

Washington State Register

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IN THIS ISSUE

Agriculture, Department of
Centralia Community College
Clark College
Community College District 6
Community College District 12
Community College District 14
Community College District 17
Criminal Justice Training Commission
Dairy Products Commission
Energy Facility Site Evaluation Council
Environmental Hearings Office
Fisheries, Department of
Gambling Commission
Game, Department of
Health, Board of
Higher Education Personnel Board
Hospital Commission

Jail Commission
Labor and Industries, Department of
Licensing, Department of
Liquor Control Board
Lottery Commission
Natural Resources, Department of
Olympia Technical Community College
Parks and Recreation Commission
Revenue, Department of
Seattle Community College
Social and Health Services, Department of
Spokane Community College
Superintendent of Public Instruction
Transportation, Department of
Washington State University
Western Washington University

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(Subject/Agency index at back of issue)
This issue contains documents officially
filed not later than February 2, 1983

CITATION

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

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DENNIS W. COOPER
Code Reviser

WASHINGTON STATE REGISTER

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

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

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

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

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

3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATTER

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

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

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

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

5. EFFECTIVE DATE OF RULES

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

6. EDITORIAL CORRECTIONS

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

7. INDEX AND TABLES

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

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

<u>Issue No.</u>	<u>Closing Dates</u> ^①			<u>Distribution Date</u>	<u>First Agency Action Date</u> ^③
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ^② or 10 p. max. Non-OTS		
<i>For Inclusion—</i>	<i>File no later than—</i>			<i>Count 20 days from—</i>	<i>For hearing/adoption on or after</i>
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
83-03	Dec 22, 1982	Jan 5, 1983	Jan 19	Feb 2	Feb 22
83-04	Jan 5	Jan 19	Feb 2	Feb 16	Mar 8
83-05	Jan 19	Feb 2	Feb 16	Mar 2	Mar 22
83-06	Feb 2	Feb 16	Mar 2	Mar 16	Apr 5
83-07	Feb 23	Mar 9	Mar 23	Apr 6	Apr 26
83-08	Mar 9	Mar 23	Apr 6	Apr 20	May 10
83-09	Mar 23	Apr 6	Apr 20	May 4	May 24
83-10	Apr 6	Apr 20	May 4	May 18	Jun 7
83-11	Apr 20	May 4	May 18	Jun 1	Jun 21
83-12	May 4	May 18	Jun 1	Jun 15	Jul 5
83-13	May 25	Jun 8	Jun 22	Jul 6	Jul 26
83-14	Jun 8	Jun 22	Jul 6	Jul 20	Aug 9
83-15	Jun 22	Jul 6	Jul 20	Aug 3	Aug 23
83-16	Jul 6	Jul 20	Aug 3	Aug 17	Sep 6
83-17	Jul 27	Aug 10	Aug 24	Sep 7	Sep 27
83-18	Aug 10	Aug 24	Sep 7	Sep 21	Oct 11
83-19	Aug 24	Sep 7	Sep 21	Oct 5	Oct 25
83-20	Sep 7	Sep 21	Oct 5	Oct 19	Nov 8
83-21	Sep 21	Oct 5	Oct 19	Nov 2	Nov 22
83-22	Oct 5	Oct 19	Nov 2	Nov 16	Dec 6
83-23	Oct 26	Nov 9	Nov 23	Dec 7	Dec 27
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 83-03-026
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

AMENDATORY SECTION (Amending Order 200, filed 6/10/80)

WAC 248-18-718 GENERAL DESIGN REQUIREMENTS. (REQUIREMENTS ARE SHOWN IN CAPITAL LETTERS. ((SEE)) See WAC 248-18-515).

(1) VECTOR CONTROL. CONSTRUCTION OF THE BUILDING SHALL BE SUCH AS TO PREVENT THE ENTRANCE AND HARBORAGE OF RODENTS AND INSECTS.

(2) ELEVATORS.

(a) AT LEAST ONE ELEVATOR ((IN ALL HOSPITALS WITH A PATIENT ROOM, OPERATING ROOM, DELIVERY ROOM, BIRTHING ROOM, NEONATAL INTENSIVE CARE UNIT, X-RAY ROOM, SOLARIUM, OR TREATMENT ROOM ON OTHER THAN A SINGLE FLOOR)) CONVENIENTLY ACCESSIBLE FROM GROUND LEVEL IN ALL HOSPITALS WITH PATIENT CARE AND/OR DIAGNOSTIC AREAS ON OTHER THAN GROUND LEVEL OR ON MORE THAN ONE LEVEL. IF ELEVATOR REQUIRED,

((+)) (i) AT LEAST TWO ELEVATORS IN ALL HOSPITALS WITH A CAPACITY OF MORE THAN SIXTY BEDS ((ON OTHER THAN THE GROUND FLOOR));

((+)) (ii) AT LEAST THREE ELEVATORS IN ALL HOSPITALS WITH A CAPACITY OF OVER TWO HUNDRED BEDS ON OTHER THAN THE GROUND ((FLOOR)) LEVEL.

((+)) (b) A GREATER NUMBER OF ELEVATORS MAY BE REQUIRED BECAUSE OF THE

HOSPITAL PLAN, VOLUME OF VISITOR TRAFFIC, AND FOOD AND SUPPLY DISTRIBUTION SYSTEM.²⁴

((+)) (c) SIZE OF REQUIRED PATIENT TRANSPORT ELEVATORS: AT LEAST ((5'-4" by 8'-0" WITH A CAPACITY OF 3500 POUNDS, CAR AND SHAFT DOORS OF AT LEAST 3'-10" CLEAR OPENING)) ONE ELEVATOR OF FIVE FOOT FOUR INCH WIDTH BY EIGHT FEET SIX INCHES LENGTH INSIDE DIMENSIONS WITH DOOR OPENING OF FOUR FEET. In alteration projects where the elevator shaft is existing, elevators of lesser inside dimensions may be permitted.

(3) STAIRWAYS, RAMPS, CORRIDORS, AND AISLES.

(a) STAIRWAYS AND RAMPS.

(i) NONSKID SURFACES.

(ii) HANDRAILS ON BOTH SIDES.

(iii) ADEQUATE GUARDRAILS AND OTHER SAFETY DEVICES ON ALL STAIRWELLS AND RAMPS.

(iv) SLOPE OF RAMPS USED FOR PATIENTS NOT TO EXCEED ONE IN TWELVE.

SLOPE OF RAMPS IN SERVICE AREAS NOT TO EXCEED ONE IN TEN.

(b) CORRIDORS.

(i) A CORRIDOR SYSTEM ESTABLISHED THROUGHOUT HOSPITAL CORRIDORS SHALL PROVIDE A METHOD OF TRAFFIC CIRCULATION DESIGNED FOR PATIENT PRIVACY, TO PREVENT THROUGH TRAFFIC IN EXAMINATION, OBSERVATION, TREATMENT, AND DIAGNOSTIC AREAS.

((+)) (ii) CORRIDORS AT LEAST ((8'-0")) EIGHT FOOT ZERO INCHES WIDE WITH NO RESTRICTION MORE THAN ((7")) SEVEN INCH TOTAL. EXISTING SEVEN FOOT ZERO INCH CORRIDORS ACCEPTABLE FOR ALTERATION PROJECTS. ((EXCEPTIONS MAY BE PERMITTED FOR AMBULATORY TRAFFIC SERVING A SINGLE HOSPITAL DEPARTMENT BUT NO LESS THAN 5'-0". EXISTING 7'-0" CORRIDORS ACCEPTABLE FOR ALTERATIONS)) FIVE FOOT ZERO INCH MINIMUM CORRIDOR WIDTH FOR AMBULATORY PATIENT TRAFFIC WITHIN A SINGLE DEPARTMENT; FOUR FOOT ZERO INCH MINIMUM CORRIDOR FOR NONPATIENT AREAS AND DEPARTMENTS PROVIDED THERE IS A FIVE-BY-FIVE FOOT TURNAROUND AT LEAST EVERY SEVENTY-FIVE FEET.

((+)) (iii) HANDRAILS BOTH SIDES OF CORRIDORS USED BY PATIENTS ON REHABILITATION NURSING UNITS, NURSING HOME UNITS, AND OTHER LONG-TERM CARE NURSING UNITS.

((+)) (iv) DOORS, EXCEPT THOSE TO SMALL UNOCCUPIED SPACES ((WHICH ARE NOT NORMALLY OCCUPIED)), SHALL NOT SWING INTO ((THE)) REQUIRED CORRIDOR((S)) WIDTH.

(c) AISLES.

SUFFICIENTLY WIDE TO ALLOW FOR UNIMPEDED MOVEMENT OF EQUIPMENT AND PERSONNEL.

(4) DOORS, WINDOWS, AND SCREENS.

(a) DOORS.

(i) ~~((4'-0"))~~ FOUR FOOT ZERO INCH MINIMUM WIDTH IN OPERATING ROOM, DELIVERY ROOM, BIRTHING ROOM, RECOVERY ROOM, MAJOR EMERGENCY TREATMENT ROOM, FRACTURE ROOM, X-RAY ROOM, COMPUTERIZED AXIAL TOMOGRAPHY ROOMS, ((AND DOORS)) TO ALL TYPES OF INTENSIVE CARE UNITS AND TREATMENT ROOMS IN INTENSIVE CARE. ((IN ALTERATION PROJECTS FOR BIRTHING ROOM(S) AN EXISTING 3'-8" DOOR IS ACCEPTABLE.))

(ii) ~~((4'-0" MINIMUM WIDTH FOR PATIENT ROOM DOORS AND TREATMENT ROOM DOORS IN ALL INTENSIVE CARE UNITS.~~

~~((iii) 3'-10"))~~ THREE FOOT TEN INCH MINIMUM WIDTH FOR PATIENT ROOMS, NEWBORN NURSERIES, ULTRASOUND ROOMS, NUCLEAR MEDICINE TREATMENT ROOMS, PHYSICAL THERAPY TREATMENT ROOMS, HORIZONTAL EXITS, AND OTHER DOORS THROUGH WHICH PATIENTS ARE TRANSPORTED IN STRETCHERS OR BEDS. ((4'-0")) Four foot zero inch doors recommended. ~~((EXISTING 3'-8" DOOR ACCEPTABLE IN LIMITED ALTERATION PROJECTS.))~~

~~((iii) EXISTING THREE FOOT EIGHT INCH DOORS ACCEPTABLE IN ALTERATIONS EXCEPT IN ALTERATIONS OF OPERATING ROOMS, MAJOR EMERGENCY TREATMENT ROOMS, DELIVERY ROOMS, RECOVERY ROOMS, INTENSIVE CARE ROOMS, FRACTURE ROOMS OR X-RAY.~~

(iv) ~~((3'-0"))~~ THREE FOOT ZERO INCH MINIMUM WIDTH FOR ALL DOORS WHICH MAY BE USED BY PERSONS IN WHEELCHAIRS INCLUDING PATIENT TOILETS AND BATHROOMS EXCEPT DOORS TO TOILETS AND BATHROOMS WHICH OPEN INTO PATIENT ROOMS SHALL BE NOT LESS THAN ((2'-6")) TWO FOOT SIX INCHES IN WIDTH.

(v) Doors to toilets adjoining patient rooms should not swing into toilet rooms.

(vi) Adequate width for receiving entrance doors, store room doors, and other doors through which large carts or bulk goods are transported.

(vii) VISION PANELS IN ALL DOUBLE-ACTING DOORS. Four inches wide by twenty-four inches high recommended.

(b) WINDOWS.

(i) REQUIRED IN PATIENT ROOMS EXCEPT LABOR ROOMS AND NURSERIES.

(ii) REQUIRED WINDOWS TO HAVE CLEAR GLASS AREA OF AT LEAST ONE-~~((EIGHTH))~~ TENTH FLOOR AREA.

(iii) REQUIRED WINDOWS TO BE LOCATED IN OUTSIDE WALLS PERMITTING A SATISFACTORY AMOUNT OF UNOBSTRUCTED NATURAL LIGHT. No required windows should be located within twenty feet of another building or the opposite wall of a court or within ten feet of a property line except a street.

(iv) WINDOW SILLS OF REQUIRED WINDOWS IN PATIENT ROOMS NO HIGHER THAN ~~((3'-0"))~~ THREE FOOT ZERO INCHES FROM THE FLOOR. GRADE³⁷ ADJACENT TO REQUIRED WINDOWS IN PATIENT ROOMS TO BE BELOW WINDOW SILL.

(c) SCREENS.

~~((16))~~ SIXTEEN MESH SCREEN OR EQUAL ON WINDOW OPENINGS WHICH SERVE FOR REQUIRED VENTILATION.

(5) FLOOR FINISHES, WALL SURFACES, AND CEILINGS.

(a) FLOOR FINISHES:

(i) EASILY CLEANED AND SUITABLE TO THE FUNCTIONS OF EACH AREA.

(ii) NONSLIP AT ENTRANCES AND OTHER AREAS SUBJECT TO TRAFFIC OR USE WHILE WET.

(iii) COVED BASES INTEGRAL WITH FLOORS OR TOPSET BASE TIGHT TO FLOORS AND WALLS.

(iv) ELECTRICALLY CONDUCTIVE IN AREAS WHERE ~~((COMBUSTIBLE))~~ FLAMMABLE ANESTHETIC GASES ARE TO BE USED PER NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) STANDARD((S-38)) 56A. SEE WAC 248-18-99902(1).

(v) SPECIFICATIONS FOR CARPETING IN NONPATIENT OCCUPIED AREAS:

(A) PILE YARN FIBER: FIBER WHICH MEETS THE STANDARDS OF THE STATE FIRE MARSHAL ~~((SEE))~~ See RCW 70.41.080) SHALL BE ACCEPTABLE PROVIDED THE FIBER IS EASILY CLEANABLE.

(B) PILE TUFTS PER SQUARE INCH: MINIMUM ~~((64))~~ SIXTY-FOUR OR EQUIVALENT DENSITY.

(C) PILE HEIGHT: FROM A MINIMUM OF .125 INCHES TO A MAXIMUM OF .312 INCHES.

(D) PAD: MAY BE SEPARATE PAD.

(vi) SPECIFICATIONS FOR CARPETING IN PATIENT OCCUPIED AREAS:

(A) PILE YARN FIBER: FIBERS WHICH MEET THE STANDARDS OF THE STATE FIRE MARSHAL ~~((SEE))~~ See RCW 70.41.080) SHALL BE ACCEPTABLE PROVIDED THE FIBER IS EASILY CLEANABLE.

(B) PILE TYPE: ROUND LOOP.

(C) PILE TUFTS PER SQUARE INCH: MINIMUM ~~((64))~~ SIXTY-FOUR OR EQUIVALENT DENSITY.

(D) PILE HEIGHT: LEVEL PILE, FROM A MINIMUM OF .125 INCHES TO A MAXIMUM OF .255 INCHES.

(E) BACKING: SHALL BE WATER IMPERVIOUS OR A WATER IMPERVIOUS PAD SHALL BE PERMANENTLY BONDED TO THE BACKING.

(vii) INSTALLATION OF CARPET MATERIAL:

(A) BONDED PAD CARPET MUST BE CEMENTED TO THE FLOOR WITH WATERPROOF CEMENT.

(B) EDGES OF CARPET MUST BE COVERED AND COVE OR BASE SHOE USED AT ALL WALL JUNCTURES. IF BROADLOOM CARPET IS USED, SEAMS ARE TO BE BONDED TOGETHER WITH MANUFACTURER RECOMMENDED CEMENT.

(C) SAFETY OF PATIENTS OR OCCUPANTS IS TO BE ASSURED DURING INSTALLATION. ROOMS MUST BE WELL VENTILATED AND NOT BE USED BY RESIDENT OCCUPANTS OR PATIENTS DURING INSTALLATION. THE ROOM MAY NOT BE RETURNED TO USE UNTIL THE ROOM IS FREE OF VOLATILE FUMES AND ODORS FROM ADHESIVES.

(b) WALL SURFACES:

(i) EASILY CLEANED AND SUITABLE TO THE FUNCTIONS OF EACH AREA.

(ii) SMOOTH AND WASHABLE FINISH₂ (e.g., washable paint on smooth finish plaster or gypsum board as opposed to rough or exposed masonry finishes) IN ROOMS USED FOR PATIENT CARE OR TREATMENT AND ROOMS IN WHICH SUPPLIES AND EQUIPMENT FOR PATIENT CARE OR TREATMENT ARE STORED, ASSEMBLED OR PROCESSED, AND IN CLINICAL LABORATORIES.

(iii) A FINISH WHICH WILL MINIMIZE GLARE IN PATIENT ROOMS AND LABOR ROOMS.

(iv) A WATERPROOF PAINTED, GLAZED, OR SIMILAR WATERPROOF FINISH EXTENDING ABOVE THE SPLASH LINE IN ALL ROOMS OR AREAS THAT ARE SUBJECT TO SPLASH OR SPRAY.

(v) Wainscot of five feet minimum height of a durable surface in operating rooms, delivery rooms, emergency rooms, treatment rooms, and corridors.

(vi) External angles protected by corner guards to resist impact in areas of heavy traffic.

(c) CEILINGS:

(i) EIGHT ((~~FEET~~)) FOOT MINIMUM HEIGHT, EXCEPTIONS MAY BE PERMITTED IN MINOR AUXILIARY ROOMS.

(ii) NINE ((~~FEET~~)) FOOT MINIMUM HEIGHT IN OPERATING ROOMS, DELIVERY ROOMS, AND SIMILAR ROOMS HAVING SPECIAL CEILING-MOUNTED LIGHT FIXTURES. Higher ceilings may be needed for some types of equipment.

(iii) EASILY CLEANED AND SUITABLE TO THE FUNCTIONS OF EACH AREA.

(iv) SMOOTH AND WASHABLE FINISH₂ (e.g., washable paint on smooth finish plaster or gypsum board as opposed to fissured tile or rough finishes) IN ROOMS USED FOR PATIENT CARE OR TREATMENT, AND IN ROOMS IN WHICH SUPPLIES AND EQUIPMENT FOR PATIENT CARE OR

TREATMENT ARE STORED, ASSEMBLED OR PROCESSED, AND CLINICAL LABORATORIES. NO EXPOSED DUCTWORK AND PIPING.

(v) SMOOTH AND WASHABLE FINISH WITHOUT VISIBLE JOINTS OR CREVICES IN AREAS WHERE SURGICAL ASEPSIS MUST BE ASSURED SUCH AS OPERATING ROOMS, DELIVERY ROOMS, AND EMERGENCY TREATMENT ROOMS.

(vi) A FINISH WHICH WILL MINIMIZE GLARE IN PATIENT ROOMS, LABOR ROOMS, AND BIRTHING ROOMS.

(vii) FINISH THAT MINIMIZES REFLECTION OF ULTRA-VIOLET RADIATION IN TUBERCULOSIS ISOLATION ROOMS.

(viii) CEILINGS OF PATIENT ROOMS IN PSYCHIATRIC NURSING UNITS, SECURITY, AND SECLUSION ROOMS SHALL BE OF MONOLITHIC OR BONDED CONSTRUCTION.

((~~viii~~)) (ix) Sound-absorptive treatment in corridors of patient areas, nurses' stations, dining rooms, and hydrotherapy rooms.

(6) PLUMBING AND SEWERAGE.

(a) PLUMBING AND SEWERAGE. CONSTRUCTED IN ACCORDANCE WITH THE UNIFORM PLUMBING CODE,⁽⁴⁰⁾ OR EQUIVALENT LOCAL CODE. SEE WAC 248-18-99902(3).

(b) WATER SUPPLY.

(i) AN ADEQUATE WATER SUPPLY WHICH CONFORMS TO THE QUALITY STANDARDS OF CHAPTER 248-54 WAC.

(ii) TEMPERATURE OF HOT WATER AT BATHING FIXTURES THERMOSTATICALLY CONTROLLED NOT TO EXCEED ((+~~10~~)) ONE HUNDRED TWENTY DEGREES FAHRENHEIT.

(iii) THERMOSTATICALLY CONTROLLED HOT WATER HEATING EQUIPMENT OF SUFFICIENT CAPACITY TO SUPPLY SIX AND ONE-HALF GALLONS OF ONE HUNDRED TWENTY DEGREE FAHRENHEIT WATER PER HOUR PER BED FOR GENERAL USE ((~~AT NOT LESS THAN 125 DEGREES FAHRENHEIT, AND~~)), MEASURED AT POINT OF USE. AN ADEQUATE AMOUNT OF WATER AT NOT LESS THAN ((+~~60~~)) ONE HUNDRED SIXTY DEGREES FAHRENHEIT FOR LAUNDRY, MECHANICAL DISHWASHERS, AND OTHER SPECIAL MECHANICAL WASHERS.((~~26~~)) TEMPERATURE MEASURED AT POINT OF USE.

(iv) CIRCULATING SYSTEMS AS NECESSARY TO ENSURE A READY SUPPLY OF HOT WATER AT FIXTURES.

(c) INSULATION.

(i) HOT WATER PIPING INSULATED AS REQUIRED TO CONTROL EXCESSIVE HEAT TRANSFER AND TO PROVIDE FOR SAFETY.

(ii) COLD WATER AND DRAINAGE PIPING INSULATED AS REQUIRED TO CONTROL CONDENSATION.

(iii) AVOID EXPOSING PIPING TO FREEZING TEMPERATURES. IF UNAVOIDABLE, DESIGN TO PREVENT FREEZING.

(d) SEWERAGE.

(i) SEWAGE DISPOSAL SYSTEM IN CONFORMANCE WITH WAC 248-50-100 AND CHAPTER 248-92 OR 248-96 WAC CODIFIED RULES, REGULATIONS AND STANDARDS OF THE STATE BOARD OF HEALTH.

(ii) FLOOR DRAINS IN AREAS WITHOUT DAILY WASH DOWN SHALL HAVE TRAP PRIMERS.²⁴

(e) PLUMBING FIXTURES.

(i) Bedpan lugs or slot fixtures on water closets not recommended.

~~((i))~~ (ii) DESIGNED AND INSTALLED TO BE EASILY CLEANED, MAINTAINED, AND SUITABLE TO THE INTENDED USE.²⁴ ADEQUATE SUPPORT FOR FIXTURES.

~~((ii))~~ (iii) LAVATORIES PROVIDED IN EACH TOILET ROOM EXCEPT WHERE PROVIDED IN CONNECTING PATIENT ROOM, DRESSING ROOM, OR LOCKER ROOM.

~~((iii))~~ (iv) DRINKING FOUNTAINS OR EQUIVALENT AT SUITABLE LOCATIONS.²⁴

~~((iv))~~ (v) SINKS IN WHICH UTENSILS AND EQUIPMENT ARE TERMINALLY CLEANED TO BE DOUBLE COMPARTMENT OF ADEQUATE SIZE AND DEPTH (Recommended each compartment 20 x 22 x 14 or similar) WITH ADEQUATE COUNTER SPACE ON BOTH SIDES.²⁴

~~((v))~~ (vi) EACH FIXTURE, EXCEPT WATER CLOSETS AND SPECIAL USE FIXTURES, PROVIDED WITH HOT AND COLD WATER THROUGH A MIXING OUTLET.

~~((vi))~~ (vii) DEVICES TO PREVENT BACKFLOW ON WATER SUPPLY TO FIXTURES OR GROUP OF FIXTURES WHERE THE USE OF EXTENSION HOSES AND TUBE CLEANING EQUIPMENT IS ANTICIPATED₂ (e.g., sinks in laboratory, central service, garbage can wash area, and housekeeping facilities and mechanical areas). Also refer to chapter 248-54 WAC.

(viii) NONSKID FLOOR SURFACES IN TUBS AND SHOWERS.

(f) FITTINGS.

(i) WRIST, KNEE, OR FOOT FAUCET CONTROLS AND GOOSENECK SPOUTS OR THE EQUIVALENT ON LAVATORIES IN PATIENT ROOMS AND IN TOILETS ADJOINING PATIENT ROOMS EXCEPT THOSE FOR PSYCHIATRIC PATIENTS TO BE IN ACCORDANCE WITH PROGRAM REQUIREMENTS.

(ii) WRIST, KNEE, OR FOOT FAUCET CONTROLS AND GOOSENECK SPOUTS OR THE EQUIVALENT⁴¹ ON ALL LAVATORIES AND SINKS FOR PERSONNEL USE WHERE REQUIRED TO CONTROL CROSS INFECTION₂ (e.g., nursing service areas including isolation rooms, laboratory, and physical therapy), UNLESS THE FIXTURE IS USED FOR SOILED FUNCTIONS ONLY AND ANOTHER SINK OR LAVATORY WITH WRIST, KNEE, OR FOOT CONTROLS OR EQUIVALENT⁴¹ IS LOCATED IN THE SAME AREA OF THE ROOM. FAUCET CONTROLS ON LAVATORIES

IN NEWBORN NURSERY UNITS, NEONATAL INTENSIVE CARE UNITS, BIRTHING ROOMS, AND ALL SCRUB SINKS TO BE KNEE OR FOOT CONTROLS OR EQUIVALENT.⁴¹ Wrist blades permitted at lavatory when handwashing facility with foot, knee, or equivalent faucet control is located close to birthing room(s).

(iii) WRIST CONTROLS TO HAVE A MINIMUM OF ~~((4))~~ FOUR INCH SPACE BETWEEN BACK SPLASH AND ENDS OF CONTROLS AT FULL CLOSED POSITION AND A MINIMUM OF ((4)) FOUR INCH SPACE BETWEEN THE END OF CONTROLS AND THE WATER SPOUT IN THE FULL OPEN POSITION. ((90-DEGREE VALVE OPERATION:))

(g) ACCESSORIES.

(i) BACKING FOR MOUNTING TO SUPPORT THE INTENDED USE OF ALL ACCESSORIES.

(ii) SUITABLE SHELF OR EQUIVALENT, AND MIRROR AT EACH LAVATORY IN TOILET ROOMS, PATIENT ROOMS, BIRTHING ROOMS, DRESSING ROOMS, AND LOCKER ROOMS.

(iii) TOWEL BAR OR HOOK AT EACH ~~((PATIENT LAVATORY ON NURSING UNITS AND IN BIRTHING ROOMS AND AT EACH))~~ BATHING FACILITY. Optional in psychiatric unit.²⁴

(iv) ROBE HOOK AT EACH BATHING FACILITY, WATER CLOSET, DRESSING ROOM((S)), AND EXAMINATION ROOM((S)). Optional in psychiatric unit.²⁴

(v) TOILET PAPER HOLDER PROPERLY LOCATED AT EACH WATER CLOSET.

(vi) ~~((Sanitary napkin dispenser in each women's toilet room except inpatient toilets:))~~ WHEN PROGRAM INCLUDES BEDPAN BRUSHES, PROVISION FOR KEEPING BEDPAN BRUSH OFF THE FLOOR.

(vii) PROVISION FOR OFF THE FLOOR PLACEMENT OF SUPPLIES AND EQUIPMENT IN PATIENT TOILETS. THIS PROVISION SHALL BE SEPARATE AND DISTINCT FROM LAVATORY SHELF.

(viii) AT LEAST ~~((TWO))~~ ONE GRAB BAR((S OR EQUIVALENT⁶⁰)) OF SUITABLE STRENGTH, EASILY CLEANABLE, RESISTANT TO CORROSION, AND FUNCTIONAL DESIGN SECURELY MOUNTED AND PROPERLY LOCATED AT EACH ~~((BATHTUB, SHOWER))~~ ISLAND TUB AND WATER CLOSET FOR PATIENTS. Horizontal grab bars should extend at least eighteen inches in front of water closet. WHEN A LAVATORY IS LOCATED ADJACENT TO A WATER CLOSET AND WITHIN EIGHTEEN INCHES OF THE CENTER LINE OF THE WATER CLOSET, IT SHALL BE MOUNTED TO SUPPORT A THREE HUNDRED POUND LIVE LOAD WITHOUT PERMANENT DEFLECTION. GRAB BAR OR BARS OF SUITABLE STRENGTH, EASILY CLEANABLE, RESISTANT TO CORROSION, OF FUNCTIONAL DESIGN, SECURELY MOUNTED, AND PROPERLY LOCATED AT EACH STANDARD BATHTUB AND SHOWER ON TWO SIDES. May be omitted at water closets and bathing facilities for seclusion and security rooms.

~~((viii))~~ (ix) DISPENSERS FOR SINGLE USE TOWELS AT ALL LAVATORIES AND SINKS MOUNTED TO AVOID CONTAMINATION FROM SPLASH AND SPRAY.

~~((ix))~~ (x) SUITABLE PROVISION FOR SOAP AT EACH LAVATORY, SINK, AND BATHING FACILITY.

~~((x))~~ (xi) Paper cup dispensers at all lavatories except in soiled areas, lavatories in patient rooms, and toilet rooms adjoining patient rooms.

~~((xi))~~ (xii) Properly located dispenser for seat covers at each water closet (~~properly located~~).

(xiii) Sanitary napkin dispenser and disposer or covered waste container (~~step-on-can~~) in each women's toilet room except inpatient toilets.

(h) NONFLAMMABLE MEDICAL GAS SYSTEMS IN ACCORDANCE WITH THE NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) STANDARD 56F. SEE WAC 248-18-99902(4).⁽³⁸⁾

(i) Clinical vacuum (suction) systems in accordance with the recommendations of Compressed Gas Association⁽³⁹⁾, Pamphlet Number 2-2.1, except the zone valves may be omitted. See WAC 248-18-99902(11).

(7) HEATING.⁽³⁹⁾ Recommend use of ASHRAE Handbook series. See WAC 248-18-99902(2).

(a) A HEATING SYSTEM ADEQUATE TO MAINTAIN ~~((75))~~ SEVENTY-FIVE DEGREES FAHRENHEIT MINIMUM TEMPERATURE IN EACH ROOM AND OCCUPIED SPACE.

~~((THE SYSTEM OF SUFFICIENT SIZE AND CAPACITY FOR THE PROPER DESIGN TEMPERATURE FOR THE LOCALITY.~~

~~((c))~~ HEAT SUPPLY FOR EACH PATIENT ROOM PROVIDED WITH INDIVIDUAL THERMOSTATIC CONTROL. Manual or zone control acceptable for existing facility alteration projects. Individual room thermostatic control recommended for all rooms. HEATING SYSTEM SUITABLY ZONED (e.g., by exposure and usage of areas) AND THERMOSTATICALLY CONTROLLED UNLESS INDIVIDUAL ROOMS THERMOSTATICALLY CONTROLLED.

~~((d))~~ (c) Standby heat supply to operating rooms, delivery rooms, birthing rooms, recovery rooms, nurseries, all intensive care units, and other selected areas ~~((arranged))~~ so that they may be heated at times when the general building heating system is not operating.

~~((e))~~ (d) PIPING THROUGHOUT BUILDING INSULATED AS REQUIRED TO CONTROL EXCESSIVE HEAT TRANSFER AND TO PROVIDE FOR SAFETY.

(8) VENTILATION AND AIR CONDITIONING.⁽³⁹⁾ USE ASHRAE HANDBOOK SERIES REFERRED TO IN WAC 248-18-99902(2).

(a) ALL ROOMS AND AREAS ADEQUATELY VENTILATED BY MECHANICAL MEANS. (Refer to Table B) DESIGN OF SYSTEM TO PREHEAT COLD OUTSIDE AIR MAKEUP. Gravity ~~((exhaust))~~ acceptable for gas storage rooms, mechanical rooms, and similar areas.

(b) Approved recovery systems to reclaim heat from exhausts are recommended for energy conservation. DESIGN AND INSTALLATION OF HEAT RECOVERY EQUIPMENT TO CONTROL CROSS CONTAMINATION.

(c) ALL FANS SERVING EXHAUST SYSTEMS SHALL BE LOCATED AT THE DISCHARGE END OF THE SYSTEM OR THE SYSTEMS DESIGNED TO PREVENT LEAKAGE TO OCCUPIED AREAS.

(d) DESIGN OF AIR DISTRIBUTION AND BALANCING OF AIR SYSTEMS:⁽²⁴⁾

~~((i))~~ TO MAINTAIN APPROPRIATE PRESSURE GRADIENTS AMONG ADJOINING ROOMS AND AREAS TO CONTROL AIR FLOWS IN ACCORDANCE WITH THE RELATIVE DEGREE OF PROTECTION REQUIRED FROM THE SPREAD OF ODORS, MOISTURE, TOBACCO SMOKE, AND CONTAMINANTS, i.e., flow from relatively clean areas to relatively soiled areas. Refer to Table B. Balance for appropriate positive and negative gradients should be evaluated by measuring proper direction of air flow at each doorway by smoke indicator. Designs should be based on anticipated leakage at each door. (Fifty CFM minimum to one hundred CFM maximum for usual room door).

~~((ii)) FOR NEWBORN NURSERY FACILITIES TO PREVENT AIR FLOW TO ANY NURSERY ROOM FROM ANY OTHER ROOM.~~

~~((iii)) FOR NEONATAL INTENSIVE CARE UNIT POSITIVE PROTECTIVE AIR PRESSURE GRADIENT FROM EACH NURSERY ROOM TO SURROUNDING AREAS EXCEPT CLEAN UTILITY, CLEAN STORAGE ROOMS AND NEWBORN NURSERY FACILITIES. POSITIVE AIR PRESSURE GRADIENT FROM NEONATAL INTENSIVE CARE UNIT TO CORRIDORS AND ROOMS OUTSIDE THE UNIT.)~~

(e) EXHAUST HOODS OR OTHER APPROVED EXHAUST DEVICES.

(i) LOCATED OVER EQUIPMENT LIKELY TO PRODUCE EXCESSIVE HEAT, MOISTURE, ODORS, OR CONTAMINANTS, (e.g., kitchen, laundry, sterilizing and dishwashing equipment, laboratory and special work areas) PROPERLY DESIGNED FOR INTENDED USE.

(ii) LABORATORY HOODS WHERE INFECTIOUS MATERIALS ARE HANDLED.⁽²³⁾ See WAC 248-18-99902(7) for recommended publications.

(A) MINIMUM FACE VELOCITY OF ~~((75))~~ SEVENTY-FIVE FEET PER MINUTE AT MAXIMUM OPERATING LEVEL OF SASH.

(B) SERVED BY INDEPENDENT EXHAUST SYSTEM WITH THE EXHAUST FAN LOCATED AT THE DISCHARGE END OF THE DUCT.

(C) DUCT TO HAVE WELDED JOINTS OR EQUIVALENT FROM THE HOOD TO FILTER ENCLOSURE.

(D) FILTERS WITH 99.97~~((%)~~) PERCENT EFFICIENCY (DIOCTYL-PHTHALATE, (DOP), TEST METHOD) IN THE EXHAUST STREAM.

(E) DESIGNED AND EQUIPPED TO PERMIT THE SAFE REMOVAL OF CONTAMINATED FILTERS.

(F) CHEMICAL FUME HOODS SHALL NOT BE USED FOR HANDLING INFECTIOUS MATERIALS.

(iii) LABORATORY HOODS WHERE STRONG OXIDIZING AGENTS, (e.g., perchloric acid,) ARE PROCESSED,

(A) MINIMUM FACE VELOCITY OF ~~((100))~~ ONE HUNDRED FEET PER MINUTE AT MAXIMUM OPERATING LEVEL OF SASH.

(B) ~~((EACH HOOD CONNECTED TO))~~ SERVED BY INDEPENDENT EXHAUST SYSTEM WITH ~~((AN))~~ EXPLOSION PROOF EXHAUST FAN AT THE DISCHARGE END OF THE DUCT.

(C) DUCT OF WELDED STAINLESS STEEL OR EQUIVALENT THROUGHOUT THE EXHAUST SYSTEM.

(D) HOOD AND EXHAUST DUCT SYSTEM EQUIPPED WITH COMPLETE COVERAGE WASHDOWN FACILITIES.

(iv) HOODS WHERE RADIOACTIVE PARTICULATE AEROSOLS MAY BE RELEASED.

(A) MINIMUM FACE VELOCITY OF ~~((100))~~ ONE HUNDRED FEET PER MINUTE AT MAXIMUM OPERATING LEVEL OF SASH.

(B) ~~((EACH HOOD CONNECTED TO AN))~~ SERVED BY INDEPENDENT EXHAUST SYSTEM WITH ~~((AN))~~ THE EXHAUST FAN AT THE DISCHARGE END OF THE DUCT.

(C) DUCT TO HAVE WELDED JOINTS OR EQUIVALENT FROM THE HOOD TO THE FILTER ENCLOSURE.

(D) FILTERS WITH 99.97~~((%))~~ PERCENT EFFICIENCY (DIOCTYL-PHTHALATE, (DOP) TEST METHOD) IN THE EXHAUST STREAM.

(E) DESIGNED AND EQUIPPED FOR THE ~~((SAME))~~ SAFE REMOVAL OF CONTAMINATED FILTERS.

(f) ALL CENTRAL VENTILATION OR AIR CONDITIONING SYSTEMS EQUIPPED WITH FILTERS.

(i) NUMBER OF FILTER BEDS AND FILTER EFFICIENCIES~~((44))~~ NO LESS THAN THOSE SPECIFIED IN TABLE A.

(ii) FILTER BED NO. 2 SHALL BE DOWNSTREAM OF THE LAST COMPONENT OF ANY CENTRAL AIR HANDLING UNIT, EXCEPT A STEAM INJECTION TYPE HUMIDIFIER MAY BE DOWNSTREAM OF FILTER BED NO. 2. TERMINAL COOLING COILS (EXCEPT INDUCTION UNITS, FAN COIL UNITS OR EQUIVALENT INDIVIDUAL ROOM UNITS (REFER TO (g)) DOWNSTREAM OF FILTER BED NO. 2 SHALL HAVE ADDITIONAL FILTRATION MEETING REQUIREMENTS OF FILTER BED NO. 2.

((Table)) TABLE A

FILTER EFFICIENCIES FOR CENTRAL VENTILATION AND AIR CONDITIONING SYSTEMS IN GENERAL HOSPITALS

AREA DESIGNATION	MINIMUM NUMBER OF FILTER BEDS	FILTER EFFICIENCIES (Percent)***	
		FILTER BED NO. 1	FILTER BED NO. 2
Sensitive Areas*	2	25	90****
Patient Care, Treatment Diagnostic, and Related Areas	2	25	90**
Food Preparation Areas and Laundries	1	80	—
Administrative, Bulk Storage, and Soiled Holding Areas	1	25	—

* Includes surgical suites, delivery suites, nursery units, recovery rooms, special procedure rooms (cardiac catheterizations), and all intensive care units. Birth-ing, labor, and post-partum rooms not within the de-livery suite are excluded.

** May be reduced to ~~((80))~~ eighty percent for systems using all-outdoor air.

*** ~~((Average dust spot test))~~ PER REQUIREMENTS OF ASHRAE STANDARD 52 IN WAC 248-18-99902(14).

****99.97 PERCENT EFFICIENCY FOR RECIR-CULATING AIR IN OPERATION ROOMS - REFERENCE TABLE B.

(iii) FILTER FRAMES WITH AIRTIGHT SEAL TO THE ENCLOSING DUCTWORK BY USE OF GASKETS OR EQUIVALENT.

(iv) A MANOMETER SHALL BE INSTALLED ACROSS EACH FILTER BED SERVING SENSI-TIVE AREAS (Refer to Table A) OR CENTRAL AIR SYSTEMS.

(g) NONCENTRAL SUPPLY VENTILATION SYSTEMS, i.e.~~((individual room units))~~, fan coil units or equivalent individual room units.

(i) IN SENSITIVE AREAS (Refer to Table A) SHALL MEET THE FILTERING OBJECTIVES FOR CENTRAL SYSTEMS.

(ii) IN AREAS OTHER THAN SENSITIVE AR-EAS OUTDOOR AIR FOR INDIVIDUAL ROOM UNITS SHALL MEET FILTERING REQUIRE-MENTS FOR CENTRAL SYSTEMS UNDER TA-BLE A. RECIRCULATED AIR TO INDIVIDUAL ROOM UNITS NEED NOT BE FILTERED (lint screen and/or filter recommended).

(h) AIR HANDLING DUCT SYSTEMS.

(i) IN ACCORDANCE WITH NATIONAL FIRE PROTECTION ASSOCIATION STANDARD 90A. SEE WAC 248-18-99902(5).~~((45))~~

(ii) BUILDING CEILING SPACES USED FOR EXHAUST PLENUMS SHALL BE RESTRICTED TO ADMINISTRATIVE, PUBLIC WAITING, AND PUBLIC MEETING AREAS. May be permitted in other areas only upon written approval of such use by the department.

(iii) NONEROSIVE WEARING SURFACES ARE REQUIRED FOR FIBERGLASS SUPPLY DUCTS

(PER UL STANDARDS⁽²⁷⁾) 181-15 IN WAC 248-18-99902(9) AND/OR ((SUPPLY DUCT LINERS (PER SMACNA STANDARDS⁵⁸), IF INSTALLED)) "DUCT LINER APPLICATION STANDARD" PER SMACNA. SEE WAC 248-18-99902(10), IF INSTALLED.

(iv) NINETY PERCENT EFFICIENCY FILTERS DOWNSTREAM OF LININGS SERVING SENSITIVE AREAS (Refer to Table A) EXCEPT LINING OF TERMINAL UNITS MEETING THE REQUIREMENTS OF (7)(h)(iii) ((~~ABOVE~~)) of this section.

(i) AIR SUPPLY AND EXHAUSTS LOCATIONS CONFORM TO UNIFORM MECHANICAL CODE WITH ADDITIONAL REQUIREMENTS. SEE WAC 248-18-99902(8).

(i) AIR SUPPLY INTAKES LOCATED TO ENSURE A SOURCE OF FRESH AIR (preferably above the roof or high on an exterior wall to avoid sources of contamination or pollution).

(ii) EXHAUST AIR DISCHARGE LOCATED TO AVOID CROSS CIRCULATION TO SUPPLY AIR INTAKES OR OPERABLE WINDOWS. Separation distances dependent upon factors such as air volumes, wind directions, and building configurations.

(j) OPERATING ROOMS, DELIVERY ROOMS, NEWBORN NURSERY ROOMS, NEONATAL INTENSIVE CARE UNITS AND THEIR ANCILLARY FACILITIES MECHANICALLY VENTILATED TO PROVIDE ONE HUNDRED PERCENT FRESH AIR WITHOUT RECIRCULATION EXCEPT AS PROVIDED IN TABLE B. Recommended for birthing rooms, labor rooms, recovery rooms, and all intensive care units. Refer to Table B.

(k) VENTILATION SYSTEMS FOR ANESTHETIZING LOCATIONS USING FLAMMABLE ANESTHETICS SHALL MEET THE REQUIREMENTS OF THE NATIONAL FIRE PROTECTION ASSOCIATION, (NFPA) STANDARD 56A. SEE WAC 248-18-99902(1).⁽³⁸⁾

(l) AIR CONDITIONING TO ADEQUATELY CONTROL TEMPERATURE, AIR CHANGES AND AIR MOTION OF OPERATING ROOMS, DELIVERY ROOMS, ((NEONATAL INTENSIVE CARE NURSERY ROOMS, RECOVERY ROOMS, INTENSIVE CARE AND CARDIAC INTENSIVE CARE UNITS, NEWBORN NURSERY FACILITIES, AND SPECIAL PROCEDURE ROOMS)) SPECIAL PROCEDURE ROOMS, RECOVERY ROOM, NEWBORN NURSERY FACILITIES, NEONATAL INTENSIVE CARE NURSERY ROOMS, INTENSIVE CARE, AND CARDIAC INTENSIVE CARE UNITS. Recommended in all patient care areas.

(m) RELATIVE HUMIDITY.

(i) OPERATING ROOMS, DELIVERY ROOMS, SPECIAL PROCEDURE ROOMS, ANESTHETIZING LOCATIONS, INTENSIVE CARE PATIENT ROOMS, AND RECOVERY ROOMS, ((FIFTY)) FORTY PERCENT MINIMUM TO SIXTY PERCENT MAXIMUM AT SEVENTY-TWO DEGREES FAHRENHEIT.

(ii) NEWBORN NURSERY FACILITIES AND NEONATAL INTENSIVE CARE ((UNITS)) ROOMS, FORTY-FIVE PERCENT MINIMUM TO SIXTY PERCENT MAXIMUM AT SEVENTY-FIVE DEGREES FAHRENHEIT.

((~~(iii) INTENSIVE CARE UNITS, THIRTY PERCENT MINIMUM TO SIXTY PERCENT MAXIMUM AT SEVENTY-TWO DEGREES FAHRENHEIT.~~))

(n) FIRE SHUTDOWN, AS REQUIRED BY NATIONAL FIRE PROTECTION ASSOCIATION ((NFPA)⁴⁵) STANDARD 90A, BY BOTH MANUAL CONTROL AND EITHER OF THE FOLLOWING OPTIONS FOR AUTOMATIC SHUTDOWN SEE WAC 248-18-99902(5):

(i) TOTAL SHUTDOWN BY AUTOMATIC CONTROLS FOR SOUNDING FIRE ALARM, CLOSING SMOKE DOORS AND SMOKE DAMPERS IN VENTILATION SYSTEM, AND SHUTTING DOWN SUPPLY FAN(S) AND EXHAUST FAN(S).

(ii) SELECTIVE SHUTDOWN BY AUTOMATIC CONTROLS FOR SOUNDING FIRE ALARM, CLOSING SMOKE DOORS, AND ACTUATING ONLY SMOKE DAMPERS IN RECIRCULATION SYSTEM TO EXHAUST ALL RECIRCULATED AIR. ONLY THE SMOKE DETECTOR ON THE DOWNSTREAM SIDE OF THE LAST COMPONENT OF THE CENTRAL SUPPLY SYSTEM SHALL SHUT DOWN THE SUPPLY AND EXHAUST VENTILATION SYSTEMS AND SHALL CLOSE ALL SMOKE DAMPERS. This selective shutdown option is recommended for hospitals having multiventilation systems.

(o) VENTILATION REQUIREMENTS ARE SUMMARIZED IN TABLE B FOR TYPICAL HOSPITAL AREAS. THOSE AREAS NOT SPECIFICALLY DESIGNATED SHALL COMPLY WITH REQUIREMENTS FOR COMPARABLE AREAS.

TABLE B GENERAL PRESSURE RELATIONSHIPS AND VENTILATION⁶
OF CERTAIN HOSPITAL AREAS

AREA DESIGNATION	PRESSURE RELATIONSHIP TO ADJACENT AREAS ⁽¹⁾⁽²⁾⁽³⁾⁽¹⁰⁾	MINIMUM AIR CHANGES OF OUTDOOR AIR PER HOUR SUPPLIED TO ROOM	MINIMUM TOTAL AIR CHANGES PER HOUR ((14)) SUPPLIED TO ROOM ⁸	ALL AIR EXHAUSTED DIRECTLY TO OUTDOORS	RECIRCULATED WITHIN ROOM UNITS
A. ANESTHETIZING AREAS					
1. Delivery and operating rooms ⁽¹⁾	PP ₋	15	15 ⁵	Yes	No ⁹
2. Dental Operating Rooms	P	8	8	Yes	No
3. Endoscopy Room	P	8	8	Yes	No
4. Emergency Major Treatment Rooms	N	((2)) 5	((6)) 12	Yes	No
5. Outpatient Operating ⁽¹⁾ and/or Treatment Rooms	PP ₋	5	15 ⁴	Yes	No
6. Special Procedures Rooms (Cardiac Catheterizations) ⁽¹⁾	PP ₋	12	12	Yes	No
B. CENTRAL SERVICE					
1. Cart Wash Room or Area	N	2	10	Yes	No
2. Clean & Sterile Storage Room	PP	2	2	Optional	No ³
3. Sterilizer Access Service Room	NN	Optional	12	Yes	No
4. Sterilizing Area	P	2	4	Optional	No³
5. Clean Equipment Storage Room	P	2	2	Optional	Optional
6. Decontamination Area or Room	NN	2	12	Yes	No))
3. Clean Work Room	P	2	4	Optional	No ³
4. Clean Equipment Storage Room	P	2	2	Optional	Optional
5. Decontamination Area or Room	NN	2	12	Yes	No
6. Sterilizer Access Service Room	NN	Optional	12	Yes	No
7. Sterilizing Area	P	2	4	Optional	No ³
C. GENERAL					
1. Administrative Areas: i.e., Offices, Admitting Facilities, Registration, Staff On-Call Rooms, etc.	P	2	2	Optional	Optional
2. Bathing and Wet Treatment Facilities: i.e., Showers, Tubs, Sitz Baths, Hydrotherapy.	N	2	10	Yes	No
3. Clean Facilities: Utility or Work Rooms, Medicine Preparation Areas, Holding and Storage Rooms.	P	2	4	Optional	No ³
4. Corridors, General Circulating. ⁽²⁾	P and N ₋ ²	2	2	Optional	Optional
5. Entrances	P	Optional	2	Optional	Optional
6. Housekeeping Facilities: i.e., Janitor Closets, Trash Chutes or Trash Storage Rooms	N	Optional	10	Yes	No
7. Lounges, Locker & Dressing Rooms	N	Optional	10	Yes	No
8. Nurses Station & Unit Dose Medicine Cart Areas	P	2	4	Optional	Optional
9. Receiving & Stores Incl. Breakout Area	N	Optional	2	Optional	Optional
10. Scrub-up Area	P	2	2	Optional	No
11. Soiled Facilities: Utility or Work Rooms, Holding, Bedpan, Clean-up, Linen & Storage.	N	2	10	Yes	No
12. Toilet Rooms	N	Optional	10	Yes	No

AREA DESIGNATION	PRESSURE RELATIONSHIP TO ADJACENT AREAS ⁽²⁴⁾ ₁₀	MINIMUM AIR CHANGES OF OUTDOOR AIR PER HOUR SUPPLIED TO ROOM	MINIMUM TOTAL AIR CHANGES PER HOUR ((H)) ₁ SUPPLIED TO ROOM ₂	ALL AIR EXHAUSTED DIRECTLY TO OUTDOORS	RECIRCULATED WITHIN ROOM UNITS
13. Waiting Rooms, Conference, Solariums, Day Rooms, or Other Smoking Areas.	N	2	2	Yes	No
14. Mechanical Rooms	N	Optional	2	Yes	No
D. KITCHEN AND DIETARY					
1. Bulk Day Food Storage Room	E or P	Optional	2	Optional	Optional
2. Cafeteria or Dining Room	E or N	6	8	Optional	Optional
3. Dishwashing Room or Area	NN	4	8	Yes	No
4. Garbage Storage and Can Washing Area	NN	Optional	10	Yes	No
5. Kitchen	NN	4	8	Yes	No
E. LABORATORY					
1. Autopsy Room and Morgue	NN	2	12	Yes	No
2. Bacteriology	NN	2	12	Yes	No
3. Blood Drawing Area or Room	P	2	4	Optional	Optional
4. General Laboratory Rooms, i.e., Hematology, Pathology.	N	2	10	Yes	No
5. Media Preparation and Transfer Room	P	2	4	Optional	No
6. Decontamination Area	NN	2	12	Yes	No
F. LAUNDRY					
1. Clean Linen Storage	P	2	2	Optional	No ³
2. Clean sorting, folding & ironing	P	2	6	Yes	No ³
3. Detergent & Supply Storage Room	N	Optional	2	Optional	Optional
4. Processing, washing and drying	P	4	10	Yes	No
5. Soiled sorting and storage	N	Optional	10	Yes	No
G. PATIENT CARE AREAS					
1. Acute Cardiac Care and Intensive Care Patient Rooms	PP	2	6 ⁴	Optional	No ^{3, 7}
2.a Birthing Room, High Risk ²⁴	P	6	6 ⁴	Optional	No ⁷
2.b Birthing Room, Low Risk ²⁴	P	2	2 ⁴	Optional	No ⁷
3. Examination Rooms	E or P	2	6	Optional	No ⁷
4. Electroencephalogram (EEG), Electromyogram (EMG), & Electrocardiogram (ECG or EKG)	E or P	2	6	Optional	Optional
5. Isolation Room, Airborne	NN	2	6	Yes	No ⁷
6. Isolation Room, Protective	P	4	4	Yes	No ⁷
7. Isolation Anteroom	NN	2	10	Yes	No ⁷
8. Isolation Room with Anteroom	Optional	2	6	Yes	No ⁷
9. Labor Room	E or P	2	2 ⁴	Optional	No ³
10. Neonatal Intensive Care Room ⁽¹⁾	PP ¹	6	6 ⁵	Optional	No
11. Newborn Nursery Room ⁽¹⁾	PP ¹	6	6 ⁵	Optional	No
12. Observation Rooms (Out-Patient & Emergency Departments)	N	2	6	Yes	No
13. Patient Rooms	E or P	2	2	Optional	Optional
((14. Pulmonary & Inhalation Therapy Treatment Rooms	E or P	2	2	Yes	No
15. Recovery Rooms¹	PP	2	6⁴	Optional	No))
14. Recovery Rooms	PP ¹	2	6 ⁴	Optional	No

AREA DESIGNATION	PRESSURE RELATIONSHIP TO ADJACENT AREAS ⁽²⁴⁾ ¹⁰	MINIMUM AIR CHANGES OF OUTDOOR AIR PER HOUR SUPPLIED TO ROOM	MINIMUM TOTAL AIR CHANGES PER HOUR ((#N)) SUPPLIED TO ROOM ⁸	ALL AIR EXHAUSTED DIRECTLY TO OUTDOORS	RECIRCULATED WITHIN ROOM UNITS
15. Physical Therapy					
Treatment Rooms	N	2	6	Optional	Optional
Hydrotherapy	N	2	10	Yes	No
16. Pulmonary & Inhalation	E or P	2	2	Yes	No
Therapy Treatment Rooms					
H. PHARMACY					
1. Compounding & Dispensing Areas	P	2	2	Optional	No ³
2. Intravenous Additive Room	PP	2	2	Optional	No ³
I. RADIOLOGY					
1. C.A.T., general & Ultrasound Rooms	E or P	2	6	Optional	Optional
2. Darkroom	N	2	6	Yes	No
3. Film Viewing & Storage Room	E	2	4	Optional	Optional
4. Fluoroscopy Rooms	N	2	6	Yes	((#N)) No
5. Nuclear Diagnostic Rooms	E or N	2	4	Optional	Optional
6. Radiation Therapy Treatment Rooms	N	2	6	Yes	No
7. Special Procedures Rooms, i.e., Angiography, etc.	P	2	6	Optional	No

CODES

P = POSITIVE PP = STRONGLY POSITIVE
 N = NEGATIVE NN = STRONGLY NEGATIVE
 E = EQUAL

REFERENCE NOTATIONS:

- ¹ THE SEGREGATED SURGICAL, DELIVERY, COMBINED SURGICAL-DELIVERY SUITES, OTHER OPERATING ROOM SUITES, NEONATAL INTENSIVE CARE UNIT, AND THE NEWBORN NURSERY UNIT FACILITIES SHALL BE POSITIVE TO THE OUTSIDE CORRIDOR.
- ² GENERAL CIRCULATING CORRIDORS SHALL BE POSITIVE TO THE EXTERIOR, I.E., ELEVATORS, STAIRWELLS, EXIT DOORS, AND SHALL BE NEGATIVE TO PATIENT ROOMS.
- ³ Recirculating room induction type units meeting the appropriate filtering requirements in Table A, WAC 248-18-718(8)(g)(ii) are acceptable.
- ⁴ Recommend one hundred percent fresh outdoor air supplied to room.
- ⁵ THESE ROOMS AND THEIR ANCILLARY FACILITIES SHALL BE SUPPLIED WITH ONE HUNDRED PERCENT OUTSIDE (FRESH) AIR.
- ⁶ Heat recovery systems should be utilized for exhaust air.
- ⁷ MAY BE VENTILATED BY TERMINAL REHEAT UNITS IF THE UNITS CONTAIN ONLY A REHEAT COIL AND ONLY THE PRIMARY AIR (SUPPLIED FROM A CENTRAL SYSTEM) PASSES THROUGH THE REHEAT COIL.
- ⁸ INCLUDES ONLY THE QUANTITIES OF AIR WHICH PASS THROUGH A FILTER BED LISTED IN TABLE A. DOES NOT INCLUDE THE QUANTITY OF SECONDARY AIR ENTERING AN INDUCTION UNIT.
- ⁹ UNIDIRECTIONAL FLOW RECIRCULATING AIR SYSTEMS CONTAINED WITHIN ROOM UNITS AND MEETING THE FILTERING REQUIREMENTS FOR SENSITIVE AREAS (TABLE A) MAY BE USED.
- ¹⁰ Balance for appropriate positive and negative gradients should be evaluated by measuring proper direction of air flow at each doorway by smoke indicator. Designs should be based on anticipated leakage at each door. (Fifty CFM minimum to one hundred CFM maximum for usual room door.)

(9) INCINERATION FACILITIES.

(a) May be omitted if another approved method of disposal is used.

(b) INCINERATOR OF ADEQUATE SIZE AND DESIGN. LOCATED AND DESIGNED TO PREVENT OBJECTIONABLE HEAT, SMOKE, AND ODORS. (Separate room or outside area).

(c) SUPPLEMENTAL FUEL FIRED FOR COMPLETE COMBUSTION.

(d) CHUTE-FED INCINERATORS NOT PERMITTED.

(10) ELECTRICAL SYSTEMS AND EMERGENCY ELECTRICAL SERVICE.

(a) ~~((IN ADDITION TO SPECIFIC REQUIREMENTS OF THIS SECTION, CHAPTER 296-46 WAC, "RULES AND REGULATIONS FOR INSTALLING ELECTRIC WIRES AND EQUIPMENT AND ADMINISTRATIVE RULES", AND THE NATIONAL ELECTRIC CODE OF THE NATIONAL FIRE PROTECTION ASSOCIATION (NFPA-70) APPLY AS ADOPTED BY THE WASHINGTON STATE DEPARTMENT OF LABOR AND INDUSTRIES))~~ In addition to specific requirements of this section, codes adopted by the Washington state department of labor and industries should be consulted.

(b) ELECTRICAL SYSTEMS AND EQUIPMENT IN CONFORMANCE WITH NFPA STANDARD ~~((S³⁸))~~ 56A (SEE WAC 248-18-99902(1)) IN AREAS WHERE INHALATION ANESTHETICS ARE TO BE USED (such as operating rooms, delivery rooms, and major emergency treatment rooms).

(c) ~~((NUMBER OF))~~ RECEPTACLE OUTLETS AND CIRCUITS. Placement of convenient receptacle outlets to avoid a need for the use of extension cords.

(i) MINIMUM OF SIX RECEPTACLE OUTLETS IN OPERATING AND DELIVERY ROOMS~~((:))~~; MINIMUM OF FOUR RECEPTACLE OUTLETS IN EMERGENCY TREATMENT ROOMS, BIRTHING ROOMS, ANESTHETIZING LOCATIONS, AND SPECIAL PROCEDURES ROOMS. At least one receptacle outlet on each available wall ~~((WHERE POSSIBLE))~~; ADDITIONAL AS REQUIRED.²⁴ ~~((ADDITIONAL PROPERLY LOCATED RECEPTACLE OUTLETS SUITABLE FOR EQUIPMENT TO BE USED WITHOUT USE OF EXTENSION CORDS²⁴))~~

(ii) AT LEAST TWO DUPLEX ELECTRICAL RECEPTACLES (OR EQUIVALENT) AT THE HEAD OF EACH BED, IN PATIENT ROOMS (INCLUDING LABOR, BIRTHING ROOMS, AND RECOVERY), three duplex receptacles ~~((per))~~ at head of each bed recommended. ONE DUPLEX RECEPTACLE AT HEAD OF EACH BED IN PSYCHIATRIC UNITS.²⁴

(iii) FOUR DUPLEX ELECTRICAL RECEPTACLES (OR EQUIVALENT) AT THE HEAD OF EACH BED IN ~~((EACH))~~ INTENSIVE CARE⁴³ PATIENT ROOMS. AT LEAST SIX DUPLEX RECEPTACLES (OR EQUIVALENT)⁴² FOR EACH INFANT STATION IN NEONATAL INTENSIVE CARE UNITS.⁴³

(iv) AT LEAST ONE DUPLEX RECEPTACLE (OR EQUIVALENT)⁴² FOR EVERY TWO BASSINETS FOR FULL TERM INFANTS ~~((AND FOR EACH BASSINET AND INCUBATOR FOR PREMATURE INFANTS))~~.

(A) AT LEAST ONE INFANT STATION EQUIPPED WITH THREE DUPLEX RECEPTACLES except when premature nursery provided.

(B) AT LEAST TWO DUPLEX RECEPTACLES FOR EACH BASSINET AND INCUBATOR FOR PREMATURE INFANTS.

(v) CIRCUITS SERVING RECEPTACLES AT THE HEAD OF EACH BED IN ALL INTENSIVE CARE UNITS⁴³ SHALL SERVE NO OTHER RECEPTACLES OR OUTLETS.

(vi) LIMITED TO SIX DUPLEX RECEPTACLES PER ~~((20))~~ TWENTY AMP CIRCUIT IN ALL PATIENT CARE AREAS, INCLUDING OUTPATIENT CARE AREAS. LIMITED TO ~~((FOUR))~~ THREE DUPLEX RECEPTACLES PER ~~((20))~~ TWENTY AMP CIRCUIT SERVING PATIENT BEDS IN ALL INTENSIVE CARE UNITS.⁴³

(vii) AT LEAST ONE ADDITIONAL DUPLEX RECEPTACLE (OR EQUIVALENT)⁴² AT A SEPARATE CONVENIENT LOCATION IN EACH PATIENT ROOM (INCLUDING LABOR, RECOVERY, AND ALL INTENSIVE CARE ROOMS).⁴³ ADDITIONAL RECEPTACLE IF TELEVISION IS PROVIDED.

(viii) HOSPITAL GRADE RECEPTACLES IN RECOVERY ROOMS, OTHER THAN HAZARDOUS ANESTHETIZING LOCATIONS, AND ALL INTENSIVE CARE ~~((UNITS))~~ PATIENT ROOMS AND TREATMENT AREAS. Recommended in other patient care areas.

(ix) ~~((FIFTEEN OR TWENTY AMPERES, 125 VOLT))~~ RECEPTACLES IN ROOMS USED BY PEDIATRIC OR PSYCHIATRIC PATIENTS SHALL BE A TAMPER-PROOF OR SAFETY TYPE DEVICE. RECEPTACLES IN PSYCHIATRIC SECLUSION AND SECURITY ROOMS PROTECTED BY GROUND FAULT CIRCUIT INTERRUPTERS AND TAMPER-PROOF SCREWS. Receptacles in seclusion rooms not recommended.

(x) ~~((One receptacle protected by ground fault circuit interrupter adjacent to mirror over lavatory recommended))~~ ONE RECEPTACLE OVER OR ADJACENT TO LAVATORY FOR INPATIENT USE, PROTECTED BY GROUND FAULT CIRCUIT INTERRUPTER.

(xi) AT LEAST ONE DUPLEX RECEPTACLE (OR EQUIVALENT)⁴² PER ~~((4))~~ FOUR LINEAR FEET OF COUNTER IN LABORATORY FACILITIES. SURFACE METAL RACEWAYS, IF USED, SHALL INCLUDE AN EQUIPMENT GROUNDING CONDUCTOR CONNECTED TO EACH RECEPTACLE.

(d) LIGHTING FIXTURES.

(i) NUMBER, TYPE, AND LOCATION OF LIGHTING FIXTURES TO PROVIDE ADEQUATE ILLUMINATION FOR THE FUNCTIONS OF

EACH AREA PER IES HANDBOOK: APPLICATION VOLUME. SEE WAC 248-18-99902(12).

((A PROPERLY DESIGNED)) READING ((LAMP)) LIGHT⁶ CONVENIENTLY LOCATED FOR USE BY THE PATIENT AT EACH BED IN PATIENT ROOMS. CONTROL CONVENIENT FOR PATIENT USE. Freestanding bedside lamps not recommended.

((iii)) SUITABLE LIGHT AT LAVATORIES IN PATIENT ROOMS AND PATIENT TOILET ROOMS. See "toilet" in IES Handbook: Application Volume, per WAC 248-18-99902(12).

((iv)) NIGHT LIGHT FOR EACH BED LOCATED BELOW LEVEL OF ((THE PATIENTS)) BED TO DIMLY LIGHT PATHWAY IN ((EACH PATIENT)) ROOM ((AND)) . NIGHT LIGHTS OR EQUIVALENT LOCATED AT PROPER INTERVALS IN CORRIDOR CEILINGS OR WALLS IN NURSING UNITS. Additional night lights appropriately located in patient rooms installed to avoid discomfort to patients.²⁴

((v)) SWITCHES FOR NIGHT LIGHTS AND GENERAL ILLUMINATION ADJACENT TO OPENING SIDE OF DOORS TO PATIENT ROOMS. SWITCHES LOCATED OUTSIDE PSYCHIATRIC ((AND PEDIATRIC)) PATIENT SECURITY AND SECLUSION ROOMS. ((QUIET OPERATING SWITCHES IN NURSING UNITS:))

((vi)) LIGHTING FIXTURES IN PSYCHIATRIC SECURITY AND SECLUSION ROOMS OF TAMPER-PROOF DESIGN. Recessed type recommended.

((e)) BRANCH CIRCUIT PANELS FOR ROOMS IN ALL INTENSIVE CARE UNITS⁴³ TO BE LOCATED IN EACH PATIENT ROOM OR OTHER LOCATION WITHIN THE UNIT PROVIDING READY ACCESSIBILITY TO CIRCUIT BREAKERS FOR STAFF CARING FOR PATIENTS IN THESE ROOMS. CIRCUIT BREAKER AND/OR OUTLET COORDINATION APPROPRIATELY AND CLEARLY IDENTIFIED.

((f)) EMERGENCY ELECTRICAL SERVICE. ((REFER TO THE NATIONAL ELECTRIC CODE (NFPA-70:))) PER NFPA-70. SEE WAC 248-18-99902(13).

((g)) ADEQUATE ELECTRICAL GENERATING EQUIPMENT (OR EQUIVALENT) WITH AUTOMATIC TRANSFER TO THE EMERGENCY ELECTRICAL SERVICE IN CASE OF INTERRUPTION OF NORMAL SERVICE.

((ii)) EMERGENCY LIGHTING OF EXITS, STAIRS, PATIENTS' CORRIDORS, OPERATING ROOMS, DELIVERY ROOMS, BIRTHING ROOMS, EMERGENCY ROOMS, NURSERIES, ALL INTENSIVE CARE UNITS AND OTHER SPECIALIZED PATIENT CARE AREAS.

((iii)) EMERGENCY POWER TO THE NURSES' CALL SYSTEM, THE FIRE ALARM SYSTEM, MEDICAL GAS SYSTEMS AND THEIR ALARMS, ELECTRICALLY OPERATED DOORS, REFRIGERATORS AND FREEZERS FOR BIOLOGICALS, ONE ELEVATOR SERVING ALL FLOORS AND

ADEQUATE CONVENIENCE OUTLETS FOR CRITICALLY NEEDED EQUIPMENT IN ALL PATIENT CARE AREAS (e.g., recovery rooms, nurseries, operating rooms, delivery rooms, birthing rooms, emergency rooms, intensive care units and at intervals in nursing unit corridors) recommended for food refrigerators, culture incubators, ventilation units, sterilizers, x-ray machines, and heating plant:))

((g)) Adequate filter protection for electrical generator(s) (e.g., protection from volcanic ash or dust storms).

((11)) MISCELLANEOUS.

((a)) FILM ILLUMINATORS. AT LEAST TWO X-RAY FILM ILLUMINATORS⁶ IN EACH OPERATING ROOM, NEONATAL INTENSIVE CARE UNIT, ONE IN EACH MAJOR EMERGENCY TREATMENT ROOM, and one in each delivery room.

((b)) CALL SYSTEM.

((i)) PROPERLY LOCATED ELECTRICAL SIGNALLING DEVICE((⁵⁵)) AT THE HEAD OF EACH BED IN PATIENT ROOMS((;)) (INCLUDING LABOR ROOMS AND BIRTHING ROOMS), except optional in ambulatory psychiatric patient rooms, AT EACH WATER CLOSET AND BATHING FACILITY FOR PATIENTS, AT EACH TREATMENT AREA IN PHYSICAL THERAPY DEPARTMENTS, AT EACH PATIENT TREATMENT TABLE, CART, OR BED IN EMERGENCY DEPARTMENTS, and in each dayroom, solarium, dining room(s), recovery room and patient dressing areas.⁵⁵

((ii)) EACH CALL SIGNAL TO REGISTER BY LIGHT AT THE CORRIDOR DOOR, AND BY LIGHT AND AUDIBLE SIGNAL AT THE NURSES' STATION, AND AT OTHER NURSES' WORK STATIONS SUCH AS UTILITY ROOMS, MEDICATION ROOMS, NOURISHMENT ROOMS, and nurses' lounges. CALL SIGNALS INITIATED WITHIN OTHER DEPARTMENTS (such as x-ray and physical therapy) TO REGISTER AT THE CONTROL POINT OF EACH DEPARTMENT. SIGNALS FROM WATER CLOSETS AND BATHING FACILITIES TO HAVE DISTINCTIVE LIGHT (flashing lights) AND AUDIBLE SIGNAL.

((iii)) MEDICAL EMERGENCY SIGNAL DEVICE FOR USE OF THE ((NURSE)) STAFF IN EACH ((NURSERY ROOM;)) PSYCHIATRIC ((ROOMS;)) PATIENT, ACTIVITY, SECURITY, AND SECLUSION ROOM; EACH OPERATING, DELIVERY, BIRTHING, AND NURSERY ROOM((;)) ; RECOVERY ROOMS((;-AND)); EACH PATIENT AND TREATMENT ROOM IN ALL INTENSIVE CARE UNITS; IN EACH EMERGENCY TREATMENT, EXAMINATION, AND OBSERVATION ROOM ((AND NURSERY ROOM OF NEONATAL INTENSIVE CARE UNITS, AND IN EACH EMERGENCY TREATMENT, EXAMINATION AND OBSERVATION ROOM)). TO REGISTER BY DISTINCTIVE LIGHT AT THE CORRIDOR DOOR, BY DISTINCTIVE VISUAL AND AUDIBLE SIGNALS AT LOCATIONS FROM WHICH ADDITIONAL ASSISTANCE IS ALWAYS AVAILABLE; WHEN CORRIDOR LIGHT NOT

VISIBLE FROM NURSES STATION, ANNUNCIATOR OR EQUIVALENT SHALL IDENTIFY POINT OF ORIGIN. SIGNAL DEVICE TO BE RESET ONLY BY STAFF AT POINT OF ORIGIN.

(iv) A CALL SIGNAL FOR NIGHT USE SHALL BE PROVIDED AT LOCKED EMERGENCY ENTRANCES.

(c) TELEPHONES.

(i) ON EACH NURSING UNIT, SURGICAL SUITE (~~AND~~), OBSTETRICAL DELIVERY SUITE, AND RECOVERY ROOM. ADDITIONAL TELEPHONES OR EXTENSIONS AS REQUIRED TO PROVIDE ADEQUATE COMMUNICATION (A MINIMUM OF ONE ON EACH FLOOR OF THE HOSPITAL).

(ii) PUBLIC TELEPHONE IN LOBBY.

(iii) Telephones or other similar means for two-way communication among departments of the hospital, including doctors' locker, and lounge in surgery and delivery suites.

(d) CLOCKS. May be battery powered, solid state type.

(i) WALL MOUNTED CLOCKS PROPERLY LOCATED IN OPERATING ROOMS, DELIVERY ROOMS, RECOVERY ROOMS, BIRTHING ROOMS, EMERGENCY TREATMENT ROOMS, NURSERIES, INTENSIVE CARE UNITS, AND LABORATORIES (~~and other suitable locations~~).

(ii) CLOCKS IN OPERATING ROOMS, DELIVERY ROOMS, RECOVERY ROOMS, EMERGENCY TREATMENT ROOMS, AND ALL INTENSIVE CARE UNITS TO HAVE SWEEP SECOND HANDS OR EQUIVALENT. ((

~~iii)) Interval timers recommended.~~

(e) EQUIPMENT AND CASEWORK.

(i) DESIGNED, MANUFACTURED, AND INSTALLED FOR EASE OF PROPER CLEANING AND MAINTENANCE OF EQUIPMENT AND CASEWORK, AND SURROUNDING FLOOR AND WALLS.

(ii) DESIGN, MATERIALS, AND FINISHES SUITABLE TO THE FUNCTIONS OF EACH AREA.

(iii) EQUIPMENT FOR FOOD SERVICE FUNCTIONS TO MEET STANDARDS OF NATIONAL SANITATION FOUNDATION, (⁴⁶) OR EQUIVALENT. SEE WAC 248-18-99902(6).

(iv) ALL AUTOCLAVES TO HAVE RECORDING THERMOMETERS.

(f) Chutes.

(i) Linen chutes and trash chutes not recommended.

(ii) CHUTES DIRECTLY CONNECTED TO INCINERATORS NOT PERMITTED.

(iii) CYLINDRICAL DESIGN.

(iv) TWENTY-FOUR INCH MINIMUM DIAMETER.

(v) SMOOTH, WASHABLE INTERIOR FINISH, INCLUDING JOINTS.

(vi) SELF-CLOSING, TIGHT-FITTING ACCESS DOORS AT LEAST THIRTY INCHES FROM THE FLOOR.

(vii) ACCESS DOOR(S) IN SEPARATE ENCLOSED ROOM(S) OR SEPARATE AREA OF SOILED UTILITY OR CLEAN-UP ROOM USED FOR SOILED FUNCTIONS ONLY OR OTHER SIMILAR ROOM.

(viii) CHUTES TO DISCHARGE INTO SEPARATE ENCLOSED TRASH AND SOILED LINEN COLLECTION ROOMS.

(A) FLOOR DRAINS EQUIPPED WITH TRAP PRIMERS IN TRASH AND SOILED LINEN COLLECTION ROOMS.

(B) HANDWASHING FACILITY IN OR ADJACENT TO SOILED LINEN COLLECTION ROOM IF THIS ROOM USED FOR SORTING SOILED LINEN.

(ix) CHUTES DESIGNED AND (~~FOR~~) VENTILATED TO AVOID CONTAMINATION BY AIR FLOW FROM ACCESS DOORS WHEN OPENED.

(x) CHUTES PROVIDED WITH SUITABLE MEANS TO ADEQUATELY WASH ENTIRE LENGTH.

(g) HARDWARE.

(i) SELECTED TO SUIT THE FUNCTIONS OF EACH ROOM AND TO ENSURE EGRESS, QUIETNESS, AND SANITATION.

(ii) PATIENT ROOM DOORS (~~EQUIPPED~~) DESIGNED TO HOLD (~~OPEN IN ANY~~) AT FULL OPEN POSITION (~~OR IN SEVERAL POSITIONS~~).

(iii) PROVISION FOR IMMEDIATE EMERGENCY ACCESS TO PATIENT ROOMS AND PATIENT TOILETS, SHOWERS, AND BATH ROOMS.

(iv) HARDWARE OF EXTERIOR DOORS DESIGNED TO PREVENT ENTRY OF UNAUTHORIZED PERSONS.

(h) IDENTIFICATION OF DOORS, ROOMS, AND SPACES.²⁴

~~((i) EACH ROOM AND SPACE NAMED AND NUMBERED IN CONSECUTIVE ORDER ON ALL DRAWINGS.~~

~~(ii) Each door numbered consecutively on all drawings.~~

~~(iii) Permanent label with the same identifying door and room numbers as used on the drawings attached to the outside upper strike side of each door.))~~

NOTES:

⁶ May be movable equipment.

²⁴ In accordance with program.

³⁷ See definition of "Grade", WAC ((248-18-505)) 248-18-001.

~~((³⁸ REFER TO STANDARD FOR THE USE OF INHALATION ANESTHETICS (FLAMMABLE AND NONFLAMMABLE) NATIONAL FIRE PROTECTION ASSOCIATION, (NFPA), 56-A, 1973 EDITION AND NONFLAMMABLE MEDICAL GAS SYSTEMS, NATIONAL FIRE PROTECTION ASSOCIATION, (NFPA), 56-F, 1977 EDITION.~~

³⁹ Use of the guide, published by the American Society of Heating, Refrigeration, and Air Conditioning Engineers, (ASHRAE) recommended for design of heating and ventilating systems.

⁴⁰ UNIFORM PLUMBING CODE, 1976 EDITION, BY INTERNATIONAL ASSOCIATION OF PLUMBING AND MECHANICAL OFFICIALS (IAPMO.))

⁴¹ Equivalent when used in reference to faucet controls means a mechanism for operating without the use of hands, wrists, or arms.

⁴²Equivalent when used in reference to receptacle outlets means that two single receptacle outlets are considered to be equal to one duplex receptacle outlet.

⁴³Refer to definitions of intensive care unit ((~~WAC 248-18-505(12);~~) WAC 248-18-001((~~9~~)) (20), acute cardiac care unit WAC 248-18-001((~~2~~)) (3), and neonatal intensive care unit WAC 248-18-223 (1)(c) and (d), and 248-18-001(30).

~~((⁴⁴AMERICAN SOCIETY OF HEATING, REFRIGERATING AND AIR-CONDITIONING ENGINEERS, (ASHRAE), STANDARD NO. 52-76, 1976 EDITION AND AIR-CONDITIONING AND REFRIGERATION INSTITUTE (ARI) STANDARD 680-74, 1974 EDITION.~~

~~⁴⁵NATIONAL FIRE PROTECTION ASSOCIATION, (NFPA) STANDARD NO. 90A-1975 EDITION.~~

~~⁴⁶FOOD SERVICE EQUIPMENT STANDARDS OF THE NATIONAL SANITATION FOUNDATION, 1976, ANN ARBOR, MICHIGAN.)~~

⁴⁹Compressed air is filtered air free of oil and other substances, particles, or contaminants.

⁵⁰Equivalent for x-ray receptacle outlet(s) refer to a battery-operated self-contained x-ray machine.

((⁵³Recommend use of the following standards:

a. ~~"Classification of Etiologic Agents on the Basis of Hazard"~~

~~— U.S. Dept. of Health, Education & Welfare Publication
— Public Health Service
— Center for Disease Control
— Office of Biosafety
— Atlanta, GA 30333~~

b. ~~"Selecting a Biological Safety Cabinet"~~

~~— U.S. Dept. of Health, Education & Welfare
— Public Health Service
— National Institutes of Health
— National Cancer Institute
— Office of Research Safety
— Bethesda, MD 20014~~

c. ~~For the design, construction and performance of "Class H Biohazard Cabinetry NSF No. 49"~~

~~— National Science Foundation
— NSF Building
— Ann Arbor, MI 48105~~

⁵⁴~~Balance for appropriate positive and negative gradients will be evaluated by measuring proper direction of air flow at each doorway by smoke indicator. Designs should be based on anticipated leakage at each door. (Fifty CFM minimum to one hundred CFM maximum for usual room door):)~~

~~⁵⁵A PROPERLY LOCATED SIGNAL DEVICE ((SHALL BE ACTIVATED BY A NONCONDUCTIVE PULL CORD AT WATER CLOSETS AND BATHING FACILITIES. AT BATHING FACILITIES THE SIGNAL DEVICE PULL CORD SHALL BE LOCATED FOR EASY GRASP BY A PATIENT WHO IS IN OR HAS FALLEN BESIDE A BATHING FACILITY. AT A WATER CLOSET THE SIGNAL DEVICE PULL CORD SHALL BE LOCATED FOR EASY GRASP BY A PATIENT WHO HAS SLUMPED FORWARD ON THE WATER CLOSET OR FALLEN ONTO THE FLOOR)) WITHIN REACH OF STAFF, MOUNTED NO HIGHER THAN SIX FEET ABOVE THE FLOOR AND ACTIVATED BY A NONCONDUCTIVE PULL CORD AT WATER CLOSETS AND BATHING FACILITIES. AT BATHING FACILITIES, SIGNAL DEVICE CORD LOCATED FOR EASY GRASP BY PATIENT IN OR ON FLOOR BESIDE BATHING FACILITY. AT WATER CLOSET, SIGNAL DEVICE PULL CORD LOCATED FOR EASY GRASP BY PATIENT SLUMPED FORWARD ON WATER CLOSET OR ON FLOOR NEARBY.~~

~~((⁵⁶RINSE WATER TO BE ONE HUNDRED EIGHTY DEGREES FAHRENHEIT OR EQUIVALENT.~~

~~⁵⁷UNDERWRITERS LABORATORIES (UL) 181-15 STANDARD FOR SAFETY AIR DUCTS, 1974 EDITION.~~

~~⁵⁸SHEET METAL AND AIR-CONDITIONING CONTRACTORS' NATIONAL ASSOCIATION, INC., (SMACNA) ARLINGTON, VA., 1975 EDITION, SECTION D.4.10.~~

~~⁵⁹Compressed Air Association Pamphlet No. P-2.1, 1967 Edition.~~

⁶⁰An equivalency for a grab bar at the side of a water closet means that the lavatory may be substituted for one grab bar. PROVIDED: That because of space limitations, the lavatory must be located adjacent to the water closet on the same wall (width limited to sixty-six inches or less); the side of the lavatory will be located not more than

eighteen inches from the center line of the water closet; and the lavatory will be mounted to support a three-hundred-pound live load without permanent deflection:))

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

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

**WSR 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. There 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.

Chapter 275-56 WAC
COMMUNITY MENTAL HEALTH PROGRAMS

NEW SECTION

WAC 275-56-005 **PURPOSE AND AUTHORITY.** Chapter 275-56 WAC establishes rules and regulations for county administration of community mental health programs, licensing service providers, information, accountability, contracts and services. Chapter 275-56 WAC is adopted under authority of chapter 71.24 RCW.

(1) Chapter 275-56 WAC enables participation in the community mental health system by service providers which are profit or nonprofit businesses, private or public businesses, individuals or partnerships, as well as corporations. A provider may contract with a county for one or more services defined by chapter 71.24 RCW.

(2) The rules and regulations of county administration are specified in two areas:

(a) County administration and planning (WAC 275-56-020 through 275-56-060), and

(b) County fiscal administration (WAC 275-56-065 through 275-56-085).

(3) Minimum standards for licensing service providers are specified in four areas:

(a) Licensing procedures (WAC 275-56-090 through 275-56-105);
(b) Organizational administration of the provider, including (WAC 275-56-110 through 275-56-215):

- (i) Administration;
- (ii) Provider fiscal administration;
- (iii) Personnel management;
- (iv) Quality assurance;
- (v) Program evaluation;
- (vi) Facilities.

(c) Services administration, including (WAC 275-56-220 through 275-56-445):

- (i) Accessibility and awareness of services;
- (ii) Client rights;
- (iii) Client entry, service planning, and service operations;
- (iv) Client records.
- (d) Services, including (WAC 275-56-335 through 275-56-445):
 - (i) Emergency services, including pre-admission screening services;
 - (ii) Outpatient services;
 - (iii) Day treatment services;
 - (iv) Consultation and education services;
 - (v) Community support services.

NEW SECTION

WAC 275-56-010 **PRIORITY POPULATIONS.** Chapter 275-56 WAC establishes rules, regulations, and standards for community mental health programs providing for:

(1) Access to mental health services for residents of the state of Washington who, in priority order, are:

- (a) Acutely mentally ill;
- (b) Chronically mentally ill;
- (c) Seriously disturbed.

(2) Mental health services recognizing the special needs of underserved groups within the priority populations, including:

- (a) Minorities,
- (b) Children,
- (c) Elderly,
- (d) Disabled, and
- (e) Low-income persons.

NEW SECTION

WAC 275-56-015 **DEFINITIONS.** For the purposes of the rules, regulations, and standards of chapter 275-56 WAC, the following words and phrases shall have the following meaning:

(1) "Acutely mentally ill" means a condition limited to a short-term severe crisis episode of:

- (a) A mental disorder as defined in this chapter;
- (b) Being gravely disabled as defined in this chapter; or
- (c) Presenting a likelihood of serious harm as defined in this chapter.

(2) "Available resources" means funds appropriated by the legislature during any biennium for the purpose of providing community mental health programs.

(3) "Case management" means assistance to the client and family or significant others to obtain, maintain or develop an appropriate place for the client in the community. This service involves assistance in obtaining the full range of needed services, routine monitoring, supervision of client's functioning, and establishing and maintaining support for the client and his or her family or significant others.

(4) "Child" or "children" means a person or persons under eighteen years of age.

(5) "Chronically mentally ill" means a person having a mental disorder and meeting at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years;

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months.

(6) "Clients" means persons, couples or families receiving clinical coordinative or supportive services.

(7) "Clinical staff member" means a regularly employed or contracted staff member or supervisor engaged to any extent in providing direct evaluative, diagnostic, or therapeutic services to clients. The term does not include volunteers or students.

(8) "Community mental health program" means the total mental health program established by a county or group of counties acting in combination for the purpose of providing mental health services in accordance with the Community Mental Health Services Act, chapter 71.24 RCW.

(9) "Community Mental Health Services Act" means chapter 71.24 RCW.

(10) "Community support services" means those services for acutely and chronically mentally ill persons which include:

(a) Discharge planning for clients leaving state hospitals and other acute care inpatient facilities;

(b) Sufficient contacts with clients, family or significant other to provide for an effective program of community maintenance; and

(c) Medication monitoring.

(11) "Consultation" means review and recommendations regarding the job responsibilities, activities, or decisions of administrative, clinical, or clerical staff, contracted employees, volunteers, or students by a person or persons with appropriate knowledge and experience to make such recommendations. This definition does not constitute a definition of consultation and education.

(12) "Consultation and education services" means those services provided to assist others in the community to understand and care for acutely and chronically mentally ill and seriously disturbed persons and includes:

(a) Consultation to other community providers, and

(b) Educational and public information services.

(13) "County authority" means the board of county commissioners, county council or county executive having the authority to establish a community mental health program.

(14) "Crisis" means a situation where, because of severe internal or external stresses, a person is experiencing serious disruption in cognitive, volitional, psychosocial or physiological functioning.

(15) "Day treatment services" means those services for mentally ill persons which include training in basic living and social skills, supported work, vocational rehabilitation, day activities, and may include therapeutic treatment.

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

(17) "Direct treatment services" means clinical or coordinative services provided directly to clients to meet the client's mental health needs, as distinct from activities conducted with other persons, organizations, or groups on behalf of clients, and also as distinct from supervisory, consultative or training activities conducted with regard to clients or services.

(18) "Disabled" means a developmentally disabled person or one with serious physical or sensory impairment.

(19) "Elderly" means a person sixty years of age or older.

(20) "Emergency" means a situation where there is likelihood of serious harm to person or persons or property resulting from the actions or threatened actions of a mentally ill person or when the person is gravely disabled.

(21) "Emergency services" means those response and intervention services provided to persons experiencing mental health emergencies or crisis and include:

(a) Twenty-four hour telephone response;

(b) Outreach intervention, evaluation and treatment;

(c) Crisis stabilization services.

(22) "Governing body" means the final decision-making body for a provider.

(23) "Gravely disabled" means a condition where a person, as a result of a mental disorder:

(a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or

(b) Manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognition or volitional control over

his or her actions and is not receiving such care as is essential for his or her health or safety.

(24) "Material adjustment" means a budget revision equaling ten percent of a budget category or five hundred dollars, whichever is greater.

(25) "Mental disorder" means any organic, mental, or emotional impairment having substantial adverse effect on an individual's cognitive or volitional functions.

(26) "Mental health services" means those services required pursuant to chapter 71.24 RCW, including:

(a) Emergency services including screening for patients being considered for admission to state hospitals;

(b) Outpatient services;

(c) Day treatment;

(d) Consultation and education services; and

(e) Community support services.

(27) "Mentally ill persons" and "the mentally ill" means a person or condition defined in this chapter as:

(a) Acutely mentally ill;

(b) Chronically mentally ill; and

(c) Seriously disturbed.

(28) "Minority" or "ethnic minority" means any of the following general population groups:

(a) Indian,

(b) Asian or Pacific Islander,

(c) Black, or

(d) Hispanic.

(29) "Outpatient services" means those services provided in less than a residential or day treatment setting for clients whose dysfunction is not so severe as to need such intense or restrictive service. Outpatient services may include, but are not limited to, evaluation, diagnosis, psychotherapy, medication management, and activities therapy.

(30) "Pre-admission screening services" means those services provided for clients being considered for voluntary admission to state hospitals to determine the appropriateness of admission and availability of alternatives.

(31) "Properly executed accounting documents" means accounting documents processed in a manner consistent with provider policies and procedures and providing sufficient and adequate documentation for an audit of the agency's financial transactions.

(32) "Provider" means licensed service provider as defined in chapter 71.24 RCW.

(33) "Secretary" means the secretary of the department of social and health services.

(34) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to self or others as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a minor child diagnosed by a mental health professional as defined in RCW 71.05.020, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(35) "Substantial gainful activity" is work that involves significant physical or mental activities done for pay or profit.

(36) "Supervision" means regular or occasional oversight of the administrative, clinical or clerical work performance of staff, students, volunteers or contracted employees by person or persons with the authority to give direction and require change.

(37) "Training" means planned educational events or activities designed to instill or enhance skills and to increase knowledge.

NEW SECTION

WAC 275-56-020 COUNTY ADMINISTRATION AND PLANNING—BIENNIAL MENTAL HEALTH NEEDS ASSESSMENT. The county authority shall submit to the department a biennial mental health needs assessment.

(1) A biennial needs assessment shall be prepared for residents of the county who are acutely mentally ill, chronically mentally ill, or seriously disturbed, including minorities, children, elderly, disabled, and low-income groups in these priority populations. The biennial needs

assessment shall determine need with respect to mental health services required by the Community Mental Health Services Act.

(2) The biennial needs assessment will include:

(a) Estimates of the type and extent of significant mental health needs of the mentally ill, including estimates of the number of chronically mentally ill persons, seriously disturbed persons, and acute crises occurring in the county during the biennium.

(b) A projection of the amount and type of mental health services necessary to meet identified mental health needs of the acutely mentally ill, chronically mentally ill, and seriously disturbed.

(c) Identification of public and private resources available to meet the mental health needs of the acutely mentally ill, chronically mentally ill, and seriously disturbed, including:

(i) Identification of licensed service providers in the county.

(ii) Assessment of the capability of the current mental health program and providers to meet the needs of the mentally ill.

(d) A prioritization of unmet needs for the mentally ill.

(3) The biennial needs assessment shall be conducted in accordance with department guidelines for needs assessment.

NEW SECTION

WAC 275-56-025 COUNTY ADMINISTRATION AND PLANNING—BIENNIAL MENTAL HEALTH PLAN AND BUDGET. The county authority shall submit to the department a biennial mental health plan and budget.

(1) The biennial plan shall address the needs identified in the biennial needs assessment for the acutely mentally ill, chronically mentally ill, and seriously disturbed, including minorities, children, elderly, disabled, and low-income groups in these priority populations. The biennial plan shall be developed based on available resources and priorities established in the biennial needs assessment.

(2) The biennial plan shall include the following components:

(a) A plan narrative identifying needs to be met, goals and objectives, an action plan for coordination and delivery of mental health services, and program development activities related to needs and priorities identified in the biennial needs assessment. The plan narrative shall include all mental health services required by the Community Mental Health Services Act and may include optional services.

(b) A budget identifying revenues and expenditures for mental health services, program development activities, and administration of the mental health program and services. The budget will be submitted in accordance with the requirements specified in WAC 275-56-070.

(3) The biennial plan shall be developed in accordance with the planning guidelines of the department.

(4) The secretary may 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 planning process.

(5) The secretary may 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.

(6) Any provider having applied to participate in the community mental health program who objects to county decisions regarding the biennial plan may request a hearing before the county authority. When an appeal is made, the county authority shall review the appeal and notify the provider, in writing, of the appeal disposition within thirty days after the appeal has been received.

(7) Any county objecting to the department's disposition of the county's biennial plan may request an administrative review pursuant to the Administrative Procedure Act, chapter 34.04 RCW.

NEW SECTION

WAC 275-56-030 COUNTY ADMINISTRATION AND PLANNING—AVAILABILITY AND ACCESSIBILITY OF REQUIRED MENTAL HEALTH SERVICES FOR ACUTELY MENTALLY ILL, CHRONICALLY MENTALLY ILL, AND SERIOUSLY DISTURBED PERSONS. The biennial plan shall indicate how required mental health services are to be made available and accessible to the acutely mentally ill, chronically mentally ill, seriously disturbed including underserved groups within the priority populations, and may include optional services for these groups.

(1) The following mental health services shall be available to acutely mentally ill, chronically mentally ill, and seriously disturbed persons in accordance with the priorities established in the biennial needs assessment:

- (a) Emergency services;
- (b) Pre-admission screening services;
- (c) Outpatient services;
- (d) Day treatment;
- (e) Consultation and education services;
- (f) Community support services;
- (g) Inpatient services (optional); and
- (h) Residential services (optional).

(2) The biennial plan shall indicate how mental health services are to be made available to priority clients throughout the county.

(a) The plan shall indicate where services are to be located.

(b) Emergency and community support services shall be extended to mentally ill persons who, because of situation, age, or disability, cannot travel to facilities where mental health services are routinely provided.

(3) Mental health services shall be designed for, available and accessible to children, elderly, minorities, disabled, and low-income persons who are acutely mentally ill, chronically mentally ill or seriously disturbed. In counties where a particular ethnic minority population constitutes three thousand persons or three percent or more of the area's total population, the county authority shall ensure culturally relevant services are available and accessible to these groups.

NEW SECTION

WAC 275-56-035 COUNTY ADMINISTRATION AND PLANNING—PROVIDERS ELIGIBLE FOR FUNDING. The county authority shall ensure the biennial plan is inclusive of only licensed service providers.

(1) The county may become a provider under the following conditions:

(a) No other provider is available to provide the mental health services; or

(b) The county-operated program meets minimum standards for licensure as a provider; and

(c) The county has demonstrated to the department that the county can provide the mental health services more efficiently and cost effectively than other available providers without loss of quality of care; and

(d) Evidence that the county would be more efficient and cost effective than other available providers includes but is not limited to lower administrative costs, lower unit cost for comparable services, and higher productivity.

(2) Where the county becomes a licensed service provider of mental health services, the department shall meet the following responsibilities of the county authority for the services:

(a) Contract monitoring of the provider (WAC 275-56-050).

(b) Fiscal auditing of the provider (WAC 275-56-085).

(3) If a county decides not to participate in the community mental health program, the department shall assume all responsibilities of the county authority for planning and administering mental health services in that county.

(4) Providers contracting with the county for mental health services shall be licensed by the department in accordance with state minimum standards for community mental health programs.

(5) County contracts with individual providers licensed under chapters 18.57, 18.71, 18.83 or 18.88 RCW shall require all fiscal accountability and client tracking information as required in this chapter. The county shall also:

(a) Determine additional standards in this chapter applicable to individual providers; and

(b) Specify those standards as terms and conditions in the contracts with the individual providers.

NEW SECTION

WAC 275-56-040 COUNTY ADMINISTRATION AND PLANNING—BIENNIAL PLAN AS A BASIS FOR CONTRACTING. The county authority shall utilize the biennial plan and budget as the basis for contracting.

(1) A work statement and budget shall be incorporated into the contract with the department.

(2) The contract between the county and the department shall serve as the basis for county contracts with providers.

(3) The county shall utilize standardized contract terms and conditions consistent with department guidelines for contracting and including requirements for at least the following:

(a) Reporting of revenue and statistical information on all mental health services provided by the provider; and

(b) Compliance with minimum standards for community mental health programs.

NEW SECTION

WAC 275-56-050 COUNTY ADMINISTRATION AND PLANNING—COUNTY MONITORING OF PROVIDERS. The county authority shall be responsible for monitoring providers which have contracted with the county to provide mental health services.

(1) The county authority shall evaluate, at least annually, each provider's compliance with its contract work statement.

(2) Each biennium, the county authority shall ensure a program audit of the provider is conducted in accordance with guidelines of the department.

(3) The county shall notify the department of any findings resulting from the county's monitoring of providers indicating that the provider is not in compliance with contract terms. The county shall submit a written report of program evaluations and fiscal audits to the department within thirty days of completion.

(4) The responsibilities specified in this section may be assumed by one county where a combination of counties have established a community mental health program, and the administration of the program is provided by one county.

NEW SECTION

WAC 275-56-055 COUNTY ADMINISTRATION AND PLANNING—CLIENT TRACKING INFORMATION. The county authority shall be responsible for ensuring that client tracking information for the chronically mentally ill is maintained.

(1) Information on all chronically mentally ill persons shall be maintained in a single centralized file or record.

(a) The centralized file or record shall contain information identifying the provider or providers responsible for serving the client including at least the following information:

(i) Client identifier enabling the person to be uniquely identified in any mental health service he or she receives.

(ii) Name of the state hospital, certified evaluation and treatment facility, other inpatient facility or provider referring the client and the date of the referral.

(iii) Identification of the provider or providers accepting the client upon referral from another facility or provider, including designation of the provider providing case management services, if any.

(iv) Service utilization in the community mental health program since the most recent date of referral or release from another facility or provider, including provider name, and beginning and ending dates of treatment.

(b) The county may contract with and designate a provider to maintain the centralized file or record.

(2) The client tracking information shall be provided to the county or designee by state mental health facility, certified evaluation and treatment facilities, other inpatient and residential facilities, county designated mental health professionals, chapter 71.05 RCW, and providers under contract to the county authority or the department.

(a) Referring entities referenced in this section shall provide the county with client tracking information consistent with department guidelines on notification of client or referral release.

(b) Providers accepting a client referred from another facility or provider shall notify the county or designee of the outcome of the referral, and any subsequent referrals, transfers or termination of the client.

(3) The confidentiality of information contained in the client tracking file or record shall be maintained in accordance with WAC 275-56-240 and RCW 71.05.390 through 71.05.440. All county or provider staff having access to the client tracking file or record shall be instructed in these confidentiality requirements. A statement signed by the individual acknowledging his or her understanding and agreement to abide by these requirements shall be kept on file by the county or provider.

(4) A single centralized client tracking file may be maintained where a combination of counties have established a community mental health program and the administration of the program is provided by one county.

(5) Client tracking information shall be retained for a period of not less than five years beyond the last contact with the client. When a client is a minor the record shall be maintained for a period of not less than three years beyond the client's eighteenth birthday, or five years beyond the last contact, whichever is the longer period of time.

NEW SECTION

WAC 275-56-060 COUNTY ADMINISTRATION AND PLANNING—COUNTY COORDINATION OF SERVICES. The county authority shall ensure coordination of services for the acutely mentally ill, chronically mentally ill, and seriously disturbed including underserved groups within these priority populations.

(1) The county authority shall utilize information from the client tracking system to ensure that efforts are made to provide needed services to all chronically mentally ill persons referred to providers, inpatient or residential facilities within the county. If within two weeks of referral the county has not been notified that the referral has been acted upon, the county shall contact the provider receiving the referral to determine disposition. If the referral was not completed or was inappropriate, the county shall determine and document the reasons and attempt to arrange an appropriate referral.

(2) The county shall utilize information from the client tracking system to routinely monitor continuity of care for chronically mentally ill clients. The county shall determine which provider is responsible for community support services to the client.

(3) The county shall at least annually utilize client tracking information to assess the effectiveness of referral patterns and procedures.

(4) The county may contract with and designate a provider to meet the requirements of this section.

NEW SECTION

WAC 275-56-065 COUNTY FISCAL ADMINISTRATION—DISBURSEMENT OF FUNDS ADVANCED BY THE DEPARTMENT. The county authority shall be responsible for establishing procedures to ensure proper application and use of funds advanced by the department for the community mental health program. The county shall maintain adequate documentation of disbursements of the advance account to providers.

NEW SECTION

WAC 275-56-070 COUNTY FISCAL ADMINISTRATION—SUBMITTAL AND APPROVAL OF MENTAL HEALTH BUDGET. The county authority shall submit a mental health budget to the department for approval consistent with guidelines of the department.

(1) The county budget shall include all resources from the department and county mental health funds. The budget shall categorize estimated revenues and expenses according to the department's budget accounting and reporting system (BARS).

(2) The mental health budgets of all providers contracting with the county shall be on file with the county. Provider budgets shall include available resources and other revenues that will support mental health services for acutely mentally ill, chronically mentally ill, and seriously disturbed. The provider budget shall categorize estimated revenues and expenses according to the department's standardized accounting system.

(3) The county mental health budget and all material adjustments thereof shall be reviewed and formally approved by the county authority prior to review and approval by the department.

(4) All county or provider requests for federal funding to support any aspect of the community mental health program shall be submitted to the department for review and approval before the request is submitted to any federal agency.

NEW SECTION

WAC 275-56-075 COUNTY FISCAL ADMINISTRATION—ACCOUNTING RECORDS. County accounting records shall clearly identify all revenues received from the department and expenditures thereof consistent with the department's budgeting, accounting, and reporting system (BARS).

Accounting records shall be supported by properly executed accounting documents. Records, supporting documentation, and statistical reports shall be retained for a period of five years, with the following qualifications:

(1) If any litigation, claim or audit is started before the expiration of the five-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

(2) Records for nonexpendable property acquired with resources from the department shall be retained for five years after final disposition.

NEW SECTION

WAC 275-56-080 COUNTY FISCAL ADMINISTRATION—REPORTS TO AND AUDITS BY THE DEPARTMENT. The county shall maintain financial records and provide the department with information on the fiscal performance of the community mental health program.

(1) An original and one copy of the financial report shall be submitted to the department on a semiannual basis consistent with guidelines of the department.

(a) The report shall account for all mental health funds included in the county's contract with the department.

(b) The report shall be due in the department within forty days following the end of each reporting period.

(2) All county records of mental health funds provided to the county by the department shall be maintained in an auditable format. These records shall be available for audit upon request by the department or the department's designated audit agent.

NEW SECTION

WAC 275-56-085 COUNTY FISCAL ADMINISTRATION—BIENNIAL FISCAL AUDIT OF PROVIDERS. The county authority or designee shall be responsible for performing a biennial fiscal audit of each provider which is under contract to the county to provide mental health services.

(1) The biennial audit shall be conducted in accordance with applicable, generally accepted auditing standards (GAAS).

(2) Documentation shall verify that the reports of such audits have been reviewed by the governing body of the provider and the county authority.

(3) The biennial audit shall be completed within twelve months following the end of the department's biennium.

(4) The county shall notify the department of any audit findings indicating the provider is not in compliance with the county's contract or with minimum standards for community mental health programs.

(5) The county may use an independent audit secured by the provider to meet the requirements of the biennial county audit.

(6) Where available resources from the department can be separated from other revenues of the provider, the audit shall apply only to available resources. Otherwise the county shall perform a biennial fiscal audit of all revenues of the provider supporting mental health services.

NEW SECTION

WAC 275-56-090 LICENSING PROCEDURES FOR PROVIDERS—APPLICABILITY OF MINIMUM STANDARDS FOR COMMUNITY MENTAL HEALTH PROGRAMS. Providers (excluding individual providers licensed under chapter 18.57, 18.71, 18.83 or 18.88 RCW) shall be licensed by the department before entering into a contract with the county to provide mental health services.

(1) A provider contracting with the county for all services required by the Community Mental Health Services Act shall meet all minimum standards for organizational administration, services administration, and services in this chapter.

(2) Where the provider contracts with the county for some but not all of the required mental health services, the department shall determine the minimum standards applicable to the provider and the contracted services.

(3) Where a provider is part of a superordinate structure (e.g., county, hospital, university), the standards shall apply only to the community mental health component of that structure.

(4) Where a provider is able to separate contracted mental health services for the acutely mentally ill, chronically mentally ill, and seriously disturbed from mental health services provided other client populations, organizational administration, services administration, and services standards shall apply only to the contracted services. The provider shall demonstrate to the department's satisfaction that the contracted services are distinct from other services with respect to the following:

- (a) Budget, revenues, and expenditures,
- (b) Staffing,
- (c) Services provided and/or clients served,
- (d) Identification in the organizational structure.

NEW SECTION

WAC 275-56-095 LICENSING PROCEDURES FOR PROVIDERS—APPLICATION AND APPROVAL. The department shall review applications for licensure and approve those which meet minimum standards for community mental health programs.

(1) Applications for licensure shall be submitted to the department on forms furnished by the department. The applicant shall indicate the services for which licensing is requested.

(a) Applications shall be signed by the applicant's governing body and administrator.

(b) The applicant shall send a copy of the application to the county authority or the designee. The county authority or the designee may review the application and send written comments to the department with a copy to the applicant. If the department does not receive a response from the county authority or the designee within thirty days, the department shall proceed with the application.

(2) An on-site review shall be conducted for the purpose of collecting and analyzing the information necessary for the department to determine whether a provider is in compliance with the minimum standards specified in this chapter. The department shall provide forty-five days written notice prior to the date scheduled for the licensure review.

(3) The department shall notify the applicant of the results of the review and make the report of the on-site review available to the applicant and county authority within sixty days of the last day of the on-site review.

(4) The applicant may appeal the department's licensure decision within thirty days of notification of decision. The appeal shall be made in accordance with the Administrative Procedures Act, chapter 34.04 RCW.

NEW SECTION

WAC 275-56-100 LICENSING PROCEDURES FOR PROVIDERS—WAIVER OF RULES. Any provider or applicant subject to the provisions of this chapter may seek a waiver of any requirement of this chapter.

(1) The provider or applicant shall file a written request for a waiver with the department which shall include:

(a) The name and address of the provider or applicant seeking the waiver;

(b) The specific section or subsection of this chapter for which waiver is sought;

(c) An explanation of why a waiver of the section or subsection is necessary;

(d) A description of the alternative practice or procedure the provider proposes to follow in lieu of that required by the section or subsection;

(e) A plan for satisfying the requirement with the section or subsection for which the waiver is sought; and

(f) Signed documentation from the county authority or designee reviewing the waiver including recommendations regarding the request.

(2) Upon receipt of a request for waiver, the department shall consider the following:

(a) Impact on accountability, efficiency, and quality of care;

(b) The degree of noncompliance being sought;

(c) Whether the waiver would run counter to the intent of chapter 71.24 RCW or other laws or regulations; and

(d) Whether any similar requests for waiver have been granted or denied.

(3) The department's response to the waiver request shall be provided in writing within sixty days of receipt of the request.

(a) If the waiver is granted, the notice shall include:

(i) The section or subsection waived;

(ii) Any conditions which the applicant must comply with;

(iii) The duration of the waiver shall in no case exceed two years from the date of the waiver; and

(iv) The waiver shall be subject to review and possible renewal, if requested.

(b) If the waiver request is denied, the notice shall include reasons for the decision.

(4) The denial of a waiver request may be appealed to the secretary, whose decision shall be final.

NEW SECTION

WAC 275-56-105 LICENSING PROCEDURES FOR PROVIDERS—LICENSURE STATUS. The department shall, based on findings of a licensure review, assign the provider one of the following licensure statuses:

- (1) Licensed
 - (a) Under this status the provider is eligible to enter into a contract with the county authority to provide those mental health services for which the provider is licensed.
 - (b) The department may require the provider to submit and implement a plan of correction to resolve deficiencies. The department may revoke the license if the provider does not implement the provider's plan of correction.
 - (c) At any time the department receives information indicating the provider has not continued to comply with minimum standards for community mental health programs, the department may conduct a new licensure review.
 - (d) The department may revoke the license if the review determines that the provider is not in substantial compliance.
 - (e) If evidence indicates that the health and safety of client is in danger, the revocation may be made effective immediately.

(2) Interim licensure

(a) Interim licensure shall be given to all providers contracting with a county authority to provide mental health services as of the effective date of this chapter.

(b) Interim licensure shall remain in effect until notification of licensure status resulting from the department's first licensure review of the provider or until two years following the effective date of this chapter.

(c) Following the department's first licensure review the provider shall have the licensure status assigned by the department.

(3) Probationary licensure

(a) Under this status the provider is eligible to contract with the county authority on conditions specified by the department.

(b) To achieve full licensure the provider shall demonstrate to the department that it has met the conditions of the probationary status.

(c) The provider shall request the department to review its corrective actions within six months of notification of probationary status or its licensure shall be revoked.

(d) The department shall review the provider's corrective actions and make a redetermination of licensure status within six months of the date of the provider's request for review.

(e) Probationary status shall only be assigned a provider as an outcome of the department's first licensure review of a provider or of a new service of that provider.

(4) Provisional licensure

A new provider or a provider planning to offer a new service may be given a provisional license for up to one year if it has an acceptable detailed plan for the development and operation of such service.

(5) The provider's contract with the county authority shall be terminated thirty days following the department's notification to the provider and the county authority of failure to attain or maintain licensure.

(6) Providers failing to attain licensure or whose licensure has been revoked may reapply for licensure no earlier than six months following the date of the department's notification.

(a) The application shall document the actions the provider has taken to correct deficiencies found in the prior licensure reviews.

(b) If the application demonstrates that the provider has made every reasonable effort to correct deficiencies, the department shall schedule a licensure review to evaluate standards where the provider was out of compliance.

(7) The department shall relicense each provider every two years.

NEW SECTION

WAC 275-56-110 PROVIDER ADMINISTRATION—POLICIES AND PROCEDURES. The provider shall have written policies and procedures for operations and administration. The provider's policies and procedures shall include:

- (1) Fiscal administration,
- (2) Personnel management,
- (3) Affirmative action,
- (4) Staff training,
- (5) Quality assurance,
- (6) Client rights,
- (7) Client records,

- (8) Client entry, service planning, operations, and
- (9) Services.

NEW SECTION

WAC 275-56-115 PROVIDER ADMINISTRATION—GOVERNING BODY. The provider shall have a governing body which shall be responsible for the provider's:

- (1) Policies,
- (2) Total budget,
- (3) Biennial plan and budget for services proposed for contract with the county authority, and
- (4) Contract with the county authority for mental health services.

NEW SECTION

WAC 275-56-120 PROVIDER ADMINISTRATION—DESIGNATION OF ADMINISTRATOR. The provider shall designate an administrator responsible to the governing body for administration of the provider's mental health services. The responsibilities of the administrator shall include the acquisition, control, utilization, and planning for the physical, human, and financial resources of the provider.

NEW SECTION

WAC 275-56-125 PROVIDER ADMINISTRATION—ORGANIZATIONAL STRUCTURE. The provider shall have an organizational structure specifying lines of authority and responsibility. The provider shall have an organizational chart identifying all programs, program interrelationships and lines of authority including the governing body, administrator, administrative staff, program managers, and staff positions, as applicable.

NEW SECTION

WAC 275-56-130 PROVIDER FISCAL ADMINISTRATION—FISCAL POLICIES AND PROCEDURES. The provider shall have its current fiscal policies and procedures available in written form. Policies and procedures shall be defined in the following areas:

- (1) Accounts receivable,
- (2) Accounts payable to include purchasing,
- (3) Payroll,
- (4) General ledger, and
- (5) Internal control.

NEW SECTION

WAC 275-56-135 PROVIDER FISCAL ADMINISTRATION—WRITTEN SCHEDULE OF FEES. The provider shall establish and use a sliding fee schedule based on the resources available to the client to pay for mental health services and the provider's actual cost of care.

(1) The fee schedule shall be approved by the department as part of the licensing process.

(2) The fee schedule shall be accessible to the provider's staff and clients.

NEW SECTION

WAC 275-56-140 PROVIDER FISCAL ADMINISTRATION—PROCEDURES TO MAXIMIZE REVENUES. The provider shall establish procedures to maximize other revenues.

- (1) Fees shall be collected from third parties when available.
- (2) Fees shall be collected from clients, parents of a child or legal guardian consistent with the sliding fee schedule.
- (3) Fees shall be collected for consultation and education services whenever possible.

(4) Revenues generated by services provided to acutely mentally ill, chronically mentally ill, and seriously disturbed clients shall be applied by the provider to mental health services for these populations.

(5) All receipts shall be deposited promptly and intact.

(6) All services rendered shall be recorded and shall be billed as appropriate.

(7) Members of the governing body, clinical staff, and consultants shall not engage in activities constituting a conflict of interest impairing the provider's ability to maximize revenues, including, but not limited to:

(a) The provider's facilities or services shall not be used by such persons for private practice unless the person compensates the provider at a reasonable rate.

(b) Governing body members, clinical staff or consultants with private practices shall not recruit clients away from the provider or be given preference for client referral made outside the provider agency unless there is no reasonable alternative.

(c) No private practice or other remunerative activity shall be conducted during hours when the staff member is being paid by the provider.

NEW SECTION

WAC 275-56-145 PROVIDER FISCAL ADMINISTRATION—BUDGET OF EXPECTED REVENUES AND EXPENSES. The provider shall prepare a formal, written budget of all expected revenues and expenses for mental health services. The budget shall categorize revenues by source and expenses by types of services and/or program components consistent with the department's standard accounting system (SAS). The written budget and all material budget revisions shall be reviewed and formally approved by the governing body.

NEW SECTION

WAC 275-56-150 PROVIDER FISCAL ADMINISTRATION—ACCOUNTING SYSTEM. The provider shall maintain an appropriate accounting system for administration of financial resources.

(1) The provider shall maintain the accounting system in accordance with applicable, generally accepted accounting principles (GAAP).

(2) Accounting records shall clearly identify all revenues by source.

(3) All expenses shall be recorded in a manner to clearly show the budget category charged.

NEW SECTION

WAC 275-56-155 PROVIDER FISCAL ADMINISTRATION—DOCUMENTATION AND RETENTION OF ACCOUNTING TRANSACTIONS. Accounting transactions shall be supported by properly executed documents. Financial records, supporting documentation, and statistical reports shall be retained for a period of five years, with the following qualifications:

(1) If any litigation, claim or audit is started before the expiration of the five-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

(2) Records for nonexpendable property acquired with resources from the department shall be retained for five years after final disposition of the property.

NEW SECTION

WAC 275-56-160 PROVIDER FISCAL ADMINISTRATION—FISCAL MANAGEMENT SYSTEM REPORTING. The provider shall maintain accurate and complete information regarding the fiscal performance of its mental health program.

(1) Financial statements shall be prepared at least annually in conformity with generally accepted accounting principles (GAAP) and shall be available to the county authority and department upon request.

(2) If the provider has a contract with the county, the provider shall submit to the county at least quarterly revenue and expense reports for available resources based on the department's standard accounting system (SAS). The revenue and expense reports shall include the relationship of the approved budget to actual revenue and expenditure.

(3) Providers utilizing Medicaid funding shall comply with WAC 388-87-007.

(4) Where a client utilizes more than one service at the same time of a provider, the client may not be charged for more than one service.

NEW SECTION

WAC 275-56-165 PROVIDER FISCAL ADMINISTRATION—INDEPENDENT AUDIT OF FINANCIAL OPERATIONS. The provider's financial operations shall receive an independent audit at least biennially.

(1) The audit shall be conducted in accordance with generally accepted auditing standards (GAAS).

(2) Documentation shall verify that the report of the audit has been reviewed by the governing body.

(3) The audit shall be completed within twelve months following the end of the state's biennium.

(4) The county biennial fiscal audit of the provider may be used to meet the audit requirements of this section.

NEW SECTION

WAC 275-56-170 PERSONNEL MANAGEMENT—PERSONNEL RECORDS. A personnel record shall be kept on file by the provider for each staff member. The personnel record shall contain:

(1) Documentation verifying education, experience, and clinical training;

(2) Verification of required licensure or certification;

(3) Job description;

(4) Documentation of continuing education including in-service training received and/or training needs; and

(5) Documentation of the staff member's review of client rights.

NEW SECTION

WAC 275-56-175 PERSONNEL MANAGEMENT—STAFF QUALIFICATIONS. All direct treatment services shall be provided and supervised by staff members with the appropriate clinical qualifications.

(1) All direct treatment services shall be provided by a mental health professional or under the clinical supervision of a mental health professional defined as follows:

(a) A physician or osteopath licensed pursuant to chapter 18.57 or 18.71 RCW, who is board eligible in psychiatry; or

(b) A psychologist licensed pursuant to chapter 18.83 RCW; or

(c) A person having at least a masters degree in the social work, behavioral, medical or nursing sciences or related field from an accredited college or university and having at least two years' experience in the direct treatment of mentally ill clients under the supervision of a mental health professional; or

(d) A person professionally registered or certificated (e.g., registered nurse, occupational therapist, physical therapist) and having at least three years' experience in working with mentally ill clients under supervision of a mental health professional. Such a person shall be defined as a mental health professional only when working within the skill areas for which he or she is registered or certificated.

(2) A clinical staff member or trainee not meeting the qualifications stated in subsection (1) of this section, shall only provide direct treatment, screening, case management or support services under the following conditions:

(a) The person has been evaluated by a mental health professional and determined to possess the skills and knowledge necessary to work with the client population to be served, and in the identified function or role to be performed; and

(b) The service is provided under the supervision of a mental health professional or as part of an organized treatment team.

NEW SECTION

WAC 275-56-180 PERSONNEL MANAGEMENT—CLINICAL SUPERVISION. All persons providing direct treatment services shall receive appropriate clinical supervision.

(1) Clinical supervision shall be provided by a mental health professional.

(2) Full-time clinical staff members who are mental health professionals providing direct treatment services shall receive at least one hour per week of clinical supervision and/or consultation. Proportionately less time is required for part-time staff. Persons with medical and/or overall clinical responsibilities shall receive appropriate peer consultation.

(3) Other full-time clinical staff members providing direct treatment services shall receive at least two hours per week of clinical supervision from a mental health professional. Proportionately less time is required for part-time staff.

(4) Volunteers and trainees, who are mental health professionals providing direct treatment services, shall receive at least three hours per week of clinical supervision from a mental health professional. Proportionately less time is required for persons providing direct treatment services on a part-time basis.

(5) Volunteers and trainees providing direct treatment services, who are not mental health professionals, shall receive at least one hour of

clinical supervision from a mental health professional for every five hours of direct treatment services provided. Volunteers, trainees or other persons providing telephone screening or telephone crisis counseling shall not be subject to this subsection, given clinical supervision is available directly, by telephone, or by radio communication at all times.

(6) Clinical backup by a mental health professional in person, by telephone, or by radio communication shall be available to staff at all times service is being provided.

(7) Where required by law, specialized services (e.g., medical or psychiatric evaluations, nursing services) shall be provided or supervised by appropriately licensed or credentialed persons in accordance with respective professional standards.

NEW SECTION

WAC 275-56-185 PERSONNEL MANAGEMENT—QUALIFICATIONS APPROPRIATE TO THE NEEDS OF THE CLIENT POPULATION. The clinical qualifications of persons providing and/or supervising direct treatment services shall reflect the needs of the client population.

(1) Services to persons acutely mentally ill, chronically mentally ill, or seriously disturbed shall be provided by or under the supervision of a mental health professional with at least two years of experience in treatment of such clients.

(2) Services directed to persons under age eighteen shall be provided by, under the supervision of or with consultation from a child mental health specialist defined as follows:

(a) A mental health professional having completed a minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to the study of child development and the treatment of seriously disturbed children and their families; and

(b) Having the equivalent of one year of full-time experience in the treatment of seriously disturbed children and their families under the supervision of a child mental health specialist.

(3) Services directed to persons sixty years of age or over shall be provided by, under the supervision of or with consultation from a geriatric mental health specialist defined as follows:

(a) A mental health professional having completed a minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to the problems and treatment of the elderly; and

(b) Having the equivalent of one year of full-time experience in the treatment of the elderly, under the supervision of a geriatric mental health specialist.

(4) Services directed to minority persons shall be provided by, under the supervision of or with consultation from a minority mental health specialist defined as follows:

(a) A mental health professional having completed a minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to minority issues and treatment of minority persons; and

(b) Having the equivalent of one year of full-time experience in the treatment of persons in the minority group he or she serves. Such experience shall have been supervised by a mental health professional and shall have included consultation with minority providers and/or community leaders who are members of the minority group served.

(5) Services directed to disabled persons shall be provided by, under the supervision of or with consultation from a mental health specialist with special expertise in working with that disabled group.

(a) If the client is deaf, the specialist shall be able to communicate with the person and be knowledgeable of the special psychosocial problems of the deaf.

(b) The specialist for developmentally disabled clients shall have a minimum of one hundred actual hours (not semester or quarter hours) of specialized training devoted to the problem and treatment of the developmentally disabled, or have one year of supervised experience in a developmental disability or special education program, or be a developmental disability or special education professional.

(6) Where the mental health specialists required under this section are unavailable, the provider shall:

(a) Make reasonable effort to acquire the services of the required specialists; or

(b) Develop a training program using in-service training or outside resources to assist existing staff member to acquire necessary skills and experience to become qualified as a specialist; or

(c) Contract or otherwise establish a working relationship with the required specialists to provide all or part of the direct treatment services for these populations or to supervise or provide consultation to staff members providing direct treatment services to these populations.

NEW SECTION

WAC 275-56-190 PERSONNEL MANAGEMENT—ADMINISTRATIVE QUALIFICATIONS. Provider administration shall be provided by staff members with the appropriate administrative qualifications.

(1) The administrator shall have at least a masters degree in a social, behavioral, medical, nursing, or administrative discipline from an accredited college or university, and a minimum of two years' administrative experience and two years' experience in human services, or be certified in a relevant professional field (e.g., nurse, occupational therapist), or be a person who has graduated from an eighteen-month program of training sponsored by the national institute of mental health to train mental health administrators, providing that the person, in addition, has at least three years' administrative experience and three years' experience in human services.

(2) The staff member with responsibility for provider clinical services shall be a mental health professional with at least five additional years' experience in mental health services, with at least two years in a supervisory capacity.

NEW SECTION

WAC 275-56-195 PERSONNEL MANAGEMENT—AFFIRMATIVE ACTION. The provider shall have an affirmative action program which complies with Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, Section 504 of the 1974 Rehabilitation Act, the department's affirmative action guidelines, and other applicable federal, state, and local laws and regulations.

NEW SECTION

WAC 275-56-200 PERSONNEL MANAGEMENT—TRAINING OPPORTUNITIES. Training opportunities shall be made available to administrative, clinical and clerical staff, and volunteers through in-service programs and/or training offered by outside resources.

(1) Each full-time clinical staff member shall receive a minimum of forty hours of training per year without loss of pay. Proportionately less training shall be received by part-time clinical staff.

(2) Volunteers, trainees or other nonprofessional persons providing telephone screening or telephone crisis counseling shall receive a minimum of forty hours of appropriate training prior to providing telephone screening or telephone crisis counseling.

(3) Required training is in addition to routine supervision or consultation.

(4) Training shall be consistent with needs identified in the individual's personnel file.

(5) All training received by staff and volunteers shall be documented in the personnel files.

NEW SECTION

WAC 275-56-205 QUALITY ASSURANCE—CASE REVIEW. A quality assurance case review process shall be established for all direct treatment services.

(1) The quality assurance review shall objectively assess the progress and outcome of treatment.

(a) The review shall be conducted by a person or persons not participating in treatment of the case under review. The review may be conducted by an outside consultant.

(b) At least one mental health professional shall participate in the review.

(c) At least fifteen cases or five percent, whichever is larger, of the provider's open cases shall be randomly sampled every three months and reviewed for quality of care.

(i) The sample shall be stratified to:

(A) Represent each mental health service at least every six months;

(B) Represent at least one case from each primary therapist or case manager every six months.

(ii) The cases shall represent acutely mentally ill, chronically mentally ill, and seriously disturbed persons appropriate to the service provided.

(2) The case review shall result in a determination of whether:

(a) The client's psychosocial, medical and treatment history, mental and medical status, and special assessments support the needs, problems, and diagnosis specified in the individual's service plan.

(b) Treatment goals follow from identified needs and problems, identify the expected outcome of treatment, and can be realistically achieved;

(c) Case progress indicates the goals of treatment have been or will be achieved;

(d) Medication and other services prescribed or assigned and utilized appropriately; and

(e) The client should continue in treatment.

(3) Client records shall be accurate and complete and shall contain the information required by this chapter.

(4) Corrective actions shall be recommended where a case review indicates inappropriate clinical care.

(a) Corrective action shall be considered for both the service program and the individual client's service plan.

(b) Recommendations for corrective action shall be submitted to the primary therapist or case manager, his or her supervisor, and other appropriate supervisors.

(c) Actions taken in regard to an individual client shall be documented in the client's record.

NEW SECTION

WAC 275-56-210 PROGRAM EVALUATION—REQUIREMENTS. The provider shall have a system for determining the degree to which service activities meet its goals and objectives.

(1) The provider shall have an information system providing relevant, accurate, and timely data in order to monitor program goals and objectives. The provider shall maintain sufficient data to report the Washington state mental health information system minimum data set.

(2) At least one study of provider operations and intended results of services shall be completed annually. The studies shall address priority issues of concern to the provider and be related to its goals and objectives.

(3) Program evaluation or research involving human subjects shall be conducted in accordance with RCW 71.05.390 and "Guide to DSHS Policy on Protection of Human Research Subjects," July 1, 1981.

NEW SECTION

WAC 275-56-215 FACILITY CHARACTERISTICS. Provider services shall be provided in a setting safe and conducive to the attainment of therapeutic goals.

(1) Provider facilities shall meet federal, state, and local requirements, including building, health, and fire codes.

(2) Group therapy rooms shall be of adequate size to accommodate the groups without crowding.

(3) Rooms used for client services shall be fully enclosed, have closing doors, and shall be reasonably soundproofed to reduce both distracting noises and the possibility of conversations being overheard outside the room.

(4) If physical examinations are routinely performed within the facility, a suitably equipped examination room shall be available.

NEW SECTION

WAC 275-56-220 SERVICES ADMINISTRATION—ACCESSIBILITY. Services shall be accessible in a nondiscriminatory manner and at times and locations which facilitate client utilization of services.

(1) Services to acutely and chronically mentally ill and seriously disturbed clients from underserved groups, including minorities, children, the elderly, disabled, and low-income persons shall be accessible and meet the special needs of these populations.

(a) The provider shall eliminate or substantially reduce physical, communication, and sociocultural barriers to utilization of services and meet the requirements of Section 504 of the Rehabilitation Act of 1974.

(b) Services shall be compatible to the culture and in the language of clients from minority groups which number at least three thousand or three percent of the population of the county.

(c) In-home services shall be available to homebound persons, where possible.

(d) Alternative service delivery models shall be provided, where possible, to enhance utilization by these underserved groups.

(2) Services shall be provided regularly on some evenings and/or weekends as determined by client and potential needs.

(3) If the provider does not offer appropriate services, the client shall be referred to such services and the provider shall facilitate the referral.

NEW SECTION

WAC 275-56-225 SERVICES ADMINISTRATION—AWARENESS OF SERVICES. The location of the provider and services offered shall be made known to the public.

(1) The provider shall maintain listings in all telephone and other public directories of the service area.

(2) The provider shall publish and disseminate brochures and other materials describing services and hours of operation. Bilingual publications shall be produced when there is a non-English speaking group which numbers three thousand or exceeds three percent of the population of the county.

NEW SECTION

WAC 275-56-230 SERVICES ADMINISTRATION—CLIENT RIGHTS. The provider shall maintain written policies and procedures relating to client rights, and shall ensure all personnel are informed and adhere to policies and procedures.

(1) Clients, prospective clients, and/or legally responsible others shall be informed of client rights at admission.

(2) The provider shall post a written statement of client rights in public areas. A copy shall be available to clients on request. Providers of only telephone services (e.g., crisis lines) shall post the statement of client rights in a location visible to staff and volunteers during working hours.

(3) The statement of client rights shall include at least:

(a) The right to receive appropriate care and treatment, employing the least restrictive alternatives available;

(b) The right to be treated with respect and dignity;

(c) The right to receive treatment which is nondiscriminatory and sensitive to differences of race, culture, language, sex, age, national origin, disability, creed, socioeconomic status, marital status, sexual orientation, and ability to pay.

(d) The right to an individualized service plan reflecting problems and/or needs identified for or with the client.

(e) The right to confidentiality as specified in relevant statutes (chapter 71.05 RCW) and regulations (chapter 275-55 WAC). The statement shall state circumstances where confidentiality shall not be maintained, including at least:

(i) Where there is reason to suspect the occurrence of child abuse or neglect;

(ii) Where there is a clear threat to do serious bodily harm to self or others;

(iii) To a court under court order.

(f) The right to be informed of the volunteer or student status of primary therapist and/or case manager;

(g) The right to refuse any proposed treatment unless treatment is involuntary;

(h) The right to review case records under conditions specified in WAC 275-56-235(2).

(i) The right to refuse to participate in:

(i) Data collection for purposes of research or evaluation when the data to be collected exceeds data collected for normal management and/or treatment practices (e.g., face-to-face interview, specialized testing);

(ii) Use of untested or experimental procedures;

(iii) Use of procedures involving known or potential hazard.

(j) The right to receive an explanation of all medications prescribed, including expected effect and possible side effects.

(k) The right to be compensated for any work performed for the provider.

(l) The right to be free of any sexual exploitation or harassment.

(m) The right to lodge a grievance with the provider if the client has reason to believe his or her rights have been violated. The statement shall include the grievance procedure.

NEW SECTION

WAC 275-56-235 SERVICES ADMINISTRATION—PROTECTION OF CLIENT RIGHTS. The provider shall protect and ensure the rights of all clients and former clients.

(1) Neither evaluation nor treatment services shall be provided to any person thirteen years of age or under without the signed consent of the parent or guardian. In an emergency, such child may be seen for one session without consent of parent or guardian. Parental consent for evaluation or treatment services shall not be necessary in the case of a child referred by child protective services or other public agency because of physical, sexual, or psychological abuse or neglect by a parent or parent surrogate.

(2) When a client, or the parent or guardian of a child thirteen years of age or under, requests review of his or her case record, the provider shall:

(a) Grant the request within seven days, except the request need not be granted if the provider knows or has reason to believe the parent or parent surrogate has been a child abuser or might otherwise harm the child.

(b) Review the case record in order to identify and remove any material confidential to another person.

(c) In the presence of a staff member, allow the client sufficient time and privacy to review the record to his or her satisfaction. A clinical staff member shall be available to answer questions.

(d) Permit the following persons to be present during the review, with the consent of the client;

- (i) Next-of-kin,
- (ii) The family physician, or
- (iii) The client's attorney.

(e) Document the review session in the client's record.

(3) The written, informed consent of the client or responsible other shall be obtained before:

- (a) Use of any medication.
- (b) Initiation of any nonemergency service plan.
- (c) Use of any unusual diagnostic or treatment procedure.
- (d) Use of any audio and/or visual device to record the client's behavior.
- (e) The client serves as a subject for any research.

NEW SECTION

WAC 275-56-240 SERVICES ADMINISTRATION—CONFIDENTIALITY OF CLIENT INFORMATION. The provider shall protect the confidentiality of all information relating to clients or former clients.

(1) The provider shall disclose no confidential information, including the fact a person is or has been a client, without a current consent signed by the client or legally responsible other.

(2) Standardized forms authorizing release and/or exchange of confidential information shall be used and contain the following:

- (a) The name of the client,
 - (b) The date,
 - (c) The name and address of the provider,
 - (d) The name and address of the person or entity to whom the information is to be provided,
 - (e) The reason for disclosure,
 - (f) The specific kind of information to be disclosed,
 - (g) The period of time the consent is to be in force,
 - (h) The signature of the client and/or responsible other, and
 - (i) The signature of a witness.
- (3) Exceptions to subsection (1) of this section are as follows:
- (a) Disclosures permitted under relevant statute (chapter 10.77 and 71.05 RCW) or regulations (chapter 275-55 WAC);
 - (b) To a court under court order;
 - (c) The fact of admission and any pertinent information and records may be disclosed:

(i) To provider personnel, as needed; however, volunteers and trainees shall have access to client records only to the extent necessary for treatment;

(ii) To the extent necessary to make an insurance or medical assistance claim;

(iii) To a county-designated mental health professional (chapter 71.05 RCW);

(iv) To a hospital or emergency medical personnel for purposes of dealing with an emergency; and

(v) To law enforcement or public health officers under the following conditions:

(A) Only to the extent necessary to carry out the responsibilities of the law enforcement or public health officer;

(B) Such persons shall be responsible for keeping all information confidential pursuant to these standards.

(vi) To a certified evaluation and treatment facility (chapter 71.05 RCW);

(vii) To an agency or professional referring a person for pre-admission screening services;

(viii) To the person designated by the county to track the chronically mentally ill. Such disclosures shall be limited to the facts of admission, discharge or referral of chronically mentally ill persons;

(d) Pertinent information must be disclosed, and the provider is obligated to initiate disclosure, under the following conditions:

(i) To child protective services or other appropriate law enforcement agency when there is reason to suspect the occurrence of physical, sexual, or psychological abuse or neglect of a child;

(ii) To law enforcement officers and the intended victim when there is a clear and serious threat of homicide or intent to do serious bodily harm to another person.

(4) All disclosures made, both with and without the client's consent, shall be documented in the case record to include:

- (a) Date of disclosure;
- (b) Person or entity receiving information;
- (c) Nature of information disclosed;
- (d) Reasons for disclosure if consent has not been obtained.

NEW SECTION

WAC 275-56-245 SERVICES ADMINISTRATION—RESOLVING CLIENT GRIEVANCES. The provider shall act promptly to hear and take appropriate steps to resolve client grievances. Procedures shall ensure the involvement of appropriate supervisory and administrative staff, and the governing body, as necessary. Confidential information shall not be disclosed to the governing body pursuant to client grievances without the signed consent of the client.

NEW SECTION

WAC 275-56-250 SERVICES ADMINISTRATION—POLICIES AND PROCEDURES FOR PROVIDER OPERATIONS. The provider shall have written policies and procedures relating to emergency and nonemergency client entry, individual service planning, coordination of services with state mental health facilities and other providers, medical responsibility, and financial and billing practices which shall be consistent with other requirements of this chapter.

NEW SECTION

WAC 275-56-255 SERVICES ADMINISTRATION—SCREENING AND INFORMATION AND REFERRAL. Screening and information and referral shall result in an action on behalf of the prospective client.

(1) In case of a request for mental health information, accurate information shall be provided, and a determination of the need for further service shall be made.

(2) In case of a request for service:

(a) Screening shall result in an intake appointment if screening indicates that the person is acutely or chronically mentally ill or seriously disturbed and the provider offers an appropriate and available service;

(b) If the prospective client chooses to wait for services, the first available intake time shall be assigned the client. Acutely mentally ill persons may be placed in front of any waiting list;

(c) Screening shall result in a referral to another provider if the requested services are not available from the provider. If no appropriate referral is available, such shall be documented;

(d) Where appropriate, screeners shall provide follow-up with the prospective client.

(3) Screening dispositions shall be made by or under the clinical supervision of a mental health professional, and a record shall be maintained of all referrals.

NEW SECTION

WAC 275-56-260 SERVICES ADMINISTRATION—INTAKE AND INITIAL EVALUATION. At intake a clinical staff member shall assess and document the client's presenting problems, history, mental status, need for additional examinations, and treatment needs.

(1) A formal, standardized application for services shall be completed by or for each client and shall become a part of the client's record.

(2) Information describing client rights and confidentiality of information shall be provided at the time of intake.

(3) The initial evaluation shall include:

(a) A clear statement of the presenting problems preferably in the client's own words and/or the parent's words in the case of a child.

(b) A psychosocial, substance abuse, and medical history.

(c) A history of mental health treatment covering at least the last two years.

(d) For children, a developmental history and assessment of academic background and learning problems.

(e) A mental status examination.

(f) Direct observation of client behavior.

(g) An assessment of the client's current level of functioning, strengths, needs, and problems, a provisional diagnosis (Diagnostic and Statistical Manual, 3rd edition), and a determination as to whether the person is acutely mentally ill, chronically mentally ill or seriously disturbed.

(h) The name and telephone number of the client's present or most recent physician, and the date of most recent examinations or treatment by the physician.

(4) The client shall be referred for a medical examination when determined necessary. All clients aged sixty and over shall be referred for a medical examination, if such examination has not been done within the preceding ninety days.

(5) The need for special psychiatric, psychological, neurological, medical or other examinations, tests or procedures shall be determined. The basis for such decisions shall be documented and appropriate referrals made. Before a diagnosis of primary degenerative dementia with senile or presenile onset is made, assessments shall be completed to rule out all forms of treatable medical or mental disorders.

(6) Fees appropriate to the client's ability to pay shall be established, and the client shall be informed of the fees and of the provider's fee policies during the intake process.

(7) Except in an emergency, there shall be signed consent of client or responsible other before utilization of any medication.

NEW SECTION

WAC 275-56-265 SERVICES ADMINISTRATION—DRUG USE PROFILE. A drug use profile shall be developed at intake and maintained throughout the client's treatment. The drug use profile shall include the names and dosages of all prescribed and nonprescribed drugs (when the information is available) used currently and during the previous six months. The record of prescribed drugs used prior to or during the course of treatment shall include, as available, names and dosages, name of prescribing person, dates and reasons for changes or discontinuance, and any significant side effects. In the event the client refuses to sign, efforts to obtain signature shall be documented.

NEW SECTION

WAC 275-56-270 SERVICES ADMINISTRATION—COORDINATION OF SERVICE. Staff responsibilities for planning, providing, and coordinating services shall be clearly assigned.

(1) Each client in a direct treatment service shall be assigned a primary therapist.

(2) When a client is served by both a primary therapist and a case manager, these persons shall confer on a regular basis, and document such conferences. In the absence of an assigned case manager, the primary therapist shall coordinate needed services on behalf of the client.

NEW SECTION

WAC 275-56-275 SERVICES ADMINISTRATION—DEVELOPMENT OF INDIVIDUALIZED SERVICE PLAN. An individualized service plan shall be developed for each client.

(1) The plan shall identify each problem or need to be addressed in treatment.

(2) The plan shall contain clearly stated goals for treatment.

(a) Each goal shall state the intended result to occur in client behavior, skills, attitudes, or circumstances as a result of treatment.

(b) The plan shall specify an expected timeframe for the attainment of goals and for termination.

(3) The plan shall identify the services and specific treatment modalities to be utilized.

(a) The plan shall include referral for necessary services not offered by the provider.

(b) A case management plan shall be included in the service plan for each chronically mentally ill client.

(c) Medications and dosages to be administered shall be identified.

(d) The primary therapist and/or case manager responsible for providing and coordinating services shall be identified.

(4) The plan shall clearly show the relationships between the proposed services, intended results, and needs of the client, including how treatment goals are to be met by the particular modalities and techniques to be utilized.

(5) An assessment and review of progress and updating of the plan shall be performed at least every ninety days in the case of outpatient, day treatment or community support services.

(6) The client shall participate in service planning and implementation according to his or her ability, and the family shall be involved where available and appropriate to the client's needs.

(7) The client or responsible other shall consent by signing the service plan or other informed consent form. In the event the client refuses to sign, efforts to obtain signature shall be documented.

(8) A mental health professional shall review and sign the plan within fourteen days. When appropriate and sufficient staff are available, the initial service plan shall be reviewed and revised as necessary by a multidisciplinary treatment team including individuals licensed under chapter 18.57, 18.71, 18.83 or 18.88 RCW.

(9) When use of medication is indicated, the service plan shall be reviewed by a physician.

NEW SECTION

WAC 275-56-280 SERVICES ADMINISTRATION—GROUP SERVICE PLAN. In the case of outpatient groups, a group service plan shall be developed which identifies the goals of the group, the modalities and approaches to be used to attain those goals and common need characteristics of clients to be referred to the group.

(1) Clients, staff, supervisors, and consultants shall be involved, as appropriate, in development and review of the group service plan.

(2) The supervisor of the unit or program providing the group service shall review and sign the plan initially and whenever it is revised.

NEW SECTION

WAC 275-56-285 SERVICES ADMINISTRATION—PROGRESS NOTES AND REVIEW. Client progress in meeting goals shall be documented in the case record.

(1) Progress notes shall be recorded in the case and group record as follows:

(a) After every client contact for outpatient services;

(b) At least weekly for day treatment services;

(c) After each event for emergency services;

(d) Providers utilizing a problem-oriented record system may record progress less frequently, provided a narrative summary of client progress is entered in the case record at least every thirty days, and the date and type of each contact is recorded.

(2) Progress notes shall document each service provided, including date, nature of service, progress toward established goals, changes in service plan, referrals, extraordinary events, and be signed by the responsible staff member.

(3) The service plan and progress shall be formally assessed at least every ninety days for outpatient, day treatment, and community support services.

(4) The assessment of progress shall cover course and progress of treatment in relationship to client needs, problems and goals, noting unusual events, assessing current status and need for continued treatment, reprojecting length of treatment, and modifying the service plan, if necessary.

(5) The clinical supervisor shall participate in the formal progress assessment, where possible, in all cases shall review, approve, and sign summaries prepared by the primary therapist or case manager.

NEW SECTION

WAC 275-56-290 SERVICES ADMINISTRATION—TRANSFER AND TERMINATION. Continuity of care shall be assured and cases shall be closed promptly upon transfer or termination.

(1) A comprehensive summary shall be prepared by responsible staff and shall be made available to the provider assuming primary responsibility for the clients. A copy shall be placed in the client's record.

(2) Cases involving planned transfer and termination shall be closed within fourteen days of final contact.

(3) Planned and/or necessary leaves from treatment for up to ninety days shall be documented in the client's record, and the case need not be closed.

(4) Other cases shall be closed within ninety days of the last attempt to contact the client. Unexplained interruptions in client contacts shall be followed up by the primary therapist or case manager, and these contacts documented in the client's record. Special efforts shall be made to contact the client when he or she is thought to be dangerous to self or others or property or gravely disabled, and shall be documented in the client's record.

NEW SECTION

WAC 275-56-295 SERVICES ADMINISTRATION—MEDICAL RESPONSIBILITY. Medical responsibility shall be vested in a psychiatrist, other physician or osteopath.

(1) A physician licensed to practice pursuant to chapter 18.57 or 18.71 RCW, and at least board eligible in psychiatry, shall be responsible for medical services.

(a) Providers unable to recruit a psychiatrist may employ a physician without board eligibility in psychiatry provided:

(i) Psychiatric consultation is provided to the physician at least monthly; and

(ii) The psychiatrist is accessible in person, by phone or by telecommunication to the physician for emergency consultation.

(iii) The physician participates in at least twenty hours per year of continuing medical education in psychiatry.

(b) The provider may divide medical responsibility among a number of physicians employed in part-time staff or consultative roles.

(2) Medications shall be reviewed at least every three months by a physician. A registered nurse or licensed practical nurse may administer medications under the supervision of a physician. Medications shall be monitored by a physician or registered nurse (chapter 308-120-300 WAC).

(3) Medication information shall be maintained in the client record documenting at least the following for each prescribed medication:

- (i) Name of medication,
- (ii) Dosage and method of administration,
- (iii) Purpose of medication,
- (iv) Dates prescribed, reviewed and/or renewed,
- (v) Observed effects and side effects, including laboratory findings and corrective actions taken for side effects,
- (vi) Reasons for change or termination of medication, and
- (vii) Name and signature of prescribing person.

(4) When a psychiatrist is available, he or she shall participate in multidisciplinary teams responsible for treatment planning and review.

(5) When medical problems are suspected or identified, a psychiatrist or other physician shall be consulted and included in treatment planning at regular intervals.

NEW SECTION

WAC 275-56-300 SERVICES ADMINISTRATION—MEDICATION STORAGE. Medication storage areas shall be inspected and inventoried at least quarterly by the administrator, or designated clinical staff member.

- (1) All medication shall be kept in locked storage.
- (2) Any medications kept in a refrigerator containing other items shall be kept in a separate container with proper security.
- (3) No outdated medications shall be retained, and medications shall be disposed of in accordance with regulations of the state board of pharmacy.
- (4) Medications for external use shall be stored separately from oral and injectable medications.

NEW SECTION

WAC 275-56-305 SERVICES ADMINISTRATION—EXTRAORDINARY OCCURRENCES. There shall be written procedures for the handling, review, and documentation of extraordinary occurrences.

(1) Procedures shall be established for responding to and reviewing situations involving:

- (a) Injury to clients or staff;
- (b) Suicide or homicide by a client;
- (c) Client behavior so bizarre or disruptive as to threaten the program;
- (d) Disaster or threatened disaster of natural or human origin.

(2) Extraordinary occurrences shall be reported to appropriate supervisory staff, administrator, and governing body.

(3) Each such occurrence shall be subject to a case review by one or more mental health professionals not participating in the treatment of the client.

(a) A corrective action to prevent similar occurrences shall be developed where appropriate.

(b) The review, correction plan, and its implementation shall be documented, including entries in the client's record where appropriate.

NEW SECTION

WAC 275-56-307 SERVICES ADMINISTRATION—POLICIES AND PROCEDURES RELATED TO CLIENT RECORDS. There shall be written policies and procedures relating to client records. Policies and procedures will include:

- (1) Record content, format, and completeness,
- (2) Maintenance of outpatient group records,
- (3) Records of emergency contacts,
- (4) Security and confidentiality of client records, including storage, access, and release of information.

NEW SECTION

WAC 275-56-310 SERVICES ADMINISTRATION—CONTENT OF CLIENT RECORDS. A record shall be established and maintained for each client completing intake.

(1) The record shall contain documentation of application for services and authorization for treatment, including:

- (a) Application for services;
- (b) Fees to be charged for services;
- (c) Signed authorization for release and/or receipt of information where appropriate, and documentation of any disclosures;
- (d) Signed consent for use of any medication.

(2) The record shall contain the individualized service plan, including screening and intake information sufficient to justify the treatment planned, reports of special evaluative procedures, progress notes, periodic treatment summaries, and transfer and termination summaries. Each entry shall be signed by the client or responsible other, the primary therapist or case manager, and the supervisor when the primary therapist or case manager is not a mental health professional.

(3) The record shall contain a report of each collateral contact.

(4) The record shall contain cross-references as appropriate.

(5) The record shall contain records or summaries of any psychiatric inpatient services provided during two years prior to current intake.

(6) The record shall contain a drug use profile when applicable, established at intake and maintained throughout the course of treatment.

(7) The record shall contain documentation of any unusual events, emergencies or special procedures.

(8) The record shall contain notes documenting case review with the supervisor's signature.

(9) The records of other immediate members of the family who are clients of the provider shall be cross-referenced.

NEW SECTION

WAC 275-56-315 SERVICES ADMINISTRATION—OUTPATIENT GROUP RECORDS. A record shall be established and maintained for each outpatient group including:

- (1) A plan for the group, including goals and objectives;
- (2) Name of staff responsible for conducting the group;
- (3) A current roster of all clients and/or participants;
- (4) Progress notes recorded after each session documenting group activities and special individual action or participation; and
- (5) Modifications in the group plan.

NEW SECTION

WAC 275-56-320 SERVICES ADMINISTRATION—TELEPHONE AND OUTREACH EMERGENCY SERVICES RECORDS. Providers of telephone and outreach emergency services shall maintain records documenting all emergency contacts.

- (1) Emergency records shall document, when possible, the following:
 - (a) Client name, address, and telephone number;
 - (b) Name and telephone number of person or agency making initial contact (if other than client);
 - (c) Time of initial contact;
 - (d) Responsible staff;
 - (e) Time and location of outreach;

- (f) Nature of emergency;
 - (g) Summary of services provided;
 - (h) Referrals or other disposition;
 - (i) Names of persons and agencies cooperating in emergency response;
 - (j) Follow-up; and
 - (k) Condition of client at termination of contact.
- (2) Documentation shall occur after each contact.

NEW SECTION

WAC 275-56-325 SERVICES ADMINISTRATION—SECURITY OF CLIENT RECORDS. All client records shall be stored in a manner ensuring record security and client confidentiality.

(1) Records shall be maintained in locked cabinets, and/or shall be housed in a fully enclosed room with a lockable door.

(2) All records checked out during the working day shall be returned to the records room by the end of the day.

NEW SECTION

WAC 275-56-330 SERVICES ADMINISTRATION—RETENTION AND DESTRUCTION OF CLIENT RECORDS. Records shall be retained by the provider in accordance with WAC 275-56-325 and shall be destroyed in a manner completely eradicating content and client names.

(1) Client records shall be retained for a period of not less than five years beyond the last contact with the client.

(2) When the client is a minor, the record shall be maintained for a period of not less than three years beyond the client's eighteenth birthday, or five years beyond the last contact, whichever is the longer period of time.

(3) A complete termination summary and reports of special assessment and/or examination procedures shall be retained for a period of not less than ten years beyond the last contact with the client or three years beyond the client's eighteenth birthday, whichever is the longer period of time.

(4) Emergency records such as telephone crisis logs shall be retained for not less than two years.

NEW SECTION

WAC 275-56-335 EMERGENCY PRE-ADMISSION SCREENING SERVICES—WRITTEN DESCRIPTIONS. There shall be written descriptions of all emergency services components specifying:

- (1) Nature, location, and availability of services; and
- (2) Qualifications of staff; and
- (3) Client needs addressed by these services; and
- (4) Usual referral sources and procedures; and
- (5) Policies for each emergency service component to include criteria for outreach response including appropriate state hospitals; and
- (6) Policies on responding to referrals, liaison and communication with state hospitals, common referral sources, and other pre-admission screening services; and
- (7) Expected outcomes stated, as much as possible, in behavioral terms.

NEW SECTION

WAC 275-56-340 EMERGENCY PRE-ADMISSION SCREENING SERVICES—STAFFING. Emergency services shall be provided by qualified staff.

(1) Emergency services shall be directed by a mental health professional with at least two years supervised experience in emergency services.

(2) Nonprofessional staff, volunteers, and students providing telephone or outreach crisis intervention shall be directly supervised by or have immediate access to consultation from a mental health professional at all times.

(3) Staff providing pre-admission screening shall be mental health professionals trained in assessing clinical status, severity of disturbance, and availability of less restrictive and/or less costly alternatives.

NEW SECTION

WAC 275-56-345 EMERGENCY PRE-ADMISSION SCREENING SERVICES—TWENTY-FOUR HOUR TELEPHONE SERVICES. Telephone emergency services shall be provided

twenty-four hours per day, seven days per week, by the provider or in cooperation with other providers.

(1) The telephone service shall:

(a) Be provided in accordance with written protocol;

(b) Respond promptly to calls and provide information, referral or immediate counseling to assist the caller in resolving the emergency;

(c) Determine the presence of an emergency and connect caller, as needed, to centralized emergency services (911) or, in the absence of such capability, mobilize and coordinate necessary related services (e.g., medical, police, fire, ambulance, child protective services, county-designated mental health professional);

(d) Facilitate provision of needed follow-up services; and

(e) Document all telephone contacts and disposition, including any significant departures from protocol.

(2) Emergency telephone numbers shall be prominently listed in all telephone directories in the areas served by the provider.

NEW SECTION

WAC 275-56-350 EMERGENCY PRE-ADMISSION SCREENING SERVICES—TWENTY-FOUR HOUR OUTREACH SERVICES. Twenty-four hour emergency outreach services shall be provided in the home or other community setting. Outreach services shall consist of face-to-face evaluation and treatment of mental health emergencies and crises for acutely mentally ill persons of all ages, and will:

(1) Be provided in accordance with written protocol;

(2) Be provided promptly after screening and dispatch, and document any decision not to respond;

(3) Seek to stabilize the emergency or crisis situation and provide immediate or continuing treatment and support in the least restrictive environment available;

(4) Be closely coordinated with the county's involuntary treatment system, and draw upon the resources of that system as needed;

(5) Utilize and mobilize all necessary community emergency resources;

(6) Be appropriate to the age of the person, and involve family and significant others when indicated and possible;

(7) Refer, when appropriate, to other services of the provider or to other resources;

(8) Provide follow-up on emergency contacts to maintain stabilization and to ensure referrals are carried out and needed services and linkages are provided; and

(9) Document all contacts and the contact's disposition, including any significant departures from written protocol.

NEW SECTION

WAC 275-56-355 EMERGENCY PRE-ADMISSION SCREENING SERVICES—CRISIS RESOLUTION SERVICES. Sufficient evaluation and treatment services shall be provided to clients to determine severity and urgency of disturbance, to stabilize crises, and to determine need for further treatment.

(1) Crisis resolution services shall be provided in accordance with written protocol. Any significant departure from protocol shall be documented in the client's record.

(2) At a minimum, one face-to-face assessment and/or evaluation session and up to four treatment and/or crisis stabilization sessions shall be available to persons requesting services. Such clients may be referred to another provider if assessment and/or evaluation reveals the appropriate services are not offered by the provider.

(3) No later than the fourth treatment and/or crisis stabilization session, there shall be a determination as to whether the client is an acutely or chronically mentally ill or seriously disturbed person in need of further treatment.

(4) When a client receiving brief treatment and/or crisis stabilization services is determined to be acutely or chronically mentally ill or seriously disturbed and in need of further treatment, the provider shall maintain continuity of care through transfer to other services of the provider or referral to other appropriate providers and resources.

(5) There shall be formal agreements or working relationships regarding emergency procedures and responsibilities with other emergency-related community agencies and inpatient facilities.

(6) A complete and current list of community resources shall be maintained and be available at all times to staff providing emergency services.

NEW SECTION

WAC 275-56-360 EMERGENCY PRE-ADMISSION SCREENING SERVICES—SERVICE DELIVERY. Screening shall be provided for voluntary admission to state hospitals. Information, screening, and assessment shall be provided to persons on referral or at their own request to determine need for and appropriateness of admission to a state hospital.

(1) Information and assistance shall be provided in the same manner and subject to applicable standards for emergency services.

(2) All common referral sources shall be informed of the availability of pre-admission screening services and requested to utilize these services in lieu of direct referral to a state hospital.

(3) Assessments shall include face-to-face or telephone contact with the client and discussion with the referral source when possible.

(4) The availability of appropriate alternatives shall be explored and discussed with client and referral source. Admission to a less restrictive and/or less costly alternative shall be facilitated where appropriate.

(5) Admitting staff of the state hospital shall be informed of referrals recommended by the screening service for voluntary admission, and shall facilitate the admission when no appropriate alternative is available, and they concur that the person meets standards for involuntary commitment under chapter 71.05 RCW, and the person will accept voluntary admission.

(6) Pre-admission screening of involuntary clients shall be informed subject to chapter 71.05 RCW and chapter 275-55 WAC.

NEW SECTION

WAC 275-56-365 EMERGENCY PRE-ADMISSION SCREENING SERVICES—RECORD OF PRE-ADMISSION SCREENING SERVICES. A record of all pre-admission screening services shall be maintained. The record shall document:

- (1) Client name and other information required by the department;
- (2) Referring agency or person;
- (3) Referral information, including evidence of appropriateness for involuntary commitment;
- (4) Services provided, including assessments performed; and
- (5) Recommendations and disposition, including staff efforts to facilitate admission to a state hospital or alternative setting.

NEW SECTION

WAC 275-56-370 OUTPATIENT SERVICES—WRITTEN DESCRIPTIONS. There shall be written descriptions of all outpatient service components specifying:

- (1) Nature, location, and availability of services;
- (2) Qualifications of staff;
- (3) Client needs addressed by these services;
- (4) Policies for each service component; and
- (5) Expected outcomes stated, as much as possible, in behavioral terms.

NEW SECTION

WAC 275-56-375 OUTPATIENT SERVICES—STAFFING. Outpatient services shall be provided by qualified staff.

(1) Outpatient services shall be directed by a mental health professional with at least two years of supervised postgraduate experience in mental health services, including experience with the major treatment modalities offered and with acutely and chronically mentally ill and seriously disturbed clients.

(2) Staff providing outpatient services shall be trained and experienced in the clinical modalities and techniques they utilize.

(3) Staff shall be assigned to outpatient service programs and locations on the basis of training and experience consistent with client needs in those programs and locations.

NEW SECTION

WAC 275-56-380 OUTPATIENT SERVICES—SERVICE DELIVERY. Outpatient services shall be provided to acutely and chronically mentally ill and seriously disturbed persons not having significant need for structured day treatment or unwilling or unable to participate in day treatment, or as an adjunct to day treatment services.

- (1) Outpatient services shall include the following modalities:
- (a) Individual therapy,
 - (b) Group therapy,
 - (c) Family therapy,

- (d) Marital or couples therapy, and
- (e) Medication evaluation and monitoring.

(2) Outpatient services shall be provided in accordance with written protocol. Significant departures from protocol shall be documented in client records.

(3) Outpatient services to underserved groups (minorities, children, elderly, disabled, and low-income persons within the priority populations) shall, where possible, include alternative models of service delivery such as:

- (a) Services in a location and environment appropriate and acceptable to the clientele;
- (b) Outreach services such as home visits, school visits or visits to other community agencies; and
- (c) Services offered by natural care givers or traditional healers.

NEW SECTION

WAC 275-56-385 DAY TREATMENT SERVICES—WRITTEN DESCRIPTIONS. There shall be written descriptions of all day treatment service components specifying:

- (1) Nature, location, and availability of services;
- (2) Qualifications of staff;
- (3) Client needs addressed by these services;
- (4) Policies for each service component and each regularly scheduled special service; and
- (5) Expected outcomes stated, as much as possible, in behavioral terms.

NEW SECTION

WAC 275-56-390 DAY TREATMENT SERVICES—STAFFING. Day treatment services shall be provided by adequate numbers of qualified staff.

(1) Day treatment services shall be directed by a mental health professional with at least two years supervised postgraduate experience in day treatment or related programs for acutely and chronically mentally ill and seriously disturbed persons.

(2) One paid staff member shall be present in all day treatment sessions conducted by the provider.

(3) Minimum staff-to-client ratios for day treatment sessions shall be maintained as follows:

(a) One clinical staff member for every four scheduled clients thirteen years of age and under, with at least one such staff member a child mental health specialist;

(b) One clinical staff member for every six scheduled clients aged fourteen through seventeen, with at least one such staff member a child (adolescent) mental health specialist;

(c) One clinical staff member for every twelve scheduled clients aged eighteen and over with at least one such staff member a mental health professional, and with one such staff member a geriatric mental health specialist in sessions serving primarily elderly (age sixty and over) clients. One clinical staff member for every eight scheduled clients shall be present in any group therapy.

NEW SECTION

WAC 275-56-395 DAY TREATMENT SERVICES—SERVICE DELIVERY. Day treatment services shall be provided on a regular basis to acutely and chronically mentally ill and seriously disturbed persons needing this type of service.

(1) Day treatment services shall be provided in accordance with written protocol. Significant departures from protocol shall be documented in the client's record.

(2) Day treatment services shall be available to clients at least three times weekly.

(3) Day treatment services shall be planned and structured activities designed for the following levels of client need:

(a) Maintaining clients in an environment less restrictive than an inpatient setting through structuring of their day and leisure time.

(b) Developing daily living, social, and prevocational skills to increase the likelihood of clients engaging in productive activities, and attaining the capacity for independent or semi-independent living.

(c) Assisting clients in making transition from acute inpatient services or serving as an alternative to inpatient care.

(4) The provider shall maintain formal agreements or working relationships and coordinate services where possible with other persons, agencies or facilities serving day treatment clients.

NEW SECTION

WAC 275-56-400 DAY TREATMENT SERVICES—SERVICE COMPONENTS. Day treatment services shall include components necessary to meet the maintenance or psychosocial habilitation or rehabilitation needs of clients.

(1) Each day treatment program shall provide or arrange for the following service components:

- (a) Training in basic living and social skills;
 - (b) Vocational habilitation or rehabilitation, including prevocational services;
 - (c) Sheltered work, training or education;
 - (d) Day activities, including socialization and recreation;
 - (e) Therapeutic community or milieu therapy.
- (2) The particular mix of components shall be determined by client needs.

(3) A day treatment client may utilize other services of the provider consistent with the individual's service plan, but the same time with the client may not be charged to more than one service.

NEW SECTION

WAC 275-56-405 DAY TREATMENT SERVICES—AGE-APPROPRIATE SERVICES. Day treatment services shall be age-appropriate.

(1) Services to school-age children shall include or arrange for suitable educational and developmental programs.

(a) Clients with special educational needs shall be provided with special educational programs, either as an integral part of provider services or by cooperative arrangements with schools.

(b) Day treatment shall be scheduled to permit regular school attendance for clients able to function in a regular school setting.

(2) Services to children shall include parent involvement, when possible.

(3) Services to elderly shall include attention to medical and nutritional needs and shall be capable of providing or arranging for emergency medical services during all operational hours.

NEW SECTION

WAC 275-56-410 CONSULTATION AND EDUCATION SERVICES—WRITTEN DESCRIPTIONS. There shall be written descriptions of all consultation and education service components specifying:

- (1) Nature and availability of services,
- (2) Target population,
- (3) Client needs to be addressed,
- (4) Policies for consultation and education services to include payment for such services where appropriate, and
- (5) Expected outcomes stated in terms of the specific changes in skills, knowledge or awareness to be accomplished on the part of the target population and/or their clients.

NEW SECTION

WAC 275-56-415 CONSULTATION AND EDUCATION SERVICES—STAFFING. Consultation and education services shall be provided by qualified persons who will be supervised by a mental health professional or an educator with at least one year of supervised experience in health or mental health consultation or education.

NEW SECTION

WAC 275-56-420 CONSULTATION AND EDUCATION SERVICES—SERVICE DELIVERY. Consultation and education services shall be provided to assist others in the community to understand and care for acutely and chronically mentally ill and seriously disturbed persons.

(1) Case consultation shall be available to staff of other services, including inpatient and residential facilities, and other community care givers as a means of developing or improving service delivery for the priority populations.

(2) The following components may be provided:

(a) Program consultation to other entities to assist in program design and planning for treatment and support services for acutely and chronically mentally ill and seriously disturbed persons;

(b) Continuing education programs and training for community care givers to develop and/or increase their skills in providing mental health services to the priority populations and underserved groups;

(c) Information and education for the public about mental health issues and services through various public media (newspapers, television, radio, and presentations to community groups); and

(d) Educational services for families of acutely and chronically mentally ill and seriously disturbed persons.

(3) Records shall be maintained of all consultation and education services provided.

NEW SECTION

WAC 275-56-425 COMMUNITY SUPPORT SERVICES—WRITTEN DESCRIPTIONS OF ALL COMMUNITY SUPPORT SERVICE COMPONENTS. There shall be written descriptions of all community support service components specifying:

- (1) Nature and availability of services;
- (2) Qualifications of staff;
- (3) Client needs addressed by such services and criteria for enrollment in community support services;
- (4) Policies for each service component and each regularly scheduled special service; and
- (5) Expected outcomes stated, as much as possible, in behavioral terms.

NEW SECTION

WAC 275-56-430 COMMUNITY SUPPORT SERVICES—STAFFING AND CASE MANAGEMENT. Community support services shall be provided by qualified staff.

(1) Community support services shall be under the direction of a mental health professional with at least two years' supervised experience in direct treatment of acutely and chronically mentally ill persons.

(2) One person shall be assigned to serve as case manager for each client enrolled in community support services.

(a) The case manager shall be responsible for coordination of services, including necessary mental health, residential, social, vocational, health, educational, income management, and other necessary support services on the client's behalf.

(b) The case manager shall provide consultation and assist other significant persons (e.g., family, landlord, clergy, police, physician, attorney) to be supportive and act in the best interests of the client.

(c) The case manager shall meet with or otherwise contact the enrolled client at intervals identified in the service plan.

(d) The case manager shall participate with the primary therapist and other involved staff of the provider in treatment and discharge planning for the enrolled client, where possible, and shall periodically review available treatment records on the client.

NEW SECTION

WAC 275-56-435 COMMUNITY SUPPORT SERVICES—COORDINATION WITH INPATIENT FACILITIES AND OTHER AGENCIES. The provider shall establish and maintain working arrangements with psychiatric inpatient facilities, social and health agencies, and other community resources necessary for chronically mentally ill persons to live in the community.

(1) The provider shall maintain liaison with state mental health facilities, certified evaluation and treatment facilities, (chapter 71.05 RCW), and other local inpatient psychiatric facilities so as to be informed of the status of clients, former clients, and potential clients needing community support services.

(a) Contact with the inpatient facility and attending staff shall take place at least weekly when an enrolled client is in the inpatient facility or when an inpatient has been referred for case management services.

(b) The provider shall participate in treatment and discharge planning for both voluntary and involuntary patients in these inpatient facilities when those patients are enrolled clients of the provider or have been referred for after-care and community support services.

(2) Working relationships or formal agreements shall be established and maintained with the county-designated mental health professionals, (chapter 71.05 RCW); community service office (CSO), social security, and employment security offices; division of vocational rehabilitation's residential services in the county contracting with the department or county for mental health services; and area agency on aging.

(3) Liaison shall also be developed and maintained, where possible, with sheltered workshops, community colleges, housing authorities, family advocate and self-help groups, and other agencies and organizations offering special services needed by the chronically mentally ill.

NEW SECTION

WAC 275-56-440 COMMUNITY SUPPORT SERVICES—SERVICE DELIVERY. A program of community support services shall be provided to acutely and chronically mentally ill persons to assist such persons in living in the community.

(1) Services shall be provided in accordance with written protocol. Any significant departure from protocol shall be documented in the client's record.

(2) Acutely and chronically mentally ill persons seeking or referred for community support services shall be screened, admitted to the service, and assigned a case manager if appropriate.

(3) Staff shall attempt to contact referred clients within two working days of the client's release from a state mental health facility, certified evaluation and treatment facility, (chapter 71.05 RCW), or other inpatient psychiatric facility or commitment in order to describe and offer community support and other available services.

NEW SECTION

WAC 275-56-445 COMMUNITY SUPPORT SERVICES—RECORD OF COMMUNITY SUPPORT SERVICES. A record of all community support services shall be maintained. The record shall document:

(1) The name and other information required by the department for each client assigned a case manager or receiving other community support services.

(2) Services provided including contacts with the client and significant others by the case manager, and other community support services on the client's behalf shall be documented in the client's record.

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

Chapter 275-56 WAC
COMMUNITY MENTAL HEALTH PROGRAMS

NEW SECTION

WAC 275-56-005 PURPOSE AND AUTHORITY. Chapter 275-56 WAC establishes rules and regulations for county administration of community mental health programs, licensing service providers, information, accountability, contracts and services. Chapter 275-56 WAC is adopted under authority of chapter 71-24 RCW.

(1) Chapter 275-56 WAC enables participation in the community mental health system by service providers which are profit or nonprofit businesses, private or public businesses, individuals or partnerships, as well as corporations. A provider may contract with a county for one or more services defined by chapter 71.24 RCW.

(2) The rules and regulations of county administration are specified in two areas:

(a) County administration and planning (WAC 275-56-020 through 275-56-060), and

(b) County fiscal administration (WAC 275-56-065 through 275-56-085).

(3) Minimum standards for licensing service providers are specified in four areas:

(a) Licensing procedures (WAC 275-56-090 through 275-56-105);

(b) Organizational administration of the provider, including (WAC 275-56-110 through 275-56-215):

(i) Administration;

(ii) Provider fiscal administration;

(iii) Personnel management;

(iv) Quality assurance;

(v) Program evaluation;

(vi) Facilities.

(c) Services administration, including (WAC 275-56-220 through 275-56-445):

(i) Accessibility and awareness of services;

(ii) Client rights;

(iii) Client entry, service planning, and service operations;

(iv) Client records.

(d) Services, including (WAC 275-56-335 through 275-56-445):

(i) Emergency services, including pre-admission screening services;

(ii) Outpatient services;

(iii) Day treatment services;

(iv) Consultation and education services;

(v) Community support services.

NEW SECTION

WAC 275-56-010 PRIORITY POPULATIONS. Chapter 275-56 WAC establishes rules, regulations, and standards for community mental health programs providing for:

(1) Access to mental health services for residents of the state of Washington who, in priority order, are:

(a) Acutely mentally ill;

(b) Chronically mentally ill;

(c) Seriously disturbed.

(2) *Mental health services recognizing the special needs of underserved groups within the priority populations, including:*

- (a) *Minorities,*
- (b) *Children,*
- (c) *Elderly,*
- (d) *Disabled, and*
- (e) *Low-income persons.*

NEW SECTION

WAC 275-56-015 DEFINITIONS. For the purposes of the rules, regulations, and standards of chapter 275-56 WAC, the following words and phrases shall have the following meaning:

(1) "Acutely mentally ill" means a condition limited to a short-term severe crisis episode of:

- (a) A mental disorder as defined in this chapter,
- (b) Being gravely disabled as defined in this chapter, or
- (c) Presenting a likelihood of serious harm as defined in this chapter.

(2) "Available resources" means funds appropriated by the legislature during any biennium for the purpose of providing community mental health programs.

(3) "Case management" means assistance to the client and family or significant others to obtain, maintain or develop an appropriate place for the client in the community. This service involves assistance in obtaining the full range of needed services, routine monitoring, supervision of client's functioning, and establishing and maintaining support for the client and his or her family or significant others.

(4) "Child" or "children" means a person or persons under eighteen years of age.

(5) "Chronically mentally ill" means a person having a mental disorder and meeting at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years;

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months.

(6) "Clients" means persons, couples or families receiving clinical coordinative or supportive services.

(7) "Clinical staff member" means a regularly employed or contracted staff member or supervisor engaged to any extent in providing direct evaluative, diagnostic, or therapeutic services to clients. The term does not include volunteers or students.

(8) "Community mental health program" means the total mental health program established by a county or group of counties acting in combination for the purpose of providing mental health services in accordance with the Community Mental Health Services Act, chapter 71.24 RCW.

(9) "Community Mental Health Services Act" means chapter 71.24 RCW.

(10) "Community support services" means those services for acutely and chronically mentally ill persons which include:

(a) Discharge planning for clients leaving state hospitals and other acute care inpatient facilities;

(b) Sufficient contacts with clients, family or significant other to provide for an effective program of community maintenance; and

(c) Medication monitoring.

(11) "Consultation" means review and recommendations regarding the job responsibilities, activities, or decisions of administrative, clinical, or clerical staff, contracted employees, volunteers, or students by a person or persons with appropriate knowledge and experience to make such recommendations. This definition does not constitute a definition of consultation and education.

(12) "Consultation and education services" means those services provided to assist others in the community to understand and care for acutely and chronically mentally ill and seriously disturbed persons and includes:

(a) Consultation to other community providers, and

(b) Educational and public information services.

(13) "County authority" means the board of county commissioners, county council or county executive having the authority to establish a community mental health program.

(14) "Crisis" means a situation where, because of severe internal or external stresses, a person is experiencing serious disruption in cognitive, volitional, psychosocial or physiological functioning.

(15) "Day treatment services" means those services for mentally ill persons which include training in basic living and social skills, supported work, vocational rehabilitation, day activities, and may include therapeutic treatment.

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

(17) "Direct treatment services" means clinical or coordinative services provided directly to clients to meet the client's mental health needs, as distinct from activities conducted with other persons, organizations, or groups on behalf of clients, and also as distinct from supervisory, consultative or training activities conducted with regard to clients or services.

(18) "Disabled" means a developmentally disabled person or one with serious physical or sensory impairment.

(19) "Elderly" means a person sixty years of age or older.

(20) "Emergency" means a situation where there is likelihood of serious harm to person or persons or property resulting from the actions or threatened actions of a mentally ill person or when the person is gravely disabled.

(21) "Emergency services" means those response and intervention services provided to persons experiencing mental health emergencies or crisis and include:

(a) Twenty-four hour telephone response;

(b) Outreach intervention, evaluation and treatment;

(c) Crisis stabilization services.

(22) "Governing body" means the final decision-making body for a provider.

(23) "Gravely disabled" means a condition where a person, as a result of a mental disorder:

(a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or

(b) Manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognition or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(24) "Material adjustment" means a budget revision equaling ten percent of a budget category or five hundred dollars, whichever is greater.

(25) "Mental disorder" means any organic, mental, or emotional impairment having substantial adverse effect on an individual's cognitive or volitional functions.

(26) "Mental health services" means those services required pursuant to chapter 71.24 RCW, including:

(a) Emergency services including screening for patients being considered for admission to state hospitals;

(b) Outpatient services;

(c) Day treatment;

(d) Consultation and education services; and

(e) Community support services.

(27) "Mentally ill persons" and "the mentally ill" means a person or condition defined in this chapter as:

(a) Acutely mentally ill;

(b) Chronically mentally ill; and

(c) Seriously disturbed.

(28) "Minority" or "ethnic minority" means any of the following general population groups:

(a) Indian,

(b) Asian or Pacific Islander,

(c) Black, or

(d) Hispanic.

(29) "Outpatient services" means those services provided in less than a residential or day treatment setting for clients whose dysfunction is not so severe as to need such intense or restrictive service. Outpatient services may include, but are not limited to, evaluation, diagnosis, psychotherapy, medication management, and activities therapy.

(30) "Pre-admission screening services" means those services provided for clients being considered for voluntary admission to state hospitals to determine the appropriateness of admission and availability of alternatives.

(31) "Properly executed accounting documents" means accounting documents processed in a manner consistent with provider policies and procedures and providing sufficient and adequate documentation for an audit of the agency's financial transactions.

(32) "Provider" means licensed service provider as defined in chapter 71.24 RCW.

(33) "Secretary" means the secretary of the department of social and health services.

(34) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to self or others as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a minor child diagnosed by a mental health professional as defined in RCW 71.05.020, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(35) "Substantial gainful activity" is work that involves significant physical or mental activities done for pay or profit.

(36) "Supervision" means regular or occasional oversight of the administrative, clinical or clerical work performance of staff, students, volunteers or contracted employees by person or persons with the authority to give direction and require change.

(37) "Training" means planned educational events or activities designed to instill or enhance skills and to increase knowledge.

NEW SECTION

WAC 275-56-020 COUNTY ADMINISTRATION AND PLANNING—BIENNIAL MENTAL HEALTH NEEDS ASSESSMENT. The county authority shall submit to the department a biennial mental health needs assessment.

(1) A biennial needs assessment shall be prepared for residents of the county who are acutely mentally ill, chronically mentally ill, or seriously disturbed, including minorities, children, elderly, disabled, and low-income groups in these priority populations. The biennial needs assessment shall determine need with respect to mental health services required by the Community Mental Health Services Act.

(2) The biennial needs assessment will include:

(a) Estimates of the type and extent of significant mental health needs of the mentally ill, including estimates of the number of chronically mentally ill persons, seriously disturbed persons, and acute crises occurring in the county during the biennium.

(b) A projection of the amount and type of mental health services necessary to meet identified mental health needs of the acutely mentally ill, chronically mentally ill, and seriously disturbed.

(c) Identification of public and private resources available to meet the mental health needs of the acutely mentally ill, chronically mentally ill, and seriously disturbed, including:

(i) Identification of licensed service providers in the county.

(ii) Assessment of the capability of the current mental health program and providers to meet the needs of the mentally ill.

(d) A prioritization of unmet needs for the mentally ill.

(3) The biennial needs assessment shall be conducted in accordance with department guidelines for needs assessment.

NEW SECTION

WAC 275-56-025 COUNTY ADMINISTRATION AND PLANNING—BIENNIAL MENTAL HEALTH PLAN AND BUDGET. The county authority shall submit to the department a biennial mental health plan and budget.

(1) The biennial plan shall address the needs identified in the biennial needs assessment for the acutely mentally ill, chronically mentally ill, and seriously disturbed, including minorities, children, elderly, disabled, and low-income groups in these priority populations. The biennial plan shall be developed based on available resources and priorities established in the biennial needs assessment.

(2) The biennial plan shall include the following components:

(a) A plan narrative identifying needs to be met, goals and objectives, an action plan for coordination and delivery of mental health services, and program development activities related to needs and priorities identified in the biennial needs assessment. The plan narrative shall include all mental health services required by the Community Mental Health Services Act and may include optional services.

(b) A budget identifying revenues and expenditures for mental health services, program development activities, and administration of the mental health program and services. The budget will be submitted in accordance with the requirements specified in WAC 275-56-070.

(3) The biennial plan shall be developed in accordance with the planning guidelines of the department.

(4) The secretary may 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 planning process.

(5) The secretary may 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.

(6) Any provider having applied to participate in the community mental health program who objects to county decisions regarding the biennial plan may request a hearing before the county authority. When an appeal is made, the county authority shall review the appeal and notify the provider, in writing, of the appeal disposition within thirty days after the appeal has been received.

(7) Any county objecting to the department's disposition of the county's biennial plan may request an administrative review pursuant to the Administrative Procedure Act, chapter 34.04 RCW.

NEW SECTION

WAC 275-56-030 COUNTY ADMINISTRATION AND PLANNING—AVAILABILITY AND ACCESSIBILITY OF REQUIRED MENTAL HEALTH SERVICES FOR ACUTELY MENTALLY ILL, CHRONICALLY MENTALLY ILL, AND SERIOUSLY DISTURBED PERSONS. The biennial plan shall indicate how required mental health services

are to be made available and accessible to the acutely mentally ill, chronically mentally ill, seriously disturbed including underserved groups within the priority populations, and may include optional services for these groups.

(1) The following mental health services shall be available to acutely mentally ill, chronically mentally ill, and seriously disturbed persons in accordance with the priorities established in the biennial needs assessment:

- (a) Emergency services;
- (b) Pre-admission screening services;
- (c) Outpatient services;
- (d) Day treatment;
- (e) Consultation and education services;
- (f) Community support services;
- (g) Inpatient services (optional); and
- (h) Residential services (optional).

(2) The biennial plan shall indicate how mental health services are to be made available to priority clients throughout the county.

(a) The plan shall indicate where services are to be located.

(b) Emergency and community support services shall be extended to mentally ill persons who, because of situation, age, or disability, cannot travel to facilities where mental health services are routinely provided.

(3) Mental health services shall be designed for, available and accessible to children, elderly, minorities, disabled, and low-income persons who are acutely mentally ill, chronically mentally ill or seriously disturbed. In counties where a particular ethnic minority population constitutes three thousand persons or three percent or more of the area's total population, the county authority shall ensure culturally relevant services are available and accessible to these groups.

NEW SECTION

WAC 275-56-035 COUNTY ADMINISTRATION AND PLANNING—PROVIDERS ELIGIBLE FOR FUNDING. The county authority shall ensure the biennial plan is inclusive of only licensed service providers.

(1) The county may become a provider under the following conditions:

(a) No other provider is available to provide the mental health services; or

(b) The county-operated program meets minimum standards for licensure as a provider, and

(c) The county has demonstrated to the department that the county can provide the mental health services more efficiently and cost effectively than other available providers without loss of quality of care; and

(d) Evidence that the county would be more efficient and cost effective than other available providers includes but is not limited to lower administrative costs, lower unit cost for comparable services, and higher productivity.

(2) Where the county becomes a licensed service provider of mental health services, the department shall meet the following responsibilities of the county authority for the services:

(a) Contract monitoring of the provider (WAC 275-56-050).

(b) Fiscal auditing of the provider (WAC 275-56-085).

(3) If a county decides not to participate in the community mental health program, the department shall assume all responsibilities of the county authority for planning and administering mental health services in that county.

(4) Providers contracting with the county for mental health services shall be licensed by the department in accordance with state minimum standards for community mental health programs.

(5) County contracts with individual providers licensed under chapters 18.57, 18.71, 18.83 or 18.88 RCW shall require all fiscal accountability and client tracking information as required in this chapter. The county shall also:

(a) Determine additional standards in this chapter applicable to individual providers; and

(b) Specify those standards as terms and conditions in the contracts with the individual providers.

NEW SECTION

WAC 275-56-040 COUNTY ADMINISTRATION AND PLANNING—BIENNIAL PLAN AS A BASIS FOR CONTRACTING. The county authority shall utilize the biennial plan and budget as the basis for contracting.

(1) A work statement and budget shall be incorporated into the contract with the department.

(2) The contract between the county and the department shall serve as the basis for county contracts with providers.

(3) The county shall utilize standardized contract terms and conditions consistent with department guidelines for contracting and including requirements for at least the following:

(a) Reporting of revenue and statistical information on all mental health services provided by the provider, and

(b) Compliance with minimum standards for community mental health programs.

NEW SECTION

WAC 275-56-050 COUNTY ADMINISTRATION AND PLANNING—COUNTY MONITORING OF PROVIDERS. The county authority shall be responsible for monitoring providers which have contracted with the county to provide mental health services.

(1) The county authority shall evaluate, at least annually, each provider's compliance with its contract work statement.

(2) Each biennium, the county authority shall ensure a program audit of the provider is conducted in accordance with guidelines of the department.

(3) The county shall notify the department of any findings resulting from the county's monitoring of providers indicating that the provider is not in compliance with contract terms. The county shall submit a written report of program evaluations and fiscal audits to the department within thirty days of completion.

(4) The responsibilities specified in this section may be assumed by one county where a combination of counties have established a community mental health program, and the administration of the program is provided by one county.

NEW SECTION

WAC 275-56-055 COUNTY ADMINISTRATION AND PLANNING—CLIENT TRACKING INFORMATION. The county authority shall be responsible for ensuring that client tracking information for the chronically mentally ill is maintained.

(1) Information on all chronically mentally ill persons shall be maintained in a single centralized file or record.

(a) The centralized file or record shall contain information identifying the provider or providers responsible for serving the client including at least the following information:

(i) Client identifier enabling the person to be uniquely identified in any mental health service he or she receives.

(ii) Name of the state hospital, certified evaluation and treatment facility, other inpatient facility or provider referring the client and the date of the referral.

(iii) Identification of the provider or providers accepting the client upon referral from another facility or provider, including designation of the provider providing case management services, if any.

(iv) Service utilization in the community mental health program since the most recent date of referral or release from another facility or provider, including provider name, and beginning and ending dates of treatment.

(b) The county may contract with and designate a provider to maintain the centralized file or record.

(2) The client tracking information shall be provided to the county or designee by state mental health facility, certified evaluation and treatment facilities, other inpatient and residential facilities, county designated mental health professionals, chapter 71.05 RCW, and providers under contract to the county authority or the department.

(a) Referring entities referenced in this section shall provide the county with client tracking information consistent with department guidelines on notification of client or referral release.

(b) Providers accepting a client referred from another facility or provider shall notify the county or designee of the outcome of the referral, and any subsequent referrals, transfers or termination of the client.

(3) The confidentiality of information contained in the client tracking file or record shall be maintained in accordance with WAC 275-56-240 and RCW 71.05.390 through 71.05.440. All county or provider staff having access to the client tracking file or record shall be instructed in these confidentiality requirements. A statement signed by the individual acknowledging his or her understanding and agreement to abide by these requirements shall be kept on file by the county or provider.

(4) A single centralized client tracking file may be maintained where a combination of counties have established a community mental health program and the administration of the program is provided by one county.

(5) Client tracking information shall be retained for a period of not less than five years beyond the last contact with the client. When a client is a minor the record shall be maintained for a period of not less than three years beyond the client's eighteenth birthday, or five years beyond the last contact, whichever is the longer period of time.

NEW SECTION

WAC 275-56-060 COUNTY ADMINISTRATION AND PLANNING—COUNTY COORDINATION OF SERVICES. The county authority shall ensure coordination of services for the acutely mentally ill, chronically mentally ill, and seriously disturbed including underserved groups within these priority populations.

(1) The county authority shall utilize information from the client tracking system to ensure that efforts are made to provide needed services to all chronically mentally ill persons referred to providers, inpatient or residential facilities within the county. If within two weeks of referral the county has not been notified that the referral has been acted upon, the county shall contact the provider receiving the referral to determine disposition. If the referral was not completed or was inappropriate, the county shall determine and document the reasons and attempt to arrange an appropriate referral.

(2) The county shall utilize information from the client tracking system to routinely monitor continuity of care for chronically mentally ill clients. The county shall determine which provider is responsible for community support services to the client.

(3) The county shall at least annually utilize client tracking information to assess the effectiveness of referral patterns and procedures.

(4) The county may contract with and designate a provider to meet the requirements of this section.

NEW SECTION

WAC 275-56-065 COUNTY FISCAL ADMINISTRATION—DISBURSEMENT OF FUNDS ADVANCED BY THE DEPARTMENT. The county authority shall be responsible for establishing procedures to ensure proper application and use of funds advanced by the department for the community mental health program. The county shall maintain adequate documentation of disbursements of the advance account to providers.

NEW SECTION

WAC 275-56-070 COUNTY FISCAL ADMINISTRATION—SUBMITTAL AND APPROVAL OF MENTAL HEALTH BUDGET. The county authority shall submit a mental health budget to the department for approval consistent with guidelines of the department.

(1) The county budget shall include all resources from the department and county mental health funds. The budget shall categorize estimated revenues and expenses according to the department's budget accounting and reporting system (BARS).

(2) The mental health budgets of all providers contracting with the county shall be on file with the county. Provider budgets shall include available resources and other revenues that will support mental health services for acutely mentally ill, chronically mentally ill, and seriously disturbed. The provider budget shall categorize estimated revenues and expenses according to the department's standardized accounting system.

(3) The county mental health budget and all material adjustments thereof shall be reviewed and formally approved by the county authority prior to review and approval by the department.

(4) All county or provider requests for federal funding to support any aspect of the community mental health program shall be submitted to the department for review and approval before the request is submitted to any federal agency.

NEW SECTION

WAC 275-56-075 COUNTY FISCAL ADMINISTRATION—ACCOUNTING RECORDS. County accounting records shall clearly identify all revenues received from the department and expenditures thereof consistent with the department's budgeting, accounting, and reporting system (BARS).

Accounting records shall be supported by properly executed accounting documents. Records, supporting documentation, and statistical reports shall be retained for a period of five years, with the following qualifications:

(1) If any litigation, claim or audit is started before the expiration of the five-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

(2) Records for nonexpendable property acquired with resources from the department shall be retained for five years after final disposition.

NEW SECTION

WAC 275-56-080 COUNTY FISCAL ADMINISTRATION—REPORTS TO AND AUDITS BY THE DEPARTMENT. The county shall maintain financial records and provide the department with information on the fiscal performance of the community mental health program.

(1) An original and one copy of the financial report shall be submitted to the department on a semiannual basis consistent with guidelines of the department.

(a) The report shall account for all mental health funds included in the county's contract with the department.

(b) The report shall be due in the department within forty days following the end of each reporting period.

(2) All county records of mental health funds provided to the county by the department shall be maintained in an auditable format. These records shall be available for audit upon request by the department or the department's designated audit agent.

NEW SECTION

WAC 275-56-085 COUNTY FISCAL ADMINISTRATION—BIENNIAL FISCAL AUDIT OF

PROVIDERS. The county authority or designee shall be responsible for performing a biennial fiscal audit of each provider which is under contract to the county to provide mental health services.

(1) The biennial audit shall be conducted in accordance with applicable, generally accepted auditing standards (GAAS).

(2) Documentation shall verify that the reports of such audits have been reviewed by the governing body of the provider and the county authority.

(3) The biennial audit shall be completed within twelve months following the end of the department's biennium.

(4) The county shall notify the department of any audit findings indicating the provider is not in compliance with the county's contract or with minimum standards for community mental health programs.

(5) The county may use an independent audit secured by the provider to meet the requirements of the biennial county audit.

(6) Where available resources from the department can be separated from other revenues of the provider, the audit shall apply only to available resources. Otherwise the county shall perform a biennial fiscal audit of all revenues of the provider supporting mental health services.

NEW SECTION

WAC 275-56-090 LICENSING PROCEDURES FOR PROVIDERS—APPLICABILITY OF MINIMUM STANDARDS FOR COMMUNITY MENTAL HEALTH PROGRAMS. Providers (excluding individual providers licensed under chapter 18.57, 18.71, 18.83 or 18.88 RCW) shall be licensed by the department before entering into a contract with the county to provide mental health services.

(1) A provider contracting with the county for all services required by the Community Mental Health Services Act shall meet all minimum standards for organizational administration, services administration, and services in this chapter.

(2) Where the provider contracts with the county for some but not all of the required mental health services, the department shall determine the minimum standards applicable to the provider and the contracted services.

(3) Where a provider is part of a superordinate structure (e.g., county, hospital, university), the standards shall apply only to the community mental health component of that structure.

(4) Where a provider is able to separate contracted mental health services for the acutely mentally ill, chronically mentally ill, and seriously disturbed from mental health services provided other client populations, organizational administration, services administration, and services standards shall apply only to the contracted services. The provider shall demonstrate to the department's satisfaction that the contract services are distinct from other services with respect to the following:

- (a) Budget, revenues, and expenditures,
- (b) Staffing,
- (c) Services provided and/or clients served,
- (d) Identification in the organizational structure.

NEW SECTION

WAC 275-56-095 LICENSING PROCEDURES FOR PROVIDERS—APPLICATION AND APPROVAL. The department shall review applications for licensure and approve those which meet minimum standards for community mental health programs.

(1) Applications for licensure shall be submitted to the department on forms furnished by the department. The applicant shall indicate the services for which licensing is requested.

(a) Applications shall be signed by the applicant's governing body and administrator.

(b) The applicant shall send a copy of the application to the county authority or the designee. The county authority or the designee may review the application and send written comments to the department with a copy to the applicant. If the department does not receive a response from the county authority or the designee within thirty days, the department shall proceed with the application.

(2) An on-site review shall be conducted for the purpose of collecting and analyzing the information necessary for the department to determine whether a provider is in compliance with the minimum standards specified in this chapter. The department shall provide forty-five days written notice prior to the date scheduled for the licensure review.

(3) The department shall notify the applicant of the results of the review and make the report of the on-site review available to the applicant and county authority within sixty days of the last day of the on-site review.

(4) The applicant may appeal the department's licensure decision within thirty days of notification of decision. The appeal shall be made in accordance with the Administrative Procedures Act, chapter 34.04 RCW.

NEW SECTION

WAC 275-56-100 LICENSING PROCEDURES FOR PROVIDERS—WAIVER OF RULES. Any provider or applicant subject to the provisions of this chapter may seek a waiver of any requirement of this chapter.

(1) The provider or applicant shall file a written request for a waiver with the department which shall include:

(a) The name and address of the provider or applicant seeking the waiver,

(b) The specific section or subsection of this chapter for which waiver is sought,

(c) An explanation of why a waiver of the section or subsection is necessary,

(d) A description of the alternative practice or procedure the provider proposes to follow in lieu of that required by the section or subsection;

(e) A plan for satisfying the requirement with the section or subsection for which the waiver is sought; and

(f) Signed documentation from the county authority or designee reviewing the waiver including recommendations regarding the request.

(2) Upon receipt of a request for waiver, the department shall consider the following:

(a) Impact on accountability, efficiency, and quality of care;

(b) The degree of noncompliance being sought;

(c) Whether the waiver would run counter to the intent of chapter 71.24 RCW or other laws or regulations; and

(d) Whether any similar requests for waiver have been granted or denied.

(3) The department's response to the waiver request shall be provided in writing within sixty days of receipt of the request.

(a) If the waiver is granted, the notice shall include:

(i) The section or subsection waived;

(ii) Any conditions which the applicant must comply with;

(iii) The duration of the waiver shall in no case exceed two years from the date of the waiver; and

(iv) The waiver shall be subject to review and possible renewal, if requested.

(b) If the waiver request is denied, the notice shall include reasons for the decision.

(4) The denial of a waiver request may be appealed to the secretary, whose decision shall be final.

NEW SECTION

WAC 275-56-105 LICENSING PROCEDURES FOR PROVIDERS—LICENSURE STATUS. The department shall, based on findings of a licensure review, assign the provider one of the following licensure statuses:

(1) Licensed

(a) Under this status the provider is eligible to enter into a contract with the county authority to provide those mental health services for which the provider is licensed.

(b) The department may require the provider to submit and implement a plan of correction to resolve deficiencies. The department may revoke the license if the provider does not implement the provider's plan of correction.

(c) At any time the department receives information indicating the provider has not continued to comply with minimum standards for community mental health programs, the department may conduct a new licensure review.

(d) The department may revoke the license if the review determines that the provider is not in substantial compliance.

(e) If evidence indicates that the health and safety of client is in danger, the revocation may be made effective immediately.

(2) Interim licensure

(a) Interim licensure shall be given to all providers contracting with a county authority to provide mental health services as of the effective date of this chapter.

(b) Interim licensure shall remain in effect until notification of licensure status resulting from the department's first licensure review of the provider or until two years following the effective date of this chapter.

(c) Following the department's first licensure review the provider shall have the licensure status assigned by the department.

(3) Probationary licensure

(a) Under this status the provider is eligible to contract with the county authority on conditions specified by the department.

(b) To achieve full licensure the provider shall demonstrate to the department that it has met the conditions of the probationary status.

(c) The provider shall request the department to review its corrective actions within six months of notification of probationary status or its licensure shall be revoked.

(d) The department shall review the provider's corrective actions and make a redetermination of licensure status within six months of the date of the provider's request for review.

(e) Probationary status shall only be assigned a provider as an outcome of the department's first licensure review of a provider or of a new service of that provider.

(4) Provisional licensure

A new provider or a provider planning to offer a new service may be given a provisional license for up to one year if it has an acceptable detailed plan for the development and operation of such service.

(5) The provider's contract with the county authority shall be terminated thirty days following the department's notification to the provider and the county authority of failure to attain or maintain licensure.

(6) Providers failing to attain licensure or whose licensure has been revoked may reapply for licensure no earlier than six months following the date of the department's notification.

(a) The application shall document the actions the provider has taken to correct deficiencies found in the prior licensure reviews.

(b) If the application demonstrates that the provider has made every reasonable effort to correct deficiencies, the department shall schedule a licensure review to evaluate standards where the provider was out of compliance.

(7) The department shall relicense each provider every two years.

NEW SECTION

WAC 275-56-110 PROVIDER ADMINISTRATION—POLICIES AND PROCEDURES. The provider shall have written policies and procedures for operations and administration. The provider's policies and procedures shall include:

(1) Fiscal administration,

(2) Personnel management,

(3) Affirmative action,

(4) Staff training,

(5) Quality assurance,

(6) Client rights,

(7) Client records,

(8) Client entry, service planning, operations, and

(9) Services.

NEW SECTION

WAC 275-56-115 PROVIDER ADMINISTRATION—GOVERNING BODY. The provider shall have

a governing body which shall be responsible for the provider's:

- (1) Policies,
- (2) Total budget,
- (3) Biennial plan and budget for services proposed for contract with the county authority, and
- (4) Contract with the county authority for mental health services.

NEW SECTION

WAC 275-56-120 PROVIDER ADMINISTRATION—DESIGNATION OF ADMINISTRATOR. The provider shall designate an administrator responsible to the governing body for administration of the provider's mental health services. The responsibilities of the administrator shall include the acquisition, control, utilization, and planning for the physical, human, and financial resources of the provider.

NEW SECTION

WAC 275-56-125 PROVIDER ADMINISTRATION—ORGANIZATIONAL STRUCTURE. The provider shall have an organizational structure specifying lines of authority and responsibility. The provider shall have an organizational chart identifying all programs, program interrelationships and lines of authority including the governing body, administrator, administrative staff, program managers, and staff positions, as applicable.

NEW SECTION

WAC 275-56-130 PROVIDER FISCAL ADMINISTRATION—FISCAL POLICIES AND PROCEDURES. The provider shall have its current fiscal policies and procedures available in written form. Policies and procedures shall be defined in the following areas:

- (1) Accounts receivable,
- (2) Accounts payable to include purchasing,
- (3) Payroll,
- (4) General ledger, and
- (5) Internal control.

NEW SECTION

WAC 275-56-135 PROVIDER FISCAL ADMINISTRATION—WRITTEN SCHEDULE OF FEES. The provider shall establish and use a sliding fee schedule based on the resources available to the client to pay for mental health services and the provider's actual cost of care.

- (1) The fee schedule shall be approved by the department as part of the licensing process.
- (2) The fee schedule shall be accessible to the provider's staff and clients.

NEW SECTION

WAC 275-56-140 PROVIDER FISCAL ADMINISTRATION—PROCEDURES TO MAXIMIZE REVENUES. The provider shall establish procedures to maximize other revenues.

(1) Fees shall be collected from third parties when available.

(2) Fees shall be collected from clients, parents of a child or legal guardian consistent with the sliding fee schedule.

(3) Fees shall be collected for consultation and education services whenever possible.

(4) Revenues generated by services provided to acutely mentally ill, chronically mentally ill, and seriously disturbed clients shall be applied by the provider to mental health services for these populations.

(5) All receipts shall be deposited promptly and intact.

(6) All services rendered shall be recorded and shall be billed as appropriate.

(7) Members of the governing body, clinical staff, and consultants shall not engage in activities constituting a conflict of interest impairing the provider's ability to maximize revenues, including, but not limited to:

(a) The provider's facilities or services shall not be used by such persons for private practice unless the person compensates the provider at a reasonable rate.

(b) Governing body members, clinical staff or consultants with private practices shall not recruit clients away from the provider or be given preference for client referral made outside the provider agency unless there is no reasonable alternative.

(c) No private practice or other remunerative activity shall be conducted during hours when the staff member is being paid by the provider.

NEW SECTION

WAC 275-56-145 PROVIDER FISCAL ADMINISTRATION—BUDGET OF EXPECTED REVENUES AND EXPENSES. The provider shall prepare a formal, written budget of all expected revenues and expenses for mental health services. The budget shall categorize revenues by source and expenses by types of services and/or program components consistent with the department's standard accounting system (SAS). The written budget and all material budget revisions shall be reviewed and formally approved by the governing body.

NEW SECTION

WAC 275-56-150 PROVIDER FISCAL ADMINISTRATION—ACCOUNTING SYSTEM. The provider shall maintain an appropriate accounting system for administration of financial resources.

(1) The provider shall maintain the accounting system in accordance with applicable, generally accepted accounting principles (GAAP).

(2) Accounting records shall clearly identify all revenues by source.

(3) All expenses shall be recorded in a manner to clearly show the budget category charged.

NEW SECTION

WAC 275-56-155 PROVIDER FISCAL ADMINISTRATION—DOCUMENTATION AND RETENTION OF ACCOUNTING TRANSACTIONS. Accounting transactions shall be supported by properly

executed documents. Financial records, supporting documentation, and statistical reports shall be retained for a period of five years, with the following qualifications:

(1) If any litigation, claim or audit is started before the expiration of the five-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

(2) Records for nonexpendable property acquired with resources from the department shall be retained for five years after final disposition of the property.

NEW SECTION

WAC 275-56-160 PROVIDER FISCAL ADMINISTRATION—FISCAL MANAGEMENT SYSTEM REPORTING. The provider shall maintain accurate and complete information regarding the fiscal performance of its mental health program.

(1) Financial statements shall be prepared at least annually in conformity with generally accepted accounting principles (GAAP) and shall be available to the county authority and department upon request.

(2) If the provider has a contract with the county, the provider shall submit to the county at least quarterly revenue and expense reports for available resources based on the department's standard accounting system (SAS). The revenue and expense reports shall include the relationship of the approved budget to actual revenue and expenditure.

(3) Providers utilizing Medicaid funding shall comply with WAC 388-87-007.

(4) Where a client utilizes more than one service at the same time of a provider, the client may not be charged for more than one service.

NEW SECTION

WAC 275-56-165 PROVIDER FISCAL ADMINISTRATION—INDEPENDENT AUDIT OF FINANCIAL OPERATIONS. The provider's financial operations shall receive an independent audit at least biennially.

(1) The audit shall be conducted in accordance with generally accepted auditing standards (GAAS).

(2) Documentation shall verify that the report of the audit has been reviewed by the governing body.

(3) The audit shall be completed within twelve months following the end of the state's biennium.

(4) The county biennial fiscal audit of the provider may be used to meet the audit requirements of this section.

NEW SECTION

WAC 275-56-170 PERSONNEL MANAGEMENT—PERSONNEL RECORDS. A personnel record shall be kept on file by the provider for each staff member. The personnel record shall contain:

(1) Documentation verifying education, experience, and clinical training;

(2) Verification of required licensure or certification;

(3) Job description;

(4) Documentation of continuing education including in-service training received and/or training needs; and

(5) Documentation of the staff member's review of client rights.

NEW SECTION

WAC 275-56-175 PERSONNEL MANAGEMENT—STAFF QUALIFICATIONS. All direct treatment services shall be provided and supervised by staff members with the appropriate clinical qualifications.

(1) All direct treatment services shall be provided by a mental health professional or under the clinical supervision of a mental health professional defined as follows:

(a) A physician or osteopath licensed pursuant to chapter 18.57 or 18.71 RCW, who is board eligible in psychiatry; or

(b) A psychologist licensed pursuant to chapter 18.83 RCW; or

(c) A person having at least a masters degree in the social work, behavioral, medical or nursing sciences or related field from an accredited college or university and having at least two years' experience in the direct treatment of mentally ill clients under the supervision of a mental health professional; or

(d) A person professionally registered or certificated (e.g., registered nurse, occupational therapist, physical therapist) and having at least three years' experience in working with mentally ill clients under supervision of a mental health professional. Such a person shall be defined as a mental health professional only when working within the skill areas for which he or she is registered or certificated.

(2) A clinical staff member or trainee not meeting the qualifications stated in subsection (1) of this section, shall only provide direct treatment, screening, case management or support services under the following conditions:

(a) The person has been evaluated by a mental health professional and determined to possess the skills and knowledge necessary to work with the client population to be served, and in the identified function or role to be performed; and

(b) The service is provided under the supervision of a mental health professional or as part of an organized treatment team.

NEW SECTION

WAC 275-56-180 PERSONNEL MANAGEMENT—CLINICAL SUPERVISION. All persons providing direct treatment services shall receive appropriate clinical supervision.

(1) Clinical supervision shall be provided by a mental health professional.

(2) Full-time clinical staff members who are mental health professionals providing direct treatment services shall receive at least one hour per week of clinical supervision and/or consultation. Proportionately less time is required for part-time staff. Persons with medical and/or overall clinical responsibilities shall receive appropriate peer consultation.

(3) Other full-time clinical staff members providing direct treatment services shall receive at least two hours

per week of clinical supervision from a mental health professional. Proportionately less time is required for part-time staff.

(4) Volunteers and trainees, who are mental health professionals providing direct treatment services, shall receive at least three hours per week of clinical supervision from a mental health professional. Proportionately less time is required for persons providing direct treatment services on a part-time basis.

(5) Volunteers and trainees providing direct treatment services, who are not mental health professionals, shall receive at least one hour of clinical supervision from a mental health professional for every five hours of direct treatment services provided. Volunteers, trainees or other persons providing telephone screening or telephone crisis counseling shall not be subject to this subsection, given clinical supervision is available directly, by telephone, or by radio communication at all times.

(6) Clinical backup by a mental health professional in person, by telephone, or by radio communication shall be available to staff at all times service is being provided.

(7) Where required by law, specialized services (e.g., medical or psychiatric evaluations, nursing services) shall be provided or supervised by appropriately licensed or credentialed persons in accordance with respective professional standards.

NEW SECTION

WAC 275-56-185 PERSONNEL MANAGEMENT—QUALIFICATIONS APPROPRIATE TO THE NEEDS OF THE CLIENT POPULATION. The clinical qualifications of persons providing and/or supervising direct treatment services shall reflect the needs of the client population.

(1) Services to persons acutely mentally ill, chronically mentally ill, or seriously disturbed shall be provided by or under the supervision of a mental health professional with at least two years of experience in treatment of such clients.

(2) Services directed to persons under age eighteen shall be provided by, under the supervision of or with consultation from a child mental health specialist defined as follows:

(a) A mental health professional having completed a minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to the study of child development and the treatment of seriously disturbed children and their families; and

(b) Having the equivalent of one year of full-time experience in the treatment of seriously disturbed children and their families under the supervision of a child mental health specialist.

(3) Services directed to persons sixty years of age or over shall be provided by, under the supervision of or with consultation from a geriatric mental health specialist defined as follows:

(a) A mental health professional having completed a minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to the problems and treatment of the elderly; and

(b) Having the equivalent of one year of full-time experience in the treatment of the elderly, under the supervision of a geriatric mental health specialist.

(4) Services directed to minority persons shall be provided by, under the supervision of or with consultation from a minority mental health specialist defined as follows:

(a) A mental health professional having completed a minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to minority issues and treatment of minority persons; and

(b) Having the equivalent of one year of full-time experience in the treatment of persons in the minority group he or she serves. Such experience shall have been supervised by a mental health professional and shall have included consultation with minority providers and/or community leaders who are members of the minority group served.

(5) Services directed to disabled persons shall be provided by, under the supervision of or with consultation from a mental health specialist with special expertise in working with that disabled group.

(a) If the client is deaf, the specialist shall be able to communicate with the person and be knowledgeable of the special psychosocial problems of the deaf.

(b) The specialist for developmentally disabled clients shall have a minimum of one hundred actual hours (not semester or quarter hours) of specialized training devoted to the problem and treatment of the developmentally disabled, or have one year of supervised experience in a developmental disability or special education program, or be a developmental disability or special education professional.

(6) Where the mental health specialists required under this section are unavailable, the provider shall:

(a) Make reasonable effort to acquire the services of the required specialists; or

(b) Develop a training program using in-service training or outside resources to assist existing staff member to acquire necessary skills and experience to become qualified as a specialist; or

(c) Contract or otherwise establish a working relationship with the required specialists to provide all or part of the direct treatment services for these populations or to supervise or provide consultation to staff members providing direct treatment services to these populations.

NEW SECTION

WAC 275-56-190 PERSONNEL MANAGEMENT—ADMINISTRATIVE QUALIFICATIONS. Provider administration shall be provided by staff members with the appropriate administrative qualifications.

(1) The administrator shall have at least a masters degree in a social, behavioral, medical, nursing, or administrative discipline from an accredited college or university, and a minimum of two years' administrative experience and two years' experience in human services, or be certified in a relevant professional field (e.g., nurse, occupational therapist), or be a person who has graduated from an eighteen-month program of training sponsored by the national institute of mental health to train

mental health administrators, providing that the person, in addition, has at least three years' administrative experience and three years' experience in human services.

(2) The staff member with responsibility for provider clinical services shall be a mental health professional with at least five additional years' experience in mental health services, with at least two years in a supervisory capacity.

NEW SECTION

WAC 275-56-195 PERSONNEL MANAGEMENT—AFFIRMATIVE ACTION. The provider shall have an affirmative action program which complies with Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, Section 504 of the 1974 Rehabilitation Act, the department's affirmative action guidelines, and other applicable federal, state, and local laws and regulations.

NEW SECTION

WAC 275-56-200 PERSONNEL MANAGEMENT—TRAINING OPPORTUNITIES. Training opportunities shall be made available to administrative, clinical and clerical staff, and volunteers through in-service programs and/or training offered by outside resources.

(1) Each full-time clinical staff member shall receive a minimum of forty hours of training per year without loss of pay. Proportionately less training shall be received by part-time clinical staff.

(2) Volunteers, trainees or other nonprofessional persons providing telephone screening or telephone crisis counseling shall receive a minimum of forty hours of appropriate training prior to providing telephone screening or telephone crisis counseling.

(3) Required training is in addition to routine supervision or consultation.

(4) Training shall be consistent with needs identified in the individual's personnel file.

(5) All training received by staff and volunteers shall be documented in the personnel files.

NEW SECTION

WAC 275-56-205 QUALITY ASSURANCE—CASE REVIEW. A quality assurance case review process shall be established for all direct treatment services.

(1) The quality assurance review shall objectively assess the progress and outcome of treatment.

(a) The review shall be conducted by a person or persons not participating in treatment of the case under review. The review may be conducted by an outside consultant.

(b) At least one mental health professional shall participate in the review.

(c) At least fifteen cases or five percent, whichever is larger, of the provider's open cases shall be randomly sampled every three months and reviewed for quality of care.

(i) The sample shall be stratified to:

(A) Represent each mental health service at least every six months;

(B) Represent at least one case from each primary therapist or case manager every six months.

(ii) The cases shall represent acutely mentally ill, chronically mentally ill, and seriously disturbed persons appropriate to the service provided.

(2) The case review shall result in a determination of whether:

(a) The client's psychosocial, medical and treatment history, mental and medical status, and special assessments support the needs, problems, and diagnosis specified in the individual's service plan.

(b) Treatment goals follow from identified needs and problems, identify the expected outcome of treatment, and can be realistically achieved;

(c) Case progress indicates the goals of treatment have been or will be achieved;

(d) Medication and other services prescribed or assigned and utilized appropriately; and

(e) The client should continue in treatment.

(3) Client records shall be accurate and complete and shall contain the information required by this chapter.

(4) Corrective actions shall be recommended where a case review indicates inappropriate clinical care.

(a) Corrective action shall be considered for both the service program and the individual client's service plan.

(b) Recommendations for corrective action shall be submitted to the primary therapist or case manager, his or her supervisor, and other appropriate supervisors.

(c) Actions taken in regard to an individual client shall be documented in the client's record.

NEW SECTION

WAC 275-56-210 PROGRAM EVALUATION—REQUIREMENTS. The provider shall have a system for determining the degree to which service activities meet its goals and objectives.

(1) The provider shall have an information system providing relevant, accurate, and timely data in order to monitor program goals and objectives. The provider shall maintain sufficient data to report the Washington state mental health information system minimum data set.

(2) At least one study of provider operations and intended results of services shall be completed annually. The studies shall address priority issues of concern to the provider and be related to its goals and objectives.

(3) Program evaluation or research involving human subjects shall be conducted in accordance with RCW 71.05.390 and "Guide to DSHS Policy on Protection of Human Research Subjects," July 1, 1981.

NEW SECTION

WAC 275-56-215 FACILITY CHARACTERISTICS. Provider services shall be provided in a setting safe and conducive to the attainment of therapeutic goals.

(1) Provider facilities shall meet federal, state, and local requirements, including building, health, and fire codes.

(2) Group therapy rooms shall be of adequate size to accommodate the groups without crowding.

(3) Rooms used for client services shall be fully enclosed, have closing doors, and shall be reasonably soundproofed to reduce both distracting noises and the possibility of conversations being overheard outside the room.

(4) If physical examinations are routinely performed within the facility, a suitably equipped examination room shall be available.

NEW SECTION

WAC 275-56-220 SERVICES ADMINISTRATION—ACCESSIBILITY. Services shall be accessible in a nondiscriminatory manner and at times and locations which facilitate client utilization of services.

(1) Services to acutely and chronically mentally ill and seriously disturbed clients from underserved groups, including minorities, children, the elderly, disabled, and low-income persons shall be accessible and meet the special needs of these populations.

(a) The provider shall eliminate or substantially reduce physical, communication, and sociocultural barriers to utilization of services and meet the requirements of Section 504 of the Rehabilitation Act of 1974.

(b) Services shall be compatible to the culture and in the language of clients from minority groups which number at least three thousand or three percent of the population of the county.

(c) In-home services shall be available to homebound persons, where possible.

(d) Alternative service delivery models shall be provided, where possible, to enhance utilization by these underserved groups.

(2) Services shall be provided regularly on some evenings and/or weekends as determined by client and potential needs.

(3) If the provider does not offer appropriate services, the client shall be referred to such services and the provider shall facilitate the referral.

NEW SECTION

WAC 275-56-225 SERVICES ADMINISTRATION—AWARENESS OF SERVICES. The location of the provider and services offered shall be made known to the public.

(1) The provider shall maintain listings in all telephone and other public directories of the service area.

(2) The provider shall publish and disseminate brochures and other materials describing services and hours of operation. Bilingual publications shall be produced when there is a non-English speaking group which numbers three thousand or exceeds three percent of the population of the county.

NEW SECTION

WAC 275-56-230 SERVICES ADMINISTRATION—CLIENT RIGHTS. The provider shall maintain written policies and procedures relating to client rights, and shall ensure all personnel are informed and adhere to policies and procedures.

(1) Clients, prospective clients, and/or legally responsible others shall be informed of client rights at admission.

(2) The provider shall post a written statement of client rights in public areas. A copy shall be available to clients on request. Providers of only telephone services (e.g., crisis lines) shall post the statement of client rights in a location visible to staff and volunteers during working hours.

(3) The statement of client rights shall include at least:

(a) The right to receive appropriate care and treatment, employing the least restrictive alternatives available;

(b) The right to be treated with respect and dignity;

(c) The right to receive treatment which is nondiscriminatory and sensitive to differences of race, culture, language, sex, age, national origin, disability, creed, socioeconomic status, marital status, sexual orientation, and ability to pay.

(d) The right to an individualized service plan reflecting problems and/or needs identified for or with the client.

(e) The right to confidentiality as specified in relevant statutes (chapter 71.05 RCW) and regulations (chapter 275-55 WAC). The statement shall state circumstances where confidentiality shall not be maintained, including at least:

(i) Where there is reason to suspect the occurrence of child abuse or neglect;

(ii) Where there is a clear threat to do serious bodily harm to self or others;

(iii) To a court under court order.

(f) The right to be informed of the volunteer or student status of primary therapist and/or case manager;

(g) The right to refuse any proposed treatment unless treatment is involuntary;

(h) The right to review case records under conditions specified in WAC 275-56-235(2).

(i) The right to refuse to participate in:

(i) Data collection for purposes of research or evaluation when the data to be collected exceeds data collected for normal management and/or treatment practices (e.g., face-to-face interview, specialized testing);

(ii) Use of untested or experimental procedures;

(iii) Use of procedures involving known or potential hazard.

(j) The right to receive an explanation of all medications prescribed, including expected effect and possible side effects.

(k) The right to be compensated for any work performed for the provider.

(l) The right to be free of any sexual exploitation or harassment.

(m) The right to lodge a grievance with the provider if the client has reason to believe his or her rights have been violated. The statement shall include the grievance procedure.

NEW SECTION

WAC 275-56-235 SERVICES ADMINISTRATION—PROTECTION OF CLIENT RIGHTS. The

provider shall protect and ensure the rights of all clients and former clients.

(1) Neither evaluation nor treatment services shall be provided to any person thirteen years of age or under without the signed consent of the parent or guardian. In an emergency, such child may be seen for one session without consent of parent or guardian. Parental consent for evaluation or treatment services shall not be necessary in the case of a child referred by child protective services or other public agency because of physical, sexual, or psychological abuse or neglect by a parent or parent surrogate.

(2) When a client, or the parent or guardian of a child thirteen years of age or under, requests review of his or her case record, the provider shall:

(a) Grant the request within seven days, except the request need not be granted if the provider knows or has reason to believe the parent or parent surrogate has been a child abuser or might otherwise harm the child.

(b) Review the case record in order to identify and remove any material confidential to another person.

(c) In the presence of a staff member, allow the client sufficient time and privacy to review the record to his or her satisfaction. A clinical staff member shall be available to answer questions.

(d) Permit the following persons to be present during the review, with the consent of the client;

(i) Next-of-kin,

(ii) The family physician, or

(iii) The client's attorney.

(e) Document the review session in the client's record.

(3) The written, informed consent of the client or responsible other shall be obtained before:

(a) Use of any medication.

(b) Initiation of any nonemergency service plan.

(c) Use of any unusual diagnostic or treatment procedure.

(d) Use of any audio and/or visual device to record the client's behavior.

(e) The client serves as a subject for any research.

NEW SECTION

WAC 275-56-240 SERVICES ADMINISTRATION—CONFIDENTIALITY OF CLIENT INFORMATION. The provider shall protect the confidentiality of all information relating to clients or former clients.

(1) The provider shall disclose no confidential information, including the fact a person is or has been a client, without a current consent signed by the client or legally responsible other.

(2) Standardized forms authorizing release and/or exchange of confidential information shall be used and contain the following:

(a) The name of the client,

(b) The date,

(c) The name and address of the provider,

(d) The name and address of the person or entity to whom the information is to be provided,

(e) The reason for disclosure,

(f) The specific kind of information to be disclosed,

(g) The period of time the consent is to be in force,

(h) The signature of the client and/or responsible other, and

(i) The signature of a witness.

(3) Exceptions to subsection (1) of this section are as follows:

(a) Disclosures permitted under relevant statute (chapter 10.77 and 71.05 RCW) or regulations (chapter 275-55 WAC);

(b) To a court under court order;

(c) The fact of admission and any pertinent information and records may be disclosed:

(i) To provider personnel, as needed; however, volunteers and trainees shall have access to client records only to the extent necessary for treatment;

(ii) To the extent necessary to make an insurance or medical assistance claim;

(iii) To a county-designated mental health professional (chapter 71.05 RCW);

(iv) To a hospital or emergency medical personnel for purposes of dealing with an emergency; and

(v) To law enforcement or public health officers under the following conditions:

(A) Only to the extent necessary to carry out the responsibilities of the law enforcement or public health officer;

(B) Such persons shall be responsible for keeping all information confidential pursuant to these standards.

(vi) To a certified evaluation and treatment facility (chapter 71.05 RCW);

(vii) To an agency or professional referring a person for pre-admission screening services;

(viii) To the person designated by the county to track the chronically mentally ill. Such disclosures shall be limited to the facts of admission, discharge or referral of chronically mentally ill persons;

(d) Pertinent information must be disclosed, and the provider is obligated to initiate disclosure, under the following conditions:

(i) To child protective services or other appropriate law enforcement agency when there is reason to suspect the occurrence of physical, sexual, or psychological abuse or neglect of a child;

(ii) To law enforcement officers and the intended victim when there is a clear and serious threat of homicide or intent to do serious bodily harm to another person.

(4) All disclosures made, both with and without the client's consent, shall be documented in the case record to include:

(a) Date of disclosure;

(b) Person or entity receiving information;

(c) Nature of information disclosed;

(d) Reasons for disclosure if consent has not been obtained.

NEW SECTION

WAC 275-56-245 SERVICES ADMINISTRATION—RESOLVING CLIENT GRIEVANCES. The provider shall act promptly to hear and take appropriate steps to resolve client grievances. Procedures shall ensure the involvement of appropriate supervisory and administrative staff, and the governing body, as necessary. Confidential information shall not be disclosed to the

governing body pursuant to client grievances without the signed consent of the client.

NEW SECTION

WAC 275-56-250 SERVICES ADMINISTRATION—POLICIES AND PROCEDURES FOR PROVIDER OPERATIONS. The provider shall have written policies and procedures relating to emergency and nonemergency client entry, individual service planning, coordination of services with state mental health facilities and other providers, medical responsibility, and financial and billing practices which shall be consistent with other requirements of this chapter.

NEW SECTION

WAC 275-56-255 SERVICES ADMINISTRATION—SCREENING AND INFORMATION AND REFERRAL. Screening and information and referral shall result in an action on behalf of the prospective client.

(1) In case of a request for mental health information, accurate information shall be provided, and a determination of the need for further service shall be made.

(2) In case of a request for service:

(a) Screening shall result in an intake appointment if screening indicates that the person is acutely or chronically mentally ill or seriously disturbed and the provider offers an appropriate and available service;

(b) If the prospective client chooses to wait for services, the first available intake time shall be assigned the client. Acutely mentally ill persons may be placed in front of any waiting list;

(c) Screening shall result in a referral to another provider if the requested services are not available from the provider. If no appropriate referral is available, such shall be documented;

(d) Where appropriate, screeners shall provide follow-up with the prospective client.

(3) Screening dispositions shall be made by or under the clinical supervision of a mental health professional, and a record shall be maintained of all referrals.

NEW SECTION

WAC 275-56-260 SERVICES ADMINISTRATION—INTAKE AND INITIAL EVALUATION. At intake a clinical staff member shall assess and document the client's presenting problems, history, mental status, need for additional examinations, and treatment needs.

(1) A formal, standardized application for services shall be completed by or for each client and shall become a part of the client's record.

(2) Information describing client rights and confidentiality of information shall be provided at the time of intake.

(3) The initial evaluation shall include:

(a) A clear statement of the presenting problems preferably in the client's own words and/or the parent's words in the case of a child.

(b) A psychosocial, substance abuse, and medical history.

(c) A history of mental health treatment covering at least the last two years.

(d) For children, a developmental history and assessment of academic background and learning problems.

(e) A mental status examination.

(f) Direct observation of client behavior.

(g) An assessment of the client's current level of functioning, strengths, needs, and problems, a provisional diagnosis (Diagnostic and Statistical Manual, 3rd edition), and a determination as to whether the person is acutely mentally ill, chronically mentally ill or seriously disturbed.

(h) The name and telephone number of the client's present or most recent physician, and the date of most recent examinations or treatment by the physician.

(4) The client shall be referred for a medical examination when determined necessary. All clients aged sixty and over shall be referred for a medical examination, if such examination has not been done within the preceding ninety days.

(5) The need for special psychiatric, psychological, neurological, medical or other examinations, tests or procedures shall be determined. The basis for such decisions shall be documented and appropriate referrals made. Before a diagnosis of primary degenerative dementia with senile or presenile onset is made, assessments shall be completed to rule out all forms of treatable medical or mental disorders.

(6) Fees appropriate to the client's ability to pay shall be established, and the client shall be informed of the fees and of the provider's fee policies during the intake process.

(7) Except in an emergency, there shall be signed consent of client or responsible other before utilization of any medication.

NEW SECTION

WAC 275-56-265 SERVICES ADMINISTRATION—DRUG USE PROFILE. A drug use profile shall be developed at intake and maintained throughout the client's treatment. The drug use profile shall include the names and dosages of all prescribed and nonprescribed drugs (when the information is available) used currently and during the previous six months. The record of prescribed drugs used prior to or during the course of treatment shall include, as available, names and dosages, name of prescribing person, dates and reasons for changes or discontinuance, and any significant side effects. In the event the client refuses to sign, efforts to obtain signature shall be documented.

NEW SECTION

WAC 275-56-270 SERVICES ADMINISTRATION—COORDINATION OF SERVICE. Staff responsibilities for planning, providing, and coordinating services shall be clearly assigned.

(1) Each client in a direct treatment service shall be assigned a primary therapist.

(2) When a client is served by both a primary therapist and a case manager, these persons shall confer on a regular basis, and document such conferences. In the

absence of an assigned case manager, the primary therapist shall coordinate needed services on behalf of the client.

NEW SECTION

WAC 275-56-275 SERVICES ADMINISTRATION—DEVELOPMENT OF INDIVIDUALIZED SERVICE PLAN. An individualized service plan shall be developed for each client.

(1) The plan shall identify each problem or need to be addressed in treatment.

(2) The plan shall contain clearly stated goals for treatment.

(a) Each goal shall state the intended result to occur in client behavior, skills, attitudes, or circumstances as a result of treatment.

(b) The plan shall specify an expected timeframe for the attainment of goals and for termination.

(3) The plan shall identify the services and specific treatment modalities to be utilized.

(a) The plan shall include referral for necessary services not offered by the provider.

(b) A case management plan shall be included in the service plan for each chronically mentally ill client.

(c) Medications and dosages to be administered shall be identified.

(d) The primary therapist and/or case manager responsible for providing and coordinating services shall be identified.

(4) The plan shall clearly show the relationships between the proposed services, intended results, and needs of the client, including how treatment goals are to be met by the particular modalities and techniques to be utilized.

(5) An assessment and review of progress and updating of the plan shall be performed at least every ninety days in the case of outpatient, day treatment or community support services.

(6) The client shall participate in service planning and implementation according to his or her ability, and the family shall be involved where available and appropriate to the client's needs.

(7) The client or responsible other shall consent by signing the service plan or other informed consent form. In the event the client refuses to sign, efforts to obtain signature shall be documented.

(8) A mental health professional shall review and sign the plan within fourteen days. When appropriate and sufficient staff are available, the initial service plan shall be reviewed and revised as necessary by a multidisciplinary treatment team including individuals licensed under chapter 18.57, 18.71, 18.83 or 18.88 RCW.

(9) When use of medication is indicated, the service plan shall be reviewed by a physician.

NEW SECTION

WAC 275-56-280 SERVICES ADMINISTRATION—GROUP SERVICE PLAN. In the case of outpatient groups, a group service plan shall be developed which identifies the goals of the group, the modalities and approaches to be used to attain those goals and

common need characteristics of clients to be referred to the group.

(1) Clients, staff, supervisors, and consultants shall be involved, as appropriate, in development and review of the group service plan.

(2) The supervisor of the unit or program providing the group service shall review and sign the plan initially and whenever it is revised.

NEW SECTION

WAC 275-56-285 SERVICES ADMINISTRATION—PROGRESS NOTES AND REVIEW. Client progress in meeting goals shall be documented in the case record.

(1) Progress notes shall be recorded in the case and group record as follows:

(a) After every client contact for outpatient services;

(b) At least weekly for day treatment services;

(c) After each event for emergency services;

(d) Providers utilizing a problem-oriented record system may record progress less frequently, provided a narrative summary of client progress is entered in the case record at least every thirty days, and the date and type of each contact is recorded.

(2) Progress notes shall document each service provided, including date, nature of service, progress toward established goals, changes in service plan, referrals, extraordinary events, and be signed by the responsible staff member.

(3) The service plan and progress shall be formally assessed at least every ninety days for outpatient, day treatment, and community support services.

(4) The assessment of progress shall cover course and progress of treatment in relationship to client needs, problems and goals, noting unusual events, assessing current status and need for continued treatment, reprojecting length of treatment, and modifying the service plan, if necessary.

(5) The clinical supervisor shall participate in the formal progress assessment, where possible, in all cases shall review, approve, and sign summaries prepared by the primary therapist or case manager.

NEW SECTION

WAC 275-56-290 SERVICES ADMINISTRATION—TRANSFER AND TERMINATION. Continuity of care shall be assured and cases shall be closed promptly upon transfer or termination.

(1) A comprehensive summary shall be prepared by responsible staff and shall be made available to the provider assuming primary responsibility for the clients. A copy shall be placed in the client's record.

(2) Cases involving planned transfer and termination shall be closed within fourteen days of final contact.

(3) Planned and/or necessary leaves from treatment for up to ninety days shall be documented in the client's record, and the case need not be closed.

(4) Other cases shall be closed within ninety days of the last attempt to contact the client. Unexplained interruptions in client contacts shall be followed up by the primary therapist or case manager, and these contacts

documented in the client's record. Special efforts shall be made to contact the client when he or she is thought to be dangerous to self or others or property or gravely disabled, and shall be documented in the client's record.

NEW SECTION

WAC 275-56-295 SERVICES ADMINISTRATION—MEDICAL RESPONSIBILITY. Medical responsibility shall be vested in a psychiatrist, other physician or osteopath.

(1) A physician licensed to practice pursuant to chapter 18.57 or 18.71 RCW, and at least board eligible in psychiatry, shall be responsible for medical services.

(a) Providers unable to recruit a psychiatrist may employ a physician without board eligibility in psychiatry provided:

(i) Psychiatric consultation is provided to the physician at least monthly; and

(ii) The psychiatrist is accessible in person, by phone or by telecommunication to the physician for emergency consultation.

(iii) The physician participates in at least twenty hours per year of continuing medical education in psychiatry.

(b) The provider may divide medical responsibility among a number of physicians employed in part-time staff or consultative roles.

(2) Medications shall be reviewed at least every three months by a physician. A registered nurse or licensed practical nurse may administer medications under the supervision of a physician. Medications shall be monitored by a physician or registered nurse (chapter 308-120-300 WAC).

(3) Medication information shall be maintained in the client record documenting at least the following for each prescribed medication:

- (i) Name of medication,
- (ii) Dosage and method of administration,
- (iii) Purpose of medication,
- (iv) Dates prescribed, reviewed and/or renewed,
- (v) Observed effects and side effects, including laboratory findings and corrective actions taken for side effects,
- (vi) Reasons for change or termination of medication, and
- (vii) Name and signature of prescribing person.

(4) When a psychiatrist is available, he or she shall participate in multidisciplinary teams responsible for treatment planning and review.

(5) When medical problems are suspected or identified, a psychiatrist or other physician shall be consulted and included in treatment planning at regular intervals.

NEW SECTION

WAC 275-56-300 SERVICES ADMINISTRATION—MEDICATION STORAGE. Medication storage areas shall be inspected and inventoried at least quarterly by the administrator, or designated clinical staff member.

(1) All medication shall be kept in locked storage.

(2) Any medications kept in a refrigerator containing other items shall be kept in a separate container with proper security.

(3) No outdated medications shall be retained, and medications shall be disposed of in accordance with regulations of the state board of pharmacy.

(4) Medications for external use shall be stored separately from oral and injectable medications.

NEW SECTION

WAC 275-56-305 SERVICES ADMINISTRATION—EXTRAORDINARY OCCURRENCES. There shall be written procedures for the handling, review, and documentation of extraordinary occurrences.

(1) Procedures shall be established for responding to and reviewing situations involving:

- (a) Injury to clients or staff;
- (b) Suicide or homicide by a client;
- (c) Client behavior so bizarre or disruptive as to threaten the program;
- (d) Disaster or threatened disaster of natural or human origin.

(2) Extraordinary occurrences shall be reported to appropriate supervisory staff, administrator, and governing body.

(3) Each such occurrence shall be subject to a case review by one or more mental health professionals not participating in the treatment of the client.

(a) A corrective action to prevent similar occurrences shall be developed where appropriate.

(b) The review, correction plan, and its implementation shall be documented, including entries in the client's record where appropriate.

NEW SECTION

WAC 275-56-307 SERVICES ADMINISTRATION—POLICIES AND PROCEDURES RELATED TO CLIENT RECORDS. There shall be written policies and procedures relating to client records. Policies and procedures will include:

- (1) Record content, format, and completeness,
- (2) Maintenance of outpatient group records,
- (3) Records of emergency contacts,
- (4) Security and confidentiality of client records, including storage, access, and release of information.

NEW SECTION

WAC 275-56-310 SERVICES ADMINISTRATION—CONTENT OF CLIENT RECORDS. A record shall be established and maintained for each client completing intake.

(1) The record shall contain documentation of application for services and authorization for treatment, including:

- (a) Application for services;
- (b) Fees to be charged for services;
- (c) Signed authorization for release and/or receipt of information where appropriate, and documentation of any disclosures;
- (d) Signed consent for use of any medication.

(2) The record shall contain the individualized service plan, including screening and intake information sufficient to justify the treatment planned, reports of special evaluative procedures, progress notes, periodic treatment summaries, and transfer and termination summaries. Each entry shall be signed by the client or responsible other, the primary therapist or case manager, and the supervisor when the primary therapist or case manager is not a mental health professional.

(3) The record shall contain a report of each collateral contact.

(4) The record shall contain cross-references as appropriate.

(5) The record shall contain records or summaries of any psychiatric inpatient services provided during two years prior to current intake.

(6) The record shall contain a drug use profile when applicable, established at intake and maintained throughout the course of treatment.

(7) The record shall contain documentation of any unusual events, emergencies or special procedures.

(8) The record shall contain notes documenting case review with the supervisor's signature.

(9) The records of other immediate members of the family who are clients of the provider shall be cross-referenced.

NEW SECTION

WAC 275-56-315 SERVICES ADMINISTRATION—OUTPATIENT GROUP RECORDS. A record shall be established and maintained for each outpatient group including:

(1) A plan for the group, including goals and objectives;

(2) Name of staff responsible for conducting the group;

(3) A current roster of all clients and/or participants;

(4) Progress notes recorded after each session documenting group activities and special individual action or participation; and

(5) Modifications in the group plan.

NEW SECTION

WAC 275-56-320 SERVICES ADMINISTRATION—TELEPHONE AND OUTREACH EMERGENCY SERVICES RECORDS. Providers of telephone and outreach emergency services shall maintain records documenting all emergency contacts.

(1) Emergency records shall document, when possible, the following:

(a) Client name, address, and telephone number;

(b) Name and telephone number of person or agency making initial contact (if other than client);

(c) Time of initial contact;

(d) Responsible staff;

(e) Time and location of outreach;

(f) Nature of emergency;

(g) Summary of services provided;

(h) Referrals or other disposition;

(i) Names of persons and agencies cooperating in emergency response;

(j) Follow-up; and

(k) Condition of client at termination of contact.

(2) Documentation shall occur after each contact.

NEW SECTION

WAC 275-56-325 SERVICES ADMINISTRATION—SECURITY OF CLIENT RECORDS. All client records shall be stored in a manner ensuring record security and client confidentiality.

(1) Records shall be maintained in locked cabinets, and/or shall be housed in a fully enclosed room with a lockable door.

(2) All records checked out during the working day shall be returned to the records room by the end of the day.

NEW SECTION

WAC 275-56-330 SERVICES ADMINISTRATION—RETENTION AND DESTRUCTION OF CLIENT RECORDS. Records shall be retained by the provider in accordance with WAC 275-56-325 and shall be destroyed in a manner completely eradicating content and client names.

(1) Client records shall be retained for a period of not less than five years beyond the last contact with the client.

(2) When the client is a minor, the record shall be maintained for a period of not less than three years beyond the client's eighteenth birthday, or five years beyond the last contact, whichever is the longer period of time.

(3) A complete termination summary and reports of special assessment and/or examination procedures shall be retained for a period of not less than ten years beyond the last contact with the client or three years beyond the client's eighteenth birthday, whichever is the longer period of time.

(4) Emergency records such as telephone crisis logs shall be retained for not less than two years.

NEW SECTION

WAC 275-56-335 EMERGENCY PRE-ADMISSION SCREENING SERVICES—WRITTEN DESCRIPTIONS. There shall be written descriptions of all emergency services components specifying:

(1) Nature, location, and availability of services; and

(2) Qualifications of staff; and

(3) Client needs addressed by these services; and

(4) Usual referral sources and procedures; and

(5) Policies for each emergency service component to include criteria for outreach response including appropriate state hospitals; and

(6) Policies on responding to referrals, liaison and communication with state hospitals, common referral sources, and other pre-admission screening services; and

(7) Expected outcomes stated, as much as possible, in behavioral terms.

NEW SECTION

WAC 275-56-340 EMERGENCY PRE-ADMISSION SCREENING SERVICES—STAFFING. Emergency services shall be provided by qualified staff.

(1) Emergency services shall be directed by a mental health professional with at least two years supervised experience in emergency services.

(2) Nonprofessional staff, volunteers, and students providing telephone or outreach crisis intervention shall be directly supervised by or have immediate access to consultation from a mental health professional at all times.

(3) Staff providing pre-admission screening shall be mental health professionals trained in assessing clinical status, severity of disturbance, and availability of less restrictive and/or less costly alternatives.

NEW SECTION

WAC 275-56-345 EMERGENCY PRE-ADMISSION SCREENING SERVICES—TWENTY-FOUR HOUR TELEPHONE SERVICES. Telephone emergency services shall be provided twenty-four hours per day, seven days per week, by the provider or in cooperation with other providers.

(1) The telephone service shall:

(a) Be provided in accordance with written protocol;

(b) Respond promptly to calls and provide information, referral or immediate counseling to assist the caller in resolving the emergency;

(c) Determine the presence of an emergency and connect caller, as needed, to centralized emergency services (911) or, in the absence of such capability, mobilize and coordinate necessary related services (e.g., medical, police, fire, ambulance, child protective services, county-designated mental health professional);

(d) Facilitate provision of needed follow-up services; and

(e) Document all telephone contacts and disposition, including any significant departures from protocol.

(2) Emergency telephone numbers shall be prominently listed in all telephone directories in the areas served by the provider.

NEW SECTION

WAC 275-56-350 EMERGENCY PRE-ADMISSION SCREENING SERVICES—TWENTY-FOUR HOUR OUTREACH SERVICES. Twenty-four hour emergency outreach services shall be provided in the home or other community setting. Outreach services shall consist of face-to-face evaluation and treatment of mental health emergencies and crises for acutely mentally ill persons of all ages, and will:

(1) Be provided in accordance with written protocol;

(2) Be provided promptly after screening and dispatch, and document any decision not to respond;

(3) Seek to stabilize the emergency or crisis situation and provide immediate or continuing treatment and support in the least restrictive environment available;

(4) Be closely coordinated with the county's involuntary treatment system, and draw upon the resources of that system as needed;

(5) Utilize and mobilize all necessary community emergency resources;

(6) Be appropriate to the age of the person, and involve family and significant others when indicated and possible;

(7) Refer, when appropriate, to other services of the provider or to other resources;

(8) Provide follow-up on emergency contacts to maintain stabilization and to ensure referrals are carried out and needed services and linkages are provided; and

(9) Document all contacts and the contact's disposition, including any significant departures from written protocol.

NEW SECTION

WAC 275-56-355 EMERGENCY PRE-ADMISSION SCREENING SERVICES—CRISIS RESOLUTION SERVICES. Sufficient evaluation and treatment services shall be provided to clients to determine severity and urgency of disturbance, to stabilize crises, and to determine need for further treatment.

(1) Crisis resolution services shall be provided in accordance with written protocol. Any significant departure from protocol shall be documented in the client's record.

(2) At a minimum, one face-to-face assessment and/or evaluation session and up to four treatment and/or crisis stabilization sessions shall be available to persons requesting services. Such clients may be referred to another provider if assessment and/or evaluation reveals the appropriate services are not offered by the provider.

(3) No later than the fourth treatment and/or crisis stabilization session, there shall be a determination as to whether the client is an acutely or chronically mentally ill or seriously disturbed person in need of further treatment.

(4) When a client receiving brief treatment and/or crisis stabilization services is determined to be acutely or chronically mentally ill or seriously disturbed and in need of further treatment, the provider shall maintain continuity of care through transfer to other services of the provider or referral to other appropriate providers and resources.

(5) There shall be formal agreements or working relationships regarding emergency procedures and responsibilities with other emergency-related community agencies and inpatient facilities.

(6) A complete and current list of community resources shall be maintained and be available at all times to staff providing emergency services.

NEW SECTION

WAC 275-56-360 EMERGENCY PRE-ADMISSION SCREENING SERVICES—SERVICE DELIVERY. Screening shall be provided for voluntary admission to state hospitals. Information, screening, and assessment shall be provided to persons on referral or at their own request to determine need for and appropriateness of admission to a state hospital.

(1) Information and assistance shall be provided in the same manner and subject to applicable standards for emergency services.

(2) All common referral sources shall be informed of the availability of pre-admission screening services and requested to utilize these services in lieu of direct referral to a state hospital.

(3) Assessments shall include face-to-face or telephone contact with the client and discussion with the referral source when possible.

(4) The availability of appropriate alternatives shall be explored and discussed with client and referral source. Admission to a less restrictive and/or less costly alternative shall be facilitated where appropriate.

(5) Admitting staff of the state hospital shall be informed of referrals recommended by the screening service for voluntary admission, and shall facilitate the admission when no appropriate alternative is available, and they concur that the person meets standards for involuntary commitment under chapter 71.05 RCW, and the person will accept voluntary admission.

(6) Pre-admission screening of involuntary clients shall be informed subject to chapter 71.05 RCW and chapter 275-55 WAC.

NEW SECTION

WAC 275-56-365 EMERGENCY PRE-ADMISSION SCREENING SERVICES—RECORD OF PRE-ADMISSION SCREENING SERVICES. A record of all pre-admission screening services shall be maintained. The record shall document:

(1) Client name and other information required by the department;

(2) Referring agency or person;

(3) Referral information, including evidence of appropriateness for involuntary commitment;

(4) Services provided, including assessments performed; and

(5) Recommendations and disposition, including staff efforts to facilitate admission to a state hospital or alternative setting.

NEW SECTION

WAC 275-56-370 OUTPATIENT SERVICES—WRITTEN DESCRIPTIONS. There shall be written descriptions of all outpatient service components specifying:

(1) Nature, location, and availability of services;

(2) Qualifications of staff;

(3) Client needs addressed by these services;

(4) Policies for each service component; and

(5) Expected outcomes stated, as much as possible, in behavioral terms.

NEW SECTION

WAC 275-56-375 OUTPATIENT SERVICES—STAFFING. Outpatient services shall be provided by qualified staff.

(1) Outpatient services shall be directed by a mental health professional with at least two years of supervised

postgraduate experience in mental health services, including experience with the major treatment modalities offered and with acutely and chronically mentally ill and seriously disturbed clients.

(2) Staff providing outpatient services shall be trained and experienced in the clinical modalities and techniques they utilize.

(3) Staff shall be assigned to outpatient service programs and locations on the basis of training and experience consistent with client needs in those programs and locations.

NEW SECTION

WAC 275-56-380 OUTPATIENT SERVICES—SERVICE DELIVERY. Outpatient services shall be provided to acutely and chronically mentally ill and seriously disturbed persons not having significant need for structured day treatment or unwilling or unable to participate in day treatment, or as an adjunct to day treatment services.

(1) Outpatient services shall include the following modalities:

(a) Individual therapy,

(b) Group therapy,

(c) Family therapy,

(d) Marital or couples therapy, and

(e) Medication evaluation and monitoring.

(2) Outpatient services shall be provided in accordance with written protocol. Significant departures from protocol shall be documented in client records.

(3) Outpatient services to underserved groups (minorities, children, elderly, disabled, and low-income persons within the priority populations) shall, where possible, include alternative models of service delivery such as:

(a) Services in a location and environment appropriate and acceptable to the clientele;

(b) Outreach services such as home visits, school visits or visits to other community agencies; and

(c) Services offered by natural care givers or traditional healers.

NEW SECTION

WAC 275-56-385 DAY TREATMENT SERVICES—WRITTEN DESCRIPTIONS. There shall be written descriptions of all day treatment service components specifying:

(1) Nature, location, and availability of services;

(2) Qualifications of staff;

(3) Client needs addressed by these services;

(4) Policies for each service component and each regularly scheduled special service; and

(5) Expected outcomes stated, as much as possible, in behavioral terms.

NEW SECTION

WAC 275-56-390 DAY TREATMENT SERVICES—STAFFING. Day treatment services shall be provided by adequate numbers of qualified staff.

(1) Day treatment services shall be directed by a mental health professional with at least two years supervised postgraduate experience in day treatment or related programs for acutely and chronically mentally ill and seriously disturbed persons.

(2) One paid staff member shall be present in all day treatment sessions conducted by the provider.

(3) Minimum staff-to-client ratios for day treatment sessions shall be maintained as follows:

(a) One clinical staff member for every four scheduled clients thirteen years of age and under, with at least one such staff member a child mental health specialist;

(b) One clinical staff member for every six scheduled clients aged fourteen through seventeen, with at least one such staff member a child (adolescent) mental health specialist;

(c) One clinical staff member for every twelve scheduled clients aged eighteen and over with at least one such staff member a mental health professional, and with one such staff member a geriatric mental health specialist in sessions serving primarily elderly (age sixty and over) clients. One clinical staff member for every eight scheduled clients shall be present in any group therapy.

NEW SECTION

WAC 275-56-395 DAY TREATMENT SERVICES—SERVICE DELIVERY. Day treatment services shall be provided on a regular basis to acutely and chronically mentally ill and seriously disturbed persons needing this type of service.

(1) Day treatment services shall be provided in accordance with written protocol. Significant departures from protocol shall be documented in the client's record.

(2) Day treatment services shall be available to clients at least three times weekly.

(3) Day treatment services shall be planned and structured activities designed for the following levels of client need:

(a) Maintaining clients in an environment less restrictive than an inpatient setting through structuring of their day and leisure time.

(b) Developing daily living, social, and prevocational skills to increase the likelihood of clients engaging in productive activities, and attaining the capacity for independent or semi-independent living.

(c) Assisting clients in making transition from acute inpatient services or serving as an alternative to inpatient care.

(4) The provider shall maintain formal agreements or working relationships and coordinate services where possible with other persons, agencies or facilities serving day treatment clients.

NEW SECTION

WAC 275-56-400 DAY TREATMENT SERVICES—SERVICE COMPONENTS. Day treatment services shall include components necessary to meet the maintenance or psychosocial habilitation or rehabilitation needs of clients.

(1) Each day treatment program shall provide or arrange for the following service components:

(a) Training in basic living and social skills;

(b) Vocational habilitation or rehabilitation, including prevocational services;

(c) Sheltered work, training or education;

(d) Day activities, including socialization and recreation;

(e) Therapeutic community or milieu therapy.

(2) The particular mix of components shall be determined by client needs.

(3) A day treatment client may utilize other services of the provider consistent with the individual's service plan, but the same time with the client may not be charged to more than one service.

NEW SECTION

WAC 275-56-405 DAY TREATMENT SERVICES—AGE-APPROPRIATE SERVICES. Day treatment services shall be age-appropriate.

(1) Services to school-age children shall include or arrange for suitable educational and developmental programs.

(a) Clients with special educational needs shall be provided with special educational programs, either as an integral part of provider services or by cooperative arrangements with schools.

(b) Day treatment shall be scheduled to permit regular school attendance for clients able to function in a regular school setting.

(2) Services to children shall include parent involvement, when possible.

(3) Services to elderly shall include attention to medical and nutritional needs and shall be capable of providing or arranging for emergency medical services during all operational hours.

NEW SECTION

WAC 275-56-410 CONSULTATION AND EDUCATION SERVICES—WRITTEN DESCRIPTIONS. There shall be written descriptions of all consultation and education service components specifying:

(1) Nature and availability of services,

(2) Target population,

(3) Client needs to be addressed,

(4) Policies for consultation and education services to include payment for such services where appropriate, and

(5) Expected outcomes stated in terms of the specific changes in skills, knowledge or awareness to be accomplished on the part of the target population and/or their clients.

NEW SECTION

WAC 275-56-415 CONSULTATION AND EDUCATION SERVICES—STAFFING. Consultation and education services shall be provided by qualified

persons who will be supervised by a mental health professional or an educator with at least one year of supervised experience in health or mental health consultation or education.

NEW SECTION

WAC 275-56-420 CONSULTATION AND EDUCATION SERVICES—SERVICE DELIVERY.

Consultation and education services shall be provided to assist others in the community to understand and care for acutely and chronically mentally ill and seriously disturbed persons.

(1) Case consultation shall be available to staff of other services, including inpatient and residential facilities, and other community care givers as a means of developing or improving service delivery for the priority populations.

(2) The following components may be provided:

(a) Program consultation to other entities to assist in program design and planning for treatment and support services for acutely and chronically mentally ill and seriously disturbed persons;

(b) Continuing education programs and training for community care givers to develop and/or increase their skills in providing mental health services to the priority populations and underserved groups;

(c) Information and education for the public about mental health issues and services through various public media (newspapers, television, radio, and presentations to community groups); and

(d) Educational services for families of acutely and chronically mentally ill and seriously disturbed persons.

(3) Records shall be maintained of all consultation and education services provided.

NEW SECTION

WAC 275-56-425 COMMUNITY SUPPORT SERVICES—WRITTEN DESCRIPTIONS OF ALL COMMUNITY SUPPORT SERVICE COMPONENTS. There shall be written descriptions of all community support service components specifying:

(1) Nature and availability of services;

(2) Qualifications of staff;

(3) Client needs addressed by such services and criteria for enrollment in community support services;

(4) Policies for each service component and each regularly scheduled special service; and

(5) Expected outcomes stated, as much as possible, in behavioral terms.

NEW SECTION

WAC 275-56-430 COMMUNITY SUPPORT SERVICES—STAFFING AND CASE MANAGEMENT. Community support services shall be provided by qualified staff.

(1) Community support services shall be under the direction of a mental health professional with at least two years' supervised experience in direct treatment of acutely and chronically mentally ill persons.

(2) One person shall be assigned to serve as case manager for each client enrolled in community support services.

(a) The case manager shall be responsible for coordination of services, including necessary mental health, residential, social, vocational, health, educational, income management, and other necessary support services on the client's behalf.

(b) The case manager shall provide consultation and assist other significant persons (e.g., family, landlord, clergy, police, physician, attorney) to be supportive and act in the best interests of the client.

(c) The case manager shall meet with or otherwise contact the enrolled client at intervals identified in the service plan.

(d) The case manager shall participate with the primary therapist and other involved staff of the provider in treatment and discharge planning for the enrolled client, where possible, and shall periodically review available treatment records on the client.

NEW SECTION

WAC 275-56-435 COMMUNITY SUPPORT SERVICES—COORDINATION WITH INPATIENT FACILITIES AND OTHER AGENCIES. The provider shall establish and maintain working arrangements with psychiatric inpatient facilities, social and health agencies, and other community resources necessary for chronically mentally ill persons to live in the community.

(1) The provider shall maintain liaison with state mental health facilities, certified evaluation and treatment facilities, (chapter 71.05 RCW), and other local inpatient psychiatric facilities so as to be informed of the status of clients, former clients, and potential clients needing community support services.

(a) Contact with the inpatient facility and attending staff shall take place at least weekly when an enrolled client is in the inpatient facility or when an inpatient has been referred for case management services.

(b) The provider shall participate in treatment and discharge planning for both voluntary and involuntary patients in these inpatient facilities when those patients are enrolled clients of the provider or have been referred for after-care and community support services.

(2) Working relationships or formal agreements shall be established and maintained with the county-designated mental health professionals, (chapter 71.05 RCW); community service office (CSO), social security, and employment security offices; division of vocational rehabilitation's residential services in the county contracting with the department or county for mental health services; and area agency on aging.

(3) Liaison shall also be developed and maintained, where possible, with sheltered workshops, community colleges, housing authorities, family advocate and self-help groups, and other agencies and organizations offering special services needed by the chronically mentally ill.

NEW SECTION

WAC 275-56-440 COMMUNITY SUPPORT SERVICES—SERVICE DELIVERY. A program of community support services shall be provided to acutely and chronically mentally ill persons to assist such persons in living in the community.

(1) Services shall be provided in accordance with written protocol. Any significant departure from protocol shall be documented in the client's record.

(2) Acutely and chronically mentally ill persons seeking or referred for community support services shall be screened, admitted to the service, and assigned a case manager if appropriate.

(3) Staff shall attempt to contact referred clients within two working days of the client's release from a state mental health facility, certified evaluation and treatment facility, (chapter 71.05 RCW), or other inpatient psychiatric facility or commitment in order to describe and offer community support and other available services.

NEW SECTION

WAC 275-56-445 COMMUNITY SUPPORT SERVICES—RECORD OF COMMUNITY SUPPORT SERVICES. A record of all community support services shall be maintained. The record shall document:

(1) The name and other information required by the department for each client assigned a case manager or receiving other community support services.

(2) Services provided including contacts with the client and significant others by the case manager, and other community support services on the client's behalf shall be documented in the client's record.

WSR 83-04-001

**NOTICE OF PUBLIC MEETINGS
SEATTLE COMMUNITY
COLLEGE DISTRICT**

[Memorandum—January 17, 1983]

The Seattle Community College District VI board of trustees will hold their special meeting of January 11, 1983, at Seattle Central Community College, 1701 Broadway, Room 2BE1110, at 6:30 p.m.

WSR 83-04-002

**EMERGENCY RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Order 83-2—Filed January 21, 1983]

I, Sam Kinville, director of the Department of Labor and Industries, do promulgate and adopt at the General Administration Building, Olympia, Washington 98504, the annexed rules relating to Claims log—Evaluation, WAC 296-15-200(2).

I, Sam Kinville, Director, Department of Labor and Industries, 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 House Bill 454, enacted in 1982, with the effective date of January 1, 1983, authorized a rehabilitation review program for employees covered under chapter 51.32 RCW. Rules under which rehabilitation review will be administered are in conflict with existing rules governing the self-insurance program. The rule change is being enacted on an emergency basis to apply to the interim between January 20, 1983, and the date of the formal repeal, that date being approximately March 8, 1983.

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

This rule is promulgated pursuant to RCW 51.04.020 which directs that the Director of Labor and Industries has authority to implement the provisions of Title 51 RCW, industrial insurance law.

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 21, 1983.

By Sam Kinville
Director

AMENDATORY SECTION (Amending Order 77-19, filed 9/26/77)

WAC 296-15-200 CLAIMS LOG—EVALUATION. ~~((+))~~ Beginning January 1, 1976, each self-insurer shall maintain a log of all claims filed by any worker injured in their employ or any worker having contracted an occupational disease as a result of his employment with the self-insurer.

The claim log shall contain the following minimum information: The injured worker's name, the date of the injury or first knowledge of an occupational disease, the claim number assigned by the department and the date the claim is closed. Additional information may be recorded at the discretion of the employer.

~~((2))~~ At the end of each calendar quarter, a review shall be made of all compensable claims in which time loss compensation has extended sixty days or more and there exists no apparent date for the injured worker's return to gainful employment.

~~In such cases where it appears reasonably certain the worker will be unable to return to gainful employment for the employer and rehabilitation or retraining may be necessary to effect the restoration of the worker to gainful employment, the employer shall schedule the worker for such medical examination and/or vocational evaluation and assessment as may be deemed appropriate in such worker's circumstance.~~

~~Copies of all medical reports, and determinations made by professionally competent people in the field of vocational evaluation and assessment, shall be provided to the department.)~~

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.

APPROVED AND ADOPTED January 6, 1983.

By George Edensword-Breck
Director

WSR 83-04-003
PROPOSED RULES
JAIL COMMISSION
[Filed January 21, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Jail Commission intends to adopt, amend, or repeal rules concerning certification of new jail facilities, WAC 289-13-235;

that the agency will at 10:00 a.m., Friday, March 11, 1983, in the Holiday Inn, Yakima, 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 70.48.060(3) and (5).

The specific statute these rules are intended to implement is RCW 70.48.060(3) and (5).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 4, 1983.

This notice is connected to and continues the matter in Notice No. WSR 82-24-065 filed with the code reviser's office on December 1, 1982.

Dated: January 21, 1983
By: George Edensword-Breck
Director

WSR 83-04-004
ADOPTED RULES
JAIL COMMISSION
[Order 32—Filed January 21, 1983]

Be it resolved by the Washington State Jail Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to maximum capacities, amending WAC 289-15-225.

This action is taken pursuant to Notice No. WSR 82-24-066 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 under the general rule-making authority of the Washington State Jail Commission as authorized in RCW 70.48.050(1)(a) and 70.48.070(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.

AMENDATORY SECTION (Amending Order 28, filed 5/17/82)

✓WAC 289-15-225 MAXIMUM CAPACITIES. Pursuant to WAC 289-15-220, the maximum capacity of each detention and correctional facility within the state of Washington is established at the figure indicated below.

Detention Facilities

Auburn (22)
Bremerton (23)
((Ferry County (+0)))
Forks (11)
Issaquah (6)

Olympia (temporary)(19)((=interim)))
((Pend Oreille County (+8)))
Richland (23)

Correctional Facilities

Benton County ((36=interim)) 33)
Chelan County (((60=interim)) 50)
Clallam County (102)
Clark County ((148=interim)) 141)
Cowlitz County (91)
Ferry County (22)
Franklin County (((78=interim)) 76)
Grant County (((65=interim)) 54)
Grays Harbor County (54)
Island County (29)
Jefferson County (18)
Kent (20)
King County (((1065=interim)) 1038)
Kitsap County (101)
Kittitas County (((52=interim)) 52)
Klickitat County (36)
Lewis County (((68=interim)) 62)
Lincoln County (8)
Mason County (((37=interim)) 34)
Okanogan County (((55=interim)) 52)
Pacific County (14)
Pend Oreille County (18)
Pierce County (263)
Skagit County (((40=interim)) 36)
Skamania County (17)
Snohomish County (128)
Spokane County (352)
Thurston County (((10=interim)) 94)
Walla Walla County (24)
Whatcom County (((92=interim)) 82)
Whitman County (21)
Yakima County (((215=interim)) 225)

WSR 83-04-005
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 83-03—Filed January 21, 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 harvestable numbers of sturgeon are available and this regulation implements the Columbia River compact 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 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 21, 1983.

By William R. Wilkerson
Acting Director

NEW SECTION

WAC 220-32-02200I LAWFUL GEAR — STURGEON Notwithstanding the provisions of WAC 220-32-022 and WAC 220-32-040, it is lawful for those persons possessing gill net licenses valid for Coast, Willapa Harbor and Grays Harbor Salmon Management and Catch Reporting Areas 2 and 3 to take, fish for or possess sturgeon taken with gill net gear from 6:00 p.m. January 23, 1983 to 6:00 p.m. January 28, 1983 in Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D and that portion of Area 1E downstream of a line projected due north from the mouth of Oneonta Creek on the Oregon side to a dead-line market on the Washington shore. It is unlawful to use other than single wall drift gill net gear 1500 feet or less in length with minimum 9 inch mesh as measured from the inside of one knot to the outside of the diagonal knot opposite stretched at no more than a 1 pound pull on which gear slackers are permitted.

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 83-04-006

NOTICE OF PUBLIC MEETINGS HOSPITAL COMMISSION [Memorandum—January 21, 1983]

The State Hospital Commission will meet in Seattle at the Seattle Airport Hilton on Thursday, February 10, 1983, at 9:30 a.m. The hospitals scheduled for informal hearing have previously filed with the commission their annual budget and rate requests and their request for amendments to their previously approved budget and rates. Staff findings and recommendations will be prepared and transmitted to the scheduled hospitals and to members of the Hospital Commission in accordance with WAC 261-20-135. Such information is on file in the commission's office and is available for inspection.

A meeting of the Hospital Commission is also tentatively scheduled for March 10, 1983, at the Vance Airport Inn.

WSR 83-04-007 PROPOSED RULES CRIMINAL JUSTICE TRAINING COMMISSION [Filed January 24, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Criminal Justice Training Commission intends to adopt, amend, or repeal rules concerning basic law enforcement equivalency certification, new section WAC 139-20-020;

that the agency will at 10:00 a.m., Thursday, March 10, 1983, in the Criminal Justice Training Center, 2450 South 142nd, 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 43.101.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 9, 1983.

This notice is connected to and continues the matter in Notice No. WSR 82-22-063 filed with the code reviser's office on November 2, 1982.

Dated: January 21, 1983

By: James C. Scott
Executive Director

STATEMENT OF PURPOSE

Rule: New section WAC 139-20-020, Basic Law Enforcement Equivalency Certification.

General Purpose of Rule: This proposed rule is intended to replace WAC 139-20-010 and, as such, clarifies, specifies, and, to some degree, amends the process of basic equivalency certification, in lieu of academy attendance.

Description, Summary and Statutory Authority for Rule: This proposed rule is based upon the requirement of RCW 43.101.200 and the training commission's general authorities provided by RCW 43.101.080 and 43.101.160. This rule will clarify the eligibility requirements for equivalency participation; delete breathalyzer permit as an equivalency requirement; and maintain the general structure and process regarding equivalency certification.

Responsible Agency Personnel: The following personnel of the Washington State Criminal Justice Training Commission have responsibility for drafting, implementing and enforcing this rule: James C. Scott, Executive Director, and Garry E. Wegner, Assistant Director, Washington State Criminal Justice Training Commission, Mailstop PW-11, Olympia, WA 98504, Phone (206) 459-6342.

NEW SECTION

WAC 139-20-020 BASIC LAW ENFORCEMENT EQUIVALENCY CERTIFICATION. (1) A certificate of equivalent basic law enforcement training shall be issued only to applicants who successfully complete the equivalency process as required by the Washington State Criminal Justice Training Commission, and shall be recognized

in the same manner as the certificate of completion of the Training Commission's basic law enforcement academy.

(2) Eligibility for participation in the basic equivalency process shall be limited to regular, full-time, commissioned officers of general law enforcement agencies within this state, and who have obtained basic certification through successful completion of the basic training program in this or another state. For this purpose, the term "basic training program" shall not include any military or reserve training program, or federal program not otherwise approved by the Board on Law Enforcement Training Standards and Education.

(3) The decision to request an officer's participation within the equivalency process shall be discretionary with the sheriff or chief of the employing agency. Such request shall be made to the Training Commission on approved form which shall be signed by the sheriff or chief of the requesting agency, or in the instance of a one-member department, the appointing authority.

(4) Upon approval of such request, the applicant shall submit to the Training Commission the following documentation as a precondition of participation within the equivalency process:

- (a) copy of his/her Washington State driver's license,
- (b) copy of his/her current and valid basic first aid card,
- (c) statement of his/her health and physical condition by an examining physician, on approved form, and
- (d) documentation of firearms proficiency, on approved form.

(5) Following receipt and acceptance of the above by the Training Commission, the applicant will participate in the equivalency process which shall include written examinations, practical exercises, and basic driver's training if such training has not been successfully completed previously by the applicant. The administration of such examinations, exercises, and training shall be determined by the Training Commission in accordance with the applicable policies and procedures approved by the Board on Law Enforcement Training Standards and Education.

(6) Upon completion of the above examination process and review and evaluation of an applicant's performances therein, the Training Commission shall:

- (a) issue a certificate of equivalent basic training;
- (b) issue a certificate of equivalent basic training upon applicant's successful completion of additional training as the Training Commission may require; or
- (c) require completion of the basic law enforcement academy program.

(7) Any waiver of, or variance in, any above requirement for equivalency participation and/or certification may be granted by the Board on Law Enforcement Training Standards and Education if it determines that sufficient justification exists for such action. Additionally, any action or determination by commission staff regarding a requestor or applicant for equivalency certification shall, upon written request of the involved individual or agency, be made appealable to that board.

WSR 83-04-008
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
 [Filed January 24, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Criminal Justice Training Commission intends to adopt, amend, or repeal rules concerning procedure for acknowledgement of prior basic training and issuance of certificate of equivalent basic training, repealing WAC 139-20-010;

that the agency will at 10:00 a.m., Thursday, March 10, 1983, in the Criminal Justice Training Center, 2450 South 142nd, 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 43.101.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 9, 1983.

This notice is connected to and continues the matter in Notice No. WSR 82-22-063 filed with the code reviser's office on November 2, 1982.

Dated: January 21, 1983

By: James C. Scott
 Executive Director

STATEMENT OF PURPOSE

Rule: Repeal WAC 139-20-010, Acknowledgment of Prior Basic Training and Issuance of Certificate of Equivalent Basic Training.

Purpose: To repeal WAC 139-20-010 in its entirety.

Description, Summary and Statutory Authority for Rule: Repeal of this section is necessary because it is being replaced by a new rule, WAC 139-20-020, which clarifies eligibility requirements for equivalency participation, deletes breathalyzer permit as an equivalency requirement, and maintains the general structure and process regarding equivalency certification. This repeal is based upon the training commission's general authorities provided by RCW 43.101.080 and 43.101.160.

Responsible Agency Personnel: The following personnel of the Washington State Criminal Justice Training Commission have responsibility for drafting, implementing and enforcing this rule: James C. Scott, Executive Director, and Garry E. Wegner, Assistant Director, Washington State Criminal Justice Training Commission, Mailstop PW-11, Olympia, WA. 98504, Phone 459-6342.

REPEALER

WAC 139-20-010 PROCEDURE FOR ACKNOWLEDGEMENT OF PRIOR BASIC TRAINING AND ISSUANCE OF CERTIFICATE OF EQUIVALENT BASIC TRAINING.

WSR 83-04-009
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
 [Filed January 24, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Criminal Justice Training Commission intends to adopt, amend, or repeal rules concerning requirement of basic law enforcement training, amending WAC 139-14-010;

that the agency will at 10:00 a.m., Thursday, March 10, 1983, in the Criminal Justice Training Center, 2450 South 142nd, 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 43.101.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 9, 1983.

This notice is connected to and continues the matter in Notice No. WSR 82-22-063 filed with the code reviser's office on November 2, 1982.

Dated: January 21, 1983

By: James C. Scott
Executive Director

STATEMENT OF PURPOSE

Rule: Amending WAC 139-14-010, Requirement of Basic Law Enforcement Training.

General Purpose of Rule: This rule prescribes the basic training requirement for law enforcement officers mandated by RCW 43.101.200, provides for specific exemptions therefrom, and establishes a process for hiring notification and notification of non-compliance.

Description, Summary and Statutory Authority for Rule: This rule and the proposed amendments thereto are based upon the requirements of RCW 43.101.200 and the training commission's general authorities provided by RCW 43.101.080 and 43.101.160. This proposed amendment responds to and incorporates RCW 36.28.025, which mandates basic training compliance by newly elected sheriffs; provides for administrative exemption process for both sheriffs and police chiefs; and declares chiefs of agencies with 10 or fewer officers ineligible for administrative exemption.

Responsible Agency Personnel: The following personnel of the Washington State Criminal Justice Training Commission have responsibility for drafting, implementing and enforcing this rule: James C. Scott, Executive Director, and Garry E. Wegner, Assistant Director, Washington State Criminal Justice Training Commission, Mailstop PW-11, Olympia, WA 98504.

AMENDATORY SECTION (Amending Order 14A, filed 6/25/81)

WAC 139-14-010 REQUIREMENT OF BASIC LAW ENFORCEMENT TRAINING. (1) All full-time commissioned law enforcement employees of a city, county, or political subdivision of the state of Washington, except officers of the Washington State Patrol, unless otherwise exempted by the Washington State Criminal Justice Training Commission, shall as a condition of continued employment successfully complete a 440-hour basic law enforcement academy sponsored or conducted by the Commission, or obtain a certificate of equivalent basic training from the commission. This requirement of basic law enforcement training shall be met within the initial 15-month period of law enforcement employment, unless otherwise extended by the commission.

(2) Law enforcement personnel exempted from the requirement of subsection (1) shall include:

(a) ((sheriff)) individuals holding the office of sheriff of any county on September 1, 1979

(b) auxiliary and reserve personnel

(c) commissioned personnel

(i) whose usual and regular function does not include and will not include the general line enforcement of traffic or criminal laws of the state of Washington or any political subdivision thereof(;;); PROVIDED, That ((a chief of police who requests exemption under this subsection may be exempted only upon approval of the Board on Law Enforcement Training Standards and Education, or)) any exemption under this subsection may be granted to a sheriff or police chief only with the approval of the Board on Law Enforcement Training Standards and Education and, in the instance of a police chief, based upon a written exemption request signed by the appointing authority, and provided further that no police chief or sheriff of any agency with ten

or fewer full-time, commissioned personnel shall be granted an exemption solely upon the basis of this subsection; or

(ii) whose initial date of continuing, full-time, regular and commissioned law enforcement employment within the state of Washington precedes January 1, 1978, and such employment is without break or interruption in excess of 90 days, or

(iii) who have been certified in accordance with the requirement of subsection (1) above, and thereafter have engaged in regular and commissioned law enforcement employment without break or interruption in excess of 24-month duration.

(3) Each law enforcement agency of the state of Washington, or any political subdivision thereof, except the Washington State Patrol, shall immediately notify the commission by approved form of each instance wherein a commissioned officer begins continuing and regular employment with that agency on or after January 1, 1978. Such notification shall be maintained by the commission and shall be utilized by the commission for the subsequent scheduling, notification, and enrollment required for compliance with the basic law enforcement training requirement.

(4) Failure to comply with the above requirement of basic law enforcement training shall result in notification of non-compliance, by the commission, on approved form to:

(a) the individual in non-compliance,

(b) the head of his/her agency,

(c) the Civil Service Commission having jurisdiction of such agency,

(d) the judges and clerks of the municipal, district, and superior courts in which said agency is located,

(e) the state Auditor's Office, and

(f) any other agency or individual, as determined by the commission.

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 83-04-010

PROPOSED RULES

WASHINGTON STATE UNIVERSITY

[Filed January 24, 1983]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Washington State University intends to adopt, amend, or repeal rules concerning campus parking and traffic regulations. The rules formerly codified in chapter 504-16 WAC will be repealed and re-enacted in revised form as chapter 504-17 WAC. Most of the revisions are stylistic in nature, and include deletion of redundant material. The major change of substance is an increase in the fine schedule for parking violations. The "E-Lot" parking category will be eliminated as of 1983-84. The new regulations will take effect approximately September 1, 1983.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, March 4, 1983, at 8:00 a.m., Junior Ballroom, Compton Union Building, Washington State University, Pullman, Washington.

The authority under which these rules are proposed is RCW 28B.10.300 - 28B.10.320, 28B.30.125, 28B.30.150, 28B.10.560, 28B.30.045, 28B.15.031 and chapter 28B.19 RCW.

The specific statute these rules are intended to implement is RCW 28B.30.125, 28B.30.150, 28B.10.560, 28B.30.045 and 28B.15.031.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before February 15, 1983.

This notice is connected to and continues the matter in Notice Nos. WSR 82-17-045, 82-22-014 and 83-01-007 filed with the code reviser's office on August 16, 1982, October 25, 1982, and December 2, 1982.

Dated: January 19, 1983

By: G. A. Hartford, Jr.
Vice President, Business and Finance

WSR 83-04-011
ADOPTED RULES
BOARD OF HEALTH
[Order 253—Filed January 24, 1983]

Be it resolved by the Washington State Board of Health, acting at Tacoma, Washington, that it does adopt the annexed rules relating to Appendix—County, city or town in a health district, amending WAC 248-990-990.

This action is taken pursuant to Notice No. WSR 82-24-044 filed with the code reviser on November 24, 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 70.46.080 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 A. Beare, MD
Secretary

AMENDATORY SECTION (Amending Order 104, filed 9/25/74)

WAC 248-990-990 APPENDIX—COUNTY, CITY OR TOWN IN A HEALTH DISTRICT((= PREAMBLE)).

APPENDIX

Guidelines¹

for

County, City or Town in a Health District

in

Estimating Its Equitable Share of the Expenses

of

Maintaining and Operating the Health District

((Preamble

~~What health services should local government provide?
Health needs and health services vary from community~~

~~to community. While some are still trying to solve elementary health problems,² others, having met these basic needs, are concerned also with newer health problems, as well as with promptness and enhancement of the quality of services, making sure that these are well integrated and available to all citizens.~~

~~The types³ of basic health services which every county, city and town should provide are as follows:))~~

A. ~~((Basic Health Services of Local Health Departments))~~ Every county, city, and town should furnish the support necessary to provide the following basic public health services^{2,3}:

1. ~~((Disease Prevention and Control))~~ Personal Health Protection Services

Epidemiologic Services

Tuberculosis

~~((Venereal Disease))~~

Sexually Transmitted Diseases

~~((A))~~ Other Communicable Diseases

Immunizations

~~((Epidemiologic Services~~

Hearing Conservation

Vision Conservation

Health Services to Handicapped Persons

Alcoholism, at least an Information and Referral Service))

Family Planning

Child Health Services

Crippled Children's Services

Maternal and Infant Services

Nutrition and/or WIC Services

Chronic Disease Prevention, Detection and Hazard Control

2. Environmental ~~((Control))~~ Health Protection Services

~~((The health aspects of:))~~

Food

Water

~~((Air))~~

Solid Waste Disposal

Liquid Waste Disposal

~~((Housing (shelter)))~~ Living Environment

Chemical and Physical Hazards

~~((Safety (in other areas than those covered by the Department of Labor & Industries)~~

Nuisances))

Vector Control

3. ~~((Vital Records~~

~~(is already a mandatory function of each county and city of the First Class))~~ Laboratory services necessary to support any of the programs listed in A 1 and 2 of this Appendix (provide or purchase)

4. ~~((Family Planning))~~ Vital Records, Birth, and Death Registration

5. ~~((Laboratory services necessary to perform the functions in items 1 and 2 above:))~~ Health Promotion, Information, and Education

~~((6. Health Information and Educational Services~~

~~7. Community Health Planning~~

~~8. Administration~~

- ~~Business Management~~
- ~~Records~~
- ~~Budgeting~~
- ~~Purchasing~~
- ~~Conferences~~
- ~~Programming~~
- ~~Evaluating~~
- ~~Legal Services))~~

B. ~~((Total Cost of Providing the Basic Health Services:~~

~~1. Salaries (Ratio of staff to 100,000 population)~~

- ~~One Health Officer~~
- ~~Nine Clerical Personnel~~
- ~~Fifteen Public Health Nurses~~
- ~~Seven Senior Sanitarians~~
- ~~Two Laboratory Technicians~~
- ~~One Health Educator~~
- ~~One Social Worker~~

~~2. Maintenance and Operation Cost~~

~~— Usually about twenty-five to thirty-three percent of the total budget~~

~~3. Capital Outlay~~

~~Routine: Usually one to eight percent)) In addition, counties, cities, and towns at their option may choose to support additional public health protection and promotion actions or services. These may include, but not be limited to:~~

- ~~Dental Health~~
- ~~School Health Services~~
- ~~Jail Health Services~~
- ~~Mental Health Services~~
- ~~Alcoholism Services~~
- ~~Developmental Disabilities~~
- ~~Health Screening Programs for the Aging (Senior Citizens Services Act)~~
- ~~Home Health Services~~
- ~~Primary Care for Special Population Groups~~
- ~~Emergency Health Services~~
- ~~Community Health Planning~~
- ~~Any program area identified by local or state health officials when the health of the general population is shown to be at risk of adverse health effects.~~

C. ~~((Financing~~

~~Expenditures~~

- ~~1. Basic Health Services _____ "X" dollars~~
- ~~2. Additional Services _____ "Y" dollars (District-wide)~~
- ~~_____ Total "X+Y" dollars~~

~~Any city might, in addition, request and fund a specific service, not needed or desired by the other cities or by the district as a whole. It would, in such instances, pay an additional sum equal to the actual cost of such services.~~

~~D.)) Potential Sources of Funds:~~

~~1. ((Property millage levies~~

- ~~a. Statutory public health levy multiplied by 2.2~~
- ~~b. Statutory tuberculosis control fund or levy)) Fees for permits and licenses~~

~~2. ((City contribution⁴)) Charges for services~~

~~3. ((County contribution⁴)) Contracts with counties, cities, schools, and other agencies~~

~~4. ((Fees for permits and licenses)) State and federal funds~~

~~5. ((Charges for services)) Sales of property~~

~~6. ((Contracts with schools and other agencies)) Miscellaneous gifts and sales, e.g., sale of publications~~

~~7. ((State and Federal funds)) County funds for special services not needed or desired by all participating counties and cities~~

~~8. ((Sales of publications)) City funds for special services~~

~~9. ((Gifts)) Reserve funds for special purposes~~

~~10. ((Miscellaneous (sale of property, witness fees, jury duty of personnel, etc.))) County general fund base support~~

~~((E.)) D. Determination of equitable share for each municipality (county or city) of its fiscal support of basic health services:~~

~~1. ((In any case, for the next two years at least, there should be no reduction in the amount currently being paid to its health district by a county or city)) The level of the basic health services budget and the respective county and city general fund contributions necessary to balance that budget should be determined through a negotiation process. The negotiators may wish to use some form of formula in this determination. Negotiating the formula is a basic part of the negotiation process. A number of formulas may be considered. Most formulas involve one or more of the following factors: Population (per capita), assessed valuation, use, need or proportion of budget. No single formula is mandated statewide, but a formula, once adopted by a local health board, should apply to all member jurisdictions. Agreements need not be limited to a single year. Multi-year contracts may be negotiated with the agreement adopting a basic formula but providing for annual adjustments of variable factors such as valuation or population.~~

2. ((Formula to be used:

$$C = \frac{1/2B(A_c)}{A_T} + \frac{1/2B(P_c)}{P_T}$$

The following formulas are presented as guidelines. Options 1 through 3 provide for a county base support while Options 4 and 5 have no county base built into the formula. The county base is a variable replacing previous statutory millages for public health and tuberculosis. The base may vary. In multicounty health districts, the county base public health support is to be determined annually by the district health board in consultation with the respective boards of county commissioners and divided among the member counties in proportion to each county's assessed valuation. An acceptable alternative method is to vary the base among the county members of the health district as the board of health, in consultation with the respective boards of county commissioners, shall determine.

Option 1:

$$C = \frac{1/2 B \frac{A_c}{A_T} + 1/2 B \frac{P_c}{P_T}}$$

Where:

C = Contribution of city or county needed to balance the budget ((ⁿX + ⁿYⁿ)) basic plus optional dollars)

B = Dollars needed to balance the ((ⁿX + ⁿYⁿ)) basic plus optional dollar portion of the health district annual budget(²)

((A_c) A_c = The assessed valuation of the component governmental unit, i.e., the city, town or unincorporated area of the county

((A_T) A_T = The total assessed valuation of the governmental jurisdictions encompassed by the health district

((P_c) P_c = Population of the component governmental unit, i.e., the city, town or unincorporated area of the county

((P_T) P_T = Total population of the governmental jurisdictions encompassed by the health district

Variation 1:

Derive the proportion of assessed valuation and population in the formula from the average of several years instead of the current year only.

Option 2:

$$C = B \frac{A_c}{A_T}$$

Where:

C = Contribution of city or county needed to balance the budget (basic plus optional dollars)

B = Dollars needed to balance the basic plus optional portion of the health district annual budget

A_c = The assessed valuation of the component governmental unit, i.e., the city, town or unincorporated area of the county

A_T = The total assessed valuation of the governmental jurisdictions encompassed by the health district

Option 3:

$$C = B \frac{P_c}{P_T}$$

Where:

C = Contribution of city or county needed to balance the budget (basic plus optional dollars)

B = Dollars needed to balance the basic plus optional portion of the health district annual budget

P_c = Population of the component governmental unit, i.e., the city, town or unincorporated area of the county

P_T = Total population of the governmental jurisdictions encompassed by the health district

Variation 1:

The per capita share is graduated by grouping or classes of cities so that small cities pay less than large cities.

Variation 2:

The county base remains the same but the per capita share is applied only to the cities.

Option 4:

(1) Charge each city or county the full estimated cost of environmental health services.

(2) Charge each county the full cost of tuberculosis services.

(3) Charge each city and county the remainder of tax necessary on a per capita basis.

(4) Reduce each city's charge by giving credit to them for the county property taxes paid by the property owners of each city.

(5) Small cities may be charged a reduced share per capita.

Option 5:

Half of the necessary funds are divided among the cities and counties in proportion to a statistical report of the services provided to each. The other half are provided on the basis of population or another of the options identified.

¹Pertains also to a county, city or town which has withdrawn from a health district to operate its own health department or decides to contract with another municipality for such health services.

²~~((Washington State Board of Health Rules & Regulations which pertain to local health departments include: (1) Control of certain diseases (.100), (2) Sanitation (gen. .50; places of work .62; schools .64; taverns, resorts .68; camp and parks .72; mobile homes .76; facilities for camping vehicles .77; hotels .80; food service .84; food & beverage worker's permits .86; swimming pools, bathing beaches .98)))~~
Basic services are those services required by state law and regulations or provided under service contracts with the department of social and health services.

³~~((The extent of health services provided, will vary from area to area and has to be a local determination. Each local health department should prepare its own list of basic health services it provides (or would provide) each municipality contributing equitably to its financial support))~~
A list of all applicable laws, administrative regulations, and available current service contracts will be provided by the state board of health upon request.

~~((⁴Based on the formula in Item E. Determination of Equitable Share of Official Local Fiscal Support:~~

~~⁵Is the balance to be raised by contributions of all the cities and counties in the health district? This is the total budget less the amount raised from the revenue sources listed under D (above) as items 1, 4, 5, 6, 7, 8, 9 and 10))~~

WSR 83-04-012
EMERGENCY RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
[Order 4C—Filed January 25, 1983]

Be it resolved by the Washington State Criminal Justice Training Commission, acting at Seattle, Washington, that it does adopt the annexed rules relating to procedures for acknowledgement of prior basic training and issuance of certificate of equivalent basic training, repealing WAC 139-20-010.

We, the Washington State Criminal Justice Training 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 necessary to repeal because it is being superseded by WAC 139-14-020.

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

This rule is promulgated under the general rule-making authority of the Washington State Criminal Justice Training Commission as authorized in RCW 43.101.080.

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 20, 1983.

By James C. Scott
Executive Director

REPEALER

WAC 139-20-010 PROCEDURE FOR ACKNOWLEDGEMENT OF PRIOR BASIC TRAINING AND ISSUANCE OF CERTIFICATE OF EQUIVALENT BASIC TRAINING.

WSR 83-04-013
EMERGENCY RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
[Order 4D—Filed January 25, 1983]

Be it resolved by the Washington State Criminal Justice Training Commission, acting at Seattle, Washington, that it does adopt the annexed rules relating to basic law enforcement equivalency certification, new section WAC 139-20-020.

We, the Washington State Criminal Training 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 adoption of this regulation, which necessarily requires concurrent repeal of WAC 139-20-010, was necessarily adopted on an emergency basis because there are policies and procedures which implement it and are already in place. This was done in consideration and full anticipation of a meeting of the training commission in December, which ultimately was cancelled due to lack of a quorum. Emergency adoption was required in order to bring both regulation and its policies and procedures into timely and operational accord.

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

This rule is promulgated under the general rule-making authority of the Washington State Criminal Justice Training Commission as authorized in RCW 43.101.080.

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 20, 1983.

By James C. Scott
Executive Director

NEW SECTION

WAC 139-20-020 BASIC LAW ENFORCEMENT EQUIVALENCY CERTIFICATION. (1) A certificate of equivalent basic law enforcement training shall be issued only to applicants who successfully complete the equivalency process as required by the Washington State Criminal Justice Training Commission, and shall be recognized in the same manner as the certificate of completion of the Training Commission's basic law enforcement academy.

(2) Eligibility for participation in the basic equivalency process shall be limited to regular, full-time, commissioned officers of general law enforcement agencies within this state, and who have obtained basic certification through successful completion of the basic training program in this or another state. For this purpose, the term "basic training program" shall not include any military or reserve training program, or federal program not otherwise approved by the Board on Law Enforcement Training Standards and Education.

(3) The decision to request an officer's participation within the equivalency process shall be discretionary with the sheriff or chief of the employing agency. Such request shall be made to the Training Commission on approved form which shall be signed by the sheriff or chief of the requesting agency, or in the instance of a one-member department, the appointing authority.

(4) Upon approval of such request, the applicant shall submit to the Training Commission the following documentation as a precondition of participation within the equivalency process:

- (a) copy of his/her Washington State driver's license,
- (b) copy of his/her current and valid basic first aid card,
- (c) statement of his/her health and physical condition by an examining physician, on approved form, and
- (d) documentation of firearms proficiency, on approved form.

(5) Following receipt and acceptance of the above by the Training Commission, the applicant will participate in the equivalency process which shall include written examinations, practical exercises, and basic driver's training if such training has not been successfully completed previously by the applicant. The administration of such examinations, exercises, and training shall be determined by the Training Commission in accordance with the applicable policies and procedures approved by the Board on Law Enforcement Training Standards and Education.

(6) Upon completion of the above examination process and review and evaluation of an applicant's performances therein, the Training Commission shall:

- (a) issue a certificate of equivalent basic training;
- (b) issue a certificate of equivalent basic training upon applicant's successful completion of additional training as the Training Commission may require; or

(c) require completion of the basic law enforcement academy program.

(7) Any waiver of, or variance in, any above requirement for equivalency participation and/or certification may be granted by the Board on Law Enforcement Training Standards and Education if it determines that sufficient justification exists for such action. Additionally, any action or determination by commission staff regarding a requestor or applicant for equivalency certification shall, upon written request of the involved individual or agency, be made appealable to that board.

WSR 83-04-014

EMERGENCY RULES

CRIMINAL JUSTICE

TRAINING COMMISSION

[Resolution No. 14B—Filed January 25, 1983]

Be it resolved by the Washington State Criminal Justice Training Commission, acting at Seattle, Washington, that it does adopt the annexed rules relating to requirement of basic law enforcement training, amending WAC 139-14-010.

We, the Washington State Criminal Justice Training 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 this regulation effects application of this state's mandatory basic training requirement to newly elected sheriffs. As such, it implements the provisions of legislation enacted by the state legislature in the 1982 session, but which for the first time applies to new sheriffs assuming office in January of 1983. It was the intention of the commission to adopt this rule at its regularly scheduled meeting on December 16, 1982, but a quorum was not present and that meeting was cancelled. Consequently, it became necessary to adopt this regulation on an emergency basis as quickly as possible in January, since statutory basis was already in effect. This regulation is scheduled for permanent adoption by the commission at its regularly scheduled meeting on March 10, 1983, and intent of such action has duly been filed with the code reviser's office.

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

This rule is promulgated under the general rule-making authority of the Washington State Criminal Justice Training Commission as authorized in RCW 43.101.080.

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 20, 1983.
By James C. Scott
Executive Director

AMENDATORY SECTION (Amending Order 14A, filed 6/25/81)

WAC 139-14-010 REQUIREMENT OF BASIC LAW ENFORCEMENT TRAINING. (1) All full-time commissioned law enforcement employees of a city, county, or political subdivision of the state of Washington, except officers of the Washington State Patrol, unless otherwise exempted by the Washington State Criminal Justice Training Commission, shall as a condition of continued employment successfully complete a 440-hour basic law enforcement academy sponsored or conducted by the Commission, or obtain a certificate of equivalent basic training from the commission. This requirement of basic law enforcement training shall be met within the initial 15-month period of law enforcement employment, unless otherwise extended by the commission.

(2) Law enforcement personnel exempted from the requirement of subsection (1) shall include:

(a) ((sheriff)) individuals holding the office of sheriff of any county on September 1, 1979

(b) auxiliary and reserve personnel
(c) commissioned personnel

(i) whose usual and regular function does not include and will not include the general line enforcement of traffic or criminal laws of the state of Washington or any political subdivision thereof((:)); PROVIDED, That ((a chief of police who requests exemption under this subsection may be exempted only upon approval by the Board on Law Enforcement Training Standards and Education, or)) any exemption under this subsection may be granted to a sheriff or police chief only with the approval of the Board on Law Enforcement Training Standards and Education and, in the instance of a police chief, based upon a written exemption request signed by the appointing authority, and provided further that no police chief or sheriff of any agency with ten or fewer full-time, commissioned personnel shall be granted an exemption solely upon the basis of this subsection; or

(ii) whose initial date of continuing, full-time, regular and commissioned law enforcement employment within the state of Washington precedes January 1, 1978, and such employment is without break or interruption in excess of 90 days, or

(iii) who have been certified in accordance with the requirement of subsection (1) above, and thereafter have engaged in regular and commissioned law enforcement employment without break or interruption in excess of 24-month duration.

(3) Each law enforcement agency of the state of Washington, or any political subdivision thereof, except the Washington State Patrol, shall immediately notify the commission by approved form of each instance wherein a commissioned officer begins continuing and

regular employment with that agency on or after January 1, 1978. Such notification shall be maintained by the commission and shall be utilized by the commission for the subsequent scheduling, notification, and enrollment required for compliance with the basic law enforcement training requirement.

(4) Failure to comply with the above requirement of basic law enforcement training shall result in notification of non-compliance, by the commission, on approved form to:

- (a) the individual in non-compliance,
- (b) the head of his/her agency,
- (c) the Civil Service Commission having jurisdiction of such agency,
- (d) the judges and clerks of the municipal, district, and superior courts in which said agency is located,
- (e) the state Auditor's Office, and
- (f) any other agency or individual, as determined by the commission.

WSR 83-04-015
NOTICE OF PUBLIC MEETINGS
COMMUNITY COLLEGE
DISTRICT 12

[Memorandum—January 24, 1983]

Regular Meeting Schedule
1983

<u>Date</u>	<u>Location and Time</u>	<u>Primary Orientation</u>
January 13	Centralia College 7:30 p.m.	Study Session/Informative Reports Business Meeting
February 10	Centralia College 7:30 p.m.	Business Meeting
March 10	Olympia Tech 7:30 p.m.	Study Session/Informative Reports Business Meeting
April 14	Olympia Tech 7:30 p.m.	Business Meeting
May 12	Centralia College 7:30 p.m.	Study Session/Informative Reports Business Meeting
June 9	Centralia College 7:30 p.m.	Business Meeting
July 14	Olympia Tech 7:30 p.m.	Study Session/Informative Reports Business Meeting
August 11	Olympia Tech 7:30 p.m.	Business Meeting
September 8	Centralia College 7:30 p.m.	Study Session/Informative Reports Business Meeting
October 13	Centralia College 7:30 p.m.	Business Meeting
November 10	Olympia Tech 7:30 p.m.	Study Session/Informative Reports Business Meeting
December 8	Olympia Tech 7:30 p.m.	Business Meeting

Though each meeting will have a particular orientation, all meetings will permit board action.

Special meetings are at call of the chairman of the board.

Board subcommittees are assigned on an ad hoc basis at the direction of the chairman of the board in consultation with the district president.

WSR 83-04-016
EMERGENCY RULES
HIGHER EDUCATION
PERSONNEL BOARD
 [Order 103—Filed January 26, 1983]

Be it resolved by the Higher Education Personnel Board, acting at The Evergreen State College, Olympia, Washington, that it does promulgate and adopt the annexed rules relating to Definitions—Layoff, WAC 251-04-020.

We, the Higher Education Personnel Board, find that an emergency exists and that foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is the board took action in March 1982 to amend WAC 251-10-030 layoff, by deleting reference to "good faith reorganization for efficiency purposes" as a reason for layoff. This emergency action is necessary to reflect the definition currently in effect.

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

This rule is promulgated under the general rule-making authority of the Higher Education Personnel Board as authorized in RCW 28B.16.100.

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 21, 1983.

By John A. Spitz
 Director

AMENDATORY SECTION (Amending Order 98, filed 7/22/82, effective 9/1/82)

WAC 251-04-020 DEFINITIONS. Unless the context clearly indicates otherwise, the words used in these rules shall have the meanings given in this section.

"ADMINISTRATIVE ASSISTANT EXEMPTION" – A president or vice president may have individual(s) acting as his/her administrative assistant(s). The employee normally performs supportive work for his/her superior as an individual contributor without subordinates.

"ADMINISTRATIVE EMPLOYEES" – Personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

(1) Primary duty is office or nonmanual work directly related to the management policies or general business operations; and

(2) Must have the authority to make important decisions, customarily and regularly exercise discretion and independent judgment, as distinguished from using skills and following procedures; and

(3) Must regularly assist an executive or administrative employee, or perform work under, only general supervision along specialized or technical lines requiring special training, experience or knowledge; and

(4) Must be paid at a rate of at least \$672 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if the primary duty consists of responsible office or nonmanual work directly related to management policies or general business operations.

"AGRICULTURAL EMPLOYEES" – Employees performing work which includes farming and all its branches, including cultivating the soil, or growing or harvesting crops, or raising livestock, bees, fur-bearing animals, or poultry; or doing any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations.

"ALLOCATION" – The assignment of an individual position to an appropriate class on the basis of the kind, difficulty, and responsibility of the work of the position.

"APPOINTING AUTHORITY" – A person or group of persons lawfully authorized to make appointments.

"AVAILABILITY" – An estimate of the number of women, minorities, and handicapped persons who have the skills and abilities required for employment in a particular job group as determined from an analysis of relevant data.

"BOARD" – The higher education personnel board established under the provisions of the higher education personnel law.

"CERTIFICATION" – The act of providing an employing official or appointing authority with the names of the appropriate eligibles to be considered for appointment to fill a vacancy.

"CHARGES" – A detailed statement of the specific incidents alleging cause for dismissal or disciplinary action.

"CLASS" – One or more positions sufficiently similar with respect to duties and responsibilities that the same descriptive title may be used with propriety to designate each position allocated to the class; that the same general qualification requirements are needed for performance of the duties of the class; that the same tests of fitness may be used to select employees; and that the same schedule of pay can be applied with equity to all positions in the class under the same or substantially the same employment conditions.

"CLASSIFIED SERVICE" – All positions in the higher education institutions which are subject to the provisions of the higher education personnel law.

"COLLECTIVE BARGAINING" – The performance of the mutual obligation of the appointing authority and the certified exclusive bargaining representative to meet at reasonable times, to confer and bargain in good faith, and to execute a written agreement with respect to those personnel matters over which the appointing authority may lawfully exercise discretion.

"COMPETITIVE SERVICE" – All positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

"CORRECTIVE EMPLOYMENT PROGRAM" – A program designed to increase the employment of handicapped persons and of women and minorities who are underutilized in certain job groups because of present or past practices or other conditions which resulted in limited employment opportunities.

"COUNSELING EXEMPTION" – Individuals in counseling-exempt positions are responsible for directing and/or participating in providing academic, athletic, medical, career, financial aid, student activity and/or personal counseling to students. Such activities include, but are not limited to, providing individual and group guidance services using recognized professional techniques and practices.

"DEMOTION" – The change of an employee from a position in one class to a position in another class which has a lower salary range maximum.

"DEVELOPMENT" – The attainment through work experience and training of proficiency in skills which will enable the employee to perform higher level duties.

"DIRECTOR" – The personnel director of the higher education personnel board.

"DISMISSAL" – The termination of an individual's employment for just cause as specified in these rules.

"ELIGIBLE" – An applicant for a position in the competitive service who has met the minimum qualifications for the class involved, has been admitted to and passed the examinations, and has met all requirements for eligibility as stated on the bulletin board posting; or an applicant for a position in the noncompetitive service who has met all requirements for eligibility as stated on the bulletin board posting.

"ELIGIBLE LIST" – A list established by the personnel officer, composed of names of persons who have made proper application, met the minimum qualifications, and successfully completed the required examination process to be certified for vacancies in a class at the institution.

"EMPLOYEE" – A person working in the classified service at an institution.

"EMPLOYEE ORGANIZATION" – Any lawful association, labor organization, federation, council, or brotherhood, having as one of its purposes the improvement of working conditions among employees, and which has filed a notice of intent to represent employees with the director, and which has been authorized in accordance with WAC 251-14-020.

"EMPLOYING OFFICIAL" – An administrative or supervisory employee designated by the appointing authority to exercise responsibility for requesting certification, interviewing eligibles, and employing classified employees.

"EXECUTIVE EMPLOYEES" – Management personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

- (1) Primary duty must be management of a recognized department or subdivision; and
- (2) Must customarily and regularly direct the work of two or more employees; and
- (3) Must have the authority to hire and fire, or to recommend with authority on these and other actions affecting employees; and

(4) Must customarily and regularly exercise discretionary powers; and

(5) Must be paid at a rate of at least \$672 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if he/she regularly directs the work of at least two other employees and the primary duty is management of a recognized department or subdivision.

"EXECUTIVE HEAD EXEMPTION" – Executive heads of major academic or administrative divisions are analogous in the hierarchy to vice presidents, deans and chairmen. Directors may be executive heads as determined by the higher education personnel board. An executive head is in charge of a separate budget unit and directs subordinates.

"EXEMPT POSITION" – A position properly designated as exempt from the application of these rules as provided in WAC 251-04-040. (Also see separate definitions of "administrative assistant exemption," "executive head exemption," "research exemption," "counseling exemption," "extension and/or continuing education exemption," "graphic arts or publication exemption," and "principal assistant exemption".)

"EXTENSION AND/OR CONTINUING EDUCATION EXEMPTION" – Individuals considered exempt in this category are responsible for originating and developing formal education programs for the general public, usually involving close contact with faculty and staff or training or consulting with specific groups in the community to enable them to provide specialized training and/or services to the community.

"FRINGE BENEFITS" – As used in the conduct of salary surveys, the term shall include but not be limited to compensation for leave time, including vacation, civil, and personal leave; employer retirement contributions; health insurance payments, including life, accident, and health insurance, workmen's compensation, and sick leave; and stock options, bonuses, and purchase discounts where appropriate.

"FULL-TIME EMPLOYMENT" – Work consisting of forty hours per week.

"GRAPHIC ARTS OR PUBLICATION EXEMPTION" – Individuals qualifying for exemption under this category will be involved in performing selected graphic arts or publication activities requiring prescribed academic preparation or special training. Positions of this type are those which use special visual techniques, require original design and layout and/or can be distinguished from positions associated with the standard editorial functions.

"GRIEVANCE" – A dispute filed in accordance with a grievance procedure of a signed collective bargaining agreement.

"HANDICAPPED PERSON" – Any person with physical, mental or sensory impairments that would impede that individual in obtaining and maintaining permanent employment and promotional opportunities. The impairments must be material rather than slight, static and permanent in that they are seldom fully corrected by medical replacement, therapy, or surgical means.

"**HEARING EXAMINER**" – An individual appointed by the board to preside over, conduct and make recommended decisions including findings of fact and conclusions of law in all cases of employee appeals to the board.

"**INSTITUTIONS OF HIGHER EDUCATION**" – The University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges. For purposes of application of these rules, the term shall be considered to include the various related boards as defined in this section, unless specifically indicated to the contrary.

"**INSTRUCTIONAL YEAR**" – The schedule established annually by an institution to identify the period required to meet the educational requirements of a given academic or training program.

"**JOB GROUP**" – For affirmative action goal-setting purposes, a group of jobs having similar content, wage rates and opportunities. An EEO job category may consist of one or more job groups.

"**JOB CATEGORIES**" – Those groupings required in equal employment opportunity reports to federal agencies.

"**LATERAL MOVEMENT**" – Appointment of an employee to a position in another class which has the same salary range maximum as the employee's current class.

"**LAYOFF**" – Any of the following management initiated actions caused by lack of funds(, curtailment) or lack of work(, or good faith reorganization for efficiency purposes):

- (1) Separation from service to an institution;
- (2) Separation from service within a class;
- (3) Reduction in the work year, and/or
- (4) Reduction in the number of work hours.

"**LAYOFF SENIORITY**" – The last period of unbroken service in the classified service of the higher education institution. Authorized leave of absence or leave without pay shall not constitute a break in service; however, the time spent on such leave shall not be included in computing seniority except where required by statute and except in the case of positions established on the basis of an instructional year. Permanent employees who are veterans or their unmarried widows/widowers as identified in WAC 251-10-045 shall have added to their unbroken institution service the veteran's active military service to a maximum of five years' credit.

"**LAYOFF UNIT**" – A clearly identified structure within an institution, which is approved by the director, and within which employment/layoff options are determined in accordance with the reduction in force procedure.

"**LEAD**" – An employee who performs the same duties as other employees in his/her work group and in addition regularly assigns, instructs and checks the work of the employees.

"**NONCOMPETITIVE SERVICE**" – All positions in the classified service for which a competitive examination is not required.

"**ORGANIZATIONAL UNIT**" – A clearly identified structure, or substructure of persons employed to achieve a common goal or function under the direction of a single official. An organizational unit may consist of either an administrative entity or a geographically separated activity.

"**PART-TIME EMPLOYMENT**" – Work of twenty or more hours per week but less than full time employment with an understanding of continuing employment for six months or more.

"**PERIODIC INCREMENT DATE**" – ("P.I.D.") – The date upon which an employee is scheduled to move to a higher salary step within the range for his/her current class, as provided in WAC 251-08-090 and 251-08-100.

"**PERMANENT EMPLOYEE**" – An employee who has successfully completed a probationary period at the institution within the current period of employment.

"**PERSONNEL OFFICER**" – The principal employee in each institution/related board responsible for administrative and technical personnel activities of the classified service.

"**P.I.D.**" – Commonly used abbreviation for periodic increment date.

"**POSITION**" – A set of duties and responsibilities normally utilizing the full or part time employment of one employee.

"**PRINCIPAL ASSISTANT EXEMPTION**" – Individuals qualifying for exemption under this category function as second-in-command in importance levels. The individual may perform many of the functions of his/her superior in the superior's absence, or alternatively may have major administrative or program responsibilities. Reporting relationships will not be below that of the executive head. In some institutions an executive head may have more than one principal assistant as determined by the higher education personnel board.

"**PROBATIONARY PERIOD**" – The initial six-month period of employment in a class following appointment from an eligible list of a nonpermanent employee of the institution. However, upon prior approval by the board, the probationary period for selected classes may be established for a period in excess of six months but not to exceed twelve months.

"**PROBATIONARY REAPPOINTMENT**" – Appointment of a probationary employee from an eligible list to a position in a different class.

"**PROFESSIONAL EMPLOYEES**" – Personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

(1) Primary duty must involve work that requires knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction and study or work that is original and creative in character in a recognized field of artistic endeavor and the result of which depends primarily on invention, imagination, or talent; and

(2) Must consistently exercise discretion and judgment; and

(3) Must do work that is predominantly intellectual and varied, as distinguished from routine or mechanical duties; and

(4) Must be paid at a rate of at least \$737 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if the primary duty consists of work requiring knowledge of an advanced type in a field of science or learning which requires consistent exercise of discretion and judgment.

"PROMOTION" – The appointment as a result of recruitment, examination and certification, of a permanent employee to a position in another class having a higher salary range maximum.

"PROVISIONAL APPOINTMENT" – Appointment made prior to establishment of an eligible list, per the provisions of WAC 251-18-300. A person so appointed is required to apply through the competitive process to be considered for the position on a permanent basis.

"PUBLIC RECORDS" – Any writing containing information relating to conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

"REALLOCATION" – The assignment of a position by the personnel officer to a different class.

"REASSIGNMENT" – A management initiated movement of a classified employee from one position to another in the same class.

"RELATED BOARDS" – The state board for community college education, the council for postsecondary education, the higher education personnel board, and such other boards, councils and commissions related to higher education as may be established. For purposes of application of these rules, the term "institution" shall be considered to include these related boards, unless specifically indicated to the contrary.

"RESEARCH EXEMPTION" – Individuals in research-exempt positions spend the majority of their time in one or more of the following activities: Identification and definition of research problems, design of approaches or hypotheses and methodology to be used, design of specific phases of research projects, analysis of results, development of conclusion and hypothesis, presentation of research results in publishable form.

"RESIGNATION" – A voluntary termination of employment.

"REVERSION" – The return of a permanent employee from trial service to the most recent class in which permanent status was achieved.

"SUPERVISOR" – Any individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them or adjust their grievances, or effectively to recommend such action if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

"SUSPENSION" – An enforced absence without pay for disciplinary purposes.

"TEMPORARY APPOINTMENT" –

(1) Work performed in the absence of an employee on leave for:

(a) Less than ninety consecutive calendar days (WAC 251-18-350(4));

(b) Ninety or more consecutive calendar days (WAC 251-18-350(2)); or

(2) Formal assignment of the duties and responsibilities of a higher level class for a period of less than ninety consecutive calendar days; or

(3) Performance of extra work required at a work load peak, a special project, or a cyclic work load which does not exceed one hundred seventy-nine consecutive calendar days.

"TRAINING" – Formal and systematic learning activities intended to provide employees with the knowledge and skills necessary to become proficient or qualified in a particular field.

"TRANSFER" – An employee initiated change from one classified position to another in the same class within the institution without a break in service.

"TRIAL SERVICE" – The initial period of employment following promotion, demotion or lateral movement into a class in which the employee has not held permanent status, beginning with the effective date of the change and continuing for six months, unless interrupted as provided in these rules or extended as provided in WAC 251-18-330(5).

"UNDERUTILIZATION" – Having fewer minorities, women, or handicapped persons in a particular job group than would reasonably be expected by their availability.

"UNION SHOP" – A union membership provision which, as a condition of employment, requires all employees within a bargaining unit to become members of an employee organization.

"UNION SHOP REPRESENTATIVE" – An employee organization which is the exclusive representative of a bargaining unit that has been certified by the director as the union shop representative following an election wherein a majority of employees in the bargaining unit voted in favor of requiring membership in the employee organization as a condition of employment.

"UNION SHOP REPRESENTATION FEE" – Employees who are granted a nonassociation right based on religious tenets or teachings of a church or religious body of which they are members, must pay a representation fee to the union shop representative. Such fee is equivalent to the regular dues of the employee organization minus any monthly premiums for union sponsored insurance programs.

"WRITING" – Handwriting, typewriting, printing, photostating, photographing and every other means of recording any form of communication or representation including letters, words, pictures, sounds, or symbols or combination thereof and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

WSR 83-04-017

ADOPTED RULES

LIQUOR CONTROL BOARD

[Order 118, Resolution No. 127—Filed January 26, 1983]

Be it resolved by the Washington State Liquor Control Board, acting at Capital Plaza Building, 1025 East Union, Olympia, WA, that it does adopt the annexed rules relating to liquor vendors, chapter 314-37 WAC and liquor vendors in Indian county—Appointment of tribal liquor vendors—Qualifications, WAC 314-37-010.

This action is taken pursuant to Notice No. WSR 83-01-123 filed with the code reviser on December 22, 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 Washington State Liquor Control Board as authorized in RCW 66.08.030 and 66.08.050(2).

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 26, 1983.

By Robert D. Hannah
Chairman

Chapter 314-37 WAC
LIQUOR VENDORS

WAC

314-37-010

LIQUOR SALES IN INDIAN
COUNTRY—APPOINTMENT
OF TRIBAL LIQUOR VEN-
DORS—QUALIFICATIONS.

NEW SECTION

WAC 314-37-010 LIQUOR SALES IN INDIAN COUNTRY—APPOINTMENT OF TRIBAL LIQUOR VENDORS—QUALIFICATIONS. (1) The Washington state liquor control board deems it necessary and advisable to adopt this rule for the following reasons:

(a) The decision of the Federal 9th Circuit Court of Appeals in the case of Rice v. Rehner (filed June 8, 1982) has established that the state of Washington has no licensing jurisdiction over tribal liquor sales in Indian country and that those sales, when made in conformity with federal law, are subject to the exclusive jurisdiction of the tribe.

(b) Notwithstanding the decision in Rice v. Rehner, the State Court of Appeals in State v. Aukeen District Court has held that it still remains contrary to state law for non-tribal purchasers of Indian liquor to remove that liquor from the reservation and into the state of

Washington in those instances where the tribal liquor sellers are not authorized by the board to sell liquor to those non-tribal purchasers. Substantial expense has been incurred by the board's enforcement division in arresting and prosecuting non-tribal purchasers of liquor sold by tribal outlets in Indian country.

(c) The board has negotiated a settlement of pending litigation with certain Indian tribes, which settlement provides for recovery by the state of state tax on tribal liquor sold to non-tribal purchasers provided that those sales are authorized by the board under RCW 66.08.050(2) through the appointment of qualifying Indian tribes as liquor vendors.

(2) Accordingly, pursuant to RCW 66.08.050(2), the Washington state liquor control board will appoint qualifying Indian tribes, which have entered into negotiated business agreements with the board, as liquor vendors for the purpose of sales to individuals who intend to remove the liquor from the reservation. The status of liquor vendor will authorize them to sell liquor by the bottle under the following conditions:

(a) The tribe must have in force a tribal ordinance governing liquor sales, which ordinance must have been certified by the Secretary of the Interior and published in the Federal Register.

(b) The tribe must purchase all of its spirituous liquor for resale in Indian country from the board at a negotiated price which will cover the board's cost of acquisition, transportation, and handling, and the taxes imposed by RCW 82.08.150. PROVIDED: That a quota of liquor will be sold by the board each year to the tribe without the payment of taxes, which quota shall be negotiated between the Board and the qualified Tribes and approved by the Department of Revenue.

(c) The tribe must purchase beer and wine only from the board or from board licensed manufacturers or wholesalers.

(d) The tribe must make all liquor sales in Indian country in conformity with federal law and must conform to state law insofar as state law is made applicable to such sales by federal law. The tribe may make sales of liquor by the bottle to such persons, firms or corporations as may be sold liquor from a state liquor store except that the tribe will not be authorized to sell liquor to any state licensed retail liquor licensees.

(e) The tribe shall collect and remit to the state department of revenue the retail sales tax imposed by RCW 82.08.020 on retail sales of beer and wine to non-tribal members.

(f) "Indian country" as used herein shall have the meaning ascribed to it in Title 18 U.S.C. § 1154 as of the date of promulgation of this rule.

(3) Should a tribe which has been appointed as a liquor vendor pursuant to this section fail to comply with all the above enumerated conditions, which shall be construed as continuing requirements to maintain the status of liquor vendor, the appointment of that tribe as a liquor vendor may be revoked by the board.

WSR 83-04-018
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
NATURAL RESOURCES
(Board of Natural Resources)
 [Memorandum—January 26, 1983]

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

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

WSR 83-04-019
EMERGENCY RULES
LOTTERY COMMISSION
 [Order 13—Filed January 26, 1983]

Be it resolved by the Washington State Lottery Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to new sections WAC 315-06-060, 315-11-010, 315-11-020, 315-11-030 and amending WAC 315-06-080.

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 these rules will replace emergency rules which will expire on January 27, 1983, (WAC 315-06-080 will expire on February 8, 1983). Permanent rules have been adopted and filed, but will not become effective until February 13, 1983. It is necessary to file these rules as emergency rules to cover that window. Delay in adoption of these rules would be contrary to public interest.

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

This rule is promulgated pursuant to RCW 67.70.040 and 67.70.050 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 24, 1983.

By Richard A. Finnigan
 for Paul Mack
 Chairman

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.

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 of 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 of 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 30 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; eight Third Prizes of \$10,000 each. The director does reserve the right, provided by WAC 315-10-030(7)(a), 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.

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 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.

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, 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 83-04-020

ADOPTED RULES

DEPARTMENT OF LICENSING

(Board of Funeral Directors and Embalmers)

[Order PL 419—Filed January 26, 1983]

Be it resolved by the Washington State Board of Funeral Directors and Embalmers, acting at Olympia, Washington, that it does adopt the annexed rules relating to the amending of chapter 308-48 WAC.

This action is taken pursuant to Notice No. WSR 82-24-087 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 18.39.175 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 Duaine L. Einan
Vice Chairman

AMENDATORY SECTION (Amending Rule 1, filed 9/17/64)

WAC 308-48-010 DEFINITIONS. For the purpose of these rules, the following terms shall be construed in the following manner:

(1) "Funeral director", and "embalmer" shall have the same meaning as provided in RCW 18.39.010.

(2) "Board" shall mean the state ~~((examining committee for))~~ board of funeral directors and embalmers.

(3) "Licensee" shall mean any person holding a license issued by the director.

(4) "In its employ" as used in RCW 18.39.148 shall include personnel who are employed on a part-time basis

as well as personnel who are employed on a full-time basis.

Any prohibition in these rules and regulations stated as against a licensee or apprentice shall be taken and treated as a prohibition against such action by the licensee or apprentice in his own proper person, directly or indirectly, or by agent, servant, employee or associate, or through any person, firm or corporation, and as a prohibition against such action known and permitted by him and operating or tending to operate for his benefit from whatever source.

AMENDATORY SECTION (Amending Rule 3, filed 9/17/64)

✓ WAC 308-48-030 ((HEALTH)) RESTRICTIONS. (1) Licensees in all their licensed activities, shall comply with all applicable Washington state laws, rules and regulations related to health or the handling or disposal of human remains.

(2) ~~((The reasonable licensee shall be held accountable for the following requirements: That))~~ Every establishment where embalming is done shall have a separate room for the purpose, equipped in a sanitary manner, including operating table, sanitary waste receptacles and such plumbing as may be necessary for the sanitary disposal of wastes resulting from embalming; and that embalming instruments shall be properly cleaned and disinfected after each operation and shall be kept clean between operations.

(3) ~~((Every))~~ No licensee ~~((and))~~ or apprentice, in ~~((his))~~ handling ~~((of))~~ a dead body, ~~((shall perform all acts necessary or proper to safeguard the public health, but))~~ shall perform ~~((no))~~ any unnecessary act which will tend to affect adversely the dignity or the respectful and reverential handling and burial or other customary disposal of the dead.

(4) The care and preparation for burial or other disposition of all human dead bodies shall be private. No one shall be allowed in the embalming or preparation rooms while a dead body is being embalmed or during the course of an autopsy except the licensee, his authorized employees, and public officials in the discharge of their duties. This rule shall not apply to duly authorized doctors and nurses employed in a case, nor to members of the immediate family of the deceased or those authorized to be present by the decedent's next of kin.

(5) Every licensee shall provide a written itemization of any property, money, jewelry, possessions or other items of significant value found on a body in the licensee's care, custody or control to the decedent's next of kin or the proper authorities.

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 PL 273, filed 8/1/77)

✓ WAC 308-48-110 REVOCATION OF LICENSE. ~~((The director may suspend or revoke any license or any apprentice certificate issued pursuant to chapter 18.39~~

~~RCW for any violation of the law or any rule or regulation issued in support thereof.))~~

No individual whose license has been revoked shall be eligible for licensure as a funeral director or embalmer in this state for a period of five (5) years from the date of such revocation. Upon expiration of the 5 year period, such individual may apply for reinstatement provided he successfully retakes the examination and meets all the minimum requirements of RCW 18.39.035.

NEW SECTION

WAC 308-48-165 EXAMINATION SUBJECTS. Effective March 1, 1983, the following National Board examinations will be administered to all funeral director and embalmer license applicants:

(1) For funeral directors, the funeral service arts exam covering sociology, psychology and counseling, funeral directing and professional relationships, business law, funeral service law, funeral merchandising and accounting;

(2) For embalmers, the funeral service science exam covering embalming, restorative art, microbiology, pathology, chemistry and anatomy.

Applicants will also be required to successfully complete a state exam in the following subjects:

(3) For funeral directors, signs of death, sanitary science and state law governing the practice of funeral directing, and the preparation, burial, disposal or shipment of human remains;

(4) For embalmers, physiology, sanitary science and state law governing the practice of embalming, and the preparation, burial, disposal or shipment of human remains.

AMENDATORY SECTION (Amending Order PL 249, filed 5/21/76)

✓ WAC 308-48-190 EXAMINATION FEE ~~((= NOT REFUNDABLE))~~. Examination fees paid pursuant to the provisions of RCW 18.39.070(1) are not refundable unless the applicant notifies the department in writing at least 15 days prior to the scheduled exam date that he will not appear.

AMENDATORY SECTION (Amending Order PL 249, filed 5/21/76)

✓ WAC 308-48-200 REPORT OF APPRENTICESHIP TERMINATION, TRANSFER AND CREDIT.

(1) The responsibility for notifying the Director, Department of ~~((Motor Vehicles))~~ Licensing of apprenticeship registration and termination rests with the employing Funeral Director or Embalmer pursuant to RCW 18.39.120. In order to protect the status of the apprentice in cases where the employing licensee fails to initiate the required report of termination or registration, the affected apprentice should initiate and ensure submission of same. Such report must be submitted within thirty (30) days of the termination or registration of the apprentice's employment, setting forth the information required for apprenticeship credit. The report shall be certified by signature of the supervising employer.

(2) A transfer of apprenticeship report shall be submitted by the apprentice or his new employer to the Director, Department of (~~Motor Vehicles~~) Licensing, within thirty (30) days of his hiring by a new supervising employer. Such report is to be signed by the apprentice and his new supervising employer. No apprenticeship credit shall be allowed for period worked between the time of transfer and the reporting of same unless such report is submitted within the required thirty (30) days of such transfer. No credit for apprenticeship shall be allowed for any period during which the apprentice is not duly registered pursuant to RCW 18.39.120, except as provided for in WAC 308-48-120. In the event an apprentice's supervising employer dies or is otherwise incapable of certifying apprenticeship credit, such credit may be given by certification of the apprentice of credit due or by certification by another licensee who has knowledge of the work performed and the credit due: PROVIDED, That in either such case, documentation or reasonable proof of such credit may be required by the director.

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 83-04-021
ADOPTED RULES
DEPARTMENT OF LICENSING
[Order PL 420—Filed January 26, 1983]

I, Joan Baird, assistant director of the Washington State Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to adding new chapter 308-49 WAC.

This action is taken pursuant to Notice No. WSR 82-24-087 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 12, chapter 66, 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 Joan Baird
Assistant Director

CHAPTER 308-49

PREARRANGEMENT FUNERAL SERVICES

WAC

- 308-49-100 PURPOSE.
- 308-49-120 EFFECTIVE DATE AND SCOPE.

- 308-49-130 DEFINITIONS.
- 308-49-140 REGISTRATION.
- 308-49-150 PREARRANGEMENT FUNERAL SERVICE CONTRACT FORM REQUIREMENTS.
- 308-49-160 REQUIREMENTS AS TO TRUST FUNDS.
- 308-49-170 ANNUAL STATEMENT REQUIREMENTS.
- 308-49-180 RENEWAL OF CERTIFICATE OF REGISTRATION.

NEW SECTION

✓ WAC 308-49-100 PURPOSE. The purpose of this chapter is to implement the provisions of chapter 66, Laws of 1982, 1st Extraordinary Session, by establishing rules for the registration of funeral establishments which enter into prearrangement funeral service contracts and to establish uniform minimum requirements for such contracts and prearrangement trust funds.

NEW SECTION

✓ WAC 308-49-120 EFFECTIVE DATE AND SCOPE. These regulations shall be effective on March 1, 1983 and shall be applicable to all prearrangement funeral service contracts entered into in this state on and after that date.

NEW SECTION

✓ WAC 308-49-130 DEFINITIONS. Unless the context clearly requires otherwise, the following definitions shall apply throughout this chapter:

(1) "Prearrangement funeral service contract" means any contract, other than a contract entered into by an insurance company, under which, for a specified consideration paid in advance in a lump sum or by installments, a funeral establishment promises upon the death of a beneficiary named or implied in the contract, to furnish funeral merchandise or services.

(2) "Funeral merchandise or services" shall mean those services normally performed and merchandise normally provided by funeral establishments including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches or vaults.

(3) "Qualified public depository" means a depository defined by RCW 39.58.010 (state banks or trust companies, national banking associations, and certain branches of foreign banks), a credit union as governed by chapter 31.12 RCW, a mutual savings bank as governed by Title 32 RCW, a savings and loan association as governed by Title 33 RCW, or a federal credit union or a federal savings and loan association organized, operated and governed by any act of Congress, in which prearrangement funeral service contract funds are deposited by any funeral establishment.

(4) "Funeral establishment" means a place of business licensed under RCW 18.39.145.

NEW SECTION

WAC 308-49-140 REGISTRATION. (1) Before entering into any prearrangement funeral service contracts in this state, a funeral establishment shall first obtain a certificate of registration from the director. To apply for registration, a funeral establishment must file an application on forms provided by the director, which includes:

(a) The name, address, and telephone number of the funeral establishment;

(b) The name and license number of the person at the funeral establishment responsible for supervising the sale of funeral merchandise or service on a prearrangement basis;

(c) A statement of the establishment's current financial condition and an explanation of how the establishment plans to offer, market and service prearrangement contracts including:

(i) The type of business organization which operates the funeral establishment, e.g., sole proprietorship, partnership or corporation and a list of all officers, directors, partners and managers by name and title, and any person owning more than ten percent of the business;

(ii) A balance sheet and a profit and loss statement for the most recently concluded fiscal year, certified by a certified public accountant, a licensed public accountant, or a copy of the establishment's most recent federal income tax return verified by a certified public accountant or a licensed public accountant;

(d) The prearrangement funeral contract forms the establishment proposes to use, which need not be in final printed form; however, a copy of the final printed form shall be filed with the director before the form is used;

(e) Identification of the qualified public depository the establishment will use with an explanation of the depository's manner of operating and managing the prearrangement funeral service contract trust fund, together with copies of any contract or trust agreement to be entered into in connection with such trust fund, and, if a single trust fund is to be established and maintained with respect to several prearrangement funeral service contracts, a complete explanation of the manner in which records will be maintained to allocate the interest, dividends, increases or accretions and the share of such fund to each contract.

(2) Upon review of the application, the director may require additional information or explanation prior to registration or refusing to register the funeral establishment.

(3) The application shall be accompanied by a check payable to the state treasurer in the amount required by the director for issuance of the certificate of registration.

NEW SECTION

WAC 308-49-150 PREARRANGEMENT FUNERAL SERVICE CONTRACT FORM REQUIREMENTS. (1) The terms of prearrangement funeral service contracts are of substantial importance to both consumers and the establishment. Contracts therefore

should be written in language that can be easily understood by all parties and printed or typed in easily readable type size and style.

(2) Every contract shall include the following information:

(a) The name of the purchaser and the beneficiary of the contract;

(b) A description of the services and merchandise to be provided, if specific merchandise and services are to be furnished, and a statement clearly setting forth whether the purchase price paid fully pays for such services and merchandise or if the purchase price is to be applied toward the cost of such services and merchandise when they are provided;

(c) The total purchase price to be paid under the contract and the manner and terms which will govern payment;

(d) Information about the prearrangement funeral service trust fund and the amount to be deposited in the trust fund, and either designate the particular qualified public depository which will be used or provide a means whereby a purchaser or beneficiary may ascertain the depository;

(e) A statement to the purchaser of the contract that the funds deposited under the contract, plus accruals thereon, shall be withdrawable from the depository under the following circumstances and conditions;

(i) If the funeral establishment files a verified statement with the depository that the prearrangement funeral merchandise and services covered by the contract have been furnished and delivered in accordance therewith; or

(ii) If the funeral establishment files a verified statement with the depository that the prearrangement funeral merchandise and services covered by the contract have been cancelled in accordance with its terms;

(f) A statement that any purchaser or beneficiary who has entered into a prearrangement funeral service contract shall have the right to receive, on making such demand of the funeral establishment, a refund of the entire amount paid on the contract (including any amounts not deposited, interest charges paid under chapter 63.14 RCW), together with all interest, dividends, increases, or accretions to the fund;

(g) A statement that the contract will automatically terminate if the funeral establishment goes out of business, becomes insolvent or bankrupt, makes an assignment for the benefit of creditors, or for any other reason is unable to fulfill the obligations under the contract; and that, in such event, and upon demand by the purchaser or beneficiary of the contract, the depository of the contract funds will refund to the purchaser or beneficiary all funds deposited under the contract, unless otherwise ordered by a court of competent jurisdiction.

(3) Such contract shall be dated and be executed by the purchaser and by the funeral establishment through its owner, officer or managing agent.

(4) If a retail installment transaction is involved, the contract shall comply with the requirements of chapter 63.14 RCW.

NEW SECTION

✓ WAC 308-49-160 **REQUIREMENTS AS TO TRUST FUNDS.** (1) A funeral establishment must record with the director the name of each qualified public depository which it uses in connection with its prearrangement funeral service contracts. In the event it transfers its trust funds from one qualified public depository to another, it shall notify the director of such change at least 15 days in advance of the change.

(2) Until services and merchandise are furnished pursuant to the contract, not more than 15% of the cash purchase price of each prearrangement funeral service contract, excluding sales tax, may be retained by the funeral establishment. The funeral establishment must deposit no less than the last 85% of the proceeds received on each prearrangement funeral service contract, excluding sales tax, no later than the twentieth day of the month following receipt of each payment thereon, in a qualified public depository which has been recorded with the director pursuant to subsection (1) of this section.

(3) The qualified public depository must agree in writing with the funeral establishment to permit withdrawal of the funds the depository holds under a prearrangement funeral service contract, plus accruals thereon, in accordance with the requirements of chapter 18.39 RCW.

(4) A qualified public depository holding funds under a prearrangement funeral service contract must agree with the funeral establishment that the depository will continue to hold the prearrangement funeral service trust fund of the particular funeral establishment even though the funeral establishment may not renew its certificate of registration or has such certificate suspended, revoked or nonrenewed. This shall not prevent a transfer of funds to another qualified public depository.

(5) A purchaser or beneficiary shall be entitled to be informed of the amount of the deposit attributable to his or her prearrangement funeral service contract, and either the funeral establishment or the depository shall provide the purchaser or beneficiary with such information at least once each year.

NEW SECTION

✓ WAC 308-49-170 **ANNUAL STATEMENT REQUIREMENTS.** (1) Each registered funeral establishment shall file with the director annually, before the first day of March, a true and accurate statement of its financial condition, transactions and affairs for the preceding calendar year.

(2) The statement shall include a balance sheet and a profit and loss statement for the preceding calendar year, certified by a certified public accountant or a licensed public accountant, or a copy of the establishment's most recent federal income tax return verified by either a certified public accountant or a licensed public accountant.

(3) The funeral establishment shall list any changes in its officers, directors, managers or partners or any change in ownership greater than ten percent which have occurred in the preceding calendar year.

(4) With respect to each prearrangement funeral service contract trust fund, the following information shall be provided:

- (a) The name of depository and the account number;
 - (b) The number of outstanding contracts at the beginning of the year;
 - (c) The total amount paid in by the holders of such contracts pertinent to the trust fund;
 - (d) The total amount deposited in the trust account;
 - (e) The number of new contracts issued during the year;
 - (f) The amount paid in on such new contracts and the amount deposited in the trust fund for such contracts;
 - (g) The number of individuals withdrawing from the contracts, the principal amount paid to them and the amount of interest, dividends, or accretions, separately stated, paid to them.
 - (h) The number of cases where prearrangement funeral merchandise and services covered by the contract have been furnished and delivered and the amount transferred out of the trust fund to the funeral establishment for such services;
 - (i) The number of outstanding contracts as of the end of the calendar year and the amount being held in trust for such contracts.
- (5) The annual statement shall be accompanied by a fee as determined by the director, payable to the state treasurer.

NEW SECTION

✓ WAC 308-49-180 **RENEWAL OF CERTIFICATE OF REGISTRATION.** The certificate of registration must be renewed by the first day of July of each year. After review of the annual statement, the director will renew the certificate of registration upon receipt of the statutory renewal fee established by the director, if the funeral establishment is qualified for such renewal.

REPEALER

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

- ✓ WAC 308-48-020 MISCONDUCT ENUMERATED IN STATUTE.
- ✓ WAC 308-48-090 ABSENCE OF LICENSEE.
- ✓ WAC 308-48-115 DIRECTOR'S DESIGNEES.
- ✓ WAC 308-48-170 COLLEGIATE LEVEL HOURS.
- ✓ WAC 308-48-175 APPLICATION TO NATIONAL BOARDS — EMBALMERS.
- ✓ WAC 308-48-19001 DEFINITION — EMPLOY.

WSR 83-04-022

NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
[Memorandum—January 26, 1983]

The Washington State Department of Agriculture has scheduled a public hearing for the purpose of gathering public input, information and opinions on gypsy moth control. This public hearing will be on Wednesday,

March 16, 1983, in the auditorium of Office Building #2 (it is on the corner of 12th and Jefferson) beginning at 9:00 a.m.

WSR 83-04-023
EMERGENCY RULES
ENERGY FACILITY SITE
EVALUATION COUNCIL
 [Order 83-1—Filed January 27, 1983]

Be it resolved by the Energy Facility Site Evaluation Council, acting at Olympia, Washington, that it does adopt the annexed rules relating to Request for preemption—Contested case, WAC 463-28-060.

We, the Energy Facility Site Evaluation Council, 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 this adoption corrects a procedural error which requires immediate change because the council is anticipating receipt of a new application for siting of a major energy facility.

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

This rule is promulgated pursuant to RCW 80.50.040(1) which directs that the Energy Facility Site Evaluation Council has authority to implement the provisions of chapter 80.50 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 24, 1983.

By William L. Fitch
 Executive Secretary

AMENDATORY SECTION (Amending Order 78-3, filed 6/23/78)

WAC 463-28-060 REQUEST FOR PREEMPTION—CONTESTED CASE. Should applicant elect to continue processing the application and file a request with the council for state preemption, the council will schedule a contested case hearing on the application as specified under chapter 463-30 WAC. (~~As the first order of business in the contested case;~~) The council shall determine whether to recommend to the governor that the state should preempt the local land use plans or zoning ordinances for a site or portions of a site for the energy facility proposed by the applicant. The factors to be evidenced under this issue are those set forth in WAC 463-28-040. The determination of preemption shall be by council order, and shall be included in its recommendation to the governor pursuant to RCW 80.50.100. The council shall determine this issue on the record before proceeding further in the contested case; thereafter, the remainder of the contested case shall proceed only if

preemption is ordered by the council. Otherwise, the procedure shall follow WAC 463-28-080.

WSR 83-04-024
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)
 [Order 191—Filed January 27, 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 Nisqually River system (83D), Nooksack River system, marine area 7B, Skagit River system, marine area 8, Sooes River system, Waatch River system and Pysht River system to the taking of steelhead trout by treaty Indians, WAC 232-32-148.

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 treaty Indian fishermen from the Nisqually River system (83D), Nooksack River system, marine area 7B, Skagit River system, marine area 8, Sooes River system, Waatch River system and Pysht River system (pursuant to the reporting system approved by the United States District Court in United States vs. Washington) indicates that the treaty Indian share of harvestable steelhead for these areas has been reached or will have been reached on the effective date of this order. Therefore, it is necessary to close these areas 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 27, 1983.

By Archie U. Mills
 Chairman, Game Commission

NEW SECTION

WAC 232-32-148 CLOSURE OF NISQUALLY RIVER SYSTEM (83D), NOOKSACK RIVER SYSTEM, MARINE AREA 7B, SKAGIT RIVER SYSTEM, MARINE AREA 8, SOOES RIVER SYSTEM, WAATCH RIVER SYSTEM AND PYSHT RIVER SYSTEM TO THE TAKING OF STEELHEAD

TROUT BY TREATY INDIANS. Effective 2:00 p.m., January 28, 1983, it is unlawful for treaty Indians to take, fish for or possess steelhead trout in or from the Nisqually River system (83D), Nooksack River system, Marine Area 7B, Skagit River system, Marine Area 8, Sooes River system, Waatch River system, and Pysht River system.

WSR 83-04-025
ADOPTED RULES
DEPARTMENT OF FISHERIES
[Order 83-04—Filed January 27, 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.

This action is taken pursuant to Notice No. WSR 83-01-133 filed with the code reviser on December 22, 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 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 25, 1983.

By William R. Wilkerson
Acting Director

AMENDATORY SECTION (Amending Order 82-215, filed 12/1/82, effective 1/1/83)

✓ WAC 220-48-015 BEAM TRAWL AND BOTTOM TRAWL—SEASONS. (1) It is lawful to take, fish for and possess bottomfish taken with bottom trawl and beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 22A, 22B, 23A, 23B, 23C, 25A, 25B, 25D, and 29 the entire year with the following exceptions:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A east of a line projected from Point Whitehorn to Sandy Point shall be closed the entire year.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 25A lying southerly and westerly of a line projected from Kiapot Point to Gibson Spit (Sequim Bay) are closed the entire year.

(2) It is lawful to take, fish for and possess bottomfish with bottom trawl and beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 26A, 26B, and 26D from April 15 through February 14 with the following exceptions:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A west of a line from Strawberry Point on Whidbey Island to Brown Point on

Camano Island, are closed except from June 15 through February 14.

(b) Elliot Bay inside a line projected from Four Mile Rock to Alki Point is closed the entire year.

(c) Those waters of Area 26D south of lines projected from Dash Point to Point Piner on Maury Island, and from Point Dalco on Vashon Island true west to the Kitsap Peninsula are closed the entire year.

(d) Those waters provided for in WAC 220-20-020(4).

(e) It is lawful to take, fish for and possess Pacific hake taken with bottom trawl and beam trawl gear the entire year.

(3) It is unlawful to take, fish for or possess bottomfish taken with bottom trawl and beam trawl gear for commercial purposes in Marine Fish-Shellfish Management and Catch Reporting Areas 24D (Holmes Harbor), 25C, 27A, 27B, and 27C (Hood Canal) except on Mondays and Tuesdays from December 1 through February 14.

(4) It is unlawful to take, fish for, or possess bottomfish taken with bottom trawl or beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Area 25E except on Monday through Thursday from December 1 through February 14 with the following exception: Those waters of Area 25E lying southerly of a line projected from Mill Point due east to the opposite shore, are closed the entire year.

(5) It is lawful to take, fish for and possess bottomfish taken with bottom trawl and beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Areas 28A, 28B, 28C, and 28D from December 1 through April 14, with the exception of the following closed waters:

(a) Those waters of Hale Passage and the Narrows east and north of lines projected from Fox Point on Fox Island true east to the mainland, and from the northwest point on Fox Island true north to the mainland.

(b) Budd Inlet south of the northern boundary of the restricted berthage area shown on United States Coast Guard Chart No. 6460.

(c) Eld Inlet south and west of a line projected true south from Flapjack Point.

(d) Totten Inlet south and west of lines projected true north and true east from the outermost point on the west side of Gallagher Cove.

(e) Henderson Inlet south of a line projected true east from Dickerson Point; the waters inside Hartstene Island between lines projected from Unsal Point to Brisco Point and Salmon Point true east to Hartstene Island; and all of Hammersley Inlet.

(f) Those waters provided for in WAC 220-20-010(6).

(g) Those waters of Drayton Passage south of a line due west from the northernmost point of McNeil Island; west of a line running north and south between McNeil and Anderson Islands through Eagle Island; and north of a line from Devil's Head to Treble Point.

(h) Those waters of area 28A south of a line projected due west from Johnson Point to Hartstene Island (Dana Passage).

(6) It is unlawful to take, fish for or possess bottom-fish taken with bottom trawl or beam trawl gear for commercial purposes in Marine Fish-Shellfish Management and Catch Reporting Areas 21B and 26C the entire year.

AMENDATORY SECTION (Amending Order 79-11, filed 2/15/79)

✓ WAC 220-49-020 SEASONS—LAWFUL GEAR—PURPOSES. It shall be unlawful to take, fish for or possess for commercial purposes herring, candlefish, anchovy or pilchards in Puget Sound except during lawful seasons, with lawful gear and for such purposes as provided for hereinafter in each respective fishing area:

(1) Areas 20A, 20B, 21A, and 21B.

(a) Closed March 1 through April 15 to all commercial fishing gear.

(b) Open April 16 through May 31, with purse seine, lampara, dip bag net, and gill net, except as provided in WAC 220-49-021.

(c) Open June 1 through August 31 with drag seine, purse seine, lampara, and dip bag net for bait and human consumption only.

(d) Open September 1 through February 28 with drag seine, purse seine, lampara, and dip bag net for any purposes except sac-roe.

(2) Areas 22A, 22B, ((and)) 23A, 23B, 23C, and 29 – Open entire year with drag seine, purse seine, lampara, and dip bag net for human consumption or bait only.

(3) Areas 24A, 24B, 24C, 24D, 25A, 25B, 25C, 25D, 25E, 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, and 28D – Open entire year, with drag seine, lampara, or dip bag net, for human consumption or bait only: PROVIDED That it shall be unlawful for any fisherman, including treaty Indian fishermen, to take, fish for or possess herring with any net gear which exceeds 200 feet in length, except drag seine gear (350 foot length).

AMENDATORY SECTION (Amending Order 76-148, filed 12/2/76)

✓ WAC 220-49-056 SMELT FISHING—SEASONS. It shall be unlawful during any open season to take, fish for or possess smelt for commercial purposes in Puget Sound except during the following seasons:

(1) Area 21A – July 25 to April 30.

(2) Area 22B – December 1 to April 30.

(3) Areas 24A ((and)), 24B, 24C, and 24D – July 1 to April 30.

(4) Area 25A and 25E – October 15 to April 30.

(5) Areas 26C, 27B, 27C, 28C, and 28D – October 1 to April 30.

(6) Areas 28A and 28B – September 1 to April 30.

(7) All other areas open the entire year.

AMENDATORY SECTION (Amending Order 82-6, filed 1/19/82)

✓ WAC 220-52-050 SHRIMP FISHERY—LAWFUL AND UNLAWFUL. (1) It is unlawful to land or possess shrimp exceeding an average of 160 whole shrimp per pound in or from the coastal waters of the

state of Washington and the adjoining waters of the Pacific Ocean. The count must average no more than 160 shrimp per pound for a minimum of two samples increasing at a rate of one sample per one thousand pounds landed or in possession up to a maximum requirement of twenty samples. Such samples shall consist of at least one pound each of whole unbroken shrimp taken at random from throughout the individual load landed or in possession. This subsection applies only to loads of 3,000 pounds of shrimp or more.

(2) It is unlawful for any person to take or fish for shrimp for commercial purposes in Puget Sound with more than 100 shellfish pots, and it is unlawful for any group of persons using the same vessel to take or fish for shrimp for commercial purposes in Puget Sound with more than 100 shellfish pots except:

(a) It is unlawful for any person, or for any group of persons using the same vessel, to take or fish for shrimp for commercial purposes with more than 75 shellfish pots in Puget Sound Marine Fish-Shellfish Area 28B as described in WAC 220-22-400.

(b) It is unlawful for any person to take or fish for shrimp for commercial purposes in that portion of Marine Fish-Shellfish Catch Reporting Area 23C inside and westerly of a line projected from the tip of Ediz Hook to the ITT Rayonier Dock with more than 10 shellfish pots.

(3) It is unlawful to operate, set or have in the water any baited or unbaited shellfish pots for taking of shrimp for commercial purposes in any area or at any time that it is unlawful to take or fish for shrimp for commercial purposes therein.

AMENDATORY SECTION (Amending Order 80-123, filed 9/17/80)

✓ WAC 220-52-073 SEA URCHINS. (1) It shall be unlawful to take, fish for or possess sea urchins for commercial purposes except using dip bag net gear.

(2) It shall be unlawful to take, fish for or possess sea urchins for commercial purposes except by divers using hand-operated equipment that does not penetrate the shell.

(3) It shall be unlawful to take sea urchins for commercial purposes in waters shallower than 10 feet below mean lower low water.

(4) It shall be unlawful to take, fish for or possess for commercial purposes, purple urchins at any time.

(5) It shall be unlawful to take, fish for or possess red sea urchins except between the minimum and maximum sizes, measured caliper measure at the largest diameter of the shell, exclusive of the spines, as follows:

(a) In coastal marine fish-shellfish areas 58 and 59 and Puget Sound marine fish-shellfish areas 23C and 29, minimum 3.75 inches – maximum 5.5 inches.

(b) All other areas, minimum 4.5 inches – maximum 5.5 inches.

(6) It shall be unlawful to take, fish for or possess sea urchins for commercial purposes at any time in the following areas:

(a) San Juan Channel and Upright Channel within the following lines: North of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island; south

of a line projected from Flat Point true west to Shaw Island; west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island and south of a line from Steep Point to Limestone Point on San Juan Island.

(b) Within one-quarter mile north and one-half mile south of Eagle Point on San Juan Island.

(c) Within one-quarter mile in any direction of Green Point on the East end of Spieden Island.

(d) Within one-quarter mile of Gull Reef located between Johns Island and Spieden Island.

(e) Within one-half mile of Portage Head in marine fish-shellfish area 59.

(f) Within one-quarter mile of Tatoosh Island.

(g) Within one-quarter mile in any direction of Lime Kiln Light on the west shore of San Juan Island.

(h) The area that lies southerly of a line projected true west from a point one-fourth mile north of Pile Point on the west shore of San Juan Island and northerly of a line projected true west from the boundary marker located approximately one-half mile southerly of the east headland of False Bay on San Juan Island.

(i) Within one-quarter mile in any direction of the boundary marker located on the west shore of San Juan Island at a latitude of 48° 29.8' north and longitude of 123° 07.6' west. (Located approximately 1.5 miles south of Lime Kiln Light; locally known as Edwards Reef.)

(7) It shall be unlawful to take, fish for or possess sea urchins for commercial purposes without having a number, which has been assigned by the department of fisheries, placed in a visible location on each side of each vessel and on the top in a manner to be clearly visible from the side or from the air. The letters and numbers shall be black on white and shall be not less than 18 inches high and of proportionate width.

(8) It shall be unlawful to harvest sea urchins for commercial purposes from one-half hour after sunset to one-half hour before sunrise.

(9) No processing of sea urchins is permitted aboard the harvest vessel.

(10) It shall be unlawful to take, fish for, or possess sea urchins for commercial purposes except for use as human food unless a written permit is obtained from the director of fisheries.

AMENDATORY SECTION (Amending Order 80-123, filed 9/17/80)

✓ WAC 220-52-074 SEA URCHIN—AREAS AND SEASONS. It shall be unlawful to take, fish for or possess sea urchins for commercial purposes except during the following times and in the following areas:

(1) September 1 through September 30:

That portion of Puget Sound marine fish-shellfish area 20B east of a line projected true north from the point of land on Stuart Island that lies at the most northerly end of Johns Pass; easterly of a line projected from the most southerly point of Stuart Island to the most westerly end of Spieden Island; and west of a line projected true north from Green Point on the eastern end of Spieden Island to the International Boundary except for those portions closed in WAC 220-52-073(((7))) (6).

(2) October 1 of even-numbered years through April 30 of the following year:

That portion of Puget Sound marine fish-shellfish area 23C lying west of a line projected true north and south from the navigation bell buoy Number One in central Clallam Bay and marine fish-shellfish area 29, except for those portions closed in WAC 220-52-073(((7))) (6).

(3) October 1 of odd-numbered years through April 30 of the following year:

That portion of Puget Sound marine fish-shellfish area 23C lying east of a line projected true north and south from the navigation bell buoy Number One in central Clallam Bay, except for those portions closed in WAC 220-52-073(((7))) (6).

(4) Coastal marine fish-shellfish areas 58 and 59, except those portions closed in WAC 220-52-073, open the entire year.

WSR 83-04-026
ADOPTED RULES
DEPARTMENT OF FISHERIES
 [Order 83-05—Filed January 27, 1983]

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

This action is taken pursuant to Notice No. WSR 83-01-132 filed with the code reviser on December 22, 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 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 25, 1983.

By William R. Wilkerson
 Acting Director

AMENDATORY SECTION (Amending Order 82-220, filed 12/7/82)

✓ 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 time period.

WSR 83-04-027
ADOPTED RULES
DEPARTMENT OF FISHERIES
 [Order 83-06—Filed January 27, 1983]

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

This action is taken pursuant to Notice No. WSR 83-01-134 filed with the code reviser on December 22, 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 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 25, 1983.

By William R. Wilkerson
 Acting Director

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

✓ WAC 220-56-310 SHELLFISH—POSSESSION LIMITS. It is lawful unless otherwise provided for any one person to take in any one day or possess for personal use at any one time the following quantities and sizes of shellfish:

(1) Cockles, borers and clams in the shell, except razor clams, geoduck clams and horse clams:

(a) Hood Canal south of a line projected from Tala Point to Foulweather Bluff – 60 clams or 10 pounds in the shell in the aggregate, whichever occurs first.

(b) Puget Sound south and west of the Tacoma Narrows Bridge. This also includes Carr and Case Inlets and Pickering Passage – 40 clams or 7 pounds in the shell in the aggregate, whichever occurs first.

(c) All portions of Puget Sound except those described in (a) and (b) of this subsection – Bag limit January 1 – May 31: 60 clams or 10 pounds in the shell in the aggregate, whichever occurs first. Bag limit June 1 – December 31: 40 clams or 7 pounds in the shell in the aggregate, whichever occurs first.

(d) In Skagit Bay, east of a line projected from Browns Point to Swinomish Slough entrance, diggers may retain up to 20 pounds of Eastern softshell clams in the shell in addition to the limit set in (c) of this subsection.

(e) Willapa Bay – clams and borers five pounds in the shell in the aggregate.

(f) Willapa Bay – twenty-four cockles.

(2) Razor clams: 15 clams.

(3) Geoduck clams: 3 clams.

(4) Horse clams: First 7 clams taken.

(5) Oysters: 18 oysters.

(6) Rock scallops: 12 scallops.

(7) Sea scallops: 12 scallops (over 4 inches).

(8) Common or pink scallops: 20 pounds or 10 quarts in the shell.

(9) Shrimp: 10 pounds or 10 quarts in the shell.

(10) Octopus: 2 octopus.

(11) Abalone (Kamschatka): 5 abalone, minimum size limit 3-1/2 inches measured in horizontal line across the longest portion of the shell.

(12) Crawfish: 10 pounds in the shell.

(13) Squid: 10 pounds or 5 quarts.

(14) Sea cucumbers: 25 sea cucumbers.

(15) Red sea urchins: 18 sea urchins.

(16) Purple sea urchins: 18 sea urchins.

(17) Green sea urchins: 36 sea urchins.

(18) Dungeness crabs: 6 male crabs.

(19) Red crabs: 18 crabs.

(20) Blue mussels and sea mussels: 10 pounds in the shell.

WSR 83-04-028

NOTICE OF PUBLIC MEETINGS
WESTERN WASHINGTON UNIVERSITY
 [Memorandum—January 25, 1983]

The board of trustees of Western Washington University will hold their regular meeting on Thursday, February 3, 1983, at 1:30 p.m., in Old Main 340 on the campus of the university.

The trustees will meet for a study session at noon in VA 460.

WSR 83-04-029

PROPOSED RULES
DEPARTMENT OF LICENSING
(Veterinary Board of Governors)
 [Filed January 27, 1983]

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

Amd WAC 308-151-080 Examination procedures.

Amd WAC 308-151-100 Examination results.

A copy of the proposed amendments is shown below, however, changes may be made at the hearing;

that the agency will at 9:30 a.m., Tuesday, March 8, 1983, in the Nendel's Quality Inns, Executive Conference Theatre, 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 18.92.030.

The specific statute these rules are intended to implement is RCW 18.92.030 and 18.92.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1983.

Dated: January 26, 1983

By: Yvonne Braeme
Executive Secretary

STATEMENT OF PURPOSE

Name of Agency: Washington State Veterinary Board of Governors.

Purpose of Proposed Amendments: To allow the board to effectuate SB 4718, chapter 134, Laws of 1982, amending RCW 18.92.070 and permitting the board to let an applicant be examined prior to completion of educational requirements, and to amend the required content of the examination itself.

Statutory Authority: RCW 18.92.030 and 18.92.070.

Summary of Rules: WAC 308-151-080 Examination Procedures and WAC 308-151-100 Examination Results.

Reason for Proposed Amendments: To allow examination of applicants prior to completion of education and to afford the board flexibility in determining examination content.

Responsible Personnel: The Washington State Veterinary Board of Governors and its executive secretary have the responsibility for drafting, implementing and enforcing these rules. The executive secretary is Yvonne Braeme, P.O. Box 9649, Olympia, WA 98504, telephone (206) 234-0776 Scan, (206) 753-0776 Comm.

Proponents of the Proposed Amendments: The amendments were proposed by the Washington State Veterinary Board of Governors.

Agency Comments: The amendments are proposed pursuant to RCW 18.92.030 and 18.92.070.

Federal Law or State Court Requirements: The proposed amendments are not necessitated as a result of federal law or state court action.

AMENDATORY SECTION (Amending Order PL 340, filed 4/15/80)

WAC 308-151-080 EXAMINATION PROCEDURES. (1) ~~The examination may not be taken prior to three months preceding graduation from a course of instruction as described in WAC 308-151-050.~~

~~((+))~~ (2) All applicants will be required to present a notice of eligibility to the test proctors upon admission to the test. Each applicant will also be asked to present one piece of positive identification which bears a recent photograph of the applicant. Failure to produce the eligibility notice and identification required may result in the applicant's being refused admission to the written test and rescheduled at a later date.

~~((+))~~ (3) Applicants will be required to refrain from talking to other examinees during the examination unless specifically directed or permitted to do so by a test proctor. Any applicant observed talking or attempting to give or receive information, or using unauthorized materials during any portion of the exam will be expelled from the examination and not allowed to complete it.

~~((+))~~ (4) Failure to follow written or oral instructions relative to the conduct of the examination, including termination times of the examination will be considered grounds for expulsion from the examination.

AMENDATORY SECTION (Amending Order PL 358, filed 10/29/80)

WAC 308-151-100 EXAMINATION RESULTS. (1) In order to pass the examination for licensure as a veterinarian, the applicant must attain a minimum grade of:

(a) 1.5 standard deviations below the national mean of the criterion population covered to 70 on the national examination, and
(b) 70% in the Washington state examination. ~~((This examination consists of two parts, the state practical examination[,] and the clinical competency examination. In arriving at the passing score, the two parts will be weighted as follows:~~

~~(i) The clinical competency examination will constitute 20% of the state examination, and~~

~~(ii) The state practical examination will constitute 80% of the state examination.))~~

(2) Applicants who fail either the national examination or the Washington state examination may retake the examination that they failed (national or state) by again completing an application and by submitting the reexamination fee to the Division of Professional Licensing.

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

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

WSR 83-04-030

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 1782—Filed January 27, 1983]

I, Michael Schwisow, deputy director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to importation of animals, chapter 16-54 WAC.

This action is taken pursuant to Notice No. WSR 83-01-136 filed with the code reviser on December 22, 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 chapters 16.36 and 16.44 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 27, 1983.

By Michael V. Schwisow
Deputy Director

AMENDATORY SECTION (Amending Order 1752, filed 1/14/82)

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

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

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

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

- (i) Calves under six months of age.
- (ii) Steers and spayed heifers.
- (iii) Officially vaccinated dairy cattle under twenty months of age and officially vaccinated beef cattle under twenty-four months of age.
- (iv) Immediate slaughter cattle going directly to a federally inspected slaughter establishment.
- (v) Cattle consigned directly to a quarantined registered feed lot.

(vi) Cattle from certified brucellosis free herds.

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

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

- (i) Calves under four months of age.
- (ii) Those cattle consigned directly to a federally inspected slaughter plant.
- (iii) Those cattle consigned directly to a quarantined registered feed lot.
- (iv) Spayed heifers.

~~((c) (3) Temporary grazing. Herd owners desiring to move cattle into Washington for temporary grazing purposes must obtain a prior permit from the ((animal health division)) office of the state veterinarian ((-All brucellosis test eligible cattle moving on a temporary grazing permit must be officially brucellosis tested negative within twelve months of entry into Washington. They must originate in a county or other political subdivision of equal status where brucellosis has not been diagnosed in the preceding twelve months, or officially brucellosis tested negative within thirty days prior to entry.))): PROVIDED, That the state veterinarian may, if deemed necessary, require a brucellosis herd test and/or an official health certificate for any cattle entering the state for grazing purposes. Applicants must also file an~~

approved herd plan with the office of the state veterinarian to phase out all brucellosis non-vaccinates in the herd prior to January 1, 1988. Grazing permits shall be for one specified season only and shall be valid for movement to only that destination declared on the permit. A copy of the permit shall accompany any vehicle transporting cattle into the state for such temporary grazing purposes.

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

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

WSR 83-04-031

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Order 1783—Filed January 27, 1983]

I, Michael Schwisow, deputy director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to importation of animals, chapter 16-54 WAC.

I, Michael Schwisow, 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 as a result of hearing held on January 25, 1983, the amendments contained herein pertaining to importation for temporary grazing purposes will take effect permanently on February 26, 1983. Emergency adoption is necessary to maintain continuity until that time as emergency order 1775 expires on January 27, 1983. The amendments pertaining to scabies are necessary to protect the state cattle industry because of confirmed outbreaks of the disease in Idaho.

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

This rule is promulgated pursuant to chapters 16.36 and 16.44 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 27, 1983.

By Michael V. Schwisow
Deputy Director

AMENDATORY SECTION (Amending Order 1752, filed 1/14/82)

WAC 16-54-082 DOMESTIC BOVINE ANIMALS. All domestic bovine animals (including bison) except those for immediate slaughter at a federally inspected establishment, or to a quarantined registered

feed lot, or beef breed cattle or slaughter only dairy breed cattle consigned to a state-federal approved stockyard(;) unless otherwise provided below shall be accompanied by a health certificate (WAC 16-54-030) and shall meet the following requirements:

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

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

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

- (i) Calves under six months of age.
- (ii) Steers and spayed heifers.
- (iii) Officially vaccinated dairy cattle under twenty months of age and officially vaccinated beef cattle under twenty-four months of age.
- (iv) Immediate slaughter cattle going directly to a federally inspected slaughter establishment.
- (v) Cattle consigned directly to a quarantined registered feed lot.

(vi) Cattle from certified brucellosis free herds.

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

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

- (i) Calves under four months of age.
- (ii) Those cattle consigned directly to a federally inspected slaughter plant.
- (iii) Those cattle consigned directly to a quarantined registered feed lot.
- (iv) Spayed heifers.

(3) Scabies. The office of the state veterinarian may require that any cattle from a known infected area be dipped at an official dipping facility within ten days prior to entry and accompanied by an official health certificate and a permit issued by the office of the state veterinarian.

~~((f)) (4) Temporary grazing. Herd owners desiring to move cattle into Washington for temporary grazing purposes must obtain a prior permit from the ((animal health division)) office of the state veterinarian ((-All brucellosis test eligible cattle moving on a temporary grazing permit must be officially brucellosis tested negative within twelve months of entry into Washington. They must originate in a county or other political subdivision of equal status where brucellosis has not been diagnosed in the preceding twelve months, or officially brucellosis tested negative within thirty days prior to entry.))~~ PROVIDED, That the state veterinarian may, if deemed necessary, require a brucellosis herd test and/or an official health certificate for any cattle entering the state for grazing purposes. Applicants must also file an approved herd plan with the office of the state veterinarian to phase out all brucellosis non-vaccinates in the herd prior to January 1, 1988. Grazing permits shall be for one specified season only and shall be valid for movement to only that destination declared on the permit. A copy of the permit shall accompany any vehicle transporting cattle into the state for such temporary grazing purposes.

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

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



**WSR 83-04-032
ADOPTED RULES
HOSPITAL COMMISSION**

[Order R-83-01, Resolution No. R-83-01—Filed January 28, 1983]

Be it resolved by the Washington State Hospital Commission, acting at Vance Airport Inn, Seattle, Washington, that it does adopt the annexed rules relating to amendments to the text of the commission's accounting and reporting manual for hospitals, filed with the code reviser on October 1, 1974, as Order Number 74-07, but not published as part of the Washington Administrative Code. The specific portions of the manual amended by this action are as follows:

Modifying the following pages:

2210.1	2210.1 Daily Hospital Services Revenue
2210.2	2210.2 Ancillary Services Revenue
2210.3	2210.2(Cont.1) Ancillary Services Revenue
2210.3(Cont.1)	2210.3 Other Operating Revenue
2210.4	2210.4 Deductions from Revenue
2220.1	2220.1 Daily Hospital Services Expense
2220.2	2220.2 Ancillary Services Expense
2220.3	2220.3 Ancillary Services Expense
2420.2(Cont.5)	2420.2(Cont.6) 7070 Laboratory Services
2420.2(Cont.21)	2420.2(Cont.22) 7260 Clinics
2420.2(Cont.22)	2420.2(Cont.24) 7440 Home Care Services
2420.2(Cont.23)	2420.2(Cont.25) 7410 Other Ancillary Services
5110 (Cont.2)	5110(Cont.2) Table of Standard Units of Measure
5110 (Cont.3)	5110(Cont.3) Table of Standard Units of Measure
10004	10004 Instructions for YE-1 Year-End Report
10005	10005 Instructions for YE-1 Year-End Report
1	1 Instructions for Completing Budget Forms

Interpretive Bulletin Number I-7 - Administering Medications and Infusing Fluids.

Adding the following pages:

- 2420.1(Cont.9) 6330 Hospice Care
- 2420.2(Cont.5) 7060 Intravenous Therapy Services
- 2420.2(Cont.21) 7250 Short Stay Unit
- 2420.2(Cont.23) 7380 Free-standing Clinic Services
- Transmittal and Certification Form for Budget Amendments

Deleting the following pages:

- 2420.2(Cont.7) 7110 Blood Bank

This action is taken pursuant to Notice No. WSR 82-24-077 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 chapter 70.39 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 20, 1983.

By Maurice A. Click
Acting Executive Director

Reviser's note: The text of the amendments to the Commission's *Accounting and Reporting Manual for Hospitals* has been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the Washington State Hospital Commission, Maurice A. Click, Acting Executive Director, Mailstop FJ-21, Olympia, WA 98504.

WSR 83-04-033

ADOPTED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 1940—Filed January 28, 1983—Eff. March 1, 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 ch. 388-28 WAC AFDC and GAU—Eligibility—Need.
- Amd ch. 388-33 WAC AFDC and GAU—Grant or vendor payment.

This action is taken pursuant to Notice No. WSR 83-01-104 filed with the code reviser on December 21, 1982. These rules shall take effect at a later date, such date being March 1, 1983.

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 28, 1983.

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

AMENDATORY SECTION (Amending Order 1241, filed 9/23/77)

✓ WAC 388-28-005 FINANCIAL NEED—RULES AND PROCEDURES. (1) To be eligible for public assistance an applicant must be in financial need. Financial need exists when the applicant's ((requirements)) payment level as hereinafter specified and adjusted for the maximum grant limitations plus authorized additional requirements exceeds the value of nonexempt resources currently possessed and the amount of his nonexempt recurrent and nonrecurrent income. The difference thus computed represents the extent of need which exists.

(2) The rules in chapter 388-28 WAC governing determination of an applicant's financial need for assistance also govern the determination of the continuing need of a recipient unless specifically stated otherwise.

(3) Need is subject to change whenever the recipient's financial circumstances change in such a way that the ((cost of his requirements)) appropriate payment level or his income is increased or decreased in relation to the standards for assistance.

AMENDATORY SECTION (Amending Order 1338, filed 9/18/78)

✓ WAC 388-28-355 PRESUMPTIVE SPOUSE. (1) When a dependent child lives with one parent and another person whom the department presumes to be the spouse but who is not legally married to the parent:

(a) The parent must declare those portions of the income and resources of the presumptive spouse which are provided voluntarily for the support of the child(ren) and the parent.

(b) Only such income and resources which have been stipulated by the parent to be actually available on a regular basis to meet the needs of the parent and child(ren) shall be considered in determining the income available to the parent and child(ren).

(2) Unwillingness of the presumptive spouse to contribute does not affect the child's eligibility for assistance.

(3) ~~((The presumptive spouse who is not a recipient shall not be considered as a member of the household in computing and allocating basic requirements.))~~ The needs of the presumptive spouse may not be included in the assistance unit - see WAC 388-24-050(4), 388-29-020 and 388-29-080(3).

(4) The natural parent is not relieved of a legal obligation to support his child by contributions from the presumptive spouse toward the child's support.

AMENDATORY SECTION (Amending Order 1096, filed 2/13/76)

✓ WAC 388-28-400 EFFECT OF RESOURCES AND INCOME ON FINANCIAL NEED—SUMMARY OF BASIC POLICIES. (1) Meaning of resources.

(a) A resource is any property which the applicant possesses and can currently use to supply all or part of his requirements. See definition of "Resource" and "Income" in WAC 388-22-030.

(b) Property shall be considered a resource only when it is actually at hand for current use and/or disposition by the applicant. Real and personal property shall be considered at hand for current use and disposition when it can be utilized to supply requirements by use, by direct transfer to a buyer, by conversion into cash, or by a pledge of such asset.

(c) Resources shall be considered to be at hand for current use and/or disposition whenever they are in the form of real or personal property over which the applicant has title or control. Title exists in the form of record title to real estate and certain personal property, such as an automobile; title to most other personal property exists by mere possession. Title to property raises a presumption of the right and ability of the title holder to use or dispose of such property.

(2) Consideration of resources and resource potentials.

(a) For the purpose of determining current and continued eligibility for public assistance, the ((ESSO)) local office shall evaluate the status of all real or personal property (community, separate or jointly owned) held by or subject to the disposition or control of an applicant and his spouse and members of the assistance unit.

(b) Also, the resource potentials of such persons must be considered.

(3) Exempt resources. Exempt resources do not affect eligibility in terms of their disposition value but may in respect to the use or income producing value.

(4) Nonexempt resources. The possession of all non-exempt resources affects eligibility. Their sale, pledge, lease, rental or use values are used to ~~((offset the cost of requirements in determining the existence or degree of))~~ determine financial need. When such values are equal to the ~~((cost of))~~ appropriate payment level plus authorized additional requirements the applicant is ineligible. If the ~~((cost of))~~ appropriate payment level plus authorized additional requirements exceed the values of nonexempt resources, ~~((need))~~ eligibility exists in the difference.

(5) Clarification of ownership or value.

(a) If there is evidence that the applicant has a resource but there is also some doubt about this or about its value, the applicant is responsible for clarifying the data to the extent of his ability to do so. Without such clarification continuing eligibility cannot be established.

(b) If the applicant does not clarify the facts in question within a reasonable period of time set by the ((ESSO)) local office, but not to exceed forty-five days from date of application, eligibility does not exist for continuing assistance.

(c) If the applicant is handicapped in his ability to clarify his eligibility, the ((ESSO)) local office shall assist him to do so.

(d) If the applicant produces evidence supporting his eligibility but doubt of its reliability or conclusiveness still exists the ((ESSO)) local office shall attempt to obtain conclusive evidence directly.

(6) ~~((Assistance while clarifying ownership or value. If an applicant needs assistance during the reasonable~~

~~clarification period specified in subsection (5), noncontinuing GA may be granted, if eligibility for such exists in accordance with WAC 388-37-215. However, if an applicant does not proceed to clarify his eligibility for continuing assistance with reasonable diligence in accordance with his ability, he is ineligible for assistance of any type.~~

~~(7))~~ An applicant must proceed to make available any resource which will reduce need.

~~((a) When there is evidence that an applicant has an interest in property but does not have full legal control of it, or that there is property which he could legally obtain by taking affirmative action to do so within his ability, his eligibility for both continuing and noncontinuing assistance is as specified in subsections (5) and (6).~~

~~(b))~~ In determining whether an applicant is proceeding with reasonable diligence to make a resource potential available to meet need, the ((ESSO)) local office is governed by the factors involved in individual situations. The applicant is responsible for submitting evidence in the form of statements or letters which would indicate the factors involved and the approximate time that a final decision could be expected. A definite period of time is determined by the ((ESSO)) local office made known to the applicant and recorded.

~~((8))~~ (7) Conditional eligibility. When an applicant has taken reasonably required action to make a resource potential available but without success, his current eligibility is not affected. However, if there is reason to believe that the resource potential will be available later, his continued eligibility is conditional and subject to review at such later period at which time the appropriate policy herein is utilized.

~~((9) Assistance computation. A nonexempt resource value is treated like income as stated in WAC 388-28-475 to compute financial need and the amount of the grant for which an applicant may be eligible.)~~

AMENDATORY SECTION (Amending Regulation 8.63, filed 1/24/64)

✓ WAC 388-28-415 EFFECT OF RESOURCES AND INCOME ON FINANCIAL NEED—EXEMPT RESOURCES. An applicant may possess and retain the following resources and be eligible for public assistance. While the fact of ownership does not make an applicant ineligible, the use of such properties to produce income (such as rental of a room in the home), or to meet the cost of ~~((a requirement))~~ an item included in the standard of need (such as wood on the home property which meets the need for fuel ~~((requirement)))~~ does ~~((effect))~~ affect financial need.

AMENDATORY SECTION (Amending Order 1241, filed 9/23/77)

✓ WAC 388-28-473 PROPERTY TRANSFERRED CONTRARY TO WAC 388-28-471 AND 388-28-472. (1) If a recipient transfers previously exempt property contrary to WAC 388-28-471 and 388-28-472 or if the proceeds from the transfer are used for purposes other than described in those rules, the value of the property transferred is considered available to meet need

~~((and the transfer affects eligibility according to subsections (2) (3) (4) and (5))).~~

(2) It is presumed that the recipient had funds available to meet need from the first of the month following the date of transfer. The amount considered available to meet need shall be either his equity in the quick sale value of the resource or the actual amount received, whichever is the greater. If the resource was a mortgage or conditional sales contract, the value of the equity transferred shall be the amount considered available to meet need. The transfer affects eligibility according to WAC 388-28-484(2) for AFDC and refugee assistance and the transfer affects eligibility according to subsections (3), (4), and (5) for general assistance.

(3) If the grant is adjusted before the first of the month following transfer

(a) Assistance is continued when the amount considered available from subsection (2) and other income available during the month amounts to less than one month's requirements;

(b) Assistance is suspended when the amount considered available from subsection (2) and other income available in the next two months is less than two months' requirements;

(c) Assistance is terminated when the amount considered available from subsection (2) and other income available in the next two months is more than two months' requirements. The future period of ineligibility is determined using current requirements and the method described in WAC 388-28-460.

(4) If the grant was not adjusted the first of the month following transfer, partial or total ineligibility exists and the amount of overpayment is determined.

(a) The grant is continued if the amount considered available from subsection (2) is completely liquidated as overpayment.

(b) The grant is suspended or terminated when the total amount considered available from subsection (2) is not liquidated by the overpayment. The amount considered available after figuring the overpayment is used to determine future period of ineligibility using the rules in subsection (3)(b) or (3)(c) as appropriate. The first of the month the assistance payment can be adjusted is used to establish the beginning of the future period.

(5) The rules in WAC 388-28-463 and 388-28-464 apply to transfers under this section.

AMENDATORY SECTION (Amending Order 1241, filed 9/23/77)

WAC 388-28-475 USE OF INCOME AND INCOME POTENTIALS. (1) Meaning of income (See definition in WAC 388-20-030). Income includes all types of real or personal property, support from parent, stepparent, assumptive spouse, stocks and bonds, wages, interest in an estate, income from farming, all benefits and entitlements from private and public agencies, such as OASDI, veterans' agencies, U.C., gifts and prizes in the form of cash or marketable securities, etc. Its value is used to compute financial need in accordance with the policies herein.

(2) Ownership and use of income and income potentials. The policies in WAC 388-28-300 through 388-

28-395 regarding ownership and use of resources also govern the ownership and use of income and income potentials.

(3) Resources and income. WAC 388-28-400 through 388-28-455 contain policies and procedures for considering and using nonexempt resource values to determine financial need. WAC 388-28-475 through 388-28-600 covers policies and procedures used in computing income to determine financial need. The total nonexempt resource values and nonexempt net income values are compared with the appropriate payment level plus authorized additional requirements ~~(-costs)~~ to determine financial need and, if it exists, the amount of the grant for which the applicant is eligible.

AMENDATORY SECTION (Amending Order 1792, filed 4/14/82)

WAC 388-28-480 USE OF INCOME AND INCOME POTENTIALS—TYPES OF INCOME—EFFECT ON NEED. (1) ~~((The CSO shall determine the income available to the applicant.~~

~~(2)))~~ An applicant or recipient whose nonexempt net income for the month exceeds the monthly ~~((standards for basic))~~ payment level plus authorized additional requirements is not eligible to receive assistance whether the income is received weekly, biweekly or monthly, except as specified in WAC 388-24-250 through 388-24-265. ~~((Weekly income is multiplied by 4.3 to determine monthly total.~~

~~(3)))~~ (2) Treatment of income

(a) ~~((Earned and unearned nonexempt net recurrent income and appreciable nonrecurring income which is received by the applicant between the first day of the month and the date of initial grant authorization shall be taken into account for the month by prorating the income at public assistance standards from the first of the month until the date of grant authorization. The remainder, if any, shall be deducted from the assistance grant for the month.~~

(b) ~~Income received by the applicant during the month but after the date of initial grant authorization shall be considered available to meet need on the first of the following month providing such income is reported to the CSO by the twenty-first day of the month.~~

(c) ~~Income received during the month and reported after the twenty-first day of the month shall be taken into account in the grant computation for the second month following the month of receipt.~~

(d) ~~Unearned nonexempt recurrent income received in regular monthly amounts shall be deducted from requirements in the month of receipt beginning the month of initial grant authorization.~~

(e) ~~Income not reported until the month following its acquisition and after the twenty-first day of the month in which it is reported shall be treated as an overpayment, unless the CSO can effect a change in the next month's grant.)~~ The grant amount for the month the application is approved shall be determined by subtracting all net income, received or reasonably expected to be received during the calendar month, from the payment level plus authorized additional requirements. The remainder shall be prorated for the number of days after

grant authorization. This prorated figure is the grant amount for the first month of eligibility.

(b) The grant amount for the month following the month of initial eligibility shall be determined by subtracting all net income received or reasonably expected to be received during the calendar month, from the payment level plus authorized additional requirements. The remainder is the grant amount for the second month of eligibility.

(c) The grant amount for the third month of assistance and subsequent months shall be based upon income and circumstances in the budget/report month. WAC 388-28-483 (2) and (3), 388-33-135 and 388-33-140 (b) and (c) are exceptions to this rule.

~~((4))~~ (3) Irregular income up to five dollars per month received by a general assistance applicant or recipient may be disregarded towards meeting need by the ((CSO)) local office if the probability exists that such future income will not be appreciable.

~~((5))~~ (4) Earned income credit (EIC) payments shall be considered earned income during the month received, whether received as advance payments or as an income tax refund, in accordance with P.L. 96-222.

(a) Such payments shall be considered as an addition to gross income for AFDC and refugee assistance whether actually received or not, providing that the recipient is eligible for such payment.

(b) If the family makes every effort to apply for and receive the advance EIC but cannot receive it for some documented reason, e.g., the employer refuses to process it, it shall not be deemed as income.

(c) Advance EIC is taken into consideration in the computation of need but is not deemed as income in the one hundred fifty percent test of gross income.

~~((6))~~ (5) Any contractually agreed loan acquired by an applicant((/recipient)) or recipient which commits all funds for a specific purpose other than current maintenance, and so expended, shall not be taken into account as income. The property used as collateral for the loan shall not be included in determining property reserves. The equity accumulated in the specified property shall be considered toward the resource ceiling.

~~((7))~~ (6) A gift in-kind, as named below, supplied on condition that it be used only in a manner or for a purpose specified in writing by the donor shall not be considered as a resource or as income which is available to meet need.

(a) Real or personal property, excluding cash and marketable securities, which is exempted for an applicant and which is within the ceiling values. Example: A home or a new furnace.

(b) Any item in the department's standards for additional requirements which is not a requirement for the recipient of such a gift. Example: Telephone service.

(c) Needed goods or services not currently included as additional requirements in the department's standards(~~;~~ ~~for~~). Example(~~;~~): Repair of house or of household equipment.

~~((8))~~ (7) WAC 388-28-482 and 388-28-484 cover ((newly-acquired)) newly acquired income received by a recipient.

~~((9) The rules in this section shall be effective February 1, 1982:))~~

AMENDATORY SECTION (Amending Order 1728, filed 12/4/81)

WAC 388-28-481 NONEXEMPT RESOURCES AND INCOME KNOWN AT TIME OF APPLICATION. Net recurrent or nonrecurrent nonexempt income and nonexempt resource values in cash or kind known to the ~~((EO))~~ local office at the time of application shall be taken into account in computing ~~((need))~~ eligibility for payment as specified in WAC 388-28-400 through 388-28-650. WAC 388-28-481 through 388-28-484 shall be applicable when determining the continuing ~~((need))~~ grant amount of the recipient. If a general assistance recipient retains a nonexempt resource which has been used to compute his ~~((need))~~ or her grant amount at the time of application, the policy in WAC 388-28-484(8) shall be applied to compute his ~~((continued-need))~~ or her eligibility for payment.

AMENDATORY SECTION (Amending Order 1792, filed 4/14/82)

WAC 388-28-482 EFFECT OF NEWLY ACQUIRED INCOME AND PROPERTY ON CONTINUING NEED. "Newly acquired income" means any previously unreported or undiscovered income which has come into the possession or control, in whole or in part, of a recipient of public assistance, or of a recipient in suspended grant status.

(1) Whenever a recipient shall come into the possession or control of any income, except as modified in subsection (3), (4) and (5) of this section, such income shall be deducted from the ~~((cost-of-total-requirements))~~ payment level plus authorized additional requirements to determine grant amount beginning with the effective date specified in WAC ~~((388-28-484))~~ 388-28-483. The amount deducted shall equal the following:

(a) The net amount of the income if in cash or its equivalent.

(b) At least his or her equity in the quick sale value of property other than cash.

(2) When the property is only potentially available for use in meeting the recipient's requirements, WAC 388-28-400(7) applies.

(3) Exceptions. A recipient who comes into the possession and control of property listed in this subsection may retain such property without having the fact of possession or its sale value affect his or her eligibility or need.

(a) A home used as a residence—see WAC 388-28-420.

(b) Useful and needed clothing, household equipment, food, fuel, and other items included in the requirement standards.

(c) An automobile within the ceiling values in WAC 388-28-430(2).

(4) Recipient with income. The rule in subsection (1) of this section is modified for recipient of AFDC or continuing general assistance with income as follows:

(a) Earned income retained by a child according to WAC 388-28-535(3) shall be considered as the personal property of the family and shall be subject to the ceilings in WAC 388-28-430(2).

(b) Income from the Economic Opportunity Act, Title I of the Elementary and Secondary Education Act, and from WIN, MDTA and CETA is treated according to WAC 388-28-515 and 388-28-570 through 388-28-578.

(c) The possession of any amount of funds from sources listed in ~~((subdivisions))~~ subsection (4) (a) and (b) of this section in a cash reserve or savings account does not affect the eligibility of a general assistance recipient. However, if such exempted income is converted into other types of property, WAC 388-28-410 through 388-28-455 apply.

(d) Income from interest on exempt savings, dividends from exempt stocks, increase in life insurance cash surrender value, livestock births, etc., affect eligibility only to the extent that the amount causes the total value of the resource possessed to exceed the ceiling values of the resource. The excess is ~~((used to determine financial need and is taken into account when the periodic review of eligibility is made))~~ considered available.

(e) Payment for funeral expenses for recipient ~~((=))~~: When a public assistance recipient dies, his ~~((her))~~ or her surviving spouse or children or parent of a minor child receiving public assistance, may use any of their exempt or nonexempt resources or income, except the home property, to add to available funeral and burial resources in order to pay for the funeral expenses of the deceased person without affecting their eligibility for public assistance: PROVIDED, HOWEVER, That if the total funeral expenses for the deceased recipient exceeds the department's maximum cost or the amount provided by the recipient toward the total cost of the funeral expense, whichever is the lesser, shall be considered available to meet the public assistance need of the surviving recipient in accordance with this section.

(f) Funds received by an applicant or recipient which represent another person's or family's share of household costs are exempt as income provided that:

(i) Such payments do not represent legally obligated child support, and

(ii) The provisions of subsection (5) of this section are met.

(5) Use of grant and cash reserve in relation to income.

(a) No question about eligibility is raised if public assistance grants and other income which has been considered in computing financial need are used to add to the cash reserve up to the legal personal property limitations - see WAC 388-28-430 ~~((2))~~. The cash reserve may exceed the maximum only to the extent these unexpended moneys are on hand within thirty days after their receipt, and by exempted amounts as specified in this section.

(b) A recipient always has the right to make a current expenditure out of a cash reserve and replace it from a succeeding grant, just as he or she might place his or her

whole grant in a bank account, along with his or her cash reserve, at the beginning of the month and then spend out of the account during the month.

~~((c) With respect to income other than savings from grant, see WAC 388-28-484(8).~~

~~((6) The rules in this section shall be effective February 1, 1982.))~~

NEW SECTION

WAC 388-28-483 RETROSPECTIVE BUDGETING, PROSPECTIVE BUDGETING, AND PROSPECTIVE ELIGIBILITY. (1) The CSO shall determine eligibility using prospective eligibility and the amount of the payment using retrospective or prospective budgeting.

(2) Prospective eligibility means if a change of circumstances renders the client ineligible, no payment shall be authorized the month following the month the change occurred. (The corresponding process month).

(3) Prospective budgeting means during the first two months of initial eligibility following application, the CSO shall determine eligibility and payment amount based upon its best estimate of the applicant's expected income and circumstances which will exist in the month for which the assistance payment is made. The following is an exception to this rule. Payment for an applicant shall be determined using retrospective budgeting when assistance had been suspended due to an extra payday for the month prior to the month of application and the applicant's circumstances for the initial authorization month have not changed significantly from those prior to termination. This rule is effective March 1, 1983.

(4) Retrospective budgeting means, after the first two months of initial eligibility, the CSO shall compute the amount of the payment for any month based upon income and circumstances which existed in the second month preceding the month for which payment is made.

Unearned, recurrent income which is being budgeted concurrently for an individual, who has received continuous assistance since February, 1983, will continue to be budgeted concurrently in March, 1983, and April, 1983, and will be budgeted retrospectively effective May 1, 1983. When earned income is being budgeted retrospectively on March 1, 1983, for a recipient, this rule is effective March 1, 1983.

(a) The month for which payment is made shall be called the payment month.

(b) The second month preceding the payment month shall be called the budget/report month.

(c) The month between the budget/report month and the payment month shall be called the process month.

(d) Nonrecurrent income which is budgeted prospectively during the first two months of eligibility shall not be budgeted again when retrospective budgeting begins.

(5) See WAC 388-33-140 for effective date of increase when adding a person to the grant.

(6) When a change renders an individual ineligible, the effective date of ineligibility shall be the first of the month following the month in which the change occurred.

AMENDATORY SECTION (Amending Order 1792, filed 4/14/82)

✓ WAC 388-28-484 TREATMENT OF NEWLY ACQUIRED NONEXEMPT INCOME AND RESOURCES. (1) ~~((a) Except as specified in WAC 388-28-482(3) newly acquired))~~ Income ((reported by the twenty-first day of the month affects financial need as of the first of the month following the date of its acquisition:

~~(b) Income received during the month but not reported by the twenty-first day of the month will be taken into account in determining need for the second month following the month of receipt unless such income exceeds the standard for requirements. See WAC 388-33-135))~~ affects the grant amount according to the provisions of WAC 388-28-483.

(2) When the value of the income is taken into account in the assistance payment as specified in ~~((subsection (1)))~~ WAC 388-28-483, the following rules apply:

(a) If the income value plus any other income amounts to less than the ~~((cost of one month's))~~ payment level plus authorized additional requirements and is recurrent or nonrecurrent, assistance is continued in the amount of the difference.

(b) Effective January 1, 1982, for AFDC and refugee assistance, when the assistance unit's income after applicable disregards exceeds ~~((its basic requirements))~~ the need standard, plus authorized additional requirements, the unit shall be ineligible for assistance for the number of full months derived by dividing this total income by the ~~((basic requirements))~~ need standard plus authorized additional requirements.

(i) Any income remaining after this calculation is treated as income received in the first month following the period of ineligibility.

(ii) ~~((No adjustment shall be made in the period of ineligibility because of changing or unexpected special needs of the assistance unit, or for other relevant changes in circumstances.))~~ The period of ineligibility may be shortened when the following conditions are met:

(A) A life-threatening circumstance exists, and

(B) The income causing the period of ineligibility has or will be expended in connection with the life-threatening circumstance, and

(C) Until the time of the life-threatening circumstance, the income must have been used to meet essential needs, and

(D) Currently the assistance unit must have no other income or resources sufficient to meet the life-threatening circumstances.

(c) If the nonrecurrent income equals or exceeds one month's payment level plus authorized additional requirements for general assistance, but is less than two months' payment level plus authorized additional requirements minus other income, the recipient is ineligible for a grant from the effective date specified in ~~((subsection (1)))~~ WAC 388-28-483, and his or her grant is suspended. The suspension period is determined exactly, that is, up to the date of the absorption of the income.

(d) If the income is recurrent and equal to or in excess of one month's ~~((current))~~ payment level plus authorized additional requirements minus other income the recipient is ineligible from the effective date specified in ~~((subsection (1)))~~ WAC 388-28-483 and the grant is terminated, except for person in institutions other than nursing homes as provided in WAC 388-34-160.

(e) For general assistance if the income is recurrent or nonrecurrent and its value is in excess of two months' payment level plus authorized additional requirements minus other income, the recipient is ineligible from the effective date specified in ~~((subsection (1)))~~ WAC 388-28-483 and the grant is terminated. Ineligibility shall continue for two months. The period of ineligibility, however, may be reduced if the applicant has verifiable expenses such as medical care, unforeseen disaster or other changes in circumstances which make it impossible for him or her to live on his or her resource for the two-month period of ineligibility. The eligibility of a former recipient who reapplies shall be determined on the same basis as a new applicant.

(3) If income is not taken into account in assistance payments but is subsequently discovered, an overpayment shall be established according to chapter 388-44 WAC. ~~((The effective dates for treatment of income specified in subsection (1) shall be used in establishing the period during which the overpayment occurred.~~

~~(a) If the income is recurrent and less than one month's requirements minus other income, the overpayment shall be the amount of the nonexempt portion of the income;~~

~~(b) If the income is recurrent and equal to or in excess of one month's requirements minus other income, the overpayment shall be the total assistance received during the period in which the income should have been taken into consideration;~~

~~(c) If the income is nonrecurrent and less than two months' requirements minus other income, the overpayment shall be the amount of the nonexempt income;~~

~~(d) If the income is nonrecurrent and the nonexempt portion is in excess of two months' requirements minus other income, the overpayment shall be the total assistance paid for two months.))~~

(4) If a general assistance recipient has been determined to be ineligible for a current or future period of time, and his or her grant will be suspended or terminated for such period of time, due to either newly acquired income, or transfer of property, and is in need during such period of ineligibility, assistance may be granted within the limits of the rule in WAC 388-28-464.

(5) A person acquiring income during suspended status shall be treated as a recipient in terms of eligibility, not as an applicant.

(6) Rules and procedure in chapter 388-44 WAC are followed in respect to overpayment.

(7) An applicant or recipient whose nonexempt gross income exceeds one hundred fifty percent of the ~~((basic requirements))~~ standard of need for the appropriate household size plus additional requirements authorized for that assistance unit, is not eligible for AFDC or refugee assistance from the date specified in ~~((subsection (1)))~~ WAC 388-28-483. The income of all members of

the assistance unit and the income of natural, adoptive, or stepparents of children in the assistance unit residing in the same household, shall be considered in this test.

(a) Advance earned income credits are not counted in the one hundred fifty percent test.

(b) Gross income shall be defined as all income not specifically exempted by rule or regulation before applicable program disregards are applied.

~~((b))~~ (c) If the assistance unit's gross income exceeds one hundred fifty percent of the ~~((basic))~~ need standard plus authorized additional requirements but the net income does not exceed one hundred percent of the basic payment level plus authorized additional requirements, the assistance unit shall be ineligible for one full month.

~~((c))~~ (d) Net income shall be defined as gross income less applicable disregards and deductions~~(;)~~ for which the ~~((A/R))~~ applicant or recipient is eligible.

(8) ~~((Nonexempt newly acquired))~~ Income which has been taken into account in computing financial need according to subsection (2) of this section if retained by: ((a recipient does not affect his eligibility unless the amount retained at the time of the next periodic review exceeds the exempt property holdings permitted for an applicant. In this event the rule on nonexempt resources or income pertaining to an applicant are applied.

~~(9) The rules in this section shall be effective February 1, 1982.)~~

(a) A GAU recipient does not affect his or her eligibility unless the amount retained at the time of the next periodic review exceeds the exempt property holdings permitted for an applicant. In this event the rule on nonexempt resources or income pertaining to an applicant are applied.

(b) An AFDC or RA recipient does not affect his or her eligibility unless the amount retained at the time of the next monthly status report exceeds the exempt property holdings permitted for an applicant or recipient.

AMENDATORY SECTION (Amending Order 1338, filed 9/18/78)

WAC 388-28-500 USE OF INCOME AND INCOME POTENTIALS—COMPUTING AND ALLOCATING INCOME. (1) Living arrangements, family relationships and categories of assistance also affect the use of income in computing financial need as provided by the rules in this section.

(2) Except as provided in this subsection the nonexempt net income of a person in his or her own home shall be attributed to the assistance unit of which he or she is a member.

(a) The total nonexempt net community income of a family having two or more eligible assistance units shall be divided equally between the assistance units unless some other division is preferred. An unequal division of the family income is not permitted if it increases the total amount of assistance (excluding medical care) to which the family would be entitled.

(b) Applicant with a nonapplying independent spouse.

(i) If all income is from community property or from community earnings other than wages, not less than

one-half the total income shall be considered available to an AFDC applicant living with a nonapplying spouse.

(ii) Net income from wages or from the separate property of the nonapplying spouse shall be considered available to the applicant only to the extent it exceeds the amount of the nonapplying spouse's ~~((requirements computed according to department standards))~~ appropriate one-person payment level.

(iii) Wages or income from separate property of the applicant shall be considered as provided in WAC 388-28-365 and 388-28-370.

(iv) When income includes both community income and income from the separate property or from wages of the nonapplying spouse, at least half of the community income shall be considered available to the applicant, plus any residue of the separate income or wages exceeding the amount of the ~~((requirements))~~ appropriate one-person payment level of the nonapplying spouse.

(v) Retirement benefits shall be treated like wages.

(vi) Income~~(=)~~in-kind shall be treated as community income.

(c) Exempted income shall not be used in computing the need of any assistance unit.

(d) For rules on assumptive spouse, see WAC 388-28-355.

(3) The rules in subsection (2) of this section shall also apply to a person boarding and/or rooming in an adult family home or other nonmedical institution.

(4) When a person in medical institution is to receive an AFDC or continuing general assistance grant, family income shall be allocated first to the ~~((maintenance needs))~~ appropriate payment level of legal dependents computed according to standards in chapter 388-29 WAC and then to the maintenance needs of the individual computed according to WAC 388-34-045, 388-34-085, 388-34-110, 388-34-120 or 388-34-378.

(5) When a person in a medical institution is to receive FAMCO, income shall be allocated according to WAC 388-83-045.

(6) The income of an individual applying for medical only shall be allocated according to WAC 388-83-045.

(7) The income of a person with other living arrangements is first applied to the grant requirements of the applicant and his or her dependents. Any remaining income shall be allocated for medical needs.

AMENDATORY SECTION (Amending Order 1831, filed 6/21/82)

WAC 388-28-535 NET CASH INCOME—DETERMINATION—DEDUCTIONS FROM GROSS INCOME—INCOME OF CHILD. (1) A child may receive income which is paid in his or her behalf to the parent(s) or other needy caretaker relative. Such income includes allotments, retirement, survivors and disability insurance, or veterans benefits, court-ordered support payments, trust fund payments, or other income which is legally designated for the benefit of an individual child.

(a) The family shall have the option to:

(i) Include the child as a member of the assistance unit with all income considered as available to the assistance unit, or

(ii) Exclude the child from the assistance unit. In this instance none of the child's income is available to the assistance unit.

(b) If a child's income includes a portion for his or her caretaker relative that portion shall be available to meet the need of the assistance unit.

(c) The child's requirements shall be the difference between the ~~((requirements))~~ payment level of the assistance unit including the child and the ~~((requirements))~~ payment level of the assistance unit excluding the child.

(d) If a child out of school is included in the assistance unit, his or her earnings shall be treated as specified in subsection (3)(f) of this section. Determination of the child's net income is made with the caretaker relative and with the child when indicated.

(2) If the child is not included in the assistance unit, his or her eligibility for medical assistance shall be determined individually.

(3) In determining the amount of a child's earned income available to meet the current need of the assistance unit of which he or she is a member, the following rules apply:

(a) All earned income of a child in an assistance unit shall be disregarded in determining payment amount when he or she is a full-time student or a part-time student who is not a full-time employee.

(b) A student is one who attends a school, college or university, or a course of vocational or technical training designed to fit him or her for gainful employment and includes a participant in the job corps program under the Economic Opportunity Act. A full-time student must have a school schedule equal to a full-time curriculum. A part-time student must have a school schedule equal to at least one-half of a full-time curriculum. A student who was enrolled during the school term just completed and who plans to return to school when school reopens shall retain his or her status as a student during the summer vacation.

(c) A child earning income by working in a sheltered workshop or other training facility for handicapped children shall be considered, for purposes of income exemption, as being at least a part-time student who is working less than full time.

(d) To be employed full time, a child must be working thirty-five hours a week or the number of hours considered full time by the industry for which he or she works, whichever is less.

(e) Summer employment of students shall not be considered as full-time employment due to the temporary nature of such employment, even though the hours worked may exceed thirty-five hours a week.

(f) In determining the amount of a nonstudent child's earned income available to meet the current needs of the assistance unit, net income shall be computed according to WAC 388-28-570.

(4) Earnings received by any person under Title III, Part C, Youth Employment Demonstration Program of the Comprehensive Employment and Training Act of 1973, Public Law 93-203 shall be disregarded in determining need and the amount of the public assistance payment under any federally assisted programs.

AMENDATORY SECTION (Amending Order 1253, filed 12/1/77)

✓ WAC 388-28-560 NET CASH INCOME—INCOME FOR SUPPORT OF LEGAL DEPENDENTS. The income of a parent or step-parent shall be allocated in the following order:

(1) To pay court or administratively ordered support for any legal dependent(s) not living in his or her home. Such support is exempt up to the amount of the one-person continuing assistance need standard for each legal dependent. Verification must be obtained that the support payments are being made.

(2) To meet the requirements of those needy members of the family who are not eligible for AFDC and for whom the parent or step-parent is legally responsible. Such requirements shall be computed according to ~~((continuing assistance standards))~~ appropriate payment level.

(3) To meet the ~~((requirements))~~ needs of members of the AFDC assistance unit for whom he or she is legally responsible.

AMENDATORY SECTION (Amending Order 1338, filed 9/18/78)

✓ WAC 388-28-600 DETERMINATION OF NET INCOME—IN-KIND. (1) Definitions

(a) "Supplied" as used herein means the in-kind item is furnished to the applicant or recipient without work or cost on his part.

(b) "Self-produced" means the applicant or recipient has produced the in-kind item through his own work for himself and not for others. He has not purchased it.

(c) "Earned income-in-kind" as used in this section means the in-kind item is earned by work performed for another person by the applicant such as earning rent from a landlord, etc.

(2) The value of self-produced or supplied items shall be disregarded except when:

(a) Self-produced items are sold for cash. When such a sale is made, fifty percent of the cash sale value shall be considered expenses of earning the income.

(b) The household's requirement for shelter is supplied. When the household's shelter is supplied, the ~~((basic requirements))~~ payment level for the household shall be those indicated in WAC 388-29-100(3).

(3) Earned income-in-kind items shall be evaluated in terms of their cash equivalent. Allowance shall be made for exempt earned income according to WAC 388-28-570. Remaining net income shall be applied in determining need.

AMENDATORY SECTION (Amending Order 1792, filed 4/14/82)

✓ WAC 388-33-135 EFFECTIVE DATE OF CHANGE IN ELIGIBILITY. (1) A change in circumstances is any change which affects eligibility and/or continued payment of the grant previously authorized.

(2) When a change of circumstances renders the client ineligible, the effective date of ineligibility is the first of the month following the month in which the change

~~occurred((; except when ineligibility is a result of exceeding the one hundred fifty percent test of gross income or as a result of excess income which is being budgeted retrospectively. Under such conditions the effective date of ineligibility follows the rules in WAC 388-33-140 for effective date of increase or decrease in grant. This rule shall be applied to income received on or after February 1, 1982)). (The corresponding process month.)~~

(3) When a change of circumstances results in an increase or reduction in the grant, WAC 388-33-140 is applicable.

AMENDATORY SECTION (Amending Order 1852, filed 7/30/82, effective 9/1/82)

✓ WAC 388-33-140 EFFECTIVE DATE OF INCREASE OR DECREASE IN GRANT. (1) Increase or reduction in grant:

(a) ~~((When a change in circumstances results in an increase or reduction of the assistance grant the effective date of change is the first of the following month providing that the change is reported to the local office by the 21st day of the month.~~

(b) ~~If the change in circumstances is not reported to the local office by the 21st day of the month the effective date of change is the first of the second month following the month in which the change of circumstances occurred.~~

(c) ~~If a change of circumstances resulting in a decrease in the grant amount is not reported until the month following its occurrence and after the 21st day of the month in which it is reported an overpayment shall be established.~~

(d) ~~When a person is added to a grant, the effective date of change shall be the first of the month following the month in which the person entered the household.))~~ When a change in circumstances, other than adding a person to a grant, results in an increase or reduction of the assistance grant, the effective date of the change is the first of the second month following the month in which the change occurred. (The corresponding payment month.) See WAC 388-28-483.

(b) When a person is added to the grant, the effective date of the change shall be the first of the month following the month in which the person entered the household or the date when all eligibility conditions are met, whichever is later.

(c) When a person's needs are added to a grant because he/she is being removed from a sanction status, the effective date of the change is the date the sanction is removed.

(2) The effective date shall never precede the date the circumstances actually changed.

(3) Change in grant involving a cancelled warrant:

When a warrant is cancelled and assistance is to be reissued by an adjusting payment, the effective date of the grant as recomputed by the state office is the first of the month covered by the cancelled warrant. If, according to the rule in subsection (1) of this section, any assistance is due the recipient for a month prior to that covered by the cancelled warrant, the local office shall authorize a one-time grant.

WSR 83-04-034

NOTICE OF PUBLIC MEETINGS

CLARK COLLEGE

[Memorandum—January 26, 1983]

At its meeting of January 12, the Clark College board of trustees voted to change the dates of the meetings of the board for 1983. As a result of that action, the regularly scheduled meetings of the Clark College board of trustees will fall on the following dates:

February 23	July 27
March 23	September 28
April 27	October 26
May 25	November 23
June 22	December 28

The meetings will be held on the Clark College Campus in Vancouver, Washington, and will begin at 5 p.m. in the Board Room in the Administration Building.

WSR 83-04-035

PROPOSED RULES

DEPARTMENT OF PERSONNEL

(Personnel Board)

[Filed January 28, 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 356-15-130	Special pay ranges.
Amd	WAC 356-26-100	Certification—Local areas— Conditions;

that the agency will at 10:00 a.m., Thursday, March 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 41.06.150.

The specific statute these rules are intended to implement is *RCW 72.05.140(2).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1983.

Dated: January 27, 1983

By: Leonard Nord
Secretary

STATEMENT OF PURPOSE

Amend WAC 356-15-130.

Title: Special Pay Ranges.

Purpose: Defines special pay ranges assigned to specific classifications used to equal or approximate prevailing rate practices found in private industry or other governmental units.

Statutory Authority: RCW 41.06.150.

Specific Statute: RCW 72.05.140(2).

Summary: Change would update outdated explanation.

Reasons: Present rule speaks in the future of something which occurred in 1981.

Responsibility for Drafting: Gail Salisbury, Personnel Analyst, Standards and Surveys Division, Department of Personnel, 600 South Franklin, MS: FE-11, Olympia, WA 98504, Phone: 753-5383; Implementation and Enforcement: Department of Personnel.

Proposed by: Department of Personnel, governmental agency.

Amend WAC 356-26-100.

Title: Certification—Local Areas—Conditions.

Purpose: Allows certification of individuals living in the area of a vacancy rather than certification of names on a statewide basis.

Statutory Authority: RCW 41.06.150.

Summary and Reasons: Change would update rule; currently there is a "rule of five" rather than a "rule of three" when certifying names. Change would make rule consistent with other rules changes made due to the Civil Service Reform Bill (HB 1226).

Responsibility for Drafting: Roger F. Sanford, Operations Division, Department of Personnel, 600 South Franklin, MS: FE-11, Olympia, WA 98504, Phone: 753-5928; Implementation and Enforcement: Department of Personnel.

Proposed by: Department of Personnel, governmental agency.

AMENDATORY SECTION (Amending Order 163, filed 11/16/81)

WAC 356-15-130 SPECIAL PAY RANGES. These ranges are used to equal or approximate prevailing rate practices found in private industry or other governmental units. An affected class is identified either by a letter designation following the basic salary range number or by a letter designation preceding a number. In the latter case, a special salary schedule will be used for such classes.

(1) "E" Range: This range is used for classes having a prevailing pay range which is shorter than Washington's standard ranges. An "E" range is a standard range with the first four steps removed. Thus, the first step of such a range is the same as step E of the standard range having the same range number. Periodic increases through the steps of this range are made at the same time intervals as through standard ranges, i.e., a two-step increase after six months at step E and two annually thereafter up to the maximum step of the range.

(2) "L" Range: This special range is used only for the class of liquor store clerk (0628). The "L" range was designed to more closely parallel the prevailing pay structure for retail clerks in private industry. Periodic increases through the steps of the "L" range are made at the same time intervals as through a standard range. Normal progression is steps A, D, G and K, which represents ten percent per periodic increase.

(3) "T" Range: Used only for the classes of institution teachers. These ranges are constructed by identifying Step K of the correspondingly numbered regular state ranges as "Step 10" of the T-range; the lower nine steps of the T-range are each two regular-range steps (approximately 5%) apart. Advancement through these ranges is at the rate of one step per year.

(4) "V" Range: Used only for the classes of teachers of the deaf or blind and principals, school for the deaf or blind. ~~((A special salary schedule will be published when received from school district #37, Vancouver, Washington:))~~ "V" ranges are the same as the current ranges of Vancouver, Washington School District #37 for certified employees of similar background and experience. Advancement through the range is at the rate of one step per year.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71, effective 8/1/71)

WAC 356-26-100 CERTIFICATION—LOCAL AREAS—CONDITIONS. The appointing authority may request and the director of personnel may designate, by agency, classes of positions for

which only persons living in the area of a vacancy will be considered available for employment. Such classes shall be only those for which there is evidence to show that certification on a statewide basis constitutes a hindrance to efficient and economical hiring by the agency. If certification of at least ~~((three))~~ five names from the register for that class is not possible, certification shall be from eligibles who have indicated willingness for consideration in that geographic area.

WSR 83-04-036
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 83-07—Filed January 28, 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 harvestable numbers of adult herring are not present.

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 28, 1983.

By Edward P. Manary
for William R. Wilkerson
Acting Director

NEW SECTION

WAC 220-49-02000M SEASONS—LAWFUL GEAR—PURPOSES Effective 12:01 a.m. February 1, 1983, it is unlawful to take or fish for herring, candle fish, anchovy, or pilchard taken for commercial purposes from Marine Fish - Shellfish Management and Catch Reporting Areas 20A, 20B, 21A or 21B, and effective 6:00 p.m. February 1, 1983 it is unlawful to possess on board any fishing vessel herring, candle fish, anchovy or pilchard taken for commercial purposes from Marine Fish - Shellfish Management and Catch Reporting Areas 20A, 20B, 21A or 21B.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. January 31, 1983.

WAC 220-49-02000L SEASONS—LAWFUL GEAR—PURPOSES (82-212)

WSR 83-04-037
PROPOSED RULES
SHORELINES HEARINGS BOARD
 [Filed January 28, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Shorelines Hearings Board intends to adopt, amend, or repeal rules concerning its rule of practice, WAC 461-08-180;

that the agency will at 10:00 a.m., Wednesday, February 23, 1983, in the Hearings Room, Environmental Hearings Office, Rowsix, Building 2, 4224 6th Avenue S.E., Lacey, 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 90.58.175, 34.04.100 and 5.44.040.

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

This notice is connected to and continues the matter in Notice No. WSR 83-01-019 filed with the code reviser's office on December 7, 1982.

Dated: January 28, 1983

By: Gayle Rothrock
 Chairman

WSR 83-04-038
EMERGENCY RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Order 83-3—Filed January 31, 1983]

I, Sam Kinville, director of the Department of Labor and Industries, do promulgate and adopt at the Directors Office, General Administration Building, Olympia, Washington 98504, the annexed rules relating to workers' compensation coverage under Title 51 RCW for employers engaged in a combination of intrastate commerce and also in interstate or foreign commerce.

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 legislation enacted as House Bill 454, section 16, chapter 63, Laws of 1982, inadvertently changed the law relative to common carrier employers engaged in a combination of intrastate commerce and also interstate or foreign commerce. Such employers were considered mandatorily covered prior to the changes made in House Bill 454. These legislative changes scheduled to become effective January 1, 1983, may exclude these employers from coverage under Title 51 RCW without their knowledge. This was not the intent of the original legislation.

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

This rule is promulgated pursuant to RCW 51.04.020(1) which directs that the Department of Labor and Industries has authority to implement the provisions of RCW 51.12.090, intrastate and interstate commerce.

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 31, 1983.

By Paula Rinta Stewart
 for Sam Kinville
 Director

NEW SECTION

WAC 296-17-345 Effective January 1, 1983 common carrier employers engaged in a combination of intrastate commerce and also interstate or foreign commerce, heretofore considered mandatorily covered under RCW 51.12.090, may elect to exempt themselves from the provisions and benefits of Title 51 RCW by completing a Notice to Withdraw From Coverage form provided by the Department. The election to withdraw from coverage will become effective the date the notice is received by the Department.

Common carrier employers engaged in a combination of intrastate commerce and also interstate or foreign commerce who do not elect to withdraw from the coverage provided under Title 51 RCW will be considered to have elected coverage in the manner provided by RCW 51.12.110

For common carriers engaged in a combination of intrastate and also interstate or foreign commerce only the employer's application for industrial insurance account will be considered sufficient notice of elective coverage under the elective adoption provisions of RCW 51.12.110 and will entitle the employer to all the benefits and make the employer subject to all the liabilities under the Title without further action.

WSR 83-04-039
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)
 [Order 192—Filed January 31, 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 establishing an open fishing season on Burke Lake (Grant County) from January 15, 1983, through March 15, 1983, WAC 232-28-60503. Notwithstanding the provisions of WAC 232-28-605, the open season on Burke Lake (Grant County) will be January 31 through March 15, 1983.

We, the 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 Burke Lake (Grant County) will be rehabilitated in March 1983. An open fishing season prior to the rehabilitation will allow some harvest of available fish prior to treatment with rotenone.

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

This rule is promulgated pursuant to RCW 77.12.030 and 77.12.150 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 31, 1983.

By Tom Nelson
Vice Chairman
Game Commission

NEW SECTION

WAC 232-28-60503 ESTABLISH AN OPEN FISHING SEASON ON BURKE LAKE (GRANT COUNTY) FROM JANUARY 31, 1983 THROUGH MARCH 15, 1983. Notwithstanding the provisions of WAC 232-28-605, the open season on Burke Lake (Grant County) will be January 31 through March 15, 1983.

**WSR 83-04-040
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF GAME
(Game Commission)
[Filed January 31, 1983]**

The state of Washington Department of Game is withdrawing Notice No. WSR 82-24-091, submitted December 1982, hydraulic code regulations, chapter 232-14 WAC and intends to refile a new notice of intention to adopt. That notice will show an intent to adopt the proposed hydraulic code regulations as joint regulations with the state of Washington Department of Fisheries, to be codified as chapter 220-110 WAC.

Frank R. Lockard
Director

**WSR 83-04-041
NOTICE OF PUBLIC MEETINGS
COMMUNITY COLLEGE
DISTRICT 17
[Memorandum—January 31, 1983]**

Notice is hereby given, pursuant to RCW 42.30.075, that the regular meetings of the board of trustees of

Washington Community College District 17 (Spokane) during calendar year 1983 shall be held at 1:30 p.m. in the District Board Room at North 2000 Greene Street, Spokane, Washington on the following dates:

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

**WSR 83-04-042
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 1941—Filed February 1, 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.

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 comply with the Food Stamp Act Amendments of 1982 (P.L. 97-253).

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

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

The undersigned hereby declares that 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 February 1, 1983.

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

Reviser's note: The material contained in this filing will appear in the 83-05 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 83-04-043
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed February 1, 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 food stamps, amending chapter 388-54 WAC.

It is the intention of the secretary to adopt these rules on an emergency basis on February 1, 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 10:00 a.m., Wednesday, March 23, 1983, in the General Administration Building Auditorium, Corner 11th and Columbia, 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 30, 1983.

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

The specific statute these rules are intended to implement is RCW 74.08.500[74.04.500] through 74.04.527.

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

Dated: February 1, 1983

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

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending chapter 388-54 WAC.

The Purpose of the Rule Change: To reduce program costs and simplify program administration.

The Reason These are Necessary: Changes in the Food Stamp Program required by USDA, Food and Nutrition Service.

Statutory Authority: RCW 74.04.510.

Summary of the Rule Change: WAC 388-54-615(4)(a), three day time limit for expedited service changes to five days; WAC 388-54-630, social security number verification must be completed within 30 days of the beginning of the first full months of benefits; WAC 388-54-640, removes the 130% gross income test; WAC 388-54-645, the time frame for expedited services is

changed from three to five days. Only those household whose liquid resources are under \$100 and whose income does not exceed \$150 or is a destitute household can be given expedited services. Social security numbers are required for all household members. The time period has been reduced for securing a SSN; WAC 388-54-650, initial benefits of less than \$10 is eliminated; WAC 388-54-655, the definition of a destitute household is restricted to include only migrants or seasonal farmworkers; WAC 388-54-665, adds household definition of elderly/disabled; WAC 388-54-670, student eligibility requirements for support is changed to: "Be responsible for the care of a dependent household member under six" or "be responsible for the care of a dependent child who has reached age six but under twelve when adequate childcare is not available." Receiving AFDC benefits also qualifies a person as an eligible student; WAC 388-54-675, striker provisions are changed; WAC 388-54-687, each household member required to provide a social security number; WAC 388-54-695, resources - now IRA and certain KEOGH plans will be counted as resources; WAC 388-54-715, resources - nonexempt - added to the consideration to countable resources are IRA and KEOGH plans; WAC 388-54-730, income - eligibility standards - require that all households meet net monthly income eligibility standards. Adds veterans, spouses and their children to definition of households who are not required to meet gross monthly income eligibility standards. Adds new table for incapacitated elderly who reside with another household; WAC 388-54-740, income - deductions - changes household eligibility for utility standard. The utility standard is now prorated when households share a residence and utility costs. Households living in a public housing unit which has a central utility meter are not entitled to the standard utility allowance. Adds specified veterans, their spouses and children to definition of elderly or disabled; WAC 388-54-750, income - self-employment - requires households to meet gross and net monthly income standards; WAC 388-54-760, certification period - duration - eliminates issuance of initial allotments below \$10; WAC 388-54-780, recertification process - this section is being changed so that reapplications made after the end of the current period will be treated as initial applications. As an initial application the case will be subject to prorating. The policy being replaced allowed the client to reapply within 30 days of the end of the certification period without being subject to prorating provisions; and WAC 388-54-785, initial months' issuance of \$10 will not be issued.

Person or Persons Responsible for the Drafting, Implementation and Enforcement of the Rule: Duane Kerr, Jay Emry and Dana Beck, Program Managers, Division of Income Assistance, Mailstop: OB 31C, Phone: Scan 234-7137.

These rules are necessary as a result of federal law, 7 CFR Parts 271, 272, 273, and 275.

Reviser's note: The material contained in this filing will appear in the 83-05 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 83-04-044
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed February 1, 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 the amending of chapter 296-27 WAC, administrative rules, and WAC 296-27-020, definitions is amended to add new definitions identifying standard industrial codes to reflect occupational safety and health administration changes in Federal Register Volume 47, No. 249, dated December 28, 1982. WAC 296-27-078 is a new section deleting certain recordkeeping requirements for establishment in identified standard industrial classifications. Reflecting Federal Register Volume 47, No. 249, dated December 28, 1982.

Written or oral submissions may also contain data, views and arguments concerning the effect of the proposed rules or amendments of rules and economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the public hearing or in response to written or oral comments received before or during the public hearing.

The agency may need to change the date for public hearing or adoption on short notice. To ascertain that the public 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:

Richard E. Martin, Assistant Director
 Industrial Safety and Health Division
 Post Office Box 207
 Olympia, Washington 98507
 (206) 753-6500

that the agency will at 9:30 a.m., Thursday, March 24, 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 May 5, 1983.

The authority under which these rules are proposed is RCW 49.17.040 and 49.17.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 11, 1983.

Dated: February 1, 1983

By: Paula Rinta Stewart
 for Sam Kinville
 Director

STATEMENT OF PURPOSE

Title and Number of Rule(s) or Chapter: Chapter 296-27 WAC, Administrative Rules; WAC 296-27-020 Definitions; and WAC 296-27-078 Establishments Classified in Standard Industrial Classification Codes (SIC) 52-89, (except 52-54, 70, 75, 76, 79 and 80).

Statutory Authority: RCW 49.17.040 and 49.17.050.

Summary of the Rule(s): WAC 296-27-020 Definitions, is an amendment to the administrative rules standard. New definitions are added to identify certain standard industrial classification codes. WAC 296-27-078 is a new section deleting certain recordkeeping requirements for establishments in identified SIC classifications. This is being done to comply with Federal Register Vol. 47, No. 249, dated 12/28/82.

Reasons Supporting the Proposed Rule(s): To ensure safe and healthful working conditions for every man and woman working in the state of Washington; and to be in compliance with federal regulations.

The Agency Personnel Responsible for Drafting: Charles L. Preston, Technical Services Chief, Division of Industrial Safety and Health, 814 East Fourth, Olympia, Washington 98504, 753-6381; Implementation and Enforcement: Richard E. Martin, Assistant Director, Division of Industrial Safety and Health, 814 East Fourth, Olympia, Washington 98504, 753-6500.

Name of Person or Organization, Whether Private, Public, or Governmental that is Proposing the Rule(s): Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule(s): These are basic rules that will not be difficult or expensive for employers who must comply with them. However, the rules will likely prevent many costly injuries, including death, to employees in the state of Washington.

Portions of the rules are necessary to comply with a federal law, 29 U.S.C. subsection 667(c)(2).

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Economic Impact Statement: The economic impact on small business would be a favorable one, as it exempts businesses within certain SIC classifications from filing accident and injury reports with the Department of Labor and Industries.

AMENDATORY SECTION (Amending Order 78-10, filed 6/28/78)

WAC 296-27-020 DEFINITIONS. (1) "Act" means the Washington Industrial Safety and Health Act of 1973, chapter 49.17 RCW, as now or hereafter amended.

(2) The definitions and interpretations included in RCW 49.17.020 shall be applicable to such terms when used in this chapter, unless a different interpretation is clearly required by the context.

(3) "Recordable occupational injuries or illnesses of employees" means any occupational injury or illness of employees which result in:

(a) Occupational fatalities, regardless of the length of time between injury and death, or the length of the illness preceding the time of death (no recording is required for fatalities occurring after a termination of employment, except when recording may otherwise be required by a specific industrial safety and health standard adopted pursuant to the Act); or

(b) Lost workday cases, other than fatalities, that result in lost workdays (see subsection (6) of this section); or

(c) Occupational illnesses, or nonfatal cases without lost workdays which result in transfer to another job or termination of employment, or require medical treatment (other than first aid) or involve loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses which are reported to the employer but are not classified as fatalities or lost workday cases.

(4) "Medical treatment" means and includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid

treatment even though provided by a physician or registered professional personnel.

(5) "First Aid" means any one-time treatment, and any follow-up visit or visits for the purpose of observation of minor scratches, cuts, burns, splinters and so forth which do not ordinarily require professional medical care. Such one-time treatment and follow-up visit or visits for the purpose of observation are considered first aid even though provided by a physician or registered professional personnel.

(6) "Lost workdays:"

(a) "Lost workdays - days away from work" means the number of days (consecutive or not) after the day of injury or illness which the employee would have worked but could not because of occupational injury or illness. The number of "lost workdays - days away from work", should not include the day of the injury, or the day the illness occurred, or any days which the employee was not scheduled to work; e.g. Saturday, Sunday, or holidays.

(b) "Lost workdays - days of restricted activity" means the number of workdays (consecutive or not) on which, because of the injury or illness:

- (i) The employee was assigned to a temporary job; or
- (ii) The employee worked at a permanent job less than full time; or
- (iii) The employee worked at a permanently assigned job but could not perform all the duties normally assigned to that job.

The number of "lost workdays - days of restricted activity" should not include the day of the injury or the day the illness occurred, or any other days which the employee was not scheduled to work; e.g. Saturday, Sunday, or holidays, etc.

(7) "Establishment" means:

(a) A single physical location where business is conducted or where services or industrial operations are performed. (For example: A factory, mill, store, hotel, restaurant, movie theater, farm, ranch, bank, sales office, warehouse, or central administrative office.) Where distinctly separate activities are performed at a single physical location, such as contract construction activities operated from the same physical location as a lumber yard, each activity shall be treated as a separate establishment.

(b) For firms engaged in activities such as agriculture, construction, transportation, communications, electric, gas or sanitary services, which may be physically disbursed, "establishment" means a place to which employees report each day.

(c) For employees who do not primarily report or work at a single establishment, and who are generally not supervised in their daily work, such as travelling salesmen, technicians, engineers, etc., "establishment" means the location from which they are paid, or the base from which employees operate to carry out their activities.

(8) Establishments classified in standard industrial classification codes (SIC) 52-89.

(a) Establishments whose primary activity constitutes retail trade; finance, insurance, real estate and services are classified in SIC's 52-89.

(b) Retail trades are classified as SIC's 52-59 and for the most part include establishments engaged in selling merchandise to the general public for personal or household consumption. Some of the retail trades are: automotive dealers, apparel and accessory stores, furniture and home furnishing stores, and eating and drinking places.

(c) Finance, insurance and real estate are classified as SIC's 60-67 and include establishments which are engaged in banking, credit other than banking, security dealings, insurance, and real estate.

(d) Services are classified as SIC's 70-89 and include establishments which provide a variety of services for individuals, businesses, government agencies, and other organizations. Some of the service industries are: personal and business services, in addition to legal, education, social, and cultural; and membership organizations.

(e) The primary activity of an establishment is determined as follows: For finance, insurance, real estate, and services establishments, the value of receipts or revenue for services rendered by an establishment determines its primary activity. In establishments with diversified activities, the activities determined to account for the largest share of production, sales or revenue will identify the primary activity. In some instances these criteria will not adequately represent the relative economic importance of each of the varied activities. In such cases, employment or payroll should be used in place of the normal basis for determining the primary activity.

(~~(8)~~) (9) "WISHERS" means Washington Industrial Safety and Health Evaluation and Reporting System.

(~~(9)~~) (10) "Occupational illness" means such illness as arises naturally and approximately out of employment under the provisions of the Act.

NOTE: Examples of occupational illnesses appear on the instruction page of Form OSHA No. 200.

(~~(10)~~) (11) "Occupational" means industrial and industrial means occupational.

(~~(11)~~) (12) "OSHA" means Occupational Safety and Health Administration.

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

NEW SECTION

WAC 296-27-078 Establishments classified in standard industrial classification codes (SIC) 52-89, (except 52-54, 70, 75, 76, 79 and 80). An employer whose establishment is classified in SIC's 52-89, (excluding 52-54, 70, 75, 76, 79 and 80) need not comply, for such establishment, with any of the requirements of this section except the following:

(1) Obligation to report under WAC 296-27-090 concerning fatalities or multiple hospitalization accidents.

(2) Obligation to maintain a log of occupational injuries and illnesses under WAC 296-27-140, upon being notified in writing by the Bureau of Labor Statistics that the employer has been selected to participate in a statistical survey of occupational injuries and illnesses.

WSR 83-04-045

RULES OF COURT STATE SUPREME COURT

[January 21, 1983]

IN THE MATTER OF THE
RESCISSION OF THE DISCIPLINE
RULES FOR ATTORNEYS, NO. 25700-A-343
(DRA) THE ADOPTION OF THE
RULES FOR LAWYER DISCIPLINE, ORDER
(RLD) AND THE AMENDMENT
OF GR I

The Board of Governors of the Washington State Bar Association having recommended the rescission of the Discipline Rules for Attorneys and the adoption of the Rules for Lawyers Discipline and the Rules for Lawyers Discipline having been published for comment in 97 Wn.2d Advance Sheet No. 12, and having considered the Rules and the comments submitted thereto, and having determined that the proposed Rules will aid in the prompt and orderly administration of justice; Now, therefore, it is hereby

ORDERED:

(a) That the Discipline Rules for Attorneys are rescinded.

(b) That the Rules for Lawyer Discipline as attached hereto, are adopted.

(c) That part I of General Rule I is amended by the deletion of the Discipline Rules for Attorneys (DRA), and the insertions of the Rules for Lawyer Discipline (RLD).

(d) That pursuant to the emergency provisions of GR 9.7(d), the Rules are to be published expeditiously in the Washington Reports and shall become effective on January 21, 1983.

DATED at Olympia, Washington this 22nd day of December 1982.

Stafford, J.	Brachtenbach, C.J.
Utter, J.	William H. Williams
James M. Dolliver	Dore J.
Carolyn R. Dimmick	

Reviser's note: The material contained in this filing will appear in the 83-06 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 83-04-046
NOTICE OF PUBLIC MEETINGS
SEATTLE COMMUNITY
COLLEGE DISTRICT
 [Memorandum—January 27, 1983]

The February 7, 1983, meeting of the board of trustees of Seattle Community College District has been cancelled.

The next regular meeting of the board has been scheduled for Monday, March 7, 1983, at South Seattle Community College, 6000 16th Avenue S.W., Seattle, WA 98106, at 6:30 p.m.

WSR 83-04-047
PROPOSED RULES
ENERGY FACILITY SITE
EVALUATION COUNCIL
 [Filed February 1, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Energy Facility Site Evaluation Council intends to adopt, amend, or repeal rules concerning Request for preemption—Contested case, WAC 463-28-060;

that the agency will at 1:30 p.m., Monday, March 14, 1983, in the EFSEC Hearing Room, 4224 6th Avenue, Lacey, 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 80.50.040(1).

The specific statute these rules are intended to implement is RCW 80.50.110(2).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 11, 1983.

Dated: January 31, 1983
 By: Bill Fitch
 Executive Secretary

STATEMENT OF PURPOSE

Rule Title and Purpose: WAC 463-28-060 Request for Preemption—Contested Case.

Statutory Authority: RCW 80.50.040(1).

Rule Summary and Supporting Statement on Proposed Action: Provides a procedure for preemption when it occurs in a contested case. This adoption corrects an error in the procedure which must be changed before any new applications are processed.

Agency Responsibility for Drafting: Executive Committee, Nicholas D. Lewis, Chairman, Energy Facility Site Evaluation Council, Mailstop PY-11, Olympia, WA 98504, 459-6490; **Implementing:** William L. Fitch, Executive Secretary, Energy Facility Site Evaluation Council, Mailstop PY-11, Olympia, WA 98504, 459-6490; and **Enforcing:** Nicholas D. Lewis, Chairman, Energy Facility Site Evaluation Council, Mailstop PY-11, Olympia, WA 98504, 459-6490.

Person or Organization Proposing Rule: Washington State Energy Facility Site Evaluation Council.

Agency Comments: None.

AMENDATORY SECTION (Amending Order 78-3, filed 6/23/78)

WAC 463-28-060 REQUEST FOR PREEMPTION—CONTESTED CASE. Should applicant elect to continue processing the application and file a request with the council for state preemption, the council will schedule a contested case hearing on the application as specified under chapter 463-30 WAC. (~~As the first order of business in the contested case,~~) The council shall determine whether to recommend to the governor that the state should preempt the local land use plans or zoning ordinances for a site or portions of a site for the energy facility proposed by the applicant. The factors to be evidenced under this issue are those set forth in WAC 463-28-040. The determination of preemption shall be by council order, and shall be included in its recommendation to the governor pursuant to RCW 80.50.100. The council shall determine this issue on the record before proceeding further in the contested case; thereafter, the remainder of the contested case shall proceed only if preemption is ordered by the council. Otherwise, the procedure shall follow WAC 463-28-080.

WSR 83-04-048
PROPOSED RULES
DAIRY PRODUCTS COMMISSION
 [Filed February 1, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025; that the Washington State Dairy Products Commission intends to adopt, amend, or repeal rules concerning assessment on milk, chapter 142-30 WAC;

that the agency will at 2:00 p.m., Tuesday, March 8, 1983, in the Auditorium, General Administration 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 chapter 15.44 RCW, Dairy Products Commission.

The specific statute these rules are intended to implement is RCW 15.44.080(1), Assessments on milk and cream—Amounts.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 1, 1983.

Dated: February 1, 1983
 By: Robert M. Hallberg
 Secretary—Treasurer

STATEMENT OF PURPOSE

Title: Washington State Dairy Products Commission, Assessment on Milk.

Description of Purpose: The purpose of the rule is to raise the assessment levied upon all milk produced in this state from eight-tenths of one percent to one percent of the Federal Order Class I price for 3.5% butterfat milk. The increased assessment responds to a resolution passed by dairy producers at the annual meeting of the Washington State Dairymen's Federation on November 10, 1982. The Washington State Dairymen's Federation represents 1,000 dairy producers. There are 1,625 dairy producers in the state.

Statutory Authority for Adopting Rule: Chapter 15.44 RCW, Dairy Products Commission.

Specific Statute Rule is Intended to Implement: RCW 15.44.080, Assessments on milk and cream—Amounts—Increases—Producer referendum.

Summary of Rule: The rule would levy upon all milk produced in this state an assessment of one percent of the Federal Order Class I price for 3.5% butterfat milk as established in the Puget Sound Market Area or by the state Department of Agriculture effective April 1, 1983. The proposed assessment would not become effective until approved by 51% of the producers voting in a referendum conducted by the commission.

Reasons Supporting Proposed Action: Request from producers to return commission income to a level comparable to the period 1975-1979 when commission advertising and education programs were effective in increasing sales of fluid milk and enhancing dairy farmer income as much as \$13,000,000 during one twelve month period in that time frame.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert M. Hallberg, Secretary-Treasurer, Washington State Dairy Products Commission, 1107 N.E. 45th Street, Room 205, Seattle, WA 98105, telephone (206) 545-6763.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Members of the Washington State Dairy Products Commission who are state officers, responding to requests from fellow dairy producers and a resolution passed by delegates at the annual meeting of the Washington State Dairymen's Federation, a producer association. Voting members of the commission include seven dairy farmers who are elected by dairy producers in their districts, and a producer-handler and a dealer, both of whom are appointed by the director of agriculture. In addition the director of agriculture serves as an ex-officio member without vote.

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: Not necessary.

AMENDATORY SECTION (Amending Order 2-76, filed 11/15/76, effective 1/1/77)

WAC 142-30-010 DECLARATION OF PURPOSE—EFFECTIVE DATE—SUBJECT TO REFERENDUM. (1) To effectuate the

purposes of RCW 15.44.080 as amended by chapter 44, Laws of 1975, there is hereby levied upon all milk produced in this state an assessment of ~~((0.8))~~ 1.0 percent of the Class I price for 3.5% butterfat milk as established in any market area by a market order in effect in that area or by the state department of agriculture in case there is no market order for that area effective ~~((January 1, 1977))~~ April 1, 1983.

(2) The proposed assessment increase shall not become effective until approved by fifty-one percent of the producers voting in a referendum conducted by the commission.

WSR 83-04-049

PROPOSED RULES

DEPARTMENT OF LICENSING
(Board of Dental Examiners)

[Filed February 1, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Dental Examiners intends to adopt, amend, or repeal rules concerning WAC 308-40-102 examination content and WAC 308-40-110 foreign trained dentists.

A copy of the proposed amendment is shown below, however, changes may be made at the hearing;

that the agency will at 9:00 a.m., Friday, March 18, 1983, in the Executive Conference Room, Nendel's Motor Inns, 16838 Pacific Highway South, Seattle, WA 98188, 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 18.32.040.

The specific statute these rules are intended to implement is RCW 18.32.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 18, 1983.

Dated: February 1, 1983

By: Susan E. Shoblom
Executive Secretary

STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Dental Examiners.

Purpose of Proposed Amendments: To clarify whom are acceptable licensing examination patients and amend reexamination procedures for foreign trained applicants for licensure.

Statutory Authority: RCW 18.32.040.

Reason for Proposed Amendments: WAC 308-40-102(2), to assure that the examination of applicants is efficient and uncompromised; and WAC 308-40-110(3), to delete requirement that foreign trained applicants complete national board examinations within two years of admittance to preclinical examination and delete language requiring examiners review failures and determine remedial training prior to reexamination.

Responsible Personnel: The Washington State Board of Dental Examiners and its executive secretary have the responsibility for drafting, implementing and enforcing this rule. The executive secretary is Susan E. Shoblom, P.O. Box 9649, Olympia, WA 98504, telephone (206) 235-1867 Scan, (206) 754-1867 Comm.

Proponents of the Proposed Amendments: This amendment was proposed by the Board of Dental Examiners.

Agency Comments: This amendment was proposed pursuant to RCW 18.32.040.

Federal Law or State Court Requirements: The proposed amendment is not necessitated as a result of federal law or federal or state court action.

AMENDATORY SECTION (Amending Order PL 391, filed 1/26/82)

WAC 308-40-102 EXAMINATION CONTENT. (1) The examination will consist of:

(a) Theory: National Board only accepted.

(b) Practical:

(i) Restorative examination. The restorative examination shall consist of an amalgam restoration, a cast gold restoration and a gold foil restoration. Proper radiographs are required for each cavity selection.

Amalgam Class II -

Cast Gold Restoration - Three or more surfaces.

Gold Foil - Class II, III or V

(ii) Prosthetic: Candidates will be evaluated in the area of prosthetics.

(iii) The board may, at its discretion, give an examination in oral diagnosis and treatment planning, or any other phase of dentistry. Candidate((†)) will receive information concerning such examination.

(2) Each applicant must furnish his or her own patient for all phases of the practical examination. Patients must be at least eighteen years of age, and shall not be a dentist, dental student, dental hygienist or dental hygiene student. The state board of dental examiners and the school of dentistry assume no responsibility regarding work done on patients. Candidates will be required to furnish documentary evidence of malpractice and liability insurance for the examination.

(3) An assistant will be permitted to assist the applicant at the chair. Dentists or undergraduate dental students, hygienists, undergraduate hygienists are not acceptable as assistants. Assistants must complete a form of eligibility.

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 391, filed 1/26/82)

WAC 308-40-110 FOREIGN TRAINED DENTISTS. The following requirements apply to persons who are graduates of dental schools or colleges not accredited by the American Dental Association Commission on Accreditation.

(1) A person who has issued to him or her a degree of doctor of dental medicine or doctor of dental surgery by a foreign dental school listed by the World Health Organization, or by a foreign dental school approved by the board of examiners, shall be eligible to take the examination given by the board in the theory and practice of the science of dentistry upon furnishing all of the following:

(a) A certified copy of dental school diploma.

(b) Official dental school transcript.

(c) Proof of identification by an appropriate governmental agency; provided, however, that alternate arrangements may be made for political refugees.

(2) Examination by the board of a foreign trained dental applicant shall be a progression examination given in English in the following sequence:

(a) Passing scores on national board examinations, parts I and II.

(b) Satisfactory performance on a preclinical examination in all portions of the restorative examination. This portion will be completed on a typodont.

(c) Satisfactory performance on a clinical examination required of all candidates for dental licensure including the prosthetic/oral diagnosis and treatment planning examination.

~~((3) When an applicant for a license has received a passing grade equivalent to that required of other applicants in the examination of the kind set forth in subsection (2)(a) and (b), he or she shall be exempt from reexamination in that subject in subsequent examinations~~

~~before the board held within a two-year period from the date of the examination in which he or she obtained such passing grade. Should an applicant fail the preclinical examination in restorative, the examiners shall determine if remedial training is required and the applicant shall furnish proof of such training before being allowed to retake that portion of the examination:))~~

~~((4)) (3) The licensure examination for foreign trained dental applicants shall be held by the board at least once a year with such additional examinations as the board desires to hold. The time and place of the examination shall be fixed by the board at least six months prior to the date that the examination is to be held.~~

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 83-04-050
ADOPTED RULES
DEPARTMENT OF LICENSING
(Dental Disciplinary Board)
[Order PL 423—Filed February 1, 1983]

Be it resolved by the Washington State Dental Disciplinary Board, acting at Seattle, Washington, that it does adopt the annexed rules relating to:

Amd WAC 308-37-130 Inventory and recording requirements for all prescription drugs.

New WAC 308-37-135 Recording requirements for scheduled drugs.

This action is taken pursuant to Notice No. WSR 82-22-005 filed with the code reviser on October 21, 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 18.32.640(1) 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 Alan D. Adams, DDS
Chairman

AMENDATORY SECTION (Amending Order PL 373, filed 2/20/81)

✓ WAC 308-37-130 ~~((INVENTORY AND)) RECORDING REQUIREMENTS FOR ALL PRESCRIPTION DRUGS. ((Every dentist shall maintain an inventory of all legend drugs and controlled substances that he or she has prescribed or dispensed. This inventory shall include the date prescribed or the date dispensed, the name of the patient prescribed or dispensed to, the name of the medication, and the dosage and amount of the medication prescribed or dispensed:))~~ An accurate record of any medications prescribed or dispensed will be clearly indicated on the patient history. This record shall include the date prescribed or the date

dispensed, the name of the patient prescribed or dispensed to, the name of the medication, and the dosage and amount of the medication prescribed or dispensed.

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 308-37-135 RECORDING REQUIREMENT FOR SCHEDULED DRUGS. When schedule II, III, IV or V drugs as described in chapter 69.50 RCW are stocked by the dental office for dispensing to patients, an inventory control record must be kept in such a manner as to identify disposition of such medicines and such records shall be available for inspection.

**WSR 83-04-051
ADOPTED RULES
DEPARTMENT OF LICENSING
(Board of Nursing)
[Order PL 424—Filed February 1, 1983]**

Be it resolved by the Washington State Board of Nursing, acting at Seattle, Washington, that it does adopt the annexed rules relating to renewal of CRN designation, adding new section WAC 308-120-345.

This action is taken pursuant to Notice No. WSR 82-23-035 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 18.88.030 and 18.88.080 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 28, 1983.

By Ruth Jacobson
Acting Executive Secretary

NEW SECTION

✓ WAC 308-120-345 RENEWAL OF CRN DESIGNATION. CRN designation shall be renewed every two years on the renewal date of the CRN's registered nurse license. The applicant shall:

(1) Maintain a current registered nurse license in Washington.

(2) Provide documentation of thirty contact hours (a contact hour is fifty minutes) of continuing education during the renewal period in the area of certification derived from any combination of the following approved by the board:

(a) formal academic study;

- (b) continuing education offerings;
- (c) other learning activities.
- (3) Submit a non-refundable fee as specified.

**WSR 83-04-052
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION
(Transportation Commission)
[Filed February 1, 1983]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, 47.60.326 and 47.56.030, that the Washington State Transportation Commission intends to adopt, amend, or repeal rules concerning the adoption of a revised schedule of tolls for the Washington state ferry system;

that the agency will at 10 a.m., Thursday, March 17, 1983, in Room 1D2, Transportation 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 17, 1983.

The authority under which these rules are proposed is RCW 47.56.030 and 47.60.326.

The specific statute these rules are intended to implement is RCW 47.60.326.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 17, 1983.

Dated: February 1, 1983

By: Lue Clarkson
Administrator

STATEMENT OF PURPOSE

Title: The adoption of a revised schedule of tolls for the Washington state ferry system.

Statutory Authority: RCW 47.60.326.

Summary of Rule: To revise the fare schedule on the state ferry system to meet the changing economic factors, including costs of inflation and higher operational costs.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Don L. Sorte, Assistant Secretary for Marine Transportation.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Washington State Transportation Commission, governmental.

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: The department has considered this rule and determined that it does not affect more than 10% of one industry or 20% of all industry.

AMENDATORY SECTION (Amending Order 28, Resolution No. 143, filed 3/22/82)

WAC 468-300-010 FERRY PASSENGER TOLLS.

ROUTES	Full Fare One Way	Half Fare** One Way	COM- MU- TATION	PASSENGER SCHOOL COM- MU- TATION		
			20 Rides *****	***** 20 Rides ***** Ages 12-20	5-11	
((Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Pt. Townsend-Keystone Edmonds-Kingston	1.45	.75	17.40	14.50	7.25	
Fauntleroy-Vashon Southworth-Vashon Pt. Defiance-Tahlequah	1.80	.90	10.80 *****	9.00	4.50	
Mukilteo-Clinton	.90	.45	10.80	9.00	4.50	
Lofall-Southpoint						
Anacortes to Lopez	1.75	.90	21.00	17.50	8.75	
Shaw, Orcas	1.95	1.00	23.40	19.50	9.75	
or Friday Harbor	2.20	1.10	26.40	22.00	11.00	
Sidney	5.25	2.65	N/A	N/A	N/A	
Friday Harbor to Lopez, Shaw or Orcas	1.45	.75	17.40	14.50	7.25	
Between Lopez, Shaw, or Orcas	.90	.45	10.80	9.00	4.50	
Sidney to Lopez	3.80	1.90				
Shaw or Orcas	3.50	1.75	N/A	N/A	N/A	
Friday Harbor	3.35	1.70				
Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Pt. Townsend-Keystone Edmonds-Kingston	1.55	.80	18.60	15.50	7.75	
Fauntleroy-Vashon Southworth-Vashon Pt. Defiance-Tahlequah	1.90	1.00	11.40 *****	9.50	4.75	
Mukilteo-Clinton	.95	.50	11.40	9.50	4.75	
Lofall-Southpoint						
Anacortes to Lopez	1.85	.95	22.20	18.50	9.25	
Shaw, Orcas	2.10	1.05	25.20	21.00	10.50	
or Friday Harbor	2.35	1.20	28.20	23.50	11.75	
Sidney	5.60	2.80	N/A	N/A	N/A	
Friday Harbor to Lopez, Shaw or Orcas	1.55	.80	18.60	15.50	7.75	
Between Lopez, Shaw, or Orcas	.95	.50	11.40	9.50	4.75	
Sidney to Lopez	4.05	2.05				
Shaw or Orcas	3.75	1.90	N/A	N/A	N/A	
Friday Harbor	3.60	1.80				

*These routes operate on one-way only toll collection system.

**Half Fare

Senior Citizens - Passengers and driver, age 65 and over, with proper identification establishing proof of age, may travel at half-fare tolls on any route.

NOTE: Half-fare privilege does not include vehicle.

Children - Children under five years of age will be carried free when accompanied by parent or guardian. Children five through eleven years of age will be charged half-fare. Children twelve years of age will be charged full-fare.

Handicapped - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize Ferry System services, may travel at half-fare tolls on any route upon presentation of a WSF Handicapped Travel Permit at time of travel. In addition, those handicapped persons who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Handicapped Travel Permit and such endorsement shall allow the attendant to also travel at half fare.

NOTE: Half-fare privilege does not include vehicle.

***School Commutation Tickets - Tickets are for the exclusive use of bona fide students under twenty-one years of age attending grade, junior high, and high schools. Student shall be required to present credentials at time of purchase. A letter indicating school attendance signed by school principal or authorized representative shall be considered proper credentials. Tickets are valid for transportation on school days only.

****A combination Ferry/Bus Public Transit Passenger Monthly Reusable Ticket Rate may be available for a particular route in conjunction with a public transit operating authority whenever it is determined by the Transportation Commission that said ticket is a necessary element of a Transit Operating Plan designed to eliminate the necessity for assigning an additional ferry to such particular route; and that the resulting savings in Ferry System operating and amortized capital costs exceed the total revenue lost as a result of this reduced rate as projected during the period of time during which such transit operating plan is projected to eliminate the need for an additional ferry. The equivalent ferry fare per ride with this special rate shall be one-half the equivalent fare per ride with the standard commutation book, and shall assume 40 one-way trips per month. The total cost of the ticket shall be the cost of the ferry portion, calculated as described above plus the cost of the bus portion as determined by the Public Transit Operating Authority, subject to the approval of the Secretary of Transportation. The ticket shall be valid only for passengers on board a bus; or for walk-on passengers, on weekdays only, on those routes which have connecting bus service as part of the Transit Operating Plan. The assigning of an additional ferry to such particular route may be cause for removal of the special rate. If the conditions of eliminating the assignment of an additional ferry or realizing sufficient resulting savings cannot be met, the ticket may be sold for any route authorized by the Secretary of Transportation, at the full ferry commutation fare per ride based on forty one-way trips per month plus the cost of the bus portion.

*****On the Fauntleroy-Vashon route, a combination Ferry/Bus Public Transit Monthly Reuseable Ticket Rate shall apply.

*****Commutation tickets shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage or for refunds. Washington state ferries shall enter into agreements with banks to sell commutation tickets.

PROMOTIONAL TOLLS

A promotional rate may be established at the discretion of the secretary of transportation for a specific discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

AMENDATORY SECTION (Amending Order 28, Resolution No. 143, filed 3/22/82)

WAC 468-300-020 AUTO, MOTORCYCLE AND BICYCLE FERRY TOLLS.

	AUTO** INCL. DRIVER		MOTORCYCLE INCL. DRIVER			BICYCLE & RIDER	
	One Way	Commutation 20 Rides ***	One Way	Commutation 20 Rides ***	Full Fare One Way	Half Fare One Way	Commutation 20 Rides ***
((Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Pt. Townsend-Keystone Edmonds-Kingston	4.80	76.80	2.60	34.65	2.00	1.30	20.00
Fauntleroy-Vashon Southworth-Vashon Pt. Defiance-Tahlequah	6.50	52.00	3.50	23.35	2.80	1.90	14.00
Mukilteo-Clinton Lofall-Southpoint	3.25	52.00	1.75	23.35	1.40	.95	14.00
		10 Rides					
Anacortes to Lopez Shaw, Orcas or Friday Harbor Sidney	5.25 5.95 6.80 22.60	42.00 47.60 54.40 N/A	3.10 3.55 4.10 11.35	41.35 47.35 54.65 N/A	2.40 2.70 3.10 7.40	1.55 1.75 2.00 4.80	24.00 27.00 31.00 N/A
Friday Harbor to Lopez, Shaw or Orcas	4.25	34.00	2.60	34.65	2.00	1.30	20.00
Between Lopez, Shaw, or Orcas	2.90	23.20	1.75	23.35	1.40	.95	14.00
Sidney to Lopez Shaw or Orcas Friday Harbor	17.90 17.30 16.55	N/A	8.55 8.15 7.65	N/A	5.25 5.00 4.70	3.35 3.25 3.05	N/A
Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Pt. Townsend-Keystone Edmonds-Kingston	5.15	82.40	2.80	37.35	2.15	1.40	21.50
Fauntleroy-Vashon Southworth-Vashon Pt. Defiance-Tahlequah	7.00	56.00	3.70	24.65	3.00	2.10	15.00
Mukilteo-Clinton Lofall-Southpoint	3.50	56.00	1.85	24.65	1.50	1.05	15.00
		10 Rides					
Anacortes to Lopez Shaw, Orcas or Friday Harbor Sidney	5.60 6.35 7.30 24.20	44.80 50.80 58.40 N/A	3.30 3.80 4.40 12.15	44.00 50.65 58.65 N/A	2.55 2.90 3.30 7.90	1.65 1.85 2.15 5.10	25.50 29.00 33.00 N/A
Friday Harbor to Lopez, Shaw or Orcas	4.55	36.40	2.80	37.35	2.15	1.40	21.50
Between Lopez, Shaw, or Orcas	3.10	24.80	1.85	25.35	1.50	1.05	15.00

Sidney to Lopez	19.15	9.15	5.60	3.60	
Shaw or Orcas	18.50	8.70	5.35	3.50	N/A
Friday Harbor	17.70	8.20	5.05	3.25	N/A

*These routes operate on one-way only toll collection system.

**Vanpools - A commuter vanpool which carries seven or more persons on a regular and expense-sharing basis for the purpose of travel to or from work or school and which is certified as such by a local organization approved by the Washington State Ferry System, may purchase for a \$10 fee, a permit valid for a three-month period on Mondays through Fridays only and valid only during the hours shown on the permit. The permit for commuter pool agency vanpools shall be valid for one year. These hours are selectable by the purchaser but shall designate two periods of use each day not to exceed two hours per period. The permit so purchased shall allow passage of the vehicle only during the valid periods. All riders in the van, including the driver, shall pay the applicable passenger fare. Except that the minimum total paid for all riders in the van shall not be less than the amount equal to seven times the applicable passenger fare.

***Commutation tickets shall be valid only for 90-days from date of purchase after which time the ticket shall not be accepted for passage or for refunds. Washington state ferries shall enter into agreements with banks to sell commutation tickets.

SUMMER SURCHARGE

A 20% surcharge shall be applied during the summer schedule period (beginning the third Sunday in June and ending the third Saturday in September) to regular, noncommutation auto and oversized vehicle rates only.

PENALTY CHARGES

Owner of vehicle without driver will be assessed a \$50.00 penalty charge.

Overhang on passenger vehicles will be assessed a penalty charge of 10¢ per lineal foot of overhang in addition to regular applicable tolls, except that no charge for overhang will be assessed when overall length of vehicle and overhang is less than twenty feet. A fraction of a foot of overhang in excess of six inches will be counted as one foot in assessment of charge for overhang.

SPECIAL SCHOOL RATE

School groups when traveling in authorized school vehicles for institution-sponsored activities shall be assessed a flat fee of \$1.00 per vehicles load of students and/or advisors and staff. The flat fee shall be in addition to regular vehicle and drive toll. Private vehicles need letter of authorization.

NOTE: Special School Rate is \$2.00 on routes where one-way only toll systems are in effect. Special Student Rate not available on Anacortes-Sidney, B.C. route beginning the third Sunday in June and ending the third Saturday in September due to limited space.

PROMOTIONAL TOLLS

A promotional rate may be established at the discretion of the secretary of transportation for a specified discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

AMENDATORY SECTION (Amending Order 29, Resolution No. 153, filed 8/20/82)

WAC 468-300-030 OVERSIZED VEHICLE, STAGE AND BUS, NEWSPAPER, EXPRESS SHIPMENT AND MEDICAL SUPPLIES FERRY TOLLS.

ROUTES	OVERSIZED VEHICLES** 18' TO UNDER 28' LONG		OVERSIZED VEHICLES** 28' OR LONGER		STAGES AND BUSES INCL. DRIVER***	
	One Way	Commutation 20 Rides *****	One Way	Commutation 20 Rides *****	One Way	Each Pass
(Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Edmonds-Kingston Pt. Townsend-Keystone)	7.20	115.20	9.75	156.00	10.60	.75
(Fauntleroy-Vashon Southworth-Vashon Pt. Defiance-Tahlequah)	9.90	79.20	13.70	109.60	13.60	1.00
(Mukilteo-Clinton Lofall-Southpoint)	4.95	79.20	6.85	109.60	6.80	.50
Anacortes to Lopez, Shaw, Orcas or Friday Harbor Sidney	8.85	70.80	11.70	93.60	14.45	1.00
Friday Harbor to Lopez, Shaw or Orcas	6.15	49.20	7.90	63.20	10.60	.75
Between Lopez, Shaw or Orcas	4.35	34.80	5.85	46.80	6.80	.50
Sidney to Lopez, Shaw, Orcas or Friday Harbor	22.15	N/A	26.75	N/A	29.35	1.75
(Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Edmonds-Kingston Pt. Townsend-Keystone)	7.70	123.20	10.45	167.20	11.35	.80
(Fauntleroy-Vashon Southworth-Vashon Pt. Defiance-Tahlequah)	10.60	84.80	14.70	117.60	14.60	1.10
(Mukilteo-Clinton Lofall-Southpoint)	5.30	84.80	7.35	117.60	7.30	.55

		10 Rides						
Anacortes to Lopez,								.95
Shaw, Orcas or	9.45	75.60	12.50	100.00	15.45			.95
Friday Harbor								1.20
Sidney	30.70	N/A	36.00	N/A	45.05			2.85
Friday Harbor to								
Lopez, Shaw or Orcas	6.60	52.80	8.45	67.60	11.35			.80
Between Lopez, Shaw or								
Orcas	4.65	37.20	6.25	50.00	7.30			.55
Sidney to Lopez,								2.05
Shaw, Orcas or	23.70	N/A	28.60	N/A	31.40			1.85
Friday Harbor								1.80

(1) BULK NEWSPAPERS per 100 lbs. \$2.00

(Shipments exceeding 60,000 lbs. in any month shall be assessed .95¢ per 100 lbs.)
Daily Newspapers, in bundles, and medical supplies, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

(2) EXPRESS SHIPMENTS per 100 lbs. \$19.00

(Shipments exceeding 100 lbs. assessed \$7.50 for each 25 lbs. or fraction thereof.)
Express shipments will be handled on scheduled sailings when no other means of shipment is available to shipper. Shipments must be of a size and weight requiring a minimum of handling by carrier's employees. Carrier reserves the right to refuse shipment of any item. Carrier assumes no liability for loss or damage to any shipment. Minimum rate for any shipment shall be the rate for 100 pounds.

San Juan Inter-Island express shipments will be handled @ \$2.55 per 100 lbs.

(3) MEDICAL SUPPLIES per 100 lbs. \$1.00

(Medical supplies exceeding 100 lbs. shall be assessed express shipment rates.)

*These routes operate on one-way only toll collection system.

**Includes Motor Homes, and Mobile Campers that exceed eight feet in height and 18' in length. Excludes trucks licensed over 8,000 lbs., passenger busses and stages. All oversized vehicles under 18' in length will be considered as regular car and driver.

***Stages - A public transportation operator providing regularly scheduled week-day service for public necessity and convenience may pay a \$10 annual fee for each scheduled vehicle. This fee covers the fare for each trip of the vehicle and operator only. All occupants shall be assessed the applicable passenger rate per trip. The \$10 annual fee does not apply to vehicles providing chartered service or vehicles providing service for special events such as trips for recreational purposes.

- For vanpool fares, see WAC 468-300-020 under Auto.

****Half fare.

*****Commutation tickets shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage or for refunds. Washington state ferries shall enter into agreements with banks to sell commutation tickets.

SUMMER SURCHARGE

A 20% surcharge shall be applied during the summer schedule period (beginning the third Sunday in June and ending the third Saturday in September) to regular, noncommutation auto and oversized vehicle rates only.

PENALTY CHARGES

Owner of vehicle without driver will be assessed a \$50.00 penalty charge.

PROMOTIONAL DISCOUNTS

A promotional rate may be established at the discretion of the secretary of transportation for a specific discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

AMENDATORY SECTION (Amending Order 29, Resolution No. 153, filed 8/20/82)

WAC 468-300-040 TRUCKS AND TRUCKS WITH TRAILER FERRY TOLLS.

ROUTES	INCL. DRIVER OVERALL UNIT LENGTH								Cost Per Ft. over 78 Ft.
	Class I *** Under 18'	Class II 18' to Under 28'	Class III 28' to Under 38' ****	Class IV 38' to Under 48'	Class V 48' to Under 58'	Class VI 58' to Under 68'	Class VII 68' to Under 78'	Class VIII Over 78'	
(Fautleroy-Southworth Seattle-Bremerton Seattle-Winslow Pt. Townsend-Keystone Edmonds-Kingston)	4.80	8.15	16.15	24.15	32.15	40.15	48.15	48.15	.65
Fautleroy-Vashon Southworth-Vashon Pt. Defiance-Fahlequah)	6.50	11.40	22.60	33.80	45.00	56.20	67.40	67.40	.90
Mukiteo-Clinton Lofall-Southpoint)	3.25	5.70	11.30	16.90	22.50	28.10	33.70	33.70	.45

ROUTES	INCL. DRIVER OVERALL UNIT LENGTH								Cost Per
	Class I *** Under 18'	Class II 18' to Under 28'	Class III 28' to Under 38' ****	Class IV 38' to Under 48'	Class V 48' to Under 58'	Class VI 58' to Under 68'	Class VII 68' to Under 78'	Class VIII Over 78'	Ft. over 78 Ft.
**Anacortes to Lopez	5.25								
Shaw, Orcas	5.95	9.75	19.35	28.95	38.55	48.15	57.75	57.75	.80
or Friday Harbor	6.80								
Sidney	22.60	29.60	50.00	70.40	90.80	111.20	131.60	131.60	1.80
**Friday Harbor to Lopez,									
Shaw or Orcas	4.25	6.65	13.05	19.45	25.85	32.25	38.65	38.65	.55
**Between Lopez,									
Shaw or Orcas	2.90	4.90	9.70	14.50	19.30	24.10	28.90	28.90	.40
**Sidney to Lopez	17.90								
Shaw or Orcas	17.30	23.50	39.70	55.90	72.10	88.30	104.50	104.50	1.45
Friday Harbor	16.55)								
Fauntleroy-Southworth									
Seattle-Bremerton									
Seattle-Winslow	5.15	8.65	17.05	25.45	33.85	42.25	50.65	50.65	.70
Pt. Townsend-Keystone									
Edmonds-Kingston									
Fauntleroy-Vashon									
Southworth-Vashon	7.00	12.30	24.30	36.30	48.30	60.30	72.30	72.30	1.00
Pt. Defiance-Tahlequah									
Mukilteo-Clinton									
Lofall-Southpoint	3.50	6.15	12.15	18.15	24.15	30.15	36.15	36.15	.50
**Anacortes to Lopez	5.60								
Shaw, Orcas	6.35	10.25	20.25	30.25	40.25	50.25	60.25	60.25	.85
or Friday Harbor	7.30								
Sidney	24.20	31.70	53.50	75.30	97.10	118.90	140.70	140.70	1.95
**Friday Harbor to Lopez,									
Shaw or Orcas	4.55	7.30	14.50	21.70	28.90	36.10	43.30	43.30	.60
**Between Lopez,									
Shaw or Orcas	3.10	5.25	10.45	15.65	20.85	26.10	31.25	31.25	.45
**Sidney to Lopez	19.15								
Shaw or Orcas	18.50	25.20	42.60	60.00	77.40	94.80	112.20	112.20	1.55
Friday Harbor	17.70								

*These routes operate on one-way only toll collection system.

**Commercial trucks are allowed stop-over at intermediate points upon payment of \$2.50 per stop-over.

***Includes all trucks licensed 8,001 lbs. gross vehicle weight and above, except busses. Trucks under 8,001 lbs. will be classified as automobiles.

Also includes all trucks licensed 8,001 lbs. gross vehicle weight and above pulling trailers, unlicensed vehicles and road machinery on wheels. Vehicles not included in this class cannot be charged under this class.

****UNITED STATES GOVERNMENT SPECIAL RATE - Special rates are available to the United States Government through advance, bulk ticket purchase at the general offices of Washington State Ferries. The per unit price is the same as the 28' to under 38', class III rate.

PENALTY CHARGES

Owner of vehicle without driver will be assessed a \$50.00 penalty charge.

DISCOUNT PERCENTAGES FROM REGULAR TOLL

12 or more, one-way crossings within any consecutive six day period 25%

Emergency trips during nonservice hours - while at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

AMENDATORY SECTION (Amending Order 29, Resolution No. 153, filed 8/20/82)

WAC 468-300-070 VEHICLE WITH TRAILER FERRY TOLLS.

	Vehicle with Trailer Ferry Tolls***				
	Under 18'	18' To Under 28'	28' To Under 38'	38' To Under 48'	48' And Over
((Seattle-Winslow Seattle-Bremerton Edmonds-Kingston Pt. Townsend-Keystone Fautleroy-Southworth)	4.80	7.20	9.75	13.75	17.75
*Fautleroy-Vashon *Southworth-Vashon *Pt. Defiance Tahlequah)	6.50	9.90	13.70	19.30	24.90
Mukilteo-Clinton Lofall-South Point)	3.25	4.95	6.85	9.65	12.45
Anacortes to Lopez Shaw, Orcas or Friday Harbor Sidney)	5.25 5.95 6.80 22.60	8.85	11.70	16.50	21.30 54.05
Friday Harbor to Lopez Shaw, or Orcas)	4.25	6.15	7.90	11.10	14.30
Between Lopez, Shaw and Orcas)	2.90	4.35	5.85	8.25	10.65
Sidney to Lopez Shaw or Orcas Friday Harbor)	17.90 17.30 16.55))	22.15	26.75	34.85	42.95
Seattle-Winslow Seattle-Bremerton Edmonds-Kingston Pt. Townsend-Keystone Fautleroy-Southworth)	5.15	7.65	10.30	14.50	18.70
*Fautleroy-Vashon *Southworth-Vashon *Pt. Defiance Tahlequah)	7.00	10.60	14.70	20.70	26.70
Mukilteo-Clinton Lofall-South Point)	3.50	5.30	7.35	10.35	13.35
Anacortes to Lopez Shaw, Orcas or Friday Harbor Sidney)	5.60 6.35 7.30 24.20	9.35	12.25	17.25	22.25 57.85
Friday Harbor to Lopez Shaw, or Orcas)	4.55	6.70	8.75	12.35	15.95
Between Lopez, Shaw and Orcas)	3.10	4.65	6.30	8.90	11.50
Sidney to Lopez Shaw or Orcas Friday Harbor)	19.15 18.50 17.70	23.70	28.65	37.35	46.05

*These routes operate on one-way only toll collection system.

PENALTY CHARGES

Owner of vehicle without driver will be assessed a \$50.00 penalty charge.

***INCLUDES THE FOLLOWING VEHICLES PULLING TRAILERS:

- Automobiles
- Trucks licensed under 8,001 lbs. (For trucks 8,001 lbs. and over, see WAC 468-300-020)
- Oversize vehicles
- Does not include motorcycles with trailers.

Senior Citizen Discounts for the driver of the above vehicles shall apply.

Senior Citizen Discount is determined by subtracting full fare passenger rate and adding 1/2 passenger fare.

WSR 83-04-053
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 83-08—Filed February 2, 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 and the Columbia River Compact 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 February 1, 1983.

By William R. Wilkerson
 Acting Director

NEW SECTION

WAC 220-32-04000R SEASON AND AREA—STURGEON SETLINE. Notwithstanding the provisions of WAC 220-32-040, effective immediately it is unlawful to take, fish for, or possess sturgeon taken for commercial purposes with setline gear in Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and that portion of Area 1E downstream of a line projected due north from the mouth of Oneonta Creek on the Oregon shore to a deadline marker on the Washington shore except at those times, with the gear, and under the provisions designated below:

(1) The open fishing period is immediately until 12:00 noon, April 30, 1983.

(2) Setline gear is limited to 4 lines per fisherman, not more than 300 hooks per line, with bouys which must float visibly at all times attached to each end of each setline on which bouys must be written in a legible manner the fishing license number of the fisherman operating the setline gear.

(3) Minimum hook size is 12/0 and treble hooks are prohibited.

(4) Gangions must contain an in-line swivel between the groundline and the hook.

(5) Setlines must be attended once every 48 hours, weather permitting.

(6) All sturgeon under 48 inches in length and over 72 inches in length must be released immediately and all sturgeon in transit must not have head or tail removed.

(7) It is unlawful to take sturgeon by angling from any vessel that is engaged in commercial sturgeon fishing, has been engaged in commercial sturgeon fishing that same day, or has commercially caught sturgeon on board.

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

NEW SECTION

WAC 220-32-05700Q SEASON AND GEAR—STURGEON. Notwithstanding the provisions of WAC 220-32-057, effective immediately it is unlawful for any fisherman, including treaty Indian fishermen, to take, fish for, or possess sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, or 1H except for those individuals at those times, with the gear, and under the provisions designated below:

(1) Only individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla and Nez Perce treaties may fish for sturgeon for commercial purposes.

(2) Fishing for sturgeon with setline gear is open year-round, unless otherwise provided.

(3) Setline gear is limited to 100 hooks per line, with at least one bouy which must float visibly at all times attached to each setline on which bouy must be written the tribal identification number of the fisherman operating the setline gear. Minimum hook size on setlines is 12/0 and treble hooks are prohibited. Gangions must contain an in-line swivel between the groundline and the setline hook.

(4) Setlines must be attended once every 48 hours, weather permitting.

(5) All sturgeon under 48 inches in length and over 72 inches in length must be released immediately and all sturgeon in transit must not have head or tail removed.

(6) It is unlawful to sell, barter or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of any sturgeon prior to the time the sturgeon is sold to a licensed wholesale dealer, and it is unlawful for any wholesale dealer to purchase or attempt to purchase sturgeon eggs that have been removed from the body cavity of any sturgeon prior to the time the sturgeon is offered for sale.

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.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-32-04000Q SEASON AND AREAS—STURGEON (83-02)

WAC 220-32-05700P SEASON—STURGEON (83-02)

WSR 83-04-054
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
 [Filed February 2, 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 Grants management—Elementary and Secondary Education Act—Title I program, regular, chapter 392-163 WAC;

that the agency will at 9:00 a.m., Thursday, March 17, 1983, in the Old Capitol Building, Washington and Legion Way, State Board of Education Conference Room, 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 22, 1983.

The authority under which these rules are proposed is RCW 28A.02.100.

Dated: February 2, 1983

By: Frank B. Brouillet
 Superintendent of Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-163 WAC, Grants Management—Elementary and Secondary Education Act—Title I Program, Regular.

Rule Section(s): WAC 392-163-100 Authority; 392-163-105 Purpose; 392-163-110 Accountability; 392-163-115 Definition—Chapter 1 Regular; 392-163-120 Definition—Accounting Manual; 392-163-125 Definition—Object of Expenditure; 392-163-130 Definition—Activity; 392-163-135 Definition—Program; 392-163-140 Definition—Direct Cost; 392-163-142 Definition—Indirect Cost; 392-163-145 Definition—Revenue Account; 392-163-170 Definition—Project; 392-163-175 Definition—Objective Measurement; 392-163-180 Definition—Children; 392-163-185 Definition—Educationally Deprived Children; 392-163-190 Definition—Low Income Children; 392-163-195 Definition—Grade Span Grouping; 392-163-200 Definition—Full Time Equivalent (FTE) Student; 392-163-205 Definition—Full Time Equivalent (FTE) Staff; 392-163-210 Definition—Instructional Staff; 392-163-215 Definition—Equivalence; 392-163-220 Definition—Comparability; 392-163-225 Definition—Unforeseen Conditions; 392-163-230 Definition—Attendance Area; 392-163-235 Definition—Greatest Need of Special Assistance; 392-163-240 Definition—Basic Skills; 392-163-245 Definition—Supplement; 392-163-250 Definition—Service Model; 392-163-255 Definition—Program that is of Sufficient Size, Scope, and Quality to Give Reasonable Promise of Substantial Progress Toward Meeting the Special Educational Needs of Children Being Served; 392-163-260 Definition—Consultation with Parents and Teachers and Other Interested Parties; 392-163-300 Selection of Attendance Areas—Project Requirement; 392-163-305 Annual Needs Assessment—Program Requirement; 392-163-310 Parent/Teacher and Community Involvement in Program Planning—Program

Requirement; 392-163-315 School District Application Required; 392-163-320 Substance of Annual School District Application; 392-163-322 Three Year Assurances; 392-163-325 Planned Expenditures by Program Object and Activity; 392-163-330 Board Approval; 392-163-335 Board Program Review; 392-163-340 Budget Revision—Twenty Percent Allowed; 392-163-345 Budget Revisions—Updating Planned Expenditures; 392-163-350 Budget Revision—Approval; 392-163-355 Program Update; 392-163-360 Supervisory Costs; 392-163-365 End-Of-Year-Report—Annual Requirement; 392-163-370 Summer School Addendum; 392-163-375 Program Evaluation; 392-163-385 Comparability of Services—Computation Basis; 392-163-390 Comparability of Services Maintained; 392-163-400 Comparability of Services—Completed Forms on File; 392-163-405 Maintenance of Effort; 392-163-410 Maintenance of Effort—Computations; 392-163-415 Maintenance of Effort—Failure to Maintain Effort; 392-163-420 Notification of Parents; 392-163-425 Construction; 392-163-430 Acquisition, Control and Disposition of Property; 392-163-440 Chapter 1 Regular Audit; 392-163-445 Sanctions; 392-163-450 Compliance Agreement; 392-163-455 Withholding of Chapter 1 Regular Payments; 392-163-460 Approval of Chapter 1 Regular Program Application by the Office of the Superintendent of Public Instruction; 392-163-465 State Advisory Council; and the repeal of 392-163-005 Authority and Purpose.

Statutory Authority: RCW 28A.02.100.

Purpose of the Rule(s): Implementation of portion of Chapter I of the Education Consolidation and Improvement Act of 1981 (Public Law 97-35).

Summary of the New Rule(s) and/or Amendments: WAC 392-163-100, cities rule-making authority; 392-163-105, states purpose of chapter; 392-163-110, states necessity to comply with federal conditions for receipt of federal funds; 392-163-115 through 392-163-260, defines terms used in chapter; 392-163-300, states program requirements regarding selection of attendance areas; 392-163-305, states requirements regarding required needs assessment; 392-163-310, indicates method for compliance with federal community involvement requirement; 392-163-315, establishes annual application by districts; 392-163-320, sets forth annual application requirement; 392-163-322, sets forth three year assurances requirement specified in federal law; 392-163-325, establishes application format and restates federal requirement regarding private and institutionalized students; 392-163-330, sets forth state policy that annual application must received board approval; 392-163-335, sets forth criteria for board approval; 392-163-340 through 392-163-370, sets forth state reporting requirements; 392-163-375, establishes program evaluation system to be used by districts; 392-163-385 through 392-163-415, sets forth the methodology to be used for federal requirements of "comparability" and "maintenance of effort"; 392-163-420, requires parent notification of placement and progress in Chapter 1—Regular program; 392-163-425 and 392-163-430, establishes criteria for use of Chapter 1 Regular moneys for construction; 392-163-440 through 392-163-455, restates

federal audit requirement and permits compliance agreements; 392-163-460, sets forth criteria for state approval of district applications; and 392-163-465, establishes role and responsibility of state advisory committee.

Reasons Which Support the Proposed Action(s): Implement state agency responsibility to ensure compliance with terms and conditions of federal funding.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, Room 1500, SPI, 753-2298; **Implementation and Enforcement:** Judith Schrag, Room 2000, SPI, 754-1842.

The Rule(s) is (are) Necessary as the Result of Federal Law, Education Consolidation and Improvement Act of 1981.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): Necessary to establish state practices and policies required by federal law.

Chapter 392-163 WAC

SPECIAL SERVICE PROGRAMS—CHAPTER 1 REGULAR OF THE EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981, FINANCIAL ASSISTANCE TO LOCAL SCHOOL DISTRICTS

NEW SECTION

WAC 392-163-100 **AUTHORITY.** The authority for this chapter is RCW 28A.02.100 which authorizes the superintendent of public instruction to receive federal funds on behalf of school districts of the state of Washington and to disperse such funds in accordance with federal law and accompanying federal rules and regulations.

NEW SECTION

WAC 392-163-105 **PURPOSE.** The provisions of this chapter are designed to ensure compliance by the state of Washington with the financial assistance to local school districts' provisions, including those which apply to private schools and local institutions for neglected and delinquent children, of Chapter 1 Regular of the Education Consolidation and Improvement Act of 1981 and accompanying federal rules and regulations, particularly 34 CFR Part 200.

NEW SECTION

WAC 392-163-110 **ACCOUNTABILITY.** Nothing in this chapter shall be construed to relieve a school district of its responsibility to comply also with all applicable federal statutes, rules and regulations.

NEW SECTION

WAC 392-163-115 **DEFINITION—CHAPTER 1 REGULAR.** As used in this chapter, the term "Chapter 1 Regular" shall mean that portion of Chapter 1 Regular of the Education Consolidation and Improvement Act of 1981 (Public Law 97-35) which provides financial assistance to school districts.

NEW SECTION

WAC 392-163-120 **DEFINITION—ACCOUNTING MANUAL.** As used in this chapter, the term "accounting manual" shall mean the Accounting Manual for Public School Districts in the State of Washington issued September 1982, by the superintendent of public instruction and the state auditor.

NEW SECTION

WAC 392-163-125 **DEFINITION—OBJECT OF EXPENDITURE.** As used in this chapter, the term "object of expenditure" shall be as defined in the Accounting Manual glossary of terms (i.e., "the

article purchased or the service obtained. . ."). For financial accounting purposes "object of expenditure" shall be defined further as the third field of uniform expenditure classification established in the Accounting Manual.

NEW SECTION

WAC 392-163-130 **DEFINITION—ACTIVITY.** As used in this chapter, the term "activity(ies)" shall be as defined in the Accounting Manual glossary of terms (i.e., a "specific line of work carried on by a school district in order to perform its mission"). For financial accounting purposes "activity" shall be defined further as the second field of uniform expenditure classification established in the Accounting Manual and for Chapter 1 Regular shall include all activities listed on Budget Form 1000B CH-1.

NEW SECTION

WAC 392-163-135 **DEFINITION—PROGRAM.** As used in this chapter, the term "program" shall be as defined in the Accounting Manual glossary of terms (i.e., "a plan of activities designed to accomplish a set of objectives"). For financial accounting purposes "program" shall be defined further as the first field of uniform expenditure classification established in the Accounting Manual and for Chapter 1 Regular shall include all approved activities supported by Chapter 1 Regular (Program 51) moneys.

NEW SECTION

WAC 392-163-140 **DEFINITION—DIRECT COST.** As used in this chapter, the term "direct cost" shall be as defined for "direct expense" in the Accounting Manual glossary of terms (i.e., "those elements of cost which can be easily, obviously and conveniently identified with specific programs. . .").

NEW SECTION

WAC 392-163-142 **DEFINITION—INDIRECT COST.** As used in this chapter, the term "indirect cost" shall be as defined in the Accounting Manual glossary of terms (i.e., "those elements of cost that cannot be easily, obviously, and conveniently identified with specific programs. . ."). For Chapter 1 Regular, each district shall be entitled to the restricted indirect cost rate established and disseminated annually to school districts by the superintendent of public instruction.

NEW SECTION

WAC 392-163-145 **DEFINITION—REVENUE ACCOUNT.** As used in this chapter, the term "revenue account" shall be as defined in the Accounting Manual glossary of terms (i.e., "account" being "a descriptive heading under which are recorded financial transactions. . ." and "revenue" being "additions to assets during a given fiscal period to a fund of a school district in the form of cash which does not accompany the incurrence of liabilities or represent refund of previous disbursements.").

NEW SECTION

WAC 392-163-170 **DEFINITION—PROJECT.** As used in this chapter, the term "project" either shall mean all activities supported with Chapter 1 Regular moneys in a particular attendance area or shall mean all of the Chapter 1 Regular activities in a particular program focus in school district attendance areas served by Chapter 1 Regular. In a school district that serves only one attendance area "program" and "project" may be synonymous.

NEW SECTION

WAC 392-163-175 **DEFINITION—OBJECTIVE MEASUREMENT.** As used in this chapter, the term "objective measurement" shall mean using a written or oral testing instrument that can be applied uniformly and consistently to determine in a comparable manner the educational achievement level of children.

NEW SECTION

WAC 392-163-180 **DEFINITION—CHILDREN.** As used in this chapter, the term "children" shall mean persons up to age twenty-one as defined in WAC 391-121-170 who are entitled to a free public education not above grade twelve; or persons who are of preschool age.

NEW SECTION

WAC 392-163-185 **DEFINITION—EDUCATIONALLY DEPRIVED CHILDREN.** As used in this chapter, the term "educationally deprived children" shall mean children whose educational attainment, documented by school district established selection criteria, is below the level that is appropriate for children of their age.

NEW SECTION

WAC 392-163-190 **DEFINITION—LOW INCOME CHILDREN.** As used in this chapter, the term "low income children" shall mean those children eligible to receive benefits under the National School Lunch Act (P.L. 79-396), for either the free and reduced lunch program or free milk program. If a school district does not offer school lunches pursuant to the National School Lunch Act, it shall use the income standards currently effective for determining eligibility for benefits under the act as the standard for identifying low income children.

NEW SECTION

WAC 392-163-195 **DEFINITION—GRADE SPAN GROUPING.** As used in this chapter, the term "grade span grouping" shall mean grouping school attendance areas by corresponding grade levels (e.g., schools serving grades K-6 in one group, schools serving 7-9 in another group, or schools serving other grade configurations). If a school attendance area serves grades in more than one group, the school district shall include that school either in the group with which the school has the most grade levels in common or in the group that includes the lower grade levels, if the school has the same number of grade levels in common with two or more groups.

NEW SECTION

WAC 392-163-200 **DEFINITION—FULL TIME EQUIVALENT (FTE) STUDENT.** As used in this chapter, the term "full time equivalent student" shall be as defined in WAC 392-121-105(2).

NEW SECTION

WAC 392-163-205 **DEFINITION—FULL TIME EQUIVALENT (FTE) STAFF.** As used in this chapter, the term "full time equivalent staff" shall be as defined in WAC 392-121-115(2) and (4).

NEW SECTION

WAC 392-163-210 **DEFINITION—INSTRUCTIONAL STAFF.** As used in this chapter, the term "instructional staff" shall mean certificated and classified persons whose services deal directly with or aid in the teaching of students or in improving teaching learning activities, and who are identified in the Accounting Manual under Activity 22, Learning Resources; Activity 23, Principals; Activity 24, Guidance and Counseling; Activity 25, Psychological Services; and Activity 27, Teaching.

NEW SECTION

WAC 392-163-215 **DEFINITION—EQUIVALENCE.** As used in this chapter, the term "equivalence," for purposes of determining comparability of services among Chapter 1 Regular served schools or between each Chapter 1 Regular served school and nonserved schools, shall mean:

(1) In each Chapter 1 Regular served school, the average FTE number of children enrolled per FTE instructional staff member shall be not more than one hundred ten percent of the average FTE number of children enrolled per FTE instructional staff member in the group of nonserved schools used for comparison: **PROVIDED,** That if all schools within the district are served with Chapter 1 Regular moneys, the average FTE number of children enrolled per FTE instructional staff member shall be not more than one hundred ten percent of the average FTE number of children enrolled per FTE instructional staff member in the group of schools having the lowest percentage or numbers of children from low income families; and

(2) In each Chapter 1 Regular served school, the average per pupil expenditure for curriculum materials and instructional supplies shall not be less than ninety percent of the per pupil expenditure for curriculum materials and instructional supplies in nonserved schools: **PROVIDED,** That if all schools within the district are served with Chapter 1 Regular moneys, the average per pupil expenditure for curriculum

materials and instructional supplies shall not be less than ninety percent of the per pupil expenditures for curriculum materials and instructional supplies in the group of schools having the lowest percentage or number of children from low income families: **PROVIDED FURTHER,** That in the case of new schools or unforeseen circumstances the district may in that unique instance exceed the ten percent variance allowed in determining equivalence in order to provide curriculum materials and instructional supplies to a level that will result in equivalence in succeeding years.

NEW SECTION

WAC 392-163-220 **DEFINITION—COMPARABILITY.** As used in this chapter, the term "comparability" shall mean that the school district, using state and local moneys, shall provide services in Chapter 1 Regular schools that, taken as a whole, are at least equivalent to services being provided in schools not receiving Chapter 1 Regular moneys: **PROVIDED,** That if all schools receive Chapter 1 Regular moneys, the school district, using state and local moneys, shall provide services that, taken as a whole, are equivalent among all schools.

NEW SECTION

WAC 392-163-225 **DEFINITION—UNFORESEEN CONDITIONS.** As used in this chapter, the term "unforeseen conditions" shall be as defined in WAC 392-129-010(1) and also shall include other unforeseeable changes in student enrollment or personnel assignments that occur after December 1 of the school year.

NEW SECTION

WAC 392-163-230 **DEFINITION—ATTENDANCE AREA.** As used in this chapter, the term "attendance area" shall mean, in relation to a particular school, the geographic area determined by the school district board of directors in which the children who are normally served by that school reside. However, if a child's school attendance area is not determined on a geographic basis, the child is considered to be in the school attendance area of the school to which the child is assigned or would be assigned if the child were not attending a private school or another school on a voluntary basis.

NEW SECTION

WAC 392-163-235 **DEFINITION—GREATEST NEED OF SPECIAL ASSISTANCE.** As used in this chapter, the term "greatest need of special assistance" shall refer to those educationally deprived children, as defined in WAC 392-163-180, who have been identified on the basis of school district established selection criteria, including objective measurement of educational achievement, as in the greatest need of special assistance.

NEW SECTION

WAC 392-163-240 **DEFINITION—BASIC SKILLS.** As used in this chapter, the term "basic skills" shall mean skills in reading, language arts, math, and skills that are essential prerequisites to learning reading, language arts, and math.

NEW SECTION

WAC 392-163-245 **DEFINITION—SUPPLEMENT.** As used in this chapter, the term "supplement" shall be defined as instructional or support services for educationally disadvantaged children funded with Chapter 1 Regular moneys, and offered by a school district in addition to required basic educational services funded with nonfederal moneys. Such supplemental services shall be designed and implemented in accordance with service models described in Chapter 1 Regular annual application instructions and shall meet the supplement/supplant tests appropriate to each model.

NEW SECTION

WAC 392-163-250 **DEFINITION—SERVICE MODEL.** As used in this chapter, the term "service model" shall mean the location, time and conditions characteristic of the method(s) chosen by a school district for delivery of Chapter 1 Regular instructional and/or support services. Permissible models are those described in the annual application instructions.

NEW SECTION

WAC 392-163-255 DEFINITION—PROGRAM THAT IS OF SUFFICIENT SIZE, SCOPE, AND QUALITY TO GIVE REASONABLE PROMISE OF SUBSTANTIAL PROGRESS TOWARD MEETING THE SPECIAL EDUCATIONAL NEEDS OF CHILDREN BEING SERVED. As used in this chapter, the term "program that is of sufficient size, scope and quality to give reasonable promise of substantial progress toward meeting the special educational needs of children being served" shall mean a program that the board of directors of a school district, on the basis of procedures outlined in WAC 392-163-305, 392-163-310, and 392-163-335, determines has substantial likelihood of meeting the special educational needs of children to be served.

NEW SECTION

WAC 392-163-260 DEFINITION—CONSULTATION WITH PARENTS AND TEACHERS AND OTHER INTERESTED PARTIES. As used in this chapter, the term "consultation with parents and teachers and other interested parties" shall mean planned, systematic contact with parents and teachers of children being served by Chapter 1 Regular, including parents and teachers of served private school children, and other interested parties in the design and implementation of the Chapter 1 Regular program, including discussion of program revenue and expenditures.

NEW SECTION

WAC 392-163-300 SELECTION OF ATTENDANCE AREAS—PROJECT REQUIREMENT. Each school district receiving Chapter 1 Regular moneys shall select attendance areas to receive Chapter 1 Regular services on one or a combination of the following bases:

- (1) Highest concentration of low income children. The district may select those attendance areas district-wide or by grade span grouping having the highest number or percentage of low income children.
- (2) Uniformly high concentration of low income children. The district may select all attendance areas district-wide or within a designated grade span grouping if the variation between the attendance areas with the highest and lowest percentage of low income children is not more than ten percent, or one-third of the district-wide low income average.
- (3) Twenty-five percent rule. The district may select attendance areas in which the percent of low income students equals or exceeds twenty-five percent of the attendance area enrollment.
- (4) Transition. The district may select an attendance area which was eligible in the preceding school year in order to provide service for one additional year to phase out the program. If, however, the school attendance area is substantially different than it was in the preceding fiscal year because of attendance area boundary adjustments, the attendance area may not be served on this basis.
- (5) Service to all educationally deprived, low income children. A part of Chapter 1 Regular moneys may be used to provide significant help for all low income educationally deprived children served by the district. The district shall use all other Chapter 1 Regular moneys in attendance area(s) selected on one or more of the bases listed above.

NEW SECTION

WAC 392-163-305 ANNUAL NEEDS ASSESSMENT—PROGRAM REQUIREMENT. Each school district receiving Chapter 1 Regular moneys shall base its Chapter 1 Regular program on an annual assessment of educational needs which shall include, at a minimum, a review of fourth grade test data in basic skills and assessment of Chapter 1 Regular funded support services. The needs assessment further shall:

- (1) Identify educationally deprived children in all eligible attendance areas, including educationally deprived children in participating private schools;
- (2) Permit the selection of those educationally deprived children in greatest need of special assistance; and
- (3) Assess and determine the educational needs of each child selected to participate so that there exists reasonable promise of substantial progress toward meeting the identified educational needs of children being served.

NEW SECTION

WAC 392-163-310 PARENT/TEACHER AND COMMUNITY INVOLVEMENT IN PROGRAM PLANNING—PROGRAM REQUIREMENT. Each school district that seeks an allocation of funds under Chapter 1 Regular shall consult with parents and teachers of Chapter 1 Regular served children and other interested parties in preparing the proposed program design and planned expenditures submitted by the designated local administrator to the school district board of directors for adoption. Such parent/teacher consultation shall be documented to demonstrate compliance with this section.

NEW SECTION

WAC 392-163-315 SCHOOL DISTRICT APPLICATION REQUIRED. Each school district that seeks an allocation of federal funds under Chapter 1 Regular from the state shall submit an annual application on forms provided by the superintendent of public instruction.

NEW SECTION

WAC 392-163-320 SUBSTANCE OF ANNUAL SCHOOL DISTRICT APPLICATION. The school district's annual application required by WAC 392-163-315 shall contain the following:

- (1) Planned expenditures by program object and activity as required by WAC 392-163-325.
- (2) Identification of eligible attendance areas selected to receive Chapter 1 Regular services.
- (3) Program and project descriptions on forms provided by the superintendent of public instruction.

NEW SECTION

WAC 392-163-322 THREE YEAR ASSURANCES. Each school district that receives an allocation of federal funds under Chapter 1 Regular shall submit to the superintendent of public instruction once every three years:

- (1) Assurances as required by P.L. 97-35, (Sec. 556(b), 20 USC 3805), 34 CFR 200.13(b)(3), and 200.63(e) and assurance of school district compliance with chapter 392-163 WAC.
- (2) An assurance that the school district shall keep records and provide information to the superintendent of public instruction regarding Chapter 1 Regular programs in such a manner as required by the superintendent of public instruction.

NEW SECTION

WAC 392-163-325 PLANNED EXPENDITURES BY PROGRAM OBJECT AND ACTIVITY. Each school district's planned expenditures shall be by program object and activity, as displayed on forms provided by the superintendent of public instruction, for the program designed to assist educationally deprived children as defined in WAC 392-163-180 and shall include the district's proposed expenditures for public and private school children and children in local institutions for neglected and delinquent children.

NEW SECTION

WAC 392-163-330 BOARD APPROVAL. Each annual application, budget revision, and program update submitted by a school district to the superintendent of public instruction shall be approved by the board of directors of the school district in accordance with WAC 392-163-335, 392-163-345, and 392-163-355.

NEW SECTION

WAC 392-163-335 BOARD PROGRAM REVIEW. Each school district board of directors, prior to approval of an annual application, shall:

- (1) Review the previous year's planned expenditures;
- (2) Evaluate the previous year's expected program outcomes indicated in terms including objective measurement of educational achievement;
- (3) Review whether improved performance by children in basic skills has been sustained over a period of more than one year;
- (4) Review the current year needs assessment in relationship to the proposed program;
- (5) Review the documented adequacy of parent/teacher consultation;

(6) Certify to the superintendent of public instruction that such review has been completed and, in the opinion of the board of directors, the school district is proposing to support with Chapter 1 Regular moneys projects that are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of children being served;

(7) Certify to the superintendent of public instruction that in order to meet federal comparability requirements the board of directors has:

- (a) Established a district-wide salary schedule;
- (b) Adopted a policy to ensure equivalence among all schools in teachers, administrators, and auxiliary personnel; and
- (c) Adopted a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies; and

(8) Certify to the superintendent of public instruction that, in the opinion of the board of directors, the school district has complied with the provisions of this chapter.

NEW SECTION

WAC 392-163-340 BUDGET REVISION—TWENTY PERCENT ALLOWED. Using the subtotal from Form 1000B Ch-1 as a base, school districts may make annual expenditure adjustments of up to twenty percent of that total in any of the previously budgeted activity or object totals within the approved annual application without filing a request for a budget revision with the superintendent of public instruction.

NEW SECTION

WAC 392-163-345 BUDGET REVISIONS—UPDATING PLANNED EXPENDITURES. Except as provided in WAC 392-163-340, each school district shall expend Chapter 1 Regular moneys in accordance with planned expenditures and program description included in the application submitted to and approved by the superintendent of public instruction. A school district shall be required to file a request for a budget revision whenever necessary with the superintendent of public instruction in order to:

- (1) Increase the total expenditure of Chapter 1 Regular moneys; or
- (2) Change by more than twenty percent of the subtotal the expenditures among activity or object totals; or
- (3) Expend money in any object or activity where no moneys were budgeted in the original application.

NEW SECTION

WAC 392-163-350 BUDGET REVISION—APPROVAL. Approval of budget revisions by the superintendent of public instruction shall be in accordance with the provisions of WAC 392-163-460 for approval by the superintendent of public instruction of the annual application.

NEW SECTION

WAC 392-163-355 PROGRAM UPDATE. No later than thirty calendar days following a substantial program change, a school district shall submit to the superintendent of public instruction a description of such changes. "Substantial changes" shall mean:

- (1) Removal of Chapter 1 Regular services from an attendance area listed as "served" on the application;
- (2) Addition of Chapter 1 Regular services to an attendance area not listed as "served" in the application;
- (3) Modification of the Chapter 1 Regular program in any served attendance area by adding a new program focus, by changing grade levels, or by changing program service delivery models; and/or
- (4) Increasing the number of students served in the Chapter 1 Regular program to such an extent that the district must exceed the twenty percent budget variance to accommodate serving the additional eligible students.

Notwithstanding the thirty-day provision for notification to the superintendent of public instruction of substantial program changes, if such changes necessitate a budget revision said revision shall be submitted to the superintendent of public instruction for approval prior to implementation of proposed changes.

NEW SECTION

WAC 392-163-360 SUPERVISORY COSTS. A school district that charges any portion of supervisory costs to the Chapter 1 Regular

program shall document such costs, including the proportion of supervisory FTE so designated.

NEW SECTION

WAC 392-163-365 END-OF-YEAR-REPORT—ANNUAL REQUIREMENT. Each school district that receives an allocation of funds under Chapter 1 Regular shall submit to the superintendent of public instruction each year an end-of-year report on forms provided by the superintendent of public instruction. The end-of-year report shall be received by the superintendent of public instruction no later than July 20 and shall contain all information requested.

NEW SECTION

WAC 392-163-370 SUMMER SCHOOL ADDENDUM. Any school district which conducts a summer school supported with Chapter 1 Regular moneys, in addition to the annual end-of-year report, shall submit a separate summer school report by September 15 on forms provided by the superintendent of public instruction.

NEW SECTION

WAC 392-163-375 PROGRAM EVALUATION. Each school district that receives an allocation of moneys under Chapter 1 Regular shall use the Title I Evaluation and Reporting System (TIERS) for reporting student impact data to the superintendent of public instruction on forms provided by that office when requested by the superintendent of public instruction.

NEW SECTION

WAC 392-163-385 COMPARABILITY OF SERVICES—COMPUTATION BASIS. (1) In order to demonstrate comparability, a school district shall compare the FTE student/instructional staff ratio in each Chapter 1 Regular served school with an average of FTE student/instructional staff ratios in all nonserved schools: PROVIDED, That if all schools within the district are served with Chapter 1 Regular moneys, a school district shall compare the FTE student/instructional staff ratio in each Chapter 1 Regular served school with an average of the FTE student/instructional staff ratio in Chapter 1 Regular served schools having the lowest percent or number of low income students, using for the computation FTE student enrollment divided by nonfederally funded FTE certificated and classified staff in Activity 27: PROVIDED FURTHER, That at its discretion, a district also may include in its calculation other instructional staff in Activities 22, 23, 24, and 25.

(2) A district shall be deemed to have demonstrated comparability if it meets the definition of equivalence established in WAC 392-163-210.

(3) In assembling the data for the computation the school district may:

(a) Disregard schools with a total student enrollment of fewer than one hundred FTE students;

(b) Divide schools into no more than four grade span groupings;

(c) Divide schools into two groups, larger and smaller, for each grade span grouping if policies or agreements established by the school district board of directors require different teacher/pupil ratios based on individual school population characteristics. If a district chooses to use this option, it shall use only instructional staff in Activity code 27 in the comparability calculation;

(d) Exclude from its calculation FTE instructional staff who are supported with state and/or local moneys for special programs designed to meet the needs of educationally deprived children, if such programs are consistent with the purposes of Chapter 1 Regular; and/or

(e) Exclude from its calculation the portion of nonfederally supported FTE instructional staff time used to provide services exclusively to handicapped and/or bilingual programs.

(4) Student enrollment and instructional staff data used in the comparability report shall have been collected within the same calendar month. The computation based on that data shall be completed prior to December 1 of each school year.

NEW SECTION

WAC 392-163-390 COMPARABILITY OF SERVICES MAINTAINED. Once a school district has demonstrated comparability, comparable services shall be maintained for the remainder of the

school year except that unforeseen conditions which arise during the school year shall not be a factor in determining continuing compliance with the comparability of services requirement.

NEW SECTION

WAC 392-163-400 COMPARABILITY OF SERVICES—COMPLETED FORMS ON FILE. Each fall, school districts shall receive forms from the superintendent of public instruction with accompanying directions for demonstrating comparability. These completed forms shall be kept on file in the school district and shall be made available for review.

NEW SECTION

WAC 392-163-405 MAINTENANCE OF EFFORT. A school district receiving Chapter 1 Regular moneys shall maintain state and local fiscal effort at a minimum of ninety percent level as calculated in WAC 392-163-410. This calculation may be made on an aggregate or per pupil expenditure basis. These calculations shall be made by the superintendent of public instruction from data submitted to the superintendent of public instruction by school districts. School districts failing to meet the maintenance of effort requirements shall be notified in writing no later than June 1 of each school year.

NEW SECTION

WAC 392-163-410 MAINTENANCE OF EFFORT—COMPUTATIONS. The following calculations shall be used by the superintendent of public instruction to ensure the maintenance of effort for school districts receiving Chapter 1 Regular moneys. The data source for these calculations is the F-196. The same calculations shall be made for both the preceding and second preceding fiscal years:

(1) The total general fund expenditures shall be adjusted by the subtraction of the following program expenditures: The direct cost of Program 46—State Institutions, Program 47—Vocational—Technical Institutes, Program 48—Adult Education, Program 85—Community Services, Activities 82 and 83 in Program 97—Warrant and other Interest, Object 9—Capital Outlay, and payments made to other school districts for nonhigh and handicapped pupils.

(2) From the resulting total in subsection (1) of this section, the total revenue in revenue account series 4000 and 7000 (except Accounts 4040, Federal Forest Funds and 4060, P.L. 874—Impact Aid) shall be deducted.

(3) To the resulting total in subsection (2) of this section, the Object 9 expenditures for the following programs shall be added:

- (a) 46 State institutions;
- (b) 47 Vocational—technical institutes;
- (c) 48 Adult education;
- (d) 85 Community services; and
- (e) 51-79 Federal programs.

(4) The calculations in subsections (1), (2), and (3) of this section shall be applied to both school years. The results of subsections (1) through (3) shall then be compared and a district shall be considered to be in compliance if the total for the preceding year is at least ninety percent of the total for the second preceding year.

NEW SECTION

WAC 392-163-415 MAINTENANCE OF EFFORT—FAILURE TO MAINTAIN EFFORT. If the superintendent of public instruction determines that a school district has not maintained effort pursuant to the computation defined in WAC 392-163-410 the superintendent of public instruction shall take one of the following actions:

(1) Waive, for one fiscal year only, the maintenance of effort requirement if the superintendent of public instruction determines that a waiver would be equitable due to exceptional or uncontrollable circumstances. These circumstances include:

- (a) A natural disaster;
- (b) A precipitous and unforeseen decline in the financial resources of the school district; or
- (c) Other exceptional or uncontrollable circumstances: PROVIDED, That tax initiatives or referenda may not be considered to be exceptional or uncontrollable circumstances.

If the superintendent of public instruction grants a waiver, the superintendent of public instruction shall not reduce the amount of Chapter 1 Regular moneys the school district is otherwise entitled to receive.

In determining maintenance of effort for the fiscal year immediately following the fiscal year for which the waiver was granted, the superintendent of public instruction may consider the school district's fiscal effort for the second preceding fiscal year to be no less than ninety percent of the combined fiscal effort per student or aggregate expenditures (using the measure most favorable to the school district) for the third preceding fiscal year.

(2) If a waiver cannot be granted, the superintendent of public instruction shall reduce the school district's allocation of moneys under Chapter 1 Regular in the exact proportion to which the school district fails to meet ninety percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the school district) for the second preceding fiscal year.

In determining maintenance of effort for the fiscal year immediately following the fiscal year in which the school district failed to maintain effort, the superintendent of public instruction may consider the school district's fiscal effort for the second preceding fiscal year to be no less than ninety percent of the combined fiscal effort per student or aggregate expenditures (using the measure most favorable to the school district) for the third preceding fiscal year.

NEW SECTION

WAC 392-163-420 NOTIFICATION OF PARENTS. Each school district shall notify parents of participating children of their child's involvement in the Chapter 1 Regular program and shall issue periodic reports of the child's progress in the program. Such notification and reports shall be provided in the native language of the parent unless it is clearly not feasible to do so.

NEW SECTION

WAC 392-163-425 CONSTRUCTION. Chapter 1 Regular moneys may be used for the modification of existing facilities for the purpose of serving Chapter 1 Regular eligible children if:

- (1) The district has exhausted every other available option for providing space in which to serve eligible children; and
- (2) The district intends to serve all eligible children in all eligible attendance areas; and
- (3) Modification of facilities will provide essential improvement in the delivery of Chapter 1 Regular services to eligible children.

NEW SECTION

WAC 392-163-430 ACQUISITION, CONTROL AND DISPOSITION OF PROPERTY. Acquisition, control and disposition of property purchased with Title I/Chapter 1 Regular moneys shall be consistent with 34 CFR 74.130-145, Subpart O—Property.

NEW SECTION

WAC 392-163-440 CHAPTER 1 REGULAR AUDIT. Audit of local school district Chapter 1 Regular programs shall be conducted in compliance with 34 CFR 74.62.

NEW SECTION

WAC 392-163-445 SANCTIONS. Any school district found not in compliance with applicable federal and state statute and regulations shall be subject to the actions prescribed in WAC 392-163-455, 34 CFR 200.57 and 200.58, and/or due process procedures outlined in 34 CFR 200.90 -103.

NEW SECTION

WAC 392-163-450 COMPLIANCE AGREEMENT. Notwithstanding any of the actions prescribed by WAC 392-163-445, any school district found out of compliance with this chapter may as a substitute for withholding or repayment actions referenced in WAC 392-163-445 and/or 392-163-455 be required to enter into a compliance agreement with the superintendent of public instruction to ensure that noncompliant Chapter 1 Regular program practices are corrected within a period of time specified in that agreement, as a condition to continuous receipt of Chapter 1 Regular moneys. If a district fails to achieve compliance within the specified period of time, the withholding and/or repayment procedures prescribed by WAC 392-163-445 and 34 CFR 200.57(b) shall be instituted by the superintendent of public instruction.

NEW SECTION

WAC 392-163-455 WITHHOLDING OF CHAPTER 1 REGULAR PAYMENTS. (1) If the superintendent of public instruction determines that a school district is not in substantial compliance with federal statute and regulation or with this chapter, the superintendent of public instruction shall have the authority to withhold payment in whole or in part of Chapter 1 Regular moneys to the offending district. In deciding whether to withhold payments, the superintendent of public instruction shall provide:

(a) Reasonable notice to the school district of the reasons for the proposed withholding; and

(b) An opportunity for the school district within thirty calendar days of such notice to give reason why the withholding should not be instituted.

(2) Pursuant to the school district response, the superintendent of public instruction shall consider the following factors:

(a) The seriousness of the noncompliance;

(b) The amount of Chapter 1 Regular moneys involved;

(c) The effect of withholding on participating children; and

(d) The need to withhold payments to prevent further misuse of Chapter 1 Regular moneys.

(3) If, after consideration of these factors and within thirty calendar days, the superintendent of public instruction decides to initiate a withholding procedure, a date shall be specified by which the school district shall have achieved compliance, or the moneys withheld shall become subject to repayment procedures specified in 34 CFR 200.57.

NEW SECTION

WAC 392-163-460 APPROVAL OF CHAPTER 1 REGULAR PROGRAM APPLICATION BY THE OFFICE OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION. (1) Final approval of a Chapter 1 Regular program shall be given to a school district when the superintendent of public instruction has received a completed application in accordance with WAC 392-163-320 and 392-163-335 and 34 CFR 200.13(a)(b) and is assured that the school district has satisfied all yearly reporting requirements and compliance agreements from the previous year, unless the agreement extends into the current year.

(2) Programs shall not be implemented without prior approval from the superintendent of public instruction.

(3) Fiscal expenditures made prior to the effective approval date indicated on an application or a request for budget revision shall not be allowed.

(4) Consistent with P.L. 93-380 any school district shall have an opportunity to appeal a decision of the superintendent of public instruction, first to the superintendent and then to the United States secretary of education.

NEW SECTION

WAC 392-163-465 STATE ADVISORY COUNCIL. (1) Purpose. The purpose of the state advisory council (SAC) shall be to advise the superintendent of public instruction in state administration of the Chapter 1 Program.

(2) Membership:

(a) The superintendent of public instruction shall select parent members from nominations submitted by a school district superintendent or his/her designee. Nominees shall be parents of students served in the Chapter 1 Regular program and shall be chosen by the school district in consultation with parents and teachers of Chapter 1 Regular served children;

(b) The majority of the SAC shall consist of such parents as selected under subsection (a) above; and

(c) The balance of the SAC shall consist of Chapter 1 Regular administrators, teachers and aides, and representatives of other special interest groups.

(3) Procedures:

(a) Bylaws shall be developed by the SAC and be subject to approval by the superintendent of public instruction;

(b) Election of officers shall be conducted by the membership;

(c) All meetings of the SAC shall be called by the superintendent of public instruction; and

(d) Members shall be reimbursed for travel and expenses to the extent permitted and consistent with the travel and per diem laws applicable to state employees.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-163-005 Authority and Purpose.

WSR 83-04-055**PROPOSED RULES****DEPARTMENT OF AGRICULTURE****(Noxious Weed Control Board)**

[Filed February 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Noxious Weed Control Board intends to amend rules concerning WAC 16-750-010, proposed noxious weed list, by deleting diffuse knapweed and Russian knapweed and adding complex knapweed. Other weeds may be either added to or deleted from the list at the hearing;

that the agency will at 1:30 p.m., Friday, March 11, 1983, in the General Administration Building, Large Conference Room, 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 chapter 17.10 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 11, 1983.

Dated: February 2, 1983

By: Larry Reenan
Acting Assistant Director

STATEMENT OF PURPOSE

Title: Amending WAC 16-750-010.

Description of Purpose: Amend proposed noxious weed list.

Statutory Authority: RCW 17.10.080.

Summary of Rule: Proposed list may be amended by deleting diffuse knapweed and Russian knapweed and replacing the two with complex knapweed. Other weeds may be either added to or deleted from the list at the hearing.

Reasons Supporting Proposed Action: RCW 17.10-.080 states that the state noxious weed control board shall each year or more often, following a hearing, adopt a list comprising the names of those plants which it finds to be injurious to crops, livestock, or other property. At such hearing any county noxious weed control board may request the inclusion of any plant to the list to be adopted by the state board.

Agency Personnel Responsible for Drafting: Marianne Paulson, Administrative Assistant, Agricultural Development Division, Washington State Department of Agriculture, 406 General Administration Building, Olympia, WA 98504, (206) 753-5046; Implementation and Enforcement: Each activated county noxious weed control board.

Persons Proposing Rule: State noxious weed control board.

Agency Comments or Recommendations: None.

Rule is not necessary as a result of federal law or federal or state court action.

AMENDATORY SECTION (Amending Order 13, Resolution 13, filed 3/3/82)

WAC 16-750-010 PROPOSED NOXIOUS WEED LIST. In accordance with RCW 17.10.080, a proposed noxious weed list comprising the names of those plants which the noxious weed control board finds to be injurious to crops, livestock, or other property is hereby adopted as follows:

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Perennial Weeds	
Baby's Breath	Gypsophila paniculata
Bindweed, field	Convolvulus arvensis
Blue Lettuce	Lactuca pulchella
Blueweed, Texas	Helianthus ciliaris
Bracken, western	Pteridium aguilinum
Canada Thistle	Cirsium arvense
Dalmation Toadflax	Linaria dalmatica
Gorse	Ulex europaeus
Hoary Cress or White Top	Cardaria draba
Johnsongrass	Sorghum halepense
Knapweed, ((diffuse)) complex ((Knapweed, Russian))	Centaurea ((diffusa)) spp. ((Centaurea repens))
Leafy Spurge	Euphorbia esula
Lupine	Lupinus spp.
Nightshade, bitter	Solanum dulcamara
Nutsedge, yellow	Cyperus esculentus
Oxeye Daisy	Chrysanthemum leucanthemum
Pepperweed, perennial	Lepidium latifolium
Rush Skeletonweed	Chondrilla juncea
St. Johnswort	Hypericum perforatum
Scotch Broom	Cytisus scoparius
Sowthistle, perennial	Sonchus arvensis
Tansy, common	Tanacetum vulgare
Waterhemlock, western	Cicuta douglasii
Watermilfoil, Eurasian	Myriophyllum spicatum
Wormwood, Absinthe	Artemisia absinthium
Yellow Toadflax	Linaria vulgaris
Biennial Weeds	
Bull Thistle	Cirsium vulgare
Houndstongue	Cynoglossum officinale
Knapweed, spotted	Centaurea maculosa
Musk Thistle	Carduus nutans L.
Plumeless Thistle	Carduus acanthoides
Poison Hemlock	Conium maculatum
Scotch Thistle	Onopordum acanthium
Tansy Ragwort	Senecio jacobaea
Annual Weeds	
Cocklebur	Xanthium spp.
Dodder	Cuscuta spp.
Goatgrass, jointed	Aegilops cylindrica
Hemp (Marijuana)	Cannabis sativa
Kochia	Kochia scoparia
Medusahead	Taeniatherum asperum
Puncturevine	Tribulus terrestris
Rye	Secale cereale L.
Sandbur, longspine	Cenchrus longispinus
Yellow Starthistle	Centaurea solstitialis

WSR 83-04-056
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION
[Filed February 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Transportation intends to adopt, amend, or repeal rules

concerning an amendment to WAC 468-46-040, "advance transit vehicle stop symbol sign," that would require the installation of the advance transit vehicle stop symbol sign when the transit vehicle, when stopped, is not visible for a distance of 500 feet in advance;

that the agency will at 10:00 a.m., Monday, March 14, 1983, in the Board Room, Transportation Building, 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 46.61.560, 47.36.030, 47.36.050 and 47.36.053.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 14, 1983.

Dated: February 2, 1983
By: V. W. Korf
Deputy Secretary

STATEMENT OF PURPOSE

Title: WAC 468-46-040.

Description of Purpose: Revision of WAC 468-46-040, Advance Transit Vehicle Stop Symbol Sign, to bring it into conformance with the manual on uniform traffic control devices, section 7B-11.

Statutory Authority: RCW 46.61.560, 47.36.030, 47.36.050 and 47.36.053.

Summary of Rule: Requires that advance transit vehicle stop symbol signs be installed only when the stop is not visible for 500 feet in advance as stated in the MUTCD, section 7B-11.

Reason for Rule: This rule is necessary to ensure that signs are placed only where needed. Too many signs tends to breed contempt for signing in general. The MUTCD, section 7B-11, deals specifically with school bus stops but lends itself well to the installation of the advance transit vehicle stop symbol sign.

Agency Proposing Rule: Washington State Department of Transportation.

Department Personnel Responsible for Drafting and Implementation: Mr. D. D. Ernst, State Maintenance Engineer, Department of Transportation, Room 1C-9, Department of Transportation Building, Olympia, Washington 98504, (206) 753-6014.

Agency Comments or Recommendations: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: No impact, none required.

AMENDATORY SECTION (Amending DOT Order 10 & Comm. Order 1, Resolution 13, filed 12/20/78)

WAC 468-46-040 ADVANCE TRANSIT VEHICLE STOP SYMBOL SIGN. The department of transportation shall install at its own expense in advance of each approved transit vehicle stop zone where the transit vehicle is not visible for a distance of 500 feet an advance ((symbol sign consisting of a transit bus symbol, black in color, on a diamond shape, yellow background, together with an educational plaque reading "TRANSIT STOP AHEAD-")) warning sign consistent with the manual on uniform traffic control devices, (chapter 468-95 WAC).

WSR 83-04-057
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed February 2, 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 the method of determining the amount to be paid by employers as their proper share of the state fund deficit, if any, when they leave the state fund to become self-insurers.

The agency reserves the right to modify the text of these proposed rules prior to the public hearing thereon or in response to written and/or oral comments thereon received prior to or during the public hearing. Written and/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. Correspondence relating to this notice and proposed rules attached should be addressed to:

Sam Kinville, Director
 Department of Labor and Industries
 General Administration Building
 Olympia, Washington 98504

that the agency will at 9:00 a.m., Wednesday, March 9, 1983, in the Conference Room, First Floor, 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 23, 1983.

The authority under which these rules are proposed is RCW 51.04.020(1).

The specific statute these rules are intended to implement is RCW 51.14.020(4).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 9, 1983.

Dated: February 2, 1983

By: Sam Kinville
 Director

STATEMENT OF PURPOSE

Title and Number of Rule Chapter and Sections: Chapter 296-15 WAC Rules and Regulations for Self-Insured Employers; WAC 296-15-044 Payment of Deficit; and WAC 296-15-045 Payment of Deficit.

Statutory Authority: RCW 51.04.020(1) and 51.14.020(4).

Summary and Purpose of the Rule: WAC 296-15-045 contains provisions governing the method of determining the amount to be paid by employers as their proper share of the state fund to become self-insurers. WAC 296-15-045 replaces WAC 296-15-044, which formerly provided a different method of determining the proper share of the state fund deficit for firms which become self-insurers.

Reasons Supporting the Rule: WAC 296-15-044, the previous rule on this subject, was declared invalid in Thurston County Superior Court. The new rule, WAC

296-15-045, is designed to eliminate the faults which the court found with the previous rule and to enable the department to carry out its obligation as defined in RCW 51.14.020(4).

The Agency Personnel Responsible for the Drafting: Richard A. Slunaker, (206) 753-6308, William D. White, (206) 753-0779, and Timothy L. Wisecarver (206) 753-2568; Implementation and Enforcement: Richard A. Slunaker, (206) 753-6308, and Douglas Connell, (206) 753-3677; all located at the General Administration Building, Olympia, Washington.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: The rule will require payments from employers in the event that they self-insure when there is a deficit in the state fund. The payment under the rule is intended to approximate the amount which the employer would have eventually paid in increased premiums to retire the deficit, had he or she remained in the state fund. The state fund is required by law to maintain solvency, but adverse underwriting experience may cause temporary deficits from time to time.

Small Business Impact Statement: This statement pertains to revisions in chapter 296-15 WAC, proposed by the Department of Labor and Industries to become effective July 1, 1983, and is prepared to conform with sections 3(2) and (4) of the Regulatory Fairness Act (chapter 6, Laws of 1982). The proposed rule change pertains to firms who self-insure their workers compensation benefit obligations. Small businesses seldom qualify as self-insurers because they lack the extensive financial resources and long term continuity of operation which are prerequisites for self-insurance. Therefore, the rule has negligible direct impact on small businesses. Indirectly, the rule would benefit small businesses, as failure by large firms to pay their share of any deficits when they self-insure would cause the entire burden to be borne by the small businesses which remain in the state fund.

NEW SECTION

WAC 296-15-045 PAYMENT OF DEFICIT. In determining a self-insurer's proper share of any deficit which must be paid to the Department, pursuant to section 27(4), chapter 289, Laws of 1971 ex. sess., RCW 51.14.020(4), the following procedures shall apply.

(1) STATE FUND DEFICIT. The state fund deficit shall be the excess of liabilities over assets as shown on the state fund balance sheet for the last date of state fund coverage of the self-insurer. If assets exceed liabilities, the deficit shall be zero. If the last date of state fund coverage is other than March 31, June 30, September 30 or December 31, the state fund deficit shall be obtained by performing linear interpolation between the asset figures and between the liability figures on the two balance sheets spanning the date of last coverage, and then computing the excess of interpolated liabilities over interpolated assets. The state fund deficit shall be based on the combined status of the accident and medical aid funds, and that portion of the reserve fund which applies to state fund claims.

(2) PREMIUM. The premium used for calculating deficit assessments shall be the combined accident and medical aid fund premiums due for the one year coverage period ending March 31, June 30, September 30 or December 31, whichever date most immediately precedes the effective date of self-insurance.

(3) DEFICIT ASSESSMENT FORMULA. The self-insurer's deficit assessment shall be determined by multiplying the state fund deficit, if any, by a "deficit share factor", said factor to be the ratio of the self-insurer's premium to total state fund premium for the one year coverage period specified in paragraph (2), above. Members of a group

self-insurance program shall be treated as individual employers for the purpose of determining their deficit assessments.

(4) INITIAL DEFICIT ASSESSMENT ESTIMATE. Prior to the effective date of self-insurance, the Department shall make its best estimate of the prospective self-insurer's deficit assessment, and the prospective self-insurer shall be required to pay the estimated amount prior to being issued a certificate of self-insurance.

(5) SUBSEQUENT ADJUSTMENT OF DEFICIT ASSESSMENTS. As soon as the actual data specified under the deficit assessment formula becomes available the deficit assessment shall be recalculated based on the actual data, and the self-insurer shall either receive a refund or be required to pay an additional amount, depending on the results of the calculation. The Department shall make no further adjustment of the deficit assessment, except when an employer's premium is changed as the result of an audit or through discovery of a clerical error in calculation of the firm's premium. In such cases, the self-insurer's "deficit share factor" shall be recalculated based on the revised premium. Deficit share factors shall not be recalculated because of premium adjustments made under the Retrospective Rating Plan. Payment of a deficit assessment based upon the recalculation using actual data as specified in this rule shall be a requirement for retaining a certificate of self-insurance.

(6) EFFECTIVE DATE. This rule shall become effective on July 1, 1983 and shall apply to all firms self-insuring on or after that date.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-15-044 PAYMENT OF DEFICIT

**WSR 83-04-058
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed February 2, 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 Claims log—Evaluation, WAC 296-15-200.

The agency reserves the right to modify the text of these proposed rules prior to the public hearing thereon or in response to written and/or oral comments thereon received prior to or during the public hearing. Written and/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. Correspondence relating to this notice and proposed rules attached should be addressed to:

Sam Kinville, Director
Department of Labor and Industries
General Administration Building
Olympia, Washington 98504

that the agency will at 10:00 a.m., Tuesday, March 8, 1983, in the Conference Room, Room 207, Forum Building, 605 11th Street, Olympia, WA 99504, 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 51.04.020.

The specific statute these rules are intended to implement is RCW 51.14.110.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Tuesday, March 8, 1983.

Dated: February 2, 1983

By: Sam Kinville
Director

STATEMENT OF PURPOSE

Title and Number of Rule Chapter and Sections:
WAC 296-15-200 Claims Log—Evaluation.

Statutory Authority: RCW 51.04.020.

Specific Statute that Rule is Intended to Implement:
RCW 51.14.110.

Summary of the Rule(s): The notice proposes to delete that portion of WAC 296-15-200 that is in conflict with rules under which the rehabilitation review program will be administered as provided by chapter 51.32 RCW.

Reasons Supporting the Rule(s): House Bill 454, enacted in 1982, with an effective date of January 1, 1983, authorized a rehabilitation review program for employees to be administered under chapter 51.32 RCW. Rules under which the rehabilitation review program will be administered are in conflict with WAC 296-15-200 an existing rule governing the self-insurance program. The rule change is being enacted to eliminate that portion of the rule which is in conflict.

The Agency Personnel Responsible for the Drafting, Implementation and Enforcement of the Rule: Richard A. Slunaker, Assistant Director, Industrial Insurance, (206) 753-6308, General Administration Building, Olympia, Washington.

Name of the Person or Organization, Whether Private, Public or Governmental, that is Proposing the Rule: Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No further comment.

The rule is not necessary to comply with federal law or federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: No further comment.

Small Business Impact Statement: This statement pertains to revisions in chapter 296-15 WAC, proposed by the Department of Labor and Industries to become effective July 1, 1983, and is prepared to conform with sections 3(2) and (4) of the Regulatory Fairness Act (chapter 6, Laws of 1982). The proposed rule change pertains to firms who self-insure their workers compensation benefit obligations. Small businesses seldom qualify as self-insurers because they lack the extensive financial resources and long term continuity of operation which are prerequisites for self-insurance. Therefore, the rule has negligible direct impact on small businesses. Indirectly, the rule would benefit small businesses, as failure by large firms to pay their share of any deficits when they self-insure would cause the entire burden to be borne by the small businesses which remain in the state fund.

AMENDATORY SECTION (Amending Order 77-19, filed 9/26/77)

WAC 296-15-200 CLAIMS LOG—EVALUATION. ((+))
Beginning January 1, 1976, each self-insurer shall maintain a log of all claims filed by any worker injured in their employ or any worker having contracted an occupational disease as a result of his employment with the self-insurer.

The claim log shall contain the following minimum information: The injured worker's name, the date of the injury or first knowledge of an occupational disease, the claim number assigned by the department and the date the claim is closed. Additional information may be recorded at the discretion of the employer.

~~(((2))) At the end of each calendar quarter, a review shall be made of all compensable claims in which time loss compensation has extended sixty days or more and there exists no apparent date for the injured worker's return to gainful employment.~~

~~In such cases where it appears reasonably certain the worker will be unable to return to gainful employment for the employer and rehabilitation or retraining may be necessary to effect the restoration of the worker to gainful employment, the employer shall schedule the worker for such medical examination and/or vocational evaluation and assessment as may be deemed appropriate in such worker's circumstance.~~

~~Copies of all medical reports, and determinations made by professionally competent people in the field of vocational evaluation and assessment, shall be provided to the department.)~~

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 83-04-059
PROPOSED RULES
BOARD OF HEALTH
(Filed February 2, 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:

Amd WAC 248-18-180 Food service.
Amd WAC 248-18-685 Dietary department;

that the agency will at 9:00 a.m., Wednesday, March 9, 1983, in 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.

Dated: January 31, 1983

By: John A. Beare, MD
Secretary

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 248-18-180 Food Service and WAC 248-18-685 Dietary Department.

The Purpose of Rule Change: To update and modify minimum rules and regulations pertaining to operation, maintenance, and construction of food service and dietary departments to reflect current, established standards of hospitalization.

The Reason These Rules are Necessary: To maintain standards of hospitalization required for safe and adequate care and treatment of patients in hospitals, in terms of current knowledge, technology, and experience.

Statutory Authority: RCW 70.41.030.

Summary of the Rule or Rule Change: Operational rules are amended to incorporate minimal requirements for availability of dietetic consultation and food of sufficient quality and quantity to meet nationally recommended standards. Construction rules are amended to clarify one requirement for office space and to correct a footnote reference.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule: John Gerth, Section Head, Licensing and Development Section, OSHPD, Division of Health, Mailstop LM-13, Phone 753-5851.

Rules proposed by Licensing and Development Section, Office of State Health Planning and Development, DSHS.

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

No economic impact statement required under provisions of Regulatory Fairness Act, Laws of 1982.

AMENDATORY SECTION (Amending Order 119, filed 5/23/75)

WAC 248-18-180 ((FOOD)) **DIETARY AND/OR FOOD SERVICE.** ((Food service sanitation standards in both new and existing hospitals shall be governed by chapter 248-84 WAC)) Each hospital shall have an organized dietary and/or food service.

(1) There shall be a designated individual responsible for management of dietary and/or food service. Personnel from dietary and/or food service shall be present in the hospital during all patient meal times.

(2) The dietary and/or food service shall incorporate the ongoing and regularly scheduled input of a dietitian. A dietitian shall be responsible for developing policies and procedures for adequate nutritional and dietary consultation services for patients and food service. Patient consultation shall be documented in the medical record.

(3) At least three scheduled meals a day shall be served at regular intervals with not more than fifteen hours between the evening meal and breakfast. Snacks of nourishing quality shall be available at all times.

(4) Meals and nourishments shall provide a variety of food of sufficient quantity and quality to meet the nutritional needs of each patient. Unless contraindicated, "Recommended Dietary Allowances," Ninth edition, 1980, the Food and Nutrition Board of the National Research Council, adjusted for activity, shall be used.

(5) Written menus shall be planned in advance and approved by a dietitian. Substitutes shall be of similar nutritional value, as approved by a dietitian. A record of the planned menus, with substitutions as served, shall be retained for one month.

(6) There shall be written orders (by an authorized individual) for all patient diets. Diets shall be prepared and served as prescribed. A current diet manual, approved in writing by the dietitian and medical staff, shall be used for planning and preparing diets.

(7) Food service sanitation shall be in compliance with chapter 248-84 WAC Food Service Sanitation.

(8) There shall be current written policies and procedures to include safety, infection control, food acquisition, food storage, food preparation, management of food not provided or purchased by dietary/food service, serving of food, and scheduled cleaning of all food service equipment and work areas.

(9) There shall be current written policies and procedures, with documentation of orientation and inservice, of dietary and food service employees.

AMENDATORY SECTION (Amending Order 119, filed 5/23/75)

WAC 248-18-685 **DIETARY DEPARTMENT. (REQUIREMENTS IN CAPITAL LETTERS - SEE WAC 248-18-515.)**

(1) **DIETARY DEPARTMENT, GENERAL.**

(a) **SUITABLY LOCATED TO FACILITATE DELIVERY OF STORES, DISPOSAL OF KITCHEN WASTE, AND TRANSPORTATION OF FOOD TO NURSING UNITS.**

(b) EQUIPMENT CONSTRUCTED AND INSTALLED IN ACCORDANCE WITH NATIONAL SANITATION FOUNDATION STANDARDS.²⁶

(c) ALL EQUIPMENT AND COUNTERS CONSTRUCTED FOR EASY CLEANING AND FREE FROM INACCESSIBLE SPACE PROVIDING HARBORAGE FOR VERMIN.

(d) ADEQUATE SPACE BETWEEN EQUIPMENT (INCLUDING CASEWORK) AND WALL AND/OR FLOOR TO PERMIT CLEANING; OR, EQUIPMENT TIGHT AGAINST WALL AND/OR FLOOR AND JOINT PROPERLY SEALED.

(e) ADEQUATE SPACE FOR CIRCULATION OF CARTS THROUGHOUT DIETARY DEPARTMENT.

(2) ADMINISTRATIVE FACILITIES.

(a) OFFICE SPACE – may be limited to desk and file space.²⁴

(b) Separate room recommended.

(3) RECEIVING AREA.²⁷

(A) LOCATED FOR READY ACCESS TO REFRIGERATION AREA.

(b) Floor scales.

(4) BULK FOOD STORAGE AREA.²⁷

(5) DAY STORAGE ROOM OR AREA.

(a) IN OR ADJACENT TO KITCHEN – may be combined in a room with bulk food storage.

(b) SPACE FOR THREE DAYS SUPPLY.

(c) STORAGE SHELVES AT LEAST ((+2)) TWELVE INCHES OFF FLOOR AND AT LEAST ((+8)) EIGHTEEN INCHES FROM TOP OF SHELVES TO CEILING.

(d) SPACE FOR LARGE CONTAINERS AND DOLLIES.

(6) REFRIGERATION AREA.

(a) IN OR ADJACENT TO KITCHEN.

(b) SPACE ADEQUATE FOR MINIMUM OF THREE DAYS SUPPLY.

(c) REFRIGERATION UNITS, GENERAL.⁶

A MINIMUM OF TWO SEPARATE SECTIONS OR BOXES (ONE FOR MEATS AND DAIRY PRODUCTS AND ONE FOR FRUIT AND VEGETABLES) – three sections or boxes recommended (one for meat, one for dairy products, and one for fruit and vegetables).

(d) Walk-in boxes.

(i) SHELVES AT LEAST ((+2)) TWELVE INCHES OFF FLOOR.

(ii) SPACE FOR LARGE STORAGE CONTAINERS AND DOLLIES.

(e) Frozen food storage.

Section of walk-in box or separate deep freeze unit.

(7) Ice facilities.

(a) LOCATED TO AVOID CONTAMINATION OF ICE AND TO AVOID TRAFFIC INTO KITCHEN FOR ICE SERVICE FOR OTHER DEPARTMENTS.

(b) EQUIPMENT:

WORK COUNTER.⁶

ICE MACHINE OR ADEQUATE STORAGE UNIT (self-dispensing types recommended).

(8) KITCHEN.

(a) LOCATED AND ARRANGED TO AVOID CONTAMINATION OF FOOD; TO PREVENT OBJECTIONABLE HEAT, NOISE, AND ODORS TO PATIENT CARE AREAS; AND TO ELIMINATE THROUGH TRAFFIC.

(b) ADEQUATE FLOOR DRAINS.

(c) ADEQUATE SPACE FOR GARBAGE CONTAINERS.

(d) MEAT PREPARATION AREA.

(i) May be omitted if only prefabricated meats are to be used.

(ii) EQUIPMENT:

SINK WITH INTEGRAL DRAINBOARD OR COUNTER.

WORK TABLE OR COUNTER.⁶

MEAT BLOCK.⁶

Lavatory.

(e) FRUIT AND VEGETABLE PREPARATION AREA.

(i) LOCATED TO AVOID CONTAMINATION OF PREPARED FOODS AND CLEAN EQUIPMENT BY SOIL FROM VEGETABLES.

(ii) EQUIPMENT:

TWO-COMPARTMENT SINK WITH INTEGRAL DRAINBOARDS OR COUNTERS.

Food waste grinder.

Vegetable peeler.

(f) COOKING AREA.

(i) Located between preparation and serving units.

(ii) EQUIPMENT:

RANGE(S).

WORK TABLE(S) OR COUNTER(S).⁶

UTENSIL STORAGE.

COOK'S SINK – meat or vegetable sink may be used if conveniently located.

OVEN(S).²⁸

Steam kettles.

Mixers.

(g) SALAD AND SANDWICH PREPARATION AREA.²⁹

EQUIPMENT:

WORK TABLE OR COUNTER.⁶

REFRIGERATOR.^{6 30}

(h) DESSERT PREPARATION AREA.²⁹

EQUIPMENT:

WORK TABLE OR COUNTER.⁶

REFRIGERATOR.^{6 30}

(i) SPECIAL DIET PREPARATION AREA.

(i) May be omitted if special diets are to be prepared in same areas as general diets.

(ii) EQUIPMENT:

SINK WITH INTEGRAL DRAINBOARD OR COUNTER.

REFRIGERATOR.^{6 30}

WORK COUNTER.⁶

STORAGE CABINETS.

RANGE.

(j) Bakery area.

EQUIPMENT:

MIXER(S).

OVEN(S).

RANGE.

THREE-COMPARTMENT SINK – may be single compartment if utensils are to be washed in main pot and pan wash area.

WORK TABLE(S).⁶

COOLING RACK.⁶

POT AND PAN CABINET.

STORAGE SHELVES.⁶

PROOF BOX⁶ unless bread is purchased elsewhere.

(k) PATIENT SERVING AREA.

(i) ADEQUATE SPACE FOR MOBILE EQUIPMENT SUCH AS FOOD CARTS AND TRAY CARTS.²⁴

(ii) EQUIPMENT:

ADEQUATE SERVING EQUIPMENT.²⁴

CLOSED STORAGE UNITS FOR FOOD CONTAINERS, DISHES, AND TRAYS(;) – may be on open shelves at least ((30)) thirty inches above floor if utensils are to be reused within ((24)) twenty-four hour periods.

ICE CREAM STORAGE.²⁴

BEVERAGE SERVICE EQUIPMENT.²⁴

(9) EMPLOYEE SERVING AREA.²⁴

(a) LOCATED AND ARRANGED TO ELIMINATE TRAFFIC INTO KITCHEN FOR SERVICE. Convenient to kitchen.

(b) PROTECTION OF OPEN FOOD DISPLAY COUNTERS.

(c) REFRIGERATION FOR PERISHABLE FOODS.²⁴

(10) DINING ROOM OR AREA.

(a) ADJACENT TO EMPLOYEE SERVING AREA(;) – adjacent to dishwashing area.

(b) AT LEAST ((+2)) TWELVE SQUARE FEET OF FLOOR AREA PER PERSON FOR THE MAXIMUM NUMBER TO BE SERVED AT ANY ONE TIME.

(11) POT AND PAN WASH AREA.²⁹

EQUIPMENT:

THREE-COMPARTMENT SINK (OR EQUIVALENT) WITH INTEGRAL DRAINBOARDS OR COUNTERS.

Floor drain.

STORAGE CABINETS.

Food waste grinder.

(12) DISHWASHING ROOM OR AREA.

(a) May be located in a separate area of the kitchen.

(b) LOCATED TO AVOID TRAFFIC THROUGH OTHER AREAS OF THE KITCHEN.

(c) LOCATED TO PERMIT UNLOADING OF TRAY CARTS AND RECEIVING OF SOILED DISHES FROM DINING ROOM WITHOUT OBSTRUCTING TRAFFIC IN CORRIDORS.

(d) EQUIPMENT:

DISHWASHING MACHINE OR EQUIVALENT.

FLOOR DRAIN.
 COUNTER FOR DIRTY DISHES.
 Food waste grinder.
 SPACE FOR GARBAGE CAN.
 PRE-RINSE SINK UNLESS DISHWASHER EQUIPPED FOR
 PRE-RINSE CYCLE.
 COUNTER FOR CLEAN DISHES.⁶
 LAVATORY - may be located in cooking area if convenient to
 dishwashing area.

(13) GARBAGE FACILITIES.

(a) May be combined with general waste disposal facilities.³¹

(b) ADEQUATE SPACE ((~~24~~) ~~twenty-four~~ square feet of floor
 area plus ((5)) ~~five~~ square feet of storage space per can).

(c) STORAGE AREA.

(i) LOCATED IN SEPARATE, WELL-VENTILATED ROOM
 OR OUTSIDE, ENCLOSED SPACE.

(ii) CONVENIENT TO KITCHEN.

(iii) CONSTRUCTED TO PREVENT RAT HARBORAGE.

(iv) Refrigerated storage.

(d) CAN WASH AREA.

GARBAGE CAN WASH AREA WITH FLOOR DRAIN AND
 HOT AND COLD WATER. Steam recommended.

(14) HOUSEKEEPING FACILITIES.⁵

Suitable combination with other housekeeping facilities permitted if
 convenient to dietary facilities.

NOTES:

⁵See GENERAL REQUIREMENTS FOR SERVICE FACILITIES, WAC
 248-18-710(5), HOUSEKEEPING FACILITIES (JANITORS' AND
 MAIDS').

⁶May be movable equipment.

²⁴In accordance with program.

²⁶See GENERAL DESIGN REQUIREMENTS, WAC 248-18-
 718(11)((~~4~~))(c)(iii), EQUIPMENT AND CASEWORK.

²⁷See RECEIVING AND STORES, WAC 248-18-700.

²⁸May be combined with ranges.

²⁹May be combined with cooking areas.

³⁰May be combined with other refrigeration.

³¹See HOUSEKEEPING DEPARTMENT, WAC 248-18-690(4), WASTE
 DISPOSAL FACILITIES.

WSR 83-04-060
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 1942—Filed February 2, 1983]

I, David A. Hogan, director of the Division of Ad-
 ministration and Personnel, do promulgate and adopt at
 Olympia, Washington, the annexed rules relating to
 Alien sponsorship—Deeming of income and resources—
 Overpayments, amending WAC 388-28-590.

This action is taken pursuant to Notice No. WSR 83-
 01-034 filed with the code reviser on December 10,
 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 Meet-
 ings Act (chapter 42.30 RCW), the Administrative Pro-
 cedure Act (chapter 34.04 RCW) and the State Register
 Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 2, 1983.

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

AMENDATORY SECTION (Amending Order 1876,
 filed 9/15/82)

✓WAC 388-28-590 ALIEN SPONSORSHIP—
 DEEMING OF INCOME AND RESOURCES—
 OVERPAYMENTS. (1) The following rules shall apply
 to an alien who applies for AFDC ((~~or refugee assist-~~
~~ance~~)) for the first time after September 30, 1981, and
 to his or her sponsor.

(2) A sponsor is defined as any person who executed
 an affidavit(s) of support or similar agreement on behalf
 of an alien (who is not the child of the sponsor or the
 sponsor's spouse) as a condition of the alien's entry into
 the United States.

(3) For a period of three years following entry into
 the United States, a sponsored alien shall provide the
 state agency with any information and documentation
 necessary to determine the income and resources of the
 sponsor that can be deemed available to the alien, and
 obtain any cooperation necessary from the sponsor.

(4) For all ((~~sections under~~)) subsections in this
 ((~~part~~)) section, the income and resources of a sponsor
 (and the sponsor's spouse if living with the sponsor) shall
 be deemed to be the unearned income and resources of
 an alien for three years following the alien's entry into
 the United States.

(5) Monthly income deemed available to the alien
 from the sponsor or the sponsor's spouse not receiving
 AFDC or SSI shall be:

(a) The sponsor's total monthly unearned income,
 added to the sponsor's total monthly earned income re-
 duced by twenty percent (not to exceed one hundred
 seventy-five dollars) of the total of any amounts received
 by the sponsor in the month as wages or salary or as net
 earnings from self-employment, plus the full amount of
 any costs incurred in producing self-employment income
 in the month.

(b) The amount described in ((~~subdivision~~)) subsec-
tion (5) (a) of this section reduced by:

(i) The basic requirements standard for a family of
 the same size and composition as the sponsor and those
 other people living in the same household as the sponsor
 who are claimed by the sponsor as dependents to deter-
 mine his or her federal personal income tax liability but
 who are not AFDC recipients;

(ii) Any amounts actually paid by the sponsor to peo-
 ple not living in the household who are claimed by the
 sponsor as dependents to determine his or her federal
 personal income tax liability; and

(iii) Actual payments of alimony or child support,
 with respect to individuals not living in the sponsor's
 household.

(6) Monthly resources deemed available to the alien
 from the sponsor shall be the total amount of the re-
 sources of the sponsor determined as if he or she was
 applying for AFDC in his or her state of residence, less
 one thousand five hundred dollars.

(7) In any case where a person is the sponsor of two
 or more aliens, the income and resources of the sponsor
 to the extent they would be deemed the income and re-
 sources of any one of the aliens under the provisions of
 this section shall be divided equally among the aliens.

(8) Income and resources which are deemed to a sponsored alien shall not be considered in determining the need of other unsponsored members of the alien's family except to the extent the income or resources are actually available.

(9) The provisions of this section shall not apply to any alien who ((is)):

(a) ~~((Admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act as indicated by Form I-94))~~ Meets the definition of refugee in WAC 388-55-010; or

~~((b) Admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c) of the Immigration and Nationality Act as indicated by Form I-94;~~

~~(c) Paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act as indicated by Form I-94;~~

~~(d) Granted political asylum by the attorney general under section 208 of the Immigration and Nationality Act as indicated by Form I-94;~~

~~(e) A Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422) as indicated by Form I-94; or~~

~~(f))~~ (b) Is the dependent child of the sponsor or sponsor's spouse.

(10) Any sponsor of an alien and the alien shall be jointly and individually liable for any overpayment of assistance made to the alien during the three years after the alien's entry into the United States due to the sponsor's failure to provide correct information, except where such sponsors were without fault or where good cause existed.

(a) When a sponsor is found to have good cause or be without fault for not providing information to the agency, the sponsor will not be held liable for the overpayment and recovery will not be made.

(b) Good cause and no fault shall be defined as any circumstance beyond the control of the sponsor.

WSR 83-04-061
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 1943—Filed February 2, 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 388-70-068 Earnings of foster child.
Amd WAC 388-70-069 Resources and unearned income of foster child.

This action is taken pursuant to Notice No. WSR 83-01-120 filed with the code reviser on December 22,

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 February 2, 1983.

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

AMENDATORY SECTION (Amending Order 913, filed 3/1/74)

WAC 388-70-068 EARNINGS OF FOSTER CHILD. An older child in foster care may be wholly or partially able to meet the cost of his maintenance. ~~((The local office must discuss with the child and foster parents the amount of the child's earnings, the purposes for which they are spent, and come to some understanding whereby the child is helped to achieve financial independence in as constructive a way as possible. Any portion of the child's earnings which are saved must be for a specific purpose approved by the agency.))~~ Exempt earned income standards which apply to AFDC also apply in foster care. See WAC 388-28-535(3).

AMENDATORY SECTION (Amending Order 1123, filed 6/7/76)

WAC 388-70-069 RESOURCES AND UNEARNED INCOME OF FOSTER CHILD. (1) If a child in foster care is entitled to financial benefits ~~((except earnings as specified in WAC 388-70-068.))~~ the income received shall be used on behalf of the child to help pay for the cost of the foster care received, except for resources held in trust for an American Indian child according to provisions in WAC 388-28-650.

(a) Income includes SSI, RSDI, veteran's benefits, railroad retirement benefits, inheritances, or any other payments for which the child is eligible, unless specifically exempted by the terms and conditions of the receipt of the income.

(b) Receipt of other income as described above shall not relieve the child's responsible parent(s) of the liability for payment of child support in accordance with WAC 388-70-075 through 388-70-084.

(2) Any person, agency, or court which receives any payments on behalf of a child in foster care shall remit such payments to the office of support enforcement, in accordance with WAC 388-70-082.

(3) Resources in the control of a child in foster care shall be treated in accordance with WAC 388-28-400 through 388-28-455 ~~((, except that resources accumulated from earned income under an approved casework plan as specified in WAC 388-28-535(3)(a)(iv) shall be exempt)).~~

WSR 83-04-062
PROPOSED RULES
DEPARTMENT OF REVENUE
 [Filed February 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning chapter 458-20 WAC which includes retail sales and use tax, business and occupation tax, public utility tax, cigarette tax, tobacco products taxes, and conveyance taxes;

that the agency will at 8:30 a.m. - 11:30 a.m., Tuesday, March 8, 1983, in the Revenue Conference Room, 415 General Administration Building, Capitol Campus, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 15, 1983.

The authority under which these rules are proposed is RCW 82.32.300.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1983.

Dated: February 2, 1983

By: Jodi Johnson

Administrative Assistant

for Don R. McCuiston, Director

Tax Rules, Interpretation and Appeals Division

STATEMENT OF PURPOSE

The statutory authority for adopting the following rules is RCW 82.32.300.

The Agency Personnel Responsible for Drafting and Implementation: Don R. McCuiston, 415 General Administration Building, Olympia, Washington 98504, Telephone: 753-5525; Enforcement: Department of Revenue, 415 General Administration Building, Olympia, Washington 98504, Telephone: 753-5540.

Title: WAC 458-20-101 Certificates of Registration.

Purpose: To change the amount of the registration fee from \$1 to \$15 and use the word "deposit" instead of registration fee. Additional language clarification and consistency is provided. The rule is intended to implement RCW 82.12.040, 82.32.030, 82.32.040, 82.32.210 and 82.32.290. The changes were made to reflect legislative changes as well as to make uniform use of the term WAC section instead of rule numbers; also the word "deposit" will cover all future changes, should the fee vary. Additional language clarification was inserted.

Title: WAC 458-20-114 Bona Fide Initiation Fees, Dues Contributions, Donations, Tuition Fees and Endowment Funds.

Purpose: To clarify when a portion of dues may be subject to excise taxes as not deductible; to clarify which educational institutions are entitled to the deduction for tuition fees; to specify that educational institutions of the state of Washington (state universities, state colleges, and school district schools) are exempt from business and occupation tax and duty of collecting retail sales tax on sales of tangible personal property or income from

providing facilities or services while others are not exempt. The rule is intended to implement RCW 82.04.030, 82.04.050, 82.04.170, 82.04.290, 82.04.4282 and 82.08.010(2). To give effect to RCW 82.04.4282, effective July 1, 1979, which altered the conditions under which a portion of the dues are not to be considered deductible; to make more specific the types of schools entitled to the deduction for tuition fees; to clarify the status of Washington's state operated schools and school district schools with respect to business and occupation tax and retail sales tax as different from schools operated by others.

Title: WAC 458-20-134 Commercial or Industrial Use.

Purpose: To add pit run gravel as an example of items put to commercial or industrial use by a contractor building or improving a publicly owned road. This rule is intended to implement RCW 82.12.020. The proposed revision recognizes that pit run gravel has a value and is appropriately subject to use tax in cases where the contractor is statutorily defined as a "consumer" of materials incorporated into the roadway.

Title: WAC 458-20-136 Manufacturing, Processing for Hire, Fabricating.

Purpose: To revise definition of "to manufacture" by deleting activities previously listed which were "merely incidental to nonmanufacturing activities," adding language to exclude ". . . cutting, grading, or ice glazing of seafood which has been cooked, frozen, or canned outside this state," and deleting reference to artists, photographers and pharmacists as persons involved in manufacturing. To add the manufacture of "soybeans into soybean oil, or sunflower seeds into sunflower oil" within the special classification of manufacturer (RCW 82.04.260(2)). To delete ". . . as purchaser for the account of the customer . . ." from paragraph headed "Material furnished in part by customer." This rule is intended to implement RCW 82.04.120 and 82.04.260. RCW 82.04.120 specifically excludes "cutting, grading, or ice glazing of seafood which has been cooked, frozen or canned outside this state" from definition of "to manufacture." Other material was deleted as surplusage. Manufacturing—Special classification is revised to conform with RCW 82.04.260(2) as amended by including nonmanufacturers of soybean and sunflower oil. "Purchase for the account of the customer" is included within "furnishes to the customer" and is therefore deleted as surplusage.

Title: WAC 458-20-145 Local Sales and Use Tax.

Purpose: To delete introductory language giving reference to old rates and effective dates; new introductory language describes effect of RCW 82.14.030 and 82.14.045. Reference to tax rates are deleted and replaced with the names of the respective taxes. This rule is intended to implement RCW 82.14.030 and 82.14.045. The revision explains the RCW sections in general terms without reference to specific tax rates in order that the regulation need not be amended every time a rate change is enacted. References to specific tax rates are deleted elsewhere for the same reason.

Title: WAC 458-20-146 National and State Banks, Mutual Savings Banks, Savings and Loan Associations and Other Financial Institutions.

Purpose: To delete reference to combined excise tax return; to change statutory references; to change registration fee to \$15.00; and to change zip code to 98504. This rule is intended to implement RCW 82.04.290 82.04.4281, 82.04.4291 and 82.32.030. In the event the combined excise tax return is changed, the rule would contain incorrect information. Referenced sections of the statute were recodified. Registration fee was changed from \$1.00 to \$15.00 and to have proper zip code in rule.

Title: WAC 458-20-151 Dentists, Dental Laboratories and Physicians.

Purpose: Add sales and use tax exemption for sales of insulin, medically prescribed oxygen and prosthetic devices. Reference added to WAC 458-20-18801. This rule is intended to implement RCW 82.08.0283 and 82.12.0277. These changes were a result of legislative changes.

Title: WAC 458-20-167 Educational Institutions, School Districts, Student Organizations, Private Schools.

Purpose: To eliminate sales tax collection liability upon sales by state institutions and agencies. This rule is intended to implement chapter 82.08 RCW and RCW 82.04.030. The attorney general's office issued an opinion that under RCW 82.04.030 the state and its institutions are excluded as being "persons." Since, under RCW 82.04.250, retailers are "persons", it follows the state, its institutions and agencies cannot be required to collect the retail sales tax. State agencies etc. have also always been exempt from sales tax respective to interdivision or agency sales. The foregoing have been made a part of the department's administrative policy for numerous years and this particular revision merely reflects the current state of affairs.

Title: WAC 458-20-185 Tax on Tobacco Products—Definitions.

Purpose: To set forth the current tobacco tax rate, which includes the recently enacted surcharges; to set forth the manner in which the tax is reported to the Department of Revenue. This rule is intended to implement RCW 82.26.020(1). The state legislature has increased the tobacco tax to 48.5% of the wholesale sales price of such tobacco products. The department also no longer issues tobacco tax returns, instead, the tobacco tax is reported on a taxpayer's regular combined excise tax return, Form REV 40 2406.

Title: WAC 458-20-186 Tax on Cigarettes.

Purpose: To set forth the current cigarette tax rates, which include the recently enacted surcharges. This rule is intended to implement RCW 82.24.020, 82.24.025 and 28A.47.440. The state legislature has increased the tax on cigarettes to a total of 23¢ per package of 20 cigarettes.

Title: WAC 458-20-18801 Prescription Drugs, Prosthetic and Orthotic Devices, and Ostomic Items.

Purpose: To implement statutes granting business and occupation tax exemption to certain qualified hospitals

dispensing prescription drugs; to implement statute granting sales and use tax exemption for prosthetic and orthotic devices and ostomic items. This rule is intended to implement RCW 82.04.4288, 82.04.4289, 82.08.0281, 82.08.0283, 82.12.0275 and 82.12.0277. Recent statutory changes granting above exemptions require amending rule. Additionally, the statutes do not define the terms "prosthetic devices," "orthotic devices," and "ostomic items," and this rule provides for such definitions.

Title: WAC 458-20-224 Service and Other Business Activities.

Purpose: The amendment to this rule is proposed to emphasize that businesses which are specifically identified and subject to specific tax rates in chapter 82.04 RCW are not subject to service and other activities business and occupation tax. The amendment also eliminates reference to specific amusement businesses. This rule is intended to implement RCW 82.04.290. The emphasis on businesses with separate tax rates is for clarification. The elimination of references to specific amusement businesses is in anticipation of an amendment to WAC 458-20-183 which will alter the definition of amusement businesses.

Title: WAC 458-20-235 Effect of Rate Change on Prior Contracts and Sales Agreements.

Purpose: To include local sales and public transportation taxes within the scope of the administrative rule. This rule is intended to implement RCW 82.08.020, 82.14.030 and 82.14.045. Chapter 82.04 RCW (B&O tax generally). The current rule (revised June 1, 1970) deals with the effect of tax rate changes and only mentions retail sales tax generally. Since RCW 82.14.070 requires that local sales and transportation taxes be administered as consistent and uniform as possible with the state sales and use tax, the department of revenue deemed it advisable to specifically name these taxes within the body of the rule. The proposed action is a matter of minor "housekeeping."

Title: WAC 458-20-100 Appeal Procedures.

Purpose: (1) To state the division of the Department of Revenue to which petitions should be addressed (paragraph 2). (2) To require petition to specify which item or items of an assessment are questioned (paragraph 4). (3) To change title to administrative law judge as the person conducting the conference and making the determination as the official position of the department (paragraphs 9, 10, 11, 12, 13 and 14). (4) To change name from Tax Appeals Board to Board of Tax Appeals (paragraph 16). (5) To make reference to WAC 458-20-228 (paragraph 16). (6) To change nomenclature of petition to written request, and of prior determination to written opinion and ruling (paragraph 18). This rule is intended to implement RCW 82.32.160, 82.32.170, 82.32.180, 82.32.190, 82.32.200, 82.03.190 and 82.01.060(3). (1) and (2) to facilitate and expedite the appeal procedure. (3) To make uniform with other state agencies the titles of persons performing essentially the same type of work of conducting hearings and writing determinations. Determinations rendered by an Administrative Law Judge will result in respectful, conscientious and more expeditious compliance. (4) To recognize

the official name of Board of Tax Appeals. (5) To make reference to the rule detailing penalties and interest if timely payment is not made. (6) To distinguish a written request for an opinion from a petition for correction of assessment.

Title: WAC 458-20-196 Credit Losses, Bad Debts, Recoveries.

Purpose: The amendment to this rule is proposed to specify the conditions under which dishonored checks may be deducted from the measure of business and occupation tax. It also provides for a credit or refund of sales taxes paid on debts deductible for federal income tax purposes. This rule is intended to implement RCW 82.04.4284 and chapter 35, Laws of 1982 1st ex. sess. The dishonored check provision clarifies existing policy which has not been formally incorporated into the rules. The sales tax credit or refund provision implements a recent legislative enactment.

Title: WAC 458-20-198 Conditional and Installment Sales, Method of Reporting.

Purpose: The amendment to this rule is proposed to permit a refund or credit of sales or use tax paid on debts deductible for federal income tax purposes. This rule is intended to implement chapter 35, Laws of 1982 1st ex. sess. This change is a direct result of recent legislation.

Title: WAC 458-20-199 Accounting Methods.

Purpose: To permit a refund or credit of sales or use tax paid on debts deductible for federal income tax purposes by cash basis and accrual basis taxpayers. This rule is intended to implement chapter 35, Laws of 1982 1st ex. sess. This change is a result of recent legislation.

AMENDATORY SECTION (Amending Order ET 73-1, filed 11/2/73)

WAC 458-20-101 (~~(RULE 101)~~) CERTIFICATES OF REGISTRATION.

CERTIFICATES OF REGISTRATION

PERSONS REQUIRED TO OBTAIN CERTIFICATES. Every person who is required by law to collect and account for tax, or who shall engage in any business for which a tax is imposed under the Revenue Act, shall, whether taxable or not, apply for and obtain a Certificate of Registration from the Department of Revenue upon the payment of (~~a fee of one dollar~~) \$15.00. A registration certificate is personal and nontransferable and is valid for as long as the taxpayer continues in business.

LEASED DEPARTMENTS. Operators of leased departments or concessions are permitted under certain conditions to include their tax liability on the returns of the lessor, or grantor of the concession, instead of filing separate returns; nevertheless such operators must apply for and obtain a Certificate of Registration.

ORIGINAL AND BRANCH CERTIFICATES. Whenever a taxpayer transacts business at two or more separate places in the state, a separate Certificate of Registration shall be required for each place at which business is transacted. An original certificate shall be obtained for the main office or principal place of business from which returns are to be filed and a branch certificate shall be obtained for each other place of business in this state. Where the taxpayer's principal place of business is outside the state, the original certificate will be issued for such place and a branch certificate for each place of business within this state. No additional fee is required for branch certificates. The term "place of business" means:

1. Any separate establishment, office, stand, cigarette vending machine or other fixed location; or

2. Any vessel, train, or the like,

at any of which the taxpayer solicits or makes sales of tangible personal property or contracts for or renders services in this state or otherwise transacts business with customers.

SEPARATE CERTIFICATE FOR BRANCH. A taxpayer desiring to make a separate return covering a branch location, or for a specific construction contract, may apply for and receive without charge a separate Certificate of Registration therefor, in addition to his original certificate. Application may be made on Form 2401, or by letter and should show the number of taxpayer's original certificate, a description of the particular branch or contract for which the separate certificate is to be issued, and the address to which tax return forms shall be forwarded.

USE TAX CERTIFICATE OF REGISTRATION. Out-of-state vendors must register and collect use tax upon all of their sales in this state if any of the following circumstances prevail:

1. The vendor regularly solicits orders here whether or not such orders are accepted in this state, unless the activity in this state consists solely of advertising or of solicitation by direct mail; or

2. The vendor regularly engages in the delivery of property ((in)) into this state other than by common carrier or ((U.S.)) United States mail; or

3. The vendor regularly engages in any activity in connection with the leasing or servicing of property located within this state.

Also, all other out-of-state vendors making sales in any manner who elect to collect the use tax from their retail buyers in this state must first apply for and obtain a Use Tax Certificate of Registration. See WAC 458-20-193B and ((WAC)) 458-20-221. The necessary forms will be furnished on request.

TEMPORARY CERTIFICATE OF REGISTRATION. A temporary Certificate of Registration may be issued to any person who operates a business of a temporary nature, such as operators of Christmas tree stands, Christmas card salesmen, and operators of fireworks stands. These certificates are issued without charge and may be obtained by making application to any office of the Department of Revenue. These are not issued to carnivals or to any business which should be issued a regular Certificate of Registration due to the scope or extent of the business activity.

DISPLAY OF CERTIFICATE. The taxpayer is required to display the Certificate of Registration in a conspicuous place at the business location for which it is issued.

CHANGE IN OWNERSHIP. Whenever there is a change in ownership of a business, the Certificate of Registration previously issued to the withdrawing owner, or owners, must be surrendered to the department for cancellation. The new owner shall apply for and obtain a new Certificate of Registration upon the payment of the registration ((fee of \$1.00)) deposit.

A "change in ownership" for purposes of registration occurs upon the sale of a business by one individual, firm or corporation to another individual, firm or corporation; upon the dissolution and winding up of a partnership; upon incorporation of a business previously operated as a partnership or sole proprietorship; or upon changing from a corporation to a partnership or sole proprietorship.

For the purposes of this rule the withdrawal of one or more partners or the substitution or addition of one or more partners will not be considered as a "change in ownership" where the partnership continues as a business organization. In such cases the partnership, upon notifying the department in writing of its reorganization, may continue operation under the Certificate of Registration previously issued.

No "change in ownership" occurs upon the transfer of assets to an assignee for the benefit of creditors or upon the appointment of a receiver or trustee in bankruptcy. Furthermore, no "change in ownership" occurs upon the death of a sole proprietor in those cases where there will be a continuous operation of the business by the executor, administrator, or trustee of his estate or, where the business was owned by a marital community, by the surviving spouse of the deceased owner.

CHANGE IN LOCATION OR NAME. Whenever the place of business is moved to a new location, or the name under which business is conducted is changed, without change in ownership, the taxpayer must notify the department in writing of such change. New certificates will be issued upon request, and without charge.

LOST CERTIFICATES. If any Certificate of Registration is lost, destroyed or defaced as a result of accident or of natural wear and tear, a new certificate will be issued to the taxpayer free of charge upon request.

REVOKING AND REINSTATING CERTIFICATES OF REGISTRATION. The Department of Revenue may, by order, revoke a Certificate of Registration for the following reasons:

(1) If any tax warrant issued under the provisions of RCW 82.32-.210 is not paid within thirty days after it has been filed with the clerk of the superior court; or

(2) If any taxpayer is delinquent for three consecutive periods in reporting and paying retail sales tax collected by him.

The revocation order will be posted in a conspicuous place at the main entrance to the taxpayer's place of business and must remain posted until the certificate has been reinstated. A revoked certificate will not be reinstated until:

((+)) (a) The amount due on the warrant has been paid, or satisfactory arrangements for payment have been approved by the department; and

((+)) (b) The taxpayer has posted with the department a bond or other security in an amount not exceeding one half the estimated average annual liability of the taxpayer. It is unlawful for any taxpayer to engage in business after his Certificate of Registration has been revoked.

PENALTIES FOR NONCOMPLIANCE. The ((act)) law provides that it shall be unlawful for any person to engage in any taxable business without having obtained a Certificate of Registration or to engage in business after such Certificate of Registration shall have been revoked by the department. Any person violating this provision shall be guilty of a gross misdemeanor and punishable in the manner provided by law.

Where a Certificate of Registration has been revoked by the department for failure to pay any warrant issued against the taxpayer, the ((act)) law also provides that his certificate shall not be reinstated or a new certificate issued until the taxpayer has made satisfactory arrangements for the payment of the warrant and, in addition, has deposited with the department a bond guaranteeing the payment of his tax liability which will accrue in the future.

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-114 ((~~RULE 114~~)) **BONA FIDE INITIATION FEES, DUES CONTRIBUTIONS, DONATIONS, TUITION FEES AND ENDOWMENT FUNDS.** Amounts derived from bona fide initiation fees, dues, contributions, donations, tuition fees and endowment funds may be deducted from the measure of tax under the business and occupation tax. (RCW 82.04.430(2)) ((~~RCW 82.04.4282~~)) RCW 82.04.4282. This deduction is construed strictly and such amounts may be deducted only if:

1. They are bona fide, and
2. They have been included in the Gross Amount reported under the classification with respect to which the deduction is sought, and
3. They have not been otherwise deducted through inclusion in the amount of an allowable deduction taken under such classification for another reason, and
4. They do not exceed the limitations hereinafter set forth.

Amounts which may be deducted as initiation fees are those amounts only which are actually required to be paid by a person to a club or similar organization for the sole privilege of joining such club or similar organization.

Amounts which may be deducted as dues are those amounts only which a member must pay toward the support of a club or similar organization in order to retain membership therein. ((~~Amounts which are for, or graduated upon, the amount of services rendered to a member of such club or organization may not be deducted.~~)) If payment of dues entitle a member to any significant amount of goods or services, or if the dues are graduated according to the amount of goods or services to which a member is entitled, the value of such goods or services are not deductible. Services which consist of amusement or recreation are subject to business tax and in some cases retail sales tax (see WAC 458-20-183) and therefore tax must be accounted for and paid on the amount of dues fairly attributable to such services. The reasonableness of amounts of dues allocated to taxable goods and services will be judged on the following criteria:

1. Such amounts must be sufficient to fairly cover all costs in any way attributable to the furnishing of the goods or services, and
2. Such amounts should reasonably relate to charges made by ordinary proprietary businesses offering similar goods or services.

However, nonprofit youth organizations which, as such, are exempt from property tax under RCW 84.36.030 may deduct fees or dues received from members even though the members in return for such payments are entitled to use the organization's facilities, including camping and recreational facilities. The terms "dues" and "initiation fees" must be given their ordinary meaning and do not include, for example, amounts paid to trade or industry associations for services rendered and such payments are proportional to the size and volume of the member's business or manufacturing operations.

The term "tuition fees" refers only to fees charged by educational institutions, and, in addition to instruction fees, includes library, laboratory, health and other special fees and amounts charged for room and board when the property or service for which such charges are made is furnished exclusively to the students or faculty of such institutions.

"Educational institutions" which may deduct "tuition fees" are those which have been created or generally accredited as such by the state and which offer to students an educational program of a general academic nature and those institutions which are not operated for profit and which are privately endowed under a deed of trust to offer instruction in trade, industry and agriculture, but not including specialty schools, business colleges, other trade schools or similar institutions. Educational institutions which are entitled to the deduction include the following:

~~(a. The common schools, the state normal schools, the University of Washington, the Washington State University and such other schools which are or may be established by law and maintained at public expense as part of the "uniform school system" provided for in RCW 28.02.010;~~

~~b. Parochial schools and private schools accredited to schools of the "uniform school system" by the State Board of Education or the State Department of Education, and which are not specialty schools, business colleges, other trade schools or similar institutions;~~

~~c. Schools whose students and credentials are accepted without examination by the schools referred to in "a" and "b" above, and which are not specialty schools, business colleges, other trade schools or similar institutions.)~~

1. State created or state accredited offering a general academic program:

a. The common schools, the state normal schools, the University of Washington, etc., which are a part of the uniform school system maintained at public expense;

b. Parochial and private schools accredited as part of the uniform school system which are not specialty schools, business colleges, trade schools, or other similar institutions;

c. Schools whose students and credentials are accepted without examination by the schools referred to by "a" and "b", and which are not specialty schools, etc.

2. Nonprofit, privately endowed under deed of trust schools offering courses in trade, industry, and agriculture which are not specialty schools, business colleges, trade schools, or other similar institutions.

A business college, dancing school, music school or specialty school is not an "educational institution" within the meaning of that term as defined above. Tuition fees collected by such institutions are taxable under the Service and Other Business Activities classification of the business and occupation tax.

The right to deduct bona fide initiation fees, dues, contributions, donations, tuition fees and endowment funds does not exempt any person, association or society from tax liability upon selling tangible personal property or upon providing facilities or services for which a special charge is made to members or others. However, agencies or institutions of the state of Washington, such as the University of Washington, community colleges, and school districts, are exempt from payment of the business and occupation tax and the duty of collecting the retail sales tax.

((Revised June 1, 1970.))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-134 ((~~RULE 134~~)) **COMMERCIAL OR INDUSTRIAL USE.** "The term 'commercial or industrial use' means the following uses of products, including by-products, by the extractor or manufacturer thereof: (1) Any use as a consumer; and

(2) The manufacturing of articles, substances or commodities." (RCW 82.04.130).

Following are examples of commercial or industrial use:

1. The use of lumber by the manufacturer thereof to build a shed for his own use.
2. The use of a motor truck by the manufacturer thereof as a service truck for himself.
3. The use by a boat manufacturer of patterns, jigs and dies which he has manufactured.
4. The use by a contractor building or improving a publicly owned road of crushed rock or pit run gravel which he has extracted.

BUSINESS AND OCCUPATION TAX

Persons manufacturing or extracting tangible personal property for commercial or industrial use are subject to tax under the classifications Manufacturing or Extracting, as the case may be. The tax is measured by the value of the product manufactured or extracted and used. (See ~~((Rule 112))~~ WAC 458-20-112 for definition and explanation of value of products.)

USE TAX

Persons manufacturing or extracting tangible personal property for commercial or industrial use are subject to use tax on the value of the articles used. (See ~~((Rule 178))~~ WAC 458-20-178 for further explanation of the use tax and definition of value of the article used.)

EXCEPTIONS. RCW ~~((82-12-030(12)))~~ 82.12.0263 exempts from the use tax the use of fuel by the extractor or manufacturer thereof when used directly in the operation of the particular extractive operation or manufacturing plant which produced or manufactured the same. (Example: The use of hog fuel to produce heat or power in the same plant which produced it.) RCW 82.12.010 provides that in the case of articles manufactured for commercial or industrial use by manufacturers selling to the ~~((U.S.))~~ United States Department of Defense, the value of the articles used shall be determined according to the value of the ingredients of such articles, rather than the full value of the manufactured articles as is normally the case.

~~((Revised June 1, 1970.))~~

AMENDATORY SECTION (Amending Order ET 78-4, filed 6/27/78)

WAC 458-20-136 ~~((RULE 136))~~ **MANUFACTURING, PROCESSING FOR HIRE, FABRICATING.**

DEFINITIONS

"The term 'to manufacture' embraces all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and shall include the production or fabrication of special made or custom made articles." (RCW 82.04-.120.) It means the business of producing articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving these matters new forms, qualities, properties, or combinations. It includes such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, curing, aging, canning, etc. It includes also the preparing, packaging and freezing of fresh fruits, vegetables, fish, meats and other food products, the making of custom made suits, dresses, and coats, and also awnings, blinds, boats, curtains, draperies, rugs, and tanks, and other articles constructed or made to order. It also includes the generation or production of electrical energy for resale or consumption outside the state.

The word "manufacturer" means every person who, from his own materials or ingredients manufactures for sale, or for commercial or industrial use any articles, substance or commodity either:

1. Directly, or
2. By contracting with others for the necessary labor or mechanical services.

However, a nonresident of the state of Washington who owns materials process for hire in this state is not deemed to be a manufacturer because of such processing. Further, any owner of materials from which a nuclear fuel assembly is fabricated in this state by a processor for hire is also not deemed to be a manufacturer because of such processing.

The term "to manufacture" does not include activities which ~~((are merely incidental to nonmanufacturing activities. Thus, the following do not constitute manufacturing: Washing and screening of coal, or the bucking and yarding of logs, by the extractors thereof, pasteurizing and bottling of milk by a dairy, cooking and serving of food by a restaurant))~~ consist of cutting, grading, or ice glazing of seafood which

has been cooked, frozen, or canned outside this state; the mere cleaning and freezing of whole fish; or the repairing and reconditioning of tangible personal property for others(, etc)). ~~((Likewise, neither an artist, a portrait photographer, nor a prescription pharmacist is a manufacturer.))~~

The term "processing for hire" means the performance of labor and mechanical services upon materials belonging to others so that as a result a new, different or useful article of tangible personal property is produced. Thus, a processor for hire is any person who would be a manufacturer if he were performing the labor and mechanical services upon his own materials.

BUSINESS AND OCCUPATION TAX

MANUFACTURING—LOCAL SALES. Persons who manufacture products in this state and sell the same at retail in this state are subject to the business and occupation tax under the classification Retailing and those who sell such products at wholesale in this state are taxable under the classification Wholesaling—All Others. Persons taxable under the classification Retailing and Wholesaling—All Others are not taxable under the classification Manufacturing with respect to the manufacturing of products so sold within this state.

MANUFACTURING—INTERSTATE OR FOREIGN SALES. Persons who manufacture products in this state and sell the same in interstate or foreign commerce are taxable under the classification Manufacturing upon the value of the products so sold, and are not taxable under Retailing or Wholesaling—All Others in respect to such sales. (See also WAC 458-20-193.) The generation or production of electrical energy for resale or consumption outside the state is subject to tax under the Manufacturing classification.

MANUFACTURING—SPECIAL CLASSIFICATIONS. The law provides several special classifications and rates for activities which constitute "manufacturing" as defined in this rule. These include manufacturing wheat into flour, soybeans into soybean oil, or sunflower seeds into sunflower oil (RCW 82.04.260(2)); splitting or processing dried peas (RCW 82.04.260(3)); manufacturing seafood products which remain in a raw, raw frozen, or raw salted state (RCW 82.04.260(4)); manufacturing by canning, preserving, freezing or dehydrating fresh fruits and vegetables (RCW 82.04.260(5)); manufacturing aluminum pig, ingot, billet, plate, sheet (flat or coiled), rod, bar, wire, cable or extrusions (RCW 82.04.260(6)); and manufacturing nuclear fuel assemblies (RCW 82.04.260(10))~~((11))~~. In all such cases the principles set forth in the preceding paragraphs headed Manufacturing—Local Sales and Manufacturing—Interstate or Foreign Sales will be applicable. Local sales will be subject to the business and occupation tax only under the classifications Retailing or Wholesaling—All Others at the applicable rates for those classifications, while interstate or foreign sales will be taxable only under the classifications Manufacturing Wheat Into Flour, Splitting or Processing Dried Peas, Manufacturing Raw Seafood Products, Manufacturing Fresh Fruits and Vegetables, Manufacturing Aluminum, and manufacturing nuclear fuel assemblies, as the case may be. Local sales (at either retail or wholesale) of nuclear fuel assemblies by the manufacturer thereof are subject to business and occupation tax ~~((imposed at the rate .0025)).~~

The special classification and rate for slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale (RCW 82.04.260(8)) combines manufacturing and nonmanufacturing activities. As to those activities which constitute "manufacturing" as defined in this rule, the statutory classification and rate are applicable to both local and interstate or foreign sales. As to those activities which involve the mere selling of perishable meat products not manufactured by the vendor, the statutory classification and rate are applicable to local sales only, and interstate or foreign sales are deductible from gross proceeds of sales.

MANUFACTURING FOR COMMERCIAL USE. Persons who manufacture products in this state for commercial or industrial use are taxable under the classification Manufacturing on the value of the products used. (See WAC 458-20-134 for definition of commercial or industrial use.)

PROCESSING FOR HIRE. Persons processing for hire for consumers or for persons other than consumers are taxable under the Processing for Hire classification upon the total charge made therefor.

MATERIALS FURNISHED IN PART BY CUSTOMER. In some instances, the person furnishing the labor and mechanical services undertakes to produce a new article, substance, or commodity from materials or ingredients furnished in part by him and in part by the customer. In such instances, tax liability is as follows:

1. The person furnishing the labor and mechanical services will be presumed to be the manufacturer if the value of the materials or ingredients furnished by him is equal to or exceeds 20% of the total value of all materials or ingredients which become a part of the finished product.

2. If the person furnishing the labor and mechanical services furnishes materials constituting less than 20% of the value of all of the materials which become a part of the finished product, such person will be presumed to be processing for hire. The person for whom the work is performed is the manufacturer in that situation, and will be taxable as such.

In cases where the person furnishing the labor and mechanical services supplies, sells, or furnishes to the customer, ~~((or purchases for the account of the customer))~~ before processing, 20% or more in value of the materials from which the finished product is made, the person furnishing the labor and mechanical services will be deemed to be the owner of the materials and taxable as a manufacturer.

RETAIL SALES TAX

Persons taxable as engaging in the business of manufacturing and selling at retail any of the products manufactured and persons manufacturing, fabricating, or processing for hire tangible personal property for consumers shall collect the retail sales tax upon the total charge made to their customers.

Sales to processors for hire and to manufacturers of articles of tangible personal property which do not become an ingredient or component part of a new article produced, or are not chemicals used in processing the same, are retail sales, and the retail sales tax must be collected thereon.

USE TAX

Manufacturers are taxable under the use tax upon the use of articles manufactured by them for their own use in this state.

See WAC 458-20-244 ~~((Rule 244))~~ for sales and use tax on food products.

~~((Revised April 28, 1978:
Effective July 1, 1978:))~~

AMENDATORY SECTION (Amending Order ET 75-1, filed 5/2/75)

WAC 458-20-145 ~~((Rule 145))~~ LOCAL SALES AND USE TAX. ~~((Effective April 1, 1970, a .5% (1/2%) sales and use tax was imposed in several counties and cities. Effective January 1, 1973, a .3% sales and use tax ("Metro"), as authorized in the Revenue Act, was adopted in King County for purpose of financing public transportation. A new section, effective May 5, 1974 amended chapter 82.14 RCW to allow all Washington counties to elect to impose a .3% sales and use tax for public transportation financing. Wherever adopted, these taxes are to be collected along with the state tax of 4.5%, making a total combined tax of either 5% or, in the case of King County and any other eligible county, 5.3%))~~ RCW 82.14.030 authorizes counties and cities to levy a local sales and use tax, such local tax to be collected along with the state tax. By RCW 82.14.045 cities and counties, after voter approval, are authorized to levy an additional tax to finance public transportation, which tax is also to be collected along with the state tax.

As used herein the term(s) "local tax" shall include either or both the ~~((.5%))~~ local tax and ~~((.3%))~~ transportation sales and/or use taxes. The rule and examples in this administrative rule apply equally to all locally imposed sales and use taxes ~~((since the statutory provisions of RCW 82.14.020 apply to both the .5% and .3% rate taxes))~~.

The total tax is to be reported and paid to the state. The local tax portion will be rebated to local governments according to information which retailers show on tax returns. If a business is such that a local tax will be collected for more than one taxing jurisdiction, it is necessary to keep a record of retail sales taxable to each such county or city. Vendors are responsible for determining the appropriate tax rate for each locality in which sales are made and for collecting from their purchasers the correct amount of tax due upon each sale.

"Place of sale" for purposes of local sales tax:

RULE I. Retailers of goods and merchandise: The sale occurs at the retail outlet at which or from which delivery is made to the consumer.

RULE II. Retailers of labor and services (e.g., construction contractors, repairmen, painters, plumbers, laundries, earth movers, fumigators, house wreckers or movers, tow truck operators, hotels, motels, tourist courts, trailer camps, amusement and recreation businesses

listed in ~~((Rule 183 {WAC 458-20-183}))~~ WAC 458-20-183; abstract, title insurance, escrow, credit bureau, auto parking, and storage garage businesses): The retail sales occurs where the labor and services are primarily performed.

RULE III. Retailers leasing or renting tangible personal property: The sale occurs at the place of first use by the lessee or renter. For practical purposes the place of business of the lessor will be deemed the place of first use for ordinary, short term rentals. If the rental or lease calls for periodic rental payments, then the place of sale is the primary place of use by the lessee or renter for each period covered by each payment.

"Place of use" for purposes of the use tax:

RULE IV. Whenever the state use tax is due, the local use tax will also apply where the property is first used in a county or city levying the local tax.

The following illustrates the application of these rules in various situations:

RULE I.

A. This rule applies to retail sales consisting solely of tangible personal property (i.e., goods or merchandise). If retail labor and services are also involved Rule II applies to the entire sale. Secondly, the total tax is determined by the place at which or from which delivery is made. For most retailers the location of his place of business governs the local tax application. He collects the tax if his place of business is in a jurisdiction levying the local tax, even though he may deliver the goods sold to his customer to a location in the state not levying the tax. On the other hand a merchant whose place of business is in a jurisdiction not levying the local tax collects only the ~~((4.5%))~~ state tax, irrespective of whether delivery is made into a jurisdiction levying the local tax.

To sum up this part of the rule: The origin of the goods determines the local tax and destination or fact of delivery elsewhere in the state are immaterial.

B. Special applications of the rules for goods located outside the state:

1. When the state business and occupation tax applies to a sale in which the goods are delivered into Washington from a point outside the state this means a local in-state facility, office, outlet, agent or other representative even though not formally characterized as a "salesman" of the seller participated in the transaction in some way, such as by taking the order, then the location of the local facility, etc., will determine the place of sale for purposes of the local sales tax. However, if the seller, his agent or representative maintains no local in-state facility, office, outlet or residence from which business in some manner is conducted, the local tax shall be determined by the location of the customer.

2. If the state business and occupation tax does not apply because there was no in-state activity in connection with the sale (e.g., an order was sent by a Washington consumer directly to a seller's out-of-state branch) the state tax due is use tax and the destination-address of the consumer-determines the applicable local use tax.

Rule I Examples:

1. A resident of Everett purchases a sofa from a furniture dealer in Seattle. The dealer delivers the sofa to the customer's home in Everett. The Seattle local sales tax applies, being the place from which the goods were delivered.

2. A resident of Olympia purchases a refrigerator from a merchant in Tekoa. If Tekoa has not levied the local sales tax, the merchant will collect only the state ~~((4.5%))~~ sales tax. Olympia's ~~((.5%))~~ use tax is not due even though the property will be used there. Reason: The law makes the local tax collectible at time of the taxable event for the state tax.

RULE II.

This rule applies to retail sales of labor or services and also applies to sales of tangible personal property when labor and services are rendered in conjunction therewith. The local tax is governed by the place where the labor and services are primarily performed.

A. Retailers who primarily render their services at their place of business will collect the local sales tax if they are located in a jurisdiction which levies the tax. Examples of retailers normally falling in this class: Auto repair shops, hotels, motels, amusement or recreation businesses, title insurance, credit bureau, escrow businesses, auto parking, storage garages, laundries.

B. Retailers primarily performing their services at the location of their customers will collect the local sales tax for the jurisdiction in

which the customer is located. Examples of this class of retailers are: Construction contractors, painters, plumbers, carpet layers (retailers who install what they sell, as carpet layers often do, fall under Rule II—place where work is done governs the local tax to be applied—if the installation would normally call for an extra charge) earthmovers, house-wreckers.

Examples:

1. A dealer sells a TV set, delivers it and puts it in working order in his customer's home. This falls under Rule I, not Rule II, because there is normally no extra charge for "installing" a TV set.

2. A hardware store sells yard fencing at \$5.00 per running foot including installation. This falls under Rule II because fence installation normally would involve an extra charge.

3. A home furnishings dealer sells carpeting at \$12.00 per yard and agrees to install it for \$2.00 per yard additional. The entire transaction falls under Rule II and the \$14.00 per yard will be subject to the local tax levied by the jurisdiction in which the customer resides. Rule I is limited to retail transactions consisting SOLELY of sales of goods or merchandise.

C. The primary place of performance for retailers whose services consist largely of moving or transporting is deemed to be the destination (place where the service is completed). Typical of this class are: Tow truck operators and house movers.

Examples:

1. A towing service is called to pick up a stalled vehicle just outside the city of Reardan and deliver the vehicle to an automotive repair shop in Spokane. Spokane's local tax applies.

2. A housemover is hired to move a home from inside the Olympia city limits to a location 4 miles out of town in Thurston County. The housemover will collect only the state ((4.5%)) tax if Thurston County, the destination, does not levy the local tax.

RULE III.

This covers rentals or leases and has two parts, and it is important to distinguish "periodic rentals" from other rentals to know which part of the rule applies.

DEFINITION. A periodic rental (or lease) is one in which the lessee or renter has contracted to make regular rental payments at specified intervals. These are normally longer term rentals calling for a rental payment monthly on or before a certain date.

A. The place of sale for the ordinary, nonperiodic rental is the place of first use (the place where the lessee normally takes possession). In the interest of uniformity and simplicity this will be presumed to be the place of business of the lessor.

B. The place of sale for the periodic rental is the primary place of use during each period covered by each periodic payment.

1. In the case of business lessees this will be presumed to be the place of business of the lessee. Where the lessee has several places of business, the place of primary use will be deemed to be the place to which assigned or regularly returned.

2. In the case of rentals to private individuals the place of use will be presumed to be the residence of the lessee or renter.

Examples:

1. Acme Rent-all Co., located in Walla Walla, rents small tools, garden equipment, scaffolding, and many other kinds of tangible personal property. It charges \$2.00 per day for rental of a roto-tiller. This is not a periodic rental because the lessee merely makes a deposit and pays the full balance of the rent due upon returning the equipment. The lessor will collect the Walla Walla tax on all such rentals, irrespective of where the lessee lives or where the property will be used.

2. An automobile dealer in Tacoma leases an automobile to a Seattle resident. The agreement calls for \$50.00 per month rental, payable by the 10th of each month. This is a periodic rental, so the place of primary use by the lessee governs collection of the local tax. The Tacoma dealer will collect the Seattle local tax.

RULE IV.

This rule applies only to transactions which are not subject to sales tax under Rule I, and intends that the local use tax shall be payable at the time and place the state use tax is due.

Examples:

1. A Spokane resident purchases an automobile from a private individual in Seattle. He transfers title at the King County auditor's office and makes payment of the state use tax. The King County auditor will collect Spokane's local use tax at the same time.

2. A Sumner resident places an order with a catalog mail order outlet in Tacoma. The Tacoma local sales tax is due since the transaction falls under Rule I, not Rule IV.

3. Same as example 2 except the Sumner resident sends a catalog mail order directly to the Portland warehouse rather than going through the Tacoma catalog store. The vendor will collect Sumner's local use tax along with the state use tax.

The above explanation is intended to cover only the most frequently encountered situations. For more intricate or complicated transactions, call the nearest district office of the Department of Revenue for assistance.

((Revised))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-146 ((~~RULE 146~~)) NATIONAL AND STATE BANKS, MUTUAL SAVINGS BANKS, SAVINGS AND LOAN ASSOCIATIONS AND OTHER FINANCIAL INSTITUTIONS.

BUSINESS AND OCCUPATION TAX

Effective March 1, 1970, the legislature repealed RCW 82.04.400 which exempted from the business and occupation tax the gross income of national banks, states banks, mutual savings banks, savings and loan associations and certain other financial institutions. Accordingly, the gross income or gross sales of such institutions will become subject to the business and occupation tax according to the following general principles.

SERVICES AND OTHER ACTIVITIES. Generally, the gross income from engaging in financial businesses is subject to the business and occupation tax under the classification Service and Other Activities. Following are examples of the types of income taxable under this classification: Interest earned (including interest on loans made to nonresidents unless the financial institution has a business location in the state of the borrower's residence which rendered the banking service), commissions earned, dividends earned, fees and carrying charges, charges for bookkeeping or data processing, safety deposit box rentals.

The term "gross income" is defined in the law as follows:

"Gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

The law allows certain deductions from gross income to arrive at the taxable amount (the amount upon which the business and occupation tax is computed). Deductible gross income should be included in the gross amount ((shown in Column 2 of Form 2406, Excise Tax Return)) reported and should then be shown as a deduction ((in Column 3)) and explained on the deduction schedules provided on the reverse side of the reporting form. The deductions generally applicable to financial businesses include the following:

1. Dividends received by a parent from its subsidiary corporations (RCW ((~~82.04.430(1)~~)) 82.04.4281).

2. Interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties. (See WAC 458-20-166 for definition of "transient.") (RCW ((~~82.04.430(10)~~)) 82.04.4291).

3. Interest received on obligations of the State of Washington, its political subdivisions, and municipal corporations organized pursuant to the laws thereof. (RCW ((~~82.04.430(11)~~)) 82.04.4292). A deduction may also be taken for interest received on direct obligations of the Federal government, but not for interest attributable to loans or other financial obligations on which the Federal government is merely a guarantor or insurer.

4. Gross proceeds from sales or rentals of real estate (RCW 82.04.390). These amounts may be entirely excluded from the gross income reported and need not be shown on the return as a deduction.

RETAILING. Sales of tangible personal property and certain services are defined as "retail sales" and are subject to the business and occupation tax under the classification Retailing. Such sales are also subject to the retail sales tax which the seller must collect and remit to the Department of Revenue. Transactions taxable as sales at retail are not subject to tax under Service and Other Activities.

Following are examples of transactions subject to the Retailing classification of the business and occupation tax and to the retail sales tax: Sales of meals or confections, sales of repossessed merchandise, sales of promotional material, leases of tangible personal property, sales of check registers, coin banks, personalized checks. (Note: When the financial institution is not the seller of these items but simply takes orders as agent for the supplier, the supplier is responsible for reporting as the retail seller. The financial institution has liability for reporting the retail sales tax on sales made as an agent only if the supplier is an out-of-state firm not registered with the Department of Revenue), escrow fees, casual sales (occasional sales of depreciated assets such as used furniture and office equipment—subject to retail sales tax but deductible from the business and occupation tax; see WAC 458-20-106.)

RESALE CERTIFICATES. When a financial institution buys tangible personal property for resale to its customers without intervening use, the sales tax is not applicable. In this case the financial institution should give the vendor a resale certificate containing the number of its certificate of registration and its statement that the articles purchased are for resale in the course of its business activities. Resale certificates can be given in blanket form covering all future purchases. (See also WAC 458-20-102.)

USE TAX

The use tax complements the retail sales tax by imposing a tax of like amount on the use of tangible personal property purchased or acquired without payment of the retail sales tax. Thus, when office equipment or supplies are purchased or leased from an unregistered out-of-state vendor who does not collect the Washington state retail sales tax, the use tax must be paid directly to the Department of Revenue. Space for the reporting of this tax will be found on ~~((Form 2406;))~~ the regular Excise Tax Return. (For more information, see WAC 458-20-178.)

WHEN TAX LIABILITY ARISES. Tax should be reported during the reporting period in which the financial institution receives, becomes legally entitled to receive, or in accord with the system of accounting regularly employed enters the consideration as a charge against the client, purchaser or borrower. Financial institutions may prepare returns to the Department of Revenue reporting income in periods which correspond to accounting methods employed by each institution for its normal accounting purposes in reporting to its supervisory authority.

REPORTING PROCEDURES. Financial institutions subject to the business and occupation tax, retail sales tax, or use tax must secure a certificate of registration from the Department of Revenue and pay a registration fee of ~~\$(1.00))~~15.00. Form 2401, Application for Certificate of Registration, is available at all district offices of the Department of Revenue, Olympia, Washington, ~~((98501))~~ 98504.

Reporting periods will be assigned by the department on the basis of total tax liability incurred. Most financial institutions will be required to report on a monthly basis, although some smaller institutions may qualify for quarterly reporting. Forms for reporting will be mailed shortly before the close of each reporting period and will be due and payable on or before the 15th day of the month following. No penalties will be charged if the return is postmarked on or before the last day of the month in which the due date falls.

~~((Effective March 1, 1970:))~~

AMENDATORY SECTION (Amending Order 74-2, filed 6/24/74)

WAC 458-20-151 ~~((RULE 151))~~ DENTISTS, DENTAL LABORATORIES AND PHYSICIANS.

BUSINESS AND OCCUPATION TAX

Dentists, dental laboratories and physicians are subject to the business and occupation tax as follows:

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under the Service and Other Business Activities classification upon the gross income from charges for the rendition of professional services.

RETAIL SALES TAX

Dentists, dental laboratories and physicians primarily render professional services and are not required to collect the retail sales tax from clients and others paying for such services. Sales by supply houses to such persons of materials, supplies, and equipment which are used incidentally in the rendering of such professional services are retail sales

upon which the retail sales tax must be collected. Such sales include, among others, sales of dental chairs, instruments, x-ray machines, office equipment, stationery ~~((, and all materials used in making fillings, inlays, bridge work and false teeth))~~; and sales of supplies, such as dressings, bandages, drugs and similar articles. However, the sales tax does not apply to sales of insulin, medically prescribed oxygen, and prosthetic devices. See WAC 458-20-18801 for definition of prosthetic device.

Sales of drugs, medicines, and other substances prescribed by dentists and physicians are deductible by the seller from gross retail sales where the written prescription bearing the signature of the issuing medical practitioner and the name of the patient for whom prescribed is retained, and such sales are separately accounted for. See WAC ~~((458-20-188))~~ 458-20-18801.

~~((Revised June 24, 1974.~~

~~Effective July 1, 1974:))~~

USE TAX

The use tax does not apply to the purchase of insulin, medically prescribed oxygen, nor to prosthetic devices or ingredients/components of prostheses.

AMENDATORY SECTION (Amending Order ET 78-4, filed 6/27/78)

WAC 458-20-167 ~~((RULE 167))~~ EDUCATIONAL INSTITUTIONS, SCHOOL DISTRICTS, STUDENT ORGANIZATIONS, PRIVATE SCHOOLS. As used herein: An "educational institution" means only those institutions defined as such in WAC 458-20-114; the term "private school" means all schools which are excluded from said definition.

BUSINESS AND OCCUPATION TAX

Persons operating private schools are taxable under the Service and Other Business Activities classification upon gross income derived from tuition fees, rental of rooms and equipment and other service income.

Such persons are also taxable under the Retailing classification upon gross retail sales of articles of tangible personal property sold by them, when the charge therefor is specified and is not included within the charge made for tuition.

Educational institutions, school districts and student organizations are not subject to the business and occupation tax with respect to activities directly connected with the educational program, such as operation of a common dining room, sale of lab supplies, etc. Charges made for the operating of privately operated kindergartens are exempt from business tax.

RETAIL SALES TAX

The retail sales tax applies upon all sales of tangible personal property made by ~~((school districts (except see WAC 458-20-244 for sales of meals) or by))~~ educational institutions, private schools, and student organizations, when the charge therefor is specific and not included within the charge made for tuition. However, the sales tax does not apply to sales of tangible personal property made by agencies or institutions of the state of Washington, such as the University of Washington, community colleges, and school districts.

CERTIFICATES OF REGISTRATION

Persons engaged in the business of operating private schools are required to obtain a certificate of registration in accordance with the provisions of WAC 458-20-101.

Educational institutions ~~((, school districts or student organizations))~~ other than agencies or institutions of the state of Washington making taxable retail sales of tangible personal property ~~((;))~~ are also required to apply for and obtain from the Department of Revenue a certificate of registration. ~~((Such certificate will be issued upon the filing of application Form 2401 and payment of a fee of \$1.00. Branch certificates will be issued to each school within a registered district without charge. When applying for a certificate, the district should furnish the name and address of each school and student organization that engages in a taxable activity.~~

Each school district may file a single return which shall include the retail sales tax due from all schools and student organizations within the district.

Revised April 28, 1978.

Effective July 1, 1978:))

AMENDATORY SECTION (Amending Order ET 71-1, filed 7/22/71)

WAC 458-20-185 ((~~RULE 185~~)) TAX ON TOBACCO PRODUCTS-DEFINITIONS. "Tobacco products" means all tobacco products except cigarettes (see WAC 458-20-186 for cigarette excise taxes). The term includes cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed or other smoking tobacco; snuff, snuff flour, cavendish, plug, twist, fine cut, or other chewing tobacco; shorts, refuse scraps, clippings, cuttings, sweepings, or other kinds or forms of tobacco.

"Distributor" means a. any person engaged in the business of selling tobacco products in this state who brings or causes to be brought into this state from without state any tobacco products for sale, or b. any person who makes, manufactures, or fabricates tobacco products in state for sale in this state, or c. any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retailers in this state.

"Subjobber" means any person, other than a tobacco manufacturer or distributor, who buys tobacco products from a distributor and sells them to persons other than the ultimate consumers.

"Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever by any person for a consideration. It includes all gifts by persons selling tobacco products.

"Wholesale sales price" means the established manufacturer's price to the distributor, exclusive of any discount or other reduction.

"Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products in this state.

NATURE OF TAX. RCW 82.26.020(1) levies an excise tax at the rate of ((~~45%~~)) 48.15% of the wholesale sales price on all tobacco products sold, used, consumed, handled, or distributed within the state. The tax is to be paid by the distributor at the time the distributor brings or causes to be brought into this state from without the state tobacco products for sale.

BOOKS AND RECORDS. Since the Tobacco Products Tax is paid on returns as computed by the taxpayer rather than by affixing of stamps or decals, the law contains stringent provisions requiring that accurate and complete records be maintained and preserved for 5 years for examination by the Department of Revenue.

The records to be kept by distributors include itemized invoices of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the state or shipped or transported to retailers in this state, and of all sales (including customers' names and addresses) of tobacco products except retail sales. All other pertinent papers and documents relating to purchase, sale, or disposition of tobacco products must likewise be so retained.

Retailers and subjobbers must secure and retain legible and itemized invoices of all tobacco products purchased, showing name and address of the seller and the date of purchase.

Records of all deliveries or shipments (including ownership, quantities) of tobacco products from any public warehouse of first destination in this state must be kept by the warehouse.

REPORTS AND RETURNS. The tax is reported on ((~~a monthly basis. The first two months of each calendar quarter are reported on an abbreviated return (Form 8968-1) and for the third month of each quarter a consolidated return for the quarter (Form 8968) must be filed~~)) The Combined Excise Tax Return, Form REV 40 2406, to be filed according to the reporting frequency assigned by the department.

Detailed instructions for preparation of these returns may be secured from the department.

Out-of-state wholesalers or distributors selling directly to retailers in Washington should apply for a certificate of registration, and the department will furnish returns for reporting the tax.

INTERSTATE AND SALES TO U.S. The tax does not apply to tobacco products sold to federal government agencies, nor to deliveries to retailers or wholesalers outside the state for resale by such retailers or wholesalers, and a credit may be taken for the amount of tobacco products tax previously paid on such ((~~sales~~)) products.

RETURNED OR DESTROYED GOODS. A credit may also be taken for tobacco products destroyed or returned to the manufacturer on which tax was previously paid, but returns on which such credits are claimed must be accompanied by appropriate affidavits conforming to those illustrated below:

AFFIDAVIT OF TAXPAYER

Claim for Credit on Tobacco Products Tax Merchandise Destroyed

State of } ss.
County of

The undersigned being first duly sworn, upon oath deposes and says:

That he is (Position) of the (Company), a dealer in tobacco products; that said dealer has destroyed merchandise unfit for sale, said tobacco products having a wholesale sales price of \$.....; that tobacco tax had been paid on such tobacco products; that said tobacco products were destroyed in the following manner and in the presence of an authorized agent of the Department of Revenue:

(State date and manner of destruction)

Attested to:
By Authorized Agent Name of Affiant

DEPARTMENT OF REVENUE OF THE STATE OF WASHINGTON

Date
Position with Dealer
Dealer
Address of Dealer

AFFIDAVIT OF MANUFACTURER

Claim for Credit on Tobacco Products Tax Merchandise Returned

State of } ss.
County of

The undersigned being first duly sworn, upon oath deposes and says:

That he is (Position) of the (Name of Manufacturer) a manufacturer of tobacco products; that the said manufacturer has received from (Dealer), (Address) a dealer in tobacco products within the State of Washington, certain tobacco products which were unfit for sale, said tobacco products having a wholesale sales price of \$.....; that said tobacco products were destroyed in the following manner:

(State date and manner of destruction)

Credit issued on Memo No. Name of Affiant
Name of Manufacturer
Address

Subscribed and sworn to before me this day of, 19...
Date
Notary Public in and for the state of, residing at

AMENDATORY SECTION (Amending Order ET 75-1, filed 5/2/75)

WAC 458-20-186 ((~~RULE 186~~)) TAX ON CIGARETTES. The Washington state cigarette tax is imposed in the total amount of

((+6)) 23 cents upon each package of 20 cigarettes by the following statutes:

1. RCW 82.24.020, which imposes a tax of ~~((six and one-half))~~ ten mills per cigarette (20¢ per package of 20);
2. RCW ~~((73.32.130))~~ 82.24.025, which imposes a tax of 1 mill per cigarette ~~((to provide for the retirement of the Veterans Bonus Bonds))~~ (2¢ per package of 20);
3. RCW ~~((28.47.440 [28A.47.440]))~~ 28A.47.440, which imposes a tax of 1/2 mill per cigarette to provide for financing the state school construction bond program (1¢ per package of 20).

This tax is payable by the first person who sells, uses, consumes, handles or distributes the cigarettes in this state. Payment is made through the purchase of stamps from the Department of Revenue or its authorized agent.

EXEMPTIONS. The cigarette tax does not apply upon cigarettes sold to persons licensed as cigarette distributors in other states when, as a condition of the sale, the seller either delivers the cigarettes to such a buyer at a point outside this state, or delivers the same to a common carrier with the shipment consigned by the seller to such a buyer at a location outside this state. Any person engaged in making sales to licensed distributors in other states or making export sales (see ~~((Rule 193A [WAC 458-20-193A]))~~ WAC 458-20-193A and ~~((Rule 193C [WAC 458-20-193C]))~~ WAC 458-20-193C) or in making sales to the federal government or to the established governing bodies of an Indian tribe recognized as such by the ~~((U.S.))~~ United States Department of the Interior and who are authorized by Rule 192 ~~(([WAC 458-20-192]))~~ WAC 458-20-192 to receive unstamped cigarettes who furnishes surety bond in a sum satisfactory to the Department of Revenue, may set aside such part of his stock as may be necessary for the conduct of such business without affixing cigarette tax stamps. Such unstamped stock must be kept separate and apart from any stamped stock.

Cigarettes, other than those above mentioned, are not exempt from the tax by reason of their sale either to an Indian or for resale on an Indian reservation (see WAC 458-20-192). Permission to maintain an unstamped stock of cigarettes for sale to a specified Indian tribe may be revoked when it appears that sales to unauthorized purchasers are being, or have been, made.

COLLECTION. Stamps indicating the payment of the cigarette tax must be affixed prior to any sale of the cigarettes. The stamp must be applied to the smallest container or package, unless the department determines that it is impractical to do so.

Every wholesaler or retailer in the state shall stamp within 72 hours after receipt, any of the articles taxed herein. Stamps must be of the heat applied "fuson" type. The use of meter stamping machines for use in imprinting packages, in lieu of attaching stamps, is not authorized by the department. The use of water "decalcomania" type stamps by such vendors is not authorized.

Persons other than wholesalers or retailers, upon holding, owning, possessing or controlling cigarettes in this state, must affix stamps on or before the close of the first business day following receipt of the cigarettes.

Prior to the receipt or transportation of cigarettes in this state such persons must file with a district office of the Department of Revenue a Notice of Intent to Possess Unstamped Cigarettes in the state of Washington. A copy of this notice, validated by an agent of the Department of Revenue, must be in the possession of any such person who is in possession of unstamped cigarettes in this state.

Persons who have filed the aforementioned notice must bring the cigarettes to a district office of the Department of Revenue and there affix the required stamps within the time limitation provided above.

Any unstamped cigarettes in the possession of persons (other than wholesalers or retailers) who have either failed to file a Notice of Intent to Possess Unstamped Cigarettes in the state of Washington or who have failed to affix stamps within the time limitation provided above will be deemed contraband and subject to seizure and sale under the provisions of RCW 82.24.130.

The "fuson" type stamps are available, in rolls of 30,000 stamps, from an authorized bank. Payment for stamps may be made either at the time of sale, or deferred until later, although the latter form of payment is available only to vendors who meet the requirements of the department and who have furnished a surety bond equal to the proposed total monthly credit limit, or in the amount of ~~\$(2,500))~~ 6,900.00, whichever is greater. In addition, purchases on a deferred payment plan may be made only by the cigarette seller himself or by an agent authorized by him to do so. This authorization may be in the form of a signature card, filed with the bank, from which

stamps are usually obtained, and kept current by the vendor. Payments under a deferred plan are due within 30 days following the purchase, and are to be paid at the outlet from which the stamps were obtained, and may be paid by check payable to the Department of Revenue. Cigarette dealers, either retail or wholesale, who purchase stamps under either plan are allowed, as compensation for their services in affixing stamps, an amount equal to \$1.85 per thousand stamps, which may be offset against the purchase price.

BOOKS AND RECORDS. An accurate set of records, showing all transactions had with reference to the purchase, sale or distribution of articles subject to the cigarette tax must be retained. These records may be combined with those required in connection with the Tobacco Products Tax, by ~~((Rule 185 [WAC 458-20-185]))~~ WAC 458-20-185, provided there is a segregation therein the amount involved. All such records must be preserved for 5 years from the date of the transaction.

In particular, persons shipping or delivering any of the articles taxed herein to a point outside of this state shall transmit to the Miscellaneous Tax Section, not later than the 15th of the following calendar month, a true duplicate invoice showing full and complete details of the interstate sale or delivery.

REPORTS AND RETURNS. The Department of Revenue may require any person dealing with cigarettes, in this state, to complete and return forms, as furnished, setting forth sales, inventory and other data required by the department to maintain control over trade in the articles taxed herein.

Manufacturers selling these articles shall, before the 15th day of each month, transmit to the Miscellaneous Tax Section a complete record of sales of cigarettes in this state during the preceding month.

REFUNDS. Any person may request a refund of the face value of the stamps, less the affixing discount when cigarettes to which they are affixed are:

1. Damaged, or unfit for sale, and as a result are destroyed or returned to the manufacturer or distributor.
2. Sold and shipped to a registered dealer regularly making sales of cigarettes in another state.

In either case, the claim for refund, (a form which is provided by the department, FORM REV 372063) must be accompanied by an affidavit, in the first instance, of the receipt by the manufacturer and, in the second instance, of the receipt by the buyer of cigarettes bearing stamps from this state.

~~((Revised))~~

AMENDATORY SECTION (Amending Order ET 78-4, filed 6/27/78)

WAC 458-20-18801 ~~((RULE 188))~~ PRESCRIPTION DRUGS, PROSTHETIC AND ORTHOTIC DEVICES, AND OSTOMIC ITEMS.

BUSINESS AND OCCUPATION TAX

The business and occupation tax applies to all sales of drugs, medicines, prescription lenses, or other substances used for diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment~~((:))~~, except that the business tax does not apply to:

- a. Sales of prescription drugs furnished as an integral part of services rendered by a hospital or other entity which meets all the conditions for exemption for services generally under RCW 82.04.4289 (see WAC 458-20-168); or
- b. Sales of prescription drugs furnished as an integral part of services rendered by a hospital as defined by chapter 70.41 RCW, when such hospital is operated by the United States government, the state, or a political subdivision of the state.

RETAIL SALES TAX

A deduction is allowed from gross retail sales for sales to patients of drugs, medicines, prescription lenses, or other substances, but only when

- a. dispensed by a licensed dispensary
- b. pursuant to a written prescription
- c. issued by a medical practitioner
- d. for diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment in humans.

This deduction does not apply to sales of food. Thus, dietary supplements or dietary adjuncts do not qualify for the deduction even though prescribed by a physician.

The retail sales tax does not apply to sales of prosthetic and orthotic devices prescribed by physicians, osteopaths, or chiropractors, nor to sales of ostomic items.

Sales claimed deductible under this rule must be separately accounted for. As proof of entitlement to the deduction, sellers must retain in their files the written prescription bearing the signature of the medical practitioner who issued the prescription and the name of the patient for whom prescribed. See also WAC 458-20-150, Optometrists, (~~Ophthalmologists~~) Ophthalmologists, and Oculists; WAC 458-20-151, Dentists, Dental Laboratories and Physicians; and WAC 458-20-168; Hospitals.

USE TAX

The use tax does not apply to the articles and products deductible for sales tax as specified herein.

DEFINITIONS:

1. Prescription means a formula or recipe or an order therefor written by a medical practitioner for the composition, preparation and use of a healing, curative or diagnostic substance, and also includes written directions and specifications by physicians or optometrists for the preparation, grinding, and fabrication of lenses intended to aid or correct visual defects of anomalies of humans.

2. Other substances means products such as catalytics, hormones, vitamins, and steroids, but the term does not include devices, (~~prostheses~~) instruments, equipment, (~~orthopedic appliances~~) and similar articles.

3. Food means any substance the chief general use of which is for human nourishment.

4. Medical practitioner means a person within the scope of RCW 18.64.011(9) who is authorized to prescribe drugs, but excluding veterinarians, and for the purposes of this rule includes also persons licensed by chapter 18.53 RCW to issue prescriptions for lenses.

5. Licensed dispensary means a drug store, pharmacy or dispensary licensed by chapter 18.64 RCW or a dispensing optician licensed by chapter 18.34 RCW.

~~((Revised April 28, 1978:~~

~~Effective July 1, 1978:))~~

6. Prosthetic devices are artificial substitutes which replace missing parts of the human body, such as a limb, bone, joint, eye, tooth, or other organ or part thereof, and materials which become ingredients or components of prostheses.

7. Orthotic devices are fitted surgical apparatus designed to activate or supplement a weakened or atrophied limb or function. They include braces, collars, casts, splints, and other specially fitted apparatus as well as parts thereof. Orthotic devices do not include durable medical equipment such as wheelchairs, crutches, walkers, and canes nor consumable supplies such as elastic stockings, arch pads, belts, supports, bandages, and the like, whether prescribed or not.

8. Ostomic items are medical supplies used by colostomy, ileostomy, and urostomy patients. These include bags, tapes, tubes, adhesives, deodorants, soaps, jellies, creams, germicides, and sundry related supplies.

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-224 (~~((RULE 224))~~) SERVICE AND OTHER BUSINESS ACTIVITIES. Chapter 82.04 RCW imposes a tax upon every person for the privilege of engaging in business in this state. Persons engaged in the (~~(following)~~) certain specifically named business activities are subject to a tax rate set out in the statute which is measured by value of products, gross sales or gross income, (~~(viz)~~) e.g.: Extracting, manufacturing, retailing, wholesaling, printing and publishing, and building and repairing of publicly owned streets and roads.

Persons engaged in any business activity, other than or in addition to those (~~(specifically above mentioned)~~) for which a specific rate is provided in the statute, are taxable under a classification known as Service and Other Business Activities, and so designated upon return forms. In general, it includes persons rendering professional or personal services to persons (as distinguished from services rendered to personal property of persons) such as accountants, aerial surveyors and map makers, agents, ambulances, appraisers, architects, assayers, attorneys, automobile brokers, barbers, baseball clubs, beauty shop owners, brokers, chemists, chiropractors, collection agents, community television antenna owners, court reporters, dentists, detectives, employment agents, engineers, financiers, funeral directors, garbage collectors, hospital owners, insurance agents and brokers, janitors, kennel operators, laboratory operators, landscape architects, lawyers, loan agents, music

teachers, oculists, orchestra or band leaders contracting to provide musical services, osteopathic physicians, physicians, real estate agents, school bus operators, school operators, stenographers, warehouse operators who are not subject to public utility tax, teachers, theater operators, undertakers, veterinarians, and numerous other persons.

It does not include persons engaged in the business of cleaning, repairing, improving, etc., the personal property of others, such as automobile, house, jewelry, radio, refrigerator and machinery repairmen, laundry or dry cleaners. Also, it does not include certain personal and professional services specifically included within the definition of the term "sale at retail" in RCW 82.04.050, such as amusement businesses (~~((golf, pool, billiards, bowling, skating, ski lifts and tows, golf driving ranges, miniature golf, shuffleboard, swimming facilities, trampolines, operation of charter boats for sport fishing, tennis facilities, dancing, badminton, croquet and handball courts, private fishing and archery))~~) (See WAC 458-20-183); abstract, title insurance and escrow businesses, credit bureau businesses and automobile parking and storage garage businesses. Furthermore, it does not include persons who render services to others in the capacity of employees as distinguished from independent contractors. (See WAC 458-20-105.)

BUSINESS AND OCCUPATION TAX

Persons engaged in any business activity, other than or in addition to those (~~(first herein specifically mentioned)~~) for which a specific rate is provided in chapter 82.04 RCW, are taxable under the Service and Other Business Activities classification upon gross income from such business.

Persons engaged in a public service business taxable under chapter 82.16 RCW (see WAC 458-20-179) are exempt from business tax under chapter 82.04 RCW with respect to such businesses.

RETAIL SALES TAX

The retail sales tax applies upon all sales of tangible personal property made to persons for use or consumption in performing a business activity which is taxable under the Service and Other Business Activities classification of chapter 82.04 RCW.

~~((Revised June 1, 1970:))~~

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-235 (~~((RULE 235))~~) EFFECT OF RATE CHANGES ON PRIOR CONTRACTS AND SALES AGREEMENTS. The term "retail sales tax" as used herein means the state sales tax of chapter 82.08 RCW as well as the local sales taxes of chapter 82.14 RCW. The following principles govern the applicability of changes in the rates of tax imposed under the Revenue Act with respect to contracts and sales agreements made prior to the effective date of the change:

When an unconditional contract to sell tangible personal property is entered into prior to the effective date of a rate change, and the goods are delivered after that date, the new rates will be applicable to the transaction. When an unconditional contract to sell tangible property is entered into prior to the effective date, and the goods are delivered prior to that date, the tax rates in effect for the prior period will be applicable.

When a contract to sell tangible personal property contains a specific provision to pass title at some time prior to delivery of the goods, such a specific provision will be deemed controlling and the tax rates in effect at that time will be applicable.

The retail sales tax and business and occupation tax due on conditional and installment sales must be wholly reported during the period in which the sale is made (See WAC 458-20-198), irrespective of the fact that the seller may elect to receive payment of the sales tax in installments. Therefore, sellers who receive installment payments after the effective date of a rate change on conditional and installment sales made prior to that date must collect the sales tax due on such installments at the rate applicable when the contract was written and the sale was made.

Lessors who lease tangible personal property are required to collect from their lessees the retail sales tax measured by the gross income from rentals as of the time the rental payments fall due (WAC 458-20-211). Lessors must collect the retail sales tax and pay the business and occupation tax at the new rates on all rental payments which fall due on and after the effective date of a rate change, including rental payments on leases entered into prior to that date.

Persons installing, repairing, cleaning, altering, imprinting or improving tangible personal property for others, or constructing, repairing, decorating or improving buildings or other structures upon the real property of others will collect retail sales tax and pay the business and occupation tax at the new rates with respect to all such services performed and billed on and after the effective date of a rate change. With respect to contracts requiring the above services or construction which were executed prior to the effective date of a change in rates, the new rates will be applicable to the full contract price unless the contract work is completed and accepted prior to the effective date. If, however, under the terms of the contract, the seller is entitled to periodic payments which amounts are calculated to compensate the seller for the work completed to the date of payment, the applicable tax rates upon such payments (including, in the case of public works contracts, the percentage retained by the public agency pursuant to the provisions of RCW 60.28.010) will be those in effect at the time the contractor becomes entitled to receive said payments.

Taxpayers filing returns on the cash basis (i.e., reporting charge sales at the time payment is received rather than at the time of sale) must make an accounts receivable adjustment (See WAC 458-20-199) at the time of a change in tax rates. For example, if a change of tax rate becomes effective July 1, a cash basis taxpayer should report along with the June cash receipts all accounts receivable outstanding as of June 30.

Intricate questions should be submitted in writing to the Department of Revenue for specific rulings.

((Revised June 1, 1970:))

AMENDATORY SECTION (Amending Order ET 75-1, filed 5/2/75)

WAC 458-20-100 ((~~RULE 100~~)) APPEAL PROCEDURES.

1. In any case of an account under audit where substantial agreement has not been reached between taxpayer and field auditor, the taxpayer is entitled to a preliminary conference with the auditor's immediate superior, the field audit unit supervisor, prior to finalization and submission ((~~to~~)) of the audit report. Such conference is informal in nature, and is intended to clarify the issues in dispute resolving them where possible, and in any event effecting agreement as to the facts and figures involved. In those cases where agreement cannot be reached at this level as to the tax interpretations applied, the report will be finalized and submitted to Olympia, from where, following review and approval of the recommendations of the report, an assessment will be issued.

2. Any person having been issued a notice of assessment of additional taxes, delinquent taxes, penalties or interest may petition the department of revenue in writing for a correction of the amount of the assessment and a conference for examination and review of the assessment. Petitions should be addressed: State of Washington, Department of Revenue, Interpretation and Appeals Division, Olympia, Washington ((~~98501~~)) 98504.

3. Under the law the petition must be received by the department of revenue within twenty days after the issuance of the original notice of the amount of the deficiency, or within the period covered by any extension of the due date granted by the department. An extension of thirty days in the due date of the assessment ((~~with~~)) may be granted if additional time is required for preparation of the appeal and such extension is requested prior to expiration of the twenty day period. If no petition is filed within these time periods, the assessment covered by the notice shall become final.

4. Petitions for correction of assessment shall be in writing, indicating which item or items are in question, and shall set forth the reasons why the correction should be granted and the amount of tax, or of interest and penalties, as the case may be, which the petitioner believes to be due.

5. Any person having paid any tax, original assessment or corrected assessment of any tax may apply to the department within the time limitation for refund provided in RCW 82.32.060, by petition in writing for a correction of the amount paid and a conference for examination and review of the tax liability.

6. Petitions for refund shall be in writing and shall set forth the amount of the tax believed to have been overpaid, the date of payment, the periods for which such tax was paid and the reasons why the petitioner believes that a refund should be granted.

7. Petitions for correction of assessment and petitions for refund may be granted or denied by the department of revenue. If the petition is denied, the petitioner shall immediately be notified by mail.

8. The department may grant a conference for review of such petitions, fixing the time and place therefor and notifying the petitioner by mail.

9. Such conferences will be conducted by ((~~a Hearing Officer~~)) an administrative law judge of the department of revenue, an employee especially trained in interpretation of the Revenue Act and the precedents established by prior departmental rulings and by the courts. Other departmental employees may be in attendance. The petitioner may appear personally or may be represented by an attorney, accountant or any other person competent to present his case. At the discretion of the department the conference may be scheduled before the director or an assistant director.

10. All conferences before the ((~~Hearing Officers~~)) administrative law judges will be conducted informally.

11. Conferences before ((~~Hearing Officers~~)) an administrative law judge will be held at district offices of the department of revenue, located so as to be as convenient as possible for the petitioner.

12. Following the conference, the ((~~Hearing Officer~~)) administrative law judge will make such determination as may appear to him just and lawful and in accordance with the rules, principles and precedents established by the department of revenue, and shall notify the taxpayer in writing of his decision.

13. The determination of the ((~~Hearing Officer~~)) administrative law judge shall be deemed to represent the official position of the department of revenue and shall be binding upon the taxpayer unless timely appealed.

14. If the petition was denied without a hearing or if the taxpayer believes that an error has been made in the determination of the ((~~Hearing Officer~~)) administrative law judge, he may, within twenty days after the date of the petition denial or of the determination, or within the period of any extension of the due date of the tax deficiency assessment, appeal in writing to the director of revenue for a review. The appeal shall indicate his reasons for thinking that the decision should be set aside.

15. The director shall decide whether or not the decision is in error and may grant or deny a conference. If denied, the taxpayer shall receive written notice of such determination. If a conference is granted, it shall be held before the director or an assistant director, shall be conducted informally, and shall be held at the departmental offices in Olympia. The determination of the director or an assistant director shall be transmitted to the taxpayer in writing and shall represent the final determination of the department of revenue.

16. Appeals from determinations of the department of revenue on petitions for correction of assessment and petitions for refund may be taken to the ((~~Fax Appeals~~)) Board of Tax Appeals pursuant to the rules of the board. Petitions for hearing before the Board of Tax Appeals ((~~Board~~)) must be filed with the ((~~Fax Appeals~~)) board and a copy thereof served upon the Interpretations and Appeals Division of the department within thirty days after final action by the department of revenue. A taxpayer filing a petition for correction of assessment with the Board of Tax Appeals ((~~Board~~)) must make payment of the assessment by the due date thereof unless arrangements are made with the department of revenue for a stay of collection pursuant to RCW 82.32.200. See WAC 458-20-228. This statute gives the department discretion to grant a stay upon the filing of a suitable bond in an amount up to twice the amount on which such a stay is requested along with satisfactory sureties to cover such amounts plus interest at the rate of 1% per month thereon for the duration of the requested stay. Upon the receipt of an offer of such a bond and sureties the department will grant a stay only upon a determination that to do so would be in the best interest of the state.

17. Any taxpayer having paid any tax and feeling aggrieved by the amount of the tax may appeal directly to the Superior Court of Thurston County within the time limitation for refund provided in chapter 82.32 RCW. (See RCW 82.32.180 for statutory requirements as to such appeals.)

18. Any taxpayer may ((~~petition~~)) make written request to the department of revenue for a ((~~prior determination~~)) written opinion and ruling of tax liability. Such ((~~petition~~)) a request shall contain all pertinent facts concerning the question presented and may contain a statement of the taxpayer's views concerning the correct application of the law. The department may ((~~grant or deny~~)) schedule a conference in respect to such ((~~petition~~)) a request, but shall advise the taxpayer in writing of its determination, and such determinations shall be binding upon both the taxpayer and the department under identical facts, and any future change in such determination shall have prospective application only.

19. All rules, determinations, orders, bulletins, and other similar interpretations of the law which have heretofore been issued by the Tax Commission and which are in effect June 30, 1967, shall be deemed to be interpretations by the department of revenue and shall be binding upon the department and on taxpayers to the same extent as if such interpretations had been made by the department of revenue.

((Revised Effective))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-196 ((~~RULE 196~~)) CREDIT LOSSES, BAD DEBTS, RECOVERIES.

BUSINESS AND OCCUPATION TAX

In computing business and occupation tax there may be deducted by taxpayers whose regular books of accounts are kept upon an accrual basis, the amount of business credit losses actually sustained, providing that such deduction will be allowed only with respect to transactions (~~upon~~) upon which a tax has been previously paid and providing that the amount thereof has not been otherwise deducted and that credits have not been issued with respect thereto.

Bad debt deductions must be taken by the taxpayer during the tax reporting period during which such bad debts were actually charged off on the taxpayer's books of account.

In cases where the amount of bad debts legitimately charged off in a particular reporting period exceeds the gross income for such period, the excess of the amount of the bad debts charged off during such period may be deducted from the gross income of the subsequent tax reporting period.

A dishonored (bad) check which proves to be uncollectible is a bad debt, to the extent it was taken as payment for goods or services on which business tax was previously reported and paid.

EXTRACTING OR MANUFACTURING, SPECIAL APPLICATION. Bad debt deductions will be allowed under the Extracting or Manufacturing classifications only when the value of products is computed on the basis of gross proceeds of sales.

RETAIL SALES TAX

~~((No deduction is allowed a taxpayer under the retail sales tax because of credit losses or bad debts, or repossessions of property sold under conditional sale contracts.))~~

A seller is entitled to a credit or refund for sales taxes previously paid on debts which are deductible, on and after January 1, 1983, as worthless for federal income tax purposes.

PUBLIC UTILITY TAX

In computing public utility tax credit losses may be deducted under the same conditions set out under the business and occupation tax. However, the special provisions set out for the Extracting and Manufacturing classifications are not applicable to the public utility tax.

METHODS OF DETERMINING CREDIT LOSSES. The amount of credit losses actually sustained must be determined in accordance with one of the following methods:

1. Specific charge-off method. The amount which is charged off within the tax reporting period with respect to debts ascertained to be worthless.

a. Worthlessness of a debt is usually evidenced when all the surrounding and attending circumstances indicate that legal action to enforce payment would result in an uncollectible judgment.

b. A "charge-off" of a debt, either wholly or in part, must be evidenced by entry in the taxpayer's books of account.

2. Reserve method. In the discretion of the Department of Revenue a reasonable addition to a reserve for bad debts will be authorized to taxpayers who charge off credit losses at the end of their taxable year but who desire to apportion such losses on a monthly basis.

a. This will be permitted, in lieu of the specific charge-off method, only to taxpayers who have established or are allowed by the Internal Revenue Service to use for Federal Income Tax purposes, the reserve method of treating bad debts, or who, upon securing permission from the department adopt that method.

b. What constitutes a reasonable addition to a reserve for bad debts must be determined in ((the)) light of the facts and will vary ((as)) between classes of business and with conditions of business prosperity. The addition to the reserve allowed as a deduction by the Internal

Revenue Service for Federal Income Tax purposes, in the absence of evidence to the contrary, will be presumed reasonable.

If the taxpayer actually determines and charges off bad debts on a tax reporting period basis, the amount so charged off each period shall be considered prima facie as a proper deduction for such period.

When bad debt losses are ascertained annually upon specific charge-off method, the deduction must be taken against the gross amount reported for the period in which the bad debts were actually charged off.

When the reserve method is employed in taking deductions for bad debts on returns and the amount of debts actually ascertained to be wholly or partially worthless and charged against the reserve account during the taxable year and reported do not agree with the amount of reserve set up therefor, adjustment of the amount of loss deducted shall be made to make the total amount claimed for the tax year coincide with the amount of loss actually sustained.

RECOVERIES. Amounts subsequently received on account of a bad debt or on account of a part of such debt previously charged off and allowed as a deduction for business tax purposes, must be included in gross proceeds of sales (including value of products when measured by gross proceeds of sales) or gross income of the business reported for the taxable period in which received. This is true even though the recoveries during such period exceed the amount of the bad debt charge-off.

((Revised March 1, 1954.))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-198 CONDITIONAL AND INSTALLMENT SALES, METHOD OF REPORTING.

BUSINESS AND OCCUPATION TAX

Persons making conditional sales or other installment sales of tangible personal property must report the total selling price of such sales in the tax reporting period in which the sale is made.

A deduction from gross proceeds of sales as a credit loss is allowed to such sellers for the amount of the unpaid balance of the contract price on any installment sale if and when the property purchased is repossessed upon default by the buyer.

RETAIL SALES TAX, USE TAX

Persons making conditional sales or other installment sales of tangible personal property must report the total selling price of such sales in the tax period in which the sale is made.

The foregoing is true irrespective of the fact that such sellers arrange to receive payment of tax in installments or that a contract may be discounted or pledged with or sold to a finance company. In the latter case, although as a part of the agreement with the seller the finance company actually makes collection of the tax from the buyer as the installments fall due, the finance company should not report to the department of revenue the amount of tax collected since the total tax already has been reported by the seller.

~~((No deduction for credit losses in case of repossessions is allowed under the retail sales tax or use tax.))~~

Revised July 1, 1956.

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-199 ACCOUNTING METHODS. In computing tax liability under the business and occupation tax and the retail sales tax, one of the following accounting methods should be used. The amount reported under the retailing classification under the gross amount must be the same under the business and occupation tax and the retail sales tax.

Persons making taxable and nontaxable sales of tangible personal property must segregate such sales for the purpose of computing tax liability.

METHOD ONE, CASH BASIS. Only persons engaged in a strictly cash business will be permitted to make returns on a cash receipts basis. Certain small businesses which occasionally make a sale without receiving cash and which do not keep any file, record or general ledger account of such sales may be considered as doing a cash business, providing the volume of such sales never exceeds 5% of the gross volume of business. Under this method it is not necessary to make any adjustment at the end of the year with respect to accounts receivable.

~~((Such businesses are not entitled to any bad debt deductions. (See WAC 458-20-196.))~~

METHOD TWO, ACCRUAL BASIS. Persons operating their business on the accrual basis must report under the business and occupation tax and the retail sales tax for each tax reporting period the gross proceeds from all cash sales made during such period, together with the total amount of charge sales during such period. ~~((No deduction is allowed under the retail sales tax on account of bad debts arising from such charge sales.))~~

METHOD THREE, CASH RECEIPTS, ACCOUNTS RECEIVABLE ADJUSTMENT. Persons doing a charge business who do not record such charges as sales at the time the sale is made may report for tax purposes under method three.

Persons may report and pay the tax on the amount received as cash sales plus all cash received on accounts during each period. If this method is adopted, an adjustment shall be made at the end of the calendar year to add to cash received the amount of accounts receivable at the end of the year (not previously reported) to be reported along with cash receipts. A statement should accompany the return indicating the amount of accounts receivable so added. A deduction may be taken on subsequent returns filed in periods when cash is received upon accounts receivable so reported. Such receipts should be included in column 2 (gross amount) and then listed as a deduction in column 3 of the excise tax return and explained on the reverse of the return as "cash received upon accounts receivable reported as of December 31, 19..."

Persons engaged in service business activities who are not liable for the collection of the retail sales tax are not required to adjust accounts receivable at the end of the tax year.

Where bad debts are charged off during any taxable year the amount thereof must be added to the accounts receivable outstanding at the end of the year before making adjustments provided for in method three.

~~((Revised June 1, 1965.))~~

WSR 83-04-063
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed February 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning chapter 458-20 WAC which includes retail sales and use tax, business and occupation tax, public utility tax, cigarette tax, tobacco products taxes, and conveyance taxes;

that the agency will at 8:30 a.m. - 11:30 a.m., Wednesday, March 9, 1983, in the Revenue Conference Room, 415 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 15, 1983.

The authority under which these rules are proposed is RCW 82.32.300.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 9, 1983.

Dated: February 2, 1983

By: Jodi Johnson

Administrative Assistant

for Don R. McCuiston, Director
Tax Rules, Interpretation and Appeals Division

STATEMENT OF PURPOSE

The statutory authority for adopting the following rules is RCW 82.32.300.

The Agency Personnel Responsible for Drafting and Implementation: Don R. McCuiston, 415 General Administration Building, Olympia, Washington 98504, Telephone: 753-5525; Enforcement: Department of Revenue, 415 General Administration Building, Olympia, Washington 98504, Telephone: 753-5540.

Title: WAC 458-20-102 Resale Certificates.

Purpose: (1) "Without intervening use by me" is added to conform with statute RCW 82.04.050. (2) To eliminate restriction that resale must be at nonresident's place of domicile. (3) To emphasize that only farmers who sell at wholesale only are not required to register, and are not subject to retail sales tax on their purchases for sale at wholesale of products produced by the items bought. (4) To eliminate restriction in purchases for dual purposes that articles resold must be at retail. The articles resold can be at wholesale. This rule is intended to implement RCW 82.04.050, 82.04.330 and 82.04.470. Reasons supporting this are: (1) To emphasize "no intervening use" or otherwise retail sales tax applies. (2) To recognize that nonresident buyer may be reselling from his place of business which does not coincide with his place of domicile. (3) To recognize that farmer who sells at retail must register and give registration number in the resale certificate. (4) To recognize that reseller might be also reselling at wholesale the article purchased for dual purpose.

Title: WAC 458-20-104 Exemptions—Volume of Business.

Purpose: To revise upwards the minimum amounts for the reporting period before tax consequences ensue. This rule is intended to implement RCW 82.04.300, 82.04.310, 82.16.040, 82.16.060 and 82.16.070. To conform with revision of RCW 82.04.300 effective 1979 revising upward the minimum amounts for reporting periods.

Title: WAC 458-20-106 Casual or Isolated Sales; Business Reorganizations.

Purpose: (1) To use WAC 458-20-101 instead of designation of "Rule 101" and (2) to eliminate reference to non-applicability of retail sales tax to certain specified sales. This rule is intended to implement RCW 82.08.0251, 82.04.040, 82.08.040, 82.12.020 and 82.12.040. (1) To make uniform and specific the designation of the rule and regulation; and (2) to eliminate use of a broadly worded reference which has vagueness.

Title: WAC 458-20-107 Selling Price, Gross Proceeds of Sales, Trade-ins, Warranties.

Purpose: (1) To add "warranties for discussion" in the rule as to tax consequences. (2) To cover a "barter" transaction as to selling price involved. (3) To detail the tax consequences arising from the sale of warranty or service contracts and the repair work performed thereunder. This rule is intended to implement RCW 82.04.050, 82.04.070, 82.04.090, 82.04.290 and 82.08.010. (1) To clarify taxability of warranties and service contracts which has been widely misunderstood. (2) To clarify

taxability of barter transactions, a growing practice in tax evasion. (3) same as (1).

Title: WAC 458-20-108 Returned Goods, Allowances, Cash Discounts.

Purpose: To clarify when sale is made "upon a sale or return basis" instead of "upon a sale and return basis." This rule is intended to implement RCW 82.04.040, 82.04.160 and 82.08.010. "Sale or return" basis is close to a sale upon approval with right of buyer to return the goods. Negates tax consequences. "Sale and return" basis can be interpreted that sale was finalized and buyer did not have goods on approval or vested right to return goods. Vagueness results.

Title: WAC 458-20-112 Value of Products.

Purpose: To eliminate exclusion of transportation costs from gross proceeds of sales and to mandatorily include the transportation costs. This rule is intended to implement RCW 82.04.070, 82.04.130, 82.04.210, 82.04.230, 82.04.240, 82.04.260 and 82.04.450. Definition of "gross proceeds of sales" allows no deduction for delivery costs (transportation costs). Since value of products is determined by gross proceeds of sales, transportation costs should not be deductible even if delivery is outside of this state. Transportation costs inside the state may be higher than a short distance delivery out of state.

Title: WAC 458-20-116 Labels, Name Plates, Tags, Premiums and Advertising Matter.

Purpose: (1) To eliminate "all other" as unnecessary. (2) To add "articles" as to which labels, etc. may be attached. (3) To add "sold by them" and thereby be more specific. (4) To specify tax consequences of labels, etc. retained and not sold. This rule is intended to implement RCW 82.04.040, 82.04.050 and 82.04.190. (1) "All other" is not necessary and may confuse in that there are other types of labels, etc. (2) Label, etc. may be attached to articles as well as containers and such restriction is not valid. (3) Negates interpretation that merely attaching labels, etc. is a sale at retail. (4) Enlarges on tax consequences applicable to labels, etc.

Title: WAC 458-20-118 Sale or Rental of Real Estate, License to use Real Estate.

Purpose: (1) To add "sale or" in order to enlarge on application of rule to transactions involving real estate. (2) To specify that interest received on time or installment contracts by persons engaged in the business of selling real estate is not exempt from taxation. This rule is intended to implement RCW 82.04.050, 82.04.080, 82.04.255, 82.04.290 and 82.04.390. (1) Rule discusses sale of real estate and same should be in title of rule. (2) Person engaged in business of selling real estate is taxable on gross income. Gross income include interest. The taxability of such interest is specified.

Title: WAC 458-20-121 Sales of Heat.

Purpose: To clarify that the sale of heat, no matter how generated, is the service provided, and taxable as such. This rule is intended to implement RCW 82.04.220 and 82.04.290. Persons engaged in the business of operating a plant for production, extraction or storage of heat for distribution are not subject to the public utility

tax. But they are engaged in a business activity and thus taxable under service and other business activities classification. Heat is the service provided and use of the term "steam" was too restrictive to express the taxable service.

Title: WAC 458-20-123 Public and Lending Libraries.

Purpose: To refer tax liability of public libraries for business and occupation tax to WAC 458-20-189. This rule is intended to implement RCW 82.04.050, 82.04.250 and 82.08.030(3). Public libraries are in fact subject to provisions of business and occupation tax. WAC 458-20-123 is now corrected.

Title: WAC 458-20-124 Restaurant, Soda Fountains, Cocktail Bars, Beer Parlors, Etc.

Purpose: To add provisions already stated in Rule 119 and related now as applicable to the subject businesses in the title. This rule is intended to implement RCW 82.04.050, 82.04.070, 82.04.250, 82.08.020 and 82.08.010. The provisions added will make this rule more inclusive of the tax consequences applicable to the subject businesses in the title without reference to other rules.

Title: WAC 458-20-125 Miscellaneous Sales for Farm Use.

Purpose: To require seller to take from the purchaser a certificate as evidence of entitlement to the sales tax exemption upon sale of purebred animals sold for breeding purposes. This rule is intended to implement RCW 82.08.0259. The same exemption certificate is intended to show that (1) the animal is registered with a breeding association and (2) the animal is being purchased for breeding purposes. It is hoped that the use of this certificate will discourage claims of entitlement to this exemption by persons who do not qualify (e.g., persons not engaged in the business of breeding thoroughbred horses who purchase registered horses solely for the purpose of racing them).

Title: WAC 458-20-126 Sales of Motor Vehicle Fuel and Special Fuels.

Purpose: To reflect enactment of RCW 82.38.075 which allows payment of an annual fee by users of non-pollutant fuel (including liquid and gaseous propane) in lieu of motor vehicle tax which would otherwise be due. This rule is intended to implement RCW 82.08.0255. The department recognizes the in lieu of fee provided in RCW 82.38.075 is merely an alternative method of payment of the tax imposed by chapter 82.38 RCW. Thus, the retail sales tax does not apply to sales of nonpollutant fuel that is dispensed into the tank of a motor vehicle bearing a decal or other identifying device showing payment of the in lieu of fee. Purchasers of nonpollutant fuel who are registered with the department and who take deliveries into bulk storage facilities are directed to contact the department for specific instructions.

Title: WAC 458-20-127 Magazines and Periodicals.

Purpose: To effect minor changes in language. This rule is intended to implement RCW 82.08.020. New language is necessary to clarify that only sales to newsstands or stores which are sales for resale are exempt from retail sales tax. Out-of-date reference to WAC

458-20-193 is deleted. Statutory reference for newspaper exemption is amended to reflect re-codification – former RCW 82.08.030(3) is new RCW 82.08.053. Reference to WAC 458-20-143 definition of "newspaper" is included.

Title: WAC 458-20-128 Real Estate Brokers and Salesmen.

Purpose: To effect minor changes in language. This rule is intended to implement RCW 82.04.255. Reference to "chapter 252, Laws of 1941 as amended" is deleted, "chapter 18.85 RCW" being an adequate description of the intended legislation. Reference to "chapter 82.04 RCW" is replaced by "RCW 82.04.255" in order to specify the precise section involved.

Title: WAC 458-20-130 Sales of Real Property, Standing Timber, Mineral, Natural Resources.

Purpose: To add language in aspects of real estate transactions which are taxable and to delete language on conveyance tax which is separately treated in WAC 458-20-184. This rule is intended to implement RCW 82.04.390. New language is a codification of the department's uniform determinations that the exemption afforded by RCW 82.04.390 does not apply to (1) mere licenses to use real estate; (2) commissions received in connection with sales of real estate; or (3) interest received by persons engaged in the business of selling real estate on time or installment contracts. The language on conveyance tax is deleted as it is redundant – the topic is adequately covered in WAC 458-20-184.

Title: WAC 458-20-131 Merchandising Games, Games of Chance and Concessionaires.

Purpose: To effect minor changes in language. This rule is intended to implement RCW 82.04.230, 82.04.290 and 82.08.020, generally. The term "hickey" is deleted. It is a colloquialism with various definitions, non of which seem particularly relevant to the context in which the term appears in the June 1, 1970, revision.

Title: WAC 458-20-132 Automobiles for Demonstration Purpose.

Purpose: To include three-quarter ton pickup trucks within the category of vehicles upon which use tax liability may be calculated by reference to the demonstrator use tax computation formula, and to include lease transactions within retail sales for the purposes of this computation. This rule is intended to implement RCW 82.12.020. The department deems it more administratively convenient to allow dealers to include 3/4 ton pickup trucks within the classification "passenger car or pickup truck," than to require dealers to account separately for use tax due on the use of such vehicles for demonstration purposes. The department recognized the increased incidence of leases of passenger cars and pickup trucks and deems it appropriate to treat lease transactions as retail sales for the purpose of the demonstration use tax computation.

Title: WAC 458-20-135 Extracting Natural Products.

Purpose: Includes a 4th example of extractive activity: Construction of logging roads on federal or state land in

connection with timber contracts, whether as an extractor for hire. Corrective language is added to show that the hauling for hire of logs or other forest products exclusively upon private roads is a service activity. New language explaining the forest excise tax is included. Finally, new language is included to the effect that persons constructing roads on state or federal land in connection with timber contracts are subject to use tax on construction materials upon which retail sales tax has not been paid. This rule is intended to implement chapter 84.33 RCW, RCW 82.04.190(3) and 82.04.290. The 4th example of extractive activity gives effect to the ruling in Peshastin Lumber and Box, Inc. v. State, 61 W2d 413, and Lyle Wood Products v. Dept. of Rev., 91 W2d 193. Reclassification of hauling logs and other forest products exclusively upon private roads as a service activity codifies uniform determination of the department. New language explaining the forest excise tax is appropriately included in this regulation. New language clarifies that persons engaged in activity described in 4th example are consumers, thus liable for use tax on materials used unless retail sales tax has previously been paid.

Title: WAC 458-20-137 Articles Manufactured and Installed.

Purpose: To expand reference to persons engaged in the business of manufacturing in this state, boilers, etc.; to include persons who "sell and install such articles after manufacture." This rule is intended to implement RCW 82.04.250, 82.04.270 and 82.04.440. The specific examples contemplate the sale and installation of manufactured goods whereas the preface of the 1950 revision refers only to manufacturers who "install such articles" The additional language will correct this discrepancy.

Title: WAC 458-20-140 Photofinishing and Photographers.

Purpose: To add a section under B&O tax entitled "manufacturing" covering production negatives, prints or slides in Washington for transfer or delivery to points outside this state, and to add a section entitled "processing for hire" covering the developing of film for others where delivery is made to points outside this state. This rule is intended to implement RCW 82.04.240. These taxable business activities were omitted from the 1954 revision. Their inclusion here negates the argument that their omission constitutes an acknowledgment that the activities are not taxable under the doctrine *inclusio unius est exclusio alterius* (the inclusion of one is the exclusion of another).

Title: WAC 458-20-141 Duplicating Industry and Mailing Bureaus.

Purpose: To clarify that charges for stamps, government postals and stamped envelopes may be deducted from the measure of the business and occupation and retail sales taxes only when the postage was paid for a customer. This rule is intended to implement RCW 82.04.250 and 82.08.020. The department recognizes that mailing bureaus often purchase stamps, government postals and stamped envelopes on its customer's behalf for the purpose of mailing materials to the addressees as a

convenience to the customer. Mailing bureaus may deduct their recoupment for such expenses from the measure of the B&O and retail sales tax; postage incurred for any other purpose (i.e., which is not for a customer) is not deductible.

Title: WAC 458-20-142 Photographic Equipment and Supplies.

Purpose: To delete surplus language. Rule is intended to implement RCW 82.08.020. The 1947 revision declares that the retail sales tax applies to sales of photographic film to portrait and commercial photographers for use in their business, "since in such business negatives ordinarily remain the property of the photographer." The quoted language carries the implication that the retail sales tax would not apply if the negatives became the property of the customer, which is incorrect because the film is subjected to intervening use by the photographer.

Title: WAC 458-20-143 Publishers of Newspapers, Magazines, Periodicals.

Purpose: To delete reference to "racing forms" as an example of a publication subject to the retail sales tax. To include "negatives and plates used in offset printing" as an example of consumables subject to the retail sales tax. This rule is intended to implement RCW 82.08.0253 and 82.13.020[82.08.020]. Deleting of "racing forms" will eliminate confusion from apparent contradiction with 1965 tax commission order which held that the "daily racing form" was as "newspaper" and thus not subject to the retail sales tax. Negatives and plates used in offset printing are subject to the retail sales tax because they do not become a part of the finished publication, and it is immaterial that the plates may be sold ultimately to the publisher or client because the intervening use gives rise to use tax liability.

Title: WAC 458-20-148 Beauty Shops.

Purpose: To specifically state that styling wigs and hairpieces are subject to retailing business and occupation tax and retail sales tax. This rule is intended to implement RCW 82.04.050 and 82.08.010(5). To eliminate confusion regarding styling a person's hair as opposed to a wig or hairpiece.

Title: WAC 458-20-150 Optometrists, Ophthalmologists, and Oculists.

Purpose: To state that fitting or adjusting prescription lenses is a professional service subject to business and occupation tax under the classification service and other business activities and not subject to sales tax when separately stated. This rule is intended to implement RCW 82.08.0281 and 82.12.0275. To clarify current rule provisions.

Title: WAC 458-20-113 Ingredients or Component, Chemicals used in Processing New Articles for Sale.

Purpose: To bring the administrative rule into conformance with the statute it implements, which is RCW 82.04.050. The Washington Supreme Court ruled in Lone Star Industries v. Department of Revenue, 97 W2d 630 (1982) that WAC 458-20-113, June 1, 1970, revision, was "infirm" because its scope was extended beyond that intended by the statutory definition of a retail

sale. This proposed action brings the rule into compliance with the court's decision and properly implements the statute.

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-102 (~~(RULE 102)~~) RESALE CERTIFICATES. Except as hereinafter noted, all sales are deemed to be retail sales unless the seller takes from the buyer a resale certificate signed by and bearing the registration number and address of the buyer, to the effect that the property purchased is:

1. For resale in the regular course of business, or
2. To be used as an ingredient or component part of a new article of tangible personal property to be produced for sale, or
3. A chemical to be used in processing an article to be produced for sale.

When a vendor receives and accepts in good faith from a purchaser a resale certificate as described in this rule, the vendor is relieved of liability for retail sales tax with respect to the transaction. When a vendor has not secured such a resale certificate he is personally liable for the tax due unless he can sustain the burden of proving (1) that the property was sold for one of the three purposes set forth above and (2) that the purchaser was eligible to give a bona fide resale certificate under the provisions of this rule.

Any purchaser who fraudulently signs a resale certificate with intent to avoid payment of tax is guilty of a gross misdemeanor.

No prescribed form of resale certificate is required. Any written statement to the effect that the tangible personal property is purchased for resale signed by and bearing the name, address, and registration number of the buyer is sufficient. Such statement may be written or stamped upon the purchase order or may be upon a separate paper. It should be in substantially the following form:

"I hereby certify that this purchase is for resale without intervening use by me in the regular course of business, or is to be used as an ingredient or component part of a new article of tangible personal property to be produced for sale, or is a chemical to be used in processing an article to be produced for sale.

Registration No. Name as Registered

Firm Name Address

Type of Business

Authorized Signature

Title Date"

Blanket resale certificates may be given in advance by known wholesalers, jobbers or retailers. These certificates should be substantially in the following form:

"I hereby certify that all the tangible personal property which I will purchase from will be purchased for resale in the regular course of business without intervening use by me, or for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property of which the property purchased will be an ingredient, or a chemical used in processing the same. This certificate shall be considered a part of each order which I may hereafter give to you, unless otherwise specified, and shall be valid until revoked by me in writing.

Registration No. Name as Registered

Firm Name Address

Type of Business

Authorized Signature

Title Date"

Blanket resale certificates remain valid only so long as the registration number shown thereon has not been cancelled or revoked. Therefore, blanket resale certificates must be renewed whenever a change occurs in the ownership of a purchaser's business and a new Certificate of Registration is required. All blanket resale certificates must be renewed at intervals not to exceed four years.

EXCEPTION AS TO NONRESIDENT BUYERS. In case the purchaser is a nonresident who is not engaged in business in this state, but buys articles here for the purpose of resale in his regular course of business outside this state, the seller should take from such a purchaser a resale certificate substantially in the above form, omitting a registration number, but including a statement to the effect that the articles

purchased are for resale by him in his regular course of his business ~~((at the place of his domicile))~~.

EXCEPTION AS TO FARMERS. The word "farmer" as used in this rule means any person engaged in the business of growing or producing for sale at wholesale upon his own lands, or upon lands in which he has a present right of possession, any agricultural or horticultural product or crop, including the raising for sale of any animal, bird or insect or the milk, eggs, wool, fur, meat, honey or other substance obtained therefrom. It does not mean a person raising any animal, agricultural or horticultural product primarily for his own use or consumption, nor does it mean any person ~~((in respect to the))~~ dealing in livestock ~~((primarily))~~ as an operator of a stockyard, slaughter house, or packing house.

Farmers who do not sell at retail are not required to register. Sales of feed, seed, fertilizer, and spray materials to farmers for the purpose of producing for sale any agricultural product whatsoever are not subject to the retail sales tax. Farmers ~~((also))~~ who purchase livestock for the purpose of fattening and later reselling the same ~~((and such sales))~~ are making purchases at wholesale ~~((sales and))~~ not subject to the retail sales tax. Upon sales of any such articles to farmers (including farmers operating in other states), the seller should take from the farmer a resale certificate showing the farmer's name and address and a statement to the effect that his purchase of feed, seed, fertilizer, spray materials is made for the purpose of producing for sale at wholesale an agricultural product, or that his purchase of livestock is made for the purpose of resale. (For sales to farmers of feed, seed, fertilizer and spray materials, see WAC 458-20-122.)

PURCHASES FOR DUAL PURPOSE. It may happen that a buyer normally is engaged in both consuming and reselling certain types of articles of tangible personal property and is not able to determine at the time of purchase whether the particular property acquired will be consumed or resold. In such cases, the buyer should purchase according to the general nature of his business; that is, if principally he consumes the articles in question, he should not give a resale certificate for any portion thereof, but if, on the other hand, he principally resells ~~((at retail))~~ such articles, he may sign a resale certificate for the whole amount of his purchases.

If the buyer gives a resale certificate for all purchases and thereafter consumes some of the articles purchased, he must set up in his books of account the value thereof and remit to the Department of Revenue the deferred sales tax payable thereon. Such tax should be reported on Form 2406 under use tax.

On the other hand, if the buyer has not given a resale certificate but has paid tax on all purchases of such articles and subsequently resells at retail a portion thereof, he must, nevertheless, collect the tax from the purchaser and report such sales in making his tax returns. However, in such case, the buyer may take a deduction on his return representing his cost of the property thus resold on which sales tax was paid.

Such deduction shall be designated as "Resale Purchases on Which Tax Was Paid" and listed under sales tax deductions on the back of the tax return form. Claim for deduction will be allowed only if the taxpayer keeps and preserves records in support thereof which show the names of the persons from whom such articles were purchased, the date of the purchase, the type of articles, the amount of the purchase and the tax which was paid. (See WAC 458-20-174, 458-20-175 and 458-20-176 for exemption certificates concerning certain sales made to persons engaged in interstate or foreign commerce or in deep sea fishing operations.)

~~((Revised June 1, 1970:))~~

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-104 ~~((RULE 104))~~ EXEMPTIONS—VOLUME OF BUSINESS.

BUSINESS AND OCCUPATION TAX

Persons subject to the business and occupation tax are exempt from the payment of this tax for any reporting period in which the taxable amount reported under the combined total of all business and occupation tax classifications does not equal or exceed the minimum taxable amount for the reporting periods assigned to such persons, according to the following schedule.

Monthly reporting basis	\$(300)) <u>1,000</u> per month
Quarterly reporting basis	\$(900)) <u>3,000</u> per quarter
Annual reporting basis	\$(3,600)) <u>12,000</u> per annum

When the taxable amount for a reporting period equals or exceeds the minimum taxable amount, tax must be paid on the full taxable amount and no deduction or offset is allowed for the amount of the minimum. The deduction for minimum taxable amounts is applicable to taxable amounts for the entire reporting period, regardless of the fact that the business may not have been operated during the entire period.

RETAIL SALES TAX

No exemption from tax is allowed under the retail sales tax to any person engaged in the business of making taxable retail sales by reason of the volume of such sales.

PUBLIC UTILITY TAX

Persons subject to the public utility tax are exempt from the payment of this tax for any reporting period in which the taxable amount reported under the combined total of all public utility tax classifications does not equal or exceed the minimum taxable amount for the reporting periods assigned to such persons, according to the following schedule.

Monthly reporting basis	\$500 per month
Quarterly reporting basis	\$1,500 per quarter
Annual reporting basis	\$6,000 per annum

(See subhead Business and Occupation Tax, above, for limitations which apply equally to public utility tax.)

~~((Revised April 1, 1959:))~~

AMENDATORY SECTION (Amending Order ET 75-1, filed 5/2/75)

WAC 458-20-106 ~~((RULE 106))~~ CASUAL OR ISOLATED SALES—BUSINESS REORGANIZATIONS. A casual or isolated sale is defined by RCW 82.04.040 as a sale made by a person who is not engaged in the business of selling the type of property involved. Any sales which are routine and continuous must be considered to be an integral part of the business operation and are not casual or isolated sales.

Furthermore, persons who hold themselves out to the public as making sales at retail or wholesale are deemed to be engaged in the business of selling, and sales made by them of the type of property which they hold themselves out as selling, are not casual or isolated sales even though such sales are not made frequently.

In addition the sale at retail by a manufacturer or wholesaler of an article of merchandise manufactured or wholesaled by him is not a casual or isolated sale, even though he may make but one such retail sale.

BUSINESS AND OCCUPATION TAX

The business and occupation tax does not apply to casual or isolated sales.

RETAIL SALES TAX

The retail sales tax applies to all casual or isolated retail sales made by a person who is engaged in the business activity; that is, a person required to be registered under ~~((Rule 101 [WAC 458-20-101]))~~ WAC 458-20-101. Persons not engaged in any business activity, that is, persons not required to be registered under ~~((Rule 101 [WAC 458-20-101]))~~ WAC 458-20-101, are not required to collect the retail sales tax upon casual or isolated sales.

However, persons in business as selling agents who are authorized, engaged or employed to sell or call for bids on tangible personal property belonging to another, and so selling or calling, are deemed to be sellers, and shall collect the retail sales tax upon all retail sales made by them. The tax applies to all such sales even though the sales would have been casual or isolated sales if made directly by the owner of the property sold.

~~((NOTE: Retail sales tax does not apply to certain specified sales whether or not casual or isolated. See RCW 82.08.030.))~~

A transfer of capital assets to or by a business is deemed not taxable to the extent the transfer is accomplished through an adjustment of the beneficial interest in the business. The following examples are instances when the tax will not apply.

1. Transfers of capital assets between a corporation and a wholly-owned subsidiary, or between wholly-owned subsidiaries of the same corporation.

2. Transfers of capital assets by an individual or by a partnership to a corporation, or by a corporation to another corporation in exchange for capital stock therein.

3. Transfers of capital assets by a corporation to its stockholders in exchange for surrender of capital stock.

4. Transfers of capital assets pursuant to a reorganization under 26 USC Section 368 of the Internal Revenue Code, when capital gain or ordinary income is not realized.

5. Transfers of capital assets to a partnership or joint venture in exchange for an interest in the partnership or joint venture; or by a partnership or joint venture to its members in exchange for a proportional reduction of the transferee's interest in the partnership or joint venture.

6. Transfer of an interest in a partnership by one partner to another; and transfers of interests in a partnership to third parties, when one or more of the original partners continues as a partner, or owner.

The burden is upon the taxpayer to establish the facts concerning the adjustment of the beneficial interest in the business when exemption is claimed.

USE TAX

The use tax applies upon the use of any property purchased at a casual retail sale without payment of the retail sales tax, unless exempt by law. Uses which are exempt from the use tax are set out in RCW 82.12.030.

Where there has been a transfer of the capital assets to or by a business, the use of such property is not deemed taxable to the extent the transfer was accomplished through an adjustment of the beneficial interest in the business, provided, the transferor previously paid sales or use tax on the property transferred. (See the exempt situations listed under the Retail Sales Tax subdivision of this rule.)

((Revised))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-107 (~~((RULE 107))~~) SELLING PRICE, GROSS PROCEEDS OF SALES, TRADE-INS, WARRANTIES. "The term 'selling price' means the consideration, whether money, credits, rights, or other property, expressed in the terms of money, paid or delivered by a buyer to a seller, all without any deduction, on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes or any other expenses whatsoever paid or accrued and without any deduction on account of losses." (RCW 82.08.010.)

"The term 'gross proceeds of sales' means the value proceeding or accruing from the sale of tangible personal property . . . without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses." (RCW 82.04.070.)

When tangible personal property is rented or leased, the "selling price" includes all charges to the renter or lessee for the use of the property rented or leased, including charges designated as insurance, interest and other costs recovered stated separately from the regular rental fee. When tangible personal property is rented or leased under circumstances that the consideration paid does not represent a reasonable rental for the use of the articles so rented or leased, the "selling price" must be determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character. In cases of doubt, all of the pertinent facts should be submitted to the Department of Revenue for an advisory determination.

The terms "selling price" and "gross proceeds of sales" include items of cost which are the direct obligation of the seller but which he may invoice separately to his customer. Examples of such costs are the cost of the contractor's performance bond, the cost of city or state business and occupation taxes or public utility taxes, the cost of insurance protecting the seller and the cost of freight in. The selling price can be payable in money or otherwise. If it is payable in whole or in part in property, each party is a seller of the property he is to transfer.

TRADE-INS. The selling price or gross proceeds of sales includes the full consideration whether in money or property or both expressed in terms of money. If traded-in property is subsequently resold at retail, the retail sales tax must be collected on the selling price thereof and the amount of such selling price must be reported by the seller as gross proceeds of sales.

To illustrate: An automobile is sold at retail for \$1,000.00. The purchaser pays \$600.00 in cash and is allowed \$400.00 as the trade-in value of a used automobile. The selling price, upon which the sales tax

must be collected and the amount to be reported as gross proceeds of sales, is \$1,000.00. If the automobile traded in is later sold for \$500.00 the sales tax must be collected on such selling price, and the amount of such selling price must be reported as gross proceeds of sales.

In some industries it is customary to quote the purchaser an "exchange" price, i.e., a reduced price quoted in the expectation that the purchaser will trade in, or "exchange" a used article of the same type. In such case the selling price is the exchange price plus the value of the article exchanged.

((Revised June 1, 1970:))

WARRANTY OR SERVICE CONTRACTS. When a warranty or service contract is sold along with a sale of tangible personal property the entire charge is taxable as gross proceeds from the sale of tangible personal property. However, the sale of a warranty or service contract by itself is a transaction subject to business tax under the service classification upon gross income therefrom. A person performing repair work pursuant to a warranty or service contract is taxable as a retailer or wholesaler upon amounts received for performance of such work, including amounts received from another who may have sold the warranty or service contract and amounts received from the owner of the property. If the repairman himself issued the warranty or service contract, he is taxable as a retailer or wholesaler upon any additional amounts received at the time repair work is done. The sale of a maintenance contract which calls for regular or periodic maintenance, repair, or adjustment of tangible personal property is taxable as a retail or wholesale sale, as the case may be.

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-108 (~~((RULE 108))~~) RETURNED GOODS, ALLOWANCES, CASH DISCOUNTS. When a contract of sale is made subject to cancellation at the option of one of the parties or to revision in the event the goods sold are defective or if the sale is made subject to cash or trade discount, the gross proceeds actually derived from the contract and the selling price are determined by the transaction as finally completed.

RETURNED GOODS. When sales are made either upon approval or upon a sale (~~and~~) or return basis, and the purchaser returns the property purchased and the entire selling price is refunded or credited to the purchaser, the seller may deduct an amount equal to the selling price from gross proceeds of sales in computing tax liability, if the amount of sales tax previously collected from the buyer has been refunded by the seller to the buyer. If the property purchased is not returned within the guaranty period as established by contract or by customs of the trade, or if the full selling price is not refunded or credited to the purchaser, a presumption is raised that the property returned is not returned goods but is an exchange or a repurchase by the vendor.

To illustrate: S sells an article for \$60.00 and credits his sales account therewith. The purchaser returns the article purchased within the guaranty period and the purchase price and the sales tax theretofore paid by the buyer is refunded or credited to him. S may deduct \$60.00 from the Gross Amount reported on his tax return.

DEFECTIVE GOODS. When bona fide refunds, credits or allowances are given within the guarantee period by a seller to a purchaser on account of defects in goods sold, the amount of such refunds, credits or allowances may be deducted by the seller in computing tax liability, if the proportionate amount of the sales tax previously collected from the buyer has been refunded by the seller.

S sells an article to B for \$60.00 and credits his sales account therewith. The article is later found to be defective.

a. S gives B credit of \$50.00 on account of the defect, and also a credit of sales tax collectible on that amount. S may deduct \$50.00 from the Gross Amount reported in his tax returns. This is true whether or not B retains the defective article.

b. B returns the article to S who gives B an allowance of \$50.00 on a second article of the same kind which B purchases for an additional payment of \$10.00, plus sales tax thereon. S may deduct \$50.00 from the Gross Amount reported in his tax returns. The sale of the second article, however, must be reported for tax purposes as a \$60.00 sale and included in the Gross Amount in his tax return.

c. B returns the article to S who replaces it with a new article of the same kind free of charge, and without sales tax. S may deduct \$60.00 from the Gross Amount reported in his tax returns, but the \$60.00 selling price of the substituted article must be reported in the Gross Amount.

No deduction is allowed from the Gross Amount reported for tax if S in "b" and "c" above, does not credit his sales account with the selling price of the new article furnished to replace the defective one, but instead merely credits the sales account with an amount equal to the additional payment received, if any. In such case, the allowance for the defect is already shown in the sales account by the reduced sales price of the new article.

DISCOUNTS. The selling price of a service or of an article of tangible personal property does not include the amount of bona fide discounts actually taken by the buyer and the amount of such discount may be deducted from gross proceeds of sales providing such amount has been included in the Gross Amount reported. Discounts are not deductible under the retail sales tax when such tax is collected upon the selling price before the discount is taken and no portion of the tax is refunded to the buyer. Discount deductions will be allowed under the Extracting or Manufacturing classifications only when the value of the products is determined from the gross proceeds of sales. Patronage dividends which are granted in the form of discounts in the selling price of specific articles (for example, a rebate of one cent per gallon on purchases of gasoline) are deductible. (Some types of patronage dividends are not deductible. See WAC 458-20-219.)

((Revised June 1, 1970:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-112 ((RULE 112)) VALUE OF PRODUCTS. The term "value of products" includes the value of by-products, and except as provided herein, shall be determined by "gross proceeds of sales" whether such sales are at wholesale or at retail, to which shall be added all subsidies and bonuses received with respect to the extraction, manufacture, or sale thereof.

"The term 'gross proceeds of sales' means the value proceeding or accruing from the sale of tangible personal property . . . without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses." (RCW 82.04.070.)

IN THE CASE OF BONA FIDE SALES OF PRODUCTS. The law provides (RCW 82.04.450), that under the Extracting and Manufacturing classifications of the business and occupation tax the value of products extracted or manufactured shall be determined by the gross proceeds of sales in every instance in which a bona fide sale of such products is made, and whether sold at wholesale or at retail.

SALES TO POINTS OUTSIDE THE STATE. In determining the value of products delivered to points outside the state there ((may be deducted from)) must be included in the gross proceeds of sales ((so much thereof as the taxpayer can show to be)) the actual transportation costs ((from the point at which the shipment originates in this state to the point of delivery outside the state)).

ALL OTHER CASES. The law provides that where products extracted or manufactured are

1. For commercial or industrial use (by the extractor or manufacturer—see WAC 458-20-134); or
2. Transported out of the state, or to another person without prior sale; or
3. Sold under circumstances such that the stated gross proceeds from the sale are not indicative of the true value of the subject matter of the sale; the value shall correspond as nearly as possible to the gross proceeds from other sales at comparable locations in this state of similar products of like quality and character, in similar quantities, under comparable conditions of sale, to comparable purchasers, and shall include subsidies and bonuses.

In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases, there shall be included every item of cost attributable to the particular article or articles extracted or manufactured, including direct and indirect overhead costs.

((Revised June 1, 1970:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-113 INGREDIENTS OR COMPONENTS, CHEMICALS USED IN PROCESSING NEW ARTICLES FOR SALE. The term "retail sale" means "every sale of tangible personal property . . . to all persons irrespective of the nature of their business . . . other than a sale to ((one)) a person who (a) purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, . . . or (b) purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale . . . (RCW 82.04.050.) The term shall include every sale of tangible personal property which is put to intervening use . . . in the performance of any activity classified as a retail sale even though such property is subsequently resold. . . ."

.. other than a sale to ((one)) a person who (a) purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, . . . or (b) purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale . . . (RCW 82.04.050.) The term shall include every sale of tangible personal property which is put to intervening use . . . in the performance of any activity classified as a retail sale even though such property is subsequently resold. . . .

INGREDIENTS OR COMPONENTS. The sale of articles of tangible personal property which physically enter into and form a part of a new article or substance produced for sale does not constitute a retail sale. This does not exempt from the retail sales tax the sale of articles consumed in a manufacturing process which do not enter into and become a physical part of the new article produced for sale, such as fuel used for heating purposes, oil for machinery, sandpaper, etc.

~~((ARTICLES PURCHASED FOR DUAL PURPOSES. Where an article purchased serves a dual purpose, tax liability under the retail sales tax is determined by the primary purpose for which the article is purchased. The fact that a portion of the article purchased actually becomes a physical part of the new article produced for sale is not in itself sufficient to constitute the sale thereof a sale at wholesale, unless such use is the primary purpose for which the article was purchased. Thus, the sale of coal to a cement manufacturer which is used primarily as a fuel for producing heat is a taxable retail sale even though the ash from the burned coal is blown into the cement mixture and actually remains an ingredient thereof. Likewise the sale of coke to a foundry to produce heat for melting iron or steel is a taxable retail sale, although a secondary purpose in using coke is to introduce carbon into the metal.))~~ Nor does this exempt from the retail sales tax the sale of articles which are used or consumed before contributing ingredients or components to the new article of tangible personal property produced for sale. Thus, the sale of coal to a cement manufacturer for use as fuel to produce heat necessary to the manufacturing process is a taxable retail sale even though the ash from the burned coal is blown into the cement mixture and actually remains an ingredient thereof. Likewise, the sale of coke to a foundry to produce the required heat for melting iron or steel is a taxable retail sale even though the coke introduces carbon into the metal.

CHEMICALS USED IN PROCESSING. Sales of chemicals to a person for use in processing ((articles)), when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale are not retail sales, and therefore are not subject to the retail sales tax.

"Chemicals used in processing" carries its common restricted meaning in commercial usage. It includes only chemical substances which are used by the purchaser to unite with other chemical substances, present as ingredients or components of the articles or substances being processed, to produce a chemical reaction therewith, as contrasted with merely a physical change therein. A chemical reaction is one in which there takes place a permanent change of certain properties, with the formation of new substances which differ in chemical composition and properties from the substances originally present, and usually differ from them in appearance as well. It is not necessary that all of the new substances which are formed be present in the final completed article or substance which is sold; one or more of such new substances resulting from the chemical reaction may be removed or drawn off in the processing.

"Primary purpose of such chemical" means the first and chief intended use of the chemical. Only when the primary purpose of the chemical is to create a chemical reaction as described above is the exemption from retail sales tax allowed.

To illustrate: Sales of chemicals to a pulp mill for use in the digesting and bleaching of pulp are not subject to the retail sales tax because such chemicals react chemically with the cellulose in the pulp fiber which, in turn, becomes a major ingredient of the final product, paper. ((Similarly, sales of carbon to an aluminum reduction plant for the primary purpose of forming a chemical reaction with alumina to remove its oxygen content are not retail sales.)) However, sales of carbon electrodes, composed of pure carbon, used to introduce electric current into the furnace, which creates the heat necessary for the chemical process to occur, are taxable sales even though the carbon creates a chemical reaction. This is because the first and chief intention for the

use of the carbon electrode is to introduce electric current and create heat.

Conversely, sales of water purifiers and wetting agents to a pulp mill are taxable sales. The treated water acts primarily as a conveyor or carrier of the pulp fibers and only an insignificant part of the water becomes an ingredient of the final product. Similarly, sales of caustic soda to potato processors to remove peelings from potatoes are retail sales because the chemical reacts only with the peelings which are removed as waste, and not with the potatoes which are sold as the final product.

Sales of diesel or fuel oil to a steel mill or foundry, for use or consumption primarily in generating heat, are retail sales and subject to the retail sales tax, notwithstanding the fact that some portion of the oil may cause a chemical reaction and to some extent alter the character of the article being manufactured or processed.

In special cases where doubt exists, a special ruling will be made by the Department of Revenue upon submission of all the pertinent facts relative to the nature of the chemical substances concerned and the use made thereof by the purchaser.

((Revised June 1, 1970:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-116 ((~~RULE 116~~)) **LABELS, NAME PLATES, TAGS, PREMIUMS AND ADVERTISING MATTER.** Sales of labels and name plates to persons who attach the same to containers enclosing articles sold by them are sales for consumption when such persons retain title to the containers which are to be returned to the seller for re-use, and the retail sales tax applies to such sales.

Sales of ((~~an other~~)) labels and name plates, and sales of price tags and shipping tags to persons who attach same to articles or containers sold by them or enclose them with articles therein sold by them, are sales for resale and the retail sales tax does not apply thereto.

Sales of labels, name plates, or price tags to persons who retain them for inventory, statistical, or other business purposes are sales for consumption and the retail sales tax applies to such sales.

The retail sales tax does not apply to sales of so-called premiums to persons who pass title thereto with other articles which are sold by them, when the passing of title to the premiums is not contingent upon the returning of coupons or other evidence of prior purchases of similar articles.

Sales of so-called premiums to persons who do not pass title thereto with other articles which are sold by them, but which are given as an inducement to perform a service, such as the soliciting of subscriptions, or are given upon the returning of coupons or other evidence of prior purchases of similar articles, are sales for consumption, and the retail sales tax applies thereto.

The retail sales tax does not apply to sales of advertising matter sold to persons who enclose the same with articles sold by them, when such advertising matter relates primarily to such articles with which they are enclosed. (For use tax liability on the use of advertising materials, see WAC 458-20-178.)

((Issued May 1, 1943:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-118 ((~~RULE 118~~)) **SALE OR RENTAL OF REAL ESTATE, LICENSE TO USE REAL ESTATE.** Amounts derived from the sale and rental of real estate are exempt from taxation under the business and occupation tax. However, there is no exemption of amounts derived from engaging in any business wherein a mere license to use or enjoy real property is granted. Further, no exemption is allowed for amounts received as commissions for the sale or rental of real estate((-)) (RCW 82.04.390((-)) nor for interest received by persons engaged in the business of selling real estate on time or installment contracts. For purposes of distinguishing the lease or rental of real estate from the granting of a license to use real estate (taxable under various other classifications of the business and occupation tax) the Department of Revenue will be guided by the following principles.

LEASE OR RENTAL OF REAL ESTATE. A lease or rental of real property conveys an estate or interest in a certain designated area of real property with an exclusive right in the lessee of continuous possession against the world, including the owner, and grants to the lessee the absolute right of control and occupancy during the term of the lease or rental agreement. An agreement will not be construed as a lease of real estate unless a relationship of "landlord and tenant" is

created thereby. It is presumed that the sale of lodging by a hotel, motel, tourist court, etc., for a continuous period of thirty days or more is a rental of real estate. It is further presumed that all rentals of apartments and leased departments constitute rentals of real estate.

LICENSE TO USE REAL ESTATE. A license grants merely a right to use the real property of another but does not confer exclusive control or dominion over the same. Usually, where the grant conveys only a license to use, the owner controls such things as lighting, heating, cleaning, repairing and opening and closing the premises.

It will be presumed that license to use or enjoy real property is granted in the rental of the following:

1. Hotel rooms (for periods of less than 30 continuous days; See WAC 458-20-166).

2. Motels, tourist courts and trailer parks (for periods of less than 30 continuous days; See WAC 458-20-166).

3. Cold storage lockers (See WAC 458-20-133).

4. Safety deposit boxes.

5. Storage space (See WAC 458-20-182).

6. Space within park or fair grounds to a concessionaire.

((Revised April 14, 1960:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-121 ((~~RULE 121~~)) **SALES OF ((STEAM)) HEAT.** Persons engaging in the business of operating a plant for the production, extraction, or storage of heat for distribution ((and)), for hire or sale ((of steam for heating or power purposes)), whether such heat is produced by a biomass system, cogeneration, geothermal sources, fossil fuels, or otherwise, are subject to the provisions of the business and occupation tax and are taxable under the Service and Other Business Activities classification.

((Revised May 1, 1937:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-123 ((~~RULE 123~~)) **PUBLIC AND LENDING LIBRARIES.**

DEFINITIONS.

The term "public libraries" as used herein means libraries operated by the state or by any governmental unit, as the term is defined by RCW 27.12.010.

The term "lending libraries" as used herein has reference to all libraries other than those operated by the state or by a governmental unit.

BUSINESS AND OCCUPATION TAX

RETAILING. Lending libraries are taxable under the Retailing classification upon the gross proceeds of sales and rentals of all books and periodicals.

For tax liability of public libraries ((are not subject to the provisions of the business and occupation tax)) see WAC 458-20-189.

RETAIL SALES TAX

Lending libraries are not required to pay the retail sales tax upon the purchase of books and periodicals and newspapers loaned by them provided they supply their vendors with resale certificates in the usual form (See WAC 458-20-102). Public libraries are required to pay the retail sales tax on purchases of books and periodicals loaned by them.

Lending libraries are required to collect the retail sales tax from their patrons upon sales and rentals of all books and periodicals (excluding newspapers).

((Revised April 1, 1959:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-124 ((~~RULE 124~~)) **RESTAURANTS, SODA FOUNTAINS, COCKTAIL BARS, BEER PARLORS, ETC.** As used herein, the term "restaurants, soda fountains, cocktail bars, beer parlors, etc.," means every place where prepared foods and beverages are sold and served to individuals, generally for consumption on the premises where sold.

The retail sales tax applies upon all sales of foods and beverages made to consumers by persons operating restaurants, soda fountains, cocktail bars, beer parlors, etc.

SALES OF ALCOHOLIC BEVERAGES BY CLASS H LICENSEES, TAVERNS, AND CONCESSIONAIRES. Businesses authorized under license or permit issued by the Washington State Liquor Control Board to sell liquor, beer, and wine by the drink under conditions of business such as to render impracticable the separate collection of the retail sales tax may, upon compliance with the following requirements and conditions, include the retail sales tax in the selling price of the item sold: (1) The establishment must display a chart, in type large enough to be read by customers, posted in a conspicuous place, which separately lists each item by name, the selling price, sales tax, and total charge, and (2) the chart must be posted at a location where the customer can easily read the chart without being required to enter employee work areas or without special request that the chart be furnished to him. This procedure is permissible only for sale of alcoholic beverages and not to sales of meals or other menu items. A list of prices which merely shows number combinations which add up to even nickel or dime amounts does not meet the foregoing requirements. An operator who elects to report sales tax in the manner herein provided but fails to follow the foregoing requirements shall be subject to business and occupation tax and retail sales tax upon gross receipts.

CLASS H LICENSE LOCATIONS. When an operator elects pursuant to the foregoing, to sell drinks at a price which, after addition of sales tax is rounded off to an even amount, this pricing method must be used in all areas of the location. This means that the price posting requirements must be met wherever drinks are sold so that the customer can identify readily the items billed inclusive of tax and those billed exclusive of tax. Therefore, drink totals and food totals must be shown separately so that all dinner checks involving both food and liquor charges shall be presented to the customer with amounts due shown in the following order: Food, sales tax on food, liquor, total. Persons who elect to post prices to show amounts of tax included but who fail to comply with these requirements are subject to business and occupation tax and retail sales tax measured by the gross bar and cocktail lounge receipts.

The retail sales tax also applies upon all sales of dishes, kitchen utensils, linens, furniture and fixtures, and the like, made by supply houses to such operators.

The retail sales tax does not apply upon sales of foodstuffs and beverages made by supply houses to persons operating restaurants, soda fountains, cocktail bars, beer parlors, etc. Likewise, that tax does not apply upon sales to said persons of paper plates, paper cups, paper napkins, toothpicks, or any other articles which are furnished to customers, the first actual use of which renders such articles unfit for further use. (See WAC 458-20-119—Sales of Meals.)

((Revised May 1, 1949:))

GRATUITIES. Tips or gratuities representing donations or gifts by customers under circumstances which are clearly voluntary are not part of the selling price subject to tax. However, mandatory additions to the price by the seller, whether labeled service charges, tips, gratuities or otherwise must be included in the selling price and are subject to both the retailing classification of the business and occupation tax and the retail sales tax.

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-125 ((~~RULE 125~~)) MISCELLANEOUS SALES FOR FARM USE. Sales of tangible personal property to persons engaging in farming are wholesale sales and not subject to the retail sales tax when such property is purchased for resale or to become an ingredient of products produced for sale or when such property consists of, or will become parts of a container to be resold with such products. Thus, sales of grain sacks which are resold with grain produced, sack twine used in binding such sacks, wire for binding bales of hay and alfalfa which are sold, box shooks, fruit and vegetable wrappers and the like are wholesale sales. (See WAC 458-20-209 for applicability of retail sales tax to sales of these commodities to persons performing farming services for hire.)

Sales of tangible personal property to persons engaging in farming are retail sales and subject to the retail sales tax when such property is not resold, does not become an ingredient of products produced for sale, and does not consist of containers, or component parts thereof, to be resold with such products, except as provided in WAC 458-20-122. Thus the retail sales tax must be collected upon sales to such persons of machinery, tools, binder twine, pea twine, hop wire, cleaning materials, peat moss, litter of all kinds and the ingredients thereof, even though the litter after use is resold to a person engaged in commercial production for use as fertilizer.

The retail sales tax is not applicable to sales of pollen, sales of purebred livestock for breeding purposes where the animals are registered in a nationally recognized breeding association, to sales of beef and dairy cattle used on a farm, to sales of poultry for use in the production for sale of poultry or poultry products, nor to sales of semen for use in the artificial insemination of livestock.

((Revised July 1, 1967:))

As evidence of entitlement to sales tax exemption upon sale of purebred animals sold for breeding purposes, the seller is required to take from the purchaser a written and signed certificate substantially in the following form:

I,, certify that my purchase from of, a purebred, which is registered with the breeding association, is being purchased by me for breeding purposes.

Date	Signature
	Address
	City, State, Zip Code

AMENDATORY SECTION (Amending Order ET 73-1, filed 11/2/73)

WAC 458-20-126 ((~~RULE 126~~)) SALES OF MOTOR VEHICLE FUEL AND SPECIAL FUELS.

SALES OF MOTOR FUEL AND SPECIAL FUELS

As used herein the term "vehicle fuel" means motor vehicle fuel as defined in chapter 82.36 RCW and special fuels as defined in chapter 82.38 RCW.

The retail sales tax does not apply to sales of motor vehicle fuel on which the tax of chapter 82.36 RCW is paid, nor to sales of special fuels when sold for use as fuel in propelling motor vehicles upon the public highways in this state and on which the special fuel tax or the annual fee in lieu thereof in the case of certain nonpollutant fuels imposed by chapter 82.38 RCW, is paid.

Persons selling special fuels on which the tax of chapter 82.38 RCW is not collected are required to collect the retail sales tax on retail sales thereof. Purchasers of nonpollutant fuel (including liquid and gaseous propane) who are registered with the department and who take deliveries into bulk storage facilities should get information from an office of the department regarding special provisions for such deliveries.

It is the intent of the law that all vehicle fuels will be subject to either the vehicle fuel taxes (chapter 82.36 RCW or chapter 82.38 RCW) or else the sales or use taxes of the Revenue Act (chapter 82.08 RCW or chapter 82.12 RCW). Therefore persons receiving refund of vehicle fuel taxes are subject to payment of the use tax of chapter 82.12 RCW on the value of the fuel.

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-127 ((~~RULE 127~~)) MAGAZINES AND PERIODICALS.

RETAIL SALES TAX

Sales of magazines and periodicals to the reading public by persons operating news stands, book stores, cigar stores, drug stores and the like are sales at retail and are subject to the retail sales tax. Sales to newsstands or stores which are sales for resale (~~and~~) are not subject to the retail sales tax.

When magazines or periodicals are distributed to the final purchaser by a distributor who effects such distribution through organizers or captains, supervising boys, or others selling from house to house or upon the streets, the news company or distributor is the one responsible for the collection and payment of the retail sales tax.

Such news companies or distributors shall collect from the boys or others selling the magazines or periodicals the retail sales tax upon the gross retail selling price of all magazines and periodicals taken by such boys or others.

Registration certificates are not required for organizers or captains or for boys or other persons selling magazines or other periodicals under such circumstances. Branch certificates will be issued to the news

company or magazine distributor for each of the local stations operated by such company.

Where subscriptions or renewals of subscriptions are mailed directly by purchasers to publishers outside the state ~~((and the publisher is a foreign vendor as defined in WAC 458-20-193))~~, such subscriptions constitute transactions in interstate commerce of a type which are not subject to the retail sales tax. Because of circumstances peculiar to the magazine publishing industry, the degree of local activity in respect to interstate sales is either difficult or impossible to determine. For this reason, out-of-state vendors of magazines are relieved from liability for collecting either retail sales tax or use tax on sales of magazines or periodicals when such publications are published outside the state and delivered in interstate commerce to consumers in this state.

This rule does not apply to the sale of newspapers. The law expressly exempts the sale of newspapers from the retail sales tax. (RCW ~~((82.08.030(3)))~~ 82.08.0253.) See WAC 458-20-143 for the definition of "newspaper."

USE TAX

Where no retail sales tax is paid upon the purchase of, or subscription to, a magazine or periodical, the use tax is subsequently payable upon the use of the magazine or periodical in this state by the purchaser or subscriber.

((Revised June 1, 1965.))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-128 ~~((RULE 128))~~ REAL ESTATE BROKERS AND SALESMEN.

DEFINITIONS

As used herein:

The terms "real estate broker" and "real estate salesman" mean, respectively, a person licensed as such under the provisions of ~~((chapter 252, Laws of 1941, as amended [chapter 18.85 RCW]))~~ chapter 18.85 RCW.

BUSINESS AND OCCUPATION TAX

A real estate broker is engaged in business as an independent contractor and is taxable under the Service and Other Activities classification upon the gross income of the business.

The measure of the tax on real estate commissions earned by the real estate broker shall be the gross commission earned by the particular real estate brokerage office including that portion of the commission paid to salesmen or associate brokers in the same office on a particular transaction: PROVIDED, HOWEVER, That where a real estate commission is divided between an originating brokerage office and a cooperating brokerage office on a particular transaction, each brokerage office shall pay the tax only upon their respective shares of said commission; and provided further, that where the brokerage office has paid the tax as provided herein, salesmen or associated brokers within the same brokerage office shall not be required to pay a similar tax upon the same transaction. ~~((Chapter 82.04 RCW))~~ RCW 82.04.255.

Thus, with the exception of cooperating brokerage offices, no deduction is allowed for commissions, fees or salaries paid by a broker to another broker or salesman, nor for other expenses of doing business.

The term "gross income of the business" includes gross income from commissions, fees and other emoluments however designated which the agent receives or becomes entitled to receive, but does not include amounts held in trust for others. (See also WAC 458-20-111, Advances and Reimbursements.) No deductions are allowed for dues, charges, and fees paid to multiple listing associations.

Real estate salesmen are presumed to be independent contractors. They are subject to the Service and Other Activities classification of the business and occupation tax on gross income from real estate commissions and fees earned where the brokerage office at which the real estate salesman's license is posted has not paid the tax on the gross commission.

((Revised July 1, 1970.))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-130 ~~((RULE 130))~~ SALES OF REAL PROPERTY, STANDING TIMBER, MINERALS, NATURAL RESOURCES.

BUSINESS AND OCCUPATION TAX-RETAIL SALES TAX

Amounts derived from the sale of real estate are not subject to tax under the business and occupation tax or the retail sales tax. However, no exemption is allowed where a mere license to use real estate is granted (See WAC 458-20-118). Further, no exemption is allowed for commissions received in connection with sales of real estate nor for interest received by persons engaged in the business of selling real estate on time or installments contracts.

Sales of standing timber, minerals in place, and other natural resources in place are sales of real estate, and are not subject to tax under the business and occupation tax or the retail sales tax.

Timber, minerals, and other natural resources, after being severed from the real estate, lose their identity as real property, and sales thereof after severance are subject to the provisions of the business and occupation tax and the retail sales tax.

Any person who cuts timber, or who mines or quarries minerals, or who takes other natural resources is subject to tax as an extractor under the business and occupation tax. (See WAC 458-20-135.)

CONVEYANCE TAX

~~((Where standing timber, minerals in place and other natural resources in place are sold and title conveyed by deed or other written instrument, the provisions of the conveyance tax apply if the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, and not removed by the sale, exceeds \$100. The tax on conveyances is imposed at the rate of 50¢ for each \$500, or fractional part thereof. The tax is paid by means of stamps to be affixed to the deed or instrument conveying the property by the person making, signing, issuing or accepting any such instrument.~~

~~In cases where no deed, instrument or other writing conveying standing timber, minerals in place and other natural resources in place is given by the seller to the purchaser, the provisions of the conveyance tax do not apply. (See also WAC 458-20-184.)~~

~~Revised May 1, 1939.))~~ See WAC 458-20-184 for provisions of the conveyance tax.

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-131 ~~((RULE 131))~~ MERCHANDISING GAMES, GAMES OF CHANCE AND CONCESSIONAIRES.

BUSINESS AND OCCUPATION TAX-RETAIL SALES TAX

MERCHANDISING GAMES FOR STIMULATING TRADE.

Persons conducting dice games and other games of chance which determine the amount the customer will pay for merchandise that he desires to purchase are taxable as follows: Under the Retailing classification with respect to the retail selling price of all merchandise sold to or won by customers, and under the Service and Other Business Activities classification upon the "increases" arising from the conduct of such games. As used herein the word "increases" means the winnings, gains or accumulations accruing daily over and above the retail selling price of all merchandise sold or won in any one day through such games. This method of reporting tax liability will be allowed only in those cases where the operator of the games, by proper accounting methods, accurately segregates the receipts accruing from such games. Where no such segregation is made, such persons are taxable under the Retailing classification with respect to the entire gross receipts from such games.

Punchboards which offer prizes of merchandise are considered as merchandising games, with the prizes being sold for the gross proceeds from the boards, and the gross income from such boards should therefore be reported under the Retailing classification. When such punchboards are consigned to a location under an arrangement for a split of the gross income between the owner of the boards and the person operating the location, the owner of the boards shall be responsible for reporting gross receipts therefrom under the Retailing classification. Where the owner of the boards has not paid the tax due, however, the Department of Revenue may proceed directly against the operator of the location for payment of the tax due.

GAMES OF CHANCE OTHER THAN MERCHANDISING GAMES. Persons conducting dice games, card games, bingo or keno games, "pools," or similar games of chance wherein players participate in such games with the opportunity of winning a certain sum of money, scrip or trade checks or a pool which accumulates (~~or scrip, trade checks, or hickies~~), are taxable under the Service and Other Business Activities classification upon all "increases" arising from the conduct of such games. The word "increases" as used herein means the winnings, gains, or accumulations accruing from any one game over and above the amount put into the game by the operator; and, where redeemable scrip, trade checks, or hickies are issued to winning players, the word "increases" means the excess of the operator's cash income from the game over the amount of redeemable scrip, trade checks, or hickies issued.

It is essential to the classification of such revenues as income from Service and Other Business Activities that they be segregated properly from income derived from merchandising games. When the income from games of chance and amusement is not segregated properly from income from merchandising games, the income derived from both types of games will be taxable as income derived from sales at retail.

Punchboards which offer cash prizes are games of chance rather than merchandising games, and the "increases" (as defined above) therefrom should be reported under the Service and Other Business Activities classification. When such punchboards are consigned to a location under an arrangement for a split of the gross increases between the owner of the boards and the person operating the location, the owner of the boards shall be responsible for reporting gross increases therefrom under the Service and Other Business Activities classification. Where the owner of the boards has not paid the tax due, however, the department may proceed directly against the operator of the location for payment of the tax due.

Each type of game is considered as a separate, taxable transaction. Thus, losses on one type of game may not be deducted from winnings on another type of game.

BETTING. "Increases" from bets on events of public interest, such as sporting events, election results, etc., are taxable under the Service and Other Business Activities classification, and should be reported as income of the taxing period in which the winner is determined.

CONCESSIONAIRES. Persons conducting games of chance at fairs, carnivals, expositions, bazaars, picnics and other similar places in which merchandise is delivered to players in the form of prizes and awards under certain conditions are taxable under the Service and Other Business Activities classification upon the gross income received from the operation of such games. The predominant characteristics of the business in such cases is chance and amusement, and the transfers of merchandise in the form of prizes and awards is relatively small and does not constitute sales of such merchandise.

RAFFLES. Persons regularly conducting raffles are subject to the business and occupation tax under the classification Service and Other Activities on gross income from the sale of chances.

REDEMPTION OF SCRIP(;) OR TRADE CHECKS(~~-OR HICKIES~~). When scrip(;) or trade checks(~~-OR HICKIES~~) are redeemed in exchange for merchandise or for services which are defined by the law as retail sales, the value of the scrip, etc., so redeemed should be reported as income under the Retailing classification. When scrip(;) or trade checks(~~-OR HICKIES~~) are redeemed in exchange for services which are not defined by law as retail sales, e.g., haircuts, manicures, etc., the value of the scrip, etc., so redeemed should be reported as income under the Service and Other Business Activities classification.

MISCELLANEOUS. Revenues of card rooms, etc., from all activities other than those which are reportable under the Retailing classification, must be reported under the Service and Other Business Activities classification. Such revenues include income from the furnishing of playing facilities to card players, etc.

RETAIL SALES TAX

Persons making retail sales of tangible personal property through merchandising games are liable for the payment of the retail sales tax upon the full retail selling price of the merchandise sold to or won by the customer and whether the tax was actually collected from the customer or not. The retail sales tax does not apply to income from games of chance or amusement which are not merchandising games if that income is properly segregated upon the taxpayer's books and records from the income from merchandise sales or merchandising games. Where the income is not so segregated, it is subject to the retail sales tax.

MERCHANDISING GAMES FOR STIMULATING TRADE. Persons conducting dice games and other games of chance which determine the amount that the customer will pay for merchandise that he desires to purchase should collect the retail sales tax from the customer, measured by the amount that the customer actually pays for the merchandise as a result of the outcome of the game.

Punchboards which offer prizes of merchandise are considered as merchandising games, with the prizes being sold for the gross proceeds from the boards, and the retail sales tax is therefore payable on those gross proceeds. For practical reasons, the retail sales tax may be absorbed by the operator, at his option, but the latter will be liable nevertheless to the Department of Revenue for the full tax on the gross income from each punchboard. When such punchboards are consigned to a location under an arrangement for a split of the gross income between the owner of the boards and the person operating the location, the owner of the boards shall be responsible for collecting and reporting to the department the retail sales tax measured by the gross receipts from such boards. Where the owner of the boards has not paid the tax due, however, the department may proceed directly against the operator of the location for the full amount of sales tax measured by the gross receipts from such boards.

When scrip(;) or trade checks(~~-OR HICKIES~~) are given, the sales tax should be collected when the scrip(;) or trade checks(~~-OR HICKIES~~) are exchanged for merchandise or for services that are defined by the law as retail sales.

For example:

a. **MERCHANDISING GAMES.** Dice are rolled for a 15¢ cigar. In the event that the player wins, a cigar is given to the player free of charge; in the event that the house wins, the player receives a cigar but pays 30¢.

When the player wins, no tax is payable. When the player loses and pays 30¢ for a single cigar, the retail sales tax applies to the latter amount.

b. **PUNCHBOARDS.** The price of each punch is 25¢. The operator may collect the sales tax on each punch, or at his option, may absorb the tax, but he will be required in either event to remit to the department the retail sales tax measured by the gross income from each board.

Sales to persons who conduct merchandising games of the merchandise delivered to persons, such as confections, tobacco, jewelry, radios, etc., are sales for resale, and, accordingly, the retail sales tax should not be collected thereon by the seller. When merchandise punchboards are sold outright to an operator, together with merchandise that will be offered as prizes, such sales are considered sales for resale of the boards and of the merchandise by the dealer to the operator. The sale of the board is considered incidental to the sale of the merchandise. When merchandise punchboards are sold outright without the merchandise that will be offered as prizes, such sales are sales at retail and are taxable as such. When money punchboards are sold outright, such sales are sales at retail and are taxable as such.

c. **CARD GAMES.** Persons conducting card games in card rooms, cigar stores, etc., wherein the players participating receive scrip(;) or trade checks(~~-OR HICKIES~~) which entitle them to the value thereof in merchandise or services shall collect the retail sales tax when such scrip, trade checks, or hickies are exchanged for merchandise or for services defined by the law as retail sales.

CONCESSIONAIRES AT FAIRS, CARNIVALS, ETC. Persons conducting games of chance at fairs, carnivals, expositions, bazaars, picnics, or other similar places and delivering merchandise to players in the form of prizes and awards under certain conditions are not making sales of tangible personal property at retail upon which they are required to collect the retail sales tax. The predominant characteristic of the business in such cases is chance and amusement, and the transfers of merchandise in the form of prizes and awards are relatively small and do not constitute sales of such merchandise. Sales to such persons of the merchandise delivered to the players in the form of prizes and awards are sales at retail upon which the retail sales tax must be collected by the seller. Sales to such persons of devices and other equipment used in the conduct of such games are also retail sales upon which the tax must be collected by the seller.

RAFFLES. Persons conducting raffles are not deemed to be making retail sales of the merchandise given away. Retail sales tax or use tax must be paid by the operator upon the acquisition of such property. Until the tax has been paid by one party, however, the department may hold both the operator and the winner liable for the tax.

((Revised June 1, 1970:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)WAC 458-20-132 (~~(RULE 132))~~) AUTOMOBILES FOR DEMONSTRATION PURPOSES.

BUSINESS AND OCCUPATION TAX

Automobile dealers are taxable under the Retailing classification upon sales to their salesmen of automobiles for demonstration purposes.

RETAIL SALES TAX

The retail sales tax applies upon sales of automobiles and parts and accessories therefor made by dealers to their salesmen for use as demonstrators.

USE TAX

Where an automobile dealer purchases a passenger car or pickup truck without paying a retail sales tax in respect thereto, and uses such car or truck for personal use or demonstration purposes, the use tax is applicable irrespective of the fact that such personal car or demonstrator may later be sold by the dealer. As used in this rule the phrase "pickup truck" refers only to trucks having a commercial pickup body rated at (~~one-half~~) three-quarter ton capacity or less.

COMPUTATION. For practical purposes, automobile dealers may elect to compute the use tax upon the use of demonstrators (but not on service cars) as follows:

The use of demonstrators is subject to the use tax on the basis of one demonstrator for each one hundred new automobiles and pickup trucks, or fractional part of such number, of all makes or models sold at retail including lease transactions during a calendar year. The use tax on each such demonstrator shall be measured by an average cost price to be based upon the total cost price, including transportation and factory installed accessories, of all makes and models of passenger cars and pickup trucks sold during the preceding calendar year divided by the number of such units sold.

The use tax shall be paid as of the date of the first sale in any calendar year and subsequently upon the sale of the one hundred and first automobile or pickup truck.

The foregoing method of computation is available only in respect to vehicles used for demonstration purposes and not primarily used for any other purpose. It applies only in respect to demonstrator vehicles operated under dealer plates or private licenses issued to the dealership. Demonstrator vehicles which are licensed otherwise than to the dealership are presumed to be used substantially for purposes other than demonstration and are subject to the use tax.

When an automobile dealer has elected to report the use tax as above provided, or upon the actual number of demonstrators used by him, he will not be permitted to change the manner of reporting without the written consent of the Department of Revenue.

When a dealer or a person associated with a dealer (firm executive, corporate officer or partner) does not have a recent model car registered in his own name and regularly uses either one or various new cars from stock for personal driving (whether or not such cars are also used for demonstration purposes) the use tax will be applicable to the value of one such car for each two calendar years in addition to the tax otherwise applicable to demonstrator use. The term "recent model car" refers to a car of the current model year or of either of the two preceding model years. In such cases, the measure of the use tax shall be the same as the measure herein approved for the computation of use tax on demonstrator use.

The use tax is applicable to the value of vehicles which are loaned or donated to civic, religious, nonprofit or other organizations for continuous periods of use exceeding 72 hours, and such tax is in addition to the tax on the use of demonstrators as provided herein.

((Revised January 1, 1963.))

AMENDATORY SECTION (Amending Order ET 78-4, filed 6/27/78)

WAC 458-20-135 (~~(RULE 135))~~) EXTRACTING NATURAL PRODUCTS. "The word 'extractor' means every person who, from his own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product, or fells, cuts or takes timber, Christmas trees or other natural

products, or takes, cultivates, or raises fish, shellfish, or other sea or inland water foods or products; it does not include persons performing under contract the necessary labor or mechanical services for others." (RCW 82.04.100.)

The following examples are illustrative of operations which are included within the extractive activity:

1. Logging operations, including the bucking, yarding, and loading of timber or logs after felling, as well as the actual cutting or severance of trees.

2. Mining and quarrying operations, including the activities incidental to the preparation of the products for market, such as screening, sorting, washing, crushing, etc.

3. Fishing operations, including the cultivating or raising, in fresh or salt water, of fish, shellfish, or other sea or inland water foods or products (whether on publicly or privately owned beds, and whether planted and cultivated or not) for sale or commercial use. It includes the removal of the meat from the shell, and the cleaning and icing of fish or sea products by the person catching or taking them.

4. Construction of logging roads on federal or state land in connection with timber contracts, whether as an extractor or extractor for hire.

BUSINESS AND OCCUPATION TAX

EXTRACTING-LOCAL SALES. Persons who extract products in this state and sell the same at retail in this state are subject to the business and occupation tax under the classification Retailing and those who sell such products at wholesale in this state are taxable under the classification Wholesaling-All Others. Persons taxable under the classification Retailing and Wholesaling-All Others are not taxable under the classification Extracting with respect to the extracting of products so sold within this state.

EXTRACTING-INTERSTATE OR FOREIGN SALES. Persons who extract products in this state and sell the same in interstate or foreign commerce are taxable under the classification Extracting upon the value of the products so sold, and are not taxable under Retailing or Wholesaling-All Others in respect to such sales. (See also WAC 458-20-193.)

EXTRACTING-FOR COMMERCIAL USE. Persons who extract products in this state and use the same as raw materials or ingredients of articles which they manufacture for sale are not taxable under Extracting. (For tax liability of such persons on the sale of manufactured products see WAC 458-20-136, Manufacturing, Processing for Hire, Fabricating.)

Persons who extract products in this state for any other commercial or industrial use are taxable under Extracting on the value of products extracted and so used. (See WAC 458-20-134 for definition of commercial or industrial use.)

EXTRACTING FOR OTHERS. Persons performing under contract, either as prime or subcontractors, the necessary labor or mechanical services for others who are engaged in the business as extractors, are taxable under the Extracting for Hire classification of the business and occupation tax upon their gross income from such service. If the contract includes the hauling of the products extracted over public (~~or private~~) roads, such persons are also taxable under the Motor Transportation classification of the public utility tax upon that portion of their gross income properly attributable to such hauling. However, the hauling for hire of logs or other forest products exclusively upon private roads is taxable under the Service classification of the business and occupation tax upon the gross income received from such hauling. (See WAC 458-20-180.)

FOREST EXCISE TAX

In addition to all other taxes, a person engaged in business as a harvester of timber is subject to the forest excise tax levied by chapter 84.33 RCW. The word "harvester" means every person who from his own privately owned land or from the privately owned land of another under a right or license granted by lease or contract, either directly or by contracting with another for the necessary labor or mechanical services fells, cuts, or takes timber for sale or for commercial or industrial use. It does not include persons performing under contract the necessary labor or mechanical services for a harvester.

See chapter 458-40 WAC for detailed provisions, procedures, and other definitions.

RETAIL SALES TAX

The retail sales tax applies upon all sales of extracted products made at retail by the extractor thereof, except as provided by WAC 458-20-244 (~~(Rule 244))~~), food products.

((Revised April 28, 1978:
Effective July 1, 1978:))

USE TAX

Persons constructing logging roads on state or federal land in connection with timber contracts are subject to use tax on all materials used in such construction, except for materials on which sales tax was paid at the time of purchase.

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-137 (~~((RULE 137)))~~ ARTICLES MANUFACTURED AND INSTALLED. Persons engaged in the business of manufacturing in this state boilers, cabinets and mill work, cement blocks and pipes, conduits, heating equipment, lighting fixtures, sheet metal articles, venetian blinds, window drapes and shades, or other articles, and who also sell and install such articles after manufacture, are taxable as follows:

BUSINESS AND OCCUPATION TAX

Taxable under the Retailing classification in respect to the total charge for selling and installing when for consumers.

Taxable under the Wholesaling classification in respect to the total charge for selling and installing when for persons other than consumers.

Persons who manufacture articles in this state and install the same for customers in other states are taxable under the Manufacturing classification on the value (at the place of manufacture) of the article so installed.

Persons who manufacture articles outside this state and install the same for consumers in this state are taxable under the Retailing classification upon the total charge made therefor, irrespective of whether or not a segregation is made between the charge for the article manufactured and the charge for installing the same.

RETAIL SALES TAX

The retail sales tax applies upon both the sale and installation of such articles when made to or for consumers.

It is immaterial whether such articles remain personal property after installation or whether the same become a part of real property. In either event, the retail sales tax applies.

((Revised August 1, 1950:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-140 (~~((RULE 140)))~~ PHOTOFINISHERS AND PHOTOGRAPHERS.

BUSINESS AND OCCUPATION TAX

RETAILING. The gross proceeds of all sales taxable under the retail sales tax are taxable under the Retailing classification.

WHOLESALEING. Taxable under the Wholesaling classification upon the gross proceeds from sales for resale.

MANUFACTURING. Photofinishers who produce negatives, prints, or slides in Washington and who transfer or deliver such articles to points outside this state are subject to business tax under the Manufacturing classification upon the value of products (see Rule 112) and are not subject to tax under the Retailing or Wholesaling classification.

PROCESSING FOR HIRE. Photofinishers who develop film for others and who make delivery of the film to points outside the state are subject to business tax under the Processing for Hire classification upon the total charge for the work done. It is immaterial that the customers are located outside the state or that the film was sent in from outside the state for processing.

SERVICE. Taxable under the Service and Other Activities classification upon gross income from sales to publishers of newspapers, magazines and other publications of the right to publish photographs.

RETAIL SALES TAX

PHOTOFINISHERS. Photofinishers developing films and selling to consumers the prints made therefrom are making taxable retail sales, and the retail sales tax must be collected upon the full charge made to the customer. Photofinishers developing films and selling to other than consumers the prints made therefrom are sales for resale and not subject to the retail sales tax.

Sales by supply houses to photofinishers of paper upon which prints are made and of chemicals which are to be used in making the prints are sales for resale and are not taxable under the retail sales tax. Sales by supply houses to photofinishers of equipment and materials which do not become a component part of the prints are taxable under the retail sales tax.

PORTRAIT AND COMMERCIAL PHOTOGRAPHERS. Photographers who make negatives on special order and sell photographs to customers (other than dealers for resale) must collect the retail sales tax upon such sales.

Sales by supply houses to a portrait or commercial photographer of the paper upon which such photographs are printed are not taxable because such material becomes an ingredient of the final product sold for consumption. Sales of chemicals, such as developing agents, fixing solutions, etc., for use in such process are also nontaxable. However, sales to a photographer of materials and equipment used in processing, whenever such materials do not become a component part of the final photograph or are not chemicals used in processing are taxable under the retail sales tax.

Sales to consumers by photographers of pictures, frames, camera films and other articles are subject to the retail sales tax.

Sales by photographers of the right to publish photographs are primarily licenses to use and not sales of tangible personal property. Such sales are not subject to the retail sales tax.

Photographers tinting and coloring pictures or prints belonging to customers are making retail sales upon which the retail sales tax applies to the total charge made therefor. Sales of oil and water colors to a photographer for use in tinting and coloring pictures or prints belonging to a customer are sales for resale and are not subject to the retail sales tax.

((Revised March 1, 1954:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-141 (~~((RULE 141)))~~ DUPLICATING INDUSTRY AND MAILING BUREAUS. ~~((Note: This rule contains material previously included in WAC 458-20-145 which is not currently incorporated in WAC 458-20-144:))~~

The phrase "duplicating industry" includes activities involving photostating, blueprinting, xeroxing, and other reproduction processes.

BUSINESS AND OCCUPATION TAX

Duplicators are taxable under the Retailing classification upon the gross proceeds received from sales of photostats, blueprints, copies, etc., to consumers, whether the tangible personal property on which the work is recorded is owned by the duplicator or customer.

The Wholesaling-All Other classification applies to sales for resale in the regular course of the purchaser's business. The duplicator must secure a resale certificate in the usual form.

Neither of these classifications is applicable, however, if the article sold is delivered to an out-of-state customer at an out-of-state point or if an article is produced for commercial or industrial use (See WAC 458-20-134.) In these cases tax is due under the Manufacturing classification on the "value of products."

Mailing bureaus mail material for the publishing industry and also mail folders, bulletins, form letters, advertising publications, flyers, and similar material for other customers. As part of these services, the bureaus also label, fold, enclose and seal. All of these activities come within the definition of "sale at retail" (RCW 82.04.050) as constituting "labor and services rendered in respect to . . . the . . . altering, imprinting or improving of tangible personal property of or for consumers."

The gross proceeds received by mailing bureaus from charges made to consumers, whether such charges are itemized or lump sum, are taxable under the Retailing classification. The gross proceeds are taxable under the Wholesaling-All Other classification where charges (lump sum or itemized) are for tangible personal property resold as such to the purchaser or for services rendered to tangible personal property which becomes a component of an article for resale in the regular course of the purchaser's business. In either case mailing bureaus must secure resale certificates in the usual form.

Where a mailing bureau purchases stamps, government postals or stamped envelopes for a customer and the customer is charged therefor, the amount of the postage may be deducted from the measure of the business and occupation tax.

RETAIL SALES TAX

Sales by duplicators and mailing bureaus of tangible personal property (for example, photostats, blueprints, copies, mailing lists, "Dick" strips, etc.) and/or services rendered to tangible personal property of or for consumers are subject to the retail sales tax. Examples of persons purchasing as "consumers" are, among others, architects, engineers, and advertising agencies.

Where a mailing bureau purchases stamps, government postals or stamped envelopes for a customer and the customer is charged therefor, the amount of the postage may be deducted from the measure of the retail sales tax due.

Vendors selling tangible personal property to duplicators and mailing bureaus which will be resold, without any intervening use, are not required to collect the retail sales tax upon taking a resale certificate in the usual form.

On the other hand, vendors selling to duplicators and mailing bureaus, equipment, supplies or materials which do not become a component part of an article produced for sale, or selling items which are subjected to intervening use before resale, are making retail sales and must collect the retail sales tax.

((Revised June 1, 1970:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-142 (~~((RULE 142))~~) **PHOTOGRAPHIC EQUIPMENT AND SUPPLIES.** Sales of tangible personal property by a photographic supply house to persons who purchase such property for personal consumption or use are subject to the retail sales tax. Illustrative of such sales are the following:

Photographic films, paper, chemicals, frames, repair parts for cameras and other equipment sold to customers for personal use.

X-ray materials and equipment sold to doctors, dentists, hospitals, dental and X-ray laboratories.

Equipment sold to photofinishers, portrait and commercial photographers and photoengravers such as cameras, lenses, backgrounds, graduates, trays, utensils, lamps, retouching dope, leads, pencils and sundry materials which do not become an ingredient or component part of the pictures produced for sale.

Photographic films, chemicals and equipment sold to a newspaper publisher.

Photographic films sold to portrait and commercial photographers for use in their business (~~(, since in such business negatives ordinarily remain the property of the photographer)~~).

Sales of tangible personal property by a photographic supply house to persons who resell such property in the regular course of business or consume the same in producing for sale a new article of which such property is an ingredient or component, or a chemical used in processing the same, are not subject to the retail sales tax. Illustrative of such sales are the following:

Photographic films, photo mailers, cameras, art-corners, etc., sold to a dealer or photographer for the purpose of resale;

Photographic paper, mounts, frames, adhesives, card board, oil and water colors, India ink sold to a photofinisher, portrait or commercial photographer or photoengraver to be used in producing photographic prints for sale.

Envelopes, paper and twine sold to a photographer or photofinisher for use in delivering photographic prints sold.

Chemicals, such as developing agents, fixing agents, etc., sold to a photofinisher, portrait or commercial photographer or photoengraver, which chemicals are used in producing pictures for sale.

The retail sales tax applies upon the charge made for repairing cameras and other equipment, the retouching or alteration of photographs or films, when done for consumers.

((Revised May 1, 1947:))

AMENDATORY SECTION (Amending Order ET 70-4, filed 6/12/70, effective 7/12/70)

WAC 458-20-143 **PUBLISHERS OF NEWSPAPERS, MAGAZINES, PERIODICALS.**

BUSINESS AND OCCUPATION TAX

PRINTING AND PUBLISHING. Publishers of newspapers, magazines and periodicals are taxable under the Printing and Publishing classification upon the gross income derived from the publishing business.

Persons who both print and publish books, music, circulars, etc., or any other item, are likewise taxable under the Printing and Publishing classification. However, persons, other than publishers of newspapers, magazines or periodicals, who publish such things and do not print the same, are taxable under either the Wholesaling or Retailing classification, measured by gross sales, and taxable under the Service classification, measured by the gross income received from advertising.

RETAIL SALES TAX

Sales of newspapers, whether by publishers or others, are specifically exempt from the retail sales tax.

However, sales of magazines, periodicals, (~~(racing forms)~~) and all publications other than newspapers are subject to the retail sales tax when made to consumers.

"NEWSPAPER" DEFINED. The word "newspaper" means a publication of general circulation bearing a title, issued regularly at stated intervals of at least once every two weeks, and formed of printed paper sheets without substantial binding. It must be of general interest, containing information of current events. The word does not include racing forms or other similar publications devoted solely to a specialized field. It shall include school newspapers, regardless of the frequency of publication, where such newspapers are distributed regularly to a paid subscription list.

Sales to newspapers, magazine and periodical publishers of paper and printers ink which become a part of the publications sold, and sales by printers of printed publications to publishers for sale, are sales for resale and are not subject to the retail sales tax.

With respect to community newspapers which are distributed free of charge, where the publisher has a contract with his advertisers to distribute the newspaper to the subscriber in consideration for the payments made by the advertisers, it will be construed that the publisher sells the newspaper to the advertiser, and, therefore, the retail sales tax will not apply with respect to the charge made by the printer to the publisher for printing the newspaper or with respect to the purchase of ink and paper when the publisher prints his own newspaper.

Sales to newspaper, magazine or periodical publishers of equipment and of supplies and materials which do not become a part of the finished publication which is sold are subject to the retail sales tax. This includes, among others, sales of engravings, fuel, furniture, lubricants, machinery, negatives and plates used in offset printing, photographs, stationery and writing ink. Sales of engravings to publishers are subject to the retail sales tax unless the publisher resells such engravings without intervening use.

Sales to newspaper, magazine or periodical publishers of baseball bats, bicycles, dolls and other articles of tangible personal property which are to be distributed by the publisher as gifts, premiums or prizes are sales for consumption and subject to the retail sales tax.

So-called "sales" by authors and artists to publishers of the right to publish scripts, paintings, illustrations and cartoons are mere licenses to use, not sales of tangible personal property and, therefore, are not subject to the retail sales tax.

USE TAX

Publishers of newspapers, magazines and periodicals are subject to tax upon the value of articles printed or produced for use in conducting such business.

((Revised June 1, 1970:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-148 (~~((RULE 148))~~) **BARBER AND BEAUTY SHOPS.**

BUSINESS AND OCCUPATION TAX

Barber and beauty shops are subject to the business and occupation tax as follows:

RETAILING. Taxable under the Retailing classification upon charges for styling of wigs or hairpieces and upon the gross proceeds of sales of shoe shines and of packaged cosmetics, etc., sold apart from the rendition of personal services.

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under the Service and Other Business Activities classification upon the gross income from charges for the rendition of personal services, such as hair cutting, shaving, shampooing, tinting, bleaching, setting and the like.

RETAIL SALES TAX

Barber and beauty shops primarily render personal services as to hair cutting, shaving, shampooing, tinting, bleaching, setting and the like and, therefore are not required to collect the retail sales tax from the customers paying for such services. Sales by supply houses to barber and beauty shops of such articles of equipment as clippers, razors, barber chairs, hair waving machines, etc., and of such supplies as soaps, hair tonics, lotions, cosmetics, dyes, etc., which are used incidentally in the rendering of such personal services are taxable retail sales upon which the retail sales tax must be collected. Shops must collect retail sales tax upon sales and charges shown as taxable under retailing above.

Sales by barber and beauty shops of packaged cosmetics, hair tonics, lotions and like articles are taxable retail sales when sold apart from the rendition of personal services and are subject to the retail sales tax. Sales of such articles by supply houses to barber and beauty shops are sales for resale and are not taxable under the retail sales tax.

Barber shops operating shoe shine stands are required to collect the retail sales tax upon the charges made for shoe shines rendered to customers. Sales by supply houses of shoe polish, dyes, cleaners, etc., which are resold in rendering a shoe shine service are sales for resale and not taxable under the retail sales tax. However, sales to shoe shine stands of brushes, chairs and other equipment which are not resold in rendering such services are taxable retail sales and the retail sales tax must be collected thereon.

((Revised June 1, 1970.))

AMENDATORY SECTION (Amending Order 74-2, filed 6/24/74)

WAC 458-20-150 ((~~RULE 150~~)) OPTOMETRISTS, OPHTHALMOLOGISTS, AND OCULISTS.

BUSINESS AND OCCUPATION TAX

RETAILING. Taxable under the Retailing classification upon gross proceeds of sales of eye glasses, regular or contact lenses, frames, springs, bows, etc., and upon charges made for repair or replacement thereof. In case a lump sum or single charge is made to a customer or patient for an examination or refraction and the furnishing of glasses, the total charge so made must be included within the gross proceeds of sales.

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under the Service and Other Business Activities classification upon the gross income from charges made for examinations and refractions and upon fees for fitting or adjustment of glasses or contact lenses when such charges are accounted for and billed separate and apart from the selling price of eye glasses or lenses furnished to the patient.

RETAIL SALES TAX

Eye examinations (~~and~~), refractions, and the fitting or adjustment of prescription lenses are professional services, the charges for which are not subject to the retail sales tax if billed to a customer or patient separately from the selling price of the glasses.

A deduction is allowed from gross retail sales for sales to patients of prescription lenses by a dispensing optician licensed by chapter 18.34 RCW where such sales are separately stated on invoices and separately accounted for. (See WAC 458-20-188.)

Where examinations, refractions, or fitting or adjustment of prescription lenses are sold together with frames, springs, bows, and similar articles, and single lump sum charge is made therefor, the seller will be liable for retail sales tax on the total charge. However, where separate charges are made on invoices rendered patients for examinations, refractions, or for the fitting or adjustment prescription lenses and each such charge is separately accounted for, the retail sales tax will apply only upon the remaining price charged for the frame, spring, bow, etc.

Sales by optical supply houses to optometrists, ophthalmologists and oculists of eye glasses, lenses, frames, springs, bows and other articles which are resold to customers or patients are sales for resale and not subject to the retail sales tax. On the other hand, sales by supply houses of machinery or equipment, and supplies which are incidental to the rendering of a professional service, are taxable retail sales.

((Revised June 24, 1974.

Effective July 1, 1974.))

WSR 83-04-064
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed February 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning chapter 458-20 WAC which includes retail sales and use tax, business and occupation tax, public utility tax, cigarette tax, tobacco products taxes, and conveyance taxes;

that the agency will at 1:30 p.m. - 4:30 p.m., Tuesday, March 8, 1983, in the Revenue Conference Room, 415 General Administration Building, Capitol Grounds, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 15, 1983.

The authority under which these rules are proposed is RCW 82.32.300.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1983.

Dated: February 2, 1983

By: Jodi Johnson

Administrative Assistant

for Don R. McCuiston, Director

Tax Rules, Interpretation and Appeals Division

STATEMENT OF PURPOSE

The statutory authority for adopting the following rules is RCW 82.32.300.

The Agency Personnel Responsible for Drafting and Implementation: Don R. McCuiston, 415 General Administration Building, Olympia, Washington 98504, Telephone: 753-5525; Enforcement: Department of Revenue, 415 General Administration Building, Olympia, Washington 98504, Telephone: 753-5540.

Title: WAC 458-20-153 Funeral Directors.

Purpose: To grant a business and occupation tax deduction from the gross income of funeral directors for reimbursement of accommodation expenditures on behalf of clients. This rule is intended to implement RCW 82.04.4296. The reason for the proposed action is the legislative adoption of RCW 82.04.4296.

Title: WAC 458-20-156 Abstract, Title Insurance and Escrow Businesses.

Purpose: To change definition of escrow to conform with RCW 18.44.010. This rule is intended to implement RCW 82.04.050 and 18.44.010. This change is required by legislative action (RCW 18.44.010).

Title: WAC 458-20-159 Consignees, Bailees, Factors, Agents and Auctioneers.

Purpose: To add term "agent" where appropriate in rule. To add language to clarify status of purchasing agents. This rule is intended to implement RCW 82.08.040. The term "agent" is currently in the title of the rule. This adds it to the text. New language clarifies the record keeping requirement of the rule.

Title: WAC 458-20-161 Persons Buying or Producing Wheat, Oats, Dry Peas, Corn, Barley, Dry Beans, Lentils and Triticale and Making Sales Thereof.

Purpose: To add dry bean, lentils and triticale to products qualifying for special tax rate. This rule implements RCW 82.04.260(1) and the legislative action adding the dry beans, lentils and triticale to the statute.

Title: WAC 458-20-162 Stockbrokers and Security Houses.

Purpose: To replace terms "within and without" with "inside and outside". To add phrase "or activities conducted inside" this state. This rule implements RCW 82.04.460. This amendment became necessary to clarify the existing rule change.

Title: WAC 458-20-163 Insurance Companies, Including Surety Companies, Fraternal Benefit Societies, Fraternal Fire Insurance Associations and Beneficiary Corporations or Societies.

Purpose: Clarification of existing rule. No substantive changes are made. This rule is intended to implement RCW 82.04.320. The rule in its present form very broadly refers to other "normal rules." The amendment simply clarifies that insurance and similar beneficiary entities are consumers and are liable for sales or use tax upon their own purchased consumables.

Title: WAC 458-20-165 Laundries, Dry Cleaners, Laundry Agents, Self Service Laundries and Dry Cleaners.

Purpose: Clarification of existing rule. No substantive change from the manner in which existing rule is being administered. This rule is intended to implement RCW 82.04.050. The statutory definition of "retail sale" includes "cleaning" tangible personal property of or for consumers. Some taxpayers felt that providing laundry services for consumers was not a retail sale but rather was providing services to others outside this state. The rule amendment clarifies that they are in the business of cleaning, and if they do it in this state, it is subject to retailing business tax and sales tax.

Title: WAC 458-20-166 Hotels, Motels, Boarding Houses, Rooming Houses, Resorts, Summer Camps, Trailer Camps, Etc.

Purpose: To provide that amounts paid for camping or lodging services are retail sales, not services, even though they may be called "dues." This rule is intended to implement RCW 82.04.050 and 82.04.4282. The rule amendment explains that persons who grant licenses to use campsites, trailersites, etc., are not tax exempt merely because they call these charges "dues." It overcomes frivolous and dilatory appeals.

Title: WAC 458-20-168 Hospitals.

Purpose: Distinguishes the kinds of tangible personal property sold by hospitals which are taxable from those which are exempt. Explains the sales tax exemptions for sales of prescription drugs, insulin, ostomic items, medical oxygen, and prosthetic services. Distinguishes between sales and services rendered by hospitals for purpose of determining proper business tax classifications. This rule is intended to implement RCW 82.08.0281, 82.08.0283 (retail sales tax), 82.04.250, and

82.04.290 (business and occupation tax). Hospitals have sought classification of how the respective taxes apply when they sell tangible personal property outright as opposed to supplying such items as part of their medical services. The amendatory language implements recent and recurring statutory amendments.

Title: WAC 458-20-169 Religious, Charitable, Benevolent, Nonprofit Service Organizations, and Sheltered Workshops.

Purpose: To provide more specific guidelines for operating tax exempt bazaars and rummage sales by nonprofit organizations. To incorporate tax exemption provisions for health and social welfare services. This rule is intended to implement RCW 82.04.365, 82.04.4297 and 82.04.431. Statutory law was amended to provide specific tax exemptions for certain nonprofit organizations which had to be explained in the rule.

Title: WAC 458-20-170 Constructing and Repairing of New or Existing Buildings or Other Structures upon Real Property.

Purpose: Additional language is added which clarifies land ownership for speculative builders. Also, language is added which defines the measure of business and occupation tax and retail sales tax when there is no written or oral contract. This rule is intended to implement RCW 82.04.050 and 82.04.070. In present form the rule does not define attributes of ownership. Inclusion of the additional language will serve to eliminate confusion. Defining the measure of tax when there is no contract will eliminate confusion as to what costs are taxable. The revision brings this rule in line with Department of Revenue and case law rulings.

Title: WAC 458-20-171 Building, Repairing or Improving Streets, Roads, Etc., Which are Owned by a Municipal Corporation or Political Subdivisions of the State or by the United States and Which are used Primarily for Foot or Vehicular Traffic.

Purpose: To exclude persons who construct logging roads on public land pursuant to a timber cutting contract from definition of the term contractor. Reference WAC 458-20-135 (extracting natural products). This rule is intended to implement RCW 82.04.050 and 82.04.100. In Lyle Wood Products v. Department of Revenue the state Supreme Court held that construction of logging roads or public land pursuant to a timber cutting contract was an extracting activity. This change implements the court decision.

Title: WAC 458-20-172 Clearing Land, Moving Earth, Cleaning, Fumigating, Razing or Moving Existing Buildings, and Janitorial Services.

Purpose: To explain that well drilling and test hole digging constitute sales at retail under the definition of that term which includes "moving of earth." To explain that mere core drilling for earth testing purposes is not a sale at retail. This rule is intended to implement RCW 82.04.050. Department of Revenue rulings concerning mere incidental core drilling for earth testing purposes have confused some taxpayers who dig and case test wells and other earth excavations. This rule amendment

already distinguishes sales taxable hole digging from mere core drilling.

Title: WAC 458-20-173 Installing, Cleaning, Repairing or Otherwise Altering or Improving Personal Property of Consumers.

Purpose: To reference WAC 458-20-107 for taxability of warranty, service, or maintenance contracts. This rule is intended to implement RCW 82.04.050. This reference is added because some taxpayers were confused because this rule made no mention of repair work done pursuant to warrant contracts.

Title: WAC 458-20-174 Sales to Motor Carriers Operating in Interstate or Foreign Commerce of Motor Vehicles, Trailers, Parts, Etc.

Purpose: To correct statutory references and change "one-transit permit" to "trip permit." This rule is intended to implement RCW 82.08.0263, 46.16.160, 82.08.0262 and 82.12.0254. Statutory law was amended to change the name of certain certificates used to purchase vehicles and parts and sales tax. Rule amendments conform to statutory changes and amend statutory reference numbers.

Title: WAC 458-20-175 Persons Engaged in the Business of Operating as a Private or Common Carrier by Air, Rail or Water in Interstate or Foreign Commerce.

Purpose: Change statutory references. This rule is intended to implement RCW 82.08.0261 and 82.08.0262. RCW 82.08.030 was recodified. Rule is changed to make the number correction.

Title: WAC 458-20-176 Persons Engaged in the Business of Conducting Commercial Deep Sea Fishing Operations Outside the Territorial Waters of Washington.

Purpose: Excludes helpers, purse seiners and gill netters from definitions of deep sea fishing. This rule is intended to implement RCW 82.08.0264. The three items excluded from the definitions are performed within Washington waters. Therefore, they are not deep sea fishing. This rule language addition will overcome frivolous appeals and provide more specific exemption guidelines.

Title: WAC 458-20-178 Use Tax, Nature of the Tax.
Purpose: To add to the list of exemptions from the use tax those recently enacted by the Washington State Legislature. This rule is intended to implement RCW 82.12.0274, 82.12.0275, 82.12.0276, 82.12.0278, 82.12.0279, 82.12.0281, 82.12.0282 and 82.12.033. The amendment was made to implement the noted statutory exemptions.

Title: WAC 458-20-180 Motor Transportation, Urban Transportation.

Purpose: To include the income from operating contract mail delivery vehicles within the public utility tax classification of motor or urban transportation; to exclude funds received in the course of operating commuter ride-sharing vehicles and vehicles used in ride-sharing for the elderly and handicapped from the public

utility tax classification of motor and urban transportation. This rule is intended to implement RCW 82.16.047. This amendment is made to state the department's conclusion that contract mail delivery is subject to public utility tax; and also to implement the exemption with respect to commuter ride-sharing and ride-sharing for the elderly and handicapped.

Title: WAC 458-20-181 Vessels, Including Log Patrols, Tugs and Barges, Operating upon Waters in the State of Washington.

Purpose: To provide for the taxation of vessels which are used for scenic cruises. This rule is intended to implement RCW 82.04.290. The income from operating a vessel to provide scenic cruises is subject to business and occupation tax under the service and other activities classification. The revision sets forth this principle.

Title: WAC 458-20-184 Tax on Conveyances, General Provisions.

Purpose: To make provision in rule for financing instrument commonly known as "deed of trust"; to implement ruling of Washington Supreme Court in Cascade Security Bank v. Butler, 88 Wn 2d 777 (1977) as applied to transfers of vendor's and vendee's interests in real estate contract. This rule is intended to implement chapter 82.20 RCW. The current rule discusses "mortgages" but makes no provision for the most common real estate financing instrument, the "deed of trust." The supreme court decision held that the interest of a vendee in a real estate contract is an interest in real estate, and not an interest in intangible personal property. The transfer of a vendee's interest in a real estate contract is subject to conveyance tax.

Title: WAC 458-20-189 Sales to and by the State of Washington, Counties, Cities, School Districts and Other Municipal Subdivisions.

Purpose: To set forth: (1) Business and occupation tax exemption for school districts, educational service districts on materials printed for their own use; (2) retail sales tax exemption for state and local governments on their purchases of ferry vessels, component part thereof, and labor and services related to the construction or improvement of such vessels; and (3) use tax exemption in conjunction with number (2) above. This rule is intended to implement RCW 82.04.395, 82.04.397, 82.08.0285 and 82.12.0279. These amendments became necessary to implement the above statutory exemptions.

Title: WAC 458-20-190 Sales to and by the United States, its Departments, Institutions and Instrumentalities—Sales to Foreign Governments.

Purpose: To delete from the existing rule those federal departments, institutions, and instrumentalities that are no longer in existence; to add the names of certain other federal departments, institutions, and instrumentalities that have been recently created or, by virtue of express congressional authority, are exempt of Washington taxes. To clarify the exempt statute of the federal government and the taxability of federal employees. This rule is intended to implement RCW 82.04.4286 and 82.04.405. This revision is to update the existing rule

regarding sales to and by the federal government, by deleting and adding to the list the names and types of instrumentalities that are exempt of tax. The revised rule also states that sales to federal employees or representatives are taxable even though perhaps made in behalf of the federal government.

Title: WAC 458-20-191 Federal Reservations.

Purpose: This rule explains the various excise taxes imposed on persons residing within or conducting business upon federal reservations, such as military bases. There are no substantive changes to this rule; administrative citations revised. This rule is intended to implement RCW 82.04.4286. To delete references to "rules" and insert instead Washington Administrative Code (WAC) citations.

Title: WAC 458-20-193A Sales of Goods Originating in Washington to Persons in Other States.

Purpose: To clarify which sales qualify for interstate exemption; to provide sample blanket exemption certificate for purposes of noncontiguous state exemption. This rule is intended to implement RCW 82.04.4286. Confusion exists as to the meaning of the term "agent" to qualify for interstate exemption; the rule substitutes "risk and expense." The current rule sets out in narrative form the requirements for blanket exemption certificate on noncontiguous state sales. The revision sets out sample certificate.

Title: WAC 458-20-193B Sales of Goods Originating in Other States to Persons in Washington.

Purpose: To replace the conjunction "and" with the conjunction "or" so that a person is subject to Washington business and occupation tax if he performs significant services in relation to the establishment or maintenance of sales into this state. This rule is intended to implement RCW 82.04.4286. The rule is the department's administrative expression of the result of a series of United States and Washington Supreme Court decisions regarding the extent to which a state can tax the seller of goods which originate in other states and which are bound for buyers in Washington. This change is made for clarification purposes only.

Title: WAC 458-20-193C Imports and Exports—Sales of Goods from or to Persons in Foreign Countries.

Purpose: To set forth the documentary requirements to satisfy claim for export exemption. This rule is intended to implement RCW 82.04.4286. The courts have set forth guidelines that must be satisfied in order to claim an exemption from business and occupation tax on exports. The cases are: Carrington v. Revenue, 84 Wn 2d 444, Canton Railroad Co. v. Logan, 340 U.S. 511, Continental Grain v. State, 66 Wn 2d 194, and Tacoma v. General Metals, 84 Wn 2d 560. This revision is the department's administrative expression of the evidence that must be retained in order for the seller to qualify for the exemption.

Title: WAC 458-20-193D Transportation, Communication, Public Utility Activities, or Other Services in Interstate or Foreign Commerce.

Purpose: The amendment to this rule is proposed to provide for the special business and occupation tax rates

for stevedoring and certain other activities related to interstate and foreign commerce. It also adds a definition of when the interstate movement of goods begins. This rule is intended to implement RCW 82.04.260(12) and 82.04.260(13). The legislature enacted these special tax rates and they have not heretofore been incorporated into a rule. The definition of when interstate commerce begins is added for purposes of clarification.

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-153 (~~((RULE-153)))~~ FUNERAL DIRECTORS. Funeral directors commonly quote a lump sum price for a standard funeral service, which includes the furnishing of a casket, professional services, care of remains, funeral coach, floral car and the securing of permits.

BUSINESS AND OCCUPATION TAX

RETAILING. The gross amount subject to the retail sales tax as outlined below, is taxable under the Retailing classification of the business and occupation tax except that there may be deducted, for purposes of the business tax only, amounts received as reimbursement for expenditures for goods or services supplies by others who are not persons employed by, affiliated, or associated with the funeral home, when such amounts were advanced by the funeral home as an accommodation to the person paying for a funeral; but this deduction is allowed only if such expenditures advanced are billed to the person paying for the funeral at the exact amount of the expenditure advanced and such amounts are separately itemized in the billing statement to such person.

SERVICE AND OTHER BUSINESS ACTIVITIES. That portion of the gross income derived from engaging in business as a funeral director which is not taxable under the Retailing classification is taxable as Service and Other Business Activities.

RETAIL SALES TAX

Where the funeral director quotes a lump sum price for a standard funeral service, which includes both the sale of tangible personal property and a charge for the rendering of service, the retail sales tax is collected upon one-half of such lump sum price. Clothing, outside case (a concrete or metal box into which the casket is placed) and other tangible personal property furnished in addition to the casket must be billed separately and the retail sales tax collected thereon.

The retail sales tax is not applicable to sales made to funeral directors of tangible personal property which is resold separate and apart from the rendition of professional services, provided the vendor receives from the funeral director a resale certificate in the usual form. The property so purchased includes the casket, clothing, outside case and acknowledgment cards.

The retail sales tax is applicable to sales to funeral directors of tangible personal property which is consumed in the rendition of professional services. The property so purchased includes all preparation room supplies (embalming fluid and other chemicals, solvents, waxes, cosmetics, eye caps, gauze, cotton, etc.). The sales tax is also applicable to sales to such persons of tools and equipment.

USE TAX

The use tax applies upon the use within this state of all articles of tangible personal property used in the performance of professional services when such articles have been purchased or acquired under conditions whereby the Washington retail sales tax has not been paid.

((Revised July 1, 1955:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-156 (~~((RULE-156)))~~ ABSTRACT, TITLE INSURANCE AND ESCROW BUSINESSES. The gross receipts of "abstract," "title insurance" and "escrow" businesses include all service charges representing an abstract fee, a charge for a title insurance fee or premium, or an escrow fee or service charge received by "escrow agents."

The term "escrow" means ~~((a written instrument which by its terms imports a legal obligation and which is deposited by the grantor, promisor or obligor, or his agent with a stranger or third party to be~~

kept by the depositary until the performance of a condition or the happening of a certain event, and then to be delivered over to the grantee, promisee or obligee. The essential elements are: (1) there must be a valid contract between all parties as to the subject matter of the escrow instrument and the delivery, (2) the delivery of the instrument by the depositary to the grantee or obligee must be conditional upon the performance of some act or the happening of some event; (3) there must be delivery of the instrument to a third party as depositary and such delivery must be actual, whether manual or symbolical so that the depositor has no control over it; (4) although the depositor's right of possession may return if the specified event does not happen or the conditions imposed are not performed, the deposit of such instrument must be in the meantime irrevocable)) any transaction wherein any person or persons, for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance, or lease of real or personal property to another person or persons, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by such third person until the happening of a specified event or the performance of a prescribed condition or conditions, when it is then to be delivered by such third person, in compliance with instructions under which he is to act, to a grantee, grantor, promisee, promisor, obligee, obligor, lessee, lessor, bailee, bailor, or any agent or employee thereof.

"Escrow agent" means any sole proprietorship, firm, association, partnership, or corporation engaged in the business of performing for compensation the duties of the third person referred to in the foregoing definition.

BUSINESS AND OCCUPATION TAX

Abstract, title insurance and escrow businesses are taxable under the classification Retailing on gross receipts from fees or premiums charged to consumers for abstract, title insurance or escrow services.

The gross income from collection contracts which do not involve an escrow as above defined is subject to tax under the classification Service and Other Activities.

RETAIL SALES TAX

The retail sales tax must be collected and reported by abstract, title insurance and escrow businesses on fees or premiums charged for such services. The retail sales tax is applicable to sales to such businesses of forms, office supplies and equipment for use in the conduct of such businesses.

((Revised June 1, 1970:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-159 ((~~RULE 159~~)) CONSIGNEES, BAILEES, FACTORS, AGENTS AND AUCTIONEERS. A consignee, bailee, factor, agent or auctioneer, as used in this ruling, refers to one who has either actual or constructive possession of tangible personal property, the actual ownership of such property being in another, or one calling for bids on such property. The term "constructive possession" means possession of the power to pass title to tangible personal property of others.

BUSINESS AND OCCUPATION TAX

RETAILING AND WHOLESALING. Every consignee, bailee, factor, agent or auctioneer having either actual or constructive possession of tangible personal property, or having possession of the documents of title thereto, with power to sell such tangible personal property in his or its own name and, actually so selling, shall be deemed the seller of such tangible personal property and taxable under the Retailing or Wholesaling classification of the business and occupation tax, depending upon the nature of the transactions. In such case the consignor, bailor, principal or owner shall be deemed a seller of such property to the consignee, bailee, factor or auctioneer and taxable as a wholesaler with respect to such sales.

The mere fact that consignee, bailee or factor makes a sale raises a presumption that such consignee, bailee or factor actually sold in his or its own name. This presumption is controlling unless rebutted by proof satisfactory to the Department of Revenue.

AGENTS AND BROKERS. Any person who claims to be acting merely as agent or broker in promoting sales for a principal or in making purchases for a buyer, will have such claim recognized only

when the contract or agreement between such persons clearly establishes the relationship of principal and agent and when the following conditions are complied with:

1. The books and records of the broker or agent show the transactions were made in the name and for the account of the principal, and show the name of the actual owner of the property for whom the sale was made, or the actual buyer for whom the purchase was made.

2. The books and records show the amount of gross sales, the amount of commissions and any other incidental income derived by the broker or agent from such sales.

SERVICE AND OTHER BUSINESS ACTIVITIES. Every consignee, bailee, factor, agent or auctioneer who makes a sale in the name of the actual owner, ((or)) as agent of the actual owner, or who purchases as agent of the actual buyer, is taxable under the Service and Other Business Activities classification upon the gross income derived from such business.

RETAIL SALES TAX

CONSIGNEES, BAILEES, FACTORS, AGENTS OR AUCTIONEERS. Every consignee, bailee, factor, agent or auctioneer authorized, engaged or employed to sell or call for bids on tangible personal property belonging to another, and, so selling or calling, is deemed a seller, and shall collect the retail sales tax upon all retail sales made by him, except sales of certain farm property as hereinafter provided. The tax applies to all such sales even though the sales would have been exempt if made directly by the owner of the property sold.

It shall be the duty of every consignee, bailee, factor, agent or auctioneer to collect and remit the retail sales tax directly to the department with respect to all retail sales made or called by them: PROVIDED, HOWEVER, That if the owner of the property sold is engaged in the business of selling tangible property and the sale by the consignee, bailee, factor, agent or auctioneer has been made in the owner's name and the owner continues to engage in business, the owner may report and pay the tax collected directly to the department.

If the owner of the property sold discontinues business either before or at the time of the sale, the owner and the consignee, bailee, factor, agent or auctioneer will be held jointly responsible for payment of the tax.

The foregoing does not apply to auction sales made by or through auctioneers of tangible personal property (including household goods) which have been used in conducting a farm activity when the seller thereof is a farmer and the sale is held or conducted upon a farm, since such sales are specifically exempted from the retail sales tax.

Bailees will be relieved from liability for the collection of the sales tax from buyers in those cases where they merely receive a commission on the sale and the entire transaction is closed directly between the owner and the buyer, if such sales are reported to the department by such bailees, within ten days after receipt of the sales commission and such report shows the following:

1. Name and address of seller;
2. Name and address of buyer;
3. Amount for which sold;
4. Approximate date of sale;
5. Description of property sold.

Those failing to submit such report to the department within the time stated will be held responsible for payment of the sales tax to the state.

Note: For tax liability of certain independent selling agents for the collection of the use tax, see WAC 458-20-221.

((Revised May 1, 1945:))

AMENDATORY SECTION (Amending Order ET 78-4, filed 6/27/78)

WAC 458-20-161 ((~~RULE 161~~)) PERSONS BUYING OR PRODUCING WHEAT, OATS, DRY PEAS, CORN ((~~AND~~)), BARLEY, DRY BEANS, LENTILS AND TRITICALE AND MAKING SALES THEREOF.

BUSINESS AND OCCUPATION TAX

RETAILING. Taxable under the Retailing classification upon the gross proceeds from all retail sales of such products.

WHOLESALING. Persons buying manufactured or processed ((~~products of~~)) wheat, oats, dry peas, dry beans, lentils, triticale, corn and barley, and selling the same at wholesale, are taxable under the Wholesaling classification upon their gross proceeds of sales. The tax imposed under this classification does not apply to persons producing

wheat, oats, dry peas, corn (~~(and)~~), barley, dry beans, lentils and triticale and selling the same at wholesale.

WHEAT, OATS, DRY PEAS, CORN (~~(AND)~~), BARLEY, DRY BEANS, LENTILS AND TRITICALE. Persons buying wheat, oats, dry peas, dry beans, lentils, triticale, corn and barley, and selling the same at wholesale as such and not as a manufactured or processed product thereof, are taxable under the Wheat, Oats, Dry Peas, Corn and Barley classification upon their gross proceeds of sales.

((Revised April 28, 1978:
Effective July 1, 1978:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-162 (~~((RULE 162))~~) STOCKBROKERS AND SECURITY HOUSES. With respect to stockbrokers and security houses, "gross income of the business" means the total of gross income from interest, gross income from commissions, gross income from trading and gross income from all other sources: PROVIDED, That:

1. Gross income from each account is to be computed separately and on a monthly basis;

2. Loss sustained upon any earnings account may not be deducted from or offset against gross income upon any other account, nor may a loss sustained upon any earnings account during any month be deducted from the gross income upon any account for any other month;

3. No deductions are allowed on account of salaries or commissions paid to employees or salesmen, rent, or any other overhead or operating expenses paid or incurred, or on account of losses other than under "2" above;

4. No deductions are allowed from commissions received from sales of securities which are delivered to buyers outside the State of Washington.

GROSS INCOME FROM INTEREST. Gross income from interest includes all interest received upon bonds or other securities held for sale or otherwise, excepting only direct obligations of the Federal government and of the State of Washington. No deduction is allowed for interest paid out even though such interest may have been paid to banks, clearing houses or others upon amounts borrowed to carry debit balances of customers' margin accounts.

Interest accrued upon bonds or other securities sold shall be included in gross income where such interest is carried in an interest account and not as part of the selling price. Conversely, interest accrued upon bonds or other securities at the time of purchase may be deducted from gross income where such interest is carried in an interest account and not as a part of the purchase price.

GROSS INCOME FROM COMMISSIONS. Gross income from commissions is the amount received as commissions upon transactions for the accounts of customers over and above the amount paid to other established security houses associated in such transactions: PROVIDED, HOWEVER, That no deduction or offset is allowed on account of salaries or commissions paid to salesmen or other employees.

GROSS INCOME FROM TRADING. Gross income from trading is the amount received from the sale of stocks, bonds and other securities over and above the cost or purchase price of such stocks, bonds and other securities. In the case of short sales gross earnings shall be reported in the month during which the transaction is closed, that is, when the purchase is made to cover such sales or the short sale contract is forfeited.

GROSS INCOME FROM ALL OTHER SOURCES. Gross income from all other sources includes all income received by the taxpayer, other than from interest, commissions and trading, such as dividends upon stocks, fees for examinations, fees for reorganizations, etc.

SERVICES (~~(WITHIN)~~) INSIDE AND (~~(WITHOUT)~~) OUTSIDE THE STATE-APPORTIONMENT. Stockbrokers and security houses rendering services and maintaining places of business both (~~(within)~~) inside and (~~(without)~~) outside the state may, in computing tax, apportion to this state that portion of the gross income which is derived from services rendered (~~(within)~~) or activities conducted inside this state. Where such apportionment cannot be made accurately by separate accounting methods, the taxpayer shall apportion to this state that portion of his total income which the cost of doing business (~~(within)~~) inside the state bears to the total cost of doing business both (~~(within)~~) inside and (~~(without)~~) outside the state.

((Revised June 1, 1970:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-163 (~~((RULE 163))~~) INSURANCE COMPANIES, INCLUDING SURETY COMPANIES, FRATERNAL BENEFIT SOCIETIES, FRATERNAL FIRE INSURANCE ASSOCIATIONS AND BENEFICIARY CORPORATIONS OR SOCIETIES. The provisions of the business and occupation tax do not apply to:

1. Any person with respect to insurance business upon which a tax based on gross premiums is paid to the State of Washington. (RCW 82.04.320.) It should be noted, however, that the statute provides expressly that this exemption does not extend to "any person engaging in the business of representing any insurance company, whether as general or local agent or acting as broker for such companies," or to "any bonding company . . . with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor." In addition, the exemption does not apply to any business engaged in by an insurance company other than its insurance business.

2. Fraternal benefit societies or fraternal fire insurance associations as described in chapter 48.36 RCW, and beneficiary corporations or societies organized under and existing by virtue of Title 24 RCW, if such beneficiary corporations or societies provide in their by-laws for the payment of death benefits. This exemption, however, is limited to gross income from premiums, fees, assessments, dues or other charges directly attributable to the insurance or death benefits provided by such persons.

RETAIL SALES TAX AND USE TAX

Insurance companies are (~~(not entitled to any exemptions under)~~) subject to the retail sales tax or (~~(under the)~~) use tax (~~(, and the normal rules apply to them)~~) upon retail purchases or articles acquired for their own use.

((Revised January 1, 1960:))

AMENDATORY SECTION (Amending Order ET 73-1, filed 11/2/73)

WAC 458-20-165 (~~((RULE 165))~~) LAUNDRIES, DRY CLEANERS, LAUNDRY AGENTS, SELF SERVICE LAUNDRIES AND DRY CLEANERS.

LAUNDRIES, DRY CLEANERS, LAUNDRY AGENTS, SELF SERVICE LAUNDRIES AND DRY CLEANERS

The term "laundry or dry cleaning business" applies to (1) the business of operating a plant or establishment for laundering, cleaning, dyeing, pressing and incidentally repairing such articles as clothing, linens, bedding, towels, curtains, drapes, rugs, etc.; (2) so-called "launderettes," "washettes," "cleanettes" or similar self service businesses wherein laundry or dry cleaning facilities are provided for hire; it includes the operation of both coin and noncoin operated equipment, and (3) one who, under his own name, operates a place of business or pickup and delivery system for the collection and distribution of such articles, holding himself out to the public as performing such services, even though such person owns no plant and contracts with another for a part or all of the services rendered. This does not apply, however, to a person holding himself out as an agent for a particular laundry or dry cleaning plant.

The term "laundry agent" applies to any person who, under his own name, operates a place of business or pickup and delivery system for the collection and distribution of articles to be laundered, cleaned, dyed or pressed, holding himself out as agent for some particular establishment and acting as an independent contractor rather than as an employee.

The term "laundry or linen supply service" means the business of contracting to provide customers with a supply of clean linen, uniforms, towels, etc., whether ownership of such property is in the person operating the laundry or linen supply service or in the customer. Such services may include the providing of cabinets and other toilet equipment, paper towels, soap and similar consumable supplies.

BUSINESS AND OCCUPATION TAX

RETAILING. Persons operating laundry or dry cleaning businesses, including self service or coin operated laundry or dry cleaning businesses, but not including coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants, are taxable under

the Retailing classification upon the gross proceeds of sales which are subject to the retail sales tax as hereinafter provided, without any deduction on account of commissions allowed or amounts paid to another for the performance of all or part of the laundry or dry cleaning service rendered.

Persons operating self service or coin operated laundries or dry cleaning businesses are taxable under the Retailing classification upon the gross proceeds of sales of starch, soap, blueing or any other article sold to customers.

Laundries in Washington which provide linen supply services are making retail sales in this state even though their customers may be located outside this state. Gross income from such services is subject to tax because the charge is for laundering which takes place in this state, rather than being a true rental of property (uniforms, linen, etc.) to nonresidents.

WHOLESALE. Tax is due under the Wholesaling classification upon the gross proceeds of sales derived from laundry or dry cleaning services rendered for other laundry and dry cleaning establishments.

SERVICE AND OTHER ACTIVITIES. Persons operating coin operated laundry facilities which are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants are taxable under Service and Other Activities on the gross income from such facilities. Laundry agents are taxable under this classification upon the gross commissions received by them. Nonprofit associations composed exclusively of nonprofit hospitals are taxable under the Service and Other Activities classification upon laundry services to such members.

RETAIL SALES TAX

Laundry and dry cleaning businesses (including so-called "launderettes," "washettes," "cleanettes" and self service or coin operated laundries or dry cleaners), laundry agents and persons operating laundry or linen supply services are required to collect the retail sales tax upon the total charge made to the customer for laundry and dry cleaning service or laundry supply service rendered by them. The tax is not applicable to gross receipts from coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants.

Laundries, dry cleaning businesses and laundry agents who pay agency commissions or maintain commission drivers must account for the retail sales tax upon such operations as follows:

1. Where agency commissions are allowed hotels, apartments, etc., on laundry or dry cleaning done for their guests, the retail sales tax must be collected by the laundry or dry cleaner upon the full retail charge to the final consumer.
2. Commission drivers operating in the name of the laundry or cleaning establishment must collect the retail sales tax on the total charge made to the customer, remitting the same on each settlement to the plant, which in turn is responsible for the payment of the tax to the state.

Sales by supply houses to laundries, dry cleaners and persons operating laundry or linen supply services of soaps, cleaning solvents and other articles or substances which are used in rendering a laundry, laundry supply or cleaning service are retail sales and are subject to the retail sales tax. Sales to such persons of dyes, starches and similar articles or substances, the primary purpose of which is to become ingredients of the articles cleaned, are sales at wholesale and are not subject to the retail sales tax. Similarly, sales to persons operating laundry or linen supply services of linen, uniforms, towels, cabinets, hand soap and similar property rented or supplied to customers as a part of the service rendered are wholesale sales. Sales by supply houses to laundries, dry cleaners and operators of laundry or linen supply services of equipment and supplies such as machinery, hand tools, spotting brushes, stationery, etc., are retail sales and the retail sales tax must be collected thereon.

Generally, sales by supply houses to persons operating self service or coin operated laundries, of soaps or other articles which are furnished by such persons to their customers, the charge for which is included within the charge for use of facilities, are wholesale sales, and supply houses need not collect the retail sales tax thereon upon receipt of a resale certificate from the customer. However, sales of such supplies to persons operating coin operated laundry facilities which are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants are retail sales upon which the retail sales tax must be collected. Sales to all operators of laundry or dry cleaning establishments of equipment such as washing machines, ironers, furniture, etc., are retail sales subject to the sales tax.

AMENDATORY SECTION (Amending Order ET 78-4, filed 6/27/78)

~~WAC 458-20-166 ((RULE 166))~~ **HOTELS, MOTELS, BOARDING HOUSES, ROOMING HOUSES, RESORTS, SUMMER CAMPS, TRAILER CAMPS, ETC.** A hotel, motel, boarding house, rooming house, apartment hotel, resort lodge, auto or tourist camp, and bunkhouse, as used in this ruling, includes all establishments which are held out to the public as an inn, hotel, public lodging house, or place where sleeping accommodations may be obtained, whether with or without meals or facilities for preparing the same. The foregoing does not include establishments in the business of renting real estate, such as apartments, nor does it include hospitals, sanitariums, nursing homes, rest homes, and similar institutions. Further, the foregoing does not include private lodging houses, dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms solely for the accommodation of employees of such firms, and which are not held out to the public as a place where sleeping accommodations may be obtained. The terms do not include guest ranches or summer camps which, in addition to supplying meals and lodging, offer special recreation facilities and instruction in sports, boating, riding, outdoor living, etc.

A boarding house, as used in this ruling, is an establishment selling meals on the average to five or more persons, exclusive of members of the immediate family. Where meals are furnished to less than five persons, exclusive of members of the immediate family, the establishment will not be considered as engaging in the business of operating a boarding house.

A trailer camp as used in this ruling is an establishment making a charge for the rental of space to transients for locating or parking house trailers, campers, mobile homes, tents and the like which provide sleeping or living accommodations for the occupants. Additional charges for utility services will be deemed part of the charge made for the rental.

It will be presumed that the above establishments are conferring a license to use real estate, as distinguished from a rental of real estate, where the occupant is a transient. Conversely, where the occupant who receives lodging is or has become a nontransient, it will be conclusively presumed that the occupancy is under a rental or lease of real property.

Where lodging is furnished a transient, as that term is hereinafter defined, the charge therefor is subject to the retail sales tax and to the business and occupation tax under the Retailing classification. Where the lodging is furnished a nontransient, the transaction is deemed a rental of real estate and is exempt from tax.

The term "transient" as used in this rule means: Any guest, resident, or other occupant to whom lodging and other services are furnished under a license to use real property and who does not continuously occupy the premises for a period of one month. Where such occupant remains in continuous occupancy for more than one month, he shall be deemed a transient as to his first month of occupancy, unless he has contracted in advance to remain one month. In cases where such person has so contracted in advance and does so remain in continuous occupancy for one month, he will be deemed a nontransient from the start of his occupancy.

An occupant does not become entitled to a refund of retail sales tax paid for lodging as a transient by reason of having remained one month and having thereby qualified as a nontransient.

The tax liability of hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc., is as follows:

BUSINESS AND OCCUPATION TAX

RETAILING. Amounts derived from the charge made to transients for the furnishing of lodging; charges for such services as the rental of radio and television sets and the rental of rooms, space and facilities not for lodging, such as ballrooms, display rooms, meeting rooms, etc., and including automobile parking or storage; also amounts derived from the sale of tangible personal property at retail are taxable under this classification. See "retail sales tax" below for a more detailed explanation of the charges included herein as retailing.

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under this classification are amounts derived from the rental of sleeping accommodations by private lodging houses, and by dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms and which are not held out to the public as a place where sleeping accommodations may be obtained; commissions received from acting as a laundry agent for guests (see WAC 458-20-165) and commissions received for the use of telephone facilities. Summer camps, guest ranches

and similar establishments making an unsegregated charge for meals, lodging, instruction and the use of recreational facilities must report the gross income from such charges under this classification. This classification is also applicable to gross income from charges for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants. (See WAC 458-20-165 for information regarding the tax liability of laundry services generally.)

Charges for lodging and related services described above are subject to tax even though they may be denominated or characterized as membership fees or dues.

RETAIL SALES TAX

All sales and rentals of tangible personal property by such persons are subject to the retail sales tax.

The charge made for the furnishing of lodging and other services to transients is subject to the retail sales tax. Included is the charge made by a trailer camp for the furnishing of space and other facilities. Charges for automobile parking and storage are also subject to the retail sales tax.

Except as to guest ranches and summer camps as described herein, when a lump sum is charged for lodging to nontransients and for meals furnished, the retail sales tax must nevertheless be paid upon the fair selling price of such meals, and unless accounts are kept showing such fair selling price, the tax will be computed upon double the cost of the meals served; and the cost shall include the price paid for food and drinks served, the cost of preparing and serving meals, and all other costs incidental thereto, including an appropriate portion of overhead expenses. The retail sales tax is not applicable to charges for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants.

All sales of tangible personal property to such persons, except such property as is to be resold as tangible personal property are subject to the retail sales tax. In this regard, all sales of tangible personal property for use in the furnishing of lodging and related services are subject to the retail sales tax, the charge made for lodging being for services rendered and not for the sale of any tangible property as such; included are items such as soap, towels, linens, laundry, laundry supply services and furnishings. See WAC 458-20-244 (Rule 244) for sales to persons operating guest ranches and summer camps of food supplies for use in the preparation of meals served to guests when such persons make an unsegregated charge for meals, lodging, and services and report such charges under the classification Service and Other Activities as herein provided.

~~((Revised April 28, 1978.
Effective July 1, 1978:))~~

AMENDATORY SECTION (Amending Order ET 78-4, filed 6/27/78)

WAC 458-20-168 ~~((RULE 168))~~ HOSPITALS. The term "hospital" means only institutions defined as hospitals in chapter 70.41 RCW. The term "nursing home" means only institutions defined as nursing homes in chapter ~~((81-51))~~ 18.51 RCW.

BUSINESS AND OCCUPATION TAX

The gross income of hospitals for medical services is subject to business and occupation tax under the Service and Other Activities classification. The Retailing business and occupation tax applies to sales of ~~((drugs, medicines, eye glasses, lenses, devices, orthopedic appliances, and similar articles, when))~~ tangible personal property other than prescription drugs sold and billed ((and accounted for)) separately from hospital services rendered.

In computing business tax liability of hospitals, there may be deducted from the measure of the tax the following:

1. Amounts derived as compensation for services rendered or to be rendered to patients or from sales of prescription drugs as defined by RCW 82.08.0281 furnished as an integral part of services rendered to patients by a hospital as defined in chapter 70.41 RCW when such hospital is operated by the United States of America or any of its instrumentalities or by the State of Washington or any of its political subdivisions.

2. Amounts derived as compensation for services rendered to patients or from sales of prescription drugs as defined by RCW 82.08-.0281 furnished as an integral part of services rendered to patients by a

hospital as defined in chapter 70.41 RCW when such hospital is operated as a nonprofit corporation but only if no part of the net earnings received by such an institution inures, directly or indirectly, to any person other than the institution entitled to deduction hereunder.

No deduction will be allowed under "2" above, unless written evidence be submitted to the Department of Revenue showing that the hospital building is entitled to exemption from taxation under the property tax laws of this state.

In computing business tax liability of nursing homes and homes for unwed mothers there may be deducted from the measure of tax the following. Amounts derived as compensation for services rendered to patients by nursing homes and homes for unwed mothers operated as religious or charitable organizations but only if no part of the net earnings received by such nursing homes or homes for unwed mothers inures, directly or indirectly, to any person other than the institution entitled to deduction hereunder.

Persons operating hospitals, nursing homes, convalescent homes, clinics, rest homes, health resorts and similar institutions which are not operated as above provided are taxable under the classification Service and Other Activities upon the gross income received from personal or professional services.

In computing tax liability there may be deducted from gross income so much thereof as was derived from bona fide contributions, donations and endowment funds. (See WAC 458-20-114.)

RETAIL SALES TAX

Gross retail sales by hospitals which are subject to Retailing business tax, as provided above, are subject to retail sales tax. However, sales of drugs, medicines, prescription lenses, orthotic devices, medical oxygen, or other substances, prescribed by medical practitioners are deductible from gross retail sales where the written prescription bearing the signature of the issuing medical practitioner and the name of the patient for whom prescribed is retained, and such sales are separately accounted for. Also deductible are sales of prosthetic devices and ostomic items whether or not prescribed. See WAC 458-20-188.

Sales of medical supplies, equipment, and consumables of the like, but excluding prosthetic devices and ostomic items, to hospitals and nursing homes are subject to the retail sales tax, irrespective of whether or not such hospitals or nursing homes are subject to the business tax.

(For tax liability of hospitals on sales of meals, see WAC 458-20-119 and 458-20-244.)

~~((Revised April 28, 1978.
Effective July 1, 1978:))~~

AMENDATORY SECTION (Amending Order ET 78-4, filed 6/27/78)

WAC 458-20-169 ~~((RULE 169))~~ RELIGIOUS, CHARITABLE, BENEVOLENT, NONPROFIT SERVICE ORGANIZATIONS, AND SHELTERED WORKSHOPS. Religious, charitable, benevolent, and nonprofit service organizations are subject to the excise taxes imposed by the Revenue Act of 1935 with the following exceptions only:

Religious, charitable, benevolent, and nonprofit service organizations serving meals for fund raising purposes are not engaged in the business of making sales at retail and are not required to collect the retail sales tax upon such sales, nor pay the business and occupation tax, unless such meals are served more frequently than once every two weeks. Religious, charitable, benevolent, and nonprofit service organizations conducting bazaars or rummage sales who are not generally engaged in the business of making sales at retail ~~((and))~~ are not required to collect the retail sales tax nor pay the business and occupation tax where such bazaars or rummage sales are conducted ~~((intermittently))~~ no more than twice per year and do not extend over a period of more than two days each, if the gross receipts from each such bazaar or rummage sale is \$1,000 or less. Similarly, when such organizations make retail sales in the course of annual fund raising drives, or make such sales through concessions operated intermittently and for short periods of time for the support of various benevolent, athletic, recreational, or cultural programs, the retail sales tax and business and occupation tax need not be accounted for.

However, in every case where such organizations conduct business activities other than as outlined above, the retail sales tax and business and occupation tax are fully applicable to the gross sales made and merchandise may be purchased for resale without paying the retail sales tax by furnishing vendors with resale certificates as prescribed in published WAC 458-20-102.

SHELTERED WORKSHOPS. The gross income received by non-profit organizations from the operation of "sheltered workshops" is exempt from the business and occupation tax. "Sheltered workshops" is defined by the law to mean "rehabilitation facilities, or that part of rehabilitation facilities, where any manufacture or handiwork is carried on and which is operated for the primary purpose of (1) providing gainful employment or rehabilitation services to the handicapped as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist; or (2) providing evaluation and work adjustment services for handicapped individuals."

((Revised April 28, 1978:

Effective July 1, 1978:))

HEALTH OR SOCIAL WELFARE SERVICES. In computing business tax there may be deducted amounts received from the United States or any instrumentally thereof or from the state of Washington or any municipal corporation or political subdivision thereof as compensation for, or to support, health or social welfare services rendered by a health or social welfare organization or by a municipal corporation or political subdivision.

The term "health or social welfare organization" means an organization which renders health or social welfare services as defined below, which is a not-for-profit corporation under chapter 24.03 RCW and which is managed by a governing board of not less than eight individuals none of whom is a paid employee or the organization or which is a corporation sole under chapter 24.12 RCW. In addition a corporation in order to be exempt under RCW 82.04.4297 shall satisfy the following conditions:

(a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the public service of the state;

(c) Assets of the corporation must be irrevocably dedicated to the activities for which the exemption is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a non-profit organization, association, or corporation which also would be entitled to the exemption;

(d) The corporation must be duly licensed or certified where licensing or certification is required by law or regulation;

(e) The amounts received qualifying for exemption must be used for the activities for which the exemption is granted;

(f) Services must be available regardless of race, color, national origin, or ancestry; and

(g) The director of revenue shall have access to its books in order to determine whether the corporation is entitled to this exemption.

The term "health or social welfare services" includes and is limited to:

(a) Mental health, drug, or alcoholism counseling or treatment;

(b) Family counseling;

(c) Health care services;

(d) Therapeutic, diagnostic, rehabilitative, or restorative services for the care of the sick, aged, or physically, developmentally, or emotionally-disabled individuals;

(e) Activities which are for the purpose of preventing or ameliorating juvenile delinquency or child abuse, including recreational activities for those purposes;

(f) Care of orphans or foster children;

(g) Day care of children;

(h) Employment development, training, and placement; and

(i) Legal services to the indigent.

AMENDATORY SECTION (Amending Order ET 71-1, filed 7/22/71)

WAC 458-20-170 ((~~RULE 170~~)) CONSTRUCTING AND REPAIRING OF NEW OR EXISTING BUILDINGS OR OTHER STRUCTURES UPON REAL PROPERTY.

DEFINITIONS

As used herein:

The term "prime contractor" means a person engaged in the business of performing for consumers, ((contracts for)) the constructing,

repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property, either for the entire work or for a specific portion thereof. The term includes persons who rent or lease equipment to property owners for use in respect to constructing, repairing, etc., buildings or structures upon such property, when the equipment is operated by the lessor.

The word "subcontractor" means a person engaged in the business of performing a similar service for persons other than consumers, either for the entire work or for a specific portion thereof. The term includes persons who rent or lease equipment to prime contractors or subcontractors for use in respect to constructing, repairing, etc., when such equipment is operated by the lessor. When equipment or other tangible personal property is rented without an operator to contractors, subcontractors or others, the transaction is a sale at retail (see RCW 82.04.040 and 82.04.050).

The terms "prime contractor" and "subcontractor" include persons performing labor and services in respect to the moving of earth or clearing of land, cleaning, fumigating, razing, or moving of existing buildings or structures even though such services may not be done in connection with a contract involving the constructing, repairing, or altering of a new or existing building or structure. The terms also include persons constructing streets, roads, highways, etc., owned by the state of Washington.

The term "buildings or other structures" means everything artificially built up or composed of parts joined together in some definite manner and attached to real property. It includes not only buildings in the general and ordinary sense, but also tanks, fences, conduits, culverts, railroad tracts, tunnels, overhead and underground transmission systems, monuments, retaining walls, piling and privately owned bridges, trestles, parking lots, and pavements for foot or vehicular traffic, etc.

The term "constructing, repairing, decorating or improving of new or existing buildings or other structures," in addition to its ordinary meaning, includes the installing or attaching of any article of tangible personal property in or to real property, whether or not such personal property becomes a part of the realty by virtue of installation, the clearing of land and the moving of earth, and the construction of streets, roads, highways, etc., owned by the state of Washington. The term includes the sale of or charge made for all service activities rendered in respect to such constructing, repairing, etc., regardless of whether or not such services are otherwise defined as "sale" by RCW 82.04.040 or "sales at retail" by RCW 82.04.050. Hence, for example, such service charges as engineering fees, architectural fees or supervisory fees are within the term when the services are included within a contract for the construction of a building or structure. The fact that the charge for such services may be shown separately in bid, contract or specifications does not establish the charge as a separate item in computing tax liability.

SPECULATIVE BUILDERS. As used herein the term "speculative builder" means one who constructs buildings for sale or rental upon real estate owned by him((, and)). The attributes of ownership of real estate for purposes of this rule include but are not limited to the following: 1. The intentions of the parties in the transaction under which the land was acquired; 2. the person who paid for the land; 3. the person who paid for improvements to the land; 4. the manner in which all parties, including financiers, dealt with the land. The terms "sells" or "contracts to sell" include any agreement whereby an immediate right to possession or title to the property vests in the purchaser.

Amounts derived from the sale of real estate are exempt from the business and occupation tax. (RCW 82.04.390). Consequently, the proceeds of sales by speculative builders of completed buildings are not subject to such tax. Neither does the sales tax apply to such sales, since such a sale involves no charge made for construction for a consumer but the price paid is for the sale of real estate.

However, when a speculative builder sells or contracts to sell property upon which he is presently constructing a building, all construction done subsequent to the date of such sale or contract constitutes a retail sale and that portion of the sales price allocable to construction done after the agreement shall be taxed accordingly. Consequently the builder must pay business and occupation tax under the Retailing classification on that part of the sales price attributable to construction done subsequent to the agreement, and shall also collect sales tax from the buyer on such allocable part of the sales price.

Speculative builders must pay sales tax upon all materials purchased by them and on all charges made by their subcontractors. Deductions for such tax paid with respect to materials used or charges made for that part of the construction done after the contract to sell the building

should be claimed by the speculative builder on his tax returns in accordance with WAC 458-20-102, subheading Purchases for Dual Purposes.

Persons, including corporations, partnerships, sole proprietorships, and joint ventures, among others who perform construction upon land owned by their corporate officers, shareholders, partners, owners, co-venturers, etc., are constructing upon land owned by others and are taxable as sellers under this rule, not as "speculative builders."

BUSINESS AND OCCUPATION TAX

Prime contractors are taxable under the Retailing classification, and subcontractors under the Wholesaling classification upon the gross contract price.

Where no gross contract price is stated in any contract or agreement between the builder and the property owner, then the measure of business and occupation tax is the total amount of construction costs, including any charges for licenses, fees, permits, etc., required for the construction and paid by the builder.

RETAIL SALES TAX

Prime contractors are required to collect from consumers the retail sales tax measured by the full contract price. Where no gross contract price is stated, the measure of sales tax is the total amount of construction costs including any charges for licenses, fees, permits, etc., required for construction and paid by the builder.

The retail sales tax does not apply to charges made for janitorial services nor for the mere leveling of land used in commercial farming or agriculture. The tax does apply, however, in respect to contracts for cleaning septic tanks or the exterior walls of buildings, as well as to earth moving, land clearing and the razing or moving of structures, whether or not such services are performed as incidents of a contract to construct, repair, decorate, or improve buildings or structures.

Sales to prime contractors and subcontractors of materials such as concrete, tie rods, lumber, finish hardware, etc., which become part of the structure being built or improved are sales for resale and are not subject to the retail sales tax. Sales of form lumber to such contractors are sales for resale provided that such lumber is used or to be used first by such persons for the molding of concrete in a single contract, project or job and the form lumber is thereafter incorporated into the product of that same contract project or job as an ingredient or component thereof. Sales of form lumber not so incorporated as an ingredient or component are sales at retail.

The retail sales tax applies upon sales and rentals to prime contractors and subcontractors of tools, machinery and equipment, and consumable supplies, such as hand and machine tools, cranes, air compressors, bulldozers, lubricating oil, sandpaper and form lumber which are primarily for use by the contractor rather than for resale as a component part of the finished structure.

The retail sales tax applies upon sales to speculative builders of all tangible personal property, including building materials, tools, equipment and consumable supplies and upon sales of labor, services and materials to speculative builders by independent contractors.

USE TAX

The use tax applies generally to the use by prime contractors and subcontractors of tools, machinery, equipment and consumable supplies acquired by them primarily for their own use and upon which the retail sales tax has not been paid. This includes equipment and supplies purchased in a foreign state for use or consumption in performing contracts in this state. The use tax applies generally to the use by speculative builders of all tangible personal property, including building materials, purchased or acquired by them without payment of the retail sales tax (see also WAC 458-20-178).

AMENDATORY SECTION (Amending Order ET 71-1, filed 7/22/71)

WAC 458-20-171 ((~~RULE 171~~)) BUILDING, REPAIRING OR IMPROVING STREETS, ROADS, ETC., WHICH ARE OWNED BY A MUNICIPAL CORPORATION OR POLITICAL SUBDIVISION OF THE STATE OR BY THE UNITED STATES AND WHICH ARE USED PRIMARILY FOR FOOT OR VEHICULAR TRAFFIC.

DEFINITIONS

As used herein:

The word "contractor" means a person engaged in the business of building, repairing or improving any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic, either as a prime contractor or as a subcontractor. It does not include persons who merely sell or deliver road materials to such contractors or to the public authority whose property is being improved. It (~~also~~) does not include persons who construct streets, roads, etc. owned by the state of Washington. (See WAC 458-20-170 for the tax liability of such persons.) Nor does it include prime or subcontractors who construct logging roads upon public lands pursuant to timber contracts. (For tax liability of such persons, see WAC 458-20-135.)

The term "street, place, road, highway, etc." is used in the ordinary sense that the combination of such words implies. It includes docks used primarily by ferry boats operated in connection with a street, road or highway, but does not include railroads, wharves, moorings, hallways, catwalks, or runways, aprons or taxiways for the landing, take-off or movement of airplanes within airports or landing fields; nor does it include ferry boats, even though the ferry be operated in connection with a street, road or highway. It includes roads and walks which are not open to the public generally, but which may be restricted to use by the military or by employees of a department or instrumentality of the United States.

The word "place" means only an area similar to a street or pedestrian walk, such as thoroughfares in various cities designated "places" for the purpose of preserving the continuity of street names or house numbers; generally, a street of shorter length than others.

The term "building, repairing or improving of a publicly owned street, place, road, etc.," includes clearing, grading, graveling, oiling, paving and the cleaning thereof; the constructing of tunnels, guard rails, fences, walks and drainage facilities, the planting of trees, shrubs and flowers therein, the placing of street and road signs, the striping of roadways, and the painting of bridges and trestles; it also includes the mining, sorting, crushing, screening, washing and hauling of sand, gravel, and rock taken from a public pit or quarry. It also includes the constructing of road and street lighting systems, even though portions of such systems also are used for purposes other than street and road lighting; also the constructing of a drainage system in streets and roads, even though such system is also used for the carrying of sewage: PROVIDED, That the drainage facilities are sufficient for disposal of the normal runoff of surface waters from the particular streets and roads in which the system is constructed or an ordinance authorizing the construction of a combined sewer system is incorporated by reference in the contract and the contract or specifications clearly indicate that the system is designed and intended for the disposal of the normal runoff of surface waters from the streets and roads in which the system is constructed.

The term includes any contract for the readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of building, repairing or improving a street, place, road, etc., which is owned by a municipal corporation or political subdivision of the state or by the United States, the cost of which readjustment, reconstruction, or relocation is the responsibility of the public authority whose street, place, road, etc., is being built, repaired or improved. It also includes building or repairing mass transportation facilities owned by a municipal corporation or political subdivision of the state or by the United States.

Except as provided above, the term does not include the constructing of water mains, telephone, telegraph, electrical power, or other conduits or lines in or above streets or roads, unless such power lines become a part of a street or road lighting system as aforesaid; nor does it include the constructing of sewage disposal facilities, nor the installing of sewer pipes for sanitation, unless the installation thereof is within, and a part of, a street or road drainage system.

BUSINESS AND OCCUPATION TAX

Such contractors are taxable under the Public Road Construction classification upon their total contract price.

The business and occupation tax does not apply to the cost of or charge made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel, and rock, when such sand, gravel, or rock is taken from a pit or

quarry which is owned by or leased to a county or city and such sand, gravel or rock is

- a. stockpiled in said pit or quarry for placement on the street, road, or highway by the county or city itself using its own employees, or
- b. placed on the street, road, or highway by the county or city itself using its own employees, or
- c. sold by the county or city at actual cost to another county or city for road use.

RETAIL SALES TAX

The retail sales tax applies upon the sale to such contractors, including logging road contractors, of all materials including prefabricated and precast items, equipment and supplies used or consumed in the performance of such contracts.

The retail sales tax does not apply upon any portion of the charge made by such contractors.

The sales tax does not apply to charges made for labor and services which are exempt from business tax as indicated above.

USE TAX

The use tax applies to the use by all contractors, including logging road contractors, of all materials including prefabