shown as Appendix A, Cause No. U-83-02. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendment on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17). This is notice of intention to adopt on a permanent basis rules amended on an emergency basis on November 24, 1982, General Order No. R-190, and filed with the code reviser's office on the same date;

that the agency will at 8:00 a.m., Wednesday, February 23, 1983, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 80.01.040 and 80.04.320.

The specific statute these rules are intended to implement is RCW 80.04.300, et seq.

Interested persons may submit, data, views, or arguments to this agency in writing to be received by this agency before February 22, 1983.

Dated: January 12, 1983

By: Barry M. Mar  
Secretary

**STATEMENT OF PURPOSE**

In the matter of amending WAC 480-140-040 and 480-140-160 relating to utility company budgets.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040 and 80.04.320 which direct that the commission has authority to implement the provisions of chapter 80.04 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to ease reporting requirements in budgets required to be filed by public service companies, and provide a mechanism whereby specific requirements may be waived upon a showing of good cause by the affected public service company for so doing.

Barry M. Mar, Secretary, Seventh Floor, Highways-Licenses Building, Olympia, Washington, telephone number (206) 753-6420, and members of his staff were responsible for the drafting of the proposed rules and will be responsible for implementation and enforcement of the proposed rules.

The proponent of the rules is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040 and 80.04.320.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule change proposed will affect no economic values.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

**APPENDIX A**

AMENDATORY SECTION (Amending Order R-5, filed 6/6/69, effective 10/9/69)

WAC 480-140-040 PREPARATION. Budgets shall be made in duplicate on forms furnished by the commission. The original shall be filed with the commission and the duplicate shall be kept by the company for its files. (~~All entries shall be made in noncopying ink or typewriter ribbon.~~) Each question must be answered fully and accurately. Where the word "none" truly and completely states the fact, it may be given as the answer to any particular inquiry or portion thereof. Do not leave blank lines. Items and schedules which do not apply to the reporting company's business and therefore cannot be filled in, shall be answered "not applicable." In no case shall any utility deviate from the requirements of these rules except upon a showing of good cause, and then only to the extent authorized by the commission in writing. For the purpose of the budget report an "individual major project", as set forth on Page 14 of such budget report is defined as one exceeding \$50,000 for Class A and B companies and \$25,000 for Class C companies.

AMENDATORY SECTION (Amending Order R-5, filed 6/6/69, effective 10/9/69)

WAC 480-140-160 SALARIES. Budget of salaries shall give complete information as to the name, location, title or position, total annual compensation and amount of annual compensation assigned Washington of all company officials, directors, owners or principal stockholders, who are employees, officers or executives and all managing and superintending officers irrespective of the amount of their compensation and all other employees who receive salaries of ~~(\$1,000.00 per month)~~ \$37,500.00 per annum or more for ~~(Class A)~~ companies ~~(-\$800.00 per month or more for Class B companies and \$600.00 per month or more for Class C companies)~~ whose annual gross operating revenues exceed \$400,000,000; \$30,000 per annum or more for companies whose annual gross operating revenues range from \$100,000,001 to \$400,000,000; \$20,000 per annum or more for companies whose annual gross operating revenues range from \$1,000,000 to \$100,000,000; and \$18,000 per annum or more for companies whose annual gross operating revenues are less than \$1,000,000. The budget shall state the account or accounts to which charges are to be made. If employment is to be part time, the number of hours to be devoted to the reporting company shall be stated. If the total compensation shall include house rental, utility service, board and room, bonuses or other compensation, direct or indirect, such fact shall be reported separately on the budget form under "Remarks" and giving the amount of each item.

**WSR 83-03-024**  
**ADOPTED RULES**  
**DEPARTMENT OF LICENSING**  
**(Securities Division)**  
 [Order SDO-6-83—Filed January 13, 1983]

I, John Gonzalez, director of the Department of Licensing, do promulgate and adopt at Highways-Licenses Building, Olympia, Washington 98504, the annexed rules relating to the regulation of securities, amending WAC 460-24A-050 investment advisor and investment advisor salesperson (representative) registration and examination and adding new chapter 460-65A WAC, procedures related to the entry of orders.

This action is taken pursuant to Notice Nos. WSR 82-24-088 and 82-24-089 filed with the code reviser on December 1, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 21.20.450 which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 21.20 RCW. WAC 460-24A-050 is promulgated pursuant to RCW 21.20.040 and is intended to administratively implement the statute and RCW 21.20.450 which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 21.20 RCW. WAC 460-65A-010 through 460-65A-125 is promulgated pursuant to RCW 21.20.200, 21.20.390 and 21.20.325 and is intended to administratively implement that statute and RCW 21.20.450 which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 21.20 RCW.

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

APPROVED AND ADOPTED January 12, 1983.

By John Gonzalez  
 Director

✓ WAC 460-24A-050 INVESTMENT ADVISOR AND INVESTMENT ADVISOR SALESPERSON (REPRESENTATIVE) REGISTRATION AND EXAMINATIONS. (1) In order to be licensed in this state as an investment advisor the individual applicant, the officer if the applicant is a corporation or a general partner if the applicant is a partnership shall complete the Uniform Securities Agent State Law Examination with a score of seventy percent (70%) or better and complete ~~((pass either the NASD General Securities Principal Examination and the NASD Uniform Securities Agent State Law Examination))~~ one of the following with a score of seventy percent (70%) or better: ~~((or the Chartered Investment Counselor Examination or the Chartered Financial Analyst Examination)).~~

(a) NASD General Securities Principal Examination (Series 24) or

(b) NASD Investment Company Products/Variable Contracts Principal Examination (Series 26).

The applicant must also complete a form ADV for the state of Washington.

(2) An individual applicant, an officer if the applicant is a corporation or a general partner if the applicant is a partnership any one of which has completed the Uniform Securities Agent State Law Examination with a score of seventy percent (70%) or better and which holds one of the following designations, shall not be required to complete the exams designated in subsection (1)(a) and (b) in order to apply for an investment advisors license:

(a) Chartered Investment Counselor, or

(b) Chartered Financial Analyst, or

(c) Certified Financial Planner which designation is completed on or after the effective date of these rules.

The applicant must also complete a form ADV for the State of Washington.

(2)(3) If the individual officer who takes the examination on behalf of a corporate applicant or the individual general partner who takes the examination on behalf of a partnership ceases to be an officer or general partner, then a substitute officer or general partner must pass the examinations required in (1) above within two months in order to maintain the investment advisor license.

(3)(4) In order to be licensed in this state as an investment advisor salesperson (representative) the individual applicant shall complete the Uniform Securities Agent State Law Examination with a score of seventy percent (70%) or better and complete ~~((pass either the NASD General Representative Examination and the NASD Uniform Securities Agent State Law Examination))~~ one of the following with a score of seventy percent (70%) or better unless Section (6) applies: ~~((or the Chartered Investment Counselor Examination or the Chartered Financial Analyst Examination:))~~

(a) NASD General Securities Representative Examination (Series 7), or

(b) NASD Investment Company Products/Variable Contracts Limited Representative Qualifications Examination (Series 6).

The applicant must also complete the form U-4 for the State of Washington.

(5) An individual who has completed the Uniform Securities Agent State Law Examination with a score of seventy percent (70%) or better and who holds one of the following designations shall not be required to complete the exams designated in subsection (4) in order to apply for an investment advisor salesperson (representative) license.

(a) Chartered Investment Counselor

(b) Chartered Financial Analyst

(c) Certified Financial Planner whose designation is completed on or after the effective date of these rules.

The applicant must also complete the form U-4 for the State of Washington.

(6) The Administrator may waive the testing requirements in Section (5) for an investment advisor representative whose activities will be limited to supervising the firm's investment advisory activities in Washington, provided that the applicant has been employed for five years preceding the filing of the application in a supervisory capacity, or as a portfolio manager, by an investment

advisor registered under the Investment Advisors Act of 1940 for as least five years and the investment advisor has been engaged in rendering "investment supervisory services" as defined in Section 202(a)(13) of the Investment Advisors Act of 1940.

(4) (7) Any individual who has been retained or employed by an investment advisor to solicit clients or offer the services of the investment advisor or manage the accounts of said clients any time during the two years prior to application and who has previously passed the required examination in section (1) or ((3)) (4) above or the Washington State Investment Advisors Examination shall not be required to retake the examination(s) to be eligible to be relicensed as an investment advisor salesperson (representative) upon application.

(5) (8) Any investment advisor or investment advisor salesperson registered prior to August 15, 1981, and who was registered with the Washington State Securities Division as of the date of the adoption of these regulations and remained registered thereafter shall be subject to the regulations in effect at the time of the original application.

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

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.

REGULATIONS ON PROCEDURES RELATED TO THE ENTRY OF ORDERS

NEW SECTION

WAC 460-65A-010 GROUNDS FOR ISSUANCE OF STOP ORDER PURSUANT TO RCW 21.20.200. The securities administrator may issue a stop order pursuant to RCW 21.20.200 if the securities division does not receive the required notification and post-effective amendment with respect to prior amendment referred to in RCW 21.20.190, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with RCW 21.20.190, if the administrator finds the entry of the order to be in the public interest and necessary for the protection of investors.

NEW SECTION

WAC 460-65A-020 GROUNDS FOR ISSUANCE OF CEASE AND DESIST ORDERS PURSUANT TO RCW 21.20.390. The securities administrator may issue pursuant to RCW 21.20.390 an order directing any person to cease and desist from continuing an act or practice if it appears that the act or practice by the person is in violation of any provision of the Washington Securities Act or any lawfully promulgated under the Securities Act and if the securities administrator finds the entry of the order to be in the public interest and necessary for the protection of investors.

NEW SECTION

WAC 460-65A-030 GROUNDS FOR DENIAL, SUSPENSION AND REVOCATION OF EXEMPTION. The securities administrator may by order, deny, revoke, suspend a non-public offering established pursuant to RCW 21.20.320(1) or limited offering exemption established pursuant to RCW 21.20.320(9) based upon a finding of one of the following conditions:

(1) The issuer or any affiliate has made a misstatement or omission, in connection with the offer or sale of a security, which is in the light of the circumstances under which it is made, false or misleading with respect to any material fact;

(2) The issuer or any affiliate has violated any provision of the Securities Act of Washington or any rule, order or condition lawfully imposed under that act;

(3) The issuer or any affiliate is the subject of a permanent or temporary injunction of any court of competent jurisdiction entered under any federal or state securities act or is the subject of a cease and desist order or consent order under any federal or state securities act;

(4) That issuer's enterprise or method of business has included or would include activities which are or would be illegal where performed;

(5) The offering has worked or would work a fraud upon investors;

(6) The claimant has failed to pay the proper filing fee; PROVIDED, That, the securities administrator may enter only denial under this subsection and shall vacate any such order when the deficiency has been corrected;

(7) The issuer or any affiliate is the subject of an active investigation of the Securities Division of the State of Washington for violation of the Securities Act of Washington or violation of any rule, order, or condition lawfully imposed under that Act; PROVIDED, That, an order entered under this provision shall not remain in effect for an unreasonable period of time;

(8) The issuer or any affiliate is subject to a United States post office fraud order;

(9) The issuer or any affiliate has been convicted of any securities law violation or any crime involving fraud, theft, or embezzlement; and

If the securities administrator finds the order to be in the public interest and necessary for the protection of investors.

NEW SECTION

WAC 460-65A-040 GROUNDS FOR DENIAL, CONDITION OR REVOCATION EXEMPTION PURSUANT TO RCW 21.20.325. The securities administrator may issue an order denying, revoking or conditioning an exemption pursuant to RCW 21.20.325 if he or she finds there has been:

(1) A violation of RCW 21.20.010 in connection with the offering or sale and if the securities administrator finds entry of the order to be in the public interest and necessary for the protection of investors.

NEW SECTION

WAC 460-65A-100 SUMMARY PROCEDURE (1) A summary order is any order which takes effect

immediately upon entry without opportunity for a prior hearing. Upon the entry of such an order, the securities administrator shall promptly notify the person subject to the order of the order's entry, the reasons therefore and that if requested in writing by the subject of the order within fifteen days after the receipt of the director's notification, the matter will be scheduled for hearing in accordance with 460-65A-105 and 460-65A-110.

(2) Upon entry of a summary order, the following shall apply:

- (a) If entry of the summary order results in,
  - (i) Denial of an exemption under RCW 21.20.320(1), RCW 21.20.320(9), or RCW 21.20.325;
  - (ii) Denial of registration under RCW 21.20.110;
  - (iii) A stop order under RCW 21.20.110; or
  - (iv) A stop order denying effectiveness to registration under RCW 21.20.280;

The provisions of 460-65A-105 shall apply.

- (b) If entry of the summary order results in,
  - (i) Suspension of registration under RCW 21.20.110;
  - (ii) A stop order under RCW 21.20.280 suspending or revoking registration of securities;
  - (iii) A cease and desist order issued under RCW 21.20.290;

(iv) Suspension, condition, or revocation of exemption pursuant to RCW 21.20.320(1), RCW 21.20.320(9), or RCW 21.20.325.

The provisions of 460-65A-110 shall apply.

#### NEW SECTION

WAC 460-65A-105 If entry of the summary order results in any of the consequences listed at 460-65A-100(2)(a), the hearing shall be held within a reasonable time and in accordance with chapter 34.04 RCW.

#### NEW SECTION

WAC 460-65A-110 If entry of the summary order results in any of the consequences listed at 460-65A-100(2)(b), the subject of the order shall have an opportunity to appear before the director or the securities administrator. Such a hearing shall be held reasonably promptly. If the director or securities administrator finds that good cause is shown, he or she shall vacate the summary order. If he or she finds that good cause is not shown, the summary order shall remain in effect and the director shall give notice of opportunity for hearing which shall be held within a reasonable time.

#### NEW SECTION

WAC 460-65A-115 REQUESTS FOR HEARING ON SUMMARY ORDER TIME LIMITS. If the subject of a summary order does not request a hearing within fifteen days after receipt of notice of opportunity for hearing, the order shall become final.

#### NEW SECTION

WAC 460-65A-125 NON-SUMMARY PROCEDURE. Upon entry of any non-summary order under the Securities Act, the hearing shall be held within a

reasonable time and in accordance with chapter 34.04 RCW.

#### WSR 83-03-025

##### ADOPTED RULES

#### DEPARTMENT OF LICENSING

##### (Securities Division)

[Order SDO-7-83—Filed January 13, 1983]

I, John Gonzalez, director of the Department of Licensing, do promulgate and adopt at the Department of Licensing, Highways-Licenses Building, Olympia, Washington 98504, the annexed rules relating to the regulation of securities, adding new chapter 460-33A WAC, securities involving mortgages, trust deeds or property sales contracts.

This action is taken pursuant to Notice No. WSR 82-23-036 filed with the code reviser on November 12, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 21.20.450 which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 21.20 RCW.

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

APPROVED AND ADOPTED January 13, 1983.

By John Gonzalez  
Director

#### REGULATIONS CONCERNING SECURITIES INVOLVING MORTGAGES, TRUST DEEDS OR PROPERTY SALES CONTRACTS

#### NEW SECTION

WAC 460-33A-010 APPLICATION. (1) The rules contained in these regulations are intended to offer an optional method for the registrations of real estate securities involving mortgages, trust deeds or property sales contracts and related instruments. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown certain regulations may be modified or waived by the administrator, if consistent with the spirit of these rules.

(2) The application of these rules in no way effects those issuers to which or to whom the debenture company sections of the Securities Act apply. If applicable, issuers must comply with those statutory sections.

(3) These rules do not affect the statutory exemptions provided for by RCW 21.20.310 or RCW 21.20.320, nor do they intend to expand the definition of "securities" as defined in RCW 21.20.005.

(4) The rules contained in this chapter will not be applied to those securities exempt under RCW 21.20.310 or RCW 21.20.320.

(5) The rules contained in this chapter are only applicable to real property securities, real property securities dealers and real property securities salespersons required to be registered under this chapter.

#### NEW SECTION

√ WAC 460-33A-015 DEFINITIONS. As used in this chapter:

(1) "Liquid assets" means cash and other non-pledged assets which are convertible into cash within a five day period in the normal course of business.

(2) "Real property securities dealer" means a person who effects transactions involving real property securities for the person's own account or for the account of others.

(3) "Real property securities registration statement" means a registration that gives a general description of what is involved in the purchase of real property securities and the business of offering the real property securities including a description of the real property securities dealer.

(4) "Real property securities salespersons" means a person other than a real property securities dealer who represents a real property securities dealer in effecting offers or sales of real property securities.

(5) "Real property securities" means:

(a) Notes and bonds secured by mortgage or trust deeds on real property or on a vendor's interest in a property sales contract or options granting the right to purchase any of the foregoing when offered or sold under an arrangement constituting an investment contract as described in WAC 460-33A-045 provided that, notes or bonds secured by mortgages, deeds of trust, or a vendor's interest in a property sales contracts when given by a borrower to a lender at the time of the origination of the loan in the context of a loan transaction shall not, within the context of such transaction be included within the definition of real property securities.

(b) A partial interest in more than one mortgage, trust deed, or property sales contract acquired by an investor along with other investors.

(c) An interest of several investors in a single mortgage, trust deed or single property sales contracts.

(6) "Specific offering circular" means a document describing the specific real property securities offering, which is meant to accompany the general registration statement.

#### NEW SECTION

√ WAC 460-33A-016 REGISTRATION OF REAL PROPERTY SECURITIES. Only those real property securities not exempted under RCW 21.20.310, RCW 21.20.320 and WAC 460-33A-017 must be registered.

#### NEW SECTION

√ WAC 460-33A-017 REGISTRATION NOT REQUIRED. Each of the following shall be exempt from registration under these regulations:

(1) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940,

pension or profit-sharing trust, or other financial institution or institutional buyer.

(2) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, any savings bank, or any bank, savings bank, or trust company organized or supervised under the laws of any state.

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this state.

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of this state and authorized to do and actually doing business in this state.

(5) Any security issued or guaranteed by any federal credit union or any credit union, industrial loan association, or similar association organized and supervised under the laws of this state.

(6) Any transaction in a note or bond secured by real property is exempt if the entire mortgage, deed of trust, or agreement, is offered and sold as a unit; provided that any transaction including the following elements shall not be deemed to be exempt under this provision:

(i) Guarantying the note or contract against loss at any time, or

(ii) Guarantying that payments of principal or interest will be paid, or

(iii) Assuming any payments necessary to protect the security of the note or contract, excluding necessary advances for taxes and insurance, or

(iv) Accepting, from time to time, partial payments toward the purchase of the note or contract, or

(v) Guarantying a specific yield or return on the note or contract, or

(vi) Paying any interest or premium for a period prior to actual purchase and delivery of the note or contract, or

(vii) Paying any money other than that collected from the borrower after the note or contract falls into arrears, or

(viii) Repurchasing the note or contract, provided that, this is not intended to prohibit good faith repurchases as an effort to assist the investor as long as the representation is not made at the time of sale and not as a part of the sales program, or

(ix) Accepting the grant of complete discretionary authority in collection of payments, forwarding of payments to other lienholders and investors, resolving delinquency problems, managing the investment or handling of foreclosures and the like for the investors. This does not include such servicing provided by an escrow company, the services strictly limited to the collection and remittance of interest to the investor, or services contractually necessitated by seller financed insurance, or

(x) Promising the investor a market for the resale of the real property securities.

NEW SECTION

✓WAC 460-33A-020 **OPTIONAL REGISTRATION PROCEDURES FOR SECURITIES INVOLVING REAL PROPERTY SECURITIES.** (1) An applicant for registration of a real property securities offering may elect to register the offering under this rule in lieu of following the full registration procedure under WAC 460-16A and WAC 460-32A. Registration under this chapter requires the filing of a registration application accompanied by the following, in addition to payment of the registration fee prescribed in RCW 21.20.340 and, if required under RCW 21.20.330, a consent to service of process meeting the requirements of that section.

(a) One copy of the real property securities registration statement.

(b) One copy of the specific offering circular.

(c) The amount of securities to be offered in this state.

(d) A copy of any adverse order, judgment or decree previously entered in connection with the offering by any other state securities division, any court or the securities and exchange commission.

(e) One copy of the Articles of Incorporation and Bylaws.

(2) The Securities Division will examine the real property securities registration statement for disclosure of material facts involving the purchase of the real property securities for disclosure of the general description of the business of the real property securities dealer and for the compliance with applicable rules.

(3) The Securities Division will examine the sample specific offering circular for sample disclosure of material facts concerning specific real property securities offerings. Actual copies of the specific offering circulars given to each offeree need not be filed unless such a request is made by the Administrator.

NEW SECTION

✓WAC 460-33A-025 **CONTENTS OF THE REAL PROPERTY SECURITIES REGISTRATION STATEMENT.** This registration shall provide for disclosure of all material facts which shall include the sections enumerated in the Securities Divisions sample form for real property securities registration statement for securities involving mortgages, trust deeds or property sales contracts, if applicable, and present a discussion of the related information as set forth in that form.

NEW SECTION

✓WAC 460-33A-030 **CONTENTS OF THE SPECIFIC OFFERING CIRCULAR.** The specific offering circular shall provide for disclosure of all material facts and shall contain at least the applicable sections enumerated in the Securities Divisions sample form for specific offering circulars for securities involving mortgages, trust deeds or property sale contracts, and present a discussion of the related information as set forth in that sample form.

NEW SECTION

✓WAC 460-33A-035 **LIMITATIONS ON THE USE OF OPTIONAL REGISTRATION UNDER WAC 460-33A-020.** The following types of securities cannot be offered or sold under WAC 460-33A-020 unless written permission is obtained from the Administrator based upon a showing that the investors are adequately protected:

(1) Offerings involving construction loans and loans exceeding 90 percent of the value of the property including existing improvements may not be sold using the real property securities registration statement under WAC 460-33A-020. These have to be registered separately. An offering exceeds 90 percent of the value of the property and existing improvements if the principal amount of the note secured by a mortgage or trust deed or land sale contract together with the unpaid principal amount of any senior encumbrances on the property, plus unpaid interest to date of the transaction, exceeds 90 percent of the reasonable market value of the real property including improvements.

(2) Offerings involving the real property securities dealer, its officers, agents, affiliates, and persons controlling the real property securities dealer or affiliates may not be sold as part of the optional registration unless the registration with the Administrator includes a full description of these transactions. An offering "involves" the persons listed where the person is the owner, the borrower, or has an interest in the proceeds other than fees, commissions, or mark-ups.

(3) Offerings involving documents reserving the right to subordinate the position of any investor to any mortgage, trust deed or lien created at or after the sale.

(4) Offerings involving pooling or participations involving more than ten investors may not be sold under the optional registration. However, where only first liens are involved, the registrant may apply for a modification to allow sales up to twenty five investors.

(5) A registrant requesting a modification under this section must request it in writing and must provide satisfactory evidence that the interest of the public will be adequately protected.

NEW SECTION

✓WAC 460-33A-040 **NET LIQUID ASSETS OR NET WORTH REQUIREMENT.** (1) All persons and entities meeting the definition of a real property securities dealer must meet one of the following:

(a) Minimum net liquid assets of twenty five thousand dollars, to be maintained at all times. (1) To calculate the twenty five thousand dollars, total all liquid assets then subtract from that all current liabilities. (2) The real property securities dealer shall complete an affidavit semi-annually to verify to the Administrator that this requirement is being met. Such report shall be on such a form as may be prescribed by the director, or

(b) A minimum net worth of 5% of the amount of securities sold in this state during each fiscal year but in no instance less than \$100,000 or more than \$1,000,000.

(1) To calculate net worth total all assets then subtract

all liabilities as determined by generally accepted accounting practices. (2) The real property securities dealer shall complete an affidavit semi-annually to verify to the Administrator that this requirement is being met. Such report shall be on such a form as may be prescribed by the director.

(2) Real property securities dealers failing to meet the above mentioned minimums must inform the securities Division of such failure within seventy-two hours at which time all sale of securities must be suspended.

NEW SECTION

✓ WAC 460-33A-050 BANKS AND FINANCIAL INSTITUTION. For the purposes of WAC 460-33A-017 and only for the purposes of offering or selling "real property securities" the following definitions shall apply:

"Bank" shall include any holding company of such bank and any subsidiary of such bank.

"Financial institutions" shall include (1) any corporation or other entity with a net worth of \$100,000 or more and (2) any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, credit union, insurance company, or any other financial institution, or a holding company for any of the foregoing.

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

NEW SECTION

✓ WAC 460-33A-055 TRUST ACCOUNT. (1) All funds received from lenders or investors to purchase real property securities shall be deposited in a trust account maintained for that purpose. All necessary disbursements shall be made from that account.

(2) No person acting as a real property securities dealer or his agent shall accept any purchase or investment funds for real property securities in advance of the time necessary to fund the loan transaction. No such fund shall be maintained in such account for longer than sixty (60) days without disbursing the funds unless there is a separate written agreement to do so; provided that, the interest from funds so retained shall not accrue to the benefit of the real property securities dealer or his agent.

(3) The trust agreement shall provide that the funds will not be subject to the real property securities dealer's creditors.

(4) The account shall be subject to an audit at any reasonable time by the Securities Division.

NEW SECTION

✓ WAC 460-33A-060 RECORDATION. Every person acting as a real property securities dealer or his agent selling real property securities must record the applicable instrument in the applicable place before any disbursement of funds takes place. Such recorded instrument must bear the name of the lienholder or beneficiary and not the name of the real property securities dealer unless the real property securities dealer is the

actual lender; provided that, such lienholder or beneficiary may by written request specify otherwise.

NEW SECTION

✓ WAC 460-33A-065 AUTHORIZATION. (1) Every person acting as a real property securities dealer who undertakes to service a real property security shall have a written authorization from the lender or holder of the contract setting forth specifically what services will be provided.

NEW SECTION

✓ WAC 460-33A-070 ASSIGNMENT. Every real property securities dealer or his agent who lends or finances transactions and later offers these as real property securities to lenders or investors must disclose his interest in the property or the transaction and must not disburse funds from the trust account until the applicable instrument has been properly recorded in the name of the new assignee; provided that the lender or investor may by written request specify otherwise.

NEW SECTION

✓ WAC 460-33A-075 ADVERTISING. (1) No person effecting transaction in real property securities shall advertise in any manner any statement or representation, with regard to any real property security, which is false, misleading or deceptive.

(2) Every real property securities dealer or his agent shall file with the Administrator five (5) days prior to use, true copies of all advertising materials. If not disallowed by written notice or otherwise within five (5) days from the date filed, the material may be disseminated. No dealer shall use any such material in any way after the Administrator gives written notice that such material contains any statement or omission that is false or misleading.

NEW SECTION

✓ WAC 460-33A-080 REGISTRATION AND EXAMINATION OF REAL PROPERTY SECURITIES DEALERS. (1) Every person acting as a real property securities dealer, unless otherwise exempt, must first obtain a broker dealers license.

(2) Every applicant for registration as a real property securities dealer shall pass the Uniform Securities Agent State Law Examination (Series 63) with a score of 70% or better and complete the application form as prescribed by the director.

(3) Every applicant shall provide the Securities Administrator proof of compliance with WAC 460-33A-040. (Net Liquid Asset or Net Worth requirement)

(4) For registration of a real property securities dealer, the fee shall be one hundred fifty dollars for original registration and seventy five dollars for each annual renewal. The licenses shall be effective until December 31 of the year of passage at which time it shall be renewed or delinquent. For any renewal application postmarked after December 31 but before March 1 the late fee shall be twenty five dollars. No renewal applications will be



accepted after March 1. Such licensee must submit a new application and filing fee. When an application is denied or withdrawn, the director shall return one-half the fee.

(5) A person may elect to register under this section in lieu of the full registration procedures under WAC 260-20A only if the applicant deals solely in real property securities as defined herein.

(6) Upon written application and approval, the Administrator may exempt from the testing requirement for both real property securities dealers and salespersons no more than a total of two officers of the original real property securities offering.

#### NEW SECTION

WAC 460-33A-085 REGISTRATION AND EXAMINATION OF REAL PROPERTY SECURITIES SALESPERSON. (1) Every person acting as a real property securities salesperson, unless otherwise exempt, must first obtain a salesperson's license and be employed by a real property securities dealer.

(2) Every applicant for registration as a real property securities salesperson, shall pass the Uniform Securities Agent State Law Examination (Series 63) with a score of 70% or better and complete the application form prescribed by the director.

(3) For registration of a real property securities salesperson, the fee shall be thirty five dollars for original registration and fifteen dollars for each annual renewal. The licenses shall be effective until December 31 of the year of passage at which time it shall be renewed or delinquent. For any renewal application postmarked after December 31 but before March 1, the late fee shall be ten dollars. No renewal applications will be accepted after March 1. Such licensee must submit a new application and filing fee. When an application is denied or withdrawn, the director shall retain one-half the fee.

(4) A person may elect to register under this section in lieu of the full registration procedures under WAC 460-20A only if the applicant deals solely in real property securities.

(5) Upon written application and approval, the Administrator may exempt from the testing requirement for both real property securities dealers and salespersons no more than a total of two officers of the original real property securities offering.

#### NEW SECTION

WAC 460-33A-090 DENIAL, SUSPENSION, REVOCATION OF REGISTRATION-GROUNDS. The Administrator may by order deny, suspend, or revoke registration of any real property securities dealer or real property securities salesperson if the administrator finds that the order is in the public interest and that the applicant or registrant or, in the case of the real property securities dealer any partner, officer or director:

(1) Has filed an application for registration which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which

was, in the light of the circumstances under which it was made, false, or misleading with respect to any material fact;

(2) Has wilfully violated or wilfully failed to comply with any provision of the Securities Act or a predecessor act or any rule or order thereunder;

(3) Has been convicted, within the past five years, of any misdemeanor involving a security or any aspect of the securities business, or any felony involving moral turpitude;

(4) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

(5) Is the subject of an order of the director denying, suspending, or revoking registration as a broker-dealer, salesperson, investment adviser, or investment adviser salesperson;

(6) Is the subject of an order entered within the past five years by the securities administrator of any other state or by the federal securities and exchange commission denying or revoking registration as a broker-dealer or salesperson, or the substantial equivalent of those terms as defined in the Securities Act, or is the subject of an order of the federal securities and exchange commission suspending or expelling him or her from a national securities exchange or national securities association registered under the securities exchange act of 1934, or is the subject of a United States post office fraud order;

(7) Has engaged in dishonest or unethical practices in the securities business;

(8) Is insolvent, either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature; but the director may not enter an order against a real property securities dealer under this clause without a finding of insolvency as to the real property securities dealer; or

(9) Has not complied with a condition imposed by the director under WAC 460-33A-080 or WAC 460-33A-085 on the basis of such factors as training, experience, or knowledge of the securities business; or

(10) Has not complied with WAC 460-33A-055;

(11) The director may by order summarily postpone or suspend registration pending final determination of any proceeding under this section.

#### NEW SECTION

WAC 460-33A-100 WRITTEN STATEMENT. Every person selling a real property security that is required to be registered under these regulations shall require the purchaser or his agent or appointee of such to sign a receipt for the offering circular containing all the applicable information required by WAC 460-33A-025 and 460-33A-030 before the purchaser shall be obligated to fund the transaction. No seller shall permit the purchaser to sign such receipt if any of the required information is omitted. The seller shall retain an executed copy of receipt for four years.

NEW SECTION

WAC 460-33A-105 APPRAISALS. (1) An appraisal of each parcel of real property which relates to a transaction subject to the provisions of this chapter shall be made by the real property securities dealer or by an independent appraiser unless the purchaser of the obligation to which the parcel relates indicates in writing that he will obtain his own appraisal. An appraisal by the dealer or agent or waiver thereof shall be kept on file for four years.

(2) An appraisal made by either of the above mentioned individuals within the 12 month period prior to the sale of the real property security is sufficient.

NEW SECTION

WAC 460-33A-110 ANNUAL REPORTS. (1) Every real property securities dealer shall file with the Administrator annually, a report containing financial statements prepared in accordance with generally accepted accounting principles, accompanied by an opinion thereon by a certified public accountant or a public accountant, based upon an examination in accordance with generally accepted accounting standards. The report shall include, but not be limited to the receipt and disposition of all funds handled in connection with transactions subject to these rules. The report shall be filed with the administrator within 90 days after the close of the period of the report unless, for good cause shown, the administrator in writing, extends the time therefor. The report shall contain the following:

(a) Total number of sales, as principal or agent, subject to these rules during the period, and

(b) Total dollar volume of such sales.

(2) When the requirement under subsection (1) would cause undue hardship and where good cause is shown, the Administrator may waive the requirement for audited financials.

**WSR 83-03-026****ADOPTED RULES****BOARD OF HEALTH**

[Order 252—Filed January 14, 1983]

Be it resolved by the Washington State Board of Health, acting at Tacoma, Washington, that it does adopt the annexed rules relating to general design requirements, amending WAC 248-18-718.

This action is taken pursuant to Notice Nos. WSR 82-20-031 and 82-24-032 filed with the code reviser on September 30, 1982, and November 23, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

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

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

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

APPROVED AND ADOPTED January 12, 1983.

By John Beare, MD

Secretary

**Reviser's note:** The material contained in this filing will appear in the 83-04 issue of the Register as it was received after the applicable closing date for this issue for agency typed material exceeding the volume limitations of WAC 1-12-035 or 1-13-035, as appropriate.

**WSR 83-03-027****PROPOSED RULES****INSURANCE COMMISSIONER****FIRE MARSHAL**

[Filed January 14, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Insurance Commissioner/State Fire Marshal intends to adopt, amend, or repeal rules concerning Private adult treatment homes—Standards for fire protection, chapter 212-45 WAC;

that the agency will at 10:00 a.m., Tuesday, February 22, 1983, in the Insurance Building, Room 140, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 71.12.485.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 22, 1983.

Dated: January 14, 1983

By: Thomas R. Brace

Director, Division of State Fire Marshal

**STATEMENT OF PURPOSE**

Rules of the State Fire Marshal governing fire life safety in private adult treatment homes licensed by the state of Washington pursuant to RCW 71.12.485.

This rule establishes minimum standards for fire life safety for clients occupying private adult treatment homes licensed by the Department of Social and Health Services. It prescribes requirements for abating the conditions which present a threat to human life, by ensuring that patients, staff, and visitors are properly forewarned of the presence of fire, and that they are able to leave the building by way of a tenable means of egress.

Procedures for enforcing these rules shall be in accordance with the licensing laws and rules of the licensing agency.

This rule is necessary to ensure that a uniform program of inspection and hazard abatement may take place in private adult treatment homes licensed by the Department of Social and Health Services.

Implementing this rule will expand the responsibilities currently embodied in the laws governing the State Fire Marshal's Office.

The agency personnel responsible for the drafting, implementation and enforcement of this rule is Mr. Ted Curcio, Supervisor, Health Care Facilities Fire Protection, Office of State Fire Marshal, Thurston Airdustrial Center, Building 12, LM-14, Olympia, Washington 98504, telephone: (206) 753-3658.

The Office of the State Fire Marshal is proposing this rule.

This rule is not made necessary by either a change in federal law or state court action.

#### Chapter 212-45 WAC

### PRIVATE ADULT TREATMENT HOMES—STANDARDS FOR FIRE PROTECTION

#### WAC

212-45-001	Purpose.
212-45-005	Applicability.
212-45-010	Definitions.
212-45-015	Compliance.
212-45-020	Inspection.
212-45-025	Approval.
212-45-030	Appeal of fire marshal action or order; summary suspension of approval.
212-45-035	Local codes.
212-45-040	Client mobility and cognitive functions.
212-45-045	Standards.
212-45-050	Construction requirements.
212-45-055	Modernization or renovation.
212-45-060	Additions.
212-45-065	Design, operation.
212-45-070	Smoke detection.
212-45-075	Means of escape.
212-45-080	Exit doors.
212-45-085	Interior finish.
212-45-090	Heating equipment.
212-45-095	Fire and evacuation plan.
212-45-100	Fire drills.
212-45-105	Portable fire extinguishers.
212-45-110	Fire protection and fire prevention operating features.
212-45-115	Severability.

#### NEW SECTION

WAC 212-45-001 **PURPOSE.** The purpose of this regulation is to adopt recognized standards for the the protection of life against the cause and spread of fire and fire hazards pursuant to RCW 71.12.485 with respect to all facilities to be licensed as private adult treatment homes by the department of social and health services.

#### NEW SECTION

WAC 212-45-005 **APPLICABILITY.** This regulation applies to private adult treatment homes licensed or subject to licensure by the department of social and health services, pursuant to RCW 71.12.

#### NEW SECTION

WAC 212-45-010 **DEFINITIONS.** The following definitions shall apply to this regulation:

(1) "Ambulatory" means a client physically and mentally capable of walking unaided or is capable of independent mobility with the use of a cane, crutches, walkerette, walker, wheelchair, or artificial limb. Ambulatory shall be interpreted to mean an individual able to walk or traverse a normal path to safety unaided by another individual. Ambulatory shall not be interpreted to mean an individual needing the assistance of another individual in order to get into and out of bed, to transfer to a chair or toilet or to move from place to place.

(2) "Approved" means approval by the state fire marshal.

(3) "Authority having jurisdiction" means the duly authorized representative or agency having legal enforcement responsibility where these regulations are applied with the force of law.

(4) "Building official" means the person or agency appointed by the governing body of each city, town or county for the administration and enforcement of the Uniform Building Code, adopted by reference in the State Building Code Act.

(5) "Client" means an individual living in an adult residential facility for the purpose of participating in treatment and rehabilitation for psychiatric impairment or an individual living in the facility for board and domiciliary care.

(6) "Fire chief" means the chief of the fire department providing fire protection services to the facility.

(7) "Fire official" means the person or agency appointed by the governing body of each city, town or county for the administration and enforcement of the Uniform Fire Code, adopted by reference in the State Building Code Act.

(8) "Licensing agency" means the Washington state department of social and health services.

(9) "NFPA" means National Fire Protection Association.

(10) "Private adult treatment home" means a dwelling which is the residence or home of two adults providing food, shelter, beds, and care for two or fewer psychiatrically impaired clients, provided these clients are detained under chapter 71.05 RCW and the dwelling is certified as an evaluation and treatment facility under chapter 71.05 RCW.

(11) "Psychiatric impairment" means serious mental disorders, excluding mental retardation, substance abuse disorders, simple intoxication with alcohol or drugs, personality disorders, and specific developmental disorders as defined in the third edition of "American Psychiatric Association Diagnostic and Statistical Manual," 1980, where one or more of the following symptomatic behaviors is exhibited:

(a) Bizarreness, severe self-destructiveness, schizophrenic ideation, or other signs or symptoms resulting from gross, on-going distortions in thought processes;

(b) Suicide attempts or other signs or symptoms associated with marked, severe, or chronic affective disorders;

(c) Chronic sexual maladjustment, or other grossly maladaptive behaviors, in accordance with (a) or (b) of this subsection.

(12) "State Building Code Act" means chapter 19.27 RCW, effective January 1, 1975, which establishes state-wide building and fire prevention codes, and mandates enforcement by each city, town and county.

#### NEW SECTION

WAC 212-45-015 **COMPLIANCE.** All facilities licensed by the department of social and health services as private adult treatment homes shall comply with the provisions of this regulation.

#### NEW SECTION

WAC 212-45-020 **INSPECTION.** The licensing agency, upon receipt of an application for a license, or at least thirty days before the expiration date of an existing license, shall submit to the state fire marshal in writing, a request for an inspection. The state fire marshal or his authorized representative shall make an inspection of the facility, and if it is found that the facility does not comply with the standards contained in this regulation, a written report shall be made to the facility listing the violations found, corrective actions necessary and time allowed for correction. As soon as practicable after the expiration date of the time allowed to effect the corrective measures, a reinspection shall be made to determine compliance.

#### NEW SECTION

WAC 212-45-025 **APPROVAL.** (1) Upon the completion of the inspection, if the facility is in compliance with applicable standards, a notice of approval for licensing shall be forwarded to the licensing agency.

(2) Approval of a facility may be denied, suspended, or revoked for failure to comply with any applicable standard or regulation. Notice of such action shall be given to the facility and to the licensing agency.

#### NEW SECTION

WAC 212-45-030 **APPEAL OF FIRE MARSHAL ACTION OR ORDER; SUMMARY SUSPENSION OF APPROVAL.** (1) A facility aggrieved by an act or order of the state fire marshal made under RCW 71.12.485 or these rules may appeal such act or order to

the state fire marshal. Such appeal shall be heard and determined pursuant to the provisions of chapter 34.04 RCW and chapter 1-08 WAC.

(2) If the fire marshal finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in his order, summary suspension of the approval required by RCW 71.12.485 may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

#### NEW SECTION

WAC 212-45-035 LOCAL CODES. Approvals are issued or denied on the basis of applicant's compliance with the state fire marshal's minimum fire and life safety standards. The enforcement of local fire and building codes is the responsibility of the respective fire and building officials.

#### NEW SECTION

WAC 212-45-040 CLIENT MOBILITY AND COGNITIVE FUNCTIONS. Clients shall be ambulatory as defined in WAC 212-43-010(2). State fire marshal approval is required for facilities or portions of facilities before the use of mobility aids are permitted. Clients must be managed without the use of seclusion, restraints, or locked doors. Patients' sensory perceptions must be sufficiently functional to respond to outside stimuli of an endangering nature; e.g., fire alarms, and have adequate cognitive functioning so as to evacuate the premises without assistance under such conditions.

#### NEW SECTION

WAC 212-45-045 STANDARDS. The following standards, WAC 212-45-045 through 212-45-115 shall be applicable to all facilities built or licensed after the effective date of this regulation.

#### NEW SECTION

WAC 212-45-050 CONSTRUCTION REQUIREMENTS. (1) Construction or major remodeling shall comply with the Group R Division 3 requirements of the 1982 Uniform Building Code, plus the additional standards as contained in this regulation. This minimum requirement is mandatory; however, local fire and building officials charged with the administration and enforcement of the State Building Code Act, chapter 19.27 RCW, may exceed these requirements.

(2) New and existing buildings not over three stories in height may be of any recognized construction, provided that the building has been maintained to the extent that fire and life safety features have not been reduced.

#### NEW SECTION

WAC 212-45-055 MODERNIZATION OR RENOVATION. Alterations shall not diminish the level of life safety below that which exists prior to the alterations except that life safety features in excess of those required for new construction are not required to be maintained. In no case shall the resulting life safety be less than that required for existing buildings. Alterations or installations of new building services equipment shall be accomplished as nearly as possible in conformance with the requirements for new construction.

#### NEW SECTION

WAC 212-45-060 ADDITIONS. Any addition shall be separated from any existing nonconforming structure as required in table 5B of the Uniform Building Code.

#### NEW SECTION

WAC 212-45-065 DESIGN, OPERATION. All facilities shall be so designed, constructed, maintained, and operated as to minimize the possibility of a fire emergency requiring the evacuation of patients. The protection of patients from fire shall be provided by appropriate arrangement of facilities, adequate staffing, and careful development of operating and maintenance procedures composed of the following:

- (1) Proper design, construction, and compartmentation.
- (2) Provision for detection, alarm, and extinguishment.
- (3) Fire prevention and planning, training, and drilling programs for the isolation of fire, transfer of clients to areas of refuge, or evacuation of the building.

#### NEW SECTION

WAC 212-45-070 SMOKE DETECTION. (1) Approved smoke detectors shall be provided in accordance with the standard for the installation, maintenance, and use of household fire warning equipment, NFPA 74-1980 and appendixes.

(2) In existing construction approved smoke detectors powered by batteries may be used. When activated, the detector shall initiate an alarm which is audible in the sleeping rooms.

#### NEW SECTION

WAC 212-45-075 MEANS OF ESCAPE. (1) Every sleeping room above or below the level of exit discharge shall have access to two separate means of escape one of which shall be either an enclosed interior stairway, an exterior stairway, or a horizontal exit.

Exception: In existing buildings a fire escape stair is acceptable.

(2) At least one means of escape shall be located to provide a safe path of travel to the outside of the building without traversing any corridor or space exposed to an unprotected vertical opening.

(3) Every sleeping room located on the level of exit discharge shall have access to two separate means of escape, one of which may be an operable window.

Exception: One-story buildings with rooms having direct access to the exterior at grade.

(4) Every sleeping room below the fourth story shall have at least one operable window or exterior door approved for emergency escape or rescue. The units shall be operable from the inside to provide a full clear opening without the use of separate tools.

All escape or rescue windows from sleeping rooms shall have a minimum net clear opening of 5.7 square feet. The minimum net clear opening height dimension shall be twenty-four inches. The minimum net clear opening width dimension shall be twenty inches. Where windows are provided as a means of escape or rescue they shall have a finished sill height not more than forty-eight inches above the floor.

Bars, grills, grates or similar devices may be installed on an emergency escape or rescue windows or doors, provided:

(a) Such devices are equipped with approved release mechanisms which are operable from the inside without the use of a key or special knowledge or effort; and

(b) The building is equipped with smoke detectors.

(5) The use of a fire escape ladder may be substituted for one of the approved means of escape. The type, placement, and construction of a fire escape ladder is subject to fire marshal approval.

#### NEW SECTION

WAC 212-45-080 EXIT DOORS. Exterior exit doors from the building shall be operable from the inside without the use of a key or any special knowledge or effort, and the unlatching shall not require more than a single operation. No door in path of travel shall be less than twenty-eight inches wide. Chain locks and dead bolts are not permitted. Doors shall be operable with a single motion.

#### NEW SECTION

WAC 212-45-085 INTERIOR FINISH. The interior finish on walls and ceilings of occupied spaces shall be class A, B, or C, in accordance with section 6-5 of the 1981 life safety code.

#### NEW SECTION

WAC 212-45-090 HEATING EQUIPMENT. No stove or combustion heater shall be so located as to block escape in case of fire arising from malfunction of the stove or heater. Proper ventilation shall be maintained for all solid or liquid fuel heaters and fireplaces. Portable space heating devices are prohibited. The installation of heating equipment shall meet all applicable codes.

#### NEW SECTION

WAC 212-45-095 FIRE AND EVACUATION PLAN. The administration of every facility shall have in effect, and available to all supervisory personnel, written copies of a plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge and from the building, when necessary. All employees shall be instructed and kept informed respecting their duties under the plan.

NEW SECTION

WAC 212-45-100 FIRE DRILLS. At least four fire drills shall be held every year. Drills shall be conducted quarterly to familiarize personnel with signals and emergency action required under varied conditions. Fire drills shall include the activation of a fire alarm signal and simulation of emergency fire conditions. Fifty percent of drills shall be held during the nighttime hours. Records of drills shall be available for review.

NEW SECTION

WAC 212-45-105 PORTABLE FIRE EXTINGUISHERS. The type, size, and location of portable fire extinguishers shall be installed and maintained in accordance with NFPA Standard 10-1981. At least one 2A rated extinguisher and one 10BC rated extinguisher shall be provided. These may be provided singly or in combination, such as the all purpose extinguisher.

NEW SECTION

WAC 212-45-110 FIRE PROTECTION AND FIRE PREVENTION OPERATING FEATURES. Operating features shall be maintained in accordance with sections 31-1 1981 life safety code, NFPA Standard 101.

NEW SECTION

WAC 212-45-115 SEVERABILITY. In any provision of this regulation or its application to any person is held invalid, the remainder of the regulation or the application of the provision to other persons or circumstances is not affected.

**WSR 83-03-028**  
**ADOPTED RULES**  
**INSURANCE COMMISSIONER**  
**FIRE MARSHAL**

[Order FM 83-01—Filed January 14, 1983]

I, Thomas R. Brace, director of the Division of State Fire Marshal, do promulgate and adopt at Insurance Building, Room 140, Olympia, Washington 98504, the annexed rules relating to Adult residential treatment facilities—Standards for fire protection, chapter 212-43 WAC.

This action is taken pursuant to Notice No. WSR 83-01-049 filed with the code reviser on December 14, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 71.12.485 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 14, 1983.

By Thomas R. Brace  
Director, Division of State Fire Marshal

Chapter 212-43 WAC  
**ADULT RESIDENTIAL TREATMENT FACILITIES—STANDARDS FOR FIRE PROTECTION**

WAC  
212-43-001 Purpose.

- 212-43-005 Applicability.
- 212-43-010 Definitions.
- 212-43-015 Compliance.
- 212-43-020 Inspection.
- 212-43-025 Approval.
- 212-43-030 Appeal of fire marshal action or order—Summary suspension of approval.
- 212-43-035 Local codes.
- 212-43-040 Client mobility and cognitive functions.
- 212-43-045 Standards.
- 212-43-050 Construction requirements.
- 212-43-055 Modernization or renovation.
- 212-43-060 Additions.
- 212-43-065 Design, operation.
- 212-43-070 Smoke detection.
- 212-43-075 Fire alarm.
- 212-43-080 Emergency lighting.
- 212-43-085 Carpeting.
- 212-43-090 Smoke control.
- 212-43-095 Number of exits, separation.
- 212-43-100 Fire and evacuation plan.
- 212-43-105 Fire drills.
- 212-43-110 Equipment maintenance.
- 212-43-115 Compartmentation.
- 212-43-120 Fire protection standards.
- 212-43-125 Portable fire extinguishers.
- 212-43-130 Fire protection and fire prevention operating features.
- 212-43-135 Severability.

NEW SECTION

✓ WAC 212-43-001 PURPOSE. The purpose of this regulation is to adopt recognized standards for the protection of life against the cause and spread of fire and fire hazards pursuant to RCW 71.12.485 with respect to all facilities to be licensed as adult residential treatment facilities by the department of social and health services.

NEW SECTION

✓ WAC 212-43-005 APPLICABILITY. This regulation applies to adult residential treatment facilities licensed or subject to licensure by the department of social and health services pursuant to chapter 71.12 RCW.

NEW SECTION

✓ WAC 212-43-010 DEFINITIONS. The following definitions shall apply to this regulation:

(1) "Adult residential treatment facility" means a residence, place, or facility designed and organized primarily to provide twenty-four hour residential care, crisis and short-term care, and/or long-term individualized active treatment and rehabilitation for clients diagnosed or evaluated as psychiatrically impaired or chronically mentally ill as defined in chapter 204, Laws of 1982.

(2) "Ambulatory" means a client physically and mentally capable of walking unaided or is capable of independent mobility with the use of a cane, crutches,

walkette, walker, wheelchair, or artificial limb. Ambulatory shall be interpreted to mean an individual able to walk or traverse a normal path to safety unaided by another individual. Ambulatory shall not be interpreted to mean an individual needing the assistance of another individual in order to get into and out of bed, to transfer to a chair or toilet or to move from place to place.

(3) "Approved" means approval by the state fire marshal.

(4) "Authority having jurisdiction" means the duly authorized representative or agency having legal enforcement responsibility where these regulations are applied with the force of law.

(5) "Building official" means the person or agency appointed by the governing body of each city, town or county for the administration and enforcement of the Uniform Building Code, adopted by reference in the State Building Code Act.

(6) "Central station" means a fire alarm receiving service listed by the Underwriters Laboratories or authorized by the state fire marshal to report alarms to the local fire department.

(7) "Client" means an individual living in an adult residential facility for the purpose of participating in treatment and rehabilitation for psychiatric impairment or an individual living in the facility for board and domiciliary care.

(8) "Fire chief" means the chief of the fire department providing fire protection services to the facility.

(9) "Fire official" means the person or agency appointed by the governing body of each city, town or county for the administration and enforcement of the Uniform Fire Code, adopted by reference in the State Building Code Act.

(10) "Licensing agency" means the Washington state department of social and health services.

(11) "NFPA" means National Fire Protection Association.

(12) "Psychiatric impairment" means serious mental disorders, excluding mental retardation, substance abuse disorders, simple intoxication with alcohol or drugs, personality disorders, and specific developmental disorders as defined in the third edition of "American Psychiatric Association Diagnostic and Statistical Manual", 1980, where one or more of the following symptomatic behaviors is exhibited:

(a) Bizarreness, severe self-destructiveness, schizophrenic ideation, or other signs or symptoms resulting from gross, on-going distortions in thought processes;

(b) Suicide attempts or other signs or symptoms associated with marked, severe, or chronic affective disorders;

(c) Chronic sexual maladjustment, or other grossly maladaptive behaviors, in accordance with (a) or (b) of this subsection.

(13) "State Building Code Act" means chapter 19.27 RCW, effective January 1, 1975, which establishes state-wide building and fire prevention codes, and mandates enforcement by each city, town and county.

#### NEW SECTION

WAC 212-43-015 COMPLIANCE. All facilities licensed by the department of social and health services as adult residential treatment facilities shall comply with the provisions of this regulation.

#### NEW SECTION

WAC 212-43-020 INSPECTION. The licensing agency, upon receipt of an application for a license, or at least thirty days before the expiration date of an existing license, shall submit to the state fire marshal in writing, a request for an inspection. The state fire marshal or his authorized representative shall make an inspection of the facility, and if it is found that the facility does not comply with the standards contained in this regulation, a written report shall be made to the facility listing the violations found, corrective actions necessary and time allowed for correction. As soon as practicable after the expiration date of the time allowed to effect the corrective measures, a reinspection shall be made to determine compliance.

#### NEW SECTION

WAC 212-43-025 APPROVAL. (1) Upon the completion of the inspection, if the facility is in compliance with applicable standards, a notice of approval for licensing shall be forwarded to the licensing agency.

(2) Approval of a facility may be denied, suspended, or revoked for failure to comply with any applicable standard or regulation. Notice of such action shall be given to the facility and to the licensing agency.

#### NEW SECTION

WAC 212-43-030 APPEAL OF FIRE MARSHAL ACTION OR ORDER—SUMMARY SUSPENSION OF APPROVAL. (1) A facility aggrieved by an act or order of the state fire marshal made under RCW 71.12.485 or these rules may appeal such act or order to the state fire marshal. Such appeal shall be heard and determined pursuant to the provisions of chapter 34.04 RCW and chapter 1-08 WAC.

(2) If the fire marshal finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in his order, summary suspension of the approval required by RCW 71.12.485 may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

#### NEW SECTION

WAC 212-43-035 LOCAL CODES. Approvals are issued or denied on the basis of applicant's compliance with the state fire marshal's minimum fire and life safety standards. The enforcement of local fire and building codes is the responsibility of the respective fire and building officials.

NEW SECTION

WAC 212-43-040 CLIENT MOBILITY AND COGNITIVE FUNCTIONS. Clients shall be ambulatory as defined in WAC 212-43-010(2). State fire marshal approval is required for facilities or portions of facilities before the use of mobility aids are permitted. Clients must be managed without the use of seclusion, restraints, or locked doors. Patients' sensory perceptions must be sufficiently functional to respond to outside stimuli of an endangering nature; e.g., fire alarms, and have adequate cognitive functioning so as to evacuate the premises without assistance under such conditions. Any deviation from the intent of this section requires written approval by the state fire marshal.

NEW SECTION

WAC 212-43-045 STANDARDS. The following standards, WAC 212-43-045 through 212-43-130 shall be applicable to all facilities built or licensed after the effective date of this regulation.

NEW SECTION

WAC 212-43-050 CONSTRUCTION REQUIREMENTS. Construction or major remodeling shall comply with the Group R Division 1 requirements of the 1982 Uniform Building Code, regardless of the number of occupants. This minimum requirement is mandatory; however, local fire and building officials charged with the administration and enforcement of the State Building Code Act, chapter 19.27 RCW, may adopt additional requirements. PROVIDED: (1) Fire alarm systems, smoke detection systems and automatic sprinkler systems shall be in conformance with these regulations. (2) Every required exit doorway shall not be less than three feet in width regardless of occupant load.

NEW SECTION

WAC 212-43-055 MODERNIZATION OR RENOVATION. Alterations shall not diminish the level of life safety below that which exists prior to the alterations except that life safety features in excess of those required for new construction are not required to be maintained. In no case shall the resulting life safety be less than that required for existing buildings. Alterations or installations of new building services equipment shall be accomplished as nearly as possible in conformance with the requirements for new construction.

NEW SECTION

WAC 212-43-060 ADDITIONS. Any addition shall be separated from any existing nonconforming structure by a noncombustible fire partition having at least a two hour fire-resistance rating. Communicating openings in dividing fire partitions shall occur only in corridors and shall be protected by approved self-closing doors.

NEW SECTION

WAC 212-43-065 DESIGN, OPERATION. All facilities shall be so designed, constructed, maintained,

and operated as to minimize the possibility of a fire emergency requiring the evacuation of patients. The protection of patients from fire shall be provided by appropriate arrangement of facilities, adequate staffing, and careful development of operating and maintenance procedures composed of the following:

- (1) Proper design, construction, and compartmentation.
- (2) Provision for detection, alarm, and extinguishment.
- (3) Fire prevention and planning, training, and drilling programs for the isolation of fire, transfer of clients to areas of refuge, or evacuation of the building.

NEW SECTION

WAC 212-43-070 SMOKE DETECTION. An approved automatic smoke detection system shall be installed in all living areas, sleeping areas, corridors, stairways, and storage areas. Where the sensitivity of smoke detectors is adversely affected such as kitchens and furnace rooms, approved heat detectors may be installed. Smoke detectors shall not be spaced further than thirty feet apart nor more than fifteen feet from any wall, and shall be electrically interconnected with the fire alarm system.

NEW SECTION

WAC 212-43-075 FIRE ALARM. Every facility shall have an approved, electrically supervised manual fire alarm system. Operation of any fire alarm initiating device shall automatically, without delay, activate a general alarm and audible and visual indication throughout the building. The fire alarm system shall automatically transmit off the premises by the most direct and reliable method approved by the state fire marshal. These include, but are not limited to, in order of priority:

- (1) A direct connection of the building alarm to the municipal alarm system, including radio alarm boxes.
- (2) A direct connection of the building alarm to an approved central station.

Annunciators shall be provided where the system serves more than one floor, one building or one fire division.

NEW SECTION

WAC 212-43-080 EMERGENCY LIGHTING. Emergency lighting for means of egress shall be provided for every facility and shall comply with the following provisions:

- (1) Where maintenance of illumination depends upon changing from one energy source to another, there shall be no appreciable interruption of illumination during the changeover. Where emergency lighting is provided by a prime mover-operated electric generator, a delay of not more than ten seconds shall be permitted.

(2) Electric battery-operated emergency lights shall use only reliable types of storage batteries, provided with suitable facilities for maintenance in properly charged conditions.

- (3) Emergency lighting facilities shall be arranged to maintain illumination to values of not less than one

footcandle measured at the floor for a period of one and one-half hours in the event of failure of normal lighting.

(4) An emergency lighting system shall be so arranged as to provide the required illumination automatically in the event of any interruption of normal lighting, such as any failure of public utility or other outside electrical power supply, opening of a circuit breaker or fuse, or any manual act(s), including accidental opening of a switch controlling normal lighting facilities.

#### NEW SECTION

✓ WAC 212-43-085 **CARPETING.** The flame spread rating of all carpeting shall have a floor radiant panel test rating of a flux of not less than 0.45 watts per square centimeter nor exceed a smoke density of 450.

#### NEW SECTION

✓ WAC 212-43-090 **SMOKE CONTROL.** Forced air heating, air conditioning, and ventilation systems shall be interlocked with the fire alarm system to automatically shut down upon activation of the fire alarm system: PROVIDED, The building is not equipped with an engineered smoke control system in accordance with NFPA Standard 90A.

#### NEW SECTION

✓ WAC 212-43-095 **NUMBER OF EXITS, SEPARATION.** At least two exits, located remote from each other, shall be provided from each occupied floor. Walls of corridors shall be of not less than one hour fire-resistive construction and the ceilings shall be not less than that required for a one hour fire-resistive floor or roof system in other than fully sprinklered buildings. Approved direct exiting to the exterior from sleeping rooms and living room areas may be an alternative, subject to state fire marshal approval.

#### NEW SECTION

✓ WAC 212-43-100 **FIRE AND EVACUATION PLAN.** The administration of every facility shall have in effect, and available to all supervisory personnel, written copies of a plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge and from the building, when necessary. All employees shall be instructed and kept informed respecting their duties under the plan.

#### NEW SECTION

✓ WAC 212-43-105 **FIRE DRILLS.** At least twelve fire drills shall be held every year. Drills shall be conducted quarterly on each shift to familiarize personnel with signals and emergency action required under varied conditions. When drills are conducted between 9:00 p.m. and 6:00 a.m., a coded announcement may be used instead of audible alarm. Fire drills shall include the transmission of a fire alarm signal and simulation of emergency fire conditions. The local fire department shall be notified prior to the activation of the fire alarm system for drill purposes and again at the conclusion of

the transmission and restoration of the fire alarm system to normal mode.

#### NEW SECTION

✓ WAC 212-43-110 **EQUIPMENT MAINTENANCE.** Every required automatic sprinkler system, fire detection, and alarm system, exit lighting, fire door, and other items or equipment required by this regulation or the applicable building and/or fire codes shall be continuously maintained in proper operating condition. Equipment shall be tested or operated in accordance with manufacturer's recommendations and/or as required by appropriate NFPA standards. Records of all tests and inspections shall be maintained for review.

There shall be annual inspection, testing, and certification of fire protection systems by firms licensed to do business in the state of Washington who specialize in such systems. The certifications shall be on state fire marshal forms and submitted to the fire marshal prior to the annual licensing date.

#### NEW SECTION

✓ WAC 212-43-115 **COMPARTMENTATION.** Every story used by clients for sleeping or treatment or any story having an occupant load of thirty or more persons, shall be divided into at least two compartments by smoke partitions having a fire resistance of at least one hour. No one compartment shall contain more than twenty-two thousand five hundred square feet or be over one hundred fifty feet in length or width.

#### NEW SECTION

✓ WAC 212-43-120 **FIRE PROTECTION STANDARDS.** The fire protection standards applicable to the installation and maintenance of fire protection equipment, systems, and control of hazardous materials shall be those standards of the NFPA in effect at the time of the adoption of these regulations.

#### NEW SECTION

✓ WAC 212-43-125 **PORTABLE FIRE EXTINGUISHERS.** The type, size, and location of portable fire extinguishers shall be installed in accordance with NFPA Standard 10-1981.

#### NEW SECTION

✓ WAC 212-43-130 **FIRE PROTECTION AND FIRE PREVENTION OPERATING FEATURES.** Operating features shall be maintained in accordance with sections 31-1 and 31-4 1981 life safety code, NFPA Standard 101.

#### NEW SECTION

✓ WAC 212-43-135 **SEVERABILITY.** If any provision of this regulation or its application to any person is held invalid, the remainder of the regulation or the application of the provision to other persons or circumstances is not affected.



**WSR 83-03-029**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**  
 [Order 390—Filed January 14, 1983]

I, Brian J. Boyle, Commissioner of Public Lands, state of Washington, Department of Natural Resources, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the temporary closure of log patrol activities and the recovery of stray logs on Lake Whatcom.

I, Brian J. Boyle, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is that unprecedented floods have caused the introduction into Lake Whatcom of wood debris requiring emergency wood debris removal under the provisions of chapter 76.42 RCW. Existing and continued log patrol activities would be inconsistent and incompatible with such debris removal.

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

This rule is promulgated pursuant to RCW 76.40.012, 76.40.013 and 76.42.070 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 14, 1983.

By Brian J. Boyle  
 Commissioner of Public Lands

NEW SECTION

**WAC 332-44-100 LOG PATROL ACTIVITY ON LAKE WHATCOM.** *Effective immediately, Lake Whatcom in Whatcom County is hereby closed to activities of the log patrol for ninety days from the effective date of this rule.*

NEW SECTION

**WAC 332-44-110 MATERIAL REMOVED.** *All woody material removed from Lake Whatcom through wood debris contracts, licenses, permits or other arrangements do not constitute merchantable logs under chapter 76.40 RCW.*

**WSR 83-03-030**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 83-02—Filed January 14, 1983]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia,

Washington, the annexed rules relating to commercial fishing rules.

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is conforms commercial regulations with Oregon as harvestable quantities of sturgeon are available.

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

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

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

APPROVED AND ADOPTED January 14, 1983.

By Gary C. Alexander  
 for William R. Wilkerson  
 Director

NEW SECTION

**WAC 220-32-04000Q SEASON AND AREAS—STURGEON** *Notwithstanding the provisions of WAC 220-32-040, effective immediately through January 31, 1983, it is lawful to take, fish for and possess sturgeon for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1C, 1D, that portion of 1B south of a line projected from Grays Point light east to Harrington Point, and that portion of Area 1E downstream of a line projected due north from the mouth at Oneonta Creek on the Oregon side to a deadline marker on the Washington shore using gear as specified in WAC 220-32-040.*

NEW SECTION

**WAC 220-32-05700P SEASON—STURGEON** *Notwithstanding the provisions of WAC 220-32-057, effective immediately through January 31, 1983, it is lawful to take, fish for and possess sturgeon for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G and 1H by individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla and Nez Perce treaties.*

**WSR 83-03-031**  
**ADOPTED RULES**  
**DEPARTMENT OF LICENSING**  
**(Board of Medical Examiners)**  
 [Order PL 421—Filed January 14, 1983]

Be it resolved by the Washington State Board of Medical Examiners, acting at Seattle, Washington, that

it does adopt the annexed rules relating to the amending of WAC 308-52-138 and adding WAC 308-52-150.

This action is taken pursuant to Notice No. WSR 82-24-083 filed with the code reviser on December 1, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

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

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

APPROVED AND ADOPTED January 7, 1983.

By Cecile Bostrom  
Chair

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

WAC 308-52-138 PHYSICIAN ASSISTANTS—PROGRAM APPROVAL. No physician shall be entitled to register a physician assistant who has not successfully completed a program of training approved by the board in accordance with these rules.

(1) Standards. The board will establish standards by which programs designed to produce the various types of physician assistants shall be judged. If the council of medical education of the American medical association has defined "essentials" for such program, these shall be regarded as minimal criteria.

(2) Procedure.

(a) In order for a program for training physician assistants to be considered for approval by the board, the director of the program shall submit to the board a description of the course of training offered, including subjects taught and methods of teaching, entrance requirements, clinical experience provided, etc. The director of the program shall also advise the board concerning the medical skills which are attained in such course, and the methods by which the proficiency of the students in those skills was tested or ascertained. The board may require such additional information from program sponsors as it desires.

(b) The board will approve programs in terms of the skills attained by its graduates and the specialty for which the physician assistant is trained.

(c) Reapproval. Each approved program will be reexamined at intervals, not to exceed three years. Approval will be continued or withdrawn following each reexamination.

(d) Registry. A registry of approved programs shall be maintained by the board at the division of professional licensing in Olympia, Washington, which shall be available upon request to interested persons.

(3)(a) Where an application for program approval has been pending for one year and has not been approved due to the absence of program standards promulgated by the board, a program may apply for provisional approval.

(b) Such approval is solely for the limited purpose of availing the program's students of the exemption contained in RCW 18.71.030(8) and shall end when the Board makes a final determination as to program approval pursuant to this section.

(c) Provisional approval as defined in subsection (b) above can be granted if the program:

(i) needs such approval in order for the clinical elements of its educational regimen to proceed on schedule;

(ii) has established the likelihood of satisfying the relevant program approval guidelines in their current form;

(iii) will otherwise comply with the terms of RCW 18.71.030(8); and

(iv) agrees to such other safeguards as the board may stipulate to ensure patient safety.

NEW SECTION

WAC 308-52-150 ASSISTANCE OR CONSULTATION WITH OTHER PHYSICIANS. (1) Physician sponsor. A physician assistant may assist or consult with a physician other than his or her sponsor or alternate concerning the care or treatment of the sponsor's patients, provided it is done with the knowledge and concurrence of the sponsor. The sponsor must maintain on file a written statement which instructs the physician assistant as to who may be assisted or consulted and under what circumstances or if no list is possible, then the method to be used in determining who may be consulted or assisted. The sponsor retains primary responsibility for the performance of his or her physician assistant.

(2) Responsibility of a Non-Sponsoring Physician. A non-sponsoring physician utilizing or advising a physician assistant as indicated in section (1) of this rule, shall assume responsibility for patient services provided by a physician assistant if the physician:

(a) Knowingly requests that patient services be rendered by the physician assistant; or

(b) Knowingly consults with the physician assistant concerning the rendering of patient services.

**WSR 83-03-032**  
**ADOPTED RULES**  
**DEPARTMENT OF LICENSING**  
**(Podiatry Board)**

[Order 418—Filed January 14, 1983]

Be it resolved by the Washington State Podiatry Board, acting at Seattle, Washington, that it does adopt the annexed rules relating to the amending of WAC 308-31-010 and adding new sections WAC 308-31-030, 308-31-040, 308-31-050 and 308-31-060.

This action is taken pursuant to Notice No. WSR 82-24-085 filed with the code reviser on December 1, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to section 10, chapter 21, Laws of 1982 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 7, 1983.

By Stanley R. Haskins  
Executive Secretary

AMENDATORY SECTION (Amending Order PL 250, filed 5/28/76)

WAC 308-31-010 EXAMINATION. (1) It is the determination of the ~~((examining committee))~~ board that after July 6, 1976, all applicants for licensure who have been licensed by examination in another state or who have satisfactorily passed examinations given by the national board of podiatry examiners will be required to pass a written examination in the clinical application of the following subjects:

- Dermatology
- Biomechanics
- Surgery
- Medicine
- Podiatric medicine
- Radiology
- Pharmacology
- Laboratory procedures

The examination will be given ~~((twice a year))~~ at least annually, at a time and place designated by the ~~((director))~~ board.

(2) Every applicant for a podiatry license shall be required to pass the examination for such a license with a grade of at least 75%.

(3) The board shall determine the method of grading each examination, and shall apply such method uniformly to all applicants taking that examination.

(4) The board and the department shall not disclose any applicant's examination score to anyone other than the applicant, unless requested to do so in writing by the applicant.

(5) The applicant will be notified, in writing, of his or her examination scores.

NEW SECTION

WAC 308-31-030 APPROVED SCHOOLS OF PODIATRIC MEDICINE. For the purpose of the laws relating to podiatric medicine, the board approves those schools of podiatric medicine listed as accredited schools of podiatric medicine set forth in the list of accredited colleges published as of August, 1980, by the Council on Podiatry Education of the American Podiatry Association.

NEW SECTION

WAC 308-31-040 IDENTIFICATION OF LICENSEES. Each person licensed pursuant to chapter 18.22 RCW must be clearly identified to the public as a doctor of podiatry at every establishment in which he or she is engaged in the practice of podiatry. Such identification must indicate the name of the licensee at or near

the entrance to the licensee's office. Only the names of people actually practicing at a location may appear at that location or in any advertisements or announcements regarding that location. The name of an individual who has previously practiced at a location may remain in use in conjunction with that location for a period of no more than one year from the date that person ceases to practice at the location.

NEW SECTION

WAC 308-31-050 PRESUMPTION OF RESPONSIBILITY FOR ADVERTISEMENTS. Any licensed doctor of podiatry whose name, office address or place of practice is mentioned in any advertisement of any kind or character shall be presumed to have caused, allowed, permitted, approved and sanctioned such advertising and shall be presumed to be personally responsible for the content and character thereof. Once sufficient evidence of the existence of the advertisement has been introduced at any hearing before the board of podiatry, the burden of establishing proof to rebut this presumption by a preponderance of the evidence shall be upon the doctor of podiatry.

NEW SECTION

WAC 308-31-060 ADVERTISEMENTS PRIOR TO LICENSURE PROHIBITED. Any individual who has not been licensed to practice as a podiatrist by the state of Washington is prohibited from advertising as practicing podiatry in this state, by any means including placement of a telephone listing in any telephone directory.

**WSR 83-03-033**

**ADOPTED RULES**

**LOTTERY COMMISSION**

[Order 9—Filed January 14, 1983]

Be it resolved by the Washington State Lottery Commission, acting at Olympia, that it does adopt the annexed rules relating to the amending of WAC 315-06-080.

This action is taken pursuant to Notice No. WSR 82-24-082 filed with the code reviser on December 1, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to sections 4 and 5, chapter 7, Laws of 1982 2nd ex. sess. and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 7, 1983.

By Paul L. Mack  
Chairman

AMENDATORY SECTION (Amending Order 2, filed 10/15/82)

✓ WAC 315-06-080 CERTAIN PURCHASES OF TICKETS, GRATUITIES, AND CERTAIN WINNING OF PRIZES PROHIBITED. Certain purchases of tickets, certain winning and sharing of prizes, and gratuities are prohibited as follows:

(1) A ticket shall not be purchased by, and a prize shall not be paid to any member or employee of the commission or to any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any member or employee of the commission, or to any assistant attorney general assigned to advise the commission or director.

(2) A prize claimed by a holder of a winning ticket shall not be shared with any member or employee of the commission or any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any member or employee of the commission.

(3) ~~((A ticket shall not be purchased by, and a))~~ A prize shall not be paid to any licensed agent unless the ticket for that prize was purchased at full retail value from another licensed agent. This provision shall not relieve licensed agents for payment of unaccounted tickets pursuant to WAC 315-04-180(1) and (2). Nothing in this provision shall be construed to prohibit the purchase of tickets, or the winning of prizes, by directors, officers, employees, relatives, parent corporations, subsidiaries, or other affiliates of licensed agents.

(4) No gratuities offered by prize winners, vendors, contractors, or others conducting business with the lottery, may be accepted by licensed agents or by any member or employee of the commission or any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any member or employee of the commission.

(5) A ticket shall not be purchased by, and a prize shall not be paid to any CPA accounting firm, or its employees, retained by the director of financial management pursuant to sections 31 and 32 of chapter 7, Laws of 1982, 2nd ex. sess. or any employee of the director of financial management performing a management review or audit of the commission or director.

(6) A ticket shall not be sold to or purchased by any person under the age of eighteen. Nothing in this section shall prohibit the purchase of a ticket for the purpose of making a gift by a person eighteen years of age or older to a person less than that age.

(7) A ticket shall not be purchased with food stamps or coupons and a licensed agent shall not accept as consideration for a ticket food stamps or coupons.

**WSR 83-03-034****ADOPTED RULES****LOTTERY COMMISSION**

[Order 10—Filed January 14, 1983]

Be it resolved by the Washington State Lottery Commission, acting at Olympia, Washington, that it does

adopt the annexed rules relating to the amending of WAC 315-06-020, 315-10-030 and adding new sections WAC 315-06-060, 315-11-010, 315-11-020 and 315-11-030.

This action is taken pursuant to Notice No. WSR 82-24-086 filed with the code reviser on December 1, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

WAC 315-06-020 is promulgated pursuant to sections 4 and 8, chapter 7, Laws of 1982 2nd ex. sess.; WAC 315-06-060 is promulgated pursuant to sections 4 and 11, chapter 7, Laws of 1982 2nd ex. sess.; WAC 315-10-030 and 315-11-010 are promulgated pursuant to section 4, chapter 7, Laws of 1982 2nd ex. sess.; and WAC 315-11-020 and 315-11-030 are promulgated pursuant to sections 4 and 5, chapter 7, Laws of 1982 2nd ex. sess.

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

APPROVED AND ADOPTED January 7, 1983.

By Paul L. Mack  
Chairman

AMENDATORY SECTION (Amending Order 2, filed 10/15/82)

✓ WAC 315-06-020 AUTHORIZATION TO SELL TICKETS. Licensed agents ~~((and employees of the commission designated by the director))~~ are authorized, as limited by WAC 315-04-140, to sell tickets directly to the public. ~~((Employees of the commission designated by the director to sell tickets directly to the public and retail))~~ Retail outlets of the state liquor control board are not required to be licensed as licensed agents.

NEW SECTION

✓ WAC 315-06-060 PRICE OF TICKETS—LIMITATIONS. No licensed agent may sell a ticket at a price greater or less than that established in accordance with these rules.

AMENDATORY SECTION (Amending Order 3, filed 10/15/82)

✓ WAC 315-10-030 INSTANT GAMES CRITERIA. (1) The price of an instant game ticket shall not be less than \$1.00 and not more than \$5.00.

(2) Winners of an instant game are determined by the matching or specified alignment of the play numbers on the tickets. The ticket bearer must notify the lottery of the win and submit the winning ticket to the lottery as specified by the director. The winning ticket must be validated by the lottery through use of the validation number and any other means as specified by the director.

(3) The total of all prizes available to be won in an instant game shall not be less than forty-five percent of the instant game's projected revenue.

(4) The instant game shall pay out both lower tier prizes and higher tier prizes. Lower tier prizes are of less than \$25.00. Higher tier prizes are of \$25.00 or more. The director shall determine the number of lower and higher tier prizes.

(5) The length of operation of an instant game shall not exceed fifteen weeks. The start date and closing date of the instant game shall be publicly announced.

(6) There is no required frequency of drawing or method of selection of a winner in an instant game.

(7) At the director's discretion, an instant game may include a grand prize drawing(s). The criteria for the grand prize drawing shall be as follows:

(a) Not more than ten finalists for a grand prize drawing shall be selected in an elimination drawing from redeemed tickets winning certain minimum prizes as determined by the director. Participation in the elimination drawing(s) shall be limited to such tickets which are actually received and validated by the director on or before a date to be announced by the director. The director may reserve the right to place any semi-finalist whose entry was not entered in the elimination drawing(s) and who is subsequently determined to have been entitled to such entry into an elimination drawing of a subsequent instant game, and the determination of the director shall be final.

(b) The prize of the grand prize drawing shall not exceed one million dollars. The number of such prizes shall be determined by the director to correspond with the size and length of the instant game and to comply with (3) above.

(c) The dates and times as well as the procedures for conducting the elimination drawing and grand prize drawing shall be determined by the director.

(8) Procedures for claiming instant prizes are as follows:

(a) To claim an instant prize of less than \$25.00, the claimant shall present the winning ticket to the licensed agent from whom the ticket was purchased. The licensed agent shall verify the claim and, if acceptable, make payment of the amount due the claimant. In the event the licensed agent cannot verify the claim, the claimant shall fill out a claim form, as provided in WAC 315-06-120, which shall be obtained from the licensed agent and present the completed form, together with the disputed ticket to the designated claim center. The licensed agent shall deliver one copy of the claim form to the claimant and forward the disputed ticket and a copy of the claim form to the director for validation. If the claim is validated by the director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(b) To claim an instant prize of \$25.00 or more, the claimant shall ~~((fill out))~~ complete a claim form, as provided in WAC 315-06-120, which is obtained from the licensed agent or the director and ~~((present))~~ mail, by registered or certified mail, the completed form together with the winning ticket to the ~~((licensed agent or the))~~ director. ~~((The licensed agent shall deliver one copy of the claim form to the claimant and forward the winning~~

~~ticket and a copy of the claim form to the director for validation:))~~ Upon validation by the director, a check shall be forwarded to the claimant in payment of the amount due, less any applicable federal income tax withholding. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(c) Any ticket not passing all the validation checks specified by the director is void and ineligible for any prize and shall not be paid. However, the director may, solely at his or her option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price from any other current game). In the event a defective ticket is purchased, the only responsibility or liability of the director shall be the replacement of the defective ticket with another unplayed ticket (or tickets of equivalent sale price from any other current game):

NEW SECTION

WAC 315-11-010 DEFINITIONS FOR INSTANT GAME NUMBER 1. (1) Play Numbers for Instant Game Number 1 - The following are the "Play Numbers": "\$2.00", "\$5.00", "\$100", "\$500", "\$1,000" and "\$5,000." Each such Play Number is printed in gray black ink and one of these Play Numbers appears under each of the six rub-off spots on the front of the ticket in the Archer font in positive.

(2) Validation Number for Instant Game Number 1 - The nine-digit number on the front of the ticket under the "Void if Removed" area on the bottom center of the front of the ticket. There is no ticket stub for Instant Game Number 1.

(3) Book-Ticket Number - The ten-digit number on the form 1000001-000 printed on the back of the ticket in .11" high type in red. The first seven digits of the "Book-Ticket Number for Instant Game Number 1 constitute the "Book Number" and start at 1000001 for Instant Game Number 1. The last three digits of the Book-Ticket Number for Instant Game Number 1 are the "Ticket Number" and start at 000 and continue sequentially through 199 within each book of tickets.

(4) Caption - The small printed material appearing below each Play Number which verifies and corresponds with the Play Number. The Caption usually is a spelling out, in full or abbreviated form, of the Play Number. One and only one of these Captions appears under each Play Number and is printed in gray black ink in positive. For Instant Game Number 1, the Caption which corresponds with and verifies the Play Numbers for Instant Game Number 1 is as follows:

Play Number	Caption
\$2	TWO
\$5	FIVE
\$100	1 HUND
\$500	5 HUND
\$1,000	ONE THOU
\$5,000	FIVE THOU

(5) Agent Validation Codes - Agent Validation Codes are codes, usually consisting of small letters found under the removable covering on the front of the ticket, which the licensed agent uses to verify and validate winners

below \$25. For Instant Game Number 1, the Agent Validation Code is a three-letter code, with each letter appearing in a varying three of nine locations beneath the removable covering and among the Play Numbers. For game 1, the Agent Validation Code is used by the licensed agent to verify \$2 and \$5 winners and the codes which correspond with, and verifies, each of these winners is as follows:

TWO = \$2.00  
FIV = \$5.00

(6) Book - A pack of fanfolded instant game tickets which are attached to each other by perforations, which perforations the licensed agent tears when the agent sells a ticket, and which fanfolded tickets are packed in a plastic bag or a plastic shrinkwrapping. In Instant Game Number 1, a "Book" shall consist of 200 fanfolded instant game tickets bearing a common "Book Number" and having a "Ticket Number" starting at 000 and continuing sequentially through 199.

### NEW SECTION

✓ WAC 315-11-020 CRITERIA FOR INSTANT GAME NUMBER 1. (1) The price of an instant game ticket shall be \$1.00.

(2) Determination of Prize Winners: The following specify how a prize winner of an instant cash prize is determined in Instant Game 1:

(a) The bearer of a ticket having an occurrence of "\$2.00" as a Play Number in each of three separate boxes on the ticket shall be entitled to a prize of \$2.00;

(b) The bearer of a ticket having an occurrence of "\$5.00" as a Play Number in each of three separate boxes on the ticket shall be entitled to a prize of \$5.00;

(c) The bearer of a ticket having an occurrence of "\$100" as a Play Number in each of three separate boxes on the ticket shall be entitled to a prize of \$100;

(d) The bearer of a ticket having an occurrence of "\$500" as a Play Number in each of three separate boxes on the ticket shall be entitled to a prize of \$500;

(e) The bearer of a ticket having an occurrence of "\$1,000" as a Play Number in each of three separate boxes on the ticket shall be entitled to a prize of \$1,000; and

(f) The bearer of a ticket having an occurrence of "\$5,000" as a Play Number in each of three separate boxes on the ticket shall be entitled to a prize of \$5,000.

In any event only the highest prize amount meeting the standards of (a) through (f) will be paid on a given ticket.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements and to the particular validation requirements for Instant Game Number 1.

(5) Grand Prize Drawing for Instant Game Number 1: Participants in the Grand Prize Drawings shall be those ticket bearers with an instant cash winning ticket of exactly \$100, which ticket is a valid \$100 winner which is claimed within thirty days after the announced

end of Instant Game Number 1 in the manner prescribed on the back of the instant ticket. Two, and only two, Grand Drawings will be held for Instant Game Number 1, whether or not it is extended by the sale of additional tickets. The holder of a ticket eligible for participation will only be eligible for participation in one Grand Prize Drawing for each eligible ticket held. The Grand Prize Drawings will be conducted at times and places to be announced and pursuant to methods to be announced by the director. The prizes involved in the Grand Prize Drawings will be, for each drawing; First Prize, \$1,000,000, paid as \$50,000 a year for 20 years; Second Prize, \$50,000; and eight Third Prizes of \$10,000 each. The director does reserve the right, provided by WAC 315-10-030(7) to place any ticket bearer who was entitled to entry in the drawing whose entry was not entered in the elimination drawing and who is subsequently determined to have been entitled to such entry into such elimination drawing into an elimination drawing of a subsequent instant game having equal (or greater) Grand Prizes available.

(6) Notwithstanding any other provisions of these rules, the director may vary the length of Instant Game No. 1 or the number of tickets sold in Instant Game No. 1, to increase the number of Grand Prize Drawing winners so as to maintain the estimated average odds of winning a Grand Prize Drawing.

### NEW SECTION

✓ WAC 315-11-030 TICKET VALIDATION REQUIREMENTS. Besides meeting all of the other requirements in these rules, the following validation requirements will apply with regard to instant game tickets in Instant Game Number 1. To be a valid instant game ticket, all of the following requirements must be met:

(1) Exactly one Play Number must appear under each of the six rub-off spots in the right portion of the ticket.

(2) Each of the six Play Numbers must have a Caption underneath, and each must agree with its Caption.

(3) Each of the six Play Numbers must be present in its entirety and be fully legible.

(4) Each of the six Captions must be present in its entirety and be fully legible.

(5) Each of the six Play Numbers and their Captions must be printed in gray black ink.

(6) The ticket shall be intact.

(7) The Book-Ticket Number, Validation Number and Agent Validation Code must be present in their entirety and be legible. The Validation Number shall correspond, using the manufacturer's computer code, to the Play Numbers on the ticket.

(8) The ticket must not be mutilated, altered, unreadable, reconstituted, or tampered with in any manner.

(9) The ticket must not be counterfeit in whole or in part.

(10) The Validation Number and Agent Validation Code shall be printed in gray black ink and the Book-Ticket Number shall be printed in red ink.

(11) The ticket must have been issued by the director in an authorized manner.

(12) The ticket must not be stolen nor appear on any list of omitted tickets on file with the director.

(13) The Play Numbers, Captions, Validation Number, Agent Validation Code and Book-Ticket Number must be right side up and not reversed in any manner.

(14) The ticket must be complete, not miscut, have exactly one Play Number and exactly One Caption under each of the six rub-off spots, exactly one Book-Ticket Number, exactly one Agent Validation Code, and exactly one Validation Number.

(15) The Validation Number of an apparent winning ticket shall appear on the lottery's Official List of Validation Numbers of winning tickets, and a ticket with that Validation Number shall not have been previously paid.

(16) The ticket must not be blank or partially blank, misregistered, defective, or printed or produced in error.

(17) Each of the Play Numbers must be exactly one of those described in WAC 315-11-010(1) and each of the Captions to the six Play Numbers must be exactly one of those described in WAC 315-11-010(4).

(18) Each of the six Play Numbers on the ticket must be printed in the Archer size font and must correspond precisely to the artwork on file with the director; each of the six Captions must be printed in the Mead 5 x 9 font and must correspond precisely to the artwork on file with the director; the Book-Ticket number must correspond precisely to the artwork on file with the director; and the Validation Number must be printed in the Mead 9 x 12 font and must correspond precisely to the artwork on file with the director.

(19) The display printing must be regular in every respect and correspond precisely with the artwork on file with the director.

(20) No portion of the "Void if Removed" spot may be exposed.

(21) The ticket must pass all additional confidential validation tests of the director.

The specific statute these rules are intended to implement is RCW 41.06.150 and HB 593 (for WAC 356-30-330).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 8, 1983.

This notice is connected to and continues the matter in Notice Nos. WSR 81-18-059[82-18-059], 82-21-046 and \*82-24-024 filed with the code reviser's office on September 1, 1982, October 18, 1982, and \*November 23, 1982.

Dated: January 14, 1983  
By: Leonard Nord  
Secretary

**WSR 83-03-036**  
**BOARD OF PRISON**  
**TERMS AND PAROLES**  
[Filed January 17, 1983]

*Reviser's note:* The following material has not been adopted under the Administrative Procedure Act, chapter 34.04 RCW, but has been filed in the office of the Code Reviser pursuant to the court decision in *Hauser v. Board of Prison Terms and Paroles*, and is published in the Register exactly as filed.

Attached please find Chapter 8 of the Rules of the Board having to do with disclosure of records.

Per previous correspondence detailing the court case requiring that all the Board's rules be published in the Washington Register, these rules are being forwarded for publication. These rules supersede the Board's previous rules on disclosure which were forwarded to you for publication.

**CHAPTER VIII**  
**PUBLIC RECORDS - DISCLOSURE**

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**CHAPTER VIII**  
**PUBLIC RECORDS - DISCLOSURE**

8.010 PURPOSE The purpose of this chapter shall be to ensure compliance by the

**WSR 83-03-035**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**  
[Filed January 17, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning:

- Amd \*WAC 356-14-085 Salaries—Reduction—in—force register appointment.
- Amd WAC 356-30-330 Reduction—in—force—((Rules)) Reasons, regulations—Procedure;

that the agency will at 10:00 a.m., Thursday, February 10, 1983, in the Board Hearing Room, Department of Personnel, 600 South Franklin, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

Washington State board of Prison Terms and Paroles with the provisions of the Public Disclosure Act, RCW 42.17.250 through 42.17.340 in conjunction with the Criminal Records Privacy Act, Ch. 10.97 RCW, as well as RCW 9.95.140.

8.020 DEFINITIONS

- (1) "Public Records" include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by the Board regardless of physical form or characteristics.
- (2) "Writing" means handwriting, type-writing, printing, photostating, photographings, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.
- (3) "Board" means the Washington State Board of Prison Terms and Paroles.
- (4) "Client" means any person or organization about whom the Board has a record.
- (5) "Disclosure" means inspection and/or copying.
- (6) "Denial of disclosure" denotes any exempting from disclosure of any public record.

8.030 PUBLIC RECORDS AVAILABLE Requests for any identifiable public record may be initiated at the central records keeping office of the Board during normal business hours.

The Board shall at all times take the most timely possible action on requests for disclosure, and shall be required to respond in writing within ten working days of receipt of the request for disclosure. The Board's failure to respond shall entitle the person seeking disclosure to petition the public records officer pursuant to Rule 8.010.

8.040 PUBLIC RECORDS OFFICER The Board shall designate a public records officer, located in the central office, who shall be responsible for implementing the Board's rules regarding disclosure of

public records, coordination of staff in this regard, and generally insuring compliance by the staff with public records disclosure requirements.

8.050 REQUEST FOR PUBLIC RECORDS

- (1) All requests for the disclosure of a public record must be in writing identifying the record sought with reasonable certainty. The written request may include:
  - (a) The name of the person requesting the record;
  - (b) The time of day and calendar date on which the request is made; and
  - (c) The nature of the request.
- (2) A request for disclosure shall be made during the customary business hours or by mail. Persons who appear at the Board's office for the purpose of inspection and copying of Board files are requested to make an appointment with the public disclosure coordinator at least five (5) days in advance, in order to allow sufficient time for the removal and deletion of exempted record information.
- (3) This chapter shall not be construed as giving authority to any agency to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies shall not do so unless specifically authorized or directed by law.
- (4) If the public record contains material exempt from disclosure pursuant to law, including those laws cited in Rule 8.011, the Board must provide the person requesting disclosure with a written explanation for the non-disclosure, pursuant to Rule 8.090.
- (5) Any person continuing to seek disclosure, after having received a written explanation for nondisclosure, pursuant to Rule 8.090, may request a review under the provisions of Rule 8.010.
- (6) When a person's identity is relevant to an exemption, that person may be required to provide personal identification.
- (7) Nothing in this section or elsewhere in this chapter shall be construed to require the Board to compile statistics or other information from material contained in public records,



where doing so would unduly interfere with other essential functions of the Board and is not required for litigation by rules of pretrial discovery.

- (8) If public records or information contained in a Board file are in the field for purposes of a hearing, and are thus not available, the public disclosure coordinator or his designee shall promptly inform the person requesting disclosure that there will be a delay in responding to the disclosure request due to the unavailability of the public record.

**8.060 DISCLOSURE TO CLIENT'S REPRESENTATIVE**

- (1) If a client requests disclosure to a representative, that request must be accompanied by a written release signed by the client, except that, as an accommodation to the client and if the legislator or attorney representing the client can provide assurance that the client has authorized disclosure, the client's record may be briefly discussed with that legislator or attorney so long as there is neither physical inspection nor copying of client records by that representative. A written release must also include:
- (a) The identity of the person(s) or organization(s) to whom disclosure is to be made;
  - (b) An identification of the record, or portion thereof, to be disclosed;
  - (c) A statement of when the authorization for disclosure expires.
- (2) Disclosures of information to a representative shall be made to the same extent as to the client.
- (3) The legal guardian of a client has any and all rights accorded to a client by this section.

**8.070 FEES - INSPECTION AND COPYING**

- (1) No fee shall be charged for the inspection of public records.
- (2) The Board shall collect the following fees, plus postage, to reimburse itself for actual costs incident to providing copies of public records:
- (a) Twenty cents per page.

- (3) Nothing contained in this section shall preclude the Board from agreeing to exchange or provide copies of manuals or other public records with other state or federal agencies, whenever doing so is in the best interest of the Board.

- (4) Prepayment of copying costs and postage shall be a prerequisite to copying and/or mailing of public records.

**8.080 PROTECTION OF PUBLIC RECORDS**

Public records shall be disclosed only in the presence of a public disclosure coordinator of his or her designee, who shall withdraw the records if the person requesting disclosure acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the Board. This section shall not be construed to prevent the Board from accommodating a client by use of the mails in the disclosure process.

**8.090 DISCLOSURE PROCEDURE**

- (1) The public records officer shall review file materials prior to disclosure.
- (2) If the file does not contain materials exempt from disclosure, the public records officer shall ensure full disclosure.
- (3) If the file does contain materials exempt from disclosure, the public records officer shall deny disclosure of those exempt portions of the file, and shall, at the time of the denial, in writing, clearly specify the reasons for the denial of disclosure, including a statement of the specific exemptions or reasons authorizing the withholding of the record and a brief explanation of how the exemption applies. The remaining non-exempt materials shall be fully disclosed pursuant to Rule 8.012(1).

**8.100 REMEDY FOR REVIEW OF DENIAL OF DISCLOSURE**

- (1) If the person requesting disclosure disagrees with the decision of a public disclosure coordinator denying disclosure of a public record, this person may at any time petition the Board's public records officer for review of the decision denying disclosure. The form used by the public

disclosure coordinator to deny disclosure of a public record shall clearly indicate this right of review.

- (2) The public records officer shall review decisions denying disclosure in the most prompt fashion possible, and such review shall be deemed completed at the end of the second business day following receipt by the Board of the petition for review. This shall constitute final agency action for the purposes of judicial review, pursuant to RCW 42.17.320.

8.110 EXEMPTIONS TO PUBLIC RECORDS

DISCLOSURE The Board reserves the right to determine if a public record requested in accordance with the procedures outlined herein is exempt or nondisclosable under RCW 42.17.250 through RCW 42.17.340. Nondisclosable records include, but are not limited to:

- (1) Personal information in any files concerning a prisoner, probationer, or parolee to the extent required by 42.17.310(1)(a); however, disclosure may be made to that person or that person's representative, except as otherwise provided by these rules;
- (2) Data (including information revealing the identity of persons who file complaints, except as the complainant may authorize) contained in intelligence, investigative, and other related files compiled by investigative, law enforcement or penology agencies, the state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or the protection of any person's right to privacy. This data is nondisclosable to the extent required by RCW 42.17.310(1)(d)(e), RCW 10.97.080, Chapter 446-20 WAC;
- (3) Certain juvenile justice or juvenile care records to the extent required by Chapter 13.50 RCW;
- (4) Personal information in files maintained for an employee of the Board to the extent required by RCW 42.17.310(1)(b);
- (5) Deliberative material, as opposed to facts upon which a decision is based, contained in preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended; except that a

specific record shall be disclosable when publicly cited by the Board in connection with any action to the extent required by RCW 42.17.310(1)(i);

- (6) Records which are relevant to a controversy to which the Board is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the Board and the office of the Attorney General privileged under RCW 5.60.060(2).
- (7) Non-conviction data, as defined in RCW 10.97.030(2), may be disclosed to the subject of the record in person in the central office of the Board but may not be copied except for the purpose of challenge or correction when the person who is the subject of the record asserts the belief in writing that the information regarding such person is inaccurate or incomplete. Incarcerated subjects shall be provided with a designation of documents in the Board file which contain non-conviction data concerning the subject, per RCW 10.97.080.

8.120 QUALIFICATIONS ON  
NONDISCLOSURE

- (1) To the extent that nondisclosable information can be deleted from the specific records sought, the remainder of the records shall be disclosable.
- (2) No exemptions shall be construed to require nondisclosure of statistical information not descriptive of identifiable persons, as required by RCW 42.17.310(2).
- (3) Inspection and copying of any specific records otherwise nondisclosable is permissible pursuant to an order of the superior court in accordance with the provisions of RCW 42.17.310(3).

8.130 INTERAGENCY DISCLOSURE

- (1) Unless prohibited by law, information may be disclosed by the Board to outside agencies, including other State of Washington agencies, or agencies of other states.
- (2) Outside agencies receiving information pursuant to subsection (1) of

this section shall be thereby subject to the same standards of disclosure as are required of the Board.

#### 8.140 RECORDS INDEX

- (1) The Board finds it would be unduly burdensome and would interfere with agency operations to maintain an index of records because of the complexity and diversity of its operations and the resulting volume of manuals, correspondence, reports, surveys, staff studies, and other materials.
- (2) The Board will make available for public disclosure all indices which may at a future time be developed for agency use.

#### **WSR 83-03-037**

#### **ADOPTED RULES**

#### **BOARD OF**

#### **PILOTAGE COMMISSIONERS**

[Order 83-1, Resolution No. 83-1—Filed January 17, 1983]

Be it resolved by the Board of Pilotage Commissioners, acting at Conference Room, Washington State Ferries, Colman Dock, Pier 52, Seattle, Washington, that it does adopt the annexed rules relating to Marine pilot liability—Trip insurance.

This action is taken pursuant to Notice No. WSR 82-24-056 filed with the code reviser on November 30, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 88.16.117 which directs that the Board of Pilotage Commissioners has authority to implement the provisions of RCW 88.16.115 and 88.16.116.

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

APPROVED AND ADOPTED January 13, 1983.

By Ralph E. White  
Chairman

#### NEW SECTION

✓ WAC 296-116-330 MARINE PILOT - TRIP INSURANCE. (1) Upon boarding a vessel in the Puget Sound or Grays Harbor pilotage district, the pilot shall present to the master a special contract or tariff containing the following terms and provisions:

(a) The rates and charges named in this tariff do not include marine insurance insuring the vessel, its owners, agents, or operators from the consequences of negligence or errors in the judgment of the particular pilots supplying the services. Upon reasonable notice from the vessel,

its master, owners, agents, or operator, the pilots, parties hereto, will provide such insurance on a "trip" basis to the value of the vessel and its cargo, the premium of which will be assessed in addition to the rates and charges specified herein.

The election of the vessel, its master, owners, agents, or operators not to request pilots, parties hereto, to procure such insurance and to elect to have the pilots, parties hereto, perform services on the rates and charges specified herein shall constitute a binding and irrevocable agreement on the part of the vessel, its master, owners, agents, or operators to the terms and conditions of the following:

It is understood and agreed, and is the essence of the contract under which the services of the pilot are tendered to the vessel, its master, and owners, that:

(i) The services rendered hereunder are rendered by a pilot duly and regularly licensed by the state of Washington pursuant to chapter 88.16 RCW, or with respect to domestic vessels, a state pilot who holds a valid license issued by the federal government;

(ii) Such services are advisory in nature only, the master of the vessel remaining at all times in full command of the vessel;

(iii) The services of the pilot are accepted on the express understanding that the master, owners, and operators covenant and agree to indemnify and hold harmless the pilot in respect to any liability including but not limited to suits or actions directly against the pilot by third parties by reason of errors or omissions of the pilot in the performance of pilotage services; excepting, however, such personal liability and rights over as may arise by reason of the wilful misconduct or gross negligence of the pilots; and

(iv) The fees charged for the services rendered by the pilot under this agreement have been computed and are assessed in accordance with and based upon the above stipulations and the regulations governing pilot tariffs adopted by the board of pilotage commissioners pursuant to chapter 88.16 RCW.

#### **WSR 83-03-038**

#### **EXECUTIVE ORDER**

#### **OFFICE OF THE GOVERNOR**

[EO 83-01]

#### **ESTABLISHING POLICIES FOR MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

It is important that minority and women's business enterprises (MWBE) have the opportunity to compete for and secure their fair shares of state contracts. An increased level of participation by such businesses is desirable at all levels of state government.

NOW, THEREFORE, I, John Spellman, Governor of the state of Washington, by virtue of the power vested in me, do hereby declare and order the following.

It shall be the policy of the state to provide the maximum practical opportunity for increased participation by MWBE's in the process by which goods and services are

procured by state agencies from the private sector. Such procurement includes, but is not limited to, personal service contracts, purchasing contracts, public works contracts, purchased goods and services, emergency purchases of goods and services, and discretionary purchases.

**Agency Goals.** I hereby establish as goals that, of the dollar value of all contracts awarded by the state, 9.1 percent be awarded to minority-owned businesses and 3 percent be awarded to women-owned businesses. In addition, these same goals shall apply to each agency. The goals established for each agency shall be administered on a contract-by-contract basis or on a class-of-contracts basis. However, annually, the overall goals will still apply. When an agency in receipt of federal funds is required to have a larger goal than specified above, then that goal shall prevail on all contracts of that agency, whether federally or state funded.

Each agency director is hereby personally charged with the responsibility for achieving full compliance with this Order. Agency directors who report directly to the Governor shall be evaluated by the Governor in this regard. Agencies headed by independently elected officials and by boards and commissions, including the colleges and universities, are encouraged to comply with this Order. Each agency head shall provide to the Governor through the MWBE Coordinator reports of the agency's performance, following procedures to be issued pursuant to this Order.

**MWBE Coordinator.** The Director, Department of General Administration, is hereby appointed coordinator of the state's MWBE program, with responsibility for coordinating implementation of this Order.

The Director shall:

Establish an MWBE goals-setting procedure for use by all state agencies for all state contracts.

Establish an audited list of certified MWBE's for use by all state agencies.

Establish a monthly MWBE performance reporting procedure for use by all state agencies.

Coordinate the publication of a consolidated monthly MWBE performance report to the Governor.

**MWBE Advisory Committee.** An MWBE Advisory Committee is hereby established to assist the Coordinator with development and implementation of this program. The Advisory Committee will consist of eleven voting members and eight non-voting members. Of the eleven voting members, to be appointed by the Governor, at least eight shall be minority or women owners of businesses. They shall reflect a fair representation geographically, by minority group, and by sex.

The eight non-voting members shall be:

Director, Department of General Administration, Chair

Director, Office of Financial Management

Secretary, Department of Transportation

Secretary, Department of Social and Health Services

Commissioner of Employment Security

Director, Department of Commerce and Economic Development

Executive Secretary, Human Rights Commission

A representative from the Council for Post-secondary Education

A detailed plan for this program will be submitted to me by the WMBE Coordinator for approval no later than February 15, 1983.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia this 14th day of January, A.D., Nineteen Hundred and Eighty-three.

John Spellman

Governor of Washington

BY THE GOVERNOR:

Ralph Munro

Secretary of State

**WSR 83-03-039**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed January 17, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning WAC 296-401-070 eligibility for specialty examination and WAC 296-401-080 eligibility for journeyman examination. These two rules are amended to ensure that all applicants for electricians' certificates of competency have experience in the electrical construction trade.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 17, 1983.

The authority under which these rules are proposed is RCW 19.28.530.

The specific statute these rules are intended to implement is RCW 19.28.530.

This notice is connected to and continues the matter in Notice No. WSR 82-21-059 filed with the code reviser's office on October 20, 1982.

Dated: January 17, 1983

By: Sam Kinville  
Director

**WSR 83-03-040**  
**EMERGENCY RULES**  
**LOTTERY COMMISSION**  
[Order 11—Filed January 17, 1983]

Be it resolved by the Washington State Lottery Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to adding new sections WAC 315-11-040, 315-11-041 and 315-11-042.

We, the Washington State Lottery Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the state Lottery Commission hereby declares the adoption of each and every one of the rules adopted by it today to be necessary to protect the public health, safety and welfare and are adopted on an emergency basis to protect the public health, safety and welfare. The governor of this state has proclaimed the state to be in a fiscal and budgetary crisis. The legislature of the state, in adopting legislation authorizing a state lottery, directed the commission to promulgate rules in order that a lottery be initiated at the earliest feasible and practicable time and in order to produce the maximum amount of net revenues for the state. In order to aid the governor in solving the state's fiscal and budgetary crisis and to meet the legislature's statutory mandate to the commission, the adoption of the initial set of regulations on an emergency basis is necessary.

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

This rule is promulgated pursuant to chapter 67.70 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 7, 1983.

By Paul L. Mack  
Chairman

NEW SECTION


WAC 315-11-040 DEFINITIONS FOR INSTANT GAME NUMBER 2 (1) Play Numbers for Instant Game Number 2 - The following are the "Play Numbers": "\$2.00", "\$5.00", "\$100", "\$1,000", "\$5,000", and graphic depiction of a four leaf clover.

Each such Play Number is printed in gray-black ink and one of these Play Numbers appears under each of the six rub-off spots on the front of the ticket in the Archer font in positive.

(2) Validation Number for Instant Game Number 2 - The nine-digit number on the front, bottom center of the ticket under the Do Not Remove area. There is no ticket stub for Instant Game Number 2.

(3) Pack-Ticket Number for Instant Game Number 2 - The ten-digit number of the form 2000001-000 printed on the back of the ticket in .11" high type in red. The first seven digits of the Pack-Ticket Number for Instant Game Number 2 constitute the "Pack-Number" and start at 2000001 for Instant Game Number 2. The last three digits of the Pack-Ticket Number for Instant Game Number 2 constitute the "Ticket Number" which starts at 000 and continues sequentially through 199 within each pack of tickets.

(4) Captions for Instant Game Number 2 - The small printed material appearing below each Play Number which verifies and corresponds with the Play Number. The Caption is a spelling out, in full or abbreviated form, of the Play Number, except in the case of the Play Number which is a graphic depiction of a clover leaf. One and only one of these Captions appears under each Play Number and is printed in gray-black ink in positive in 5 x 9 font. For Instant Game Number 2, the Captions which correspond with and verify the Play Numbers for Instant Game Number 2 are:

Play Number	Caption
\$2.00	TWO
\$5.00	FIVE
\$100	1 HUND
\$1,000	ONE THOU
\$5,000	FIVE THOU
	DOUBLE

(5) Agent Validation Code for Instant Game Number 2 - Agent Validation Codes are codes consisting of small letters found under the removable covering on the front of the ticket, which the licensed agent uses to verify and validate winners below \$25.

For Instant Game Number 2, the Agent Validation Code is a 3-letter code, with each letter appearing in a varying three of nine locations beneath the removable covering and among the Play Numbers. For Instant Game Number 2, the Agent Validation Code is used by the licensed agent to verify \$2, \$4, \$5, and \$10 winners and the Code which corresponds with, and verifies, each of these winners is as follows:

TWO = \$2  
FOR = \$4  
FIV = \$5  
TEN = \$10

(6) Pack for Instant Game Number 2 - A pack of fanfolded instant game tickets which are attached to each other by perforations, which perforations the licensed agent tears when the agent sells a ticket, and which fanfolded tickets are packed in a plastic bag or a

plastic shrinkwrapping. In Instant Game Number 2, a "Pack" shall consist of 200 fanfolded instant game tickets bearing a common "Pack Number" and having a "Ticket Number."

#### NEW SECTION

WAC 315-11-041 CRITERIA FOR INSTANT GAME NUMBER 2. (1) The price of an instant game ticket shall be \$1.00.

(2) Determination of Prize Winning Tickets: An instant cash prize winning ticket is determined in Instant Game Number 2 in the following manner:

(a) A \$2.00 prize winning ticket shall have an occurrence of "\$2.00" as a Play Number in each of three separate boxes on the ticket;

(b) A \$4.00 prize winning ticket shall have an occurrence of "\$2.00" as a Play Number in each of two separate boxes plus a "clover leaf" as a Play Number in another box on the ticket;

(c) A \$5.00 prize winning ticket shall have an occurrence of "\$5.00" as a Play Number in each of three separate boxes on the ticket;

(d) A \$10.00 prize winning ticket shall have an occurrence of "\$5.00" as a Play Number in each of two separate boxes plus a "clover leaf" as a Play Number in another box on the ticket;

(e) A \$100 prize winning ticket shall have an occurrence of "\$100" as a Play Number in each of three separate boxes on the ticket;

(f) A \$200 prize winning ticket shall have an occurrence of "\$100" as a Play Number in each of two separate boxes plus a "clover leaf" as a Play Number in another box on the ticket;

(g) A \$1,000 prize winning ticket shall have an occurrence of "\$1,000" as a Play Number in each of three separate boxes on the ticket;

(h) A \$2,000 prize winning ticket shall have an occurrence of "\$1,000" as a Play Number in each of two separate boxes plus a "clover leaf" as a Play Number in another box on the ticket;

(i) A \$5,000 prize winning ticket shall have an occurrence of "\$5,000" as a Play Number in each of three separate boxes on the ticket;

(j) A \$10,000 prize winning ticket shall have an occurrence of "\$5,000" as a Play Number in each of two separate boxes plus a "clover leaf" as a Play Number in another box on the ticket; and

(k) In any event, only the highest instant prize amount meeting the standards of (a) through (j) will be paid on a given ticket.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements, to the particular validation requirements for Instant Game Number 2, and to the requirements set forth on the back of each ticket.

(5) Instant prize winning tickets shall be redeemed in the manner set forth on the back of the ticket.

(6) Participants in the Grand Prize Drawing shall be those validated instant prize winners of either exactly

\$100 or \$200 who submit prize claims within 30 days after the announced end of Instant Game Number 2 in the manner prescribed on the back of the instant ticket. One Grand Prize Drawing will be held for Instant Game Number 2 after that game's conclusion, at the time and place and pursuant to the methods to be announced by the director. The prizes to be awarded in the Grand Prize Drawing will be: two 1st prizes of \$1,000,000 each paid as \$50,000 per year for 20 years; two 2nd prizes of \$50,000 each; sixteen (16) 3rd prizes of \$10,000 each.

The director reserves the right provided by WAC 315-10-030(7)(a) to place any instant prize winner who is entitled to entry in a Grand Prize Drawing whose entry was not entered into the elimination drawing for such Grand Prize Drawing and who is subsequently determined to have been entitled to such entry, into the elimination drawing of a subsequent Grand Prize Drawing of a subsequent instant game having equal (or greater) Grand Prizes available.

(7) Notwithstanding any other provisions of these rules, the director may: (a) vary the length of Instant Game Number 2, and/or (b) vary the number of tickets sold in Instant Game Number 2 and the number of Grand Prize Drawing winners in a manner that will maintain the estimated average odds of winning a Grand Prize Drawing.

#### NEW SECTION

WAC 315-11-042 TICKET VALIDATION REQUIREMENTS (1) Besides meeting all of the other requirements in these rules and regulations, the following validation requirements will apply with regard to instant game tickets in Instant Game Number 2. To be a valid instant game ticket, all of the following requirements must be met:

(a) Exactly one Play Number must appear under each of the six rub-off spots in the right-hand portion of the ticket.

(b) Each of the six Play Numbers must have a Caption underneath, and each must agree with its Caption.

(c) Each of the six Play Numbers must be present in its entirety and be fully legible.

(d) Each of the six Captions must be present in its entirety and be fully legible.

(e) Each of the six Play Numbers and their Captions must be printed in gray-black ink.

(f) The ticket shall be intact.

(g) The Pack-Ticket Number, Validation Number and Agent Validation Code must be present in their entirety and be legible. The Validation Number shall correspond, using Lottery's codes, to the Play Number on the ticket.

(h) The ticket must not be mutilated, altered, unreadable, reconstituted, or tampered with in any manner.

(i) The ticket must not be counterfeit in whole or in part.

(j) The Validation Number and Agent Validation Code shall be printed in gray-black ink, and the Pack-Ticket Number shall be printed in red ink.

(k) The ticket must have been issued by the director in an authorized manner.

(l) The ticket must not be stolen nor appear on any list of omitted tickets on file with the director.

(m) The Play Numbers, Captions, Validation Number, Agent Validation Code, and Pack-Ticket Number must be right side up and not reversed in any manner.

(n) The ticket must be complete, not miscut, and have exactly one Pack-Ticket Number, exactly one Agent Validation Code, and exactly one Validation Number.

(o) The Validation Number of an apparent winning ticket shall appear on the Lottery's Official List of Validation Numbers of winning tickets; and a ticket with that Validation Number shall not have been previously paid.

(p) The ticket must not be blank, or partially blank, misregistered, defective, or printed or produced in error.

(q) Each of the Play Numbers must be exactly one of those described in WAC 315-11-040(1) above and each of the Captions to the six Play Numbers must be exactly one of those described in WAC 315-11-040(4) above.

(r) Each of the six Play Numbers on the ticket must be printed in the Mead Archer size font and must correspond precisely to the artwork on file with the director; each of the six Captions must be printed in the 5 x 9 font and must correspond precisely to the artwork on file with the director; the Pack-Ticket Number must correspond precisely to the artwork on file with the director; and the Validation Number must be printed in the Mead 9 x 12 font and must correspond precisely to the artwork on file with the director.

(s) The display printing must be regular in every respect and correspond precisely with the artwork on file with the director.

(t) No portion of the "DO NOT REMOVE" spot may be exposed.

(u) The ticket must pass all additional confidential validation requirements of the director.

(2) Any ticket failing any of the validation requirements in WAC 315-11-042(1) is void and ineligible for any prize.

(3) The director may, solely at his or her option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price from any other current lottery game). In the event a defective ticket is purchased, the only responsibility or liability of the Lottery shall be the replacement of the defective ticket with another unplayed ticket (or tickets of equivalent sale price from any other current lottery game). However, (a) if the only validation check that a ticket fails is WAC 315-11-042(1)(t), or (b) if the ticket is partially mutilated, or (c) if the ticket is not intact, and the ticket can still be validated by the other validation requirements, the director may, in his or her discretion, pay the prize for that ticket.

## WSR 83-03-041

### EMERGENCY RULES

### LOTTERY COMMISSION

[Order 12—Filed January 17, 1983]

Be it resolved by the Washington State Lottery Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to the amending of WAC 315-04-090, 315-04-190, 315-06-050, 315-10-020 and adding new section WAC 315-06-120.

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

WAC 315-04-090 License Issuance Eligibility, the purpose of this amendment is to require the director to consider whether the type of business owned or operated by the applicant is consonant with the dignity of the state, the general welfare of the people and the operation and integrity of the lottery. RCW 67.70.040 provides that the commission has the power and the duty to promulgate rules governing the — operation of the lottery — consonant with the dignity of the state and general welfare of the people. WAC 315-04-050 Special License, is the only rule specifically granting the director authorization to consider these factors prior to licensure. Special licenses are only granted for specific events and constitute a small percentage of license applications. The lottery has received applications for general licenses which in its judgment should be denied due to the type of business involved. Delay in adoption of this rule would be contrary to the public interest.

WAC 315-04-190 Compensation, the purpose of this amendment is to clarify the original intent of the lottery that licensed agents receive discounts on ticket prices rather than commissions. This change resulted from the recommendation of the Internal Revenue Service (IRS) that the lottery change the licensed agent contract to reflect the lottery's intent that licensed agents receive a discount on ticket prices rather than a commission. This change eliminates costly and time consuming IRS reporting requirements. The contracts were amended on December 9, 1982, with an effective date of December 31, 1982. This change makes the language of the rule and the contract consistent.

WAC 315-04-220 Limited Off Premises Sales Permits, the purpose of this rule is to provide authority for the director to permit licensed agents to sell tickets at locations other than that specified on the general or provisional license. The director's authority to grant limited off premises sales permits was deleted in the proposed amendment to WAC 315-06-050. This rule is required to provide the director with the continuing authority to grant such permits. Delay in adoption of this rule would be contrary to the public interest.

WAC 315-06-050 Location of Sale, the purpose of this amendment is to clarify the rules by providing a section that governs locations at which tickets may be sold and includes prohibitions against sales on specific

types of property, premises and facilities. RCW 67.70.040 provides that the commission has the power and the duty to promulgate rules governing the — operation of the lottery — consonant with the dignity of the state and the general welfare of the people. At present, the prohibitions against sales on specific types of property, premises and facilities, which affect both the dignity of the state and the general welfare of the public, are contained in WAC 315-06-050 in subsections governing only the permits to sell tickets at locations other than that specified on a general license. Consequently the prohibitions are limited to cases where a licensed agent has been granted a limited off premises sales permit. This amendment clarifies that sales are prohibited at the specified types of locations regardless of the type license held by a license agent. The provisional licenses expire in 90 days, beginning February 1. This clarification is necessary prior to issuance of general licenses. Delay in adoption of this rule would be contrary to the public interest.

WAC 315-06-120 Payment of Prizes—General Provisions, the purpose of this rule is to clarify that a ticket is a bearer instrument only until signed and that once that ticket is signed, the person who signed the ticket is considered the bearer eligible for any prize due on the ticket. It is essential for the prevention of public safety and general welfare to specify the person eligible for any prize due on the ticket. Until the ticket is signed, the person who has possession of the ticket is the bearer and as such is eligible for such prize. The tickets have space on the reverse for entering a printed name and address and a signature. The printed name and the signature could possibly be different. It is therefore necessary to specify which will be controlling. Promulgation of a rule which gives notice that a person who had possession of a ticket and signed it is eligible for any prize due on the ticket and that the person has a measure of protection against theft or loss of the ticket enhances the general welfare and safety of the public by reducing the incentive to obtain winning tickets by theft and/or assault. Delay in adoption of this rule would be contrary to the public interest.

WAC 315-10-020 Definitions, the purpose of this amendment is to clarify the definition of the person considered to be the bearer of a ticket and to ensure internal consistency with WAC 315-06-120(8). WAC 315-06-120(8) as proposed will enhance the general welfare and safety of the public by giving notice and reducing the incentive to obtain winning tickets by theft and/or assault. Delay in adoption of this amendment would create an internal inconsistency in the rules and would be contrary to the public interest.

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

WAC 315-04-090, 315-04-190, 315-06-050 and 315-10-020 are promulgated pursuant to chapter 7, Laws of 1982 2nd ex. sess.; WAC 315-06-120 is promulgated pursuant to sections 4, 5, 10, 13, 19 and 22, chapter 7, Laws of 1982 2nd ex. sess.

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

APPROVED AND ADOPTED January 7, 1983.

By Paul L. Mack  
Chairman

AMENDATORY SECTION (Amending Order 2, filed 10/15/82)

WAC 315-04-090 LICENSE ISSUANCE ELIGIBILITY. (1) The director may issue a license to any person to act as a licensed agent who meets the eligibility criteria established by chapter 7, Laws of 1982, 2nd ex. sess., and these rules.

(2) Before issuing a license, the director shall consider:

(a) the financial responsibility and security of the person and its business or activity;

(b) the background and reputation of the applicant in the community for honesty and integrity;

(c) the type of business owned or operated by the applicant to ensure consonance with the dignity of the state, the general welfare of the people and the operation and integrity of the lottery;

~~((e))~~ (d) the accessibility of the applicant's place of business or activity to the public;

~~((d))~~ (e) the sufficiency of existing licenses to serve the public convenience;

~~((e))~~ (f) the volume of expected sales;

~~((f))~~ (g) the veracity of the information supplied in the application for a licensed agent license; and

~~((g))~~ (h) the applicant's indebtedness to the state of Washington, local subdivisions of the state and/or the United States government.

(3) The director may condition the issuance of any license upon the posting of a bond in such terms and conditions as the director may require.

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 4, filed 10/15/82)

WAC 315-04-190 COMPENSATION. Licensed agents shall be entitled to a five percent ~~((sales commission))~~ discount from the retail price of the tickets established by rule for each game. The terms and conditions of ~~((payment of the sales commission))~~ the discount shall be subject to the terms and conditions established by the director for the conduct of a specific game.

NEW SECTION

WAC 315-04-220 LIMITED OFF PREMISES SALES PERMIT. The director may permit any licensed agent who has been issued a general or provisional license to sell tickets in locations other than that specified



on its license and to employ persons to make such sales provided that:

(a) the director shall specify the geographical area in which such sales may be made, and the types of locations in which such sales may be made.

(b) any person making such sales shall be individually approved by the director and shall display identification in such form and manner as shall be prescribed by the director.

(c) the licensed agent and its employees shall abide by such other instructions and restrictions as may be prescribed by the director to govern such sales.

(d) the licensed agent's license shall bear an addendum with the phrase "Limited off premises sales permitted," and the licensed agent shall display with its license the addendum which sets forth the terms and conditions under which such sales may be made. A photocopy of the addendum shall be posted at each location where off premise sales are permitted.

AMENDATORY SECTION (Amending order 2, filed 10/15/82)

WAC 315-06-050 LOCATION OF SALE. ((+)) Tickets may be sold by any person who is issued a license to act as a licensed agent at the location specified on the license, subject to the director's authority as set forth in sections 5 and 7 of chapter 7, Laws of 1982, 2nd ex. sess. and these rules.

~~((2) The director may permit any licensed agent who has been issued a general license to sell tickets in locations other than that specified on its license and to employ persons to make such sales provided that:))~~

~~((a) The director shall specify the geographical area in which such which may be made, and the types of locations in which such sales may be made:))~~

~~((b)) No such sales shall be made on premises used primarily for residential purposes, in or on the property of any school, or in or upon the property of any facility operated primarily for providing welfare services to the poor or infirmed, or in any facility maintained solely for religious worship.~~

~~((c) Any person making such sales shall be individually approved by the director and shall display identification in such form and manner as shall be prescribed by the director:))~~

~~((d) The licensed agent and its employees shall abide by such other instructions and restrictions as may be prescribed by the director to govern such sales:))~~

~~((e) The licensed agent's license shall bear an addendum with the phrase "Limited off premises sales permitted," and the licensed agent shall display with its license the addendum which sets forth the terms and conditions on which such sales may be made. A photocopy of the addendum shall be posted at each location where off premise sales are permitted:))~~

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

NEW SECTION

WAC 315-06-120 PAYMENT OF PRIZES—GENERAL PROVISIONS. (1) The director may designate claim centers for the filing of prize claims, and the location of such centers shall be publicized from time to time by the director.

(2) A claim shall be entered in the name of a single legal entity as claimant, either one individual or one organization. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number (FEIN) as issued by the internal revenue service and such number is shown on the claim form. Groups, family units, organizations, clubs, or other organizations which are not a legal entity, or do not possess a federal employer's identification number, shall designate one individual in whose name the claim is to be entered.

(3) Unless otherwise provided in the rules for a specific type of game, a claimant shall fill out a claim form approved by the director, present the form with the claimant's ticket at a designated claim center, and receive a copy of the claim form as his or her receipt. In order to claim a prize, each claimant must complete and sign a claim form which shall include the following provisions:

(a) The discharge of the state, its officials, officers, and employees of all further liability upon payment of the prize;

(b) The discharge of the commission, director and employees of the commission of all further liability upon payment of the prize; and

(c) Permission to use the claimant's name and photograph for publicity purposes upon award of the prize.

(4) A prize must be claimed within the time limits prescribed by the director in the instructions for the conduct of a specific game, but in no case shall a prize be claimed later than 180 days after determination of the winning ticket.

(5) The director may deny awarding a prize to a claimant if:

(a) The ticket was not legally issued initially;

(b) The ticket was stolen from the commission, director, its employees or agents, or from a licensed agent; or

(c) The ticket has been altered or forged, or has otherwise been mutilated such that the authenticity of the ticket cannot be reasonably assured by the director.

(6) No person entitled to a prize may assign his or her right to claim it except:

(a) That payment of a prize may be made to any court appointed legal representative, including, but not limited to, guardians, executors, administrators, receivers, or other court appointed assignees; or

(b) For the purposes of paying federal, state or local tax.

(7) In the event that there is a dispute or it appears that a dispute may occur relative to any prize, the director may, in his or her discretion, refrain from making payment of the prize pending a final determination by the director or by a court of competent jurisdiction relative to the same.

(8) A ticket that has been legally issued by a licensed agent is a bearer instrument until signed. The person who signs the ticket is considered the bearer of the ticket. Payment of any prize may be made to the bearer, and all liability of the state, its officials, officers, and employees and of the commission, director and employees of the commission terminates upon payment.

(9) All prizes shall be paid within a reasonable time after the claims are verified by the director and a winner is determined. The date of the first installment payment of each prize requiring installment payments shall be the commencement date of the payments and a payment shall be made on the anniversary date of said payment thereafter in accordance with the type of prize awarded.

(10) The director may, at any time, delay any payment in order to review a change of circumstances relative to the prize awarded, the payee, the claim, or any other matter that may have come to his or her attention. All delayed payments shall be brought up to date immediately upon the director's confirmation and continue to be paid on each original anniversary date thereafter.

(11) If any prize is payable for the life of the claimant, only a natural person may claim such a prize and, if claiming on behalf of a group, corporation or the like, the life of such natural person claiming the prize shall be the measuring life.

(12) The director's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from the payment or awarding of prizes shall be final and binding upon all participants in the lottery.

(13) Each licensed agent shall pay all prizes authorized to be paid by the licensed agent by these rules during its normal business hours at the location designated on its license.

(14) In the event a dispute between the director and the claimant occurs as to whether the ticket is a winning ticket, and if the ticket prize is not paid, the director may, solely at his or her option, replace the disputed ticket with an unplayed ticket (or tickets of equivalent sales price from any game). This shall be the sole and exclusive remedy of the claimant.

**AMENDATORY SECTION** (Amending Order 3, filed 10/15/82)

WAC 315-10-020 DEFINITIONS. (1) Ticket - The ticket purchased for participation in an instant game.

(2) Instant Game - A game in which a ticket is purchased and upon removal of a latex covering on the front of the ticket, the ticket bearer determines his or her winnings, if any.

(3) Ticket Bearer - The person who has signed the ticket or has possession of the unsigned ticket.

(4) Play Numbers - The numbers or symbols appearing in the designated areas under the removable covering on the front of the ticket.

(5) Validation Number - The multi-digit number found underneath the "void if removed" area on the ticket and on any ticket stub. There must be a validation number on the ticket or any stub.

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

**WSR 83-03-042**  
**PROPOSED RULES**  
**BOARD OF HEALTH**  
[Filed January 18, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Health intends to adopt, amend, or repeal rules concerning hospice care centers, amending WAC 248-21-035 infection control;

that the agency will at 9:00 a.m., Wednesday, March 9, 1983, in the Lecture Hall #2, The Evergreen State College, Olympia, Washington 98505, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 9, 1983.

Dated: January 13, 1983

By: John A. Beare, MD  
Secretary

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.045.

Amending Hospice Care Centers, WAC 248-21-035 Infection Control.

The Purpose of the Rule Change: To eliminate the requirement for x-ray screening of employees after an initial evaluation. Amendment of the section is necessary because the proposed amendments will result in minimizing employee exposure to x-rays and substantial program savings.

Statutory Authority: RCW 70.41.030.

Summary of the Rule Change: The proposed amendment represents a lessening of tuberculosis screening requirements for hospice care center employees without compromising the quality of tuberculosis surveillance in Washington. Annual x-ray screening for employees with positive Mantoux tests is no longer required.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule: John H. Gerth, Section Head, Licensing and Development Section, Division of Health, Mailstop LM-13, Phone: 753-5851.

The rules were proposed by the Tuberculosis Control Program, Division of Health, and by the Licensing and Development Section, Office of State Health Planning and Development, Division of Health, DSHS.

These rules are not necessary as a result of federal law, federal court decisions, and state court decisions.

These rules are not subject to the Regulatory Fairness Act.

**AMENDATORY SECTION** (Amending Order 218, filed 11/6/81)

WAC 248-21-035 INFECTION CONTROL. (1) There shall be written policies and procedures addressing infection control, including: Housekeeping; cleaning, sterilization, disinfection, sanitization, and storage of supplies and equipment; health of personnel; pets; food service sanitation.

(2) Provision shall be made for isolation of patients with infectious conditions in accordance with Isolation Techniques For Use In Hospitals, United States Department of Health and Human Services, most recent edition.

(3) There shall be reporting of communicable disease in accordance with chapter 248-100 WAC.

(4) Recognized standards of medical aseptic technique including basic ~~((hand washing))~~ handwashing practices shall be followed in all direct personal care of patients.

(5) Methods for cleaning, disinfecting or sterilizing, handling and storage of all supplies and equipment shall be such as to prevent the transmission of infection.

(6) Written procedures shall specify daily and periodic cleaning schedules and routines for facility and equipment.

(7) Sewage, garbage, refuse, and liquid waste shall be collected and disposed of in a manner to prevent the creation of an unsafe or unsanitary condition or nuisance.

(8) There shall be in effect a current system of discovering, reporting, investigating, and reviewing infections among patients and personnel with maintenance of records on such infections.

(9) Upon employment and annually thereafter each employee and volunteer shall have or provide documented evidence of a tuberculin skin test by the Mantoux method, unless medically contraindicated. A negative skin test shall consist of less than ten millimeters induration read at forty-eight to seventy-two hours. A positive skin test shall consist of ten millimeters of induration, or greater, read at forty-eight to seventy-two hours. Positive reactors shall have a chest x-ray within ninety days of the first day of employment. ~~((Exceptions))~~ Exemptions and ((specifics)) specific requirements are as follows:

(a) ~~((Those with positive skin tests as defined above shall have an annual))~~ New employees who can document a positive Mantoux test in the past shall have an initial screening in the form of a chest x-ray;

(b) ~~((Those with positive skin tests whose chest x-rays show no sign of active disease at least two years after the first documented positive skin test shall be exempted from further annual testing and chest x-rays))~~ After entry, annual screening in the form of a skin test or chest x-ray shall not be required for reactors;

(c) Those with positive skin tests who have completed the recommended course of preventive or curative treatment, as determined by the local health officer, shall be exempted from ~~((further))~~ testing;

(d) ~~((A record))~~ Records of test results, x-rays or exemptions from such, shall be kept by the facility.

(10) Employees with a communicable disease in a known infectious stage shall not be on duty. Policy and procedures shall specify conditions for staff who are working despite presence of communicable disease.

**WSR 83-03-043**  
**PROPOSED RULES**  
**BOARD OF HEALTH**  
 [Filed January 18, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Health intends to adopt, amend, or repeal rules concerning licensure, amending WAC 248-29-020;

that the agency will at 9:00 a.m., Wednesday, March 9, 1983, in the Lecture Hall #2, The Evergreen State College, Olympia, Washington 98505, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.46.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 9, 1983.

Dated: January 14, 1983

By: John A. Beare, MD

Secretary

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.045.

Re: Childbirth Centers, amending WAC 248-29-020 Licensure.

The Purpose of the Rule Change: To change words of WAC 248-29-020 to be consistent with amendment of chapter 18.46 RCW pursuant to chapter 201, Laws of 1982. Amendment of the section is necessary because the proposed amendments will result in codes consistent with amendments of authorization statute, chapter 18.46 RCW.

Statutory Authority: RCW 18.46.060.

Summary of the Rule Change: The proposed amendment represents wording consistent with 1982 amendments to RCW 18.46.030 and 18.46.040. Flat rate fee of fifteen dollars plus one dollar per birthing room replaced by a flat license fee established by DSHS and included in WAC 440-44-040.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule: John H. Gerth, Section Head, Licensing and Development Section, Division of Health, Mailstop LM-13, Phone: 753-5851.

The rule change proposed by DSHS.

These rules are not necessary as a result of federal law, federal court decisions, and state court decisions.

These rules are not subject to the Regulatory Fairness Act.

**AMENDATORY SECTION** (Amending Order 197, filed 5/2/80)

WAC 248-29-020 LICENSURE. (1) Application for license—Fee.

(a) An application for a childbirth center license shall be submitted on forms furnished by the department. The application shall be signed by the legal representative of the governing body.

(b) The applicant shall furnish to the department full and complete information and promptly report any changes which would affect the current accuracy of such information as to the identity of each officer and director of the corporation, if the birth center is operated by a legally incorporated entity, profit or nonprofit, and of each partner if the birth center is operated through a legal partnership.

(c) Each application for license shall be accompanied by a license fee ~~((of fifteen dollars plus one dollar per birthing room.))~~ as established by the department under RCW 43.20A.055: PROVIDED, That no fee shall be required of charitable or nonprofit or government operated birth centers. Upon receipt of the license fee, when required, the department shall issue a ((child birth)) childbirth center license, if the applicant and the birth center facilities meet the requirements of this chapter.

(2) License renewal—Limitations—Display.

(a) A license, unless suspended or revoked, shall be renewed annually.

(i) ~~((Licenses shall expire on the first day of July next succeeding the date of issuance.~~

~~((iii))~~ Applications for renewal shall be on forms provided by the department and shall be filed by the department not less than ten days prior to expiration.

~~((iii))~~ (ii) Each application for renewal shall be accompanied by a license fee ~~((of twenty five dollars. No fee shall be required of charitable, nonprofit, or government operated facilities))~~ as established by the department under RCW 43.20A.055.

((iv)) (iii) The department shall inspect and investigate each childbirth center as needed and at least annually to determine compliance with standards herein (chapter ~~(249-29 WAC)~~ ~~chapter 248-29 WAC~~) 248-29 WAC) and applicable standards of chapter 18.46 RCW.

(b) Each license shall be issued only for the premises and persons named. Licenses shall be transferrable or assignable only with written approval by the department.

(c) Licenses shall be posted in a conspicuous place, on the licensed premises.

(3) License—Denial, suspension, revocation. The department may, if the interests of the clients so demand, deny, suspend, or revoke a license when there has been failure or refusal to comply with the requirements established in chapter 248-29 WAC or applicable sections of chapter 18.46 RCW, in accordance with RCW 18.46.050 and chapter 248-08 WAC.

(4) New construction—Major alterations.

(a) When new construction or major alteration is contemplated, the following shall be submitted to the department for review:

(i) 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;

(ii) Duplicate sets of preliminary plans which are drawn to scale and include: A plot plan showing streets, driveways, water, and sewage disposal systems, grade and location of building(s) on the site; the plans for each floor of the building(s), existing and proposed, which designate the functions of each room and show all fixed equipment. The preliminary plans shall be accompanied by a statement as to the source of water supply and the method of sewage and garbage disposal and a general description of construction and materials, including interior finishes.

(b) Construction shall not be started until duplicate sets of final plans (drawn to scale) and specifications have been submitted to, and approved by the department. Final plans and specifications shall show complete details to be furnished to contractors for construction of buildings or major alterations in existing buildings. These shall include:

(i) Plot plans;

(ii) Plans for each floor of the building(s) which designate the function of each room and show all fixed equipment and the planned location of beds and other furniture in patient sleeping rooms;

(iii) Interior and exterior elevations, building sections, and construction details;

(iv) Schedule of floors, wall, and ceiling finishes, and the types and sizes of doors and windows; plumbing, heating, ventilation, and electrical systems; and

(v) Specifications which fully describe workmanship and finishes.

(c) Adequate provisions shall be made for the safety and comfort of clients as construction work takes place in or near an occupied area.

(d) Construction shall take place in accordance with approved final plans and specifications. Only those changes which have been approved by the department may be incorporated into the construction project. Modified plans, additions(;) or changes incorporated into the construction project shall be submitted to the department for the department file on the project.

(5) Compliance with other regulations.

(a) Applicable rules and regulations adopted by the Washington state fire marshal.

(b) If there is no local plumbing code, the Uniform Plumbing Code of the National Association of Plumbing and Mechanical Officials shall be followed.

(c) Compliance with these regulations does not exempt birth centers from compliance with the local and state electrical codes or local fire, zoning, building, and plumbing codes.

**WSR 83-03-044**  
**PROPOSED RULES**  
**BOARD OF HEALTH**  
[Filed January 18, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Health intends to adopt, amend, or repeal rules

concerning birth center policies and procedures, amending WAC 248-29-050;

that the agency will at 9:00 a.m., Wednesday, March 9, 1983, in the Lecture Hall #2, The Evergreen State College, Olympia, Washington 98505, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.46.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 9, 1983.

Dated: January 14, 1983

By: John A. Beare, MD  
Secretary

### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 248-29-050 Birth Center Policies and Procedures (12)(a)(b)(c)(d).

The Purpose of the Rule Change: To eliminate the requirement for x-ray screening of employees after the initial evaluation. The amendment of the section is necessary because the proposed amendments will result in minimizing employee exposure to x-rays and substantial program savings.

Statutory Authority: RCW 18.46.060.

Summary of the Rule Change: The proposed amendment represents a lessening of tuberculosis screening requirements for birth center employees without compromising the quality of tuberculosis surveillance in Washington. Annual x-ray screening for employees with positive Mantoux tests is no longer required.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule: John H. Gerth, Section Head, Licensing and Development Section, Division of Health, Mailstop LM-13, Phone: 753-5851.

The rules were proposed by the Tuberculosis Control Program, Division of Health, and by the Licensing and Development Section, Office of State Health Planning and Development, Division of Health, DSHS.

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

These rules are not subject to the Regulatory Fairness Act.

### AMENDATORY SECTION (Amending Order 226, filed 2/22/82)

WAC 248-29-050 BIRTH CENTER POLICIES AND PROCEDURES. Written policies and procedures shall include, but not be limited to:

(1) Definition of a low-risk maternal client who shall be eligible for birth services offered by the birth center.

(2) Definition of a client who shall be ineligible for birth services at the birth center.

(3) Identification and transfer of clients who, during the course of pregnancy, are determined to be ineligible.

(4) Identification and transfer of clients who, during the course of labor or recovery, are determined to be ineligible for continued care in the birth center.

(5) Written plans for consultation, backup services, transfer and transport of a newborn and/or maternal client to a hospital where appropriate care is available.

(6) Written informed consent which shall be obtained prior to the onset of labor and shall include evidence of an explanation by personnel of the birth services offered and potential risks.

(7) Provision for the education of clients, family, and support persons in childbirth and newborn care.

(8) Plans for immediate and long-term follow-up of clients after discharge from the birth center.

(9) Registration of birth and reporting of complications and anomalies.

(10) Prophylactic treatment of the eyes of the newborn in accordance with RCW 70.24.040, WAC 248-100-295 as now, or as hereafter, amended.

(11) Metabolic screening of newborns.

(a) Educational materials shall be provided to each client relative to metabolic screening and informed consent for metabolic screening. These materials shall be obtained from the genetics program of the department.

(b) There shall be a mechanism for weekly reporting of all live births to the genetics program of the department on forms provided by the genetics program.

(c) The birth center shall provide each client with instructions and a metabolic screening collection kit, (obtained from the genetics program of the department). There shall be a procedure and/or evidence of a plan for follow-up so that blood samples are collected between the eighth and twelfth day of life.

(d) When parents refuse metabolic screening, there shall be provisions for a signed refusal statement which shall be sent to the genetics program of the department in lieu of the blood sample.

(12) Infection control to include consideration of housekeeping; cleaning, sterilization, sanitization, and storage of supplies and equipment, and health of personnel. Health records for personnel shall include documented evidence of a tuberculin skin test by the Mantoux method upon employment and annually unless medically contraindicated. A negative skin test shall consist of less than 10mm induration read at forty-eight to seventy-two hours. A positive skin test shall consist of 10mm of induration, or greater, read at ((48)) forty-eight to ((72)) seventy-two hours. Positive reactors shall have a chest ((X-ray)) x-ray within ninety days of the first day of employment. ((Exemptions)) Exemptions and ((specifics)) specific requirements are as follows:

(a) ((Those with positive skin tests, (as defined above) shall have an annual)) New employees who can document a positive Mantoux test in the past shall have an initial screening in the form of a chest ((X-ray)) x-ray;

(b) ((Those with positive skin tests whose chest X-rays show no sign of active disease at least two years after the first documented, positive skin test shall be exempted from further annual testing and chest X-rays.)) After entry, annual screening in the form of a skin test or chest x-ray shall not be required for reactors;

(c) Those with positive skin tests who have completed the recommended course of preventive or curative treatment, as determined by the local health officer, shall be exempted from ((further)) testing((-));

(d) ((A record)) Records of test results, ((X-rays)) x-rays, or exemptions to such, shall be kept by the facility((-);

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

that the agency will at 1:00 p.m., Friday, March 4, 1983, in the Nendel's Quality Inn, 16838 Pacific Highway South, Seattle, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.71A.020.

The specific statute these rules are intended to implement is RCW 18.71A.020.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 25, 1983.

Dated: January 19, 1983

By: Chris Robert Rose  
Assistant Executive Secretary

### STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Medical Examiners.

Purpose: The purpose of the amendment to WAC 308-52-135 is to delete the forty-eight hour limitation on the dispensing of medications prescribed by a physician assistant; the purpose of the amendment to WAC 308-52-140 is to correct a reference to WAC 308-52-150; the purpose of the amendments to WAC 308-52-500 is to set forth in detail the requirements for acupuncture education. The rule also sets forth the documentation requirements; and the purpose of new section WAC 308-52-502 is to establish the procedures for acupuncture school approval, establish a minimum standard for faculty involved in didactic and clinical training, and require adequate supervision of students and instructors during clinical training.

Statutory Authority: RCW 18.71A.020.

Summary of the Rules: WAC 308-52-135 Physician Assistant Prescriptions, sets forth procedures and standards for physician assistant prescriptions; WAC 308-52-140 Physician Assistants—Utilization, establishes the limits of the utilization of physician assistants, in terms of: The number of physician assistants per physician, the physician assistants geographical separation from the supervisor, use within the institutional setting and while in the process of being trained; WAC 308-52-500 Acupuncture Assistant Education, identifies the training required prior to registration and the documentation to be submitted in proof of meeting the requirement; WAC 308-52-502 Acupuncture—Program Approval, establishes the procedures for approving a program, identifies the type of programs which may be approved, establishes minimum qualifications for faculty, and sets forth supervision requirements for clinical training; and WAC 308-52-504 Acupuncture—Definition, defines acupuncture and identifies the procedures or techniques considered to be part of the practice of acupuncture.

Reasons Proposed: The amendment to WAC 308-52-135 is proposed to permit greater availability of prescription medication, especially in practice settings without adequate pharmacy services; WAC 308-52-140 is amended to correct a reference to WAC 308-52-150; the amendments to WAC 308-52-500 are proposed at

### WSR 83-03-045

#### PROPOSED RULES

#### DEPARTMENT OF LICENSING (Board of Medical Examiners)

[Filed January 19, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Medical Examiners intends to adopt, amend, or repeal rules concerning the training and utilization of physician assistants and physician acupuncture assistants;

the request of the Board's Acupuncture Advisory Committee, to provide more specific and improved standards for the education required of acupuncture physician assistants; the adoption of WAC 308-52-502 is proposed at the request of the Board's Acupuncture Advisory Committee, to provide explicit standards for approving training programs and program faculty, which are presently lacking; the adoption of WAC 308-52-504 is proposed at the request of the Board's Acupuncture Advisory Committee, to provide a much needed definition of acupuncture. This definition is to be used in identifying acceptable school curriculum, examination content, a proper scope of practice, and assist the board in identifying and preventing the unregistered practice of acupuncture; and WAC 308-52-520, 308-52-550 and 308-52-560 are proposed for repeal as no longer necessary.

**Responsible Departmental Personnel:** In addition to the members of the board, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Deanna Dicomes, Executive Secretary, and Chris Rose, Assistant Executive Secretary, Third Floor, Highways-Licenses Building, Olympia, WA 98504, 234-2205 Scan, 753-2205 Comm.

**Proponents:** All amendments and new sections were proposed by the Washington State Board of Medical Examiners.

**Small Business Economic Impact Statement:** A small business economic impact statement is not required since these rules do not impact small businesses as that term is defined by RCW 43.31.920.

**AMENDATORY SECTION** (Amending Order PL 390, filed 1/14/82)

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

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

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

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

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

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

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

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

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

**AMENDATORY SECTION** (Amending Order PL 412, filed 11/19/82)

**WAC 308-52-140 PHYSICIAN ASSISTANT - UTILIZATION.** (1) Limitations, Number.

(a) No physician shall supervise more than two graduate physician assistants without special authorization by the board.

(b) The number of physician assistants in excess of two who may be supervised by a single physician in settings as outlined in section three of this regulation shall be established by the board on an individual basis.

(2) Limitations, Geographic.

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

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

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

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

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

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

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

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

(3) Limitations, Health Care Institutions. A physician assistant working in or for a hospital, clinic, long term care facility, or other health care organization shall be registered and supervised by a supervising physician in the same manner as any other physician assistant and his or her functions shall be limited to those approved by the board. His or her responsibilities, if any, to other physicians must be defined in the application for registration. The physician may be permitted, at the discretion of the board, to utilize the physician assistant in a manner consistent with the standards set forth in WAC 308-52-150 (~~Physician Assistant Utilization for a nonsponsoring physician~~).

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

**AMENDATORY SECTION** (Amending Order PL 30, filed 5/22/79)

**WAC 308-52-500 ACUPUNCTURE ASSISTANT EDUCATION.** Each applicant for an authorization to perform acupuncture must present evidence satisfactory to the board which discloses in detail the formal schooling or other type of training the applicant has previously undertaken which qualifies him or her as a practitioner of acupuncture. Satisfactory evidence of formal schooling (~~for thirty-six months in acupuncture totalling 1,400 or more hours of study~~) may include, but is not limited to, certified copies of certificates or licenses which acknowledge that the person has the qualifications to practice acupuncture, issued to an applicant by the government of the People's Republic of China, Korea, Japan or Taiwan. Whenever possible, all copies of official diplomas, transcripts and licenses or certificates should be forwarded directly to the board from the issuing agency rather than from the applicant. Individuals not licensed by the listed

countries must document their education by means of transcripts, diplomas, patient logs verified by the preceptor, or by other means requested by the board. Applicants for registration must have successfully completed the following training:

(1) The applicant must have completed a minimum of two academic years or 72 quarter credits of undergraduate college education in the general sciences and humanities prior to entering an acupuncture training program. The obtaining of a degree is not required for the educational credits to qualify. Credits granted by the college towards prior life experience will not be accepted under this requirement.

(2) The applicant must have successfully completed a course of didactic training in basic sciences and acupuncture over a period of two academic years. The basic science training must include a minimum of 250 hours or 21 quarter credits and include such subjects as anatomy, physiology, bacteriology, biochemistry, pathology, hygiene and a survey in Western clinical sciences. The basic science classes must be equivalent to courses given in accredited bachelor of science programs. The acupuncture training must include a minimum of 700 hours or 58 quarter credits in acupuncture theory, and acupuncture diagnosis and treatment techniques. The board will not accept credits obtained on the basis of challenging an exam. Transfer credits from accredited colleges or board approved acupuncture programs will be accepted.

(3) The applicant must have successfully completed a course of clinical training in acupuncture over a period of one academic year. The training must include a minimum of 100 hours or 9 quarter credits of observation, which shall include case presentation and discussion. The observation portion of the clinical training may be conducted during the didactic training but will be considered part of the clinical training for calculation of hours or credits. There must also be a minimum of 350 hours or 29 quarter credits of supervised practice, consisting of 400 separate patient treatments. A minimum of 120 different patients must have been treated.

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

#### NEW SECTION

WAC 308-52-502 ACUPUNCTURE - PROGRAM APPROVAL. (1) Procedure. The board will consider for approval any school, program, apprenticeship or tutorial which meets the requirements outlined in this regulation and provides the training required under WAC 308-52-500 - Acupuncture Assistant Education. Approval may be granted to an individual registration applicant's training, or to existing institutions which operate on a continuing basis. Clinical and didactic training may be approved as separate programs or as a joint program. Any clinical instruction conducted in this state must be approved by the board prior to initiation. The program approval process is as follows:

(a) Programs seeking approval shall file an application with the board in the format required by the board.

(b) The board will review the application and determine whether a site review is necessary (in the case of an institution) or an interview is appropriate (in the case of individual training) or approval may be granted on the basis of the application alone.

(c) The site review committee shall consist of two board members, two acupuncturists from the board's acupuncture advisory committee, and one member of the board staff. The review committee may visit the program any time during school operating hours. The committee will report to the board in writing concerning the program's compliance with each section of the regulations.

(d) After reviewing all of the information collected concerning a program; the board may grant or deny approval, or grant approval conditional upon program modifications being made. In the event of denial or conditional approval, the program may request a hearing before the board. No approval shall be extended to an institution for more than three years, at which time a request for reapproval may be made.

(e) The board expects approved programs do not make changes which will result in the program not being in compliance with the regulations. Programs must notify the board concerning significant changes in administration, faculty or curriculum. The board may inspect the school at reasonable intervals to check for compliance. Program approval may be withdrawn, after a hearing, if the board finds the program no longer in compliance with the regulations.

(2) Didactic Faculty. Didactic training may only be provided by persons who meet the criteria for faculty as stated in the Council for Postsecondary Education's WAC 250-55-090 - Personnel Qualifications. Under no circumstances will an unregistered instructor perform or supervise the performance of acupuncture.

(3) Clinical Faculty. Clinical training may be provided only by persons who meet the following criteria:

(a) The inspector must be a practitioner who has had a minimum of five years of full time acupuncture practice experience.

(b) If the training is conducted in this state, the practitioner must be registered to practice in this state. In the case of a school or program, the approval of the institution will include a review of the instructor's qualifications and the training arrangements. Approval of the instructors will extend to instruction conducted within the program.

(c) For training not conducted in this state to be acceptable, the instructor must be licensed by a state or country with equivalent license standards.

(4) Supervision of training. Clinical training in this state must be conducted under the general supervision of the instructor's sponsoring physician. During any given clinic period, the acupuncture instructor may not supervise more than four students. The number of students present during an observation session should be limited according to the judgment of the instructor. Supervision by the instructor during clinical training must be direct: each diagnosis and treatment must be done with the knowledge and concurrence of the instructor. During at least the first 100 treatments, the instructor must be in the room during treatment. Thereafter, the instructor must at least be in the facility, available for consultation and assistance. A medical doctor may only supervise two acupuncture assistant instructors per clinical instruction period.

#### AMENDATORY SECTION (Amending Order PL 412, filed 11/19/82)

WAC 308-52-504 ACUPUNCTURE - DEFINITION. (1) Acupuncture is a traditional system of medical theory, oriental diagnosis and treatment used to promote health and treat organic or functional disorders, by treating specific acupuncture points or meridians. Acupuncture includes the following techniques:

(a) use of acupuncture needles to stimulate acupuncture points and meridians.

(b) use of electrical, mechanical or magnetic devices to stimulate acupuncture points and meridians.

(c) moxibustion.

(d) acupressure.

(e) cupping.

(f) gwa hsa (dermal friction technique).

(g) infra-red.

(h) sonopuncture.

(i) laser puncture.

(j) dietary advice.

(k) manipulative therapies.

(l) point injection therapy (aqua puncture).

These terms are to be understood within the context of the ((original)) oriental medical art of acupuncture, and as the board defines them.

#### REPEALER

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

WAC 308-52-520 ACUPUNCTURE EXPERIENCE.

WAC 308-52-550 SUPERVISING PHYSICIANS' KNOWLEDGE OF ACUPUNCTURE.

WAC 308-52-560 ACUPUNCTURE ASSISTANT UTILIZATION.

WSR 83-03-046

PROPOSED RULES

LOTTERY COMMISSION

[Filed January 19, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State

Lottery Commission intends to adopt, amend, or repeal rules concerning the amending of WAC 315-04-200;

that the agency will at 10:00 a.m., Wednesday, March 9, 1983, in the Seatac Tower Building, 18000 Pacific Highway South, 5th Floor, Room 500, Seattle, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is chapter 67.70 RCW.

The specific statute these rules are intended to implement is sections 4 and 5 and chapter 67.70 RCW.

Dated: January 17, 1983

By: Richard A. Finnigan  
Assistant Attorney General

#### STATEMENT OF PURPOSE

Title and Number of Rule Section and Description of Rule's Purpose: WAC 315-04-200 Denial, Suspension or Revocation of a License, the proposed amendment to this rule is intended to delineate those writings in which a person is held accountable if that person makes an omission of a material fact.

Statutory Authority for Adopting the Rule and the Statute the Rule is Intended to Implement: Sections 4, 5, 6 and 9, chapter 7, Laws of 1982 2nd ex. sess.

Summary of the Rule and Reasons Supporting the Proposed Rule: Amendment to WAC 315-04-200, the proposed amendment to WAC 315-04-200(15) requires a person not to make an omission of material fact on reports, records, applications or questionnaires required to be submitted to the director or the commission. This clarifies those types of writings on which a person will be held accountable if he or she makes an omission of material fact.

Agency Personnel Responsible for Drafting, Enforcement and Implementation of the Rules: Drafting: Richard A. Finnigan, Assistant Attorney General, Fifth Floor, Highways-Licenses Building, Olympia, Washington 98504, (206) 753-2702; Implementation: Washington State Lottery Commission, P.O. Box 9770, Olympia, Washington 98504, (206) 753-1412, Robert Boyd, Director of the State Lottery Commission, P.O. Box 9770, Olympia, Washington 98504, (206) 753-1412, N. A. Stussy, Assistant Director, Office of Director of the State Lottery, P.O. Box 9770, Olympia, Washington 98504, (206) 753-1412, William Robinson, Assistant Director, Office of the Director of the State Lottery, P.O. Box 9770, Olympia, Washington 98504, (206) 753-1412, and Hugh Mann, Assistant Director, Office of the Director of the State Lottery, P.O. Box 9770, Olympia, Washington 98504, (206) 753-1412; and Enforcement: Washington State Lottery Commission, P.O. Box 9770, Olympia, Washington 98504, (206) 753-1412, Robert Boyd, Director of the Washington State Lottery Commission, P.O. Box 9770, Olympia, Washington 98504, (206) 753-1412, N. A. Stussy, Assistant Director, Office of the Director of the State Lottery, P.O. Box 9770, Olympia, Washington 98504, (206) 753-1412, and William Robinson, Assistant Director, Office of the Director of the State Lottery, P.O. Box 9770, Olympia, Washington 98504, (206) 753-1412.

Name of the Person or Organization Whether Private, Public, or Governmental, Proposing the Rule: Washington State Lottery Commission in response to an inquiry from the Joint Administrative Rules Review Committee.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Small Business Economic Impact Statement Requirement: The office of the director of the state lottery has reviewed the requirements to file a small business economic impact statement and has determined that such a statement is not required for the rules proposed by the Washington State Lottery Commission for the following reason. The rules will only affect those businesses, large and small, which voluntarily apply as licensed agents for the sale of lottery tickets or as contractors to provide other services to the office of the director of the state lottery. No business (or industry) will be required to comply with these rules unless they wish to provide services to the office of the director of the state lottery in conformance with these rules.

#### AMENDATORY SECTION (Amending Order 2A, filed 10/21/82)

WAC 315-04-200 DENIAL, SUSPENSION OR REVOCATION OF A LICENSE. The director may deny an application for or suspend or revoke any license issued pursuant to these rules for one or more of the following reasons:

- (1) Failure to meet or maintain the eligibility criteria for license application and issuance established by chapter 7, Laws of 1982, 2nd ex. sess., or these rules;
- (2) Failure to account for lottery tickets received or the proceeds of the sale of tickets or to post a bond if required by the director or to comply with the instructions of the director concerning the licensed activity;
- (3) Violating any of the provisions of chapter 7, Laws of 1982, 2nd ex. sess., or these rules;
- (4) Failure to file any return or report or to keep records required by the director or by these rules;
- (5) Failure to pay any federal, state or local tax or indebtedness;
- (6) Fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the lottery;
- (7) If public convenience is adequately served by other licensees;
- (8) Failure to sell a sufficient number of tickets to meet administrative costs;
- (9) If there is a history of thefts or other forms of losses of tickets or revenue therefrom;
- (10) If there is a delay in accounting or depositing in the designated depository the revenues from the ticket sales;
- (11) Has violated, failed or refused to comply with any of the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW (gambling act), or chapter 7, Laws of 1982, 2nd ex. sess., or when a violation of any provisions of chapter 7, Laws of 1982, 2nd ex. sess., has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;
- (12) Knowingly causes, aids, abets or conspires with another to cause any person to violate any of the laws of this state;
- (13) Has obtained a license by fraud, misrepresentation, concealment or through inadvertence or mistake;
- (14) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, wilful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor, involving any gambling activity or physical harm to individuals or involving moral turpitude;



(15) Makes a misrepresentation of, or fails to disclose, a material fact to the commission or director on any report, record, application form or questionnaire required to be submitted to the commission or director;

(16) Denies the commission or director or their authorized representatives, including authorized local law enforcement agencies, access to any place where a licensed activity is conducted, or fails to promptly produce for inspection or audit any book, record, document or item required by law or these rules;

(17) Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses indicated under subsection (14) of this section: PROVIDED, That at the request of an applicant for an original license, the director may defer decision upon the application during the pendency of such prosecution or appeal;

(18) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in lottery or gambling or related activities would be inimical to the proper operation of an authorized lottery or gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain;

(19) Is a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates probable cause to believe that the association is of such a nature as to be inimical to the policy of this state or to the proper operation of the authorized lottery or gambling or related activities in this state. For the purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are deemed criminal violations of the public policy of this state. A career offender cartel shall be defined as any group of persons who operate together as career offenders;

(20) Failure to follow the instructions of the director for the conduct of any particular game or special event;

(21) Failure to follow security procedures of the director for the handling of tickets or for the conduct of any particular game or special event; or

(22) Makes a misrepresentation of fact to the purchaser, or prospective purchaser, of a ticket, or to the general public with respect to the conduct of a particular game or special event.

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

**WSR 83-03-047**

**PROPOSED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed January 19, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning Grain, hay, beans and peas—Inspection fees, chapter 16-212 WAC;

that the agency will at 1:30 p.m., Tuesday, February 22, 1983, in the Large Conference Room, General Administration Building, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 2, 1983.

The authority under which these rules are proposed is chapter 22.09 RCW.

The specific statute these rules are intended to implement is RCW 22.09.210 - 22.09.380 to 22.09.540.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 22, 1983.

Dated: January 19, 1983

By: Michael V. Schwisow  
Deputy Director

**STATEMENT OF PURPOSE**

Title: Chapter 16-212 WAC Grain, Hay, Beans, and Peas—Inspection Fees.

Description of Purpose: The purpose of chapter 16-212 WAC is to specify standards and criteria for assessment of fees for the services provided by the Department of Agriculture for grain and commodities inspection services, as well as identifying the authority and inspection points utilized for the services.

Statutory Authority: Chapter 22.09 RCW.

Summary of Rule: Proposed changes are to increase the department's grain and commodity inspection fees schedule to reflect current costs of inspection to the department at current operating levels; adjust and clarify certain terminology and fee assessments to reflect how these are to be assessed; and make minor grammatical and punctuation corrections.

Reasons Supporting Proposed Actions: Without the fee increase the fiscal impact and the continued erosion on grain inspection fund will impair the department's ability to provide timely service to the grain industry.

Drafting, Implementation and Enforcement: J. Allen Stine, Chief, Grain Branch, Washington State Department of Agriculture, 406 General Administration Building, AX-41, Olympia, Washington 98504, (206) 753-5066.

Person or Organization Proposing Rule Whether Public, Private, or Governmental: Washington State Department of Agriculture.

Agency Comments: None.

These rules are not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined that there would be no economic impact upon small business in the state of Washington by the adoption of these amendments or new rules.

AMENDATORY SECTION (Amending Order 1118, filed 5/29/69, effective 7/1/69)

WAC 16-212-010 DEFINITIONS. (1) "Department" means the Washington state department of agriculture.

(2) "Ton" means 2,000 pounds avoirdupois.

(3) "Overtime" means any time worked on Saturdays, Sundays, or Holidays and all time worked before 8:00 A.M. or after 5:00 P.M. on Monday through Friday. Where industries operate regular, ((sustain)) sustained shifts other than specified herein, exceptions may be made at the discretion of the department.

(4) "Fees" means any charge made by the department for inspection and handling of any commodity.

AMENDATORY SECTION (Amending Order 1751, filed 12/2/81)

WAC 16-212-030 GENERAL PROVISIONS FOR HOURLY CHARGES.

(1) Straight time, rate per hour . . . . . ((~~\$16.00~~)) \$18.00  
This hourly rate shall be applied on any job where the fee is not sufficient to provide revenue of ((~~\$16.00~~)) \$18.00 per hour per man.

(2) Overtime, and night shift rate per hour: . . . . . \$12.00

((a) For shifts from 3:00 a.m. until 8:00 a.m., a fee of \$12.00 per hour per man shall be charged in addition to the regular inspection and weighing fees:

(b)) Whenever a service is requested before or after regularly scheduled working hours, Monday through Friday, or anytime on Saturdays, Sundays or holidays, a fee of ((~~\$8.00~~) \$12.00 per hour per man shall be charged in addition to the regular inspection and weighing fees: PROVIDED, That whenever an employee is called from his home after regular working hours, or on Saturdays, Sundays or holidays, a minimum of four hours shall be charged at the rate of ((~~\$8.00~~) \$12.00 per hour.

((c) Whenever a night shift (6:00 p.m. to 3:00 a.m.) is requested later than 3:00 p.m. the day prior to the start of the requested shift, a fee of \$12.00 per hour per man shall be charged in addition to the regular fees:

(d) Whenever a night shift (6:00 p.m. to 3:00 a.m.) is requested by 3:00 p.m. the day prior to the start of the requested shift, a fee of \$4.00 per hour per man shall be charged in addition to the regular fees: PROVIDED, That the workload is sufficient in size so that inspection and weighing fees generated that shift will defray the department's cost of \$16.00 per hour per man. If not, an additional overtime fee shall be assessed to equal \$16.00 per hour per man.

(e) Whenever a night shift (6:00 p.m. to 3:00 a.m.) is requested the day prior to the start of the requested night shift and is not cancelled by 5:00 p.m. the day prior to the start of the requested night shift, and the service cannot be performed for that shift through no fault of the department, a fee of \$20.00 per hour per man shall be charged for a minimum of four hours:))

(3) Scheduled night shifts.

((f)) At all designated inspection points, for night shifts, Monday through Friday (usually from 6:00 p.m. to 3:00 a.m.) that are, or will be, continuous for a period of one month or longer, with only an occasional work stoppage, additional fees per hour will not apply: PROVIDED, That the workload is sufficient in size so that inspection and weighing fees generated that shift will defray the department's cost of ((~~\$16.00~~) \$18.00 per hour per man. If not, an additional overtime charge shall be assessed to equal ((~~\$16.00~~) \$18.00 per hour per man.

((g)) (a) The department shall be given at least ((~~thirty~~) twenty-one calendar days notice, in writing, of cancellation of any ((~~continuous~~) scheduled night shift operation.

((h)) (b) The term "occasional work stoppage" shall mean union stop work meetings usually held once per month.

((i)) (4) Standby rate per hour ..... \$20.00

Whenever a service is requested before or after working hours, Monday through Friday or anytime on Saturdays, Sundays or holidays, and service cannot be performed through no fault of the department, a Standby rate of \$20.00 per hour per man shall be charged. Before or after regular working hours, Monday through Friday, a minimum of two hours shall be charged((~~and~~)). Anytime on Saturdays, Sundays or holidays a minimum of four hours shall be charged.

AMENDATORY SECTION (Amending Order 1751, filed 12/2/81)

WAC 16-212-050 CERTIFICATES.

(1) Copies of certificates, export, after original issuance, each run ..... ((~~\$2.00~~) \$2.50 (The above shall apply to "Divided Original Export Certificate". Each numbered set of certificates shall constitute a "run").

(2) Extra copies of inspection, protein or weight certificates ..... per copy ..... ((~~\$1.00~~) \$2.50

AMENDATORY SECTION (Amending Order 1751, filed 12/2/81)

WAC 16-212-060 INSPECTION AND/OR WEIGHING FEES.

(1) Combination inspection and weighing fees. Ships, barges and transfers of bulk grain.

(a) From vessel to elevator ..... per ton ..... \$ ((~~0.12~~) 0.13

(b) Bin transfers ..... per ton ..... \$ ((~~0.12~~) 0.13

(c) From elevator to vessel ..... per ton ..... \$ ((~~0.12~~) 0.13

(Inspection - \$((~~0.065~~) 0.07 per ton)

(Weighing - \$((~~0.055~~) 0.06 per ton)

(2) Inspection only. (Sample, Inspect, Grade and Certificate).

(a) Railroad boxcars or open hopper-type cars at designated hold tracks or at plants for original and all subsequent original inspections ..... per car ..... \$10.40

(b) Covered hopper-type cars which are sampled by United States Department of Agriculture approved mechanical belt, spout, or leg-type samplers at plants ..... per car ..... \$12.60

(c) Covered hopper-type cars sampled by methods other than by (b) above for original and all subsequent original inspections ..... per car ..... \$17.60

(d) Additional factors requested (that do not affect the grade)

(i) added to existing certifications... per factor ..... \$ 2.00

(ii) factor certification only..... per certificate (maximum two factors) ..... \$ 2.45

(e) Reinspection of rail boxcars and covered hopper-type cars on the basis of file sample... per reinspection ..... \$ 6.75

(In case of a material error in grade, a corrected certificate will be issued without a fee.)

(f) If a new sample is requested ..... (refer to (2) above).

(3) Weigh only.

(a) From railroad boxcars, covered hopper-type cars, or vessels to elevator ..... per ton (grain only) ..... \$ ((~~0.09~~) 0.10

(b) From elevator to railroad boxcars, covered hopper-type cars or vessels ..... per ton

(grain only) ..... \$ ((~~0.09~~) 0.10

(c) Bin transfers ..... per ton (grain only) ..... \$ ((~~0.09~~) 0.10

(d) Weigh only (other than grain) ..... per ton ..... \$ 0.11

(e) Weigh (grain by-products into maximum 30-ton portable containers, fitness inspection of container, weigh by-product and sample) ..... per container ..... \$ 8.00

(4) Submitted samples: inspection; factor information only; and file review ..... \$ 5.00

(Example of factor information only—where the submitted sample is less than 1,000 grams in size, factor information may be provided on request for the above fee.)

(5) Inspection of ships as to condition.

(a) Per hold and/or tank ..... \$21.00

(b) Minimum charge ..... \$108.00

(c) Ship's holds and/or tank condition inspections will be made on ships at anchor in midstream when requested.

(i) A minimum of two hours of regular time at ((~~\$16.00~~) \$18.00 per hour (one man) for general cargo vessels and a minimum of four hours of regular time at ((~~\$16.00~~) \$18.00 per hour (two men) shall be charged for tankers in addition to the established inspection fee.

(ii) These inspections can only be made at the convenience of the grain inspection office, during daylight hours, under safe working conditions, when weather conditions permit.

(iii) These inspections can only be made within the area of the designated tidewater grain inspection office.

(iv) A ship's officer or company agent shall accompany the licensed shiphold inspector/s.

(6) Trucks.

(a) Inspect only ..... per truck ..... \$10.00

(b) Weigh only ..... per truck ..... \$ 5.00

(7) Inspection of sacked grains at inspection points . per cwt ..... \$ 0.04

AMENDATORY SECTION (Amending Order 1751, filed 12/2/81)

WAC 16-212-065 MISCELLANEOUS SAMPLING, TESTING, INSPECTION AND CERTIFICATION OF ((WHEAT FOR SEDIMENTATION VALUES)) GRAINS AND COMMODITIES.

(1) ((Sampling and certification of identifiable lots ..... per sample ..... \$ 5.00

(2)) Reinspection per file sample, lot of miscellaneous commodities ..... \$ 5.00

((3)) (2) Submitted sample certification .. per sample ..... \$ 5.00

- ~~((4))~~ (3) Sampling service only, to provide a ~~(sedimentation)~~ supplemental service sample (minimum charge one hour) per hour. . . . . ~~((16.00))~~ \$18.00
- ~~((5))~~ (4) Protein analysis or reinspection (per certificate). . . . . \$ 4.00
- ~~((6))~~ (5) Falling number test (per certificate). . . . . \$10.00

AMENDATORY SECTION (Amending Order 1751, filed 12/2/81)

WAC 16-212-070 INSPECTION OF ~~((MISCELLANEOUS))~~ COMMODITIES.

- (1) Hay inspection.
  - (a) Complete inspection (minimum charge \$30.00) . . . . . \$ 1.00
  - per ton . . . . . \$ 1.00
  - (b) Factor inspection (minimum charge \$20.00) . . . . . \$ 5.00
  - per ton . . . . . \$ 5.00
  - (c) Submitted sample inspection . . . . . \$ 15.00
  - per sample . . . . . \$ 15.00
- (2) Inspection or reinspection of beans, peas, lentils, and similar commodities (minimum charge) . . . . . \$15.00
  - (a) Inspection or reinspection of bags at inspection points . . . . . per cwt. . . . . \$ 0.04
  - (b) Bulk commodity inspection (~~(point, bulk))~~ or reinspection at inspection points, per ton . . . . . \$ 0.20
  - (c) Submitted sample inspection or reinspection . . . . . per sample . . . . . \$10.00
- (3) Sampling only, bulk commodities.
  - (a) Minimum charge . . . . . \$10.00
  - (b) Covered hopper-type cars, per car . . . . . \$11.00

(4) Whenever the lot size or workload is not of sufficient size so that inspection and/or weighing fees generated will defray the department's cost of ~~((16.00))~~ \$18.00 per hour per man, an additional fee shall be assessed to equal ~~((16.00))~~ \$18.00 per hour per man.

~~((4))~~ (5) Whenever service is required at points other than at the designated inspection point, car mileage fees as per WAC 16-212-080(5) shall be charged and added to inspection and weighing charges.

AMENDATORY SECTION (Amending Order 1751, filed 12/2/81)

WAC 16-212-080 MISCELLANEOUS FEES.

- (1) ~~((Weighing, checking and/or sampling commodities if not covered by WAC 16-212-060(3)(a), (b) and (c))~~ minimum charge per hour . . . . . ~~\$16.00~~
- ~~((2))~~ Mailing samples, minimum charge . . . . . \$ 1.00 (actual cost if greater than minimum)
- ~~((3))~~ Sampling only, bulk commodities
  - (a) Minimum charge . . . . . \$ 4.00
  - (b) Covered hopper-type cars . . . . . \$11.00

~~((4))~~ (2) Fee for pickup samples on routes established by the department . . . . . per sample. . . . . \$ 0.50

~~((5))~~ (3) Car mileage . . . . . per mile . . . . . \$ ~~((0.15))~~ 0.185

~~((6))~~ (4) In all cases where no fee has been established for services, the charge for such service shall be as provided in WAC 16-212-030, hourly charges.

~~((7))~~ (5) Any charges made in addition to the basic fees provided for in WAC ~~((16-212-040))~~ 16-212-030 through 16-212-070 shall be classified as additional charges.

AMENDATORY SECTION (Amending Order 1118, filed 5/29/69, effective 7/1/69)

WAC 16-212-090 SERVICES RENDERED AWAY FROM INSPECTION POINTS. (1) The provisions of this regulation shall apply to the grading, weighing, sampling, and inspection of grain, hay, beans, peas, ~~((and))~~ lentils, and other commodities at places other than inspection points. In addition to the applicable fees for such services, the applicant shall pay the following costs:

- (a) Time per hour, per man, including overtime, if any, from office and return.
- (b) Mileage from office and return except where transportation is furnished by applicant.
- (c) Subsistence allowance if employee is away from station, as defined, first day and all subsequent days.
- (d) Incidental costs for postage, telephone, etc.

AMENDATORY SECTION (Amending Order 1751, filed 12/2/81)

WAC 16-212-120 GRADES AND STANDARDS. The grades and standards established by the United States Department of Agriculture as of ~~((January 1, 1982))~~ April 1, 1983, for all grains and commodities included within the provisions of this chapter are hereby adopted as the grades and standards for such grains and commodities in this state.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- (1) WAC 16-212-040 PHYSICAL ANALYSES.
- (2) WAC 16-212-085 INSPECTION OF CORN OR SORGHUM.
- (3) WAC 16-212-140 TESTING REQUIREMENTS.
- (4) WAC 16-212-150 FEES.
- (5) WAC 16-212-200 PROMULGATION.
- (6) WAC 16-212-210 ESTABLISHMENT OF GRAIN INSPECTION OFFICE AT COLFAX, WASHINGTON.

WSR 83-03-048

EMERGENCY RULES

DEPARTMENT OF GAME

(Game Commission)

[Order 188—Filed January 19, 1983]

Be it resolved by the Washington State Game Commission, acting at Olympia, by conference call, that it does adopt the annexed rules relating to closure of Chehalis River to the taking of steelhead trout by Indians, WAC 232-32-145.

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

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

This rule is promulgated pursuant to RCW 77.12.150 and 77.12.040 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 19, 1983.

By Archie U. Mills  
Chairman, Game Commission

NEW SECTION

**WAC 232-32-145 CLOSURE OF CHEHALIS RIVER TO THE TAKING OF STEELHEAD TROUT BY INDIANS.** Effective 6:00 p.m., January 20, 1983, it is unlawful for Indians to take, fish for or possess steelhead trout in the Chehalis River.

**WSR 83-03-049**  
**EMERGENCY RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**  
 [Order 189—Filed January 19, 1983]

Be it resolved by the Washington State Game Commission, acting at Olympia, by conference call, that it does adopt the annexed rules relating to closure of Pysht Bay, Morse Creek and Sekiu River to the taking of steelhead trout by treaty Indians, WAC 232-32-146.

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

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

This rule is promulgated pursuant to RCW 77.12.150 and 77.12.040 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 19, 1983.

By Archie U. Mills  
 Chairman, Game Commission

NEW SECTION

**WAC 232-32-146 CLOSURE OF PYSHT BAY, MORSE CREEK AND SEKIU RIVER TO THE TAKING OF STEELHEAD TROUT BY TREATY INDIANS.** Effective 6:00 p.m., January 23, 1983: it is unlawful for treaty Indians to take, fish for or possess steelhead trout from Morse Creek, Pysht Bay and the Sekiu River.

**WSR 83-03-050**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed January 19, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning quarantined registered feed lots, chapter 16-30 WAC;

that the agency will at 1:30 p.m., Tuesday, March 1, 1983, in the Washington Cattlemen's Association Office, 1720 Canyon Road, Ellensburg, WA 98926, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 14, 1983.

The authority under which these rules are proposed is chapters 16.36 and 16.57 RCW.

The specific statute these rules are intended to implement is RCW 16.36 040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 1, 1983.

Dated: January 19, 1983

By: Mike Willis  
 Assistant Director

STATEMENT OF PURPOSE

Title: Quarantined registered feed lots.

Description of Purpose: To allow steers and spayed heifers to be removed from the premises of quarantined registered feed lots for temporary grazing purposes only.

Statutory Authority: Chapters 16.36 and 16.57 RCW.

Summary of Rule: The rule establishes the guidelines for the operation of a commercial feed lot under quarantine restrictions in order to prevent the spread of disease.

Agency Personnel to Contact: Dean H. Smith, DVM, State Veterinarian, Department of Agriculture, Division of Animal Industry, 406 General Administration Building, AX-41, Olympia, WA 98504, (206) 753-5040.

These rules are proposed by the department, the Washington Cattlemen's Association, and the Washington Cattle Feeders Association.

Agency Comments: None.

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

Small Business Economic Impact: None.

AMENDATORY SECTION (Amending Order 955, filed August 3, 1964)

WAC 16-30-030 CERTIFIED STATEMENTS REQUIRED. In addition to the information furnished in the application each applicant must certify to the following:

(1) That there shall be no contact with other ((females)) female and ((mates)) male animals not also similarly and commonly quarantined.

(2) That no animal, except steers and sprayed heifers for temporary grazing purposes only, shall be moved from the feed yard except to a ((licensed slaughterer operating under state or federal supervision to a federally inspected stockyard;)) federally inspected slaughter plant or to a licensed public livestock market for immediate slaughter: PROVIDED, That swine will not be moved from a feed yard except to a licensed slaughterer with no diversion enroute.

(3) That the yard will be maintained in a sanitary condition.

(4) That the department of agriculture will be notified immediately of any outbreak of any infectious or contagious disease.

(5) That the disposition of dead animals will be in accordance with the laws relating to the disposal of dead animals.

**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 83-03-051**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Filed January 19, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning sale of quarantined animals, WAC 16-86-030;

that the agency will at 11:00 a.m., Tuesday, March 1, 1983, in the Washington Cattlemen's Association Office, 1720 Canyon Road, Ellensburg, WA 98926, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 14, 1983.

The authority under which these rules are proposed is chapter 16.36 RCW.

The specific statute these rules are intended to implement is RCW 16.36 040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 1, 1983.

Dated: January 19, 1983  
By: Mike Willis  
Assistant Director

**STATEMENT OF PURPOSE**

Title: Sale of quarantined animals.

Description of Purpose: To allow the restricted sale of cattle from brucellosis quarantined herds through state-federal approved sales yards for immediate slaughter only.

Statutory Authority: Chapter 16.36 RCW.

Summary of Rule: The rule sets forth the manners in which cattle from a brucellosis quarantined herd may be sold.

Agency Personnel to Contact: Dean H. Smith, DVM, State Veterinarian, Division of Animal Industry, Department of Agriculture, 406 General Administration Building, Olympia, WA 98504, Mailstop: EK 22, (206) 753-5040.

The rules are proposed by the department, the Washington Cattlemen's Association, the Washington State Dairymen's Federation and the Washington Livestock Marketing Association.

Agency Comments: None.

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

Small Business Economic Impact: None.

AMENDATORY SECTION (Amending Order 1539, filed October 17, 1977)

WAC 16-86-030 SALE OF QUARANTINED ANIMALS. (1) No person shall sell or offer for sale any cattle from a brucellosis quarantined herd except steers and spayed heifers (~~(or goats)~~) for other than immediate slaughter (~~(or)~~), for consignment to a (~~registered quarantine~~) quarantined registered feed lot (~~(if animals are from a brucellosis quarantined herd)~~) or for consignment to a state-federal approved sales yard for immediate slaughter only: PROVIDED, That prior to consignment to a state-federal approved sales yard, the cattle shall be "S" branded and shall only be moved from the brucellosis quarantined herd when accompanied by an official federal form number VS 1-27.

(2) Cattle from a tuberculosis quarantined herd shall not be sold or offered for sale except for immediate slaughter.

**WSR 83-03-052**  
**PROPOSED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**  
[Filed January 19, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules concerning Cause No. TCH-1685, amending WAC 480-40-070 relating to drivers logs and drivers hours of service, and driver qualifications for passenger charter carriers, and amending WAC 480-40-075 relating to equipment safety for passenger charter carriers. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendments on economic values, pursuant to chapter 43.21 RCW and WAC 480-08-050(17);

that the agency will at 8:00 a.m., Wednesday, February 23, 1983, in the Commission's Conference Room, 7th Floor, Highways-Licenses Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 81.70.130 and 81.70.140.

The specific statute these rules are intended to implement is RCW 81.70.130 and 81.70.140.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Friday, February 18, 1983.

Dated: January 19, 1983  
By: Barry M. Mar  
Secretary

**STATEMENT OF PURPOSE**

In the matter of amending WAC 480-40-070 relating to drivers logs and drivers hours of service and drivers qualifications and amending WAC 480-40-075 relating to equipment safety for passenger charter carriers.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 81.70.130, which direct that the commission has authority to implement the provisions of chapter 81.70 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to update the present rules which adopt federal DOT standards for drivers hours of service and drivers logs and safety of equipment. The major impact of the updating will be in the area of maintaining and preparing log books. The twelve month retention period will change to six months. The standard log form need not be used, so long as the graph of hours of driving time, on-duty time, and off-duty time is prepared. Shipper document numbers, shipper name, origin and destination points, total miles, and co-driver name need no longer be shown separately. Origin and destination will be required to be shown on the graph, however, as before. On duty time for driving within the 100 mile radius zone is changed from 12 to 15 consecutive hours. Finally, regarding driver inspection reports, no report need be filed if no defects are found. This is an exception to the federal rule adopted by the commission.

Barry M. Mar, Secretary, Seventh Floor, Highways-Licenses Building, Olympia, Washington, telephone number (206) 753-6420, and members of his staff were responsible for the drafting of the proposed rules and will be responsible for implementation and enforcement of the proposed rules.

The proponent of the rules is the Washington Utilities and Transportation Commission.

These are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 81.70.130 and 81.70.140.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule change proposed will affect no economic values, and does not fall within the purview of the Small Business Regulatory Fairness Act, chapter 6, Laws of 1982, inasmuch as the amendments as proposed reduce reporting requirements now mandated under the present rules, thus having a negative cost impact. It still exempts one-truck operators from any reporting requirements, and requires vehicle inspection reports of other carriers only to the extent that defects in equipment are observed. It reduces the amount of information previously required to be reported, and shortens the retention period. Under the present rule, reports are required to be filed by carriers whether or not there are observed equipment defects.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

**AMENDATORY SECTION** (Amending Order R-144, Cause No. TCH-1356, filed 8/14/80)

**WAC 480-40-070 OPERATION OF MOTOR VEHICLES.** (1) All motor vehicles shall be operated in accordance with the requirements of existing state laws and no driver or operator thereof shall operate the same in any other than a careful and prudent manner, nor at any greater speed than is reasonable or proper, having due regard to the traffic and use of the highway by others, or so as to endanger the life and limb of any person.

(2) Qualifications of drivers. Adoption of United States department of transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, part 391, excluding paragraphs (a) and (b) of section 391.2, section 391.69, subparagraph (2) of paragraph 391.71(a), and subparagraph (4) of paragraph 391.71(b); as well as and including all appendices and amendments thereto, in effect on (~~the effective date of this rule~~) January 1, 1983, are adopted and prescribed by the commission to be observed by all charter party carriers of passengers operating under chapter 81.70 RCW except:

(a) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.

(b) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to the effective date of this rule.

(c) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date the effective date of this rule.

(3) No driver or operator of a motor vehicle carrying passengers shall smoke any cigar, cigarette, tobacco or other substance in such vehicle during the time he is driving the vehicle.

(4) No driver or operator of a motor vehicle shall create any disturbance or unnecessary noise to attract persons to the vehicle.

(5) The rules and regulations relating to drivers' logs and drivers' hours of service adopted by the United States department of transportation in Title 49, Code of Federal Regulations, Part 395, as well as and including all appendices and amendments thereto in effect on (~~the effective date of this rule~~) January 1, 1983, are adopted and prescribed by the commission to be observed by all charter party carriers of passengers operating under chapter 81.70 RCW, except that the radius distance identified in paragraph (f) of section 395.8 shall be one hundred miles.

(6) No motor vehicle used in the transportation of persons shall carry more persons than one hundred fifty percent of its rated carrying capacity but no passenger shall be required to stand for a distance in excess of twenty miles. The commission may amend, rescind or grant exceptions to this rule in the event of emergency.

(7) Except when specially authorized by the commission, no motor vehicle used in the transportation of passengers shall be operated or driven with any trailer or other vehicle attached thereto; except in case a vehicle becomes disabled while on a trip and is unable to be operated by its own power, such disabled vehicle may be towed without passengers to the nearest point where repair facilities are available. No right-hand drive vehicle shall be used except by special authorization of the commission and then only when equipped as directed by it.

(8) Accidents occurring in this state arising from or in connection with the operations of any charter party carrier of passengers operating under chapter 81.70 RCW resulting in an injury to any person, or the death of any person shall be reported by such carrier to the commission as soon as possible, but in no event later than twelve hours after the occurrence of the accident. The occurrence of such accidents shall be reported to the commission by telephone at the following numbers: 1-800-562-6150; or if the call is made from out of the state: 1-206-753-6411. Copies of written reports of all accidents, including those described in this section, shall be maintained in the main office of the carrier subject to inspection by the commission.

(9) Charter party carriers transporting passengers shall maintain busses in a clean and sanitary condition and shall make such stops as shall be necessary to care properly for the comfort of their patrons.

(10) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator", and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsections (2) and (5) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

**AMENDATORY SECTION** (Amending Order R-144, Cause No. TCH-1356, filed 8/14/80)

**WAC 480-40-075 EQUIPMENT—SAFETY.** In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.70 RCW shall comply with the following:

(1) Adoption of United States department of transportation motor carrier safety regulations. The rules and regulations governing motor carrier safety prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, part 392, excluding

section 392.2 and paragraph (c) of section 392.1; part 393, excluding paragraph (b) of section 393.1, and sections 393.13, 393.14, 393.15, 393.16, 393.76, 393.100, 393.102, 393.104, 393.106; part 396, except that with respect to section 396.11 no driver vehicle inspection report need be filed if no defects are found, and excluding paragraph (b) of section 396.1; part 397, excluding section 397.21 and paragraph (c) of section 397.1; as well as and including all appendices and amendments thereto, in effect on ~~((the effective date of this rule))~~ January 1, 1983, are adopted and prescribed by the commission to be observed by all charter party carrier of passengers operating under chapter 81.70 RCW.

(2) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator", and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (1) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

### WSR 83-03-053

#### PROPOSED RULES

#### UTILITIES AND TRANSPORTATION

#### COMMISSION

[Filed January 19, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules concerning Cause No. TC-1684, amending WAC 480-30-095 relating to equipment safety for auto transportation companies, and WAC 480-30-100 relating to drivers logs and drivers hours of service, qualification of drivers, and operation of motor vehicles for auto transportation companies. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendments on economic values, pursuant to chapter 43.21 RCW and WAC 480-08-050(17);

that the agency will at 8:00 a.m., Wednesday, February 23, 1983, in the Commission's Conference Room, 7th Floor, Highways-Licenses Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 81.68.030.

The specific statute these rules are intended to implement is RCW 81.68.030.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Friday, February 18, 1983.

Dated: January 19, 1983

By: Barry M. Mar  
Secretary

#### STATEMENT OF PURPOSE

In the matter of amending WAC 480-30-095 relating to equipment safety for auto transportation companies, and WAC 480-30-100 relating to drivers logs and drivers hours of service, qualification of drivers, and operation of motor vehicles for auto transportation companies.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 81.68.030, which direct that the commission has authority to implement the provisions of chapter 81.68 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to update the present rules which adopt federal DOT standards for drivers hours of service and drivers logs and safety equipment. The major impact of the updating will be in the area of maintaining and preparing log books. The twelve month retention period will change to six months. The standard log form need not be used, so long as the graph of hours of driving time, on-duty time, and off-duty time is prepared. Shipper document numbers, shipper name, origin and destination points, total miles, and co-driver name need no longer be shown separately. Origin and destination will be required to be shown on the graph, however, as before. On duty time for driving within the 100 mile radius zone is changed from 12 to 15 consecutive hours. Finally, regarding driver inspection reports, no report need be filed if no defects are found. This is an exception to the federal rule, adopted by the commission.

Barry M. Mar, Secretary, Seventh Floor, Highways-Licenses Building, Olympia, Washington, telephone number (206) 753-6420, and members of his staff were responsible for the drafting of the proposed rules and will be responsible for implementation and enforcement of the proposed rules.

The proponent of the rules is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 81.68.030.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule change proposed will affect no economic values, and does not fall within the purview of the Small Business Regulatory Fairness Act, chapter 6, Laws of 1982, inasmuch as the amendments as proposed reduce reporting requirements now mandated under the present rules, thus having a negative cost impact. It still exempts one-truck operators from any reporting requirements, and requires vehicle inspection reports of other carriers only to the extent that defects in equipment are observed. It reduces the amount of information previously required to be reported, and shortens the retention period. Under the present rule, reports are required to be filed by carriers whether or not there are observed equipment defects.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

AMENDATORY SECTION (Amending Order R-143, Cause No. TC-1355, filed 8/14/80)

WAC 480-30-095 EQUIPMENT-SAFETY. In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.68 RCW shall comply with the following:

(1) Adoption of United States department of transportation motor carrier safety regulations. The rules and regulations governing motor carrier safety prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, part 392, excluding section 392.2 and paragraph (c) of section 392.1; part 393, excluding paragraph (b) of section 393.1, and sections 393.13, 393.14, 393.15, 393.16, 393.76, 393.100, 393.102, 393.104, 393.106; part 396, except that with respect to section 396.11 no driver vehicle inspection report need be filed if no defects are found, and excluding paragraph (b) of section 396.1; part 397, excluding section 397.21 and paragraph (c) of section 397.1; as well as and including all appendices and amendments thereto in effect on ((the effective date of this rule)) January 1, 1983, are adopted and prescribed by the commission to be observed by all auto transportation companies operating under chapter 81.68 RCW.

(2) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator", and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (1) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

**AMENDATORY SECTION** (Amending Order R-143, Cause No. TC-1355, filed 8/14/80)

**WAC 480-30-100 OPERATION OF MOTOR VEHICLES.** (1) All motor vehicles shall be operated in accordance with the requirements of existing state laws and no driver or operator thereof shall operate the same in any other than a careful and prudent manner, nor at any greater speed than is reasonable or proper, having due regard to the traffic and use of the highway by others, or so as to endanger the life and limb of any person.

(2) Qualifications of drivers. Adoption of United States department of transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, part 391, excluding paragraphs (a) and (b) of section 391.2, section 391.69, subparagraph (2) of paragraph 391.71(a), and subparagraph (4) of paragraph 391.71(b); as well as and including all appendices and amendments thereto, in effect on ((the effective date of this rule)) January 1, 1983, are adopted and prescribed by the commission to be observed by all auto transportation companies operating under chapter 81.68 RCW except:

(a) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.

(b) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to the effective date of this rule.

(c) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date the effective date of this rule.

(3) No driver or operator of a motor vehicle carrying passengers shall smoke any cigar, cigarette, tobacco or other substance in such vehicle during the time he is driving the vehicle.

(4) No driver or operator of a motor vehicle shall create any disturbance or unnecessary noise to attract persons to the vehicle.

(5) The rules and regulations relating to drivers' logs and drivers' hours of service adopted by the United States department of transportation in Title 49, Code of Federal Regulations, part 395, as well as and including all appendices and amendments thereto in effect on ((the effective date of this rule)) January 1, 1983, are adopted and prescribed by the commission to be observed by all auto transportation companies operating under chapter 81.68 RCW, except that the radius distance identified in paragraph (f) of section 395.8 shall be one hundred miles.

(6) No driver or operator of any motor vehicle used in the transportation of passengers shall refuse to carry any person offering himself or herself at a regular stopping place for carriage and who tenders the regular fare to any stopping place on the route of said motor vehicle, or between the termini thereof, if allowed to carry passengers to such point under the certificate for such route: **PROVIDED, HOWEVER,** That the driver or operator of such motor vehicle may refuse transportation to any person who is in an intoxicated condition or conducting himself in a boisterous or disorderly manner or is using profane language, who is suffering from a contagious disease, or whose condition is such as to be obnoxious to passengers on such motor vehicle. A driver is responsible for the comfort, safety and peace of mind of his passengers to the extent that he should be constantly on the alert for

and immediately correct any act of misconduct on the part of occupants of the vehicle.

(7) No auto transportation company operating any motor vehicle used in the transportation of persons, shall permit smoking on said vehicle either by passengers or other persons while present in said motor vehicle.

Auto transportation companies shall place suitable signs in buses, of sufficient size and number to adequately inform passengers that smoking is not permitted in the motor vehicle: **PROVIDED,** That any such company operating buses equipped with air conditioning or efficient ventilating systems may permit smoking therein on certain schedules and routes when and where in the judgment of the company management smoking can be permitted without offense to the nonsmoking traveling public, and then only to the extent shown on signs prominently displayed within the buses.

(8) No motor vehicle used in the transportation of persons shall carry more persons than one hundred fifty percent of its rated carrying capacity but no paying passenger shall be required to stand for a distance in excess of twenty miles. The commission may amend, rescind or grant exceptions to this rule in the event of emergency.

(9) The front seat of all passenger carrying vehicles, if connected with the driver's seat, shall be considered as an emergency seat and no passenger will be allowed to occupy the same unless all of the other seats of such vehicle are fully occupied. In no case shall more than one passenger be allowed to occupy the front seat of any motor vehicle unless such seat is forty-eight or more inches in width in the clear. No passenger shall be allowed to sit in the front seat to the left of the driver.

(10) No motor vehicle used for the transportation of passengers shall carry or transport any baggage, trunk, crate or other load which shall extend beyond the running board of said motor vehicle on the left side.

(11) Except when specially authorized by the commission, no motor vehicle used in the transportation of passengers shall be operated or driven with any trailer or other vehicle attached thereto; except in case a vehicle becomes disabled while on a trip and is unable to be operated by its own power, such disabled vehicle may be towed without passengers to the nearest point where repair facilities are available. No right-hand drive vehicle shall be used except by special authorization of the commission and then only when equipped as directed by it.

(12) Accidents occurring in this state arising from or in connection with the operations of any auto transportation companies operating under chapter 81.68 RCW resulting in an injury to any person, or the death of any person shall be reported by such carrier to the commission as soon as possible, but in no event later than twelve hours after the occurrence of the accident. The occurrence of such accidents shall be reported to the commission by telephone at the following numbers: 1-800-562-6150; or if the call is made from out of the state: 1-206-753-6411. Copies of written reports of all accidents, including those described in this section, shall be maintained in the main office of the carrier subject to inspection by the commission.

(13) Auto transportation companies transporting passengers shall maintain such comfort stations in a clean and sanitary condition along its line or route, and shall make such regular stops thereat as shall be necessary to care properly for the comfort of its patrons.

(14) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator", and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsections (2) and (5) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

**WSR 83-03-054**

**PROPOSED RULES**

**UTILITIES AND TRANSPORTATION**

**COMMISSION**

[Filed January 19, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules concerning Cause No. TV-1674,



amending WAC 480-12-180 relating to equipment safety and qualification of drivers for common and contract carriers, and WAC 480-12-190 relating to drivers logs and drivers hours of service for common and contract carriers. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendments on economic values, pursuant to chapter 43.21 RCW and WAC 480-08-050(17);

that the agency will at 8:00 a.m., Wednesday, February 23, 1983, in the Commission's Conference Room, 7th Floor, Highways-Licenses Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 80.01.040, 81.80.130, 81.80.140 and 81.80.290.

The specific statute these rules are intended to implement is RCW 80.01.040, 81.80.130, 81.80.140 and 81.80.290.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Friday, February 18, 1983.

Dated: January 19, 1983

By: Barry M. Mar  
Secretary

#### STATEMENT OF PURPOSE

In the matter of amending WAC 480-12-180 relating to equipment safety and qualification of drivers, and WAC 480-12-190 relating to drivers logs and drivers hours of service for common and contract carriers.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040, 81.80.130 and 81.80.140 which direct that the commission has authority to implement the provisions of chapter 81.80 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to update the present rules which adopt federal DOT standards for drivers hours of service and drivers logs and safety of equipment. The major impact of the updating will be in the area of maintaining and preparing log books. The twelve month retention period will change to six months. The standard log form need not be used, so long as the graph of hours of driving time, on-duty time, and off-duty time is prepared. Shipper document numbers, shipper name, origin and destination points, total miles, and co-driver name need no longer be shown separately. Origin and destination will be required to be shown on the graph, however, as before. On duty time for driving within the 100 mile radius zone is changed from 12 to 15 consecutive hours. Finally, regarding driver inspection reports, no request need be filed if no defects are found. This is an exception to the federal rule adopted by the commission.

Barry M. Mar, Secretary, Seventh Floor, Highways-Licenses Building, Olympia, Washington, telephone number (206) 753-6420, and members of his staff were responsible for the drafting of the proposed rules and will be responsible for implementation and enforcement of the proposed rules.

The proponent of the rules is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040, 81.80.130 and 81.80.140.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule change proposed will affect no economic values, and does not fall within the purview of the Small Business Regulatory Fairness Act, chapter 6, Laws of 1982, inasmuch as the amendments as proposed reduce reporting requirements now mandated under the present rules, thus having a negative cost impact. It still exempts one-truck operators from any reporting requirements, and requires vehicle inspection reports of other carriers only to the extent that defects in equipment are observed. It reduces the amount of information previously required to be reported, and shortens the retention period. Under the present rule, reports are required to be filed by carriers whether or not there are observed equipment defects.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

#### AMENDATORY SECTION (Amending Order R-171, Cause No. TV-1508, filed 8/28/81)

WAC 480-12-180 EQUIPMENT-DRIVERS-SAFETY. In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.80 RCW shall comply with the following:

(1) Adoption of United States department of transportation motor carrier safety regulations. The rules and regulations governing motor carrier safety prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, part 392, excluding section 392.2 and paragraph (c) of section 392.1; part 393, excluding paragraph (b) of section 393.1; part 396, except that with respect to section 396.11 no driver vehicle inspection report need be filed if no defects are found, and excluding paragraph (b) of section 396.1; part 397, excluding section 397.21 and paragraph (c) of section 397.1; as well as and including all appendices and amendments thereto in effect on ~~((October 31, 1980;))~~ January 1, 1983, are adopted and prescribed by the commission to be observed by all common, contract, and registered carriers operating under chapter 81.80 RCW.

(2) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator", and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (1) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

(3) Safety chains or other load fastening devices. Any motor truck, truck tractor, trailer, semitrailer, or any combination thereof, transporting logs upon a public highway where binder devices are required, shall have the load thereon securely fastened and protected as follows:

(a) Placement and number of wrappers required on log trucks using stakes.

(i) In the hauling of one log loads, one wrapper chain or cable shall be required and it shall be secured to the rear bunk and the log shall be properly blocked or secured in a manner which will prevent it from rolling or shifting. An additional wrapper, secured to the front bunk, is optional.

(ii) In the hauling of two log loads, not less than two wrapper chains or cables shall be used to secure the load. The logs shall be properly blocked to prevent them from rolling or shifting.

(iii) On loads consisting of three or four logs not over forty-four feet in length, the load shall be secured by not less than two properly spaced wrapper chains or cables. Ends of short logs not secured by

such wrappers shall be secured with extra wrappers. If any log is over forty-four feet in length, the load shall be secured by not less than three properly spaced wrappers.

(iv) Loads consisting of five or more logs, when the logs are all seventeen feet or less in length, shall be secured by not less than two properly spaced wrappers. Loads consisting of five or more logs, when any log is over seventeen feet in length, shall be secured by not less than three properly spaced wrappers.

(b) Placement and number of wrappers required on log trucks using chock blocks.

(i) In the hauling of one log load, one wrapper chain or cable shall be required and secured to the rear bunk and the log shall be properly blocked in a manner to prevent it from rolling or shifting.

(ii) One additional wrapper chain or cable shall be required on log trucks using chock blocks over and above the requirements in subparagraphs (a) (iii) and (iv) of this subsection.

(c) Placement and number of wrappers required on crosswise loaded trucks, trailers, etc. In the case of short logs loaded crosswise, the following method of securing the load shall be used if the truck trailer is not provided with solid ends of a height sufficient to prevent any log in the load from rolling off: Not less than two chock blocks shall be used at each open end of the vehicle and the load shall be held with at least two wrapper chains or cables. The wrappers shall be firmly attached to the end of the truck or trailer. Rigid standards or stakes may be used in lieu of chock blocks but each such standard or stake shall be either rigidly connected to the bed of the truck or trailer or shall be placed in a tight fitting socket at least twelve inches in depth. Other means furnishing equivalent security may be acceptable.

(d) Wrapper placement. When two wrappers are required, they shall be applied within six feet of the front and rear bunks. When more than two wrappers are required, the front and back binder shall be applied within six feet of the front and rear bunks.

(e) Short logs. To properly secure short logs, binders shall be placed near the end, not less than twelve inches from the end of the log.

(f) Log on top or in outside saddle. No log loaded on top or in outside saddles of a load shall be transported unless secured by not less than two wrapper chains or cables, one of which shall be placed near each end of such log.

(g) Fasten in place. All wrappers and binders shall be fastened in place prior to tightening to prevent the displacement of logs on the top of the load.

(h) Surround load. All wrapper chains or cables, except in the case of one log loads, shall entirely surround the load. This does not apply to gut-wrappers.

(i) Gut-wrappers. Gut-wrappers, when used, shall be adjusted so as to be tightened by, but not carry the weight of the logs above them.

(j) Wrappers and binders to be placed before leaving immediate loading area. Wrappers and binders shall be placed and tightened around the completed load before the truck leaves the immediate loading area.

(k) Construction of wrappers and binders. Wrapper chains or cables, binders, fasteners, or attachments thereof, used for any purpose as required by these standards, shall have a minimum breaking strength of not less than fifteen thousand pounds and shall be rigged so that it can be safely released.

(l) Bundle straps or banding. For the purposes of this standard, applied bundle straps or banding are not acceptable as wrappers and binders.

(m) Loose ends secured. All loose ends of wrapper chains or cables shall be securely fastened so as to prevent their swinging free in a manner that will create a hazard.

(n) Trucks in sorting yards. Trucks and trailers used around sorting yards, etc., which travel at slow speeds, will not be required to use wrappers providing all logs are contained by and lie below the height of the stakes and there are no persons on the ground exposed to such traffic.

(o) Binder hook design. Binders for securing wrappers on logging trucks shall be fitted with hooks of proper size and design for the wrapper chain being used.

(p) Defective wrappers. Wrappers shall be removed from service when any of the following conditions exist:

- (i) Excessively worn links on chains;
- (ii) Deformed or stretched chain links;
- (iii) Cracked chain links;
- (iv) Frayed, stranded, knotted, or otherwise defective wire rope.

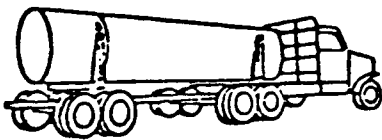
(q) Binder extensions. Pipe extension handles (swedes) for tightening or securing binders shall be limited to not longer than thirty-six inches. Care shall be taken that a sufficient amount of the pipe extends over the binder handle.

(r) Defective binders. Defective binders shall be immediately removed from service.

NOTE: See the following Diagrams I and II for illustrations of placement and number of load fastening devices.

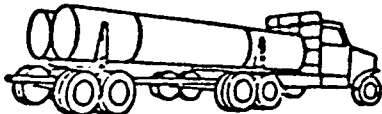
PLACEMENT AND NUMBER OF WRAPPERS

One log load



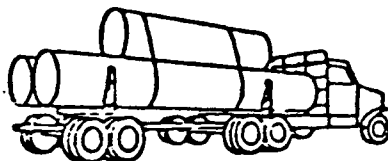
One wrapper required which shall be secured to the rear bunk. Log shall be blocked or secured in a manner to prevent it from rolling or shifting. A second wrapper secured to the front bunk is optional.

Two log load



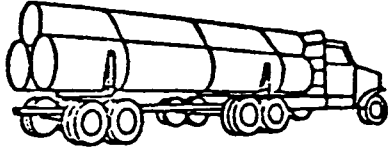
A minimum of two wrappers required. Logs shall be blocked to prevent them from rolling or shifting.

Three or four log load forty-four feet or less



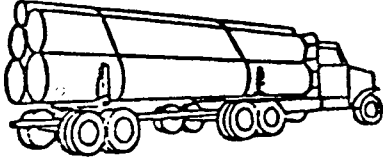
A minimum of two wrappers required.

Three or four log loads more than forty-four feet



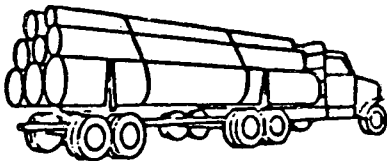
A minimum of three wrappers required.

Five or six log load  
all logs seventeen feet or less



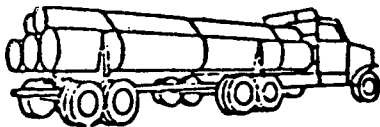
A minimum of two wrappers required.

Seven or more log load  
all logs seventeen feet or less



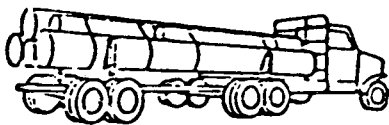
A minimum of two wrappers required.

Five or more log load  
if any logs are more than seventeen feet



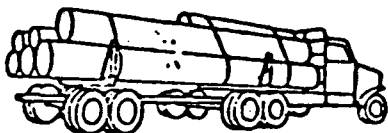
A minimum of three wrappers required.

Outside logs or top logs



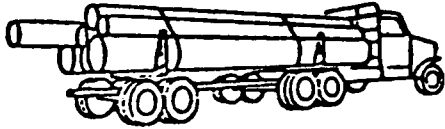
All outside or top logs shall be secured by a binder near but not within 12 inches of each end.

A wrapper shall be near each bunk



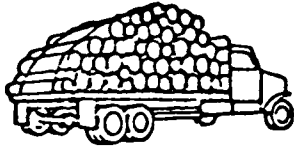
Each load shall be secured by having a wrapper within 6 feet of each bunk except on one log loads.

Proper support for logs



Not more than approximately one-third the weight of any log shall extend beyond the end of the logs or bunk supporting it.

Short logs loaded crosswise



A minimum of two wrappers are required and two chocks or stakes shall be used on the open end of the truck.

NOTE: All loads of logs on logging trucks equipped with chock blocks instead of stakes, shall have at least one additional wrapper over and above the requirements for trucks equipped with stakes, excepting on one and two log loads and trucks with short logs loaded crosswise.

(4) Approved load fastening devices. The following binder devices are hereby approved for purposes of transporting logs as referred to in subsection (3) of this section, provided that they meet a breaking strength of at least fifteen thousand pounds:

- (a) Three-eighths inch high-test steel chain;
- (b) One-half inch diameter steel cable; and
- (c) Steel strapping not less than two inches by fifty one-thousandths inches in dimension.

(5) Anti-spray devices. Every vehicle shall be equipped with a device adequate to effectively reduce the wheel spray or splash of water from the roadway to the rear thereof. All such devices shall be as wide as the tires behind which they are mounted and extend downward at least to the center of the axle.

(6) Qualifications of drivers. Adoption of United States department of transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, part 391, excluding paragraphs (a) and (b) of section 391.2, section 391.69, subparagraph (2) of paragraph 391.71(a), and subparagraph (4) of paragraph 391.71(b); as well as and including all appendices and amendments thereto in effect on ~~((October 20, 1979))~~ January 1, 1983, are adopted and prescribed by the commission to be observed by all common, contract, and registered carriers operating under chapter 81.80 RCW except:

- (a) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.
- (b) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to October 20, 1979.
- (c) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date October 20, 1979.
- (d) Sections 391.21, 391.23, 391.25, 391.27, 391.31, 391.33, 391.35, and 391.37 shall not apply to a single vehicle owner driver when operating under its own permit.

(7) Whenever the designation "director, bureau of motor carrier safety" is used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (6) of this section, such designation for the purpose of this rule shall mean the "Washington utilities and transportation commission", located in Olympia, Washington.

(8) Whenever the term "lightweight vehicle" is used in this section or is used in rules adopted herein by reference, such term shall mean a motor vehicle that:

- (a) Was manufactured on or after January 1, 1972, and has a manufacturer's gross vehicle weight rating of ten thousand pounds or less, in the case of a single vehicle, or a manufacturer's gross combination weight rating of ten thousand pounds or less, in the case of an articulated vehicle; or
- (b) Was manufactured before January 1, 1972, and has a gross weight, including its load and the gross weight of any vehicle being towed by the motor vehicle, of ten thousand pounds or less, except:

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

AMENDATORY SECTION (Amending Order R-171, Cause No. TV-1508, filed 8/28/81)

WAC 480-12-190 HOURS OF SERVICE—ON DUTY—ADOPTION OF FEDERAL SAFETY REGULATIONS. The rules and regulations adopted by the United States department of transportation in Title 49, Code of Federal Regulations, Part 395, as well as and including all appendices and amendments thereto in effect on ~~January ((30, 1978))~~ 1, 1983, are adopted and prescribed by the commission to be observed by all common, contract, and registered carriers operating under chapter 81.80 RCW, except:

(1) A driver who is driving a motor vehicle in the hauling of logs from the point of production or in dump truck operations, exclusively in intrastate commerce, shall not drive nor be permitted to drive more than twelve hours following eight consecutive hours off duty. Such driver shall not be on duty nor be permitted to be on duty more than ninety hours in any period of seven consecutive days.

(2) A driver who is driving a motor vehicle in the hauling of agricultural products from the point of production on farms, exclusively in intrastate commerce, shall not drive nor be permitted to drive more than twelve hours following eight consecutive hours off duty. Such driver shall not be on duty nor be permitted to be on duty more than ninety hours in any period of seven consecutive days.

(3) The rules and regulations governing driver's daily logs prescribed in Title 49, Code of Federal Regulations, section 395.8 and adopted in this section, do not apply to a driver who drives wholly within a radius of one hundred miles of the terminal or garage at which he or she reports for work, if the motor carrier who employs the driver maintains and retains for a period of one year accurate and true records showing the total number of hours of driving time and the time that the driver is on duty each day and the time at which the driver reports for, and is released from, duty each day. A tacograph showing the required driver hourly information may be substituted for the required records.

(4) Whenever the term "lightweight vehicle" is used in Title 49, Code of Federal Regulations, Part 395, adopted in this section, such term shall mean a motor vehicle that:

- (a) Was manufactured on or after January 1, 1972, and has a manufacturer's gross vehicle weight rating of ten thousand pounds or less, in the case of a single vehicle, or a manufacturer's gross combination weight rating of ten thousand pounds or less, in the case of an articulated vehicle; or
- (b) Was manufactured before January 1, 1972, and has a gross weight, including its load and the gross weight of any vehicle being towed by the motor vehicle, of ten thousand pounds or less, except:
- (c) The term "lightweight vehicle" does not include a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with WAC 480-12-195.

**WSR 83-03-055**  
**PROPOSED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Filed January 19, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules concerning Cause No. TG-1686, amending WAC 480-70-330 relating to drivers logs and drivers hours of service of garbage and/or refuse collection companies, and amending WAC 480-70-400 relating to equipment safety of garbage and/or refuse collection companies. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendments on economic values, pursuant to chapter 43.21 RCW and WAC 480-08-050(17);

that the agency will at 8:00 a.m., Wednesday, February 23, 1983, in the Commission's Conference Room, 7th Floor, Highways-Licenses Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 81.77.030.

The specific statute these rules are intended to implement is RCW 81.77.030.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Friday, February 18, 1983.

Dated: January 19, 1983

By: Barry M. Mar  
Secretary

#### STATEMENT OF PURPOSE

In the matter of amending WAC 480-70-330 relating to drivers logs and drivers hours of service, and amending WAC 480-70-400 relating to equipment safety of garbage and/or refuse collection companies.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 81.77.030, which direct that the commission has authority to implement the provisions of chapter 81.77 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to update the present rules which adopt federal DOT standards for drivers hours of service and drivers logs and safety of equipment. The major impact of the updating will be in the area of maintaining and preparing log books. The twelve month retention period will change to six months. The standard log form need not be used, so long as the graph of hours of driving time, on-duty time, and off-duty time is prepared. Shipper document numbers, shipper name, origin and destination points, total miles, and co-driver name need no longer be shown separately. Origin and destination will be required to be shown on the graph, however, as before. On duty time for driving

within the 100 mile radius zone is changed from 12 to 15 consecutive hours. Finally, regarding driver inspection reports, no report need be filed if no defects are found. This is an exception to the federal rule adopted by the commission.

Barry M. Mar, Secretary, Seventh Floor, Highways-Licenses Building, Olympia, Washington, telephone number (206) 753-6420, and members of his staff were responsible for the drafting of the proposed rules and will be responsible for implementation and enforcement of the proposed rules.

The proponent of the rules is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 81.77.030.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule change proposed will affect no economic values, and does not fall within the purview of the Small Business Regulatory Fairness Act, chapter 6, Laws of 1982, inasmuch as the amendments as proposed reduce reporting requirements now mandated under the present rules, thus having a negative cost impact. It still exempts one-truck operators from any reporting requirements, and requires vehicle inspection reports of other carriers only to the extent that defects in equipment are observed. It reduces the amount of information previously required to be reported, and shortens the retention period. Under the present rule, reports are required to be filed by carriers whether or not there are observed equipment defects.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

#### AMENDATORY SECTION (Amending Order R-145, Cause No. TG-1357, filed 8/7/80)

WAC 480-70-330 DRIVERS, HOURS OF WORK. (1) The rules and regulations relating to drivers' logs and drivers' hours of service adopted by the United States department of transportation in Title 49, Code of Federal Regulations, Part 395, as well as and including all appendices and amendments thereto in effect on ~~(the effective date of this rule)~~ January 1, 1983, are adopted and prescribed by the commission to be observed by all garbage and/or refuse collection companies operating under chapter 81.77 RCW.

(2) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator", and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (1) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

#### AMENDATORY SECTION (Amending Order R-183, Cause No. TG-1568, filed 2/10/82)

WAC 480-70-400 EQUIPMENT-SAFETY. (1) All motor vehicles operated under authority of chapter 81.77 RCW, as amended, shall be maintained in a safe and sanitary condition. They shall at all times be subject to inspection by the commission and its duly authorized representatives, inspection stations, or the state patrol, who shall have power to order out of service any vehicle which in their judgment is unsafe or not being operated in compliance with the state laws in regard to equipment or method.

(2) Failure of any certificate holder to obey and comply with all motor vehicle safety laws of the state of Washington shall be grounds for cancellation of certificate.

(3) In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.77 RCW shall comply with the following:

(a) The rules and regulations governing motor carrier safety prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, part 392, excluding section 392.2 and paragraph (c) of section 392.1; part 393, excluding paragraph (b) of section 393.1, and sections 393.16, 393.17, 393.76, 393.100, 393.102, 393.104, 393.106; part 396, except that with respect to section 396.11 not driver vehicle inspection report need be filed if no defects are found, and excluding paragraph (b) of section 396.1; part 397, excluding section 397.21 and paragraph (c) of section 397.1; as well as and including all appendices and amendments thereto in effect on ((the effective date of this rule)) January 1, 1983, are adopted and prescribed by the commission to be observed by all garbage and/or refuse collection companies operating under chapter 81.77 RCW.

(b) The rules and regulations governing hazardous materials prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, parts 170-189, as well as and including all appendices and amendments thereto, in effect on January 1, ~~(+1982))~~ 1983, are adopted and prescribed by the commission to define hazardous materials for motor vehicle transportation purposes, and to state the precautions that must be observed in storage, packaging, loading, and unloading such materials, and in maintaining, placarding, marking, and certifying motor vehicles and equipment used in transporting such materials, and in the maintenance of shipping papers prepared in conjunction with transporting such materials. The rules and regulations adopted and prescribed by this rule shall be observed by all garbage and/or refuse collection companies operating under chapter 81.77 RCW.

(c) In addition to any accident reporting requirement now or hereafter prescribed by the commission, every garbage and/or refuse collection company operating under chapter 81.77 RCW who reports to the United States department of transportation any incidents occurring in this state involving hazardous materials, shall send a copy of any such report to the commission.

(d) Qualifications of drivers. Adoption of United States department of transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, part 391, excluding paragraphs (a) and (b) of section 391.2, section 391.69, subparagraph (2) of paragraph 391.71(a), and subparagraph (4) of paragraph 391.71(b); as well as and including all appendices and amendments thereto, in effect on ((the effective date of this rule)) January 1, 1983, are adopted and prescribed by the commission to be observed by all garbage and/or refuse collection companies operating under chapter 81.77 RCW except:

(i) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.

(ii) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to the effective date of this rule.

(iii) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date the effective date of this rule.

(iv) Section 391.21, 391.23, 391.25, 391.27, 391.31, 391.33, 391.35, and 391.37 shall not apply to a single vehicle owner driver when operating under its own permit.

(e) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator", and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (3) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

(f) Whenever the term "lightweight vehicle" is used in Title 49, Code of Federal Regulations, part 391 and part 395, adopted in this section, such term shall mean a motor vehicle that:

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

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

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

**WSR 83-03-056**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
**(Securities Division)**  
 [Filed January 19, 1983]

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 registration and regulation of camping clubs:

New	WAC 460-90A-010	Camping club contract registration application.
New	WAC 460-90A-020	Camping club contract registration exhibits.
New	WAC 460-90A-030	Signing of application.
New	WAC 460-90A-040	Financial statements.
New	WAC 460-90A-050	Registration not endorsement.
New	WAC 460-90A-060	Notice of termination of sales.
New	WAC 460-90A-070	Receipt of written disclosures.
New	WAC 460-90A-080	Depository.
New	WAC 460-90A-090	Operation of impound condition.
New	WAC 460-90A-100	Release of impounds.
New	WAC 460-90A-105	Fee for impound.
New	WAC 460-90A-110	Renewals.
New	WAC 460-90A-120	Salesperson registration.
New	WAC 460-90A-130	Request for withdrawal of camping club property.
New	WAC 460-90A-140	Advertisements.
New	WAC 460-90A-150	Resale by salesperson for commission of camping club contracts exempt from registration.
Rep	WAC 460-90-100	through 460-90-900.

Written or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

The department reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The department may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

Ralph R. Smith  
 Securities Administrator  
 P.O. Box 648  
 Olympia, WA 98504  
 (206) 753-6928

that the agency will at 10:00 a.m., Tuesday, February 22, 1983, in Conference Room A, 4th Floor, Highways-Licenses Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 1, 1983.

The specific statutes these rules are intended to implement are: WAC 460-90A-010, the authority under which this rule is proposed is RCW 19.105.320(1) and 19.105.530. The specific statute this rule is intended to implement is RCW 19.105.320; WAC 460-90A-020, the authority under which this rule is proposed is RCW 19.105.320(1) and 19.105.530. The specific statutes this rule is intended to implement are RCW 19.105.320, 19.105.340, 19.105.350, 19.105.360 and 19.105.380; WAC 460-90A-030, the authority under which this rule is proposed is RCW 19.105.320(1) and 19.105.530. The specific statute this rule is intended to implement is RCW 19.105.320; WAC 460-90A-040, the authority under which this rule is proposed is RCW 19.105.320(1) and 19.105.530. The specific statutes this rule is intended to implement are RCW 19.105.320, 19.105.340, 19.105.350 and 19.105.380; WAC 460-90A-050, the authority under which this rule is proposed is RCW 19.105.320(1) and 19.105.530. The specific statutes this rule is intended to implement are RCW 19.105.320 and 19.105.530. The specific statute this rule is intended to implement is RCW 19.105.320; WAC 460-90A-070, the authority under which this rule is proposed is RCW 19.105.320(1) and 19.105.530. The specific statutes this rule is intended to implement are RCW 19.105.320, 19.105.340, 19.105.350 and 19.105.370; WAC 460-90A-080, the authority under which this rule is proposed is RCW 19.105.320(1) and 19.105.530. The specific statutes this rule is intended to implement are RCW 19.105.320, 19.105.340, 19.105.350 and 19.105.360; WAC 460-90A-090, the authority under which this rule is proposed is RCW 19.105.320(1) and 19.105.530. The specific statutes this rule is intended to implement are RCW 19.105.320, 19.105.340 and 19.105.350; WAC 460-90A-100, the authority under which this rule is proposed is RCW 19.105.320(1) and 19.105.530. The specific statutes this rule is intended to implement are RCW 19.105.320, 19.105.340, 19.105.350 and 19.105.450; WAC 460-90A-105, the authority under which this rule is proposed is RCW 19.105.320(1) and 19.105.530. The specific statutes this rule is intended to implement are RCW 19.105.320, 19.105.340, 19.105.350 and 19.105.410; WAC 460-90A-110, the authority under which this rule is proposed is RCW 19.105.320(1) and 19.105.530. The specific statutes this rule is intended to implement are RCW 19.105.320, 19.105.330, 19.105.410 and 19.105.420; WAC 460-90A-120, the authority under which this rule is proposed is RCW 19.105.440(3) and 19.105.530. The specific statutes this rule is intended to implement are RCW 19.105.410 and 19.105.440; WAC 460-90A-130, the authority under which this rule is proposed is RCW 19.105.530. The specific statute this rule is intended to implement is RCW 19.105.380(9); WAC 460-90A-140, the authority under which this rule is proposed is RCW 19.105.320(1) and 19.105.530. The specific statutes this rule is intended to implement are RCW 19.105.320, 19.105.360, 19.105.380, 19.105.480 and 19.105.500; and WAC 460-90A-150, the authority

under which this rule is proposed is RCW 19.105.440(3) and 19.105.530. The specific statutes this rule is intended to implement are RCW 19.105.320(2)(a), 19.105.440, 19.105.470, 19.105.480 and 19.105.500. The authority under which the repeal of WAC 460-90-100 through 460-90-900 are proposed is RCW 19.105.530, which directs that the director of the Department of Licensing may repeal rules and forms when necessary to carry out the provisions of that chapter.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 22, 1983.

This notice is connected to and continues the matter in Notice No. WSR 82-24-090 filed with the code reviser's office on December 1, 1982.

Dated: January 18, 1983

By: John Gonzalez

Director

#### STATEMENT OF PURPOSE

Title and Number of Rules: Same as shown above.

Statutory Authority for the Rules and Specific Statutes that the Rules are Intended to Implement: Same as shown above.

Summary of the Rules: Chapter 460-90A WAC Camping Clubs, adopting WAC 460-90A-010, providing for the application for registration of camping club contracts on a form prescribed by the administrator accompanied by the filing fee; WAC 460-90A-020, requiring organizational information, financial statements, copy of the written disclosures, statement on number of camping club contracts, advertisements, camping club contract and other information in the form of exhibits; WAC 460-90A-030, requiring the application to be signed by the camping club operator or officer or person holding power of attorney; WAC 460-90A-040, requiring filing of audited financial statements for camping club operators and associations, including balance sheet, profit and loss statements for three fiscal years and providing for waiver by the director in extraordinary cases; WAC 460-90A-050, providing that the camping club contract or written disclosures state that the director has not approved or recommended them; WAC 460-90A-060, requiring the camping club operator to file notice of termination of offers and sales of camping club contracts; WAC 460-90A-070, requiring the camping club operator or salesperson to obtain a signed statement of the purchaser that the purchaser has received the written disclosures; WAC 460-90A-080, requiring funds under impound to be placed in an approved trust account; WAC 460-90A-090, requiring all funds to be placed with the depository within 48 hours in the impound account subject to further action by the director; WAC 460-90A-100, stating the grounds and procedures for release of impounded funds; WAC 460-90A-105, advising that a fee of \$100.00 is required in addition to the registration fee for establishment of an impound or reserve; WAC 460-90A-110, providing the information procedures and fees for renewal of the camping club contract registration; WAC 460-90A-120, providing application for registration of salespersons as prescribed by the administrator, for amendment of the application,

and notice of employment and termination thereof by a camping club operator; WAC 460-90A-130, setting forth the procedures for the request of a camping club operator for the withdrawal of a camping club property including filing a request 90 days before proposed withdrawal and stating the reason therefore; WAC 460-90A-140, setting forth prohibitions on the use of camping club advertisements, regulating gifts, prizes and other items of value advertised or given to foster camping club sales, and requiring certain disclosures and performance by camping club operators or salespersons; WAC 460-90A-150, setting forth that salespersons who sell more than three camping club contracts in twelve months under the exemption of RCW 19.105.320(2)(a) must give general and specific disclosures to prospective purchasers and file with the department ten days prior to offering camping club contracts; repealing the existing camping club rules WAC 460-90-100 through 460-90-900 which no longer conforms to the amendments of chapter 69, Laws of 1982.

**Reasons Supporting the Proposed Rules:** The amendments of chapter 69, Laws of 1982, to the Camping Club Act, chapter 19.105 RCW, substantially changed the definitions and operative sections of the act so as to require repromulgation of camping club rules. For the most part the proposed rules follow either the amendments found in chapter 69, Laws of 1982, or the existing rules of chapter 460-90 WAC.

**The Department of Licensing Personnel Responsible for the Drafting, Implementation and Enforcement of the Rule:** Joan Baird, Assistant Director, Professional Licensing, 3rd Floor, Highways-Licenses Building, 234-1369 Scan, 753-1369; and Ralph R. Smith, Administrator, Securities Division, 6th Floor, Highways-Licenses Building, 234-6928 Scan, 753-6928.

**Name of Organization Proposing Rules:** Department of Licensing.

**Department Comments:** These rules are responsive to HB 1017, chapter 69, Laws of 1982, and drafts of the rules have been sent for comment to all camping clubs registered under chapter 19.105 RCW.

These rules are not necessary to comply with any federal law or federal or state court decision.

**Any Other Information that may be of Assistance in Identifying the Rule or its Purpose:** None.

A small business economic impact statement does not appear to be required because the accompanying rules do not have an economic impact on more than twenty percent of all industries, or more than ten percent of any one industry. These proposed rules in large part conform to the requirements of the amended statutes or recodify the existing rules. Any economic impact that the rules may have is intended to fall equally on all camping clubs.

#### NEW SECTION

**WAC 460-90A-010 CAMPING CLUB CONTRACT REGISTRATION APPLICATION.** Application for the registration to offer or sell camping club contracts shall be submitted with a facing page in the form prescribed by the Administrator of Securities and contain the information specified therein. The application for registration must be accompanied by the fee made payable by check to the Treasurer of the State of Washington.

#### NEW SECTION

**WAC 460-90A-020 CAMPING CLUB CONTRACT REGISTRATION EXHIBITS.** An application for the registration to offer or sell camping club contracts must include the following information, which shall be filed as exhibits numbered and captioned as follows (any item which is inapplicable shall be listed by number and followed by the indication that it is inapplicable):

##### EXHIBIT NO. 1

Name and address of the camping club operator and any other material affiliate of the camping club operator.

##### EXHIBIT NO. 2

Provide a copy of the articles of incorporation, partnership agreement, or joint venture agreement, and the camping club association by-laws as contemplated or currently in effect.

##### EXHIBIT NO. 3

Provide a list of all officers and directors or persons occupying a similar status of the camping club operator including their names, addresses, and occupations during the last five years, and provide a list of material affiliates including the names and addresses of officers and directors.

##### EXHIBIT NO. 4

Has the camping club operator or any officer, director or person occupying a similar status or other affiliate of the camping club operator been within the last five years:

(a) convicted of any misdemeanor or felony involving theft, fraud, or dishonesty:  Yes  No

(b) enjoined from or had any civil penalty assessed for or been found to have engaged in any violation of any act designed to protect consumers:  Yes  No

With respect to each affirmative answer, state the court or issuer of the order, date of conviction or judgment, any penalty imposed or damages assessed.

##### EXHIBIT NO. 5

Attach the financial statements of the camping club operator as audited by an independent certified public accountant as set forth in WAC 460-90A-040.

If a camping club association is in effect attach the financial statements of the camping club association as audited by an independent certified public accountant as set forth in WAC 460-90A-040.

##### EXHIBIT NO. 6

Attach a copy of the written disclosures to be provided prospective purchasers of camping club contracts. The written disclosures shall accurately and clearly communicate the following required information:

(i) The name and address of the camping club operator and any material affiliate;

(ii) A brief description of the camping club operator's experience in the camping club business;

(iii) A brief description of the nature of the purchaser's title to, interest in, or right or license to use the camping club property or facilities and, if the purchaser will obtain title to specified real property, the legal description of the property;

(iv) The location and a brief description of the significant facilities and recreation services then available for use by purchasers and those which are represented to purchasers as being planned, together with a brief description of any significant facilities or recreation services that are or will be available to nonpurchasers and the price to nonpurchasers therefor;

(v) A brief description of the camping club's ownership of or other right to use the camping club properties or facilities represented to be available for use by purchasers, together with a brief description of any material encumbrance, the duration of any lease, real estate contract, license, franchise, reciprocal agreement, or other agreement entitling the camping club operator to use the property, and any material provisions of the agreements which restrict a purchaser's use of the property;

(vi) A brief statement or summary of what required material land use permits have not been obtained for each camping club property or facility represented to purchasers as planned;

(vii) A summary or copy of the articles, by-laws, rules, restrictions, or covenants regulating the purchaser's use of each property, the facilities located on each property, and any recreation services provided, including a statement of whether and how the articles, by-laws, rules, restrictions, or covenants may be changed;

(viii) A brief description of all payments of a purchaser under a camping club contract, including initial fees and any further fees, charges, or assessments, together with any provisions for changing the payments;



(ix) A description of any restraints on the transfer of camping club contracts;

(x) A brief description of the policies relating to the availability of camping sites and whether reservations are required;

(xi) A brief description of the camping club operator's right to change or withdraw from use all or a portion of the camping club properties or facilities and the extent to which the operator is obligated to replace camping club facilities or properties withdrawn;

(xii) A brief description of any grounds for forfeiture of a purchaser's camping club contract; and

(xiii) A copy of the camping club contract form.

If the written disclosures do not follow the format above, the applicant shall submit as a part of Exhibit No. 6 a cross reference sheet indicating where each of the disclosures are found.

#### EXHIBIT NO. 7

(a) A statement of the total number of camping club contracts in effect on the date of application, including those that are sold outside the State of Washington;

(b) A statement of the total number of camping club contracts in effect on the date of application in the State of Washington.

(c) A statement of the total number of camping club contracts intended to be sold outside the State of Washington.

(d) A statement of the total number of camping club contracts intended to be sold in the State of Washington.

(e) A statement of commitment that the total number in (d) will not be exceeded unless disclosed by post-effective amendment to the registration.

(f) If camping club contracts are offered or sold with different privileges or durations, a statement setting forth each type of camping club contract and the approximate number of each type to be sold.

#### EXHIBIT NO. 8

Include copies of forms of all advertisements currently intended to be used in connection with the offer or sale of camping club contracts within the State of Washington.

#### EXHIBIT NO. 9

A statement setting forth each type of camping club contract offered and the purchase price of each type and if the price varies, the reason for the variance.

#### EXHIBIT NO. 10

If purchasers will obtain title to real property, a statement that the camping club operator has contacted the Department of Housing and Urban Development for the purpose of registering its offering or obtaining an exemption from registration. A copy of the letter of effectiveness or a letter of exemption from registration from the Department of Housing and Urban Development must be received by the Securities Division prior to effectiveness of registration.

### NEW SECTION

**WAC 460-90A-030 SIGNING OF APPLICATION.** An application for registration of camping club contracts shall be signed by the camping club operator or an officer or general partner of the camping club operator. However, it may be signed by another person holding a power of attorney for such purposes from the applicant and, if signed on behalf of the applicant pursuant to such power of attorney, should include as an additional exhibit a copy of said power of attorney or a copy of the corporate resolution authorizing the person signing to act on behalf of the applicant.

### NEW SECTION

**WAC 460-90A-040 FINANCIAL STATEMENTS:** (1) The camping club operator must file the following financial statements as set forth in this WAC 460-90A-040(2). If there is a camping club association in effect, the financial statements for the association as set forth in this WAC 460-90A-040(2) shall also be filed. Financial statements required to be filed in connection with an application for registration or renewal of camping club contracts shall be prepared in accordance with generally accepted accounting principles. Such financial statements shall be audited by an independent certified public accountant.

(2) The financial statements required to be filed by a camping club operator or camping club association shall refer to a balance sheet as of a date within 120 days prior to the date of the application, and profit and loss statements for each of the three fiscal years preceding the date of the balance sheet (or from inception, if the camping club operator has conducted business for less than three years) and for the period, if any, between the close of the last of such fiscal years and the

date of the balance sheet. The balance sheet as of a date within 120 days prior to the date of the application need not be audited. However, if this balance sheet is not audited, there shall be filed in addition an audited balance sheet as of the end of the camping club operator's last fiscal year unless such last fiscal year ended within 120 days of the date of the application in which case there shall be filed an audited balance sheet as of the end of the camping club operator's next preceding fiscal year. The profit and loss statements shall be audited up to the date of the last audited balance sheet filed, if any.

(3) In extraordinary cases, the Director may waive the requirement for audited statements if the statements have been prepared by an independent certified public accountant and the Director is otherwise satisfied as to the reliability of such statements and as to the ability of the camping club operator or camping club association to perform future commitments. Such waiver will ordinarily be granted only upon a showing that the camping club operator has not had prior audited statements; that the close of the most recent or current fiscal year is so near the time of filing of the application that it would be unreasonably costly or impractical to provide audited statements with the application; or that audited statements will be furnished within a reasonable time after the end of the most recent or current fiscal year. In such cases the Director may impose an impound condition and such other conditions and restrictions as in his discretion may be appropriate.

(4) In connection with the financial statements, the camping club operator shall file with the director a statement of each property owned, leased or being acquired together with the terms of payment, conditions of ownership and material encumbrances on the property. If payment is in default on any property, the camping club operator shall set forth the details and reasons therefor. This statement shall be supplemented during the period of any registration upon the purchase, sale, lease, or encumbrance of any property or any default related thereto.

### NEW SECTION

**WAC 460-90A-050 REGISTRATION NOT ENDORSEMENT.** The camping club contract or the written disclosures shall contain a statement that registration does not constitute a finding by the Director that any document filed under this act is true, complete and not misleading, nor does any such fact mean that the Director has passed in any way upon the merits or qualifications of, or recommended or given approval to any camping club operator for such camping club.

### NEW SECTION

**WAC 460-90A-060 NOTICE OF TERMINATION OF SALES.** The camping club operator shall file with the Director a statement setting forth that he or she has terminated offers and sales of camping club contracts in the State of Washington.

### NEW SECTION

**WAC 460-90A-070 RECEIPT OF WRITTEN DISCLOSURES.** The camping club operator or salesperson shall obtain from each purchaser of a camping club contract a signed statement that he or she has received the written disclosures. The camping club operator or salesperson shall retain each statement for a period of three years from the date of sale.

### NEW SECTION

**WAC 460-90A-080 DEPOSITORY.** Funds subject to an impound condition shall be placed in a separate trust account with a bank or depository institution approved by the Director. A written consent of the depository to act in such capacity shall be filed with the Director.

### NEW SECTION

**WAC 460-90A-090 OPERATION OF IMPOUND CONDITION.** When an impound condition is imposed in connection with the registration of camping club contracts, 100% of the proceeds and all other funds paid by any purchaser after the impound condition is imposed shall, within 48 hours or the next banking day, whichever is later, of receipt of such funds be placed with a depository until the Director takes further action pursuant to WAC 460-90A-100.

NEW SECTION

**WAC 460-90A-100 RELEASE OF IMPOUNDS.** The Director or Administrator will authorize the depository to release to the camping club operator such amounts of the impounded funds applicable to a specified purpose such as selling costs, the purchase of realty or the construction of the improvement upon a showing that the camping club operator can satisfy his obligations under the camping club contract to furnish purchasers the services tendered or that for other reasons the impound is no longer required for the protection of the purchasers. An application for an order of the Director or Administrator authorizing the release of the impound to the camping club operator shall be verified and shall contain the following:

(1) A statement of the camping club operator that all required proceeds from the sale of camping club have been placed with the depository in accordance with the terms and conditions of the impound agreement.

(2) A statement of the depository signed by an appropriate officer setting forth the aggregate amount of funds placed with the depository.

(3) The names of each camping club contract purchaser and the amount held in the impound for the account of each purchaser.

(4) Such other information as the Director may request in a particular case.

NEW SECTION

**WAC 460-90A-105 FEE FOR IMPOUND.** The Director shall impose an additional fee of \$100.00 for each impound or reserve required to be set up pursuant to RCW 19.105.340 and 19.105.350.

NEW SECTION

**WAC 460-90A-110 RENEWALS.** (1) Pursuant to RCW 19.105.330, application for annual renewal shall be made no later than 15 full business days prior to the expiration date of the camping club contract registration, unless the camping club operator is otherwise notified.

(2) Renewals should be made on the application form set forth in WAC 460-90A-010 and -020 and shall be accompanied by the following:

(a) A copy of an updated written disclosure which should reflect any and all changes appropriate to make full disclosure to prospective purchasers. The written disclosures shall be appropriately marked and underscored to reflect all changes, additions and deletions.

(b) A copy of the camping club contract appropriately marked and underscored to reflect all changes, conditions and deletions.

(c) Financial statements prepared in accordance with WAC 460-90A-040.

(d) An update of any and all exhibits required by the application for registration last filed with the Director pursuant to WAC 460-90A-020. If no changes have occurred in any particular exhibit, include a signed statement that no change has occurred in that particular exhibit.

(e) Payment of a fee pursuant to RCW 19.105.410.

NEW SECTION

**WAC 460-90A-120 SALESPERSON REGISTRATION.** (1) Each applicant for registration as a camping club contract salesperson shall register on a form prescribed by the Administrator of Securities and pay a filing fee.

(2) Each applicant or registrant shall, upon any material change in the information contained in the applicant's or registrant's application, promptly file an amendment to such application setting forth the information which has changed.

(3) Each camping club operator shall notify the Administrator of Securities on a prescribed form of the employment or termination of any camping club contract salesperson in the state within ten days of employment or termination.

(4) Registration as a camping club salesperson shall be renewed annually by the filing of a form prescribed by the Director and payment of a fee pursuant to RCW 19.105.410.

NEW SECTION

**WAC 460-90A-130 REQUEST FOR WITHDRAWAL OF CAMPING CLUB PROPERTY.** A camping club operator may request an order from the Director for authority to withdraw any substantial camping or recreation portion of any camping club property

devoted to camping or recreational activities pursuant to RCW 19.105.380(9)(e) by filing with the Director a request 90 days before the intended withdrawal date or such lesser time as the Director may allow identifying the portion of the property to be withdrawn and stating the reasons for such withdrawal accompanied by copies of any materials or data supporting such reasons or the necessity for such withdrawal. The Director may issue an order approving the request to withdraw properties if the Director finds that withdrawal is not inconsistent with the protection of purchasers or owners of camping club contracts.

NEW SECTION

**WAC 460-90A-140 ADVERTISEMENTS.** (1) No camping club operator or salesperson shall use advertisements or sales promotion literature that are deceptive, false or misleading.

(2) Advertisements or sales promotion literature that offer any item (for the purposes of this WAC 460-90A-140 "item" is defined as any gift, prize or item of value.) as an inducement to the recipient to buy a camping club membership, visit a camping club property, complete a tour of a camping club property, receive a sales presentation, or contact salespersons shall be subject to the following provisions:

(a) The name of the camping club operator offering such item shall be clearly disclosed;

(b) No item may be labeled "free" or a "gift" if the recipient is required to purchase a camping club contract or to give or promise to give in exchange for the item any sum of money or its equivalent;

(c) The advertisement or sales promotion literature shall identify each item and its retail fair market value. To determine the retail fair market value, the following methods may be used: (i) manufacturer's suggested retail price, if the camping club operator has a reasonable basis for belief that the manufacturer's suggested retail price approximates the retail value of the item; (ii) the approximate retail sales price of the item in the trade area in which the offer is made; or (iii) manufacturer's suggested retail price or approximate retail sales price in the trade area of similar items of comparable quality if the item is not available in the trade area in which the offer is made;

(d) If the item is one or more of a larger group, and if offered or given on a random basis, the advertisement or sales promotion literature must disclose the actual odds of receiving each item based upon the initial odds and must be revised to reflect actual current odds at the beginning of each month of use of the free promotion if the odds change; if not offered or given on a random basis, the method of selection used must be disclosed. No promotion shall be used which is in violation of Washington state or federal laws;

(e) If receipt of the advertised item is contingent upon certain restrictions or qualifications which the recipient must meet, then a clear and complete disclosure of those restrictions must be made in the offer. Restrictions that must be disclosed include, but are not limited to the following:

(i) The deadline by which the recipient must buy a camping club membership, visit a camping club property, complete a tour of a camping club property, receive a sales presentation, or contact a salesperson in order to receive an item, if any such deadline exists;

(ii) The days and hours during which visits may be made, tours may be taken, or sales presentations received and the approximate length in hours of such visits, tours or sales presentations if any visit, tour, or sales presentation is necessary in order for the recipient to receive the item; and

(iii) Any requirement such as age, marital status, financial qualifications, or that both husband and wife must be present.

(f) Any person who responds to an advertisement or sales promotion in the manner specified, who performs all stated requirements and who meets the qualifications disclosed shall be entitled to receive promptly the item offered. If the camping club operator cannot provide the item because of supply or quality problems not reasonably foreseen or controllable by the operator, the operator shall provide, at the operator's option, a raincheck for the item offered or its cash equivalent, or shall provide a substitute item of equivalent or greater retail value or a raincheck for such substitute item. In case a raincheck is provided, the camping club operator shall, within a reasonable time, deliver the item or its cash equivalent to the recipient's address without additional cost or requirement to the recipient. No camping club operator or salesperson shall make any offer of an item when the operator or salesperson knows or has reason to know that the item is not readily available;

(g) Any restriction or requirement that time, money or effort must be expended by the recipient of an item in order for the recipient to use the item must be disclosed in the advertisement or sales promotion

literature. Examples of such restrictions or requirements include any items that require assembly by the recipient, travel or other entertainment gifts or prizes for which there are limitations on the dates or times when the recipient may use the item, or which require non-refundable reservation deposits or additional travel costs in order for the recipient to use the travel or other entertainment gift or prize.

(3) Nothing in subsection (2) of this WAC 460-90A-140 shall affect the remedies of the Administrator or any person responding to advertisements or sales promotions if such advertisements or promotions are deceptive, false or misleading or otherwise in violation of chapter 19.105 RCW.

#### NEW SECTION

WAC 460-90A-150 RESALE BY SALESPERSON FOR COMMISSION OF CAMPING CLUB CONTRACTS EXEMPT FROM REGISTRATION. (1) Every camping club salesperson who intends to offer or sell more than three camping club contracts in any consecutive twelve-month period for a sales commission or similar payment pursuant to the exemption of RCW 19.105.320(2)(a) shall provide to the prospective purchaser the following:

(a) General written disclosures regarding the camping club involved, including:

- (i) The name and address of the camping club operator;
- (ii) A brief description of the camping club;
- (iii) A brief description of the nature of the purchaser's title to, interest in, or right or license to use the camping club property or facilities and, if the purchaser will obtain title to specified real property, the legal description of the property;
- (iv) The location and a brief description of the significant facilities and recreation services then available for use by purchasers, together with a brief description of any significant facilities or recreation services that are or will be available to nonpurchasers and the price to nonpurchasers therefor;
- (v) A brief description of the camping club's ownership of or other right to use the camping club properties or facilities available for use by nonpurchasers.

(b) Special disclosures regarding the camping club contract to be sold or transferred, including:

- (i) The original camping club contract;
- (ii) A brief description of all payments to be made by the purchaser under the camping club contract, including transfer fees and any further fees, charges, or assessments, together with any provisions for changing the payments and the changes in these payments;
- (iii) A summary or copy of the articles, by-laws, rules, restrictions, or covenants regulating the purchaser's use of each property, the facilities located on each property, and any recreation services provided, including a statement of whether and how the articles, by-laws, rules, restrictions, or covenants may be changed, and the changes in these;
- (iv) A description of any restraints on the transfer of the camping club contract;
- (v) A brief description of the policies relating to the availability of camping sites and whether reservations are required;
- (vi) A brief description of the camping club operator's right to change or withdraw from use all or a portion of the camping club properties or facilities and the extent to which the operator is obligated to replace camping club facilities or properties withdrawn;
- (vii) A brief description of any grounds for forfeiture of a purchaser's camping club contract;

(c) A written explanation of the special risks associated with purchasing a camping club contract from someone other than the camping club operator, including, if applicable:

- (i) The risk of changes in the articles, by-laws, rules, restrictions or covenants;
- (ii) The risk that the camping club operator will not cooperate in the transfer of the camping club contract;
- (iii) The risk that the seller may not transfer clear title to the camping club contract;
- (iv) The risk that the seller's rights in the camping club contract are in default or have been forfeited;
- (v) The risk associated with purchasing a camping club contract without viewing the camping club properties and facilities;
- (vi) The risk that fees, charges or assessments required of the purchaser have increased;
- (vii) The risk that camping club properties or facilities have been withdrawn since original purchase;
- (viii) Any other material risk known to the seller or salesperson that may be involved in the sale or transfer of the camping club contract:

(d) The following statement as a condition of the transfer of the camping club contract:

"Purchaser's right to cancel: You may cancel this contract of transfer without any cancellation fee or other penalty by sending notice of cancellation by certified mail, return receipt requested, to \_\_\_\_\_ (insert name of camping club salesperson). The notice must be postmarked by midnight of the third business day following the day on which the contracts of transfer is signed. In computing the three business days, the day on which the contract of transfer is signed shall not be included as a "business day", nor shall Saturday, Sunday, or legal holidays be included."

(2) Every camping club salesperson who intends to offer or sell more than three camping club contracts in any consecutive twelve-month period under the exemption of RCW 19.105.320(2)(a) shall file notice of sale with the director ten days prior to any offer (or sale) on a form prescribed by the director which shall include the information in this WAC 460-90A-105(a)(a), (b), (c) and (d).

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

#### REPEALER

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

- (1) 460-90-100 CAMPING CLUB REGISTRATION APPLICATIONS.
- (2) 460-90-110 CAMPING CLUB REGISTRATION EXHIBITS.
- (3) 460-90-120 SIGNING OF APPLICATION.
- (4) 460-90-122 CONSENT TO SERVICE PROCESS.
- (5) 460-90-125 AVAILABILITY OF CAMPSITES.
- (6) 460-90-130 MEMBERSHIP CONTRACT.
- (7) 460-90-140 FINANCIAL STATEMENTS.
- (8) 460-90-150 MANAGEMENT FEES.
- (9) 460-90-160 CERTIFICATES OF LOCAL AUTHORITIES.
- (10) 460-90-170 CHANGE OF DEVELOPMENT PLANS.
- (11) 460-90-180 AMENDMENTS.
- (12) 460-90-190 APPROVAL NOT ENDORSEMENT.
- (13) 460-90-200 NOTICE OF TERMINATION OF SALE.
- (14) 460-90-300 RECEIPT OF OFFERING CIRCULAR.
- (15) 460-90-310 OFFERING CIRCULAR.
- (16) 460-90-320 REQUIRED INFORMATION IN OFFERING CIRCULAR.
- (17) 460-90-330 SEQUENCE OF PRESENTATION.
- (18) 460-90-400 IMPOSITION OF IMPOUND.
- (19) 460-90-410 SPECIAL IMPOUND.
- (20) 460-90-420 PRESUMPTION OF IMPOUND.
- (21) 460-90-430 DEPOSITARY.
- (22) 460-90-440 PURCHASE RECEIPTS.
- (23) 460-90-450 OPERATION OF IMPOUND CONDITION.
- (24) 460-90-460 RELEASE OF A PORTION OF THE IMPOUND.
- (25) 460-90-470 COST OF SELLING.
- (26) 460-90-480 RELEASE OF IMPOUNDS.
- (27) 460-90-490 FEE FOR IMPOUND.
- (28) 460-90-500 ADVERTISING.
- (29) 460-90-510 RENEWALS.
- (30) 460-90-900 APPLICATION FORM.

**WSR 83-03-057**  
**EMERGENCY RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**

[Order 190—Filed January 19, 1983]

Be it resolved by the Washington State Game Commission, acting at Olympia, by conference call, that it does adopt the annexed rules relating to closure of Chehalis River systems and marine areas 2A, 2B and 2D

(Grays Harbor) to the taking of steelhead trout by indians, WAC 232-32-147.

We, the Washington State Game Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is data gathered by the Department of Game from information provided by fish buyers reporting sales of steelhead harvested by Indian fishermen from the Chehalis River system and marine areas 2A, 2B and 2D (Grays Harbor) (pursuant to the reporting system approved by the United States District Court in United States vs. Washington) indicates that the Indian share of harvestable steelhead for these areas has been reached or will have been reached on the effective date of this order. Therefore, it is necessary to close the Chehalis River systems and marine areas 2A, 2B and 2D (Grays Harbor) to assure spawning escapement and to assure that non-Indian sport fishermen can take their share.

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

This rule is promulgated pursuant to RCW 77.12.150 and 77.12.040 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 19, 1983.

By Archie U. Mills  
Chairman, Game Commission

NEW SECTION

*WAC 232-32-147 CLOSURE OF CHEHALIS RIVER SYSTEMS AND MARINE AREAS 2A, 2B AND 2D (GRAYS HARBOR) TO THE TAKING OF STEELHEAD TROUT BY INDIANS. Effective 6:00 p.m., January 20, 1983, it is unlawful for Indians to take, fish for or possess steelhead trout in or from the Chehalis River Systems and Marine Areas 2A, 2B, and 2D (Grays Harbor).*

**WSR 83-03-058**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Filed January 19, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning horticultural inspection fees, chapter 16-400 WAC;

that the agency will at 10:00 a.m., Wednesday, February 23, 1983, in the Benton County PUD Auditorium,

Kennewick, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 1, 1983.

The authority under which these rules are proposed is chapter 15.17 RCW.

The specific statute these rules are intended to implement is RCW 15.17.140 and 15.17.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 23, 1983.

Dated: January 19, 1983  
By: Michael V. Schwisow  
Deputy Director

**STATEMENT OF PURPOSE**

Title: Horticulture Inspection Fees.

Statutory Authority: Chapter 15.17 RCW.

Supplemental material amending rates of inspection fees for fruits and vegetables.

These rules establish fee rates for inspections.

Agency Personnel Responsible: James R. Archer, Assistant Supervisor, Washington State Department of Agriculture, Plant Industry Division, Room 406, General Administration Building, AX-41, 753-5052.

These changes were requested by the industry. Washington Asparagus Growers Association, proponents.

Agency Comments: The order will amend the existing fee schedule to include asparagus in the shipping permit rate.

This rule has not become necessary as a result of any federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined that there would be no economic impact upon small businesses in the state of Washington by the adoption of these amendments or new rules.

AMENDATORY SECTION (Amending Order 1578, filed 5/17/78)

WAC 16-400-150 SHIPPING PERMITS. By law, each shipment of apples, apricots, Italian prunes, peaches, pears, ((and)) certified seed potatoes, and asparagus must be covered by a shipping permit for grade; and cherries for freedom from cherry fruit fly larvae, whether certified or not. Shipments to processors of apricots, cherries, peaches, ((and)) prunes, and asparagus do not require a shipping permit. If the lot has been certified for each shipment by car or truck, a permit will be issued without additional charge. If the lot has not been certified, the basis of charges shall be as follows:

- (1) Apples, pears, and soft fruits (carlots and trucklots).
  - (a) ((80 or less containers of 28 lbs to 65 lbs, 5¢ per container. 81 and over, the shipping permit shall be 2/3 the fee for grade and condition certificate with a minimum fee of \$4.00:
    - (i) 17 to 27 lbs—two containers—5¢ up to the \$4.00 minimum. 16 lbs and under—three containers—5¢ up to the \$4.00 minimum: Shipping permit fees:
      - (i) Containers of twenty-eight pounds to sixty-five pounds, eighty or less . . . per container . . . . . \$0.05
      - (ii) Containers of twenty-eight pounds to sixty-five pounds, eighty-one and over . . . . . two-thirds the fee for grade and condition certificate. Minimum fee . . . . . \$4.00
      - (iii) Seventeen to twenty-seven pounds—two containers. . . up to minimum . . . . . \$0.05
      - (Minimum . . . . . \$4.00)
      - (iv) Sixteen pounds and under—three containers..up to mimum \$ 0.05.
      - (Minimum fee . . . . . \$4.00)
    - (b) Permit to ship apples and/or pears to a by-products plant outside the district ((=)) . . . . . \$2.00

(Permits to by-product plants are for transportation only in accordance with state law.)

(2) Vegetables.

- (a) Potatoes — ~~((minimum charge))~~ per permit, ~~((2/3))~~ two-thirds of certificate charge ~~((or))~~. Minimum fee . . . \$4.00 ~~((Minimum))~~
- (b) Processing plant or livestock feed shipments — for transportation only, in accordance with state law. per load . . . . . \$2.00 ~~((per load))~~  
OR where point of origin or out-of-district inspection required. per ton . . . . . \$ 0.50 ~~((per ton))~~
- (c) Certified seed potatoes. per cwt . . . . . ((4¢))  
\$0.04

~~((PROVIDED, That))~~ No charge shall be made for shipping permits when seed potatoes are grown, graded and shipped in full compliance with the rules for the certification of seed potatoes. ~~((Shipments not in compliance with the above shall be charged in accordance with WAC 16-400-150(2)(c).))~~

(d) Asparagus

- (i) Containers of twenty-six to thirty-five pounds, eighty or less per container . . . . . \$0.05
- (ii) Containers of twenty-six to thirty-five pounds, eighty-one and over two-thirds the fee for grade and condition certificate. Minimum fee . . . . . \$4.00
- (iii) Twelve to twenty-five pounds — two containers . . up to minimum . . . . . \$0.05  
(Minimum fee . . . . . \$4.00)
- (3) Container weight, or checkloading certificates ~~((shall be 1 cent))~~ per container . . . . . \$0.01  
~~((, except that the minimum charge shall be))~~ (Minimum fee \$12.00)

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

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

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

REPEALER

The following sections of the Washington Administration Code are repealed:

- (1) WAC 16-400-001 PROMULGATION
- (2) WAC 16-400-003 PROMULGATION
- (3) WAC 16-400-004 PROMULGATION
- (4) WAC 16-400-005 PROMULGATION
- (5) WAC 16-400-006 PROMULGATION
- (6) WAC 16-400-00601 PROMULGATION

Reviser's note: The typographical error in the above repealer occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

**WSR 83-03-059**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed January 19, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning asparagus, chapter 16-409 WAC;

that the agency will at 10:00 a.m., Wednesday, February 23, 1983, in the Benton County PUD Auditorium, Kennewick, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 1, 1983.

The authority under which these rules are proposed is chapter 15.17 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 23, 1983.

Dated: January 19, 1983  
 By: Michael V. Schwisow  
 Deputy Director

STATEMENT OF PURPOSE

Title: Grades and Standards for Fresh Asparagus.  
Statutory Authority: Chapter 15.17 RCW.

Supplemental material amending grades and standards for fresh asparagus for consumption.

These rules define grades and tolerances for fresh asparagus in this state.

Agency Personnel Responsible: James R. Archer, Assistant Supervisor, Washington State Department of Agriculture, Plant Industry Division, Room 406, General Administration Building, AX-41, 753-5052.

These changes were requested by the industry. Washington Asparagus Growers Association, proponents.

Agency Comments: The order will amend and update existing grades and standards to reflect current marketing practices of the industry.

This rule has not become necessary as a result of any federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined that there would be no economic impact upon small businesses in the state of Washington by the adoption of these amendments or new rules.

NEW SECTION

WAC 16-409-015 DEFINITIONS. (1) "Clean" means that the asparagus is free from excessive dirt, dust, residue or foreign matter.

(2) "Fresh" means that the stalk is not limp or flabby.

(3) "Diameter" means the greatest thickness of the stalk measured at a point one inch from the butt.

(4) "Fairly uniform in length" means that stalks within a container shall vary not more than one and one-half inches in length.

(5) "White" means that portion of the stalk near the butt, which is white in color or light purple over white. White is measured from the extreme tip of the butt to the point of beginning of green color.

(6) "Green" means that portion of the stalk having green color, purplish-green or greenish-purple color, and purple at the tip.

(7) "Damage" means any defect, or combination of defects, which materially affects the appearance, or the edible or marketing quality of the stalk.

(8) "Serious damage" means any defect, or combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the stalk.

(9) "Badly misshapen" means the stalk is so badly flattened, crooked or otherwise so badly deformed that its appearance is seriously affected.

(10) "Fresh asparagus" as used in the standards means a lot of asparagus marketed for the purpose of fresh consumption.

(11) "Lot" means any number of containers of fresh asparagus being offered as a unit for the purpose of inspection, sale, or shipment.

(12) "Shipment" means any number of containers of fresh asparagus transported on a single conveyance from the area of production.

(13) "Field container" means an open lug made of wood, plastic, or similar material and used repetitively for field harvesting.

AMENDATORY SECTION (Amending Order No. 795, effective 2/16/60)

WAC 16-409-020 WASHINGTON STANDARDS—WASHINGTON NO. 1 GRADE (~~TOLERANCES FOR DIAMETER AND LENGTH~~).

(1) (~~Defined:~~) Washington no. 1 shall consist of: (a) clean, fresh stalks of asparagus, fairly uniform in length, which are not wilted or crooked; which (~~do not show broken or spreading tips and which~~) are free from damage caused by ~~spreading or broken tips, dirt, disease, insects or mechanical or other means~~ (~~and~~). Each stalk shall (~~not~~) show not more than (~~1+1/2~~) one and one-half inches of white.

(b) Each stalk shall have a diameter of not less than (~~3/8~~) three-eighths of an inch. (~~measured at a point 1 inch from the butt. In order to allow for variations incident to proper grading and handling, not more than 10 per cent, by count, of any lot may be below the requirements of this grade. An additional 10 per cent may be allowed for white:~~)

(2) (~~Tolerances for diameter and length. In order to allow for variations in diameter and length incident to proper sizing, not more than a total of 10 per cent, by count, of the stalks in any container may be below the prescribed minimum diameter, and/or any stalks below the minimum length, as defined under, "fairly uniform in length".~~) Washington no. 2 shall consist of: (a) clean, fresh stalks of asparagus, fairly uniform in length, which are not wilted and not badly misshapen, which are free from serious damage caused by spreading or broken tips, dirt, disease, insects, mechanical or other means. Stalks shall show not more than two inches of white.

(b) Each stalk shall have a diameter of not less than one-fourth inch.

(3) Washington Consumer Pack shall consist of: (a) clean, fresh stalks of asparagus and may be of random length, which are not wilted or crooked; which are free from damage caused by spreading or broken tips, dirt, disease, insects, mechanical or other means. Stalks shall show not more than two inches of white.

(4) Culls.

(a) Asparagus which is not graded in conformity with Washington no. 1, Washington no. 2, Washington consumer pack, U. S. no. 1, or U.S. no. 2 shall be designated as "culls."

(b) Culls shall not be marketed if more than ten percent by count of the stalks show white in excess of two inches.

(5) Any lot of fresh asparagus, including "culls" marketed within the state of Washington, shall have not more than ten percent of stalks with white in excess of two inches.

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 No. 785, effective 2/16/60)

WAC 16-409-030 (~~WASHINGTON STANDARDS—WASHINGTON NO. 2 GRADE~~) TOLERANCES FOR DIAMETER AND LENGTH.

(1) (~~Defined:~~) Washington no. 2 shall consist of clean, fresh stalks of asparagus, fairly uniform in length, which are not wilted and not badly misshapen, which are free from serious damage caused by spreading or broken tips, dirt, disease, insects, or mechanical or other means, and shall not show more than 2 inches of white and shall not be less than 1/4 inches in diameter at a point approximately 1 inch from the butt.) In order to allow for variations incident to proper grading and handling (~~, not more than 10 per cent~~) in the Washington no. 1, Washington no. 2, and Washington consumer pack grades, the following tolerances are provided as specified:

(a) Ten percent, by count, (~~of any lot may be below the requirements of this grade. An additional 10 per cent may be allowed for white~~) for stalks failing to meet the requirements of the grade, including therein, not more than one percent for stalks affected by decay.

(b) An additional (~~10 per cent may be allowed for~~) ten percent, by count, for stalks showing excessive white.

(2) (~~Tolerances for diameter and length:~~) In order to allow for variations in diameter and length incident to proper sizing (~~, not more than a total of 10 per cent~~) in the Washington no. 1, Washington no.

2, and Washington consumer pack grades, the following tolerance is provided as specified: ten percent, by count, (~~of the~~) for stalks (~~in any container may be below the prescribed~~) failing to meet the required minimum diameter, and/or (~~any stalks below the minimum~~) length, as defined under, "fairly uniform in length(<sup>2</sup>)."

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.

NEW SECTION

WAC 16-409-035 APPLICATION OF TOLERANCES. Individual samples are subject to the following limitations: PROVIDED, That the averages for the entire lot are within the tolerances specified for the grade.

(a) For a tolerance of ten percent or more, individual samples shall contain not more than one and one-half times the tolerance specified.

(b) For a tolerance of less than ten percent, individual samples shall contain not more than double the tolerance specified.

AMENDATORY SECTION (Amending Order 795, effective 2/16/60)

WAC 16-409-060 WASHINGTON STANDARDS—SIZE CLASSIFICATIONS. (1) In addition to the statement of grade, any lot of asparagus may be classified as Washington small (~~, medium~~) or Washington large, if eighty percent, by count, of the stalks in any lot conform to the following (~~requirements~~) diameters for such (~~sizes~~) classifications (.) :

Washington Small ( <del>3/8 to 9/16</del> ) (4/16) 1/4 inch diameter and larger	( <del>Medium</del> ) ( <del>9/16 to 3/4</del> inch inclusive))	Washington Large ( <del>Over 3/4</del> ) (6/16) 3/8 inch diameter and larger
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(~~The foregoing table refers to the maximum diameter of the stalks measured at a point approximately 1 inch from the butt:~~)

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.

NEW SECTION

WAC 16-409-065 CONTAINERS. (1) Fresh asparagus shall be marketed in containers which are clean and free from dirt, trash, and visible contaminants.

(2) Fresh asparagus of the Washington no. 1, Washington no. 2, Washington consumer pack, U. S. no. 1, and U. S. no. 2 grades shall be marketed in pyramid type containers with a moisture pad, or in fibre-board or wooden "Western Lug" containers having inside dimensions of approximately seven by eleven and one-half by eighteen inches, or capacity of thirteen hundred fifty to fifteen hundred fifty cubic inches. Western lugs shall contain not less than twenty pounds net weight.

(3) Culls shall be marketed in pyramid type containers with moisture pads.

(4) Fresh asparagus in field containers shall not be marketed.

(5) The director may allow the use of containers not specified in subsections (2) and (3) of this section, as experimental containers for the purpose of test or trial marketing.

AMENDATORY SECTION (Amending Order 795, effective 2/16/60)

WAC 16-409-070 (~~WASHINGTON STANDARDS—MARKINGS~~) MARKING REQUIREMENTS. (1) Open or closed containers shall be conspicuously and legibly (~~stamped~~) marked with the name and address of (~~person, firm or association shipping the asparagus~~) grower, packer, or distributor, the grade, and net weight.

(2) The grade shall be ~~((legibly stamped))~~ marked in letters at least ~~((3/8))~~ three-eighths inch ~~((type))~~ in height.

(3) If culls are marketed, the word "Culls" shall be conspicuously and legibly marked in letters at least one inch in height and shall be predominant in size over other markings.

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

#### NEW SECTION

WAC 16-409-075 EXEMPTION. (1) Any individual shipment of fresh asparagus shall be exempted from the requirements of WAC 16-409-015 through WAC 16-409-060, and WAC 16-409-065(1), (2), (3) and (5), and WAC 16-409-070 when:

(a) The shipment consists of asparagus for home use and not for resale.

(b) The shipment does not exceed two hundred fifty pounds net weight.

#### NEW SECTION

WAC 16-409-085 ADOPTION OF UNITED STATES STANDARDS AS WASHINGTON STATE STANDARDS. In addition to the standards for asparagus as set forth in this chapter, the United States Standards for Grades of Fresh Asparagus, as they apply to U. S. no. 1 and U.S. no. 2, are hereby adopted as additional standards for the state of Washington for asparagus.

#### REPEALER

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

(1) WAC 16-409-001 PROMULGATION  
(2) WAC 16-409-010 WASHINGTON STANDARDS—VARIATIONS BETWEEN LOT AND INDIVIDUAL PACKAGE TOLERANCES.

(3) WAC 16-409-040 CULLS  
(4) WAC 16-409-050 WASHINGTON STANDARDS—DEFINITION OF TERMS.

(5) WAC 16-409-080 UNITED STATES STANDARDS FOR FRESH ASPARAGUS—AUTHORIZED U. S. GRADES—APPLICATION OF TOLERANCES.

(6) WAC 16-409-090 UNITED STATES STANDARDS FOR FRESH ASPARAGUS—U.S. NO. 1 GRADE.

(7) WAC 16-409-100 UNITED STATES STANDARDS FOR FRESH ASPARAGUS—U.S. NO. 2 GRADE.

(8) WAC 16-409-110 UNITED STATES STANDARDS FOR FRESH ASPARAGUS—DIAMETER CLASSIFICATION.

(9) WAC 16-409-130 UNITED STATES STANDARDS FOR FRESH ASPARAGUS—STALK LENGTH.

(10) WAC 16-409-140 UNITED STATES STANDARDS FOR FRESH ASPARAGUS—DEFINITION OF TERMS.

**WSR 83-03-060**

**PROPOSED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed January 19, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning movement of fruits and vegetables from area of production, chapter 16-461 WAC;

that the agency will at 10:00 a.m., Wednesday, February 23, 1983, in the Benton County PUD Auditorium, Kennewick, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 1, 1983.

The authority under which these rules are proposed is chapter 15.17 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 23, 1983.

Dated: January 19, 1983

By: Michael V. Schwisow  
Deputy Director

#### STATEMENT OF PURPOSE

Title: Movement of Fruits and Vegetables from Area of Production.

Statutory Authority: Chapter 15.17 RCW.

Supplemental material amending rules requiring inspection for movement of product from the area of production.

These rules specify inspection certificates and/or permits on fruits and vegetables from the area of production.

Agency Personnel Responsible: James R. Archer, Assistant Supervisor, Washington State Department of Agriculture, Plant Industry Division, Room 406, General Administration Building, AX-41, 753-5052.

These changes were requested by the industry. Washington Asparagus Growers Association, proponents.

Agency Comments: This order will amend the existing rules to require inspection and certificate and/or shipping permit on fresh asparagus for movement from the area of production.

This rule has not become necessary as a result of any federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined that there would be no economic impact upon small businesses in the state of Washington by the adoption of these amendments or new rules.

#### AMENDATORY SECTION (Amending Order 1523, filed 4/20/77)

WAC 16-461-010 INSPECTION CERTIFICATE AND/OR PERMIT REQUIRED. (1) No person shall ship ((or)), transport or accept for shipment or transportation from the area of production without an inspection and the issuance of a certificate and/or a permit, allowing such shipment or movement by the division of plant industry of the department of agriculture, any of the following agricultural products:

(a) Apricots - in closed or open containers for fresh shipment.

(b) Italian prunes - in closed or open containers for fresh shipment.

(c) Peaches - in closed or open containers for fresh shipment.

(d) Potatoes - in closed or open containers, or bulk, for certified seed.

(e) Cherries - PROVIDED, That no permit shall be issued on cherries infested with live cherry fruit fly larvae.

(f) Apples - Pears (summer, fall and winter) - in closed or open containers, or bulk for shipment: PROVIDED, That pears for processing entering intrastate commerce will not require a permit for shipment: FURTHER PROVIDED, That apples and/or pears may be shipped or transported if accompanied by certificates of compliance issued by the shipper or packer of such apples and/or pears, having the approval of the director to issue ((such)) the certificates of compliance.

(g) Asparagus - in closed or open containers for fresh shipment: PROVIDED, That asparagus may be shipped or transported if accompanied by certificates of compliance issued by the shipper or packer of the asparagus, having the approval of the director to issue the certificates of compliance.

(2) (a) Any shipper or packer of apples, apricots, cherries, pears, peaches, ((or)) prunes, or asparagus may petition the director for authority to issue certificates of compliance for each season. ((Such))

The authority shall be limited to the issuance of certificates of compliance for apples, apricots, cherries, pears, peaches, ~~((and))~~ prunes, and asparagus under ~~((said))~~ the applicant's direct control or being handled at ~~((said))~~ the shipper's or packer's facilities.

(b) ~~((Such))~~ The certificate of compliance shall be issued at time of shipment by the shipper or packer authorized to do so: PROVIDED, That the apples and/or pears and asparagus about to be shipped or transported are in full compliance with the requirements of chapter 15.17 RCW, regulations adopted thereunder and administrative directives of the director: ~~((FURTHER))~~ PROVIDED FURTHER, That apricots, cherries, peaches, or prunes about to be shipped or transported are in full compliance with the federal marketing order requiring quality and condition certification and Washington state lot identification.

(c) The director's approval to issue certificates of compliance shall be revoked for cause, and such cause shall be the shipper's or packer's failure to comply with the requirements of paragraph (2)(b) of these regulations. The revocation shall be for the current season.

(d) Any shipper or packer whose authority to issue certificates of compliance has been revoked by the director shall be subject to those provisions of chapter 15.17 RCW and the regulations requiring the issuance of a shipping permit by the director before apples, apricots, cherries, pears, peaches, ~~((and))~~ prunes, and asparagus may be shipped or transported.

(e) Certificates of compliance shall be on forms approved and issued by the director of agriculture. Each ~~((such))~~ certificate of compliance shall be stamped with a number assigned to the authorized shipper or packer.

(f) Any shipper or packer authorized to issue certificates of compliance shall deposit with the director of agriculture at the regular base fee equivalent to that charged by the director for a shipping permit, for each certificate of compliance issued by the authorized shipper or packer. Such base fees shall be deposited with the director of agriculture in the same manner as fees for shipping permits.

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

#### REPEALER

The following section of the Washington Administrative Code is repealed:

(1) WAC 16-461-005 PROMULGATION

**Reviser's note:** The typographical error in the above repealer occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

### WSR 83-03-061 PROPOSED RULES COMMUNITY ECONOMIC REVITALIZATION BOARD

[Filed January 19, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Community Economic Revitalization Board intends to adopt, amend, or repeal rules concerning organization and operation of the Community Economic Revitalization Board; board meetings; communications with the board; public records; rules of practice and procedure; public facility loans and grants; and compliance with the State Environmental Policy Act.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Thursday, February 24, 1983.

The authority under which these rules are proposed is RCW 34.04.020, 42.17.250, 42.17.290, 42.30.070, 43.21C.120 and 43.160.050(5).

The specific statutes these rules are intended to implement are RCW 34.04.020, 34.04.025(1)(c), 34.04.060, 34.04.080, 34.04.105(1), 42.17.250, et seq., 42.30.070, 43.21C.120, 43.160.050(6), 43.160.060 and 43.160.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, February 24, 1983.

Dated: January 19, 1983  
By: Robert C. Hargreaves  
Assistant Attorney General

#### STATEMENT OF PURPOSE

The Community Economic Revitalization Board intends to adopt as rules the following new chapters of the Washington Administrative Code:

Chapter 133-10 WAC General Provisions, chapter 133-20 WAC Public Records, chapter 133-30 WAC Rules of Practice and Procedure, chapter 133-40 WAC Public Facility Loans and Grants, and chapter 133-50 WAC Compliance with State Environmental Policy Act.

Chapter 133-10 WAC, and in particular WAC 133-10-010 and 133-10-030, are proposed for adoption under the authority of and for the purpose of implementing RCW 34.04.020(2) and so much of RCW 42.17.250 requiring each agency to adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information and make submissions or requests. Further, chapter 133-10 WAC, and in particular WAC 133-10-020, is proposed for adoption under the authority of and for the purpose of implementing RCW 42.30.070 requiring the governing body of each public agency to provide the time for holding regular meetings by rule; chapter 133-20 WAC is proposed for adoption under the authority of RCW 42.17.290 requiring agencies to adopt rules and regulations consonant with the intent of chapter 42.17 RCW to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency. Chapter 133-20 WAC is for the purpose of implementing RCW 42.17.260 through 42.17.320; chapter 133-30 WAC is proposed for adoption under the authority of RCW 34.04.020(1) requiring each agency to adopt rules governing the formal and informal procedures prescribed or authorized by chapter 34.04 RCW and RCW 43.160.050(8) authorizing the board to adopt rules under chapter 34.04 RCW as necessary to carry out the purposes of chapter 43.160 RCW. Chapter 133-30 WAC is for the purpose of implementing RCW 34.04.025(1)(c), 34.04.060, 34.04.080, 34.04.105(1), 42.17.250(1)(c) and 43.160.050(6); chapter 133-40 WAC is proposed for adoption under the authority of RCW 43.160.050(8) authorizing the board to adopt rules under chapter 34.04 RCW as necessary to carry out the purposes of chapter 43.160 RCW, and is for the purpose of implementing RCW 43.160.060 and 43.160.070; and chapter 133-50 WAC is proposed for adoption under the authority of RCW 43.21C.120 requiring each agency to adopt rules pertaining to the integration of



policies and procedures of the State Environmental Policy Act of 1971, into the various programs under the agencies' respective jurisdiction for implementation, and is for the purpose of implementing RCW 43.21C.120 and WAC 197-17-800.

Summary of Rules and Reasons Supporting Their Proposed Adoption: Chapter 133-10 WAC describes the agency organization, method of its operation, and methods whereby the public may obtain information and make submissions to the agency, as well as provides the time for regular agency meetings and other information on notice of meetings. These rules are proposed for adoption in order to comply with statutory requirements; chapter 133-20 WAC describes the methods whereby the public may have access to agency public records, and is proposed for adoption in order to comply with statutory requirements; chapter 133-30 WAC provides rules of practice and procedure before the agency, and is proposed for adoption in order to comply with statutory requirements and to assist the board in conducting examinations and investigations in furtherance of the exercise of its lawful powers; chapter 133-40 WAC prescribes the manner by which political subdivisions may make application for public facility loans and grants under chapter 43.160 RCW, as well as the manner for consideration and disposition of such applications. These rules are proposed for adoption in order to make permanent current rules adopted on an emergency basis and necessary to carry out the purposes of chapter 43.160 RCW; and chapter 133-50 WAC adopts a statement to the effect that all board activities are exempt from SEPA, and is proposed for adoption in order to comply with statutory requirements.

The proposed rules were drafted by the agency's assistant attorney general, Robert C. Hargreaves, whose phone number is Scan 234-2582 and whose office is in Room 100, Insurance Building, AQ-04. The rules will be implemented and enforced by the board, with staff assistance from the Department of Commerce and Economic Development under Dennis Matson, Assistant Director, whose phone number is Scan 234-3065 and whose office is in Room 101, General Administration Building, AX-13.

The proposed rules are not necessary as the result of federal law or federal or state court action, and no small business economic impact statement is required.

TITLE 133 WAC

COMMUNITY ECONOMIC REVITALIZATION BOARD

Chapters	
133-10	General Provisions
133-20	Public Records
133-30	Rules of Practice and Procedure
133-40	Public Facility Loans and Grants
133-50	Compliance with State Environmental Policy Act

Chapter 133-10

GENERAL PROVISIONS

WAC	
133-10-010	Organization and Operation of the Community Economic Revitalization Board
133-10-020	Board Meetings
133-10-030	Communications with the Board

NEW SECTION

WAC 133-10-010 ORGANIZATION AND OPERATION OF THE COMMUNITY ECONOMIC REVITALIZATION BOARD.

(1) The Community Economic Revitalization Board, hereinafter referred to as the Board, is a fifteen member board created pursuant to section 3, chapter 40, Laws of 1982 1st ex. sess. and RCW 43.160.030.

(2) The board consists of nine persons appointed by the governor, as well as the director of commerce and economic development, the director of planning and community affairs, the director of revenue, the commissioner of employment security, and the chairmen of the committee on labor and economic development of the house of representatives and the committee on commerce and labor of the senate, or the equivalent standing committees. The appointive members are as follows: A recognized private or public sector economist selected from the governor's council of economic advisors; one port district official; one county official; one city official; one representative of small businesses each from: (a) The area west of Puget Sound or the Interstate 5 corridor, (b) the area east of the Cascade range and west of the Columbia river; and (c) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. The appointive members are initially appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms, which includes the chairman. Thereafter each succeeding term shall be for three years.

(3) The appointive member of the board from the governor's council of economic advisors serves as chairman of the board, and the director of the department of commerce and economic development serves as vice chairman. The board may elect such other officers for such terms as it may from time to time deem necessary, in accordance with the board's bylaws.

(4) The board's staff support and office space is provided by the department of commerce and economic development, whose main office is located in Room 101, General Administration Building, Olympia, Washington 98504; phone (AC 206) 753-5630.

(5) The overall purpose of the board is to aid the development of economic opportunities in the State of Washington. The board's general objectives include: (1) Strengthening the economies of areas of the state which have experienced or are expected to experience chronically high unemployment rates or below average growth in their economies; (2) encouraging the diversification of the economies of the state and regions within the state in order to provide greater seasonal and cyclical stability of income and employment; and (3) providing incentives for expansion of employment opportunities for groups of state residents that have been less successful relative to other groups in efforts to gain permanent employment.

(6) In order to carry out its objectives, the board is authorized to make direct loans to political subdivisions of the state for the purposes of assisting the political subdivisions in financing the cost of public facilities, including the cost of acquisition and development of land and improvements for public facilities, as well as the acquisition, construction, rehabilitation, alteration, expansion, or improvement of the facilities. Grants may also be authorized for such purposes, but only when grants are uniquely required. Additional powers and duties of the board are as set forth in chapter 40, Laws of 1982 1st ex. sess. and chapter 43.160 RCW, and in particular section 5 thereof, and RCW 43.160.050.

NEW SECTION

WAC 133-10-020 BOARD MEETINGS. (1) Regular meetings of the board are held on the third (3rd) Thursday of January, April, July and October commencing at 9:00 a.m. Notice of the times and places of the regular meetings will be published annually in a January edition of the Washington state register. A copy of the schedule of regular meetings may also be obtained upon request from the board.

(2) Special meetings of the board may be called at any time by the chairman of the board or by a majority of the board members. Notice of such meetings will be as provided by law.

(3) In addition to the meeting notices specified above, the board will also notify all persons, organizations or agencies whose business is scheduled to come before the board at any regular or special meeting.

NEW SECTION

WAC 133-10-030 COMMUNICATIONS WITH THE BOARD. Any and all written communications with the board, including but not limited to requests for information or copies of agency records, or submittals of any nature, shall be addressed to the Community Economic Revitalization Board, in care of the chairman, at the address which appears in WAC 133-10-010(4). Telephonic communications may be initiated by calling the phone number also listed in WAC 133-10-010(4).

## CHAPTER 133-20

## PUBLIC RECORDS

## WAC

133-20-010	Purpose
133-20-020	Definitions
133-20-030	Public Records Available
133-20-040	Public Records Officer
133-20-050	Records Index
133-20-060	Office Hours
133-20-070	Requests for Public Records
133-20-080	Copying
133-20-090	Exemptions
133-20-100	Review of Denials of Public Records Requests
133-10-110	Protection of Public Records
133-20-120	Adoption of Form

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

NEW SECTION

WAC 133-20-010 PURPOSE. The purpose of this chapter shall be to insure the compliance by the Community Economic Revitalization Board with the provisions of chapter 1, Laws of 1973, Initiative Measure No. 276, and in particular sections 25 through 32 of that act, and RCW 42.17.250 through 42.17.320, concerning disclosure of public records.

NEW SECTION

WAC 133-20-020 DEFINITIONS. The following definitions shall apply to this chapter: (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the board regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostatting and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) "Board" means the Community Economic Revitalization Board, created pursuant to chapter 43.160 RCW, and shall also refer to the board's officers and staff, where appropriate.

(4) "Department" means the Department of Commerce and Economic Development, and shall also refer to the department's staff, where appropriate.

NEW SECTION

WAC 133-20-030 PUBLIC RECORDS AVAILABLE. All public records of the board are deemed to be available for public inspection and copying, except as otherwise provided by RCW 42.17.260 and 42.17.310, as now or may hereafter be amended, and by WAC 133-20-090.

NEW SECTION

WAC 133-20-040 PUBLIC RECORDS OFFICER. The board's vice chairman shall be the public records officer for the board. The public records officer shall be responsible for implementation of the board's rules and regulations regarding inspection and copying of public records, and for insuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW.

NEW SECTION

WAC 133-20-050 RECORDS INDEX. The board will make available to any person upon request a current index which provides identifying information as to the following records:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statutes and regulations which have been adopted by the board;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the board relating to any regulatory, supervisory or enforcement responsibilities of the board, whereby the board determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(2) The current index promulgated by the board shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection and copying.

NEW SECTION

WAC 133-20-060 OFFICE HOURS. Public records shall be available for inspection and copying during the department's normal office hours. For purposes of this chapter, normal office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

NEW SECTION

WAC 133-20-070 REQUESTS FOR PUBLIC RECORDS. In accordance with the requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, and to protect public records from damage or disorganization, and to prevent excessive interference with essential functions of the board, public records may be inspected or copied, or copies of such records may be obtained by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the board which shall be available at the board's offices, or by writing or calling the board. The form shall be presented or mailed to the public records officer, or to any member of the board's staff, if the public records officer is not available, at the board's offices during normal office hours. The request shall include the following information:

(a) the name, address, and organization represented, if any, of the person requesting the record;

(b) the calendar date on which the request was made, and, when presented in person, the time of day;

(c) the nature of the request;

(d) if the matter requested is referred to within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;

(e) if the requested matter is not identifiable by reference to the board's current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to assist the member of the public in appropriately identifying the public record requested.

NEW SECTION

WAC 133-20-080 COPYING. No fee shall be charged for the inspection of public records. The board may charge a fee of \$.10 per page for providing copies of public records, when copies of more than ten (10) pages are provided, and for use of the department's copy equipment. This charge is the amount necessary to reimburse the department for its actual costs incident to such copying.

NEW SECTION

WAC 133-20-090 EXEMPTIONS. (1) The board reserves the right to determine that a public record requested in accordance with

the procedures outlined in WAC 133-20-070 is exempt from disclosure under the provisions of RCW 42.17.260 and 42.17.310.

(2) Pursuant to RCW 42.17.260, the board reserves the right to delete identifying details when it makes available or publishes any public record, in any case where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records shall be accompanied by a written statement specifying the reason for denial.

**NEW SECTION**

**WAC 133-20-100 REVIEW OF DENIALS OF PUBLIC RECORDS REQUESTS.** (1) Any person who objects to the denial of a request for public records may petition for prompt review of such decision by submitting a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Following receipt of a written request for review of a decision denying a request for public records, the public records officer or other authorized staff member denying the request shall refer it to the chairman of the board. The chairman shall immediately consider the matter and either affirm or reverse such denial. The request shall be returned with the final decision, within two business days following receipt of the request for review.

(3) Administrative remedies shall not be considered exhausted until the request has been returned with a decision or until the close of the second business day following the denial of inspection, whichever occurs first.

**NEW SECTION**

**WAC 133-20-110 PROTECTION OF PUBLIC RECORDS.** In order to properly protect the public records in the custody of the board, the following guidelines shall be adhered to by any person inspecting such public records:

- (1) No public records shall be removed from the offices of the board;
- (2) Inspection of any public records shall be conducted in the presence of a designated board or department employee;
- (3) No public records may be marked or defaced in any manner during inspection;
- (4) Public records which are maintained in a file jacket, or in a chronological order, may not be dismantled except for purposes of copying and then only by a designated employee of the board or department.
- (5) Access to file cabinets, shelves, vaults, etc., is restricted to board or department personnel.

**NEW SECTION**

**WAC 133-20-120 ADOPTION OF FORM.** The board hereby adopts for use by all persons requesting inspection or copying of its records, the form set out below, entitled "Request for Public Records."

In order to request copies of our public records, please complete the attached form and return it with the proper payment to the address below. We will forward to you those requested copies which are not exempt from disclosure when we receive this form. Thank you.

Return to:

Community Economic Revitalization Board  
c/o Public Records Officer  
101 General Administration Building  
Olympia, WA 98504

**REQUEST FOR PUBLIC RECORDS**

Date \_\_\_\_\_ Time \_\_\_\_\_ (In person requests only)

Name \_\_\_\_\_

Address \_\_\_\_\_

Description of Records \_\_\_\_\_

I certify that the information obtained through this request for public records will not be used for profit making.

\_\_\_\_\_  
Signature

(FOR BOARD USE ONLY)

Number of copies \_\_\_\_\_

Number of pages \_\_\_\_\_

Per page charge \$ .10  
for in excess of  
ten (10) pages

Total charge \$ \_\_\_\_\_

**CHAPTER 133-30**

**RULES OF PRACTICE AND PROCEDURE**

**WAC**

- 133-30-010 Purpose and Scope of Rules – Adoption of Uniform Rules
- 133-30-020 Definitions
- 133-30-030 Hearings, Examinations and Investigations – Generally
- 133-30-040 Requesting Oral Hearings – Substantive Rule-Making Proceedings
- 133-30-050 Subpoenas
- 133-30-060 Petitions for Rule-Making Action
- 133-30-070 Petitions for Declaratory Rulings
- 133-30-080 Requests for Reconsideration

**NEW SECTION**

**WAC 133-30-010 PURPOSE AND SCOPE OF RULES — ADOPTION OF UNIFORM RULES.** (1) The purpose of this chapter is to adopt rules governing the formal and informal procedures prescribed or authorized by chapter 34.04 RCW (Administrative Procedures Act) before the Community Economic Revitalization Board, and to adopt rules to govern the conduct of examinations and investigations conducted pursuant to RCW 43.160.050(6).

(2) Except as otherwise modified or supplemented by the provisions in this chapter, the board hereby adopts the Uniform Procedural Rules contained in chapter 1-08 WAC, as now or may hereafter be amended, to govern its administrative practice and procedure in general, and to govern the conduct of examinations and investigations conducted pursuant to RCW 43.226.050(6). Further, the board hereby adopts the Uniform Procedural Rules for the conduct of contested cases contained in chapter 10-08 WAC, as now or may hereafter be amended, to govern the conduct of any contested cases before the board.

**NEW SECTION**

**WAC 133-30-020 DEFINITIONS.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter. (1) "Board" means the Community Economic Revitalization Board.

(2) "Person" means any person, organization, corporation, state or federal agency, or any political subdivision of the State of Washington.

(3) "Contested case" means any contested case as defined in RCW 34.04.010, as now or may hereafter be amended.

(4) "Administrative law judge" means an administrative law judge appointed or contracted with and acting pursuant to the provisions of chapter 34.12 RCW.

**NEW SECTION**

**WAC 133-30-030 HEARINGS, EXAMINATION AND INVESTIGATIONS — GENERALLY.** (1) All public or oral hearings held pursuant to the provisions of chapter 34.04 RCW, pertaining to the consideration of the adoption, amendment or repeal of any rule, and any examinations or investigations conducted pursuant to RCW 43.160.050(6), will be held before the board at the regular or special meeting of the board where the matter is properly noted for consideration, unless at such meeting the board approves a continuance to a future date and time certain.

(2) All contested case hearings will be held before the board or an administrative law judge, at such date, time and place as may appear in the notice thereof served upon the parties thereto.

(3) All hearings on petitions for declaratory rulings will be held at the regular or special meeting so indicated in any notice served upon the person requesting the ruling, when such a hearing has been granted by the board.

(4) There will be no hearings on consideration of petitions for rule-making action.

(5) All hearings conducted by or on behalf of the board will be public hearings.

**NEW SECTION**

**WAC 133-30-040 REQUESTING ORAL HEARINGS — SUBSTANTIVE RULE-MAKING PROCEEDINGS.** In the case of any substantive rule being considered for adoption, amendment or repeal by the board, an oral hearing will be held in connection with such rule-making action if requested by twenty-five persons, by a governmental agency, by the rules review committee, or by an association having not less than twenty-five members. Such request must be in writing, addressed to the board's chairman, and must be received at the board's office at least five (5) working days prior to the regular or special meeting at which the rule-making proceedings are scheduled to take place. The written request shall also specify whether the person, agency, committee or association requesting the oral hearing intends to present testimony or exhibits for the board's consideration, and if so, the estimated time required to present such testimony or exhibits.

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

**NEW SECTION**

**WAC 133-30-050 SUBPOENAS.** In addition to any other applicable provisions contained in chapters 1-08 and 10-08 WAC pertaining to subpoenas, the board, or any officer thereof, or the board's assistant attorney general may issue any subpoena or subpoena duces tecum to any person in connection with any hearing, examination or investigation conducted in the exercise of the board's lawful powers.

**NEW SECTION**

**WAC 133-30-060 PETITIONS FOR RULE-MAKING ACTION.** (1) Any interested person may petition the board in writing requesting the promulgation, amendment, or repeal of any rule. The petition may be in any form, so long as it is denominated or clearly appears as such, and the following information is contained therein:

(a) Name and address of the person requesting the promulgation, amendment or repeal of the rule. If the request is being made by an agency, political subdivision, organization or corporation, the name of a designated individual for contact must be provided.

(b) Text or substance of the proposed rule or amendment, or specific reference to the appropriate rule in cases where repeal is requested.

(c) Full explanation for the requested promulgation, amendment or repeal of rules.

(2) Within thirty (30) days after submission of a petition, or at the next meeting of the board if the board does not meet within thirty (30) days, the board will formally consider the petition and shall, within thirty (30) days thereafter, either deny the petition (stating reasons for the denial) or initiate rule-making proceedings in accordance with chapter 34.04 RCW (Administrative Procedure Act).

(3) All petitions for rule-making action will be decided by the board without hearing. The person requesting the rule-making action will be notified of the board's decision in writing.

**NEW SECTION**

**WAC 133-30-070 PETITIONS FOR DECLARTORY RULINGS.** (1) Any interested person may petition the board to issue a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by the board.

(2) Petitions for declaratory rulings may be in any form, as long as they are in writing, are denominated as a petition for declaratory ruling or clearly appear to be such, and contain the following information:

(a) Name and address of the person requesting the declaratory ruling. If the request is being made by an agency, political subdivision,

organization or corporation, the name of a designated contact person must also be provided.

(b) Specific reference to the rule or statutory provision upon which the declaratory ruling is sought, and the name and/or position of the person or persons, precise description of the property and/or complete state of facts to which the rule or statutory provision allegedly applies.

(c) Concise statement of the position the requesting party advocates with respect to the declaratory ruling sought, if any, and supporting reasons therefor.

(3) The board may, in its discretion, decide whether or not to issue any requested declaratory ruling, and, if a declaratory ruling is to be issued, whether a hearing will be held thereon, and further, whether any declaratory ruling will be stated to be binding on the person requesting the ruling.

(4) The person requesting a declaratory ruling will be notified in writing of any decision or ruling of the board in relation thereto. If the requesting party is served with written notice that a hearing has been granted, the party will be directed to appear and present oral argument at the hearing. The board may also direct the submission of additional materials or written briefs for its consideration at or prior to the hearing.

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

**NEW SECTION**

**WAC 133-30-080 REQUESTS FOR RECONSIDERATION.** Any person who is aggrieved by any decision or ruling of the board affecting such person, within fifteen (15) days after the notification of the board's decision or ruling, may petition the board in writing to reconsider its decision or ruling. Requests for reconsideration may be in any form, so long as they are denominated or clearly appear as such, and the following information is contained therein:

(a) Name and address of the person requesting the reconsideration. If the request is being made by an agency, political subdivision, organization or corporation, the name of a designated contact person must be provided.

(b) Specific reference to the decision or ruling of the board, or portion(s) thereof, for which reconsideration is sought.

(c) Full explanation of the reason for the requested reconsideration.

**CHAPTER 133-40**

**PUBLIC FACILITY LOANS AND GRANTS**

**WAC**

133-40-010	Purpose
133-40-020	Definitions
133-40-030	Loan and Grant Applications
133-40-040	Board Deliberations
133-40-050	Loan or Grant Contracts — Terms
133-40-060	Requests for Reconsideration

**NEW SECTION**

**WAC 133-40-010 PURPOSE.** (1) Pursuant to authority derived from chapter 40, Laws of 1982 1st ex. sess. and chapter 43.160 RCW, the Community Economic Revitalization Board may, in its discretion, make direct loans to political subdivisions of the State of Washington for the purposes of assisting the political subdivisions in financing the cost of public facilities, when such facilities will serve to improve opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities, or assist in alleviating unemployment. The board may also make grants for such purposes, when every feasible effort has been made by the board to provide loans and loans are not possible, and when the board finds that unique circumstances exist which require making a grant.

(2) The purpose of this chapter is to prescribe the form and manner in which political subdivisions may make application to the board for financial assistance, and to provide for the consideration and disposition of such applications.

**NEW SECTION**

**WAC 133-40-020 DEFINITIONS.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this

chapter. (1) "Board" means the Community Economic Revitalization Board.

(2) "Public facility" or "facility" means any facility for public purposes financed in whole or in part by any political subdivision of the State of Washington, including, but not limited to, sewer or other waste disposal facilities, arterials, bridges, access roads, port facilities, or water distribution and purification facilities.

(3) "Public facility costs" means any direct or indirect cost incurred or to be incurred by a political subdivision in financing any public facility, including the cost of acquisition, construction, rehabilitation, alteration, expansion, or improvement of the facilities.

(4) "Responsible official" means the senior ranking elected official of the political subdivision making application to the board for financial assistance hereunder, and/or any other person so designated in the resolution of the political subdivision authorizing or approving submission of the application.

#### NEW SECTION

**WAC 133-40-030 LOAN AND GRANT APPLICATIONS.** (1) Applications for loans and/or grants to assist in financing public facility costs may be made by any political subdivision of the State of Washington.

(2) Applications shall be submitted to the board in writing, on such forms as may be prescribed by and obtained from the board, and shall contain the following information:

(a) Name and address of the political subdivision making the application for financial assistance.

(b) Complete description of the public facility for which financing assistance is sought.

(c) A full and detailed assessment of how the facility or project will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities, or assist in alleviating unemployment.

(d) Specific amount and description of the public facility costs for which the loan and/or grant application is being made.

(e) If application is being made for a loan, the applicant's proposed repayment schedule.

(f) If application is being made for a grant in addition to or in lieu of a loan, a complete explanation as to why the applicant feels a loan would not be feasible and the supporting reasons or circumstances therefor.

(3) Any application for financial assistance submitted to the board shall be signed and verified by a responsible official. Such official shall also provide the board with any additional materials or information in support of the application which the board or its staff may request, either prior to or at the board's deliberations on the application.

#### NEW SECTION

**WAC 133-40-040 BOARD DELIBERATIONS.** (1) The board will consider and approve, in whole or in part, or disapprove, all applications for loans or grants at such regular or special meetings of the board as it may determine, and the applicant will be notified accordingly. A responsible official of the applicant political subdivision shall be present during all board deliberations on the application, and shall provide all information regarding the public facility or application for financial assistance which the board may request.

(2) Applicants will be formally notified in writing regarding any board decision on whether or not to authorize a public facility loan or grant.

#### NEW SECTION

**WAC 133-40-050 LOAN AND GRANT CONTRACTS — TERMS.** (1) If a public facility loan or grant is authorized by the board, the funds will be disbursed to the applicant political subdivision pursuant to a contract therefor, which will be offered to the political subdivision upon such reasonable terms and conditions as the board may determine; PROVIDED, That the interest rate for loans shall not exceed ten percent per annum; PROVIDED FURTHER, That loans shall not exceed twenty years in duration.

(2) Public facility loan and/or grant contracts offered to political subdivisions shall be executed by the political subdivision and the original thereof returned to the board prior to the disbursement of any funds thereunder.

#### NEW SECTION

**WAC 133-40-060 REQUESTS FOR RECONSIDERATION.**

(1) Any political subdivision whose governing body takes exception to the terms and conditions of the public facility loan and/or grant contract offered by the board upon authorization of such loan and/or grant may request the board in writing to reconsider, amend or modify its offer. Any such request shall propose specific amendments or modifications, and shall fully substantiate the reasons therefor.

(2) Any political subdivision whose application for financial assistance was denied in whole or in part by the board, within 15 days of notification thereof may petition the board in writing to reconsider its decision. Such requests for reconsideration shall only be submitted with new or additional information in support of the application not available to the board during its initial deliberations.

CHAPTER 133-50.

#### COMPLIANCE WITH STATE ENVIRONMENTAL POLICY ACT

WAC

133-50-010	Purpose
133-50-020	Statement

#### NEW SECTION

**WAC 133-50-010 PURPOSE.** The purpose of this chapter is to comply with RCW 43.21C.120, which requires all agencies of government in the State of Washington, consistent with the rules and guidelines adopted under RCW 43.21C.110, to adopt rules pertaining to the integration of policies and procedures of the state environmental policy act of 1971, into the various programs under their jurisdiction for implementation.

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

#### NEW SECTION

**WAC 133-50-020 STATEMENT.** Pursuant to WAC 197-10-800, the Community Economic Revitalization Board has reviewed its authorized activities and has found them all to be exempt under the provisions of chapter 197-10 WAC.

#### **WSR 83-03-062**

#### **NOTICE OF PUBLIC MEETINGS COMMUNITY ECONOMIC REVITALIZATION BOARD**

[Memorandum—January 19, 1983]

The Community Economic Revitalization Board's regular meeting scheduled for January 20, 1983, has been rescheduled for February 24, 1983. The February 24 meeting will be held in the Press Room of the World Trade Center at the Seattle-Tacoma International Airport (door no. 171, behind the Continental Airlines ticket counter). The meeting will begin at 9:00 a.m.

#### **WSR 83-03-063**

#### **NOTICE OF PUBLIC MEETINGS COMMISSION FOR VOCATIONAL EDUCATION**

[Memorandum—January 17, 1983]

The following dates have been established for the regular meetings of the Commission for Vocational Education during 1983.

March 24, 1983

June 16, 1983  
 September 22, 1983  
 December 15, 1983

This schedule is subject to change on the basis of extent and urgency of commission business and unforeseen, unresolvable conflicts.

**WSR 83-03-064**  
**NOTICE OF PUBLIC MEETINGS**  
**PLANNING AND COMMUNITY**  
**AFFAIRS AGENCY**

[Memorandum—January 17, 1983]

The Planning and Community Affairs Agency will hold a public hearing on the draft 1983 Washington State Low-Income Weatherization Assistance Plan.

The hearing is scheduled for 9:00 a.m. on Thursday, February 24, 1983, in the Planning and Community Affairs Agency conference room, Ninth and Columbia Building, Fifth Floor, Olympia. Two typewritten copies of all oral testimony are requested. There will be a question and answer period.

Written testimony may be submitted until 5:00 p.m. on February 18, 1983, to the attention of Art Cantrall, Assistant Director, Planning and Community Affairs Agency, Division for Community Services, Ninth and Columbia Building, MS GH-51, Olympia, Washington 98504.

For additional information or a copy of the draft proposal, contact Claire Hopkins at (206) 753-4106 or toll free 1-800-562-5677.

**WSR 83-03-065**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Institutions)**

[Filed January 19, 1983]

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 community mental health programs, new chapter 275-56 WAC.

It is the intention of the secretary to adopt these rules on an emergency basis on or about January 19, 1983.

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

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

Phone (206) 753-7015, by March 9, 1983. The meeting site is in a location which is barrier free;

that the agency will at 2:00 p.m., Wednesday, March 23, 1983, in the General Administration Building Auditorium, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 6, 1983.

The authority under which these rules are proposed is RCW 71.24.035.

The specific statute these rules are intended to implement is RCW 71.24.035.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 23, 1983.

Dated: January 19, 1983

By: David A. Hogan, Director

Division of Administration and Personnel

**STATEMENT OF PURPOSE**

This statement is being filed pursuant to RCW 34.04.025.

The Following Sections have been Repealed: WAC 275-25-700 through 275-25-770.

The Following Sections are to be Amended to Eliminate All References to Mental Health Services: WAC 275-25-020, 275-25-030, 275-25-040 and new sections WAC 275-56-005 through 275-56-445.

Purpose of the Rule Change: To meet the requirements set forth by chapter 204, Laws of 1982 (ESSB 4786) which replaced chapter 71.24 RCW. Chapter 275-56 WAC has replaced or amended chapter 275-25 WAC by eliminating all references to mental health.

The Reason These Rules are Necessary: To comply with chapter 204, Laws of 1982 which became effective on June 10, 1982.

Statutory Authority: Chapter 204, Laws of 1982.

Summary of Rule Change: Directs counties to develop biennial needs assessments; contract with licensed service providers or operate as a licensed provider if it would be more cost-effective; monitor and audit providers; assure that the special needs of minorities, children, the elderly, and low-income persons are met within established priorities; and coordinate services for patients moving through the community program into a state mental hospital. Requires each county program to provide outpatient services, 24-hour emergency care services, day treatment, patient screening, consultation and education services, residential and inpatient services if the county so chooses, and community support services for acutely and chronically mentally ill persons. Establishes priority for access to treatment to be (1) the acutely mentally ill; (2) the chronically mentally ill; and (3) the seriously disturbed. Enumerates the Department of Social and Health Services duties related to licensing and service providers and evaluating county performance. Chapter 275-56 WAC which consists of 89 new sections provides for the implementation of chapter 204, Laws of 1982 (ESSB 4786), which includes changes for plan development submission, program operation, appeal procedures, mental health priorities, clients rights, funding formula,

and referrals to state hospitals. These rules will not effect 20% of all industries, or 10% of the health services or individual and family social services industries. As of this date only non-profit or public agencies provide community mental health services. Physicians and psychologists requiring other licensing are exempt from these rules. These rules do not regulate hospital or residential treatment facilities. These rules contain a waiver process (WAC 275-56-116) which allows profit making small business to apply for exemption from a rule. This waiver process complies with section 3 (1)(d) of the Regulatory Fairness Act.

Person Responsible for Drafting, Implementation and Enforcement of Rule: Henry Tomes, Ph.D., Assistant Director, Community Mental Health Programs, Mental Health Division, 753-1409, OB 42-F.

**Reviser's note:** The material contained in this filing will appear in the 83-04 issue of the Register as it was received after the applicable closing date for this issue for agency typed material exceeding the volume limitations of WAC 1-12-035 or 1-13-035, as appropriate.

**WSR 83-03-066**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Institutions)**

[Order 1939—Filed January 19, 1983]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to community mental health programs, new chapter 275-56 WAC.

I, David A. Hogan, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these rules are necessary to implement chapter 204, Laws of 1982.

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

This rule is promulgated pursuant to RCW 71.24.035 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 19, 1983.

By David A. Hogan, Director  
Division of Administration and Personnel

**Reviser's note:** The material contained in this filing will appear in the 83-04 issue of the Register as it was received after the applicable closing date for this issue for agency typed material exceeding the volume limitations of WAC 1-12-035 or 1-13-035, as appropriate.

**WSR 83-03-067**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
[Filed January 19, 1983]

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 Kitsap County, amending WAC 173-19-260.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 1, 1983.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

This notice is connected to and continues the matter in Notice Nos. WSR 82-19-102, 82-24-063 and 83-02-010 filed with the code reviser's office on September 22, 1982, December 1, 1982, and December 23, 1982.

Dated: January 6, 1983

By: John F. Spencer  
Deputy Director

**WSR 83-03-068**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
[Filed January 19, 1983]

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 regulation relating to minimum functional standards for solid wastes, amending chapter 173-301 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on February 17, 1983.

The authority under which these rules are proposed is RCW 70.95.060.

The specific statute these rules are intended to implement is chapter 70.95 RCW.

This notice is connected to and continues the matter in Notice Nos. WSR 82-22-090 and 83-02-009 and filed with the code reviser's office on November 3, 1982, and December 23, 1982.

Dated: January 7, 1982[1983]

By: Donald W. Moos  
Director

**WSR 83-03-069**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
[Filed January 19, 1983]

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 Bothell, City of, amending WAC 173-19-2505;

that the agency will at 7:00 p.m., Thursday, February 24, 1983, in the Bothell City Hall Council Chambers, 18305 101st N.E., Bothell, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 8, 1983.

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 before March 2, 1983.

Dated: January 19, 1983  
By: Donald W. Moos  
Director

STATEMENT OF PURPOSE

Title: Amending WAC 173-19-2505 Bothell, City of.  
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 of the city of Bothell.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local government and submitted to the Department of Ecology for approval. The programs do not become effective until adopted by the department in accordance with the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Mauermann, Department of Ecology, Mailstop PV-11, Olympia, WA 98504, 459-6280.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government, and local government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: No.

AMENDATORY SECTION (Amending Order 79-34, filed 1/30/80)

WAC 173-19-2505 BOTHELL, CITY OF. City of Bothell master program approved February 27, 1975. Revision approved July 2, 1976. Revision approved January 31, 1977. Revision approved March 8, 1983.

WSR 83-03-070  
PROPOSED RULES  
DEPARTMENT OF ECOLOGY  
[Filed January 19, 1983]

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

- Amd ch. 173-400 WAC General regulations for air pollution sources.
- New ch. 173-403 WAC Implementation of regulations for air contaminant sources.
- Amd ch. 173-405 WAC Kraft pulping mills.
- Amd ch. 173-410 WAC Sulfite pulping mills.
- Amd ch. 173-415 WAC Primary aluminum plants.
- Rep ch. 18-60 WAC Establishing procedures for implementing regulations applicable to emissions from particular types and classes of air

contaminant sources—Regulatory orders containing compliance schedules;

that the agency will at 10:00 a.m., Thursday, March 10, 1983, in the Hearings Room, Department of Ecology, Air and Land Offices, Rowsix, Building 4, 4224 Sixth Avenue S.E., Lacey, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 30, 1983.

The authority under which these rules are proposed is chapters 43.21A and 70.94 RCW.

The specific statute these rules are intended to implement is chapter 70.94 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 23, 1983.

Dated: January 19, 1983  
By: Donald W. Moos  
Director

STATEMENT OF PURPOSE

Title: Adopting chapter 173-403 WAC, amending chapters 173-400, 173-405, 173-410 and 173-415 WAC, and repealing chapter 18-60 WAC.

Description of Purpose and Reasons Supporting Action: Chapter 173-400 WAC General Regulations for Air Pollution Sources; chapter 173-405 WAC Kraft Pulping Mills; chapter 173-410 WAC Sulfite Pulping Mills; and chapter 173-415 Primary Aluminum Plants.

The proposed amendments to these chapters include extensive changes and deletions which will make these regulations dovetail with the concurrently circulated chapter 173-403 WAC. This includes changes in definitions so as to have a common set of definitions throughout the regulations.

The proposed changes would correct certain program deficiencies, such as (a) interpretation of "upset" and "breakdown" and (b) specification of methods to be used in measuring capacity. By the proposed changes, WDOE would assume jurisdiction over all sources in pulp mills.

Chapter 173-403 WAC Implementation of Regulations for Air Contaminant Sources, and repeal of chapter 18-60 WAC Establishing Procedures for Implementing Regulations Applicable to Emissions from Particular Types and Classes of Air Contaminant Sources—Regulatory Orders Containing Compliance Schedules.

Chapter 18-60 WAC would be repealed and superceded by chapter 173-403 WAC. The purpose of chapter 173-403 WAC is to place all procedural requirements for air programs in this single regulation, in order to achieve greater clarity and consistency. The chapter would also bring WDOE regulations in line with the latest federal regulations, rules, and court decisions.

Statutory Authority: Chapters 43.21A and 70.94 RCW.

Summary of Rule: Revise new source review procedures; Department of Ecology assumes jurisdiction over all sources in pulp mills; strengthen enforcement requirements regarding excess emissions; and numerous editorial changes for clarity and consistency.

Agency Personnel Responsible for Drafting: Phil Nelson, 459-5249; Implementation and Enforcement: Hank Droege, 459-6253, Department of Ecology, Mailstop PV-11, Olympia, WA 98504.

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: Contact Phil Nelson (459-5249) for copies of detailed explanation.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: These revisions include moving requirements for new source review from chapters 173-400, 173-405, 174-410, and 173-415 WAC to new chapter 173-403 WAC, without substantive changes to the requirements. Changes which are made are for clarification. The one substantive change made is in emission requirements for new boilers in pulp mills (Standard Industrial Classification (SIC) 261). There are 12 employer units in SIC 261. Each has more than 50 employees. Therefore, there is no Small Business Economic Impact.

Chapter 173-400 WAC  
GENERAL REGULATIONS FOR AIR POLLUTION SOURCES  
WAC  
173-400-010 Purpose.



173-400-020	Applicability.
173-400-030	Definitions.
173-400-040	General standards for maximum ((permissible)) emissions.
173-400-050	Minimum emission standards for combustion and incineration sources.
173-400-060	Minimum emission standards for general process sources.
173-400-070	Minimum standards for certain source categories.
173-400-075	Emission standards for sources emitting hazardous air pollutants.
173-400-100	Registration.
173-400-110	New source review.
173-400-115	Standards of performance for new ((stationary)) sources.
173-400-120	Monitoring and special report.

AMENDATORY SECTION (Amending Order DE 76-38, filed 12/21/76)

WAC 173-400-010 PURPOSE. (~~The department of ecology, under the authority vested in it by chapters 43.21A and 70.94 RCW, is charged with responsibilities for the conduct of a state-wide program of air pollution prevention and control. This regulation provides the basic framework for carrying out the state's responsibilities for such a program through the establishment of standards for maximum permissible emissions, the implementation of registration and notice requirements, provision for monitoring and reporting, and the identification of regulatory actions which may be taken to enforce standards. This chapter is designed to operate within the statutory framework for the distribution of responsibilities between state, regional and local units of government in dealing with problems of air pollution.~~) (1) It is the policy of the department of ecology under the authority vested in it by chapter 43.21A RCW to provide for the systematic control of air pollution from air contaminant sources and progressive reduction where needed.

(2) It is the purpose of this chapter to establish standards deemed to be technically feasible and reasonably attainable and revise such standards as new information and better technology are developed and become available.

AMENDATORY SECTION (Amending Order DE 80-14, filed 8/20/80)

WAC 173-400-020 APPLICABILITY. The provisions of this chapter shall apply state-wide. An activated air pollution control authority may enforce this chapter and may in addition adopt standards or requirements which are equivalent to or more stringent than standards or requirements on the same subject matter established by this chapter. This regulation is applicable to all sources of air contaminants except:

(1) Specific source categories over which the state, by separate regulation, has assumed or hereafter does assume jurisdiction.

(2) Automobiles, trucks, ((trains;)) aircraft.

(3) Those sources under the jurisdiction of the energy facility site evaluation council.

((4) ~~The director or authority may exempt sources from the procedural requirements of WAC 173-400-100, 173-400-110, and 173-400-120, however no source may be exempted from requirements of federal law or regulation.~~) The requirements of chapter 173-403 WAC shall apply to all sources that are subject to the requirements of chapter 173-400 WAC.

AMENDATORY SECTION (Amending Order DE 80-14, filed 8/20/80)

WAC 173-400-030 DEFINITIONS. Unless a different meaning is plainly required by context, the following words and phrases, as hereinafter used in this chapter, shall have the following meanings:

(1) (~~"Abnormal operation" means a process operation other than a normal operation which may result in emissions that exceed emission standards. An abnormal operation can be anticipated and planned.~~) "Actual emissions" as of a particular date means the average rate, in weight per unit time, at which the affected emissions unit emitted the pollutant during the two-year period which precedes the particular date, and which is representative of normal operation. An adjustment may be made to the average annual emissions rate to account for unusual circumstances during the two-year period. The department or

cognizant local authority may allow or require the use of an alternative time period upon a determination that the alternative time period is more representative of normal operation than is the immediately-preceding two years. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant".

(3) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

(4) (~~"Air pollution control authority" or "authority" means an activated air pollution control authority formed under the authority of chapter 70.94 RCW.~~)

(5) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is ((subject to enforceable permit conditions which limit the operating rate or hours of operation, or both)) limited in production rate or hours of operation, or both, by an applicable regulatory order) and the most stringent of ((the following)) (a), (b), or (c) of this subsection. Physical and process limitations must be considered in determining maximum rated capacity:

(a) Standards as set forth in 40 CFR Part 60 and Part 61, if applicable to the source((-)), or

(b) The applicable state implementation plan emission limitation, or

(c) The emission rate specified ((as a permit condition)) by an applicable regulatory order.

((6)) (5) "Ambient air" means the surrounding outside air.

((7)) (6) "Ambient air quality standard" means an established concentration, exposure time and frequency of occurrence of a contaminant or multiple contaminants in the air which shall not be exceeded.

((8) ~~"Best available control technology" means technology which will result in an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to this regulation which would be emitted from any proposed stationary source or modification of a source which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of the best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61. If the reviewing agency determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination thereof, to meet the requirement of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results. The requirement of RCW 70.94.152 that a new source will provide "all known available and reasonable methods of emission control" is interpreted to mean the same as best available control technology.~~)

(9) (7) "Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to the capacity rating of the machine or equipment.

(8) "Cognizant local authority" means an activated air pollution control authority formed pursuant to chapter 70.94 RCW, which authority has jurisdiction over the source being considered.

((10)) (9) "Combustion and incineration sources" means sources using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes open burning.

((11)) (10) "Commenced construction" means that an owner or operator has ((undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(12) "Compliance schedule" means a schedule of steps to be taken to comply with emission requirements including a description of the

specific steps and the date when each step will be completed)) all the necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

((13)) (11) "Concealment" means any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

((14)) "De minimus levels" means levels of emissions resulting from a modification or cumulative emissions from a series of modifications to a major source which are less than the following:

	Tons/Year	Pounds/Day	Pounds/Hour
Carbon Monoxide	100		
Hydrocarbons	100		
Sulfur Dioxide	50	1000	100
Particulates	50	1000	100

((15)) (12) "Department" means the department of ecology.

((16)) (13) "Director" means the director of the department of ecology or his duly authorized representative.

((17)) (14) "Emission" means a release of contaminants into the ambient air.

((18)) (15) "Emission standard" means a regulation or regulatory order (or portion thereof) setting forth an allowable rate of emissions, level of opacity, or prescribing equipment or (fuel specifications) operating conditions that result in control of air pollution emission.

(16) "Emissions unit" means any equipment, device, process or activity that emits or may emit, to the outside air, contaminants which are regulated by state or federal law.

((19)) (17) "Excess emissions" means emissions of an air pollutant in excess of an emission standard.

((20)) "Facility" means an identifiable process or activity that emits contaminants to the ambient air.

((21)) (18) "Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

((22)) "Fugitive dust" means a type of particulate emission made airborne by forces of wind, man's activity, or both, such as unpaved roads, construction sites, or tilled land. Two major categories are anthropogenic sources (those which result directly from and during human activities) and wind erosion sources (those resulting from erosion of soil by wind). Fugitive dust is distinguished from fugitive emissions.

((23)) (19) "Fugitive emissions" means (the emission of contaminants from sources other than the control system exit point. Material handling, storage piles, doors, windows and vents are typical sources of fugitive) emissions which do not pass and which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

((24)) (20) "General process source" means a source using a procedure or a combination of procedures for the purpose of causing a change in material by either chemical or physical means excluding combustion.

((25)) (21) "Incinerator" means a furnace used primarily for the thermal destruction of waste.

((26)) "Lowest achievable emission rate" means for any source, that rate of emissions which reflects:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.)

(22) "Major emissions unit" means any emissions unit which has actual or allowable emissions of one hundred tons per year or more of any pollutant regulated by state or federal law.

((27)) (23) "Major source" means any source which has ((potential)) actual or allowable emissions ((exceeding)) of one hundred tons per year or more of any contaminant regulated by state or federal law.

((28)) (24) "Masking" means the mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor, usually to a less offensive odor.

((29)) (25) "Materials handling" means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant alteration of the chemical or physical properties of the material.

(26) "National emission standards for hazardous air pollutants (NESHAPS)" means those federal regulations set forth in 40 CFR Part 61.

((30)) (27) "New source" means a source which commences construction after the effective date of this chapter. Addition to, enlargement, modification, replacement, or any alteration of any process or source which ((will)) may increase ((potential)) emissions or ambient air concentrations of any contaminant for which federal or state ambient ((air)) or emissions standards have been established shall be construed as construction or installation or establishment of a new source. In addition every major modification (as defined in WAC 173-403-030) shall be construed as construction or installation or establishment of a new source.

((31)) (28) "New source performance standards (NSPS)" means the federal regulations set forth in 40 CFR Part 60.

((32)) "Nonattainment area" means a clearly delineated geographic area which has been designated by EPA promulgation as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.)

(29) "Notice of construction" means a document which makes application for permission to construct a new air contaminant source or to accomplish the modification of an existing source.

((33)) (30) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage.

((34)) (31) "Open burning" means the combustion of material in an open fire or in an outdoor container, without providing for the control of combustion or the control of the emissions from the combustion. Wood waste disposal in wigwam burners is not considered open burning.

(32) "ppm (parts per million)" means parts of contaminant per million parts of gas, by volume, exclusive of water or particulate matter.

((35)) (33) "Particulate matter" or "particulates" means small discrete masses of liquid or solid, exclusive of uncombined water.

((36)) (34) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality or government agency.

((37)) "Potential emissions" means the emission of a contaminant from a source operated at maximum capacity (taking into account any enforceable operating restrictions as to hours of operation, types of fuels or materials, process limitations or other permit conditions) with air pollution controls applied.

((38)) (35) "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality and the capital and operating costs of the additional controls. RACT requirements for any source or source category may be adopted as an order or regulation after public ((hearing)) involvement per WAC 173-403-110.

((39)) "Source" means one or more processes or operations which emit or may emit any contaminants to the ambient air. A stationary source is composed of one or more pollutant emitting facilities.)

(36) "Source" means all of the emissions unit(s) including quantifiable fugitive emissions, which are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control), whose activities are ancillary to the production of a single product or functionally related group of products.

((40)) (37) "Source category" means all sources of the same type or classification.

((41)) (38) "Standard conditions" means a temperature of 20°C (68°F) and a pressure of 29.92 inches (760 mm) of mercury except when otherwise specified.

~~((42))~~ (39) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

~~((43))~~ "Upset" means an unexpected sudden occurrence which may result in emissions in excess of emission standards.))

**AMENDATORY SECTION** (Amending Order DE 80-14, filed 8/20/80)

WAC 173-400-040 GENERAL STANDARDS FOR MAXIMUM ((PERMISSIBLE)) EMISSIONS. All ((point)) sources are required to meet the emission standards of this chapter. When two or more ((sources)) emissions units are connected to a common stack and the operator elects not to provide the means or facilities to sample emissions from the individual ((sources)) emissions units, and the relative contributions of the individual ((sources)) emissions units to the common discharge are not readily distinguishable, then the emissions of the common stack must meet the most restrictive standard of any of the connected ((sources)) emissions units. Further, all point sources are required to use reasonably available control technology which may be determined for some sources or source categories to be more stringent than the emission limitations of this chapter. In cases where current controls are determined to be less than reasonably available control technology (RACT), the department or cognizant local authority shall, on a case-by-case basis, define RACT for each source or source category and issue a regulatory order to the source or sources for installation of RACT. ~~((The order will contain a schedule for installation, with intermediate benchmark dates and a final completion date and shall constitute a compliance schedule.))~~ All sources in nonattainment areas shall be in compliance by December 31, 1982, with RACT requirements for nonattainment pollutants which have been defined by July 1, 1981. For RACT requirements defined after July 1, 1981, sources will be placed on a compliance schedule which will be completed as soon as practicable.

(1) Visible emissions. No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any ((source)) emissions unit which at the emission point, or within a reasonable distance of the emission point, exceeds twenty percent opacity except:

(a) When the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not exceed twenty percent opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of boiler facilities. As such, this practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and the department or ~~((the air pollution control authority with enforcement jurisdiction shall))~~ cognizant local authority be advised of the schedule.

(b) When the owner or operator of a source supplies valid data to show that the ~~((opacity is in excess of twenty percent as the result of the presence of condensed water droplets and that the concentration of particulate matter, as shown by a source test approved by the director, is less than 0.10 grain per standard dry cubic foot. For combustion emissions the exhaust gas volume shall be corrected to seven percent oxygen))~~ presence of uncombined water is the only reason for the opacity to exceed twenty percent.

(c) When two or more sources are connected to a common stack, an adjusted time limit may be allowed at the discretion of the ~~((director or the control officer of a local air))~~ department or cognizant local authority.

(2) Preventing particulate matter from being deposited. No person shall cause or permit the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner or operator of the source in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.

(3) Fugitive emissions. The owner or operator of any ((source)) emissions unit involving materials handling, construction, demolition or any other operation which is a source of fugitive emission:

(a) If located in an attainment area and not impacting any nonattainment area, shall take reasonable precautions to prevent the release of air contaminants from the operation.

(b) If the ((source)) emissions unit has been identified as a significant contributor to the nonattainment status of a designated nonattainment area, shall be required to use reasonably available control technology to control emissions of the contaminants for which nonattainment has been designated. Significance will be determined by EPA interpretive ruling for PSD and offsets on file with the department.

(4) Odors. Any person who shall cause or allow the generation of any odor from any source which may unreasonably interfere with any other property owner's use and enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.

(5) Emission of air contaminants detrimental to persons or property. No person shall cause or permit the emission of any air contaminant from any source, including any air contaminant whose emission is not otherwise prohibited by this chapter, if the air contaminant causes detriment to the health, safety, or welfare of any person, or causes damage to property or business.

(6) Sulfur dioxide.

~~((a))~~ No person shall cause or permit the emission of a gas containing sulfur dioxide from any ((source)) emissions unit in excess of one thousand ~~((parts per million (ppm)))~~ ppm of sulfur dioxide, corrected to seven percent oxygen for combustion sources, and based on the average of any period of sixty consecutive minutes, except as follows:

~~((i))~~ (a) When the owner or operator of ~~((a source))~~ an emissions unit supplies emission data and can demonstrate to the department or cognizant local authority that there is no feasible method of reducing the concentration to less than one thousand ppm and that the state and federal ambient air quality standards for sulfur dioxide will not be exceeded. In such cases, the department or authority may require the owner or operator to equip, operate, and maintain continuous ambient air monitoring stations at locations approved by the department or authority and using equipment approved by the department or authority. All sampling results will be made available upon request and a monthly summary will be submitted to the department or authority.

~~((ii))~~ (b) When a source limits such emission by a combination of constant emission controls and dispersion techniques approved by the department or cognizant local authority, as permitted by WAC ~~((173-400-040(13)))~~ 173-403-140.

~~((b))~~ All concentrations of sulfur dioxide referred to above are by volume, dry, and, for combustion emissions the exhaust gas volume shall be corrected to seven percent oxygen.))

(7) Concealment and masking. No person shall cause or permit the installation or use of any means which conceals or masks an emission of an air contaminant which would otherwise violate any provisions of this chapter.

(8) Fugitive ((dust sources)) emissions.

(a) The owner or operator of a source shall take reasonable precautions to prevent fugitive ((dust)) emissions from becoming airborne and shall maintain and operate the source to minimize emissions.

(b) The department may issue a regulatory order to the person responsible for a fugitive ((dust)) emissions source and require specific measures to be used for control.

~~((9))~~ (c) The owner or operator of any existing fugitive ((dust)) emissions source that has been identified as a significant contributor to the nonattainment status of a designated nonattainment area shall be required to use reasonably available control technology to control emissions. Significance will be determined by EPA interpretive ruling for PSD and offsets as on file with the department.

~~((10))~~ (d) All sources of fugitive ((dust)) emissions required to use reasonably available control technology shall be in compliance by July 1, 1981, or on a compliance schedule which will be completed by December 31, 1982. Sources required to use RACT after July 1, 1981, shall be placed on a compliance schedule which will be completed as soon as practicable.

~~((11))~~ The development of specific requirements for a nonattainment area shall include consultation with local government in the area and an opportunity shall be provided for public comment on the measures:

~~((12))~~ Whenever reasonably available control technology has been defined for a source or category of sources in any area, the department or authority shall issue a regulatory order to the source or sources requiring that the defined technology be implemented and establishing a date when the implementation will be completed:

~~((13))~~ Use of tall stacks or dispersion techniques:

(a) The degree of emission limitation required for control of any pollutant shall not be affected in any manner by:

(i) So much of the stack height of any source as exceeds good engineering practice, as defined by WAC 173-400-040(13)(c)(ii) or

(ii) Any other dispersion technique. WAC 173-400-040(13)(a) shall not apply with respect to stack heights in existence or dispersion techniques implemented before December 31, 1970.

~~(b) A source which utilizes a stack height in existence before December 31, 1970 which exceeds good engineering practice, or which implemented dispersion techniques before December 31, 1970, shall be permitted to use such stack height or other dispersion techniques approved by the department or authority to comply with any provisions of the Washington state implementation plan to attain and maintain national ambient air quality standards, but only when such dispersion techniques are used in conjunction with constant emissions controls specified for such source in the implementation plan submitted by the state.~~

~~(c) For the purposes of this section, the following words and terms shall have the following meanings:~~

~~(i) "Stack" means any point in a source designated to emit solids, liquids, or gases into the air, including a pipe, duct, or flare.~~

~~(ii) "Good engineering practice" means, with respect to stack heights, the height necessary to ensure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles. Such height shall not exceed two and a half times the height of such source unless the owner or operator of the source demonstrates, after notice and opportunity for public hearing, to the satisfaction of the department of authority that a greater height is necessary as provided under the preceding sentence. In no event shall this section be construed to prohibit any increase in any stack height or restrict in any manner the stack height of any source.~~

~~(iii) "Dispersion technique" means any intermittent or supplemental control of pollutants varying with atmospheric conditions, including any method which attempts to affect the concentration of a pollutant according to atmospheric conditions and the manipulation of source process parameters or selective handling of exhaust gas streams. The preceding sentence does not include the reheating of a gas stream, following use of a pollution control system, for the purpose of aiding dispersion.)~~

AMENDATORY SECTION (Amending Order DE 80-14, filed 8/20/80)

WAC 173-400-050 MINIMUM EMISSION STANDARDS FOR COMBUSTION AND INCINERATION SOURCES. (1) Combustion and incineration ((sources)) emissions units must meet all requirements of WAC 173-400-040 and, in addition, no person shall cause or permit emissions of particulate matter in excess of ((0.10 grain)) 0.23 gram per ((standard)) dry cubic ((foot)) meter at standard conditions (0.1 grain/dscf), except, for ((sources)) an emissions unit utilizing the combustion of wood for the production of steam, no person shall allow or permit the emission of particulate matter in excess of ((0.20 grain)) 0.46 gram per ((standard)) dry cubic ((foot)) meter at standard conditions (0.2 grain/dscf), as measured by procedures on file at the department.

(2) For any incinerator ((source)), no person shall cause or permit emissions in excess of one hundred ppm of total carbonyls as measured by procedures contained in "Source Test Manual - Procedures for Compliance Testing," state of Washington, Department of Ecology, on file at the department. Incinerators shall be operated only during daylight hours unless written permission to operate at other times is received from the ((director)) department or cognizant local authority.

(3) Measured concentrations for combustion and incineration sources shall be adjusted for volumes corrected to seven percent oxygen, except when the ((director or board shall)) department or cognizant local authority may determine that an alternate oxygen correction factor is appropriate.

AMENDATORY SECTION (Amending Order DE 80-14, filed 8/20/80)

WAC 173-400-060 MINIMUM EMISSION STANDARDS FOR GENERAL PROCESS SOURCES. General process sources shall be required to meet all applicable provisions of WAC 173-400-040 above and in addition, no person shall cause or permit the emission of particulate material from any general process operation in excess of ((0.10 grain per standard cubic foot of dry)) 0.23 grams per dry cubic meter at standard conditions (0.1 grain/dscf) of exhaust gas.

AMENDATORY SECTION (Amending Order DE 80-14, filed 8/20/80)

WAC 173-400-070 MINIMUM STANDARDS FOR CERTAIN SOURCE CATEGORIES. The department finds that the reasonable regulation of sources within certain categories requires separate standards applicable to such categories. The standards set forth in this section shall be the minimum standards for ((sources)) emissions units within the categories listed. Except as specifically provided in this section, such ((sources)) emissions units shall not be required to meet the provisions of WAC 173-400-040, 173-400-050 and 173-400-060.

(1) Wigwam burners.

(a) All wigwam burners shall meet all provisions of subsections (2), (3), (4), (5), (6), and (7) of WAC 173-400-040.

(b) All wigwam burners shall use ((equipment, facilities and practices which represent practical current state of)) reasonably available control technology. All ((facilities)) emissions units shall be operated and maintained to minimize emissions. These requirements may include a controlled tangential vent overfire air system, an adequate underfire system, elimination of all unnecessary openings, a controlled feed and other modifications determined necessary by the department or cognizant local authority.

(c) It shall be unlawful to install or increase the existing use of any burner that does not meet all requirements for new sources including those requirements specified in WAC 173-400-040 and 173-400-050, except operating hours.

(d) The ((director)) department may establish additional requirements for wigwam burners located, or proposed for location, in sensitive areas as defined by chapter 18-06 WAC. These requirements may include but shall not be limited to:

(i) A requirement to meet all provisions of WAC 173-400-040 and 173-400-050. Wigwam burners will be considered to be in compliance with WAC 173-400-040(1) if they meet the requirements contained therein except during a startup period not to exceed thirty minutes in any eight consecutive hours.

(ii) A requirement to apply best available control technology (BACT).

(iii) A requirement to reduce or eliminate emissions if the department establishes that such emissions unreasonably interfere with the use and enjoyment of the property of others or are a cause of violation of ambient air standards.

(2) Hog fuel boilers.

(a) Hog fuel boilers shall meet all provisions of WAC 173-400-040 and 173-400-050(1), except that emissions may exceed twenty percent opacity for up to fifteen consecutive minutes once in any eight hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of these units. As such, this practice is to be scheduled for the same specific times each day and the department or ((the air pollution control authority with enforcement jurisdiction)) cognizant local authority shall be notified as to the schedule.

(b) All hog fuel boilers shall utilize ((equipment, facilities and practices which represent the practical current state of)) reasonably available control technology. All ((facilities)) emissions units shall be operated and maintained to minimize emissions.

~~((c) The department may establish additional requirements for hog fuel boilers located, or proposed for location, in sensitive areas as defined by chapter 18-06 WAC.))~~

(3) Orchard heating.

(a) Burning of rubber materials, asphaltic products, crankcase oil or petroleum wastes, plastic, or garbage is prohibited.

(b) It shall be unlawful to burn any material or operate any orchard-heating device that causes a visible emission exceeding twenty percent opacity, except during the first thirty minutes after such device or material is ignited.

(4) Grain elevators.

~~((a)) Any grain elevator which is primarily classified as a materials handling operation shall meet all the provisions of WAC 173-400-040(2), (3), (4), and (5).~~

~~((b) The department may establish additional requirements for grain elevators located, or proposed for location, in sensitive areas as defined in chapter 18-06 WAC. These requirements may include but shall not be limited to a requirement to meet the provisions of WAC 173-400-040(1) and 173-400-060.))~~

(5) Catalytic cracking units.

(a) All existing catalytic cracking units shall meet all provisions of subsections (2), (3), (4), (5), (6), and (7) of WAC 173-400-040 and in addition:

(i) No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any catalytic cracking unit which at the emission point, or within a reasonable distance of the emission point, exceeds forty percent opacity.

(ii) No person shall cause or permit the emission of particulate material in excess of ~~((two tenths (0.20) grain per standard cubic foot))~~ 0.46 grams per dry cubic meter at standard conditions (0.20 grains/dscf) of ((dry)) exhaust gas.

(b) All new catalytic cracking units shall meet all provisions of WAC 173-400-115 ~~((unless preempted by the energy facility site evaluation council (EFSEC) jurisdiction.~~

~~((c) The director may establish additional requirements for catalytic cracking units located, or proposed for location, in sensitive areas as defined by chapter 18-06 WAC)).~~

(6) Other wood waste burners.

(a) Wood waste burners not specifically provided for in this section shall meet all provisions of WAC 173-400-040.

(b) Such wood waste burners shall utilize ~~((equipment, facilities and practices which represent practical current state of))~~ reasonably available control technology. All ~~((facilities))~~ emissions units shall be operated and maintained to minimize emissions.

~~((c) The department may establish additional requirements for such wood waste burners located in or proposed for location in sensitive areas as defined by chapter 18-06 WAC. These requirements may include but shall not be limited to a requirement to eliminate all visible emissions:))~~

(7) Sulfuric acid plants.

No person shall cause to be discharged into the atmosphere from a sulfuric acid plant, ~~((which commenced construction before December 23, 1977;))~~ any gases which contain acid mist, expressed as H<sub>2</sub>SO<sub>4</sub>, in excess of 0.15 pounds per ton(s) of acid produced, the production being expressed as one hundred percent H<sub>2</sub>SO<sub>4</sub>.

#### AMENDATORY SECTION (Amending Order DE 80-14, filed 8/20/80)

WAC 173-400-075 EMISSION STANDARDS FOR SOURCES EMITTING HAZARDOUS AIR POLLUTANTS. (1) The emission standards for asbestos, beryllium, beryllium rocket motor firing, mercury and vinyl chloride promulgated by the United States environmental protection agency prior to July 1, 1980, as contained in title 40, code of federal regulations, part 61, are by this reference adopted and incorporated herein.

(2) The department or cognizant local authority, at any time after the effective date of this section, may conduct source tests and require access to records, books, files and other information specific to the control, recovery or release of asbestos, beryllium, mercury, or vinyl chloride in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities.

(3) Source testing, monitoring and analytical methods for sources of asbestos, beryllium, mercury, or vinyl chloride shall conform with the requirements of title 40, code of federal regulations, part 61, as promulgated prior to July 1, 1980.

(4) This section shall not apply to any source operating pursuant to a waiver granted by the United States environmental protection agency or an exemption granted by the president of the United States during the effective life of such waiver or exemption.

#### AMENDATORY SECTION (Amending Order DE 80-14, filed 8/20/80)

WAC 173-400-100 REGISTRATION. The owner or operator of each ~~((stationary))~~ source within the following source categories shall register the source with the department unless such registration is required by ~~((an air pollution control authority with jurisdiction over the source or unless the source is under the jurisdiction of the state energy facility site evaluation council (EFSEC):))~~ the cognizant local authority:

- (1) Agricultural drying and dehydrating operations;
- (2) Asphalt plants;
- (3) Cattle feedlots with facilities for one thousand or more cattle;
- (4) Chemical plants;
- (5) Ferrous foundries;
- (6) Fertilizer plants;

(7) Grain handling, seed processing, pea and lentil processing facilities;

(8) Mineralogical processing plants;

(9) Nonferrous foundries;

(10) Oil refineries;

(11) Other metallurgical processing plants;

(12) Power boilers using coal, hog fuel, oil, or other solid or liquid fuel;

(13) Rendering plants;

(14) Scrap metal operations;

(15) Veneer dryers;

(16) Wood waste incinerators including wigwam burners;

(17) Other incinerators designed for a capacity of one hundred pounds per hour or more;

(18) Stationary internal combustion engines rated at five hundred horse power or more;

(19) Sawmills, including processing for lumber, plywood, shake, shingle, pulpwood insulating board, or any combination thereof;

(20) Any category of stationary sources to which a federal standard of performance (NSPS) applies;

(21) Any source which emits a contaminant subject to a national emission standard for hazardous air pollutants (NESHAPS);

(22) ~~((Any other source which has a potential emission rate of one hundred tons per year of any air contaminant for which a state or federal ambient air quality standard has been established))~~ Any major source or major emissions unit.

Registration shall be on forms to be supplied by the department or local authority within the time specified thereon.

A report of closure shall be filed with the department whenever operations producing emissions are permanently ceased at any source within the above categories.

#### AMENDATORY SECTION (Amending Order DE 80-53, filed 1/8/81)

WAC 173-400-110 NEW SOURCE REVIEW. ~~((+))~~ Whenever the construction, installation or establishment of a new stationary source is contemplated, and such source is within a source category listed in WAC 173-400-100, the owner or operator thereof shall file a notice of construction with the department unless the filing of such a notice is required by an air pollution control authority with jurisdiction over the source.

(a) This requirement shall also apply to any source for which a federal standard of performance has been promulgated prior to the filing of the notice of construction. A list of sources for which a federal standard of performance or a national emission standard for hazardous air pollutants (NESHAPS) has been promulgated, and the standards which apply to such sources, shall be available at the headquarters office and each regional office of the department of ecology.

(b) Whenever the construction, installation or establishment of a new major stationary source of carbon monoxide or volatile organic compounds is contemplated in an area designated as nonattainment for carbon monoxide or ozone, it is required that there be an analysis of alternative sites, sizes and production processes and environmental control techniques for the proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction and modification. This analysis is the responsibility of the applicant who may use an environmental impact statement prepared under the state environmental policy act or the national environmental policy act as a source of information for this analyses.

(2) Whenever the construction, installation or establishment of any new stationary source, except single family and duplex dwellings, is contemplated and such source is not within a source category listed in WAC 173-400-100, the department may require the owner or operator thereof to file a notice of construction with the department. The department shall not impose such requirement if an equivalent notice is required by an air pollution control authority with jurisdiction over the source.

(3)(a) The replacement of air pollution control equipment in an existing process which will not increase potential emissions and will not increase ambient air concentrations of any pollutant does not require a notice of construction provided no change is made in the process or the size of the source. The department or local air pollution authority with jurisdiction over the source shall be notified of such proposed change. Demonstration of nonapplicability of notice of construction requirement will be the responsibility of the owner or operator.

(b) Addition to, enlargement, modification, replacement, or alteration of any process or source, other than the replacement of air pollution control equipment as covered in WAC 173-400-110(3)(a), which will increase potential emissions or ambient concentration of any contaminant for which a federal or state emission or ambient standard has been set, will require the filing of a notice of construction. The new source review will apply to that part of the source which is affected and for the contaminants which may be increased.

(4) Any contemplated new stationary source subject to the provisions of chapter 80.50 RCW, energy facilities siting act, shall comply with the provisions of that statute in lieu of the provisions of this section.

(5) Within thirty days of receipt of a notice of construction, the department may require the submission of plans, specifications and such other information as deemed necessary for the review of the proposed project.

(6) The department shall review notices of construction and plans, specifications and other information associated therewith in order to determine that:

(a) The proposed project will be in accord with applicable rules and regulations in force pursuant to chapter 70.94 RCW, including a determination that the operation of the new stationary source at the location proposed will not result in any applicable federal or state ambient air quality standard being exceeded.

(b) The proposed project will utilize best available control technology (BACT) for emission control. If the project is a major source or the modification of a major source which will cause more than a de minimus increase in potential emissions and is located in a nonattainment area, it will comply with the lowest achievable emission rate (LAER) for emissions of the contaminants for which nonattainment has been designated. Compliance with federal emission standards for hazardous air pollutants and new source performance standards (NSPS) when applicable to the source will be required. BACT, LAER and NSPS will be required only for those pollutants which will increase potential emissions due to the proposed project.

(c) The proposed project meets all requirements of prevention of significant deterioration regulations if applicable.

(d) The proposed project will not violate the requirements for reasonable further progress established by the implementation plan. If the project is a major source or the modification of a major source which will cause more than a de minimus increase in potential emissions and is located in a nonattainment area, the total allowable emissions from existing sources and the new source of the contaminants for which nonattainment has been designated must be less than allowable emissions from existing sources at the time the application for approval was filed as demonstrated by an offsetting reduction from existing source or sources of 1.3 times the emissions of the new or modified source. The offset reduction may not be required if an adequate emissions growth allowance is included in an approved plan for attainment. Arrangements for such an offsetting reduction must be made by the owner or operator of the proposed new source. Replacement of process equipment with new equipment of identical capacity may be approved with an emission offset of less than 1.3 if LAER and all other new source requirements are met. Details of the offsetting transaction shall be included in an order of approval and the source or sources furnishing the offsetting reduction shall be made parties to such order and shall agree to be bound by its terms. The approval order shall establish allowable emission limits for the new source and new allowable limits for the source or sources supplying the offsetting reduction. No such order will be issued until after an opportunity for a public hearing has been provided. The offsetting reduction must be accomplished prior to the startup of the new source. If the offset is accomplished by the shutdown of an existing source, the approval order will state that a new notice of construction and a new offset must be approved prior to starting up that source again. Procedures for administering offsets will be in accordance with EPA's Interpretive Offset Ruling Part IV, Paragraph C and D (40 CFR 51, appendix S) on file with the department.

(e) The emissions from the proposed source will not delay the attainment date for any nonattainment area.

(f) If the project is a major source or the modification of a major source which will cause more than a de minimus increase in potential emissions and is located in a nonattainment area, the owner or operator shall demonstrate that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in the state which are subject

to emission limitations are in compliance or on a schedule for compliance with applicable emission limitations and standards under the federal clean air act.

(g) The requirement for a net reduction in emissions in the nonattainment area before a new major source in the area can be approved is acceptable evidence that it will not delay attainment. For a new source in an attainment area the requirements of (6)(c) of this section that the proposed new source will not delay the attainment date for any nonattainment area will be considered to be met if the impact of the new source on any point within a nonattainment area does not exceed the following levels:

Pollutant	Annual	24-Hour	8-Hour	3-Hour	1-Hour
	Average	Average	Average	Average	Average
CO			0.5 mg/m <sup>3</sup>		2 mg/m <sup>3</sup>
TSP	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>			
SO <sub>2</sub>	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>		25 µg/m <sup>3</sup>	30 µg/m <sup>3</sup>

(7) Within thirty days after receipt of all information required by it, the department shall:

(a) Make preliminary determinations on the matters set forth in WAC 173-400-100(6);

(b) Make available in at least one location in the county or counties in which the proposed project is located, a copy of the preliminary determinations and copies of or a summary of the information considered in making such preliminary determinations; and

(c) Require the applicant to publish notice to the public of the opportunity for written comment on the preliminary determinations within thirty days from the date such notice is made.

(8) If, after review of all information received, including public comment with respect to any proposed project, the department makes the determination of (6)(a), (6)(b), (6)(c), (6)(d), (6)(e) or (6)(f) in the negative, it shall issue an order for the prevention of the construction, installation or establishment of the new stationary source.

(9) If, after review of all information received, including public comment with respect to any proposed project, the department makes the determinations of (6)(a), (6)(b), and where applicable, (6)(c), (6)(d), (6)(e) and (6)(f) in the affirmative, it shall issue an order of approval for the construction, installation or establishment of the new stationary source. The order of approval may provide such conditions of operation as are reasonably necessary to assure the continuous compliance with chapter 70.94 RCW and the applicable rules and regulations in force pursuant thereto.

(10) For portable sources which locate temporarily (one year or less) at particular sites, the owner or operator shall be permitted to operate at the temporary location without filing a notice of construction, providing that the owner or operator notifies the department of intent to operate at the new location at least thirty days prior to starting the operation and supplies sufficient information to enable the department to determine that the operation will comply with the emission standards for a new source, will not cause a violation of applicable ambient air standards and, if in a nonattainment area, will not interfere with scheduled attainment of ambient standards. The permission to operate shall be for a limited period of time and the department may set specific conditions for operation during said period. A temporary source shall be required to comply with all applicable emission standards. The provisions of this subsection do not apply to major sources wishing to establish operations in nonattainment areas. Such sources must meet all applicable requirements of this section.

(11) The owner or operator of a proposed new source shall not commence operations until written permission to commence has been granted by the department or authority.)) Construction shall not commence, on any new source that is required to register per WAC 173-400-100, until a notice of construction has been approved per WAC 173-403-050.

AMENDATORY SECTION (Amending Order DE 82-20, filed 7/27/82)

WAC 173-400-115 STANDARDS OF PERFORMANCE FOR NEW ((STATIONARY)) SOURCES. Title 40, Code of Federal Regulations, Part 60 (standards of performance for new ((stationary)) sources), as promulgated prior to ((July 1, 1982)) January 1, 1983, is by this reference adopted and incorporated herein with the exception of sections 60.5 (determination of construction or modification) and 60.6 (review of plans). For the purpose of state administration of the

federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the department or ~~((to the appropriate air pollution control))~~ cognizant local authority.

(1) Sections 60.5 and 60.6 of Title 40, Code of Federal Regulations, are not incorporated herein because they provide for preconstruction review of new ~~((stationary))~~ sources only on request. By virtue of WAC ~~((173-400-110))~~ 173-403-050, such review under the state program is mandatory and an order of approval is required before the construction, installation or establishment of a new ~~((stationary))~~ source may commence.

(2) ~~((Energy facility siting. The requirements of WAC 173-400-115 do not apply to any sources under the jurisdiction of the energy facility site evaluation council (EFSEC).))~~

~~((3))~~ As of January 1, 1983, the federal regulations adopted by reference hereby set standards of performance affecting facilities for the following described subparts of 40 CFR Part 60:

- Subpart D Fossil fuel ~~((fires))~~ fired steam generators for which construction commenced after August 17, 1971, and prior to September 19, 1978, which have a heat input ~~((larger))~~ greater than 73 megawatts but not greater than 250 megawatts
- Subpart Da Electric utility steam generating units for which construction commenced after September 18, 1978, which have a heat input ~~((larger))~~ greater than 73 megawatts ~~((and))~~ but not greater than 250 megawatts
- Subpart E Incinerators
- Subpart F Portland cement plants
- Subpart G Nitric acid plants
- Subpart H Sulfuric acid plants
- Subpart I Asphalt concrete plants
- Subpart J Petroleum refineries which produce less than 25,000 barrels per day of refined products
- Subpart K Storage vessels for petroleum liquid constructed after June 11, 1973, and prior to May 19, 1978, which have a capacity greater than 40,000 gallons
- Subpart Ka Storage vessels for petroleum liquids constructed after May 18, 1978, which have a capacity greater than 40,000 gallons
- Subpart L Secondary lead smelters
- Subpart M Brass and bronze ingot production plants
- Subpart N Iron and steel plants
- Subpart O Sewage treatment plants
- Subpart P Primary copper smelters
- Subpart Q Primary zinc smelters
- Subpart R Primary lead smelters
- Subpart T Phosphate fertilizer industry: Wet process phosphoric acid plants
- Subpart U Phosphate fertilizer industry: Superphosphoric acid plants
- Subpart V Phosphate fertilizer industry: Diammonium phosphate plants
- Subpart W Phosphate fertilizer industry: Triple superphosphate plants
- Subpart X Phosphate fertilizer industry: Granular triple superphosphate storage facilities
- Subpart Y Coal preparation plants
- Subpart Z Ferroalloy production facilities
- Subpart AA Steel plants: Electric arc furnaces
- Subpart CC Glass manufacturing plants
- Subpart DD Grain elevators
- Subpart EE Industrial surface coating: Metal furniture
- Subpart GG Stationary gas turbines
- Subpart HH Lime manufacturing plants
- Subpart KK Lead acid batteries
- Subpart MM Automobile and light duty truck surface coating operations
- Subpart NN Phosphate rock plants
- Subpart PP Ammonium sulfate manufacture
- Subpart QQ Publication rotogravure printing
- Subpart SS Industrial surface coating: Large appliances
- Subpart TT Industrial surface coating: Metal coils
- Subpart UU Asphalt processing and asphalt roofing manufacture

Compliance with the standards for affected facilities within these source categories shall be determined by performance tests and visual observations of opacity as set forth in the regulations adopted by reference hereby.

~~((4)) The "appropriate air pollution control authority" as used in this section means an activated authority which has been delegated enforcement authority for this section, WAC 173-400-115, and which is enforcing the federal regulations hereby adopted by reference or its own more stringent regulations applicable to the same sources, and within whose boundary a new stationary source is proposed.))~~

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

AMENDATORY SECTION (Amending Order DE 80-14, filed 8/20/80)

WAC 173-400-120 MONITORING AND SPECIAL REPORT.

(1) Monitoring. The department shall conduct a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants.

As a part of this program, the director or his authorized representative may require any source under the jurisdiction of the department to conduct stack and/or ambient air monitoring and to report the results to the department.

(2) Investigation of conditions. For the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere, the director ~~((; or his authorized representative;))~~ shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing one or two families. No person shall refuse entry or access to the director ~~((; or his authorized representative;))~~ when entry is requested for the purpose of inspection, and when appropriate credentials are presented; nor shall any person obstruct, hamper, or interfere with any such inspection.

(3) Source testing. In order to demonstrate compliance with this chapter, the department, may require that a test be made of the source using procedures contained in "Source Test Manual - Procedures for Compliance Testing," state of Washington, Department of Ecology, on file at the department. The operator of a source may be required to provide the necessary platform and sampling ports for the department personnel to perform a test of ~~((the source))~~ an emissions unit. The department shall be allowed to obtain a sample from any ~~((source))~~ emissions unit. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

(4) ~~((Abnormal operations or upset conditions:))~~

~~((a)) Upset conditions which may result in emissions in excess of the standards set by this chapter must be reported promptly to the department or appropriate air pollution control authority. Abnormal operations such as startup and shutdown operations can be anticipated and must be reported in advance of the occurrence of the abnormal operation if it may result in emissions in excess of standards.~~

~~((b)) Any period of excess emissions is presumed to be a violation unless and until the owner or operator demonstrates and the department or authority finds that:~~

~~((i)) The incident was reported as required; and~~

~~((ii)) Complete details were furnished the department or authority; and~~

~~((iii)) Appropriate remedial steps have been taken; and~~

~~((iv)) The incident was unavoidable.~~

~~((c)) If the conditions of (b) above are met, the incident is excusable and a notice of violation will not be issued.~~

~~((d)) If any of the conditions of (b) above are not met, the incident is not excusable and a notice of violation will be issued and a penalty may be assessed.~~

~~((e)) For the department or authority to find that an incident of excess emissions is unavoidable, the source must demonstrate the following conditions:~~

~~((i)) The process equipment and the air pollution control equipment were at all times maintained and operated in a manner consistent with minimizing emissions.~~

~~((ii)) Repairs or corrections were made in an expeditious manner when the operator knew or should have known that emission limitations were being or would be exceeded. Expeditious repairs or corrections require off-shift or overtime labor if such utilization will reduce the extent of excess emissions.~~

~~((iii)) The incident is not one in a recurring pattern which is indicative of inadequate design, operation or maintenance.~~

~~(iv) The amount and duration of the excess emissions as well as the impact of the emissions on ambient air quality were minimized by taking all reasonable steps. Report of startup, shutdown, breakdown or upset condition. If a startup, shutdown, breakdown or upset condition occurs which could result in an emissions violation or a violation of an ambient air quality standard, the owner or operator of the source shall take the following actions as applicable:~~

~~(a) For a planned condition, such as a startup or shutdown, the condition shall be reported to the department or cognizant local authority in advance of its occurrence.~~

~~(b) For an unplanned condition, such as a breakdown or upset, the condition shall be reported to the department or cognizant local authority as soon as possible.~~

~~Upon request of the department or cognizant local authority, the owner or operator of the source shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.~~

~~Compliance with the requirements of WAC 173-400-120(4) does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of this chapter nor from the resulting liabilities for failure to comply.~~

(5) Continuous monitoring and recording. Owners and operators of the following categories of ((stationary)) sources shall install, calibrate, maintain and operate equipment for continuously monitoring and recording those emissions specified.

(a) Fossil fuel-fired steam generators.

(i) Opacity, except where:

(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input; or

(B) Only gaseous fuel is burned; or

(C) Only oil or a mixture of oil and gas is burned and opacity and particulate regulations can be met without using particulate collection equipment; and, the source has never, through any administrative or judicial procedure, been found in violation of any visible emission standard.

(ii) Sulfur dioxide, except where:

(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input, or

(B) Sulfur dioxide control equipment has not been installed.

(iii) Percent oxygen or carbon dioxide where such measurements are necessary for the conversion of sulfur dioxide continuous emission monitoring data.

(iv) General exception. These requirements do not apply to a fossil fuel-fired steam generator with an annual average capacity factor of less than thirty percent, as reported to the Federal Power Commission for calendar year 1974, or as otherwise demonstrated to the department or cognizant local authority by the owner or operator.

(b) Sulfuric acid plants.

Sulfur dioxide where production capacity is more than three hundred tons per day, expressed as one hundred percent acid, except for those facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(c) Fluid bed catalytic cracking units catalyst regenerators at petroleum refineries.

Opacity where fresh feed capacity is more than twenty thousand barrels per day.

(d) Wood residue fuel-fired steam generators.

(i) Opacity, except where:

Steam generator capacity is less than one hundred million BTU per hour heat input.

(ii) Continuous monitoring equipment. The requirements of WAC 173-400-120(5)(e) do not apply to wood residue fuel-fired steam generators, but continuous monitoring equipment required by WAC 173-400-120(5)(d) shall be subject to approval by the department.

(e) Owners and operators of those sources required to install continuous monitoring equipment under this chapter shall demonstrate to the department compliance with the equipment and performance specifications and observe the reporting requirements contained in Title 40, code of federal regulations, part 51, appendix P, sections 3, 4 and 5, promulgated on October 6, 1975, which is by this reference adopted and incorporated herein.

(f) All sources subject to this chapter shall procure and install equipment and commence monitoring and recording activities no later than eighteen months after adoption of this chapter by the department.

Any extension to this time requirement shall be negotiated through the variance procedure of WAC 173-400-150.

(g) Special considerations. If for reason of physical plant limitations or extreme economic situations, the department determines that continuous monitoring is not a reasonable requirement, alternative monitoring and reporting procedures will be established on an individual basis. These will generally take the form of stack tests conducted at a frequency sufficient to establish the emission levels over time and to monitor deviations in these levels.

(h) Exemptions. This subsection (5) does not apply to any source which is:

(i) Subject to a new source performance standard. These sources will be governed by WAC 173-400-115.

(ii) Not subject to an applicable emission standard.

(iii) Scheduled for retirement within five years after inclusion of monitoring equipment requirements in this chapter, provided that adequate evidence and guarantees are provided that clearly show that the source will cease operations prior to that date.

(i) Monitoring system malfunctions. A source may be temporarily exempted from the monitoring and reporting requirements of this chapter during periods of monitoring system malfunctions provided that the source owner or operator shows to the satisfaction of the department that the malfunction was unavoidable and is being repaired as expeditiously as practicable.

(6) Emission inventory. The owner or operator of any air contaminant source shall submit an inventory of emissions from the source each year upon a form and according to instructions received from the department of ecology or ((local air pollution control agency)) cognizant local authority. The inventory may include stack and fugitive emissions of particulates, sulfur dioxide, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, volatile organic compounds, and other contaminants, and shall be submitted when required no later than ((forty)) one hundred five days after the end of the calendar year. The inventory shall include total emissions for the year in tons per year and an estimate of the percentage of the total emitted each quarter. An estimate shall be made of the one hour and twenty-four hour emissions while operating at maximum capacity. The report shall include the average sulfur content of any fuel or raw material used which will result in emissions of more than twenty five tons per year of sulfur dioxide.

(7) Change in raw materials or fuels. Any change or series of changes in raw material or fuel which will result in a cumulative increase in emissions of sulfur dioxide of ((fifty)) forty tons per year or more over that stated in the initial inventory required by WAC 173-400-120(6) shall require the submittal of sufficient information to the department or authority to determine the effect of the increase upon ambient concentrations of sulfur dioxide. The ((director)) department or cognizant local authority may issue regulatory orders requiring controls to reduce the effect of such increases. Cumulative changes in raw material or fuel of less than 0.5 percent increase in average annual sulfur content over the initial inventory shall not require such notice.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- |                     |                                       |
|---------------------|---------------------------------------|
| (1) WAC 173-400-080 | COMPLIANCE SCHEDULES.                 |
| (2) WAC 173-400-090 | SENSITIVE AREA DESIGNATION.           |
| (3) WAC 173-400-130 | REGULATORY ACTIONS.                   |
| (4) WAC 173-400-135 | CRIMINAL PENALTIES.                   |
| (5) WAC 173-400-140 | APPEALS.                              |
| (6) WAC 173-400-150 | VARIANCE.                             |
| (7) WAC 173-400-160 | MAINTENANCE OF PAY.                   |
| (8) WAC 173-400-170 | REQUIREMENTS FOR BOARDS AND DIRECTOR. |

Chapter 173-403 WAC  
IMPLEMENTATION OF REGULATIONS FOR AIR CONTAMINANT SOURCES

#### NEW SECTION

WAC 173-403-010 POLICY AND PURPOSE. (1) It is the policy of the department of ecology under the authority vested in it by chapter 43.21A RCW to provide for the systematic control of air pollution from air contaminant sources and progressive reduction where needed.



(2) It is the purpose of this chapter to establish procedures for the implementation of regulations and rules generally applicable to the control and/or prevention of the emission of air contaminants.

#### NEW SECTION

WAC 173-403-020 **APPLICABILITY.** This chapter cancels and supersedes chapter 18-60 WAC. The provisions of this chapter shall apply state-wide. An activated air pollution control authority may enforce this chapter and may in addition adopt requirements which are equivalent to or more stringent than standards or requirements on the same subject matter established by this chapter. This regulation is applicable to all sources of air contaminants except:

- (1) Automobiles, trucks, and aircraft.
- (2) Those sources under the jurisdiction of the energy facility site evaluation council.

#### NEW SECTION

WAC 173-403-030 **DEFINITIONS.** Unless a different meaning is plainly required by context, the following words and phrases, as hereinafter used in this chapter, shall have the following meanings:

(1) "Actual emissions" as of a particular date means the average rate, in weight per unit time, at which the affected emissions unit emitted the pollutant during the two-year period which precedes the particular date, and which is representative of normal operation. An adjustment may be made to the average annual emission rate to account for unusual circumstances during the two-year period. The department or cognizant local authority may allow or require the use of an alternative time period upon a determination that the alternative time period is more representative of normal operation than is the immediately-preceding two years. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant."

(3) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

(4) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is limited in production rate or hours of operation, or both, by an applicable regulatory order) and the most stringent of (a), (b), or (c) of this subsection. Physical and process limitations must be considered in determining maximum rated capacity.

(a) Standards as set forth in 40 CFR Part 60 and Part 61, if applicable to the source; or

(b) The applicable state implementation plan emission limitation; or

(c) The emission rate specified by an applicable regulatory order.

(5) "Ambient air" means the surrounding outside air.

(6) "Ambient air quality standard" means an established concentration, exposure time, and frequency of occurrence of air contaminant or multiple air contaminants in the ambient air which shall not be exceeded.

(7) "Baseline emissions" means the most stringent of the following:

(a) The emissions rate resulting from the application of reasonably available control technology; or

(b) Allowable emissions; or

(c) Actual emissions.

In addition to annual emissions, baseline emissions may include daily emissions and/or hourly emissions as deemed appropriate by the department or cognizant local authority.

(8) "Best available control technology (BACT)" means technology which will result in an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each air pollutant subject to this regulation which would be emitted from any proposed new or modified source which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such sources or modification through application of production processes, available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air pollutant. In no event shall application of the best available technology result in emissions of any air pollutant which would exceed the

emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61. If the reviewing agency determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination thereof, to meet the requirement of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results. The requirement of RCW 70.94.152 that a new source will provide "all known available and reasonable methods of emission control" is interpreted to mean the same as best available control technology.

(9) "Cognizant local authority" means an activated air pollution control authority formed pursuant to chapter 70.94 RCW, which authority has jurisdiction over the source being considered.

(10) "Commenced construction" means that the owner or operator has all the necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(11) "Department" means the department of ecology.

(12) "Director" means director of the department of ecology or his authorized representative.

(13) "Dispersion technique" means any one of the following:

(a) A stack whose height exceeds good engineering practice; or

(b) An intermittent or supplemental control of pollutants varying with atmospheric conditions, including any method which attempts to affect the concentration of a pollutant according to atmospheric conditions and the manipulation of source process parameters or selective handling of exhaust gas streams; or

(c) Use of a fan or reheater to obtain a less stringent emission limitation.

(14) "Emission" means a release of air contaminants into the ambient air.

(15) "Emission standard" means a regulation or regulatory order (or portion thereof) setting forth an allowable rate of emissions, level of opacity, or prescribing equipment or operating conditions that result in control of air pollution emission.

(16) "Emissions unit" means any equipment, device, process, or activity that emits or may emit, to the outside air, contaminants which are regulated by state or federal law.

(17) "Fugitive emissions" means emissions which do not pass and which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(18) "Good engineering practice (GEP)" refers to the height of a stack and means one of the following, whichever is the greatest:

(a) Sixty-five meters; or

(b) Height determined by formula. For stacks in existence on or before January 12, 1979, formula height is two and one-half times the height of any nearby structure. For stacks constructed after January 12, 1979, formula height is the height of any nearby structure plus one and one-half times the height or width of said structure, whichever is lesser. The height of the nearby structure is measured from ground level at the base of the stack. "Nearby," as used in this paragraph, means that distance up to five times the lesser of the height or width dimension of said structure, but no greater than .8 kilometer; or

(c) Height determined by physical demonstration of need to prevent excessive concentrations of a pollutant due to downwash, wakes, or eddies created by structures or terrain obstacles. To make such a demonstration it is required that maximum concentrations caused by the source's emissions from its proposed stack height, without consideration of nearby structures or terrain obstacles, will increase at least forty percent when the effects of the structures or terrain obstacles are considered. This difference in concentrations must be shown either by a fluid model study conducted in accordance with guidelines published by the environmental protection agency or by a field study which has been approved by the department or cognizant local authority. Such a study may be approved only after public involvement pursuant to WAC 173-403-110.

(19) "Lowest achievable emission rate (LAER)" means for any source that rate of emissions which reflects:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed new or modified source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

(20) "Major emissions unit" means any emissions unit which has actual or allowable emissions of one hundred tons per year or more of any pollutant regulated by state or federal law.

(21) "Major modification" means (a), (b), or (c) of this subsection, whichever is the most stringent:

(a) Any physical change or change in the method of operation of a major source, a source that would become a major source as a result of the proposed change, or a major emissions unit or an emissions unit that would become a major emissions unit as a result of the proposed change that is located in an area that is not in attainment for the pollutant under consideration or is located in an area that is not in attainment for ozone and the pollutant under consideration is volatile organic compounds, which change would cause a significant net emissions increase for any pollutant regulated by state or federal law, except that a significant net emissions increase for any one of the following reasons shall not, in itself, cause the change to be a major modification:

(i) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Federal Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act; or

(ii) Use of an alternative fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act; or

(iii) Use of an alternative fuel or raw material that the source is capable of accommodating and was capable of accommodating prior to December 21, 1976, unless such change in fuel or raw material use is prohibited by a regulatory order; or

(iv) Use of an alternative fuel at a steam-generating unit to the extent that the fuel is generated from municipal solid waste; or

(v) An increase in the hours of operation or the production rate unless such increases are prohibited by a regulatory order.

(b) Any physical change or change in the method of operation of a major source, a source that would become a major source as a result of the proposed change, or a major emissions unit or an emissions unit that would become a major emissions unit as a result of the proposed change that is located in an area that is not in attainment for the pollutant under consideration or is located in an area that is not in attainment for ozone and the pollutant under consideration is volatile organic compounds, which change would cause the allowable emissions to be exceeded.

(c) Any reconstruction of a major source, or any reconstruction of a major emissions unit that is located in an area that is not in attainment for the pollutant under consideration or located in an area that is not in attainment for ozone and the pollutant under consideration is volatile organic compounds, for which reconstruction the fixed capital cost of the new components exceeds fifty percent of the fixed capital cost of a comparable entirely new source or emissions unit.

(22) "Major source" means any source which has actual or allowable emissions of one hundred tons per year or more of any pollutant regulated by state or federal law.

(23) "National emission standards for hazardous air pollutants (NESHAPS)" means the federal regulations set forth in 40 CFR Part 61.

(24) "Net emissions increase" means the amount by which the sum of the following exceeds zero:

(a) Any increase in actual emissions of a pollutant resulting from a physical change or change in method of operation of a specific emissions unit in a source; and

(b) Any other increases or decreases in actual emissions of the same pollutant from the source that are contemporaneous with the change and are otherwise creditable, provided that:

(i) Said other increases or decreases are contemporaneous with the change only if they occur at the same time or within one year prior to the change; and

(ii) Said other decreases in emissions are creditable only to the extent that the old level of baseline emissions exceeds the new level of baseline emissions; and

(iii) Said other decreases in emissions are not creditable if the specific emissions unit is a major emissions unit and is located (A) in an area that is not in attainment for the pollutant or (B) in an area that is not in attainment for ozone and the pollutant is volatile organic compounds; and

(iv) The determination of net emissions increase shall be valid only after a regulatory order has been issued which establishes that the new emissions from every emissions unit involved in the determination are equal to the new allowable emissions expressed as weight of the pollutant per unit time.

(25) "New source" means a source which commences construction after the effective date of this chapter. Addition to, enlargement, modification, replacement, or any alteration of any emissions unit or source which may increase emissions or ambient air concentrations of any contaminant for which federal or state ambient or emissions standards have been established shall be construed as construction or installation or establishment of a new source. In addition, every major modification shall be construed as construction or installation or establishment of a new source.

(26) "New source performance standards (NSPS)" means the federal regulations set forth in 40 CFR Part 60.

(27) "Nonattainment area" means a clearly delineated geographic area which has been designated by EPA promulgation as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.

(28) "Notice of construction" means a document which makes application for permission to construct a new air contaminant source or to accomplish the modification of an existing source.

(29) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage.

(30) "Particulate matter" or "particulates" means small discrete masses of liquid or solid, exclusive of uncombined water.

(31) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

(32) "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any source or source category may be adopted as an order or regulation after public involvement per WAC 173-403-110.

(33) "Regulatory order" means an order issued by the department or cognizant local authority to an air contaminant source which approves a notice of construction and/or limits emissions and/or establishes other air pollution control requirements.

(34) "Significant emission" means a rate of emission equal to or greater than any one of the following rates:

Pollutant	Tons/Year	Pounds/Day	Pounds/Hour
Carbon Monoxide	100		
Nitrogen Oxides	40		
Sulfur Dioxide	40	800	80
Volatile Organic Compounds	40		
Particulates	25	500	50
Lead	.6		
Total Reduced Sulfur (as H <sub>2</sub> S)	10		
Total Fluoride	3		

(35) "Source" means all of the emissions unit(s) including quantifiable fugitive emissions, which are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control), whose activities are ancillary to the production of a single product or functionally related group of products.

(36) "Source category" means all sources of the same type or classification.

(37) "Volatile organic compound" means a hydrocarbon or derivative of hydrocarbon that has a vapor pressure greater than 0.1 millimeters of mercury at 20 degrees C, except the following excluded compounds: Methane, ethane, trichlorofluoromethane,

dichlorodifluoromethane, chlorodifluoromethane, trifluoromethane, trichlorotrifluoroethane, dichlorotetrafluoroethane, chloropentafluoroethane, methylene chloride, and 1,1,1-trichloroethane (methyl chloroform).

**NEW SECTION**

WAC 173-403-050 NEW SOURCE REVIEW (NSR). (1) Applicability.

(a) A notice of construction must be filed with the department or cognizant local authority prior to the construction, installation, or establishment of a new source, if the source is in a category that is required to submit to new source review per applicable regulation of the said authority.

(b) The department or cognizant local authority may require a notice of construction prior to the construction, installation, or establishment of any new source, other than a single family or duplex dwelling.

(c) The owner or operator of any source that is in a source category that is required to submit to new source review shall notify the department or cognizant local authority prior to replacement of air pollution control equipment or process equipment other than replacement for routine maintenance and repair. The department or authority may determine that a notice of construction is required.

(2) Additional information. Within thirty days of receipt of a notice of construction, the department or cognizant local authority may require the submission of additional plans, specifications, and such other information as deemed necessary for the review of the proposed new or modified source.

(3) Requirements for nonattainment areas. If the proposed new or modified source is located in an area that is not in attainment for any air contaminant that would be emitted by the source, or if the source is located in an area that is not in attainment for ozone and the source would emit volatile organic compounds, the department or cognizant local authority shall review notice(s) of construction, plans, specifications, and other information associated therewith to determine that:

(a) The new or modified source will be in accord with applicable federal and state rules and regulations, including new source performance standards (NSPS) and national emissions standards for hazardous air pollutants (NESHAPS).

(b) The new or modified source will use best available control technology (BACT) for emissions control.

(c) If the new source is a major source or the proposed change is a major modification, it will comply with lowest achievable emission rate (LAER) for emissions of the contaminants for which nonattainment has been designated.

(d) If the source is a major source and is located in an area that is not in attainment for carbon monoxide or ozone and the source will emit carbon monoxide or volatile organic compounds, it is required that there be an analysis of alternative sites, sizes, and production processes and environmental control techniques for the proposed new or modified source which demonstrates that benefits of the proposed new or modified source significantly outweigh the environmental and social costs imposed as a result of its location, construction, and modification. This analysis is the responsibility of the applicant, who may use an environmental impact statement prepared under the state environmental policy act or the national environmental policy act as a source of information for this analysis.

(e) The proposed new or modified source will not violate the requirements for reasonable further progress established by the state implementation plan. If the source is a major source or the project is a major modification, the total new baseline emissions from all sources existing at the time of application for notice of construction plus the new or modified source, of the contaminants for which nonattainment has been designated, shall be no greater than the total baseline emissions from existing sources, except that (i) the department or cognizant local authority may require that new total baseline emissions be reduced to less than existing total baseline emissions, as necessary to achieve air quality attainment goals stated in an approved plan of attainment, and except that (ii) the emissions from the proposed new or modified source may be approved without an offsetting reduction from existing sources if an adequate emissions growth allowance is included in an approved plan of attainment. The above requirements must be met by reducing baseline emissions from existing source(s). Arrangements for such offsetting reduction(s) of baseline emissions must be made by the owner or operator of the proposed new or modified source. The proposed new source or modification may be constructed only after the issuance of a regulatory order(s) to the proposed new or modified source and to all the source(s) that provided the offset. The said

orders shall include new allowable emissions limits for all the affected sources. If the offset is accomplished by the shutdown of existing emissions unit(s), the regulatory order(s) shall prohibit the operation of the affected emissions unit(s). Emission reduction(s) which are documented and enforced by regulatory order but are not used to satisfy the requirements of this paragraph, may be acknowledged and reserved for future use in the applicable regulatory order.

(f) If the source is a major source or the project is a major modification, the owner or operator shall demonstrate that all major sources owned or operated by such person (or persons under common control with such person) in the state which are subject to emission limitations are in compliance or on a schedule for compliance with applicable emission limitations and standards under the Federal Clean Air Act.

(4) Requirements for attainment areas. If the proposed new or modified source is located in an area that is in attainment for all contaminants that would be emitted by the source and the source is located in an ozone attainment area if the source would emit volatile organic compounds, the department or cognizant local authority shall review notice(s) of construction, plans, specifications, and other information associated therewith to determine that:

(a) The new or modified source will be in accord with applicable federal and state regulations, including new source performance standards (NSPS) and national emissions standards for hazardous air pollutants (NESHAPS).

(b) The project will use best available control technology (BACT) for emissions control.

(c) The proposed new or modified source meets all the requirements of prevention of significant deterioration regulations.

(d) The allowable emissions from the proposed new or modified facility will not delay the attainment date for an area not in attainment. This requirement will be considered to be met if the impact at any location within a nonattainment area does not exceed the following levels:

Pollutant	Annual Average	24-Hour Average	8-Hour Average	3-Hour Average	1-Hour Average
CO	-	-	0.5 mg/m <sup>3</sup>	-	2 mg/m <sup>3</sup>
TSP	1.0 ug/m <sup>3</sup>	5 ug/m <sup>3</sup>	-	-	-
SO <sub>2</sub>	1.0 ug/m <sup>3</sup>	5 ug/m <sup>3</sup>	-	25 ug/m <sup>3</sup>	30 ug/m <sup>3</sup>

(e) The proposed new or modified source will not cause a violation of any ambient air quality standard.

(f) An offsetting emissions reduction, issued per WAC 173-403-050(3)(e), may be used to satisfy the requirements of (c), (d), or (e) of this subsection, if required.

(5) Preliminary determination. Within thirty days after receipt of all information required, the department or cognizant local authority shall:

(a) Make preliminary determinations on the matters set forth in WAC 173-403-050 (3) or (4), whichever is applicable; and

(b) Initiate compliance with the provisions of WAC 173-403-110 relating to public notice and public comment, as applicable.

(6) Final determination. If, after review of all information received including public comment, the department or cognizant local authority finds that all the conditions in WAC 173-403-050 (3) or (4) are satisfied, whichever is applicable, the authority will issue a regulatory order to approve the notice of construction for the proposed new source or modification.

(7) Portable sources. For portable sources which locate temporarily at particular sites, the owner or operator shall be allowed to operate at the temporary location without filing a notice of construction, providing that the owner or operator notifies the department or cognizant local authority of intent to operate at the new location at least thirty days prior to starting the operation, and supplies sufficient information to enable the department or cognizant local authority to determine that the operation will comply with the emission standards for a new source, will not cause a violation of applicable ambient air quality standards and, if in a nonattainment area, will not interfere with scheduled attainment of ambient standards. The permission to operate shall be for a limited period of time, but in no case longer than one year, and the department or cognizant local authority may set specific conditions for operation during said period. A temporary source shall be required to comply with all applicable emission standards.

(8) Commencement of construction. The owner or operator of the new or modified source shall not commence construction until the applicable notice of construction has been approved.

NEW SECTION

**WAC 173-403-100 COMPLIANCE SCHEDULES.** (1) Issuance. Whenever a source is found to be in violation of an emission standard or other provision of this chapter, the department or cognizant local authority may issue a regulatory order requiring that the source be brought into compliance within a specified time. The order shall contain a schedule for installation, with intermediate benchmark dates and a final completion date, and shall constitute a compliance schedule. Requirements for public involvement pursuant to WAC 173-403-110 must be met.

(2) Federal action. A source shall be considered to be in compliance with this chapter if all the provisions of its individual compliance schedule included with a regulatory order are being met. Such compliance does not preclude federal enforcement action by the EPA until and unless the schedule is submitted and adopted as an amendment to the state implementation plan.

(3) Delayed compliance penalties. Sources on a compliance schedule but not meeting emissions standards may be subject to delayed compliance penalties as provided in the Federal Clean Air Act.

NEW SECTION

**WAC 173-403-110 PUBLIC INVOLVEMENT.** (1) Applicability. Public notice shall be provided prior to the approval or denial of any of the following types of applications or other actions:

- (a) Notice of construction for any new or modified source or emissions unit, the approval of which would result in a significant net emissions increase for any pollutant regulated by state or federal law; or
- (b) Any application or other proposed action for which a public hearing is required by EPA prevention of significant deterioration rules; or
- (c) Any order to determine reasonably available control technology; or
- (d) An order to establish a compliance schedule or a variance; or
- (e) The establishment of requirements for a nonattainment area; or
- (f) An approval of a study to demonstrate good engineering practice for a stack; or
- (g) Any application or other proposed action made pursuant to this chapter in which there is a substantial public interest according to the discretion of the department or cognizant local authority.

(2) Public notice. Public notice shall be made only after all information required by the department or cognizant local authority has been submitted and after applicable preliminary determinations, if any, have been made. The cost of providing public notice shall be borne by the applicant or other initiator of the action. Public notice shall include:

- (a) Availability for public inspection in at least one location near the proposed project, of the nonproprietary information submitted by the applicant and of any applicable preliminary determinations, including analyses of the effect on air quality.
- (b) Publication in a newspaper of general circulation in the area of the proposed project of notice:
  - (i) Giving a brief description of the proposal;
  - (ii) Advising of the location of the documents made available for public inspection;
  - (iii) Advising of a thirty-day period for submitting written comment to the department or cognizant local authority;
  - (iv) Advising that a public hearing may be held if the department or cognizant local authority determine within a thirty-day period that there is a significant public interest.

(3) Public comment. No final decision on any application or action of any of the types described in subsection (1) of this section, shall be made until the public comment period has ended and any comments received have been considered. Unless a public hearing is held, the public comment period shall be the thirty-day period for written comment published as provided above. If a public hearing is held the public comment period shall extend through the hearing date and thereafter for such period, if any, as the notice of public hearing may specify.

(4) Public hearings. The applicant, any interested governmental entity, any group or any person may request a public hearing within the thirty-day period published as above. Any such request shall indicate the interest of the entity filing it and why a hearing is warranted. The department or cognizant local authority may, in its discretion, hold a public hearing if it determines there is a significant public interest. Any such hearing shall be held upon such notice and at such time and place as the department or cognizant local authority deems reasonable.

(5) Other requirements of law. Whenever other procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment served by this section, such procedures may be used in lieu of the provisions of this section.

(6) Public information. Copies of notices of construction, orders, and modifications thereof, which are issued hereunder shall be available for public inspection on request at the department or cognizant local authority.

NEW SECTION

**WAC 173-403-120 VARIANCE.** Any person who owns or is in control of a plant, building, structure, establishment, process, or equipment may apply to the department for a variance from provisions of this chapter governing the quality, nature, duration, or extent of discharges of air contaminants in accordance with the provisions of RCW 70.94.181.

(1) Jurisdiction. Sources in any area over which a local air pollution control authority has jurisdiction shall make application to the said authority rather than the department. The department or local authority may grant such variance, but only after public involvement per WAC 173-403-110.

(2) Full faith and credit. Variances granted by a local authority for sources under their jurisdiction will be accepted as variances to this regulation.

(3) EPA concurrence. No variance or renewal shall be construed to set aside or delay any requirements of the Federal Clean Air Act except with the approval and written concurrence of the Federal Environmental Protection Agency.

NEW SECTION

**WAC 173-403-130 REQUIREMENTS FOR NONATTAINMENT AREAS.** The development of specific requirements for nonattainment areas shall include consultation with local government in the area and shall include public involvement per WAC 173-403-110.

NEW SECTION

**WAC 173-403-140 USE OF DISPERSION TECHNIQUES.** The degree of emission limitation required for control of any pollutant shall not be affected in any manner by any dispersion technique, except as follows:

(1) Grandfather clause. An emissions unit which utilizes a stack of any height on which construction was commenced prior to December 31, 1970, or which utilizes any other dispersion technique(s) which was implemented prior to December 31, 1970, shall be allowed to use such stack height or other dispersion technique(s) approved by the department or cognizant local authority to comply with any provisions of the state implementation plan.

(2) Reheating. Reheating of a gas stream following the use of a pollution control system shall be allowed as a means of complying with the state implementation plan.

(3) Management. Smoke management in an agricultural or silvicultural program shall be allowed as a means of complying with the state implementation plan.

(4) Combining streams. Combining exhaust gasses from several stacks into one stack shall be allowed as a means of complying with the state implementation plan.

(5) No height limitation. WAC 173-403-140 shall not be construed to limit the height of a stack that may be used to discharge a pollutant into the atmosphere.

NEW SECTION

**WAC 173-403-150 MAINTENANCE OF PAY.** Any source which uses a supplemental or intermittent control system for the purpose of meeting the requirements of Section 123, Section 113(d), or Section 119 of the Federal Clean Air Act, as amended, shall not temporarily reduce the pay of any employee because of the use of the supplemental or intermittent or other dispersion-dependent control system(s).

NEW SECTION

**WAC 173-403-160 REQUIREMENTS FOR BOARDS AND DIRECTOR.** (1) Public interest. A majority of the members of any local air pollution control authority board shall represent the public interest. A majority of the members of such boards, and the director,

shall not derive any significant portion of their respective incomes from persons subject to enforcement orders pursuant to the state and federal clean air acts. An elected public official and the director shall be presumed to represent the public interest. In the event that a director derives a significant portion of his income from persons subject to enforcement orders, he shall delegate sole responsibility for administration of any part of the program which involves these persons to the deputy director or an assistant director, as appropriate.

(2) Disclosure. Each member of any local board and the director shall adequately disclose any potential conflict of interest in any matter prior to any action or consideration thereon, and the member or director shall remove himself from participation as a board member in any action or voting on such matter.

(3) Define significant income. For the purposes of this section, "significant portion of income" shall mean twenty percent of gross personal income for a calendar year. In the case of a retired person, "significant portion of income" shall mean fifty percent of income in the form of pension or retirement benefits from a single source other than social security. Income derived from employment with local or state government shall not be considered in the determination of "significant portion of income."

NEW SECTION

WAC 173-403-170 REGULATORY ACTIONS. The department may take any of the following regulatory actions to enforce this chapter.

(1) Notice of violation. Whenever the department has reason to believe that any provision of this chapter has been violated, it may cause written notice to be served on the alleged violator or violators. The notice shall specify the provision of this chapter alleged to be violated and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time.

(2) Civil penalty. Whenever any person violates any of the provisions of this chapter, he shall be subject to a penalty in the form of a fine in an amount not to exceed two hundred fifty dollars per day for each violation. Each such violation shall be separate and distinct and, in case of a continuing violation, each day's continuance shall be a separate and distinct violation. The penalty shall be imposed by a notice in writing from the director describing the violation with reasonable particularity.

(3) Assurance of discontinuance. The director may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter. Any such assurance shall specify a time limit during which discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this chapter which make the alleged act or practice unlawful for the purpose of securing an injunction or other relief from the superior court.

(4) Restraining orders, injunctions. Whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of this chapter, the director, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.

(5) Emergency episodes. The department may issue such orders as authorized by chapter 194, Laws of 1971 ex. sess., whenever an air pollution episode forecast is declared.

NEW SECTION

WAC 173-403-180 CRIMINAL PENALTIES. Persons in violation of this chapter may be subject to the provisions of RCW 70.94.430.

NEW SECTION

WAC 173-403-190 APPEALS. Decisions and orders of the department or a cognizant local authority may be appealed to the pollution control hearings board pursuant to chapter 43.21B RCW and chapter 371-08 WAC.

Chapter 173-405 WAC  
KRAFT PULPING MILLS

WAC

- 173-405-021 Definitions.
- 173-405-033 Standards of performance.
- 173-405-040 Emission standards.
- 173-405-061 More restrictive emission standards.
- 173-405-077 ((Abnormal operations or upset conditions)) Report of startup, shutdown, breakdown or upset conditions.
- 173-405-078 Emission inventory.
- 173-405-086 New source review.

AMENDATORY SECTION (Amending Order DE 80-15, filed 8/20/80)

WAC 173-405-021 DEFINITIONS. (1) ("~~Abnormal operation~~" means a process operation other than a normal operation which may result in emissions that exceed emission standards. An abnormal operation can be anticipated and planned:

(2)) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof which are airborne. "Air pollutant" means the same as "air contaminant."

((3)) "~~Allowable emissions~~" means the emission rate calculated using the rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation, or both) and the most stringent of the following:

- (a) The applicable state implementation plan emission limitation; or
- (b) The emission rate specified as a permit condition.

(4)) (2) "Ambient air" means the surrounding outside air.

((5)) (3) "Ambient air quality standard" means an established concentration, exposure time and frequency of occurrence of a contaminant or multiple contaminants in the ambient air which shall not be exceeded.

((6)) "~~Best available control technology (BACT)~~" means technology which will result in an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to this chapter which would be emitted from any proposed kraft pulp mill or modification of a kraft pulp mill which the department of ecology determines is achievable for such plant or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. The determination of best available control technology shall be on a case-by-case basis, taking into account energy, environmental, and economic impacts. In no event shall application of the best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61. If the department determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination thereof, to meet the requirement of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results. For the purposes of this chapter, the requirement of RCW 70-94.152 that a new source should provide "all known available and reasonable methods of emission control" is interpreted to mean the same as best available control technology.

(7) "~~Commenced construction~~" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(8) "~~De minimus levels~~" means levels of emissions resulting from a modification or cumulative emissions from a series of modifications to a major source which are less than the following:

	Tons/Year	Pounds/Day	Pounds/Hour
Carbon Monoxide	100		
Hydrocarbons	100		
Sulfur Dioxide	50	1000	100
Particulates	50	1000	100))

(4) "Commenced construction" means that the owner or operator has all the necessary preconstruction approvals or permits and either has:

(a) Begun or caused to begin a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

((9)) (5) "Department" means the state of Washington department of ecology.

((10)) (6) "Emission" means a release of air contaminants into the ambient air.

((11)) (7) "Emission standard" means a regulation or regulatory order (or portion thereof) setting forth an allowable rate of emissions, level of opacity, or prescribing equipment or ~~((fuel specifications))~~ operating conditions that result in control of air pollution emission.

(8) "Emissions unit" means any equipment, device, process or activity that emits or may emit, to the outside air, contaminants which are regulated by state or federal law.

((12)) (9) "Fugitive emissions" means ~~((the emission of contaminants from sources other than the control system exit point. Material handling, storage piles, doors, windows and vents are typical sources of fugitive emissions))~~ emissions which do not pass and which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

((13)) (10) "Kraft mill" means any manufacturing facility which uses an alkaline solution containing sodium hydroxide and/or sodium sulfide, and any other chemical pulping facility, except those covered by chapter 173-410 WAC, to produce pulp and/or paper products from wood fibers. For the purposes of this regulation "kraft mill" is equivalent to "source."

((14) "Lowest achievable emission rate (LAER)" means for any source, that rate of emissions which reflects:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

(15) "Major source" means any source which has potential emissions exceeding one hundred tons per year of any contaminant regulated by state or federal law.

((16)) (11) "New source" means a source which commences construction after September 24, 1976. Addition to, enlargement, modification, replacement, or any alteration of any process or source which ~~((will))~~ may increase ~~((potential))~~ emissions or ambient air concentrations of any contaminant for which federal or state ambient ~~((air))~~ or emissions standards have been established shall be construed as construction or installation or establishment of a new source. In addition every major modification (as defined in WAC 173-403-030) shall be construed as construction or installation or establishment of a new source.

((17)) (12) "New source performance standards (NSPS)" means the federal regulations set forth in 40 CFR Part 60.

((18) "Nonattainment area" means a clearly delineated geographic area which has been designated by EPA promulgation as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.

((19)) (13) "Noncondensibles" means gases and vapors from the digestion and evaporation processes of a mill that are not condensed with the equipment used in those processes.

(14) "Notice of construction" means a document which makes application for permission to construct a new air contaminant source or to accomplish the modification of an existing source.

((20)) (15) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage.

((21) "Other sources" means sources of odorous sulfur emissions including, but not limited to, vents from knotters, brown stock pulp washers, multiple-effect evaporators, digesters, blow tanks, smelt tanks, blow heat accumulators, black liquor storage tanks, black liquor

oxidation systems, tall oil recovery operations, and any operation connected with the handling of condensate liquids within the mill or any vent which may be a significant contributor of odorous gases.

((22)) (16) "Particulate matter" or "particulates" means small discrete masses of liquid or solid, exclusive of uncombined water.

((23)) (17) "~~((p.p.m.))~~ ppm (parts per million)" means parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

((24) "Potential emissions" means the emission of a contaminant from a source operated at maximum capacity (taking into account any enforceable operating restrictions as to hours of operation, types of fuels or materials, process limitations or other permit conditions) with air pollution controls applied.

((25)) (18) "Reasonably available control technology (RACT)" means the technology which will result in the lowest emission limit that a kraft mill is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual mill taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality and the capital and operating costs of the additional controls. RACT requirements for kraft mills may be adopted as an order or regulation after public ~~((hearing))~~ involvement per WAC 173-403-110.

((26)) (19) "Recovery furnace stack" means the stack from which the products of combustion from the recovery furnace are emitted to the ambient air.

(20) "Source" means all of the emissions unit(s) including quantifiable fugitive emissions, which are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) whose activities are ancillary to the production of a single product or functionally related group of products.

((27)) (21) "Standard conditions" means a temperature of 20°C (68°F) and a pressure of 760 mm (29.92 inches) of mercury except when otherwise specified.

((28)) (22) "Total reduced sulfur, (TRS)" means hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present, expressed as hydrogen sulfide.

((29) "Upset" means an unexpected occurrence which may result in emissions in excess of emission standards.))

#### AMENDATORY SECTION (Amending Order DE 80-15, filed 8/20/80)

WAC 173-405-033 STANDARDS OF PERFORMANCE. For kraft mills which commenced construction after September 24, 1976, Title 40, code of federal regulations Part 60, subparts A, and BB and appendix A, B, C and D as promulgated prior to ~~((June 1, 1980))~~ December 1, 1982, is by this reference adopted and incorporated herein with the exception of sections 60.5 (determination of construction or modification) and 60.6 (review of plans). For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the department of ecology.

#### AMENDATORY SECTION (Amending Order DE 80-15, filed 8/20/80)

WAC 173-405-040 EMISSION STANDARDS. No kraft pulp mill shall cause or permit air contaminant emissions in excess of the limits described in this section, as modified by chapter 173-403 WAC if applicable. Further, all kraft pulp mills are required to use reasonably available control technology which may be determined for some mills to be more stringent than the emission limitations of this chapter. In cases where current controls are determined to be less than reasonably available control technology (RACT), the department shall, on a case-by-case basis, define RACT for each source and issue a regulatory order to the mill for installation of RACT. The order will contain a schedule for installation, with intermediate benchmark dates and a final completion date and shall constitute a compliance schedule. All mills in nonattainment areas shall be in compliance by December 31, 1982 with RACT requirements for nonattainment pollutants which have been defined by July 1, 1981. For RACT requirements defined after July 1, 1981, sources will be placed on a compliance schedule which will be completed as soon as practicable.

(1) Recovery furnaces.

(a) The particulate emissions from each recovery furnace stack shall not exceed 0.23 grams of particulate per dry cubic meter at standard conditions (0.10 grains/dscf) corrected to eight percent oxygen.

(b) The TRS emissions from each recovery furnace stack constructed before January 1, 1970, and for recovery furnaces that have direct contact evaporators, shall not exceed 17.5 ppm corrected to eight percent oxygen for a daily average.

(c) The TRS emissions from each recovery furnace constructed after January 1, 1970, which does not have a contact evaporator, shall not exceed 5.0 ppm corrected to eight percent oxygen for a daily average.

(2) Smelt dissolver tank vent. The particulate emissions from smelt dissolver tank vents shall not exceed 0.15 grams per kilogram (0.30 pounds per ton) of solids fired at the associated recovery furnace.

(3) Lime kilns.

(a) The particulate emission from each lime kiln stack shall not exceed 0.30 grams of particulate per dry cubic meter (0.13 grains/dscf) at standard conditions corrected to ten percent oxygen.

(b) The TRS emissions from any lime kiln stack shall not exceed eighty ppm expressed as hydrogen sulfide for more than two consecutive hours in any one day.

(c) The average daily emission of TRS from any lime kiln stack shall not exceed fifty ppm. After January 1, 1985, TRS emissions from each lime kiln stack shall not exceed twenty ppm corrected to ten percent oxygen for a daily average.

(4) Other ~~((sources))~~ TRS emissions units. Noncondensibles from digesters, multiple-effect evaporators and condensate stripper system shall at all times be treated to reduce the emissions of TRS equal to the reduction achieved by thermal oxidation in a lime kiln. After January 1, 1982, a backup treatment system or equivalent approved by the department must be installed to assure continual treatment.

(5) ~~((The emission of particulate matter from stacks of all other particulate emission sources, excluding the recovery furnaces, lime kilns, and smelt tanks, shall not exceed 0.23 grams per standard meter (0.10 grains/dscf) of dry exhaust gas.))~~ Other particulate emissions units. The emission of particulates from emissions units other than kraft recovery furnaces, lime kilns, or smelt dissolving tank vents, shall not exceed the following maximums:

(a) 0.46 grams per dry cubic meter at standard conditions (0.2 grains/dscf) corrected to seven percent oxygen, for units which combust wood to produce steam and which commenced construction prior to January 1, 1983.

(b) 0.12 grams per dry cubic meter at standard conditions (0.05 grains/dscf) corrected to seven percent oxygen, for units which combust fuel other than wood to produce steam, and which commenced construction after January 1, 1983.

(c) 0.23 grams per dry cubic meter at standard conditions (0.1 grains/dscf) corrected to seven percent oxygen in the case of combustion units, for units not classified under (a) or (b) of this subsection.

(6) Fugitive emissions. Each kraft mill shall take reasonable precautions to prevent fugitive emissions.

(7) Masking. No kraft mill shall cause or permit the installation or use of any device, or the use of any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of an air contaminant which would otherwise violate any provisions of this chapter.

(8) Fallout. No kraft mill shall cause or permit the emission of particulate matter from any ~~((source))~~ emissions unit which becomes deposited beyond the property under direct control of the owner or operator of the kraft mill in such quantities or of such character or duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or will interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.

(9) Other contaminants. No kraft mill shall cause or permit the emission of an air contaminant or water droplets including an air contaminant whose emission is not otherwise prohibited by this chapter, in such quantities or of such characteristics or duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with use or enjoyment of property.

(10) No person shall cause or allow the emission of a plume from any kraft recovery furnace or lime kiln, ~~((or other source))~~ which has an average opacity greater than thirty-five percent for more than six consecutive minutes in any sixty minute period, except as described in WAC 173-405-040 ~~((+2) and (+3))~~ ~~((11))~~. ~~((The opacity determination shall be according to methods contained in the "Source Test Manual - Procedures for Compliance Testing," state of Washington, department of ecology, on file with the the department.))~~ No person

shall cause or allow the emission of a plume, from any emissions unit other than a kraft recovery furnace or lime kiln, which has an average opacity greater than twenty percent for more than six consecutive minutes in any sixty minute period.

There shall be no more than one violation notice issued in any sixty minute period.

~~((This))~~ These provisions shall not apply when the presence of ~~((condensed))~~ uncombined water ~~((droplets))~~ is the only reason for the opacity of the plume to exceed ~~((thirty-five percent))~~ the applicable maximum.

(11) Each mill may petition for, and the department may establish by regulatory order, other opacity limits for a specific ~~((facility))~~ kraft recovery furnace or lime kiln, providing:

(a) Compliance with all other applicable emission limits can be demonstrated; and

(b) Best practicable operation and maintenance procedures, as approved by the department, are continuously employed.

(12) Any person electing to apply for exceptions ~~((to))~~ per the provisions of WAC 173-405-040 ~~((+10))~~ ~~((11))~~ shall submit a program acceptable to the department of ecology. The program shall include the following information: The amount and concentration of suspended particulate material emitted during best practicable operating procedures, opacity recorded at such emission level, the type of equipment and procedures which will be used to demonstrate compliance and the time required for installation of the equipment.

(13) The opacity provisions of this chapter shall apply until an application is received by the department petitioning for a revised limit as allowed by WAC 173-405-040 ~~((11))~~. After a petition is received, enforcement of the opacity provisions will be stayed until the application is rejected or a new limit is established.

(14) Odors. No kraft pulping mill shall cause or permit the emission of odors in such quantities or of such duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with the use or enjoyment of property.

(15) Operation and maintenance. At all times, including periods of abnormal operation and upset conditions, owners and operators shall, to the extent practicable, maintain and operate any affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the department which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(16) SO<sub>2</sub>.

(a) The emission of sulfur dioxide from any ~~((process source stack))~~ recovery furnace or lime kiln shall not exceed five hundred ppm ~~((corrected to dry standard conditions))~~ for an hourly average, corrected to eight percent oxygen.

(b) The emission of sulfur dioxide from any emissions unit other than a recovery furnace or lime kiln shall not exceed one thousand ppm for an hourly average, corrected to seven percent oxygen for combustion units.

(17) Source testing. In order to demonstrate compliance with this chapter, the department may require that a test be made of ~~((the source))~~ any emissions unit using procedures contained in "Source Test Manual - Procedures for Compliance Testing," state of Washington, department of ecology, on file at the department. The operator of a source may be required to provide the necessary platform and sampling ports for the department personnel to perform a test of ~~((the source))~~ an emissions unit. The department shall be allowed to obtain a sample from any ~~((source))~~ emissions unit. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

#### AMENDATORY SECTION (Amending Order DE 76-35, filed 12/28/76)

WAC 173-405-061 MORE RESTRICTIVE EMISSION STANDARDS. The department may establish more restrictive emission standards for new mills or for mills expanding existing facilities pursuant to WAC 173-403-050. ~~((Data documenting projected emissions and changes in, or affects [effects] upon, air quality, that would result from the construction or expansion, must be submitted to the department together with plans and specifications in accordance with the provisions of WAC 173-405-081.))~~

AMENDATORY SECTION (Amending Order DE 80-15, filed 8/20/80)

WAC 173-405-077 (~~ABNORMAL OPERATIONS OR UPSET CONDITIONS~~) REPORT OF STARTUP, SHUTDOWN, BREAKDOWN OR UPSET CONDITIONS. ~~((1) Upset conditions which may result in emissions in excess of the standards set by this chapter must be reported promptly to the department or appropriate air pollution control authority. An abnormal operation such as a startup or shutdown operation which can be anticipated must be reported in advance of the occurrence of the abnormal operation if it may result in emissions in excess of standards. Each kraft mill shall upon the request of the department or its designated agency, submit a full written report, including the known causes and the preventive measures to be taken to prevent a recurrence.~~

(2) Any period of excess emissions is presumed to be a violation unless and until the owner or operator demonstrates and the department finds that:

(a) The incident was reported as required; and

(b) Complete details were furnished the department or agency; and

(c) Appropriate remedial steps were taken to minimize excessive emissions and their impact on ambient air quality; and

(d) The incident was unavoidable.

(3) If the conditions of (2) above are met, the incident is excusable and a notice of violation will not be issued.

(4) If any of the conditions of (2) above are not met, the incident is not excusable and a notice of violation will be issued and a penalty may be assessed.

(5) For the department to find that an incident of excess emissions is unavoidable, the kraft mill must submit sufficient information to demonstrate the following conditions were met:

(a) The process equipment and the air pollution control equipment were at all times maintained and operated in a manner consistent with minimized emissions.

(b) Repairs or corrections were made in an expeditious manner when the operator knew or should have known that emission limitations were being or would be exceeded.

(c) The incident is not one in a recurring pattern which is indicative of inadequate design, operation or maintenance.) If a startup, shutdown, breakdown or upset condition occurs which could result in an emission violation or a violation of an ambient air quality standard, the owner or operator of the source shall take the following actions as applicable:

(1) For a planned condition, such as a startup or shutdown, the condition shall be reported to the department, or its delegated authority, in advance of its occurrence.

(2) For an unplanned condition, such as a breakdown or upset, the condition shall be reported to the department, or its delegated authority as soon as possible.

Upon request of the department or its delegated authority, the owner or operator of the source shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the change of recurrence.

Compliance with the requirements of WAC 173-405-077, does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of chapter 173-405 WAC nor from the resulting liabilities for failure to comply.

AMENDATORY SECTION (Amending Order DE 80-15, filed 8/20/80)

WAC 173-405-078 EMISSION INVENTORY. The owner or operator of any kraft pulp mill shall submit an inventory of emissions from the source each year upon a form and according to instructions received from the department of ecology. The inventory may include stack and fugitive emissions of particulates, sulfur dioxide, carbon monoxide, volatile organic compounds, TRS, and other contaminants, and shall be submitted when required no later than ~~((forty-five))~~ one hundred five days after the end of the calendar year. The inventory shall include total emissions for the year in tons per year and an estimate of the percentage of the total emitted each quarter. An estimate shall be made of the one hour and twenty-four hour emissions while operating at capacity. The report shall include the average sulfur content of any fossil fuel used which will result in emissions of more than twenty-five tons per year of sulfur dioxide.

AMENDATORY SECTION (Amending Order DE 80-15, filed 8/20/80)

WAC 173-405-086 NEW SOURCE REVIEW. ~~((1) No new kraft pulp mill source shall commence construction until a notice of construction has been approved by the department.~~

(2)(a) ~~The replacement of air pollution control equipment or process equipment in an existing process which will not increase potential emissions and will not increase ambient air concentrations of any pollutant does not require a notice of construction provided no changes are made in the process or the size of the source. The department of ecology shall be notified of such proposed change. Demonstration of nonapplicability of notice of construction requirement will be the responsibility of the owner or operator.~~

(b) ~~Addition to, enlargement, modification, replacement or alteration of any process or source, other than the replacement of equipment as covered in WAC 173-405-086(2)(a) which will increase potential emissions or ambient concentration of any contaminant for which a federal or state emission or ambient standard has been set, will require the filing of a notice of construction. The new source review will apply to that part of the source which is affected and for the contaminants which may be increased.~~

(3) ~~Within thirty days of receipt of a notice of construction, the department may require the submission of plans, specifications and such other information as deemed necessary for the review of the proposed project.~~

(4) ~~The department of ecology shall review the notice of construction and plans, specifications and other information associated therewith in order to determine that:~~

(a) ~~The proposed project will be in accord with applicable rules and regulations in force pursuant to chapter 70.94 RCW, including a determination that the operation of the new source at the location proposed will not result in any applicable federal or state ambient air quality standard being exceeded.~~

(b) ~~The proposed project will utilize best available control technology (BACT) for emission control.~~

(c) ~~If the project is a major source or the modification of a major source which will cause more than a de minimus increase in potential emissions and is located in a nonattainment area, the owner or operator shall demonstrate that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in the state which are subject to emission limitations are in compliance or on a schedule for compliance with applicable emission limitations and standards under the federal clean air act.~~

(d) ~~If the project is a major source or the modification of a major source which will cause more than a de minimus increase in potential emissions and is located in a nonattainment area, the source will comply with the lowest achievable emission rate (LAER) for emissions of the contaminants for which nonattainment has been designated.~~

(e) ~~Compliance with federal emission standards for hazardous air pollutants and new source performance standards (NSPS) when applicable to the source will be required.~~

(f) ~~The proposed project meets all requirements of prevention of significant deterioration regulations, if applicable.~~

(g) ~~The proposed project will not violate the requirements for reasonable further progress established by the implementation plan. If the new source is a major source or a major modification of an existing source which will cause more than a de minimus increase in potential emissions and is located in a nonattainment area, the total allowable emissions from existing sources and the new source, of the contaminants for which nonattainment has been designated, must be less than allowable emissions from existing sources at the time the application for approval was filed.~~

(h) ~~The emissions from the proposed source will not delay the attainment date for any nonattainment area:~~

(i) ~~The application of BACT, LAER and NSPS required by WAC 173-405-086(4)(b), (4)(d) and (4)(e) will be only for those pollutants which will increase potential emissions due to the proposed project.~~

(5) ~~Within thirty days after receipt of all information required by it, the department of ecology shall:~~

(a) ~~Make preliminary determinations on the matters set forth in WAC 173-405-086(4).~~

(b) ~~Make available in at least one location in the county or counties in which the proposed project is located, a copy of the preliminary determination and copies of or a summary of the information considered in making such preliminary determinations.~~



~~(c) Require the applicant to publish notice to the public of the opportunity for written comment on the preliminary determinations within thirty days from the date such notice is made.~~

~~(d) Compliance with WAC 173-405-086(5)(b) and (c) is not required if the public notice requirements of the environmental coordination procedures act (ECPA) or the state environmental policy act (SEPA) are complied with.~~

~~(6) If, after review of all information received, including public comment with respect to any proposed project, the department makes any of the determinations of WAC 173-405-086(4)(a) through (4)(h) in the negative, it shall within sixty days of receipt of such information issue an order for the prevention of the construction, installation or establishment of the new stationary source except when it determines that additional information is needed.~~

~~(7) If, after review of all information received, including public comment with respect to any proposed project, the department makes the determinations of WAC 173-405-086(4)(a), (4)(b), and where applicable, WAC 173-405-086(4)(c) through (4)(h) in the affirmative, it shall within sixty days of receipt of such information issue an order of approval of the construction, installation or establishment of the new plant or modification. The order of approval may provide such conditions of operation as are reasonably necessary to assure the continuous compliance with chapter 70-94 RCW and the applicable rules and regulations in force pursuant thereto.~~

~~(8) The owner or operator of a proposed new source shall not commence operations until written permission to commence has been granted by the department. Written permission to commence operation shall be granted within thirty days of receiving notification of completion of construction unless the department finds that construction, installation, or establishment is not in accord with the plans, specifications or other information submitted to the department and used to approve the construction.) Construction shall not commence on any new kraft mill until a notice of construction has been approved by the department pursuant to WAC 173-403-050.~~

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- (1) WAC 173-405-090 OPERATING PERMIT.
- (2) WAC 173-405-101 EXEMPTION.

Chapter 173-410 WAC  
SULFITE PULPING MILLS

WAC

- 173-410-021 Definitions.
- 173-410-040 Emission standards.
- 173-410-067 ~~((Abnormal operations or upset conditions))~~ Report of startup, shutdown, breakdown or upset conditions.
- 173-410-071 Emission inventory.
- 173-410-086 New source review.

**AMENDATORY SECTION** (Amending Order DE 80-16, filed 8/20/80)

WAC 173-410-021 DEFINITIONS. (1) ~~("Abnormal operation" means a process operation other than a normal operation which may result in emissions that exceed emission standards. An abnormal operation can be anticipated and planned.~~

~~(2)) "Acid plant" means the facility in which the cooking liquor is either manufactured or fortified when not associated with a recovery system.~~

~~((3)) (2) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof which are airborne. "Air pollutant" means the same as "air contaminant."~~

~~((4) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation, or both) and the most stringent of the following:~~

- ~~(a) The applicable state implementation plan emission limitation; or~~
- ~~(b) The emission rate specified as a permit condition.~~

~~(5)) (3) "Ambient air" means the surrounding outside air.~~

~~((6)) (4) "Ambient air quality standard" means an established concentration, exposure time and frequency of occurrence of a contaminant or multiple contaminants in the ambient air which shall not be exceeded.~~

~~((7)) (5) "Average daily emission" means total weight of an air contaminant emitted in each month, divided by the number of days of production that month.~~

~~((8)) (6) "Average daily production" means air dried tons of unbleached pulp produced in a month, divided by the number of days of production in that month.~~

~~((9) "Best available control technology (BACT)" means technology which will result in an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to this chapter which would be emitted from any sulfite pulping mill or modification to a sulfite pulping mill which the department of ecology determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. The determination of best available control technology shall be on a case-by-case basis, taking into account energy, environmental, and economic impacts. In no event shall application of the best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61. If the department determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination thereof, to meet the requirement of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results. For the purposes of this chapter, the requirement of RCW 70-94.152 that a new source should provide "all known available and reasonable methods of emission control" is interpreted to mean the same as best available control technology.~~

~~((10)) (7) "Blow system" includes the storage chest, tank or pit to which the digester pulp is discharged following the cook.~~

~~((11) "Commenced construction" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.~~

~~(12) "De minimus levels" means levels of emissions resulting from a modification or cumulative emissions from a series of modifications to a major source which are less than the following:~~

	Tons/Year	Pounds/Day	Pounds/Hour
Carbon Monoxide	100		
Hydrocarbons	100		
Sulfur Dioxide	50	1000	100
Particulates	50	1000	100))

~~(8) "Commenced construction" means that the owner or operator has all the necessary preconstruction approvals or permits and either has:~~

~~(a) Begun or caused to begin a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or~~

~~(b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.~~

~~((13)) (9) "Department" means the state of Washington department of ecology.~~

~~((14)) (10) "Director" means the director of the department of ecology or his authorized representative.~~

~~((15)) (11) "Emission" means a release into the outdoor atmosphere of air contaminants.~~

~~((16)) (12) "Emission standard" means a regulation or regulatory order (or portion thereof) setting forth an allowable rate of emissions, level of opacity, or prescribing equipment or ((fuel specifications)) operating conditions that result in control of air pollution emission.~~

~~(13) "Emissions unit" means any equipment, device, process or activity that emits or may emit, to the outside air, contaminants which are regulated by state or federal law.~~

~~((17))~~ (14) "Fugitive emissions" means ~~((the emission of contaminants from sources other than the control system exit point. Material handling, storage piles, doors, windows and vents are typical sources of fugitive emissions))~~ emissions that do not pass and which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

~~((18))~~ "Lowest achievable emission rate (LAER)" means for any source, that rate of emissions which reflects:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

~~(19)~~ "Major source" means any source which has potential emissions exceeding one hundred tons per year of any contaminant regulated by state or federal law.

~~((20))~~ (15) "New source" means a source which commences construction after January 1972. Addition to, enlargement, modification, replacement, or any alteration of any process or source which ~~((will))~~ may increase ~~((potential))~~ emissions or ambient air concentrations of any contaminant for which federal or state ambient ~~((air))~~ or emissions standards have been established shall be construed as construction or installation or establishment of a new source. In addition every major modification (as defined in WAC 173-403-030) shall be construed as construction or installation or establishment of a new source.

~~((21))~~ "Nonattainment area" means a clearly delineated geographic area which has been designated by EPA promulgation as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.)

(16) "Notice of construction" means a document which makes application for permission to construct a new air contaminant source or to accomplish the modification of an existing source.

~~((22))~~ (17) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage.

~~((23))~~ (18) "~~((p.p.m.))~~ppm" (parts per million) means parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

~~((24))~~ (19) "Particulate matter" or "particulates" means small discrete masses of liquid or solid, exclusive of uncombined water.

~~((25))~~ "Potential emissions" means the emission of a contaminant from a source operated at maximum capacity (taking into account any enforceable operating restrictions as to hours of operation, types of fuels or materials, process limitations or other permit conditions) with air pollution controls applied.

~~((26))~~ (20) "Reasonably available control technology (RACT)" means the technology that will result in the lowest emission limit that a sulfite pulping mill is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual plant taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality and the capital and operating costs of the additional controls. RACT requirements for any sulfite pulping mill may be adopted as an order or regulation after public ~~((hearing))~~ involvement per WAC 173-403-110.

~~((27))~~ (21) "Recovery system" means the process by which all or part of the cooking chemicals may be recovered, and cooking liquor regenerated from spent cooking liquor, including evaporation, combustion, dissolving, fortification, storage facilities, and emission control equipment associated with the recovery cycle.

(22) "Source" means all of the emissions unit(s) including quantifiable fugitive emissions, which are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) whose activities are ancillary to the production of a single product or functionally related group of products.

~~((28))~~ (23) "Standard conditions" means a temperature of 20°C (68°F) and a pressure of 760 mm (29.92 inches) of mercury except when otherwise specified.

~~((29))~~ (24) "Sulfite pulping mill" means any manufacturing facility which uses a cooking liquor consisting of sulfurous acid, a sulfite or

bisulfite salt alone or in any combination, with or without additional mechanical refining or delignification to produce pulp, pulp products or cellulose from wood fibers. For the purposes of this regulation "sulfite pulping mill" is equivalent to "source."

~~((30))~~ (25) "Total reduced sulfur (TRS)" means hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and other organic sulfides present, expressed as hydrogen sulfide.

~~((31))~~ "Upset" means an unexpected occurrence which may result in emissions in excess of emission standards.)

AMENDATORY SECTION (Amending Order DE 80-16, filed 8/20/80)

WAC 173-410-040 EMISSION STANDARDS. No sulfite pulping mill shall cause or permit emissions in excess of the limits listed below. All sulfite pulping mills are required to meet the emission standards of this chapter, as modified by chapter 173-403 WAC if applicable. Further, all point sources are required to use reasonably available control technology which may be determined for some sources or source categories to be more stringent than the emission limits of this chapter. In cases where current controls are determined to be less than reasonably available control technology (RACT), the department shall, on a case-by-case basis, define RACT for each source or source category and issue a regulatory order to the operator of the source defining RACT. The order will contain a schedule for installation, with intermediate benchmark dates, and a final completion date and shall constitute a compliance schedule. All sources in nonattainment areas shall be in compliance by December 31, 1982, with RACT requirements for nonattainment pollutants which have been defined by July 1, 1981. For RACT requirements defined after July 1, 1981, sources will be placed on a compliance schedule which will be completed as soon as practicable.

(1) Sulfur dioxide.

(a) The total average daily emissions from a sulfite pulping mill, or a portion of a sulfite pulping mill which practices incineration of the spent sulfite liquor, shall not exceed ten grams of sulfur dioxide per kilogram (twenty pounds per ton) of air dried, unbleached pulp produced.

(b) The total average daily emissions from a sulfite pulping mill, or a portion of a sulfite pulping mill that does not incinerate the spent sulfite liquor, shall not exceed two grams of sulfur dioxide per kilogram (four pounds per ton) of air dried, unbleached pulp produced.

(c) The blow system emissions shall not exceed 0.1 grams of sulfur dioxide per minute, on a fifteen minute average, per kilogram (0.2 pounds per ton) of air dried, unbleached pulp discharged from the digester.

(d) Emissions from the recovery system and acid plant shall not exceed 800 ppm ~~((dry))~~ of sulfur dioxide for any hourly average.

(e) Emissions from recovery systems constructed after January 24, 1972, shall not exceed 300 ppm ~~((dry))~~ of sulfur dioxide for any hourly average.

(f) Emissions from any emissions unit, other than a recovery system, a blow system or an acid plant, shall not exceed 1000 ppm of sulfur dioxide for any hourly average.

(2) Particulate.

(a) Emissions of particulate from recovery systems constructed before January 24, 1972, shall not exceed 0.23 grams per dry cubic meter of exhaust at standard conditions (0.10 grains/dscf) corrected to eight percent oxygen.

(b) Emissions of particulate matter from recovery systems constructed after January 24, 1972, shall not exceed 0.14 grams per dry cubic meter of exhaust at standard conditions (0.06 grains/dscf) corrected to eight percent oxygen.

(c) ((The emissions of particulate matter from stacks of all particulate emission sources, excluding the acid plant and recovery system, shall not exceed 0.23 grams per standard cubic meter (0.1 grains/ft<sup>3</sup>) of dry exhaust gas.)) The emission of particulates from emissions units other than acid plants or recovery systems shall not exceed the following maximums:

(i) 0.46 grams per dry cubic meter at standard conditions (0.2 grains/dscf) corrected to seven percent oxygen, for units which combust wood to produce steam and which commenced construction prior to January 1, 1983.

(ii) 0.12 grams per dry cubic meter at standard conditions (0.05 grains/dscf) corrected to seven percent oxygen, for units which combust fuel other than wood to produce steam, and which commenced construction after January 1, 1983.

(iii) 0.23 grams per dry cubic meter at standard conditions (0.1 grains/dscf) corrected to seven percent oxygen in the case of combustion units, for units not classified under subsections (i) or (ii) of this section.

(3) Each sulfite mill shall take reasonable precautions to prevent fugitive emissions from becoming airborne and if located in a nonattainment area shall be required to use reasonably available control technology (RACT) to control fugitive emissions of nonattainment contaminants.

(4) Masking. No sulfite mill shall cause or permit the installation or use of any device, or the use of any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of an air contaminant which would otherwise violate any provisions of this chapter.

(5) Fallout. No sulfite mill shall cause or permit the emission of particulate matter to be deposited beyond the property under direct control of the owner or operator of the sulfite mill in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material was deposited.

(6) Other contaminants. No sulfite mill shall cause or permit the emission of an air contaminant or water droplets, including an air contaminant whose emission is not otherwise prohibited by this chapter, in such quantities or of such characteristics or duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life or property.

(7) Opacity. No person shall cause or allow the emission of a plume from a recovery system or acid plant ~~((or other source))~~ which has an average opacity greater than thirty-five percent ~~((at or within a reasonable distance of the emission point))~~, for more than six consecutive minutes in any sixty minute period, except as described in WAC ~~((173-410-040(8) and))~~ 173-410-040(9). ~~((The opacity determination shall be according to procedures contained in "Source Test Manual - Procedures for Compliance Testing", on file with the department.))~~ No person shall cause or allow the emissions of a plume, from any emissions unit other than a recovery system or an acid plant, which has an average opacity greater than twenty percent for more than six consecutive minutes in any sixty-minute period. There shall be no more than one violation for any sixty-minute period.

(8) The provisions of WAC 173-410-040(7) shall not apply when the presence of ~~((condensed))~~ uncombined water ~~((droplets))~~ is the only reason for the opacity of the plume to exceed ~~((thirty-five percent))~~ the applicable maximum.

(9) Each mill may petition for, and the department may establish by regulatory order, other opacity limits for a specific ~~((facility))~~ recovery system or acid plant providing:

(a) Compliance with all other applicable emission limits can be demonstrated; and

(b) Best practicable operation and maintenance procedures, as approved by the department, are continuously employed.

(10) Any person electing to apply for exceptions ~~((to))~~ per the provisions of WAC 173-410-040~~((7))~~ (9) shall submit a program acceptable to the department. The program shall include the following information: The amount and concentration of suspended particulate material emitted during best practicable operating procedures, opacity recorded at such emission level, the type of equipment and procedures which will be used to demonstrate compliance and the time required for installation of the equipment.

(11) The opacity provisions of this chapter shall apply until an application is received by the department petitioning for a revised limit as allowed by WAC 173-410-040(9).

After a petition is received, enforcement of the opacity provisions will be stayed until the application is rejected or a new limit is established.

(12) Odors. No sulfite pulping mill shall cause or permit the emission of odors in such quantities or of such characteristics or duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interfere with enjoyment of life and property.

(13) Operation and maintenance. At all times, including periods of abnormal operations and upset conditions, owners and operators shall, to the extent practicable, maintain and operate any affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the department which

may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(14) No recovery system shall emit total reduced sulfur (TRS) gases in excess of 17.5 ppm for a daily average.

(15) More restrictive limits. Notwithstanding the specific emission limits set forth in this chapter, the department may, after notice and hearing, establish more restrictive emission limits if the department has reason to believe that the emission from the source is a cause of public nuisance or a cause of violation of ambient air quality standards. The source shall, within ninety days from notification of such occurrence, achieve operation that will prevent further recurrence of the nuisance or violation.

(16) Source testing. In order to demonstrate compliance with this chapter, the department may require that a test be made of the source using procedures contained in "Source Test Manual - Procedures for Compliance Testing," state of Washington, department of ecology, on file at the department. The operator of a source may be required to provide the necessary platform and sampling ports for the department personnel to perform a test of the source. The department shall be allowed to obtain a sample from any source. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

#### AMENDATORY SECTION (Amending Order DE 80-16, filed 8/20/80)

WAC 173-410-067 ((ABNORMAL OPERATIONS OR UPSET CONDITIONS)) REPORT OF STARTUP, SHUTDOWN, BREAKDOWN OR UPSET CONDITIONS. ((+) Upset conditions which may result in emissions in excess of the standards set by this chapter must be reported promptly to the department or appropriate air pollution control authority. Abnormal operations such as startup and shutdown operations which can be anticipated must be reported in advance of the occurrence of the abnormal operation if it may result in emissions in excess of standards. Each sulfite plant shall, upon the request of the department or its designated agency, submit a full written report, including the known causes and the preventive measures to be taken to prevent a recurrence.

~~((2) Any period of excess emissions is presumed to be a violation unless and until the owner or operator demonstrates and the department finds that:~~

~~((a) The incident was reported as required; and~~

~~((b) Complete details were furnished the department or agency; and~~

~~((c) Appropriate remedial steps were taken to minimize excessive emissions and their impact on ambient air quality; and~~

~~((d) The incident was unavoidable.~~

~~((3) If the conditions of (2) above are met, the incident is excusable and a notice of violation will not be issued.~~

~~((4) If any of the conditions of (2) above are not met, the incident is not excusable and a notice of violation will be issued and a penalty may be assessed.~~

~~((5) For the department to find that an incident of excess emissions is unavoidable, the sulfite mill must submit sufficient information to demonstrate that the following conditions were met:~~

~~((a) The process equipment and the air pollution control equipment were at all times maintained and operated in a manner consistent with minimized emissions.~~

~~((b) Repairs or corrections were made in an expeditious manner when the operator knew or should have known that emission limitations were being or would be exceeded.~~

~~((c) The incident is not one in a recurring pattern which is indicative of inadequate design, operation or maintenance.)) If a startup, shutdown, breakdown or upset condition occurs which could result in an emission violation or a violation of an ambient air quality standard, the owner or operator of the source shall take the following actions as applicable:~~

~~((1) For a planned condition, such as a startup or shutdown, the condition shall be reported to the department, or its delegated authority, in advance of its occurrence.~~

~~((2) For an unplanned condition, such as a breakdown or upset, the condition shall be reported to the department, or its delegated authority as soon as possible.~~

Upon request of the department or its delegated authority, the owner or operator of the source shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.

Compliance with the requirements of WAC 173-410-067, does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of chapter 173-410 WAC nor from the resulting liabilities for failure to comply.

AMENDATORY SECTION (Amending Order DE 80-16, filed 8/20/80)

WAC 173-410-071 EMISSION INVENTORY. The owner or operator of any sulfite pulping mill shall submit an inventory of emissions from the source each year upon a form and according to instructions received from the department of ecology. The inventory may include stack and fugitive emissions of particulates, sulfur dioxide, carbon monoxide, volatile organic compounds, TRS, and other contaminants, and shall be submitted when required no later than ~~((forty=~~ five)) one hundred five days after the end of the calendar year. The inventory shall include total emissions for the year in tons per year and an estimate of the percentage of the total emitted each quarter. An estimate shall be made of the one hour and twenty-four hour emissions while operating at capacity. The report shall include the average sulfur content of any fossil fuel which will result in emissions of more than twenty-five tons per year of sulfur dioxide.

AMENDATORY SECTION (Amending Order DE 80-16, filed 8/20/80)

WAC 173-410-086 NEW SOURCE REVIEW. ~~((1) No new sulfite pulping mill source shall commence construction until a notice of construction has been approved by the department.~~

~~(2)(a) The replacement of air pollution control equipment or process equipment in an existing process which will not increase potential emissions and will not increase ambient air concentrations of any pollutant does not require a notice of construction provided no changes are made in the process or the size of the source. The department of ecology shall be notified of such proposed change. Demonstration of nonapplicability of notice of construction requirement will be the responsibility of the owner or operator.~~

~~(b) Addition to, enlargement, modification, replacement, or alteration of any process or source, other than the replacement of equipment as covered in WAC 173-410-086(2)(a), which will increase potential emissions or ambient concentration of any contaminant for which a federal or state emission or ambient standard has been set, will require the filing of a notice of construction. The new source review will apply to that part of the source which is affected and for the contaminants which may be increased.~~

~~(3) Within thirty days of receipt of a notice of construction, the department may require the submission of plans, specifications, and such other information as deemed necessary for the review of the proposed project.~~

~~(4) The department of ecology shall review the notice of construction and plans, specifications, and other information associated therewith in order to determine that:~~

~~(a) The proposed project will be in accord with applicable rules and regulations in force pursuant to chapter 70.94 RCW, including a determination that the operation of the new source at the location proposed will not result in any applicable federal or state ambient air quality standard being exceeded.~~

~~(b) The proposed project will utilize best available control technology (BACT) for emission control.~~

~~(c) If the project is a major source or the modification of a major source which will cause more than a de minimus increase in potential emissions and is located in a nonattainment area, the owner or operator shall demonstrate that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in the state which are subject to emission limitations are in compliance or on a schedule for compliance with applicable emission limitations and standards under the federal clean air act.~~

~~(d) If the project is a major source or the modification of a major source which will cause more than a de minimus increase in potential emissions and is located in a nonattainment area, the source will comply with the lowest achievable emission rate (LAER) for emissions of the contaminants for which nonattainment has been designated.~~

~~(e) Compliance with federal emission standards for hazardous air pollutants and new source performance standards (NSPS) when applicable to the source will be required.~~

~~(f) The proposed project meets all requirements of prevention of significant deterioration regulations, if applicable.~~

~~(g) The proposed project will not violate the requirements for reasonable further progress established by the implementation plan. If the new source is a major source or a modification of a major source which will cause more than a de minimus increase in potential emissions and is located in a nonattainment area or whose emissions significantly affect a nonattainment area, the total allowable emissions from existing sources and the new source, of the contaminants for which nonattainment has been designated, must be less than allowable emissions from existing sources at the time the application for approval was filed.~~

~~(h) The emissions from the proposed source will not delay the attainment date for any nonattainment area.~~

~~(i) The application of BACT, LAER, and NSPS required by WAC 173-410-086(4)(b), (4)(d) and (4)(e) will be only for those pollutants which will increase potential emissions due to the proposed project.~~

~~(5) Within thirty days after receipt of all information required by it, the department of ecology shall:~~

~~(a) Make preliminary determinations on the matters set forth in WAC 173-410-086(4);~~

~~(b) Make available in at least one location in the county or counties in which the proposed project is located, a copy of the preliminary determination and copies of or a summary of the information considered in making such preliminary determinations;~~

~~(c) Require the applicant to publish notice to the public of the opportunity for written comment on the preliminary determinations within thirty days from the date such notice is made.~~

~~(d) Compliance with WAC 173-410-086(5)(b) and (5)(c) is not required if the public notice requirements of the environmental coordination procedures act (ECPA) or the state environmental policy act (SEPA) are complied with;~~

~~(6) If, after review of all information received, including public comment with respect to any proposed project, the department makes any of the determinations of WAC 173-410-086(4)(a) through (4)(h) in the negative, it shall within sixty days of receipt of such information issue an order for the prevention of the construction, installation or establishment of the new stationary source except when it determines that additional information is needed.~~

~~(7) If, after review of all information received, including public comment with respect to any proposed project, the department makes the determination of WAC 173-410-086(4)(a), (4)(b), and where applicable WAC 173-410-086(4)(c) through (4)(h) in the affirmative, it shall within sixty days of receipt of such information issue an order of approval of the construction, installation or establishment of the new plant or modification. The order of approval may provide such conditions of operation as are reasonably necessary to assure the continuous compliance with chapter 70.94 RCW and the applicable rules and regulations in force pursuant thereto.~~

~~(8) The owner or operator of a proposed new source shall not commence operations until written permission to commence has been granted by the department. Written permission to commence operation shall be granted within thirty days of receiving notification of completion of construction unless the department finds that construction, installation, or establishment is not in accord with the plans, specifications, or other information submitted to the department and used to approve the construction.) Construction shall not commence on any new sulfite pulping mill until a notice of construction has been approved by the department pursuant to WAC 173-403-050.~~

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- (1) WAC 173-410-090 OPERATING PERMIT.
- (2) WAC 173-410-091 EXEMPTIONS.

#### Chapter 173-415 WAC PRIMARY ALUMINUM PLANTS

WAC	
173-415-020	Definitions.
173-415-030	Emission standards.
173-415-050	New source review.
173-415-070	<u>((Abnormal operations or upset conditions)) Report of startup, shutdown, breakdown or upset conditions.</u>
173-415-080	Emission inventory.

AMENDATORY SECTION (Amending Order DE 80-17, filed 8/14/80)

WAC 173-415-020 DEFINITIONS. (1) ~~("Abnormal operation" means a process operation other than a normal operation which may result in emissions that exceed emission standards. An abnormal operation can be anticipated and planned.~~

~~(2))~~ (2) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof which are airborne. "Air pollutant" means the same as "air contaminant."

~~((3))~~ "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation, or both) and the most stringent of the following:

- ~~(a)~~ The applicable state implementation plan emission limitation; or
- ~~(b)~~ The emission rate specified as a permit condition or in a regulatory order.

~~((4))~~ (2) "Ambient air" means the surrounding outside air.

~~((5))~~ (3) "Ambient air quality standard" means an established concentration, exposure time and frequency of occurrence of a contaminant or multiple contaminants in the ambient air which shall not be exceeded.

~~((6))~~ "Best available control technology" means the technology which will result in an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to this chapter which would be emitted from any proposed primary aluminum plant or modification of a primary aluminum plant which the department of ecology determines is achievable through the application of production processes and available methods, systems, techniques, including combustion techniques for control of such pollutant. The determination of best available control technology shall be on a case-by-case basis, taking into account energy, environmental and economic impacts. In no event shall application of the best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61. If the department determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination thereof, to meet the requirement of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results. For the purposes of this chapter, the requirement of RCW 70.94.152 that a new source will provide "all known available and reasonable methods of emission control" is interpreted to mean the same as best available control technology.

~~(7))~~ (4) "Commenced construction" means that an owner or operator has ~~((undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification))~~ all the necessary reconstruction approvals or permits and either has:

~~(a)~~ Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

~~(b)~~ Entered into binding agreements or contractual obligations which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

~~((8))~~ "De minimus levels" means levels of emissions resulting from a modification or cumulative emissions from a series of modifications to a major source which are less than the following:

	<del>Tons/Year</del>	<del>Pounds/Day</del>	<del>Pounds/Hour</del>
Carbon monoxide	100		
Hydrocarbons	100		
Sulfur dioxide	50	1000	100
Particulates	50	1000	100

~~((9))~~ (5) "Department" means the state of Washington department of ecology.

~~((10))~~ (6) "Emission" means a release of air contaminants into the ambient air.

~~((11))~~ (7) "Emission standard" means a regulation or regulatory order (or portion thereof) setting forth an allowable rate of emissions,

level of opacity, or prescribing equipment or ~~((fuel specifications))~~ operating conditions that result in control of air pollution emission.

~~((8))~~ "Emissions unit" means any equipment, device, process or activity that emits or may emit, to the outside air, contaminants which are regulated by state or federal law.

~~((12))~~ (9) "Fluorides" means ~~((matter containing fluoride ion))~~ compounds of the element fluorine.

~~((13))~~ (10) "Forage" means grasses, pasture and other vegetation that is normally consumed or is intended to be consumed by livestock.

~~((14))~~ (11) "Fugitive emissions" means ~~((the emission of contaminants from sources other than the control system exit point. Material handling, storage piles, doors, windows and vents are typical sources of fugitive))~~ emissions that do not pass and which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

~~((15))~~ "Lowest achievable emission rate" means for any source, that rate of emissions which reflects:

~~(a)~~ The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

~~(b)~~ The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

~~((16))~~ "Major source" means any source which has potential emissions exceeding one hundred tons per year of any contaminant regulated by state or federal law.

~~((17))~~ (12) "Materials handling" means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant alteration of the chemical or physical properties of the material.

~~((18))~~ (13) "New source" means a source which commences construction after June 17, 1970. Addition to, enlargement, modification, replacement, or any alteration of any process or source which ~~((will))~~ may increase ~~((potential))~~ emissions or ambient air concentrations of any contaminant for which federal or state ambient ~~((air))~~ or emissions standards have been established shall be construed as construction or installation or establishment of a new source. In addition every major modification (as defined in WAC 173-403-030) shall be construed as construction or installation or establishment of a new source.

~~((19))~~ (14) "New source performance standard (NSPS)" means the federal regulations set forth in 40 CFR Part 60.

~~((20))~~ "Nonattainment area" means a clearly delineated geographic area which has been designated by EPA promulgation as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.)

(15) "Notice of construction" means a document which makes application for permission to construct a new air contaminant source or to accomplish the modification of an existing source.

~~((21))~~ (16) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage.

~~((22))~~ (17) "Particulate matter" or "particulates" means small discrete masses of liquid or solid, exclusive of uncombined water.

~~((23))~~ "Potential emissions" means the emission of a contaminant from a source operated at maximum capacity (taking into account any enforceable operating restrictions as to hours of operation, types of fuels or materials, process limitations or other permit conditions) with air pollution controls applied.

~~((24))~~ (18) "Primary aluminum plant" means a plant which produces aluminum metal from aluminum oxide (alumina). For the purposes of this regulation "primary aluminum plant" is equivalent to "source."

~~((25))~~ (19) "Potline primary emission control system" means the equipment and procedures designed to collect and remove contaminants from the exhaust gases which are captured at the pot.

~~((26))~~ (20) "Reasonably available control technology (RACT)" means the technology that will result in the lowest emission limit that a primary aluminum plant is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual plant taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality and the capital and operating costs of

the additional controls. RACT requirements for any primary aluminum plant may be adopted as an order or regulation after public involvement per WAC 173-403-110.

(21) "Source" means all of the emissions unit(s) including quantifiable fugitive emissions, which are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control), whose activities are ancillary to the production of a single product or functionally related group of products.

((27)) (22) "Standard conditions" means a temperature of 20°C (68°F) and a pressure of 760 mm (29.92 inches) of mercury except when otherwise specified.

((28) "Upset" means an unexpected occurrence which may result in emissions in excess of emission standards.)

AMENDATORY SECTION (Amending Order DE 80-17, filed 8/14/80)

WAC 173-415-030 EMISSION STANDARDS. (1) All primary aluminum plants are required to meet the emission standards of this chapter, as modified by chapter 173-403 WAC if applicable. Further, all primary aluminum plants are required to use reasonably available control technology which may be determined for some primary aluminum plants to be more stringent than the emission limitations of this chapter. In cases where current controls are determined to be less than reasonably available control technology (RACT), the department shall, on a case-by-case basis, define RACT for each plant and issue a regulatory order to the primary aluminum plant for installation of RACT. The order will contain a schedule for installation, with intermediate benchmark dates and a final completion date and shall constitute a compliance schedule. All primary aluminum plants shall comply by December 31, 1982, with RACT requirements for nonattainment pollutants which have been defined by July 1, 1981. For RACT requirements defined after July 1, 1981, primary aluminum plants will be placed on a compliance schedule which will be completed as soon as practicable.

(2) Fluoride.

(a) The emission of gaseous fluorides and particulate fluorides for all ((sources)) emissions units within a primary aluminum plant shall be restricted so that the ambient air and forage standards for fluorides established by chapter 18-48 WAC are not exceeded outside the property controlled by the aluminum plant owner or operator.

(b) By January 1, 1984, the potline primary emission control system for each potline shall be designed so that the control of fluoride emissions will be equivalent to a total fluoride collection efficiency of eighty percent for vertical stud soderberg and side worked prebake pots, eighty-five percent for horizontal stud soderberg pots, and ninety-five percent for center worked prebake pots and a primary emission control system with a design removal efficiency of at least ninety-five percent. A potline near the end of its useful life and scheduled for replacement or shutdown in a reasonable time period may not be required to retrofit provided ambient fluoride standards are being met.

(3) Particulate. The total emission of particulate matter to the atmosphere from the reduction process (potlines) shall be reduced to the lowest level consistent with RACT for primary aluminum plants, but in no case shall the emission of solid particulate exceed 7.5 grams per kilogram (fifteen pounds per ton) of aluminum produced on a daily basis. Compliance shall be determined by measurement methods contained in the "Source Test Manual - Procedures for Compliance Testing" on file with the department of ecology.

(4) Visible emissions. Visible emissions from any ((source)) emissions unit in a primary aluminum plant ((excluding uncombined water droplets,)) shall not exceed an average twenty percent opacity for more than six consecutive minutes in any sixty minute period. This provision shall not apply when the presence of uncombined water is the only reason for the opacity of the plume to exceed twenty percent.

(5) Fallout. No primary aluminum plant shall cause or permit the emission of particulate matter to be deposited beyond the property under direct control of the owner or operator of the plant in such quantity or of such character or duration as is or is likely to be injurious to human health, plant or animal life, or property or will interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.

(6) Other contaminants. No primary aluminum plant shall cause or permit the emission of any air contaminant or water droplets, including any air contaminant whose emission is not otherwise regulated by this chapter, as is or is likely to be injurious to human health, plant or

animal life, or property or which unreasonably interferes with enjoyment of life or property.

(7) Fugitive emissions. Each primary aluminum plant shall use reasonably available control technology to prevent fugitive emissions.

(8) Sulfur dioxide.

(a) Total emissions of sulfur dioxide from all ((sources)) emissions units shall not exceed thirty grams of sulfur dioxide per kilogram of aluminum produced on a monthly average (sixty pounds per ton). Those primary aluminum plants which were in excess of the above sulfur dioxide limit on January 1, 1978<sub>1</sub> will be allowed to emit at the January 1, 1978<sub>2</sub> level of emissions provided that the owners or operators demonstrate to the department by July 1, 1981, by use of modeling and ambient measurements, that the emissions will not cause the ambient standard to be exceeded.

(b) In no case shall any plant cause or permit the emission of a gas containing sulfur dioxide in excess of one thousand parts per million corrected to dry standard conditions. A lower limit may be established by an order defining RACT for a specific ((point source)) emissions unit or process.

(9) Odors. Any ((person)) owner or operator of a primary aluminum plant who shall cause or allow the generation of any odor from any ((source)) emissions unit which may unreasonably interfere with any person's use and enjoyment of his property must use recognized good practice and procedure to reduce these odors to a reasonable minimum.

(10) Operation and maintenance. At all times, including periods of abnormal operation and upset, owners and operators shall, to the extent practicable, maintain an affected facility, and operate and maintain air pollution control equipment associated with such facility in a manner consistent with good air pollution control practice. A plant may elect to establish a program, subject to the approval of the department, for monitoring each potroom in order to demonstrate good operation and maintenance.

(11) Source testing. In order to demonstrate compliance with this chapter, the department may require that a test be made of the plant using procedures contained in "Source Test Manual - Procedures for Compliance Testing," State of Washington, Department of Ecology, on file at the department. The operator of the plant may be required to provide the necessary platform and sampling ports for the department personnel to perform a test of the ((source)) emissions unit. The department shall be allowed to obtain a sample from any ((source)) emissions unit. The operator of the plant shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

AMENDATORY SECTION (Amending Order DE 80-17, filed 8/14/80)

WAC 173-415-050 NEW SOURCE REVIEW. ((1) No new primary aluminum plant source shall commence construction until a notice of construction has been approved by the department.

(2)(a) The replacement of air pollution control equipment or process equipment in an existing process which will not increase potential emissions and will not increase ambient air concentrations of any pollutant does not require a notice of construction provided no changes are made in the process or the size of the source. The department of ecology shall be notified of such proposed change. Demonstration of the nonapplicability of the notice of construction requirement will be the responsibility of the owner or operator.

(b) Addition to, enlargement, modification, replacement, or alteration of any process or source, other than the replacement of equipment as covered in WAC 173-415-050(2)(a) which will increase potential emissions or ambient concentrations of any contaminant for which a federal or state emission or ambient standard has been set, will require a filing of a notice of construction. The new source review will apply to that part of the source which is affected and for the contaminants which may be increased.

(3) Within thirty days of receipt of a notice of construction, the department may require the submission of plans, specifications and such other information as deemed necessary for the review of the proposed project.

(4) The department of ecology shall review the notice of construction and plans, specifications and other information associated therewith in order to determine that:

(a) The proposed project will be in accord with applicable rules and regulations in force pursuant to chapter 70.94 RCW, including a determination that the operation of the new source at the location proposed will not result in any applicable federal or state ambient air quality standard being exceeded.

(b) The proposed project will utilize best available control technology (BACT) for emission control.

(c) If the project is a major source or the modification of a major source which will cause more than a de minimus increase in potential emissions and is located in a nonattainment area, the owner or operator shall demonstrate that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in the state which are subject to emission limitations are in compliance or on a schedule for compliance with applicable emission limitations and standards under the federal clean air act.

(d) If the project is a major source or the modification of a major source which will cause more than a de minimus increase in potential emissions and is located in a nonattainment area, the source will comply with the lowest achievable emission rate (LAER) for emissions of the contaminants for which nonattainment has been designated.

(e) Compliance with federal emission standards for hazardous air pollutants and new source performance standards (NSPS) when applicable to the source will be required.

(f) The proposed project meets all requirements of prevention of significant deterioration regulations, if applicable.

(g) The proposed project will not violate the requirements for reasonable further progress established by the implementation plan. If the new source is a major source or a modification of an existing major source and is located in a nonattainment area, the total allowable emissions from existing sources and the new source, of the contaminants for which nonattainment has been designated, must be less than allowable emissions from existing sources at the time the application for approval was filed.

(h) The emissions from the proposed source will not delay the attainment date for any nonattainment area.

(i) The application of BACT, LAER and NSPS required by WAC 173-415-050(4)(b), (4)(d) and (4)(e) will be only for those pollutants which will increase potential emissions due to the proposed project.

(5) Within thirty days after receipt of all information required by it, the department of ecology shall:

(a) Make preliminary determinations on the matters set forth in WAC 173-415-050(4);

(b) Make available in at least one location in the county or counties in which the proposed project is located, a copy of the preliminary determination and copies of or a summary of the information considered in making such preliminary determinations;

(c) Require the applicant to publish notice to the public of the opportunity for written comment on the preliminary determinations within thirty days from the date such notice is made;

(d) Compliance with WAC 173-415-050(5)(b) and (5)(c) is not required if the public notice requirements of the environmental coordination procedures act (ECPA) or the state environmental policy act (SEPA) are complied with;

(6) If, after review of all information received, including public comment with respect to any proposed project, the department makes any of the determinations of WAC 173-415-050(4)(a) through (4)(h) in the negative, it shall, within sixty days of receipt of such information, issue an order for the prevention of the construction, installation, or establishment of the new stationary source.

(7) If, after the review of all information received, including public comment with respect to any proposed project, the department makes the determination of WAC 173-415-050(4)(a), (4)(b), and where applicable, WAC 173-415-050(4)(c) through (4)(h) in the affirmative, it shall, within sixty days of receipt of such information, issue an order of approval of the construction, installation or establishment of the new plant or modification. The order of approval may provide such conditions of operation as are reasonably necessary to assure the continuous compliance with chapter 70.94 RCW and the applicable rules and regulations in force pursuant thereto.

(8) The owner or operator of a proposed new source shall not commence operations until written permission to commence has been granted by the department. Written permission to commence operation shall be granted within thirty days of receiving notification of completion of construction unless the department finds that the construction, installation or establishment is not in accord with the plans, specifications, or other information submitted to the department and used to approve the construction. Construction shall not commence on any new primary aluminum plant until a notice of construction has been approved by the department pursuant to WAC 173-403-050.

#### AMENDATORY SECTION (Amending Order DE 80-17, filed 8/14/80)

WAC 173-415-070 ((ABNORMAL OPERATIONS OR UPSET CONDITIONS)) REPORT OF STARTUP, SHUTDOWN, BREAKDOWN OR UPSET CONDITIONS. (((+)) Upset conditions which may result in emissions in excess of the standards set by this chapter must be reported promptly to the department or appropriate air pollution control authority. Abnormal operations such as startup and shutdown operations which can be anticipated must be reported in advance of the occurrence of the abnormal operation if it may result in emissions in excess of standards. Each aluminum plant shall, upon request from the department or its designated agency, submit a full written report, including the known causes and the preventive measures to be taken to prevent a recurrence.

(2) Any period of excess emission is presumed to be a violation unless and until the owner or operator demonstrates and the department finds that:

(a) The incident was reported as required; and

(b) Complete details were furnished the department or agency; and

(c) Appropriate remedial steps were taken to minimize excessive emissions and their impact on ambient air quality; and

(d) The incident was unavoidable.

(3) If the conditions of (2) above are met, the incident is excusable and a notice of violation will not be issued.

(4) If any of the conditions of (2) above are not met, the incident is not excusable and a notice of violation will be issued and a penalty may be assessed.

(5) For the department to find that an incident of excess emissions is unavoidable, the aluminum plant must submit sufficient information to demonstrate that the following conditions were met:

(a) The process equipment and the air pollution control equipment were at all times maintained and operated in a manner consistent with minimized emissions;

(b) Repairs or corrections were made in an expeditious manner when the operator knew or should have known that emission limitations were being or would be exceeded;

(c) The incident is not one in a recurring pattern which is indicative of inadequate design, operation or maintenance.)) If a startup, shutdown, breakdown or upset condition occurs which could result in an emission violation or a violation of an ambient air quality standard, the owner or operator of the source shall take the following actions as applicable:

(1) For a planned condition, such as a startup or shutdown, the condition shall be reported to the department, or its delegated authority, in advance of its occurrence.

(2) For an unplanned condition, such as a breakdown or upset, the condition shall be reported to the department, or its delegated authority as soon as possible.

Upon request of the department or its delegated authority, the owner or operator of the source shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.

Compliance with the requirements of WAC 173-415-070, does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of chapter 173-415 WAC nor from the resulting liabilities for failure to comply.

#### AMENDATORY SECTION (Amending Order DE 80-17, filed 8/14/80)

WAC 173-415-080 EMISSION INVENTORY. The owner or operator of any primary aluminum plant shall submit an inventory of emissions from the source each year upon a form and according to instructions received from the department of ecology. The inventory may include stack and fugitive emissions of particulates, sulfur dioxide, carbon monoxide, fluorides, volatile organic compounds, and other contaminants, and shall be submitted when required no later than ((forty-five)) one hundred five days after the end of the calendar year. The inventory shall include total emissions for the year in tons per year and an estimate of the percentage of the total emitted each quarter. An estimate shall be made of the one hour and twenty-four hour emissions while operating at capacity. The report shall include the average sulfur content of any fossil fuel or raw material used which will result in emissions of more than twenty-five tons per year of sulfur dioxide.

**REPEALER** (Amending Order DE 80-17, filed 8/14/80)

The following section of the Washington Administrative Code is repealed.

WAC 173-415-090 OPERATING PERMIT.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

- (1) WAC 18-60-010 POLICY AND PURPOSE.
- (2) WAC 18-60-020 DEFINITIONS.
- (3) WAC 18-60-030 PROCEDURE.
- (4) WAC 18-60-040 PENALTY.
- (5) WAC 18-60-050 PUBLIC INFORMATION.

**WSR 83-03-071**  
**PROPOSED RULES**  
**DEPARTMENT OF FISHERIES**

[Filed January 19, 1983]

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

that the agency will at 10:00 a.m., Saturday, March 5, 1983, in the Large Conference Room, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 14, 1983.

The authority under which these rules are proposed is RCW 75.08.080.

The specific statute these rules are intended to implement is RCW 75.08.085.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 5, 1983.

Dated: January 19, 1983  
 By: William R. Wilkerson  
 Director

**STATEMENT OF PURPOSE**

Title: WAC 220-56-116, 220-56-145, 220-56-180, 220-56-190, 220-56-191, 220-56-195, 220-56-196, 220-56-198, 220-56-235, 220-56-250, 220-56-261, 220-56-300, 220-56-350, 220-56-372, 220-56-390, chapters 220-57 and 220-57A WAC.

Description of Purpose: Modify rules effecting recreational fisheries for 1983-1984 season.

Statutory Authority: RCW 75.08.080.

Summary of Rule: WAC 220-56-116 rewords barbless hook salmon rule; WAC 220-56-145 requires that fish species can be determined in field; WAC 220-56-180 provides alternative chinook bag limits in southern Puget Sound, redefines I Bag limit; WAC 220-56-190 standardizes 30 inch minimum chinook size limit in Strait of Juan de Fuca, clarifies management intent regarding closure of outer Strait, establishes late chum and coho fishery in Grays Harbor; WAC 220-56-191 provides alternative annual bag limits in southern Puget Sound; WAC 220-56-195 provides alternative annual closures in southern Puget Sound, repeals spring closures

in Commencement Bay and Port Susan, extends spring closure in Bellingham Bay; WAC 220-56-196 closes most of Puget Sound to pink salmon fishing; WAC 220-56-198 requires freshwater hook restrictions and angling hours in Duwamish Waterway September 1 through October 15; WAC 220-56-235 decreases rockfish bag limit in Puget Sound, liberalizes coastal rockfish bag limit; WAC 220-56-250 repeals lingcod moratorium in southern Puget Sound; WAC 220-56-261 establishes barbless hook fishery for bottomfish; WAC 220-56-300 repeals duplicate Bonneville Dam sturgeon regulation; WAC 220-56-350 adds Point Whitney and Eagle Creek to areas closed to hardshell clam digging during part of the season; WAC 220-56-360 closes Long Beach Sanctuary to razor clam digging; WAC 220-56-372 redefines Copalis Beach razor clam sanctuary; WAC 220-56-390 defines allowable gear for squid harvest; chapter 220-57 WAC modifies salmon stream regulations; and chapter 220-57A WAC modifies salmon lake regulations.

Reasons Supporting Proposed Action: WAC 220-56-116, this change clarifies the intent of the regulation to apply to all marine waters; WAC 220-56-145, this proposal will conform the sport regulation to the commercial regulation (WAC 220-20-010(13)), and allow field identification to insure overharvest does not occur; WAC 220-56-180, the two alternative proposals in this section, combined with the alternatives in WAC 220-56-191 and 220-56-195, provide management options to reach allocation requirements in southern Puget Sound based on both resource protection needs and public acceptance. Conforms I bag limit to Department of Game; WAC 220-56-190, chinook salmon migrating through area 4 between the mouth of the Strait of Juan de Fuca and the Sekiu River are the same stock as those requiring protection in the rest of the Strait of Juan de Fuca; the closure of the ocean salmon fishery significantly earlier than the coho management period is inadequate to protect the resource unless the outer Strait of Juan de Fuca is also closed; although chinook salmon in Grays Harbor need protection, harvestable numbers of coho and chum salmon are expected; WAC 220-56-191, see WAC 220-56-180; WAC 220-56-195, see WAC 220-56-180 for discussion of alternatives; the Port Susan and Commencement Bay closures are unnecessary for protection of a non-viable fishery; chinook salmon remain in Bellingham Bay later than was thought and require protection; WAC 220-56-196, Puget Sound-origin pink salmon are not expected to reach harvestable levels, and pink salmon must then be released in areas where the management needs of these fish prevail; WAC 220-56-198, use of salt water gear in the Duwamish Waterway is not justified as accidental snagging occurs; use of freshwater gear and restricting the fishery to daylight hours will decrease this snagging; WAC 220-56-235, substantial reduction in the rockfish harvest inside Puget Sound is necessary for protection of the resource, while coastal stocks are available at above current harvest levels; WAC 220-56-250, a noticeable increase in lingcod since the moratorium was established in 1978 indicates that a limited harvest is available; WAC 220-56-261, this proposal facilitates release of incidental immature



salmon plus bottomfish caught during a closed period, and would allow retention of salmon caught while bottomfishing, now prohibited due to barbed hooks; WAC 220-56-300, identical wording is incorporated in WAC 220-56-285 and is unnecessary; WAC 220-56-350, although seed clams are abundant at each area, there is a lack of larger clams, and restrictions in seasonal digging will reduce harvest effort by 30-60%; WAC 220-56-360, closure permits transplant and brood stock monitoring; WAC 220-56-372, redefinition corrects description error and "Oyehut" spelling; WAC 220-56-390, increased interest in recreational squid fishing, together with introduction of new gear types make definition necessary; chapter 220-57 WAC, changes in stream regulations for salmon angling are necessary to reflect anticipated 1983 run conditions and redefine some areas for management purposes; and chapter 220-57A WAC, changes in the opening days for lakes and changes in the closing date for McMurray Lake, as well as bag limit changes in Banks and Upper Goose lakes, reflect Department of Game fishing regulations for 1983.

Agency Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, Washington, 754-2429; Implementation: Edward P. Manary, Gene DiDonato and Ronald E. Westley, 115 General Administration Building, Olympia, Washington, 753-6600; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, Washington, 753-6585.

These rules are proposed by the Washington Department of Fisheries.

Comments: None.

These rules are not the result of federal law or any court order with the exception of proposals effecting Puget Sound salmon angling. Those rules are in response to federal court order, United States v. State of Washington, U.S. Dist. Ct., W. D. Wash., Civil No. 9213 - Phase I (1982).

Small Business Economic Impact Statement: No effect, these proposals regard recreational angling.

#### AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-56-116 SALMON—LAWFUL GEAR. It is unlawful to use barbed fishing hooks while angling for salmon in (~~Punch Card Areas 5 through 13~~) all contiguous marine waters easterly of a line projected true north from the mouth of the Sekiu River. (Barbless hooks are hooks on which the barb has been filed off, removed, pinched down, or deleted when manufactured.)

#### AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-56-145 POSSESSION OF FOOD FISH OR SHELLFISH IN UNLAWFUL CONDITION. (1) It (~~shall be~~) is unlawful to possess in the field for any purpose any salmon in such a condition that its size cannot be determined.

(2) It (~~shall be~~) is unlawful to possess in the field for any purpose any shellfish or food fish other than salmon in such a condition that its size could not be determined, if a size restriction is prescribed for said species.

(3) It (~~shall be~~) is unlawful to possess in the field for any purpose any salmon, other food fish or shellfish in such a condition that its weight or sex cannot be determined, if a weight or sex restriction is prescribed for said species.

(4) It is unlawful to possess in the field any salmon, other food fish or shellfish in such a condition that its species cannot be determined.

#### AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-56-180 BAG LIMIT CODES. (1) Code A: In waters having this code designation, the bag limit in any one day is six salmon not less than 10 inches in length, not more than two of these six salmon may be any combination of the following:

Chinook over 24 inches in length

Coho over 20 inches in length

Pink, chum or sockeye over 10 inches in length.

The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.

(2) Code C: In waters having this code designation, the bag limit in any one day is six chinook and coho salmon in the aggregate not less than 10 inches in length or more than the following:

24 inches in length for chinook; 20 inches in length for coho.

The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.

(3) Code F: In waters having this code designation, the bag limit in any one day is two salmon. Chinook salmon must be not less than 24 inches in length, coho salmon must be not less than 16 inches in length and no minimum size on other salmon. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.

#### ALTERNATIVE SUBSECTION:

(4) Code H: In waters having this code designation, the bag limit in any one day is three salmon, not more than two of which may be chinook salmon. Chinook salmon must be not less than 22 inches in length (~~(during the period October 16 through June 30, and they must not be less than 26 inches in length during other times of the year)~~). There is no minimum size limit for other salmon. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.

#### OR ALTERNATIVE SUBSECTION:

(4) Code H: In waters having this code designation, the bag limit in any one day is three salmon, not more than two of which may be chinook salmon in Punch Card Areas 5, 6, 7, 8, 9, or 12, and not more than one of which may be a chinook salmon in Punch Card Areas 10, 11, or 13. Chinook salmon must be not less than 22 inches in length (~~(during the period October 16 through June 30, and they must not be less than 26 inches in length during other times of the year)~~). There is no minimum size limit for other salmon. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.

(5) Code I: In waters having this code designation, the bag limit in any one day is eight salmon, not less than 6 inches in length or an aggregate daily catch of eight salmon and other salmonid fish (~~not exceeding 6 pounds and one fish~~). The aggregate catch may not contain more than 3 fish over 14 inches nor more than 2 fish over 20 inches. The possession limit (~~shall be~~) is the same as the daily catch limit. Salmon angling catch record card is not required, but a gamefish license is required to take, fish for or possess gamefish.

#### AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-56-190 SALTWATER SEASONS AND BAG LIMITS—SALMON. It shall be unlawful to take, fish for or possess salmon taken by angling for personal use except from the following areas, during the seasons, in the quantities, sizes and for the species designated in this section and as defined in the bag limit codes in WAC 220-56-180:

(1) Puget Sound (including Hood Canal), Strait of Georgia, San Juan Islands and Strait of Juan de Fuca east of the mouth of the Sekiu River - bag limit H - open entire year except for special provisions in WAC 220-56-195. In that portion of Punch Card Area 4 east of a line from Tatoosh Island Light to Bonilla Point on Vancouver Island and in Punch Card Areas 5, 6, and 7 it shall be unlawful to retain or possess chinook salmon greater than 30 inches in length during the period April 15 through June 15.

(2) Strait of Juan de Fuca from the Sekiu River to a line from Tatoosh Island Light to Bonilla Point - open entire year unless the

season in the Pacific Ocean closes a week or more before Puget Sound coho salmon management needs prevail, in which case the area will be closed concurrently with the ocean closure until the Puget Sound coho management period (the Sunday nearest September 2). Bag and size limits shall conform with Pacific Ocean regulations during those times salmon angling is permitted in adjacent coastal ocean waters. During those periods when the ocean salmon angling season is closed, the bag limit shall conform with regulations of adjacent waters of the Strait of Juan de Fuca (Area 5—Sekiu), but size limits shall remain unchanged from those which were in effect when the ocean season was last open.

(3) Pacific Ocean coastal waters: All waters west of a line from Tatoosh Island Light to Bonilla Point, Pacific Ocean, and Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10 – bag limit F – open on the Saturday preceding Memorial Day through Labor Day.

(4) Grays Harbor (waters east of a line from the outermost end of the north jetty to the outermost exposed end of the south jetty) – (a) bag limit F – open to salmon angling coincidentally with the season in adjacent waters of the Pacific Ocean, but not to extend beyond August 15, unless otherwise provided, (b) special bag limit – six salmon per day not less than 10 inches in length, not more than two of which may be any combination of the following: Pink, sockeye or chum salmon over 10 inches in length or coho salmon over 20 inches in length. All chinook salmon over 24 inches in length must be released. Open to personal use salmon fishing October 1 through November 30. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.

(5) Willapa Harbor (waters east of a line from Leadbetter Point to Cape Shoalwater Light and downstream from river mouths as defined in WAC 220-56-105) – bag limit F – open entire year.

#### NEW SECTION

WAC 220-56-191 ANNUAL BAG LIMIT. It is unlawful for any one person to take or possess for personal use in any one calendar year more than 30 salmon taken from Punch Card Areas 10, 11 or 13.

#### OR ALTERNATIVE SECTION:

#### NEW SECTION

WAC 220-56-191 ANNUAL BAG LIMIT. It is unlawful for any one person to take or possess for personal use in any one calendar year more than 20 salmon taken from Punch Card Areas 10, 11 or 13.

#### OR ALTERNATIVE SECTION:

#### NEW SECTION

WAC 220-56-191 ANNUAL BAG LIMIT. It is unlawful for any one person to take or possess for personal use in any one calendar year more than 10 salmon taken from Punch Card Areas 10, 11 or 13.

#### AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-56-195 CLOSED AREAS—SALTWATER SALMON ANGLING. The following areas shall be closed to salmon angling during the times indicated:

(1) Skagit Bay: Those waters lying easterly of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, northerly of a line projected from Polnell Point to Rocky Point, northerly of the State Highway 532 Bridge between Camano Island and the mainland and south of the Burlington Northern Railroad Bridge at the north end of Swinomish Slough shall be closed to salmon angling April 15 through June 30.

(2) ~~((Port Susan: Those waters of Port Susan lying north of a true east-west line passing through Tulare Point (located approximately 2.25 miles south of Kayak Point) shall be closed to salmon angling April 15 through June 30.~~

~~((3)) Bellingham Bay: Those waters of Portage Bay and Bellingham Bay north of a line from Point Francis to Post Point shall be closed to salmon angling April 15 through June 30.~~

~~((4)) Commencement Bay: Those waters of Commencement Bay southeasterly of a line extending from the foot of McCarver Street (marked by the partially burned Top of Ocean Restaurant) to Browns Point shall be closed to salmon angling April 15 through June 15.~~

~~((5)) (3) Carr Inlet: Those waters of Carr Inlet northerly of a line from Allen Point to the southernmost point of land on the eastern shore of Glen Cove shall be closed to salmon angling April 15 through July 31.~~

#### ALTERNATIVE SUBSECTION:

~~(4) Southern Puget Sound: The waters of Punch Card Areas 10, 11 and 13 are closed to salmon angling from December 1 through the last day of February of the following year.~~

#### OR ALTERNATIVE SUBSECTION:

~~(4) Southern Puget Sound: The waters of Punch Card Areas 10, 11 and 13 are closed to salmon angling from March 1 through May 31.~~

#### NEW SECTION

WAC 220-56-196 CLOSED AREAS—PINK SALMON ANGLING. It is unlawful to take or possess pink salmon taken for personal use from the following waters:

(1) Those waters of Punch Card Area 7 bounded on the west and south by a line running from Gooseberry Point true south to Lummi Island, along the east shoreline of the island to Carter Point, then to the north tip of Vendovi Island, then to Clark Point on Guemes Island, along the east shoreline to Southeast Point on Guemes Island, then to March Point on Fidalgo Island; and north of the Burlington Northern railroad bridges at the north entrances of Swinomish Channel.

(2) All of Punch Card Areas 8 through 13.

#### NEW SECTION

WAC 220-56-198 DUWAMISH WATERWAY—UNLAWFUL PROVISIONS. During the period September 1 through October 15, it is unlawful to take, fish for or possess salmon taken for personal use from the waters of the Duwamish Waterway downstream from the First Avenue South Bridge to an east-west line through SW Hanford Street on Harbor Island and parallel to SW Spokane Street where it crosses Harbor Island using any gear other than that specified in WAC 220-56-205 (freshwater salmon angling gear) or at any time other than that specified in WAC 220-56-225 (freshwater salmon angling hours).

#### AMENDATORY SECTION (Amending Order 80-45, filed 6/11/80)

WAC 220-56-235 POSSESSION LIMITS—BOTTOMFISH. It ~~((shall be lawful))~~ is unlawful, unless otherwise provided, for any one person to take in any one day ~~((in the state of Washington))~~ more than the following quantities of bottomfish for personal use. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh bottomfish.

(1) ~~((Lingcod))~~ Coastal (Punch Card Areas 1 through 4):

~~((Coastal (punch card areas 1-3 and area 4 west of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island Light, thence to Bonilla Point) - 3 fish;))~~ Lingcod:

~~((i) 3 fish in Punch Card Areas 1 through 3 and Area 4 west of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point;~~

~~((ii) 2 fish in Punch Card Area 4 east of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island Light, thence to Bonilla Point.~~

~~((All other open areas - 2))~~ Rockfish – 15 fish.

~~((2)) (c) All other species ((of greenling and rockfish, Pacific cod, and walleye pollock: 15 fish in the aggregate of all species but not to exceed 10 rockfish in salmon punch card areas 5 through 13)) - no limit.~~

~~((3)) (2) Puget Sound east of the mouth at the Sekiu River (Punch Card Areas 5 through 13): 15 fish in the aggregate of all ((other)) species of bottomfish((:)), no ((limit)) more than 2 of which may be lingcod and no more than 5 of which may be rockfish.~~

#### AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-56-250 LINGCOD—AREAS AND SEASONS. It is unlawful to take, fish for or possess lingcod for personal use except during the seasons and within the areas herein provided:

(1) Coastal area (salmon punch card areas 1 through 3 and that portion of area 4 west of a line projected from the most westerly point on Cape Flattery to Tatoosh Island Light, thence to Bonilla Point) – open the entire year.

(2) Salmon punch card areas 5 through 13, ((6,7)) and that portion of area 4 east of a line projected from the most westerly point on Cape Flattery to Tatoosh Island Light, thence to Bonilla Point - April 15 through November 30.

(3) All other areas closed the entire year.

#### NEW SECTION

WAC 220-56-261 **BOTTOMFISH—LAWFUL GEAR.** It is unlawful to use barbed fishing hooks while fishing for bottomfish for personal use in all contiguous marine waters easterly of a line projected true north from the mouth of the Sekiu River. (Barbless hooks are hooks on which the barb of the point has been filed off, removed, pinched down, or deleted when manufactured).

#### AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-56-285 **SHAD AND STURGEON—AREAS AND SEASONS.** It is lawful the entire year to take, fish for and possess sturgeon and shad for personal use by angling, unless otherwise provided, and except in the following closed waters:

(1) Waters lying one mile downstream below any rack, dam or other obstruction concurrent with salmon angling boundaries provided for in chapter 220-57 WAC, except as provided in (2) and (3) of this section((†††)).

(2) Waters lying 400 feet downstream below any dam, rack or obstruction in the Snake River.

(3) Columbia River waters between the upstream line of Bonneville Dam and the lowermost Bonneville powerline crossing, approximately 1-1/4 mile downstream from the dam, are closed to the taking, fishing for, or possession of sturgeon, EXCEPT when fishing with hand-casted hook and line gear from the mainland shore in those ((water[st])) waters lying downstream of a line running southerly from a fishing boundary marker on the Washington shore (approximately 3/4 mile downstream from the dam) to the downstream end of Cascade Island and thence to the Oregon angling boundary marker on Bradford Island (located approximately 600 feet downstream from the fish ladder entrance).

#### AMENDATORY SECTION (Amending Order 81-13, filed 2/17/81, effective 4/1/81)

WAC 220-56-350 **HARDSHELLS, COCKLES, MUSSELS—AREAS AND SEASONS.** (1) It 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 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 southeast to the park boundary through 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.

(i) Point Whitney—All public tidelands at Point Whitney are closed to the harvest of hardshell clams from July 15 through December 31.

(j) Eagle Creek—All public tidelands at Eagle Creek are closed to the harvest of hardshell clams from January 1 through June 30.

(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 82-220, filed 12/8/82)

WAC 220-56-360 **RAZOR CLAMS—AREAS AND SEASONS.** It is unlawful to take, dig for or possess razor clams taken for personal use from any beaches in Razor Clam Areas 1, 2, and 3, except that from February 15, 1983 through March 15, 1983, it is lawful to dig for and possess razor clams 24 hours per day, and from March 16, 1983 through June 15, 1983 it is lawful to dig for razor clams from 12 midnight to 12 noon daily and it is lawful to possess clams taken during this period. It is unlawful to dig for razor clams at any time in the Long Beach Razor Clam Sanctuary as defined in WAC 220-56-372.

#### AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-56-372 **RAZOR CLAM SANCTUARIES.** The following areas are hereby set aside for experimental purposes by the department of fisheries razor clam enhancement project. As need arises in the future, specific sections of these areas will be closed to public use.

(1) Long Beach - from a line extending westward from the middle of the Oysterville approach - north for one quarter mile (1,320 feet).

(2) Twin Harbors Beach - from a line extending westward from the middle of the county line approach south for one quarter mile (1,320 feet).

(3) Copalis Beach - ((in the posted no driving area at Ocean Shores,)) from a point beginning three-quarters of a mile north of the ((Oyhut)) Oyehut approach and extending north for one quarter mile (1,320 feet).

#### AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-56-390 **SQUID, OCTOPUS.** It is ((lawful)) unlawful to take, fish for ((and)) or possess squid taken for personal use ((by hook and)) with more than one line((:)). A maximum of four squid lures ((and)) may be used. If gear utilizes conventional hooks, it shall not exceed a total of nine points. Herring rakes((or with)) and hand dip net gear may be used to take squid. Octopus may be taken by hand or by any instrument which will not penetrate or mutilate the body.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-56-300 **STURGEON—AREA—BONNEVILLE DAM.**

#### AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57A-012 **BAKER LAKE (WHATCOM COUNTY).** Bag limit I - April ((†)) 17 through October 31.

#### AMENDATORY SECTION (Amending Order 76-14, filed 3/15/76, effective 5/1/76)

WAC 220-57A-015 **BANKS LAKE (GRANT COUNTY).** Special bag limit ((†)): 13 salmon not less than 6 inches in length and other salmonid fish in the aggregate, not more than 5 of which may be trout and char in any combination - open entire year.

#### AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57A-040 **CUSHMAN LAKE (MASON COUNTY).** Bag limit I - April ((†)) 17 through October 31.

#### AMENDATORY SECTION (Amending Order 77-3, filed 1/28/77, effective 3/1/77)

WAC 220-57A-070 **EAST MEDICAL LAKE (SPOKANE COUNTY).** Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57A-082 (UPPER) GOOSE LAKE (GRANT COUNTY). Bag limit of five salmon and other fish and the salmon may not be less than 6 inches in length (~~(or an aggregate daily catch of five salmon and other fish not exceeding six pounds and one fish)~~). Open entire year.

AMENDATORY SECTION (Amending Order 77-3, filed 1/28/77, effective 3/1/77)

WAC 220-57A-085 GREEN LAKE (KING COUNTY). Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 77-3, filed 1/28/77, effective 3/1/77)

WAC 220-57A-105 MARTHA LAKE (SNOHOMISH COUNTY). Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57A-112 MCMURRAY LAKE (SKAGIT COUNTY). Bag limit I - April ((+8)) 17 through September ((+6)) 5.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57A-120 MERWIN LAKE (RESERVOIR). Bag limit I - April ((+8)) 17 through November 30.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57A-152 SHANNON RESERVOIR (SKAGIT COUNTY). Bag limit I - April ((+8)) 17 through October 31.

AMENDATORY SECTION (Amending Order 77-3, filed 1/28/77, effective 3/1/77)

WAC 220-57A-165 ST. CLAIR (THURSTON COUNTY). Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57A-180 WASHINGTON SHIP CANAL, LAKE (INCLUDING LAKE UNION). (1) Bag limit A - August 16 through December 31: West of University Bridge, to eastern end of the north wingwall of the Chittenden Locks. Waters between the University Bridge and the concrete abutment ends (~~((east of the Montlake Bridge and waters between the eastern end))~~) east of the Montlake Bridge and waters between the eastern end of the north wingwall of the Chittenden 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 82-19, filed 3/18/82)

WAC 220-57A-190 WYNOOCHEE RESERVOIR (GRAYS HARBOR COUNTY). Bag limit I - April ((+8)) 17 through October 31.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-130 BOGACHIEL RIVER. Bag limit A - July 1 through October 31: Downstream from the Highway 101 Bridge. Coho salmon greater than ((24)) 20 inches in length must be immediately released if taken on or after October 1.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-135 CALAWAH RIVER. Bag limit A - July 1 through October 31: Downstream from the Highway 101 Bridge. Coho salmon greater than ((24)) 20 inches in length must be immediately released if taken on or after October 1.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-138 CHAMBERS CREEK. Bag limit A - October 1 through November ((30)) 15: 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 82-19, filed 3/18/82)

WAC 220-57-140 CHEHALIS RIVER. (1) Bag limit C - (~~(open entire year)~~) December 1 through September 14: Downstream from ((markers approximately 1/2-mile upstream from)) the Porter Bridge to the Union Pacific Railroad Bridge in Aberdeen.

(2) Bag limit A - September 15 through November 30: Downstream from the Porter Bridge to the Union Pacific Railroad Bridge in Aberdeen, except that all chinook salmon over 24 inches must be released.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-155 CLEARWATER RIVER (JEFFERSON COUNTY). (1) Bag limit C - July 1 through ((September 30)) October 8: Downstream from the mouth of the Snahapish River.

(2) Bag limit A - October ((+)) 9 through October 31: Downstream from the mouth of the Snahapish River. Coho salmon over ((24)) 20 inches must be released.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-160 COLUMBIA RIVER. (1) Bag limit C - June 1 through ((October 15)) December 31: Downstream from Chief Joseph Dam to the Richland - Pasco Highway 12 Bridge except those waters between the Vernita Bridge and the old Hanford townsite wooden powerline towers are open only during the period July 1 through October 15, and except for the special season and bag limited provided for in subsection (2) of this section. 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)) and a point 400 feet below the spawning channel discharge stream.

(c) Rocky Reach, Rock Island and Wanapum Dams - waters between the upstream lines of these dams ((to a)) and points 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) Bag limit A - April 1 through ((June 30)) July 31: East bank only in that portion of the Columbia River from WDF boundary marker located approximately 1/2 mile upstream from Spring Creek (Ringold hatchery rearing pond outlet) downstream to a WDF boundary marker located approximately 1/4 mile downstream of Ringold wasteway outlet.

(3) Waters downstream from the Richland-Pasco Highway 12 Bridge to Hood River Bridge: Closed entire year. The following waters are closed to fishing for food fish at all times:

(a) McNary Dam - waters between the upstream line of McNary Dam and a line across the river from the red and white marker on the Oregon shore to the downstream end of the wingwall of the boat lock near the Washington shore.

(b) John Day Dam - waters between the upstream line of John Day Dam and markers approximately 3,000 feet downstream, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(c) The Dalles Dam - waters between the upstream line of the Dalles Dam and the upstream side of the Interstate 197 Bridge, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(4) Bag limit A - September 1 through March 15: That portion downstream from Hood River Bridge to the Interstate 5 Bridge at Vancouver, ((with the exception of)) except waters of Camas Slough are open under this bag limit from August 1 through March 15 between the upper Highway 14 Bridge on Lady Island to a line projected true north from the lower end of Lady Island and hook regulations and shad and sturgeon seasonal restrictions in Camas Slough are identical with regulations and restrictions in adjacent mainstem Columbia River waters. The following are closed waters:

(a) Spring Creek - waters within 1/4 mile of the U.S. Fish and Wildlife Service Hatchery grounds between posted boundary markers located 1/4 mile on either side of the fish ladder entrance.

(b) Bonneville Dam - waters between the upstream line of Bonneville Dam and a point 600 feet below the fish ladder at the new Bonneville Dam powerhouse.

(5) Bag limit C - June 1 through July 25: Waters downstream from the Interstate 5 Bridge to the Megler-Astoria Bridge.

~~((5))~~ (6) Bag limit A - August 16 through March 15: Waters downstream from the Interstate 5 bridge to the Megler-Astoria Bridge. During the month of September, it is unlawful to take, fish for, or possess salmon for personal use in that portion of the Columbia River north of a line projected from Abernathy Point to a boundary marker east of the mouth of Abernathy Creek.

~~((6))~~ (7) Bag limit A - August 16 through March 15: Waters downstream from the Megler-Astoria Bridge to a line projected true north and south through Buoy 10, except that ~~((on or after))~~ August 16 ~~((and))~~ through September 30~~(:)~~ size and bag limit regulations shall conform with the most recent ocean fishing regulations ~~((when the ocean was last open))~~.

#### AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-175 COWLITZ RIVER. (1) Special bag limit - April 1 through July 31: Downstream from the cross river cable below the Cowlitz Salmon Hatchery Barrier Dam to the mouth. Bag limit is six salmon per day not less than 10 inches in length, only three of which may exceed 24 inches in length.

(2) That portion of the Cowlitz River downstream from the mouth of Mill Creek is open to salmon angling 24 hours per day during the period April 1 to July 31.

(3) Bag limit A - August 1 through March 31: Downstream from markers 400 feet below the barrier dam~~(:)~~ except, during the period October 1 through December 31, chinook salmon over 28 inches in length taken upstream of ~~((boundary markers at Toutle River mouth))~~ the Interstate 5 Bridge must be released.

(4) Salmon angling from boats is prohibited the entire year in designated open waters between the barrier dam and the mouth of Mill Creek.

(5) Bag limit C - ~~((November 1 through December 31))~~ Open the entire year: From the confluence of the Muddy Fork and Ohanapечosh Rivers downstream to Riffe (Davisson) Lake.

#### NEW SECTION

WAC 220-57-181 DAKOTA CREEK. Bag limit A - October 1 through December 31: Downstream from the Giles Road Bridge. Chinook salmon greater than 24 inches must be released.

#### AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-215 DUNGENESS RIVER. Bag limit A - October 15 through December 31: Downstream from ~~((markers at former Taylor Bridge site approximately one mile below the state salmon))~~ the siphon hole intake, consisting of a metal pipe with concrete head lands, located approximately 1/2 mile upstream of the Dungeness River Hatchery ~~((rack))~~. Chinook salmon over 28 inches must be released. Closed to the taking of pink salmon in odd-numbered years.

#### AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-220 DUWAMISH RIVER. ~~((+))~~ Bag limit A - July 1 through November 30: Upstream from the First Avenue South Bridge to the Highway 405 Bridge.

~~((2))~~ Bag limit A - September 1 through October 15: Downstream from the First Avenue South Bridge to an east-west line projected through S.W. Hanford Street on Harbor Island and parallel to S.W. Spokane Street where it crosses Harbor Island.

(3) Bag limit H - October 16 through August 31: Downstream from the First Avenue South Bridge, open to salmon angling 24 hours a day~~(:)~~

#### AMENDATORY SECTION (Amending Order 81-13, filed 2/17/81, effective 4/1/81)

WAC 220-57-230 ELK RIVER. (1) Bag limit C - July 1 through ~~((January 31))~~ September 30: Downstream from the confluence of the West Fork and the Middle Fork to the Highway 105 Bridge.

(2) Bag limit A - October 1 through November 30: Downstream from the confluence of the West Fork and the Middle Fork to the Highway 105 Bridge, except that all chinook salmon over 24 inches must be released.

#### AMENDATORY SECTION (Amending Order 81-13, filed 2/17/81, effective 4/1/81)

WAC 220-57-235 ELOCHOMAN RIVER. (1) Bag limit A - September 1 through December 31: Downstream from mouth of the West Fork~~((-2))~~, except closed from a point 100 feet above the upper hatchery rack to the Elochoman Salmon Hatchery Bridge located approximately 400 feet below the upper hatchery rack~~(:)~~ and closed from the department of fisheries temporary rack downstream to Foster (Risk) Road Bridge while this rack is installed in the river.

#### AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-260 GREEN RIVER (KING COUNTY). (1) Bag limit A - July 1 through October 15: Downstream from the Porter Bridge (Auburn Eighth Street ~~((NW))~~ NE Bridge) to Highway 405 Bridge.

(2) Bag limit A - October 16 through November 30: Downstream from the downstream side of the Highway 18 Bridge to the Highway 405 Bridge.

#### AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-270 HOH RIVER. (1) Special bag limit - Saturday preceding Memorial Day through October 31: Downstream from ~~((a marker approximately a quarter mile above))~~ the Highway 101 Bridge ~~((to the National Park boundary at Oil City))~~ the bag limit is six salmon not less than 10 inches in length, only one of which may exceed 24 inches in length except ~~((that the))~~ coho salmon greater than ~~((24))~~ 20 inches in length ~~((may not))~~ must be ~~((a coho salmon))~~ released.

(2) Bag limit C - Saturday preceding Memorial Day through October 31: Upstream from ~~((a marker approximately one quarter mile above))~~ the Highway 101 Bridge to the ~~((National Park Boundary near the))~~ confluence of the South Fork Hoh.

#### AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-280 HOQUIAM RIVER. (1) Bag limit C - July 1 through November 30 - ~~((in))~~ main Hoquiam River ~~((and tributaries))~~ and West Fork of Hoquiam River downstream from the bridge on the Dekay Road.

(2) Bag limit ~~((E))~~ A - October 1 through November ~~((16 through January 31))~~ 30: East fork of Hoquiam River downstream from the game department access area below Berryman Creek, except that all chinook salmon over 24 inches must be released.

#### AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-285 HUMPTULIPS RIVER. (1) Bag limit C - July 1 through January 31: Downstream from confluence of East and West forks to ~~((confluence with Stevens Creek))~~ Highway 101 Bridge.

(2) Bag limit A - July 1 through ~~((November 30))~~ January 31: Downstream from ~~((confluence of Stevens Creek))~~ the Highway 101 Bridge to Highway 109 Bridge. Chinook salmon over 24 inches in length ~~((and all chum salmon))~~ must be released.

~~((3))~~ Bag limit C - December 1 through January 31: Downstream from confluence of Stevens Creek to Highway 109 Bridge~~(:)~~

#### AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-290 ICICLE RIVER. ~~((Bag limit A - Saturday preceding Memorial Day through June 30: Downstream from a point 600 feet below the Leavenworth National Fish Hatchery rack to mouth of Icicle River))~~ Closed to salmon angling the entire year.

#### AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-300 JOHNS RIVER. (1) Bag limit C - July 1 through ~~((January 31))~~ September 30: Downstream from old M&B Logging Camp Bridge at upper boundary of Johns River Game Range to Highway 105 Bridge.

(2) Bag limit A - October 1 through November 30: Downstream from old M&B Logging Camp Bridge at upper boundary of Johns River Game Range to Highway 105 Bridge, except that all chinook salmon over 24 inches must be released.

AMENDATORY SECTION (Amending Order 82-75, filed 7/7/82)

WAC 220-57-315 KLICKITAT RIVER. (1) Bag limit A - April 1 through January 31: Downstream from the Fisher Hill Bridge approximately 1-1/2 miles above the mouth, except open to salmon angling only from 12:00 noon Thursdays to 12:00 noon Mondays from April 1 through May 31.

(2) Bag limit C - Saturday preceding Memorial Day through November 30 - Downstream from fishing boundary markers at the ((Lydel Bridge)) downstream end of the Klickitat River Salmon Hatchery grounds to a point 400 feet above the No. 5 fishway.

AMENDATORY SECTION (Amending Order 81-13, filed 2/17/81, effective 4/1/81)

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 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: Downstream from ((markers approximately 700 feet upstream from)) the ((salmon hatchery building)) mouth of Colvin Creek (approximately 1/4 mile upstream of the salmon hatchery) to the mouth of the East Fork, except that during the period September 1 through November 30, it is unlawful to take, fish for or possess salmon taken for personal use from waters shoreward of the cable, buoy, and corkline located at the mouth of the Lewis River Salmon Hatchery fishway.

NEW SECTION

WAC 220-57-327 MCLANE CREEK. Bag limit C - July 1 through October 31: Open from a line 100 feet upstream and parallel to the south bridge of Highway 101 at Mud Bay to a line 50 feet north of and parallel to the Mud Bay Road Bridge, except waters within 400 feet of the outfall of the Allison Springs chinook rearing pond are closed to salmon angling.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-330 MORSE CREEK (CLALLAM COUNTY). Bag limit C - October 1 through ((December 31)) November 30.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-340 NEMAH RIVER. (1) Middle Nemah, Bag limit C - July 1 through October 31: Downstream from the department of natural resources bridge on the Middle Nemah A Line Road.

(2) North Nemah - bag limit A - July 1 through November 30: Downstream from lower bridge on dead end Lower Nemah Road to ((markers 1/2 mile downstream from)) the ((Highway 101 Bridge)) mouth. Chinook salmon over 28 inches must be released.

(3) South Nemah - bag limit C - July 1 through October 31: Downstream from the confluence of the Middle Nemah to its mouth.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-350 NOOKSACK RIVER. (1) Bag limit A - July ((+)) 15 through ((March)) December 31: Downstream from the confluence of North and South Forks to Lummi Indian Reservation boundary.

(2) Bag limit C - September 1 through October 31: (North Fork) downstream from Maple Creek to mouth of North Fork.

(3) The entire Nooksack River is closed to the taking of pink salmon in odd-numbered years.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-390 QUINALT RIVER. Bag limit ((A)) C - July 1 through October 31: Downstream from the bridge connecting Graves Creek and North Shore roads.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-415 SATSOP RIVER. (1) Bag limit C - July 1 through September 30: Downstream from the bridge at Schafer State Park on East Fork.

(2) Bag limit A - October 1 through ((November 30)) January 31: Downstream from the bridge at Shafer State Park on East Fork. Chinook salmon over 24 inches in length ((and all chum salmon)) must be released.

((3)) Bag limit C - December 1 through January 31: Downstream from the bridge at Shafer State Park on East Fork.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-460 SOLEDUCK RIVER. Bag limit A - Saturday preceding Memorial Day through October 31: Downstream from Concrete pump station at Soleduck Hatchery. During the period October 1 through October 31, coho salmon over ((24)) 20 inches in length must be released.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-485 TUCANNON RIVER. ((Bag limit C - Saturday preceding Memorial Day through June 30: Downstream from the U.S. Forest Service Bridge at Wooten Forest Camp. It is unlawful to use any type of gaff hook or similar device to aid in the taking of salmon in the Tucannon)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-495 WASHOUGAL RIVER. (1) Bag limit A - January 1 through October 15: Downstream from Steel Bridge. From October 1 through October 15 chinook salmon over 28 inches must be released.

(2) Bag limit A - October 16 through December 31: Downstream from bridge at Salmon Falls to mouth. Chinook salmon over 28 inches must be released.

(3) "Washougal River - Special Fishing Area": Waters from markers 50 feet upstream from the fisheries department salmon hatchery rack, upstream to the barrier dam are open to salmon fishing from September 18 through December 31. This special fishery shall be limited to persons who are 65 years of age or older ((blind, or otherwise disabled)). Persons wishing to participate in this fishery must have proof of their age ((or disablement)) in their possession while fishing. Daily bag limit: Six salmon 10 inches or more in length. Possession limit: Two daily bag limits in any form. The first six salmon caught, regardless of where they are hooked (inside or outside their mouth), must be retained. In this special fishing area, legal fishing gear shall be limited to one hand-held rod to which may be attached not more than one hook (or one lure with one hook attached). This one hook shall not have more than three points, and the maximum distance between shank and points is not to exceed 1/2 inch.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-515 WIND RIVER. ((Closed to salmon angling the entire year)) Bag limit A - September 1 through October 31: Downstream from the Burlington Northern Railroad Bridge to the mouth.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-520 WISHKAH RIVER. (1) Bag limit C - July 1 through ((January 31)) September 30: Downstream from the mouth of the West Fork.

(2) Bag limit A - October 1 through November 30: Downstream from the mouth of the West Fork, except that all chinook salmon over 24 inches must be released.

AMENDATORY SECTION (Amending Order 82-75, filed 7/7/82)

WAC 220-57-525 WYNOOCHEE RIVER. ((+++)) Bag limit A - ((July)) October 1 through ((September)) November 30: Downstream from the mouth of Schafer Creek. Chinook salmon over 24 inches in length ((and all chum salmon)) must be released.

((2)) Bag limit C - October 1 through January 31: Downstream from the mouth of Shafer Creek.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-57-320 LEWIS RIVER (NORTH FORK).

**WSR 83-03-073**  
**PROPOSED RULES**  
**COMMUNITY COLLEGE**  
**DISTRICT TWELVE**  
 [Filed January 19, 1983]

There is hereby given in accordance with the provisions of RCW 28B.19.030, that the Community College District No. 12 board of trustees intends to adopt, amend, or repeal rules concerning:

- |     |                  |  |
|-----|------------------|--|
| Rep | ch. 132L-112 WAC | Personnel rules, including rules and procedures concerning work load requirements of full-time faculty; leave policies for professional employees; and procedures for administering the professional negotiations law. |
| Rep | ch. 132L-116 WAC | Rules and procedures for administrative leave.   |
| Rep | ch. 132L-128 WAC | Faculty tenure and probationary employment in Community College District No. 12;   |

that the institution will at 7:30 p.m., Thursday, February 24, 1983, in the Olympia Technical Community College, Board Room, 2011 Mottman Road S.W., Olympia, WA 98502, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is chapters 28B.50, 28B.19 and 28B.52 RCW.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before February 23, 1983.

Dated: January 19, 1983

By: Dale A. Miller  
 District President

**STATEMENT OF PURPOSE**

**Rule:** Repeal Chapter 132L-112 WAC Personnel Rules: Rules and Procedures Concerning Work Load Requirements of Full-Time Faculty, Leave Policies for Professional Employees, and Procedures for Administering the Professional Negotiations Law; Chapter 132L-116 WAC Rules and Procedures for Administrative Leave; and Chapter 132L-128 WAC Faculty Tenure and Probationary Employment Rules.

**Statutory Authority:** Chapters 28B.50, 28B.19 and 28B.52 RCW, including but not limited to RCW 28B.19.020, 28B.50.140, 28B.52.100 and 28B.52.080.

**Purpose of the Rule(s):** Repeal of WAC 132L-112-010 and 132L-112-040, inclusive, will allow the district to update workload requirements of full-time faculty to reflect the result of professional negotiations with the recognized academic employee organization as well as changes in board policy concerning workload. Repeal of WAC 132L-112-200 and 132L-112-290, inclusive, will allow the district to update leave procedures for faculty

to reflect the result of professional negotiations with the recognized academic employee organization as well as changes in board policy concerning leaves for professional employees. Repeal of WAC 132L-116-010 and 132L-116-050, inclusive, will allow the district to update the rules and procedures for administrative leave to reflect current board policy and authorize the implementation of leave policies for administrators in board policy without the necessity to adopt such policies in formal Washington Administrative Code format. Repeal of WAC 132L-112-900 and 132L-112-923, inclusive, will reflect the fact that the board of trustees no longer possesses the statutory authority to adopt such rules and act as the third party in professional negotiations pursuant to chapter 28B.52 RCW. The Public Employment Relations Commission (PERC) is now authorized to adopt the procedures for administering the professional negotiations law pursuant to RCW 28B.52.080.

**Summary of the New Rule(s) and/or Amendments:** Repeal of existing rules contained in the Washington Administrative Code as noted above with replacement policies being adopted and/or negotiated agreement(s) with the recognized academic employee organization.

**Reasons Which Support the Proposed Action(s):** These rules need to be updated to reflect the result of professional negotiations with recognized academic employee organizations as well as changes in board policy and state statutes concerning leaves, tenure and professional negotiations. With the exception of WAC 132L-112-900 and 132L-112-923, inclusive, the rules will be replaced with updated board policies and possible sections of a negotiated agreement(s), if any, with the recognized academic employee organization.

**Person or Organization Proposing the Rule(s):** Board of Trustees, Community College District No. 12; Government.

**Agency Personnel Responsible for Drafting:** John A. Hurley, Jr., District Personnel Office, Centralia College, Telephone: (206) 736-9391, Ext. 213; **Implementation and Enforcement:** Dale A. Miller, District's President's Office, Centralia College, Telephone: (206) 736-9391, Ext. 200.

The rule is not necessary as the result of federal law, federal court action, or state court action.

**Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s):** None.

**WSR 83-03-073**  
**PROPOSED RULES**  
**LIBRARY COMMISSION**  
 [Filed January 19, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Library Commission intends to adopt, amend, or repeal rules concerning rules and regulations for implementing the Washington Library Network, SB 3094, chapter 31, Laws of 1976 2nd ex. sess., WAC 304-25-560;

that the agency will at 10:00 a.m., Thursday, March 10, 1983, in the Conference Room, Timberland Regional Library Service Center, 415 Airdustrial Way S.W., Olympia, WA 98501, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is chapter 31, Laws of 1976 2nd ex. sess.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 10, 1983.

Dated: January 19, 1983

By: Roderick G. Swartz  
Secretary

#### STATEMENT OF PURPOSE

Title, Purpose and Statutory Authority: Chapter 304-25 WAC, rules and regulations. Washington Library Network Computer Service. The main purpose of these sections is to establish rules and regulations whereby the governance of the computer system is provided on a multistate basis with liaison between the governance of the multistate computer system and the statewide resource sharing network governance structure. Statutory Authority chapter 27.26 RCW.

Summary of the Rules: These rules summarize the membership categories, the responsibilities and rights of membership, the composition of each policy recommending body, and its responsibilities and rights in implementing the respective governance structures. Proposed changes will expand the multistate governance to allow states with three or more Washington Library Network Principal Members a seat on the Computer Service Council.

Agency Personnel for Drafting, Implementation and Enforcement: Roderick G. Swartz, State Librarian, Washington State Library, AJ-11, Olympia, WA 98504, (206) 753-2915.

Proponents of the Rule: These changes were drafted by the Washington Library Network staff and approved by the Washington Library Network Computer Service Council.

#### AMENDATORY SECTION (Amending Order 1-80, filed 1/11/80)

WAC 304-25-560 COMPUTER SERVICE COUNCIL. (1) The WLN computer service council hereinafter referred to as the computer service council shall have an upper limit of eleven representatives elected from and by the members in participating states. For the initial establishment, the Washington state library commission shall appoint a committee composed of current computer service members of Washington state to nominate candidates for the positions designated for Washington participants. Initially, their terms shall be staggered. Thereafter, all terms shall be for three years except when resignation, withdrawal from membership or other factors may limit the term of service. Two Washington state alternates will also be selected at each election for a one-year term. Washington representatives shall be elected by principal members in Washington state.

(2) The computer service council shall have the following representation: Four members representing libraries within Washington state, three of whom shall be from principal member libraries; one member representing each of the other states where at least ~~(five)~~ three libraries participate in the computer service. The executive officer of the computer service and a representative of the Washington library network executive council shall have ex officio and voting status. The executive officer of the Washington data processing authority and a

representative of the pacific northwest bibliographic center shall have ex officio and nonvoting status.

(3) Elected representatives on the computer service council shall serve no more than two consecutive full terms. Former representatives, after an interval of at least one year, may be reelected.

(4) Any vacancy which occurs among Washington representatives during an unexpired term shall be filled by appointment from the alternate position as designated by the council.

(5) Officers of the computer service council shall be the chairperson and vice chairperson who shall be elected from and by the computer service council for a one-year term. The executive officer of the computer service, or designee, shall serve as secretary.

(6) The computer service council shall develop and establish procedures or bylaws for the conduct of meetings and transaction of business.

#### WSR 83-03-074

#### PROPOSED RULES

#### LIBRARY COMMISSION

[Filed January 19, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Library Commission intends to adopt, amend, or repeal rules concerning exclusion of certain personally identifiable library records from public disclosure, amending WAC 304-20-060;

that the agency will at 10:00 a.m., Thursday, March 10, 1983, in the Conference Room, Timberland Regional Library Service Center, 415 Airdustrial Way S.W., Olympia, WA 98501, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 27.04.030.

The specific statute these rules are intended to implement is chapter 65, Laws of 1982.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 10, 1983.

Dated: January 19, 1983

By: Roderick G. Swartz  
Secretary

#### STATEMENT OF PURPOSE

Title, Purpose and Statutory Authority: WAC 304-20-060(4) Public Records. Library Commission. Exemptions. This subsection outlines which types, and under what circumstances Washington State Library records are exempted from public disclosure. It is a part of the body of rules promulgated by the Washington State Library Commission for the operation of the Washington State Library. Statutory Authority RCW 27.04.030.

Summary of the Rules: Chapter 304-20 WAC outlines the availability of the Washington State Library public records and exemptions to their disclosure. The revision in question (to subsection (4)) is proposed to comply with chapter 64, Laws of 1982, which exempted certain user-identifiable library records from public disclosure.



Agency Personnel for Drafting, Implementation and Enforcement: Roderick G. Swartz, State Librarian, Washington State Library, AJ-11, Olympia, WA 98504, (206) 753-2915.

Proponents of the Rule: The above-referenced legislation was endorsed by the Washington Library Association. The proposed WAC change was drafted by the Washington State Library staff; the intent to work toward such a change was first introduced in the Washington State Library Commission regular (public) meeting in June 1982.

AMENDATORY SECTION (Amending Order I-76, filed 4/22/76)

WAC 304-20-060 EXEMPTIONS. (1) The library reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 304-20-040 is exempt under the provisions of section 31, chapter 1, Laws of 1973.

(2) In addition, pursuant to section 26, chapter 1, Laws of 1973, the library reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

(4) The library will regard the disclosure of ~~((subscribers and the identification of materials they have utilized))~~ any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user, as an invasion of privacy.

Table of WAC Sections Affected

KEY TO TABLE

Symbols:

- AMD = Amendment of existing section
- NEW = New section not previously codified
- REP = Repeal of existing section
- AM/DE = Amendment and Decodification of existing section
- RECOD = Recodification of previously codified section
- REMOV = Removal of rule pursuant to RCW 34.04.050(5)
- RES = Restoration of section to previous form
- REVIEW = Review of previously adopted rule

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- W = Withdrawal of proposed action
- No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
16-30-030	AMD-P	83-03-050	98-14-080	NEW	83-02-063	133-10-020	NEW-P	83-03-061
16-86-015	AMD-P	83-02-061	98-14-090	NEW	83-02-063	133-10-030	NEW-P	83-03-061
16-86-030	AMD-P	83-03-051	132L-112-010	REP-P	83-03-072	133-20-010	NEW-P	83-03-061
16-212-010	AMD-P	83-03-047	132L-112-020	REP-P	83-03-072	133-20-020	NEW-P	83-03-061
16-212-030	AMD-P	83-03-047	132L-112-030	REP-P	83-03-072	133-20-030	NEW-P	83-03-061
16-212-040	REP-P	83-03-047	132L-112-040	REP-P	83-03-072	133-20-040	NEW-P	83-03-061
16-212-050	AMD-P	83-03-047	132L-112-200	REP-P	83-03-072	133-20-050	NEW-P	83-03-061
16-212-060	AMD-P	83-03-047	132L-112-205	REP-P	83-03-072	133-20-060	NEW-P	83-03-061
16-212-065	AMD-P	83-03-047	132L-112-210	REP-P	83-03-072	133-20-070	NEW-P	83-03-061
16-212-070	AMD-P	83-03-047	132L-112-220	REP-P	83-03-072	133-20-080	NEW-P	83-03-061
16-212-080	AMD-P	83-03-047	132L-112-230	REP-P	83-03-072	133-20-090	NEW-P	83-03-061
16-212-085	REP-P	83-03-047	132L-112-240	REP-P	83-03-072	133-20-100	NEW-P	83-03-061
16-212-090	AMD-P	83-03-047	132L-112-250	REP-P	83-03-072	133-20-110	NEW-P	83-03-061
16-212-120	AMD-P	83-03-047	132L-112-270	REP-P	83-03-072	133-20-120	NEW-P	83-03-061
16-212-140	REP-P	83-03-047	132L-112-280	REP-P	83-03-072	133-30-010	NEW-P	83-03-061
16-212-150	REP-P	83-03-047	132L-112-290	REP-P	83-03-072	133-30-020	NEW-P	83-03-061
16-212-200	REP-P	83-03-047	132L-112-900	REP-P	83-03-072	133-30-030	NEW-P	83-03-061
16-212-210	REP-P	83-03-047	132L-112-901	REP-P	83-03-072	133-30-040	NEW-P	83-03-061
16-400-001	REP-P	83-03-058	132L-112-902	REP-P	83-03-072	133-30-050	NEW-P	83-03-061
16-400-003	REP-P	83-03-058	132L-112-903	REP-P	83-03-072	133-30-060	NEW-P	83-03-061
16-400-004	REP-P	83-03-058	132L-112-904	REP-P	83-03-072	133-30-070	NEW-P	83-03-061
16-400-005	REP-P	83-03-058	132L-112-905	REP-P	83-03-072	133-30-080	NEW-P	83-03-061
16-400-006	REP-P	83-03-058	132L-112-906	REP-P	83-03-072	133-40-010	NEW-P	83-03-061
16-400-00601	REP-P	83-03-058	132L-112-907	REP-P	83-03-072	133-40-020	NEW-P	83-03-061
16-400-150	AMD-P	83-03-058	132L-112-908	REP-P	83-03-072	133-40-030	NEW-P	83-03-061
16-409-001	REP-P	83-03-059	132L-112-909	REP-P	83-03-072	133-40-040	NEW-P	83-03-061
16-409-010	REP-P	83-03-059	132L-112-910	REP-P	83-03-072	133-40-050	NEW-P	83-03-061
16-409-015	NEW-P	83-03-059	132L-112-911	REP-P	83-03-072	133-40-060	NEW-P	83-03-061
16-409-020	AMD-P	83-03-059	132L-112-912	REP-P	83-03-072	133-50-010	NEW-P	83-03-061
16-409-030	AMD-P	83-03-059	132L-112-913	REP-P	83-03-072	133-50-020	NEW-P	83-03-061
16-409-035	NEW-P	83-03-059	132L-112-914	REP-P	83-03-072	137-36-010	NEW-P	83-02-049
16-409-040	REP-P	83-03-059	132L-112-915	REP-P	83-03-072	137-36-010	NEW-E	83-02-051
16-409-050	REP-P	83-03-059	132L-112-916	REP-P	83-03-072	137-36-020	NEW-P	83-02-049
16-409-060	AMD-P	83-03-059	132L-112-917	REP-P	83-03-072	137-36-020	NEW-E	83-02-051
16-409-065	NEW-P	83-03-059	132L-112-918	REP-P	83-03-072	137-36-030	NEW-P	83-02-049
16-409-070	AMD-P	83-03-059	132L-112-919	REP-P	83-03-072	137-36-030	NEW-E	83-02-051
16-409-075	NEW-P	83-03-059	132L-112-920	REP-P	83-03-072	137-36-040	NEW-P	83-02-049
16-409-080	REP-P	83-03-059	132L-112-921	REP-P	83-03-072	137-36-040	NEW-E	83-02-051
16-409-085	NEW-P	83-03-059	132L-112-922	REP-P	83-03-072	137-36-050	NEW-P	83-02-049
16-409-090	REP-P	83-03-059	132L-112-923	REP-P	83-03-072	137-36-050	NEW-E	83-02-051
16-409-100	REP-P	83-03-059	132L-116-010	REP-P	83-03-072	137-36-060	NEW-P	83-02-049
16-409-110	REP-P	83-03-059	132L-116-020	REP-P	83-03-072	137-36-060	NEW-E	83-02-051
16-409-130	REP-P	83-03-059	132L-116-030	REP-P	83-03-072	137-36-070	NEW-P	83-02-049
16-409-140	REP-P	83-03-059	132L-116-040	REP-P	83-03-072	137-36-070	NEW-E	83-02-051
16-461-005	REP-P	83-03-060	132L-116-050	REP-P	83-03-072	137-48-010	NEW-P	83-02-048
16-461-010	AMD-P	83-03-060	132L-128-010	REP-P	83-03-072	137-48-010	NEW-E	83-02-050
18-60-010	REP-P	83-03-070	132L-128-025	REP-P	83-03-072	137-48-020	NEW-P	83-02-048
18-60-020	REP-P	83-03-070	132L-128-030	REP-P	83-03-072	137-48-020	NEW-E	83-02-050
18-60-030	REP-P	83-03-070	132L-128-040	REP-P	83-03-072	137-48-030	NEW-P	83-02-048
18-60-040	REP-P	83-03-070	132L-128-050	REP-P	83-03-072	137-48-030	NEW-E	83-02-050
18-60-050	REP-P	83-03-070	132L-128-060	REP-P	83-03-072	137-48-040	NEW-P	83-02-048
50-12-080	AMD	83-03-020	132L-128-070	REP-P	83-03-072	137-48-040	NEW-E	83-02-050
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98-12-030	NEW	83-02-063	132L-128-090	REP-P	83-03-072	137-48-050	NEW-E	83-02-050
98-12-040	NEW	83-02-063	133-10-010	NEW-P	83-03-061	137-48-060	NEW-P	83-02-048

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137-48-070	NEW-P 83-02-048	173-405-101	REP-P 83-03-070	220-56-180	AMD-P 83-03-071
137-48-070	NEW-E 83-02-050	173-410-021	AMD-P 83-03-070	220-56-190	AMD-P 83-03-071
137-48-080	NEW-P 83-02-048	173-410-040	AMD-P 83-03-070	220-56-191	NEW-P 83-03-071
137-48-080	NEW-E 83-02-050	173-410-067	AMD-P 83-03-070	220-56-195	AMD-P 83-03-071
140-08-010	NEW-P 83-02-053	173-410-071	AMD-P 83-03-070	220-56-196	NEW-P 83-03-071
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140-08-030	NEW-P 83-02-053	173-410-090	REP-P 83-03-070	220-56-235	AMD-P 83-03-071
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140-08-060	NEW-P 83-02-053	173-415-030	AMD-P 83-03-070	220-56-285	AMD-P 83-03-071
140-08-070	NEW-P 83-02-053	173-415-050	AMD-P 83-03-070	220-56-300	REP-P 83-03-071
140-08-080	NEW-P 83-02-053	173-415-070	AMD-P 83-03-070	220-56-350	AMD-P 83-03-071
140-08-090	NEW-P 83-02-053	173-415-080	AMD-P 83-03-070	220-56-360	AMD-P 83-03-071
140-08-100	NEW-P 83-02-053	173-415-090	REP-P 83-03-070	220-56-372	AMD-P 83-03-071
140-08-110	NEW-P 83-02-053	204-24-030	AMD-E 83-03-014	220-56-390	AMD-P 83-03-071
140-12-010	NEW-P 83-02-054	204-24-040	AMD-E 83-03-014	220-57-130	AMD-P 83-03-071
140-12-020	NEW-P 83-02-054	204-24-050	AMD-E 83-03-014	220-57-135	AMD-P 83-03-071
140-12-030	NEW-P 83-02-054	204-24-070	AMD-E 83-03-014	220-57-138	AMD-P 83-03-071
140-12-040	NEW-P 83-02-054	212-43-001	NEW 83-03-028	220-57-140	AMD-P 83-03-071
140-12-050	NEW-P 83-02-054	212-43-005	NEW 83-03-028	220-57-155	AMD-P 83-03-071
140-12-060	NEW-P 83-02-054	212-43-010	NEW 83-03-028	220-57-160	AMD-P 83-03-071
140-12-070	NEW-P 83-02-054	212-43-015	NEW 83-03-028	220-57-175	AMD-P 83-03-071
140-12-080	NEW-P 83-02-054	212-43-020	NEW 83-03-028	220-57-181	NEW-P 83-03-071
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173-19-130	AMD 83-02-066	212-43-040	NEW 83-03-028	220-57-235	AMD-P 83-03-071
173-19-2503	AMD-P 83-02-065	212-43-045	NEW 83-03-028	220-57-260	AMD-P 83-03-071
173-19-2505	AMD-P 83-02-064	212-43-050	NEW 83-03-028	220-57-270	AMD-P 83-03-071
173-19-2505	AMD-P 83-03-069	212-43-055	NEW 83-03-028	220-57-280	AMD-P 83-03-071
173-19-260	AMD-C 83-03-067	212-43-060	NEW 83-03-028	220-57-285	AMD-P 83-03-071
173-19-2521	AMD-P 83-02-065	212-43-065	NEW 83-03-028	220-57-290	AMD-P 83-03-071
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173-19-4005	AMD-P 83-02-065	212-43-075	NEW 83-03-028	220-57-315	AMD-P 83-03-071
173-301	AMD-C 83-03-068	212-43-080	NEW 83-03-028	220-57-319	AMD-P 83-03-071
173-400-010	AMD-P 83-03-070	212-43-085	NEW 83-03-028	220-57-320	REP-P 83-03-071
173-400-020	AMD-P 83-03-070	212-43-090	NEW 83-03-028	220-57-327	NEW-P 83-03-071
173-400-030	AMD-P 83-03-070	212-43-095	NEW 83-03-028	220-57-330	AMD-P 83-03-071
173-400-040	AMD-P 83-03-070	212-43-100	NEW 83-03-028	220-57-340	AMD-P 83-03-071
173-400-050	AMD-P 83-03-070	212-43-105	NEW 83-03-028	220-57-350	AMD-P 83-03-071
173-400-060	AMD-P 83-03-070	212-43-110	NEW 83-03-028	220-57-390	AMD-P 83-03-071
173-400-070	AMD-P 83-03-070	212-43-115	NEW 83-03-028	220-57-415	AMD-P 83-03-071
173-400-075	AMD-P 83-03-070	212-43-120	NEW 83-03-028	220-57-460	AMD-P 83-03-071
173-400-080	REP-P 83-03-070	212-43-125	NEW 83-03-028	220-57-485	AMD-P 83-03-071
173-400-090	REP-P 83-03-070	212-43-130	NEW 83-03-028	220-57-495	AMD-P 83-03-071
173-400-100	AMD-P 83-03-070	212-43-135	NEW 83-03-028	220-57-515	AMD-P 83-03-071
173-400-110	AMD-P 83-03-070	212-45-001	NEW-P 83-03-027	220-57-520	AMD-P 83-03-071
173-400-115	AMD-P 83-03-070	212-45-005	NEW-P 83-03-027	220-57-525	AMD-P 83-03-071
173-400-120	AMD-P 83-03-070	212-45-010	NEW-P 83-03-027	220-57A-012	AMD-P 83-03-071
173-400-130	REP-P 83-03-070	212-45-015	NEW-P 83-03-027	220-57A-015	AMD-P 83-03-071
173-400-135	REP-P 83-03-070	212-45-020	NEW-P 83-03-027	220-57A-040	AMD-P 83-03-071
173-400-140	REP-P 83-03-070	212-45-025	NEW-P 83-03-027	220-57A-070	AMD-P 83-03-071
173-400-150	REP-P 83-03-070	212-45-030	NEW-P 83-03-027	220-57A-082	AMD-P 83-03-071
173-400-160	REP-P 83-03-070	212-45-035	NEW-P 83-03-027	220-57A-085	AMD-P 83-03-071
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173-403-020	NEW-P 83-03-070	212-45-050	NEW-P 83-03-027	220-57A-120	AMD-P 83-03-071
173-403-030	NEW-P 83-03-070	212-45-055	NEW-P 83-03-027	220-57A-152	AMD-P 83-03-071
173-403-050	NEW-P 83-03-070	212-45-060	NEW-P 83-03-027	220-57A-165	AMD-P 83-03-071
173-403-100	NEW-P 83-03-070	212-45-065	NEW-P 83-03-027	220-57A-180	AMD-P 83-03-071
173-403-110	NEW-P 83-03-070	212-45-070	NEW-P 83-03-027	220-57A-190	AMD-P 83-03-071
173-403-120	NEW-P 83-03-070	212-45-075	NEW-P 83-03-027	223-08-020	AMD 83-03-005
173-403-130	NEW-P 83-03-070	212-45-080	NEW-P 83-03-027	232-12-04501	NEW-E 83-03-017
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173-403-190	NEW-P 83-03-070	212-45-110	NEW-P 83-03-027	248-21-035	AMD-P 83-03-042
173-405-021	AMD-P 83-03-070	212-45-115	NEW-P 83-03-027	248-29-020	AMD-P 83-03-043
173-405-033	AMD-P 83-03-070	220-32-04000Q	NEW-E 83-03-030	248-29-050	AMD-P 83-03-044
173-405-040	AMD-P 83-03-070	220-32-05700P	NEW-E 83-03-030	275-25-010	AMD 83-03-011
173-405-061	AMD-P 83-03-070	220-44-04000A	REP-E 83-03-007	275-25-020	AMD 83-03-011
173-405-077	AMD-P 83-03-070	220-44-04000B	REP-E 83-03-007	275-25-030	AMD 83-03-011
173-405-078	AMD-P 83-03-070	220-44-04000C	NEW-E 83-03-007	275-25-340	AMD 83-03-011
173-405-086	AMD-P 83-03-070	220-56-116	AMD-P 83-03-071	275-25-530	AMD 83-03-011



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304-20-060	AMD-P 83-03-074	388-73-310	AMD 83-02-060	460-90A-030	NEW-P 83-03-056
304-25-560	AMD-P 83-03-073	388-73-504	AMD 83-02-060	460-90A-040	NEW-P 83-03-056
308-31-010	AMD 83-03-032	388-73-604	AMD 83-02-060	460-90A-050	NEW-P 83-03-056
308-31-030	NEW 83-03-032	388-73-708	AMD 83-02-060	460-90A-060	NEW-P 83-03-056
308-31-040	NEW 83-03-032	388-73-714	AMD 83-02-060	460-90A-070	NEW-P 83-03-056
308-31-050	NEW 83-03-032	388-86-050	AMD-E 83-02-046	460-90A-080	NEW-P 83-03-056
308-31-060	NEW 83-03-032	388-86-075	AMD 83-03-016	460-90A-090	NEW-P 83-03-056
308-52-135	AMD-P 83-03-045	388-87-013	AMD 83-03-016	460-90A-100	NEW-P 83-03-056
308-52-138	AMD 83-03-031	388-87-070	AMD 83-03-016	460-90A-105	NEW-P 83-03-056
308-52-140	AMD-P 83-03-045	388-99-060	AMD 83-03-016	460-90A-110	NEW-P 83-03-056
308-52-150	NEW 83-03-031	388-320-220	AMD 83-03-021	460-90A-120	NEW-P 83-03-056
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308-52-520	REP-P 83-03-045	460-24A-050	AMD 83-03-024	480-12-180	AMD-P 83-03-054
308-52-550	REP-P 83-03-045	460-33A-010	NEW 83-03-025	480-12-190	AMD-P 83-03-054
308-52-560	REP-P 83-03-045	460-33A-015	NEW 83-03-025	480-30-095	AMD-P 83-03-053
308-116-295	AMD-P 83-02-062	460-33A-016	NEW 83-03-025	480-30-100	AMD-P 83-03-053
314-12-125	NEW-P 83-03-012	460-33A-017	NEW 83-03-025	480-40-070	AMD-P 83-03-052
314-16-120	AMD-P 83-03-013	460-33A-020	NEW 83-03-025	480-40-075	AMD-P 83-03-052
314-52-110	AMD-P 83-03-013	460-33A-025	NEW 83-03-025	480-70-330	AMD-P 83-03-055
315-04-090	AMD-E 83-03-041	460-33A-030	NEW 83-03-025	480-70-400	AMD-P 83-03-055
315-04-190	AMD-E 83-03-041	460-33A-035	NEW 83-03-025	480-140-040	AMD-P 83-03-023
315-04-200	AMD-P 83-03-046	460-33A-040	NEW 83-03-025	480-140-160	AMD-P 83-03-023
315-04-220	NEW-E 83-03-041	460-33A-050	NEW 83-03-025		
315-06-020	AMD 83-03-034	460-33A-055	NEW 83-03-025		
315-06-050	AMD-E 83-03-041	460-33A-060	NEW 83-03-025		
315-06-060	NEW 83-03-034	460-33A-065	NEW 83-03-025		
315-06-080	AMD 83-03-033	460-33A-070	NEW 83-03-025		
315-06-120	NEW-E 83-03-041	460-33A-075	NEW 83-03-025		
315-10-020	AMD-E 83-03-041	460-33A-080	NEW 83-03-025		
315-10-030	AMD 83-03-034	460-33A-085	NEW 83-03-025		
315-11-010	NEW 83-03-034	460-33A-090	NEW 83-03-025		
315-11-020	NEW 83-03-034	460-33A-100	NEW 83-03-025		
315-11-030	NEW 83-03-034	460-33A-105	NEW 83-03-025		
315-11-040	NEW-E 83-03-040	460-33A-110	NEW 83-03-025		
315-11-041	NEW-E 83-03-040	460-65A-010	NEW 83-03-024		
315-11-042	NEW-E 83-03-040	460-65A-020	NEW 83-03-024		
332-30-142	AMD 83-02-055	460-65A-030	NEW 83-03-024		
332-44-100	NEW-E 83-03-029	460-65A-040	NEW 83-03-024		
332-44-110	NEW-E 83-03-029	460-65A-100	NEW 83-03-024		
352-12-010	AMD-P 83-02-057	460-65A-105	NEW 83-03-024		
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352-12-030	REP-W 83-02-058	460-65A-115	NEW 83-03-024		
352-12-040	REP-W 83-02-058	460-65A-125	NEW 83-03-024		
352-12-050	REP-W 83-02-058	460-90-100	REP-P 83-03-056		
356-14-085	AMD-C 83-03-035	460-90-110	REP-P 83-03-056		
356-30-330	AMD-C 83-03-035	460-90-120	REP-P 83-03-056		
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388-08-435	NEW 83-03-021	460-90-125	REP-P 83-03-056		
388-54-670	AMD 83-03-015	460-90-130	REP-P 83-03-056		
388-54-740	AMD 83-03-015	460-90-140	REP-P 83-03-056		
388-54-785	AMD 83-03-015	460-90-150	REP-P 83-03-056		
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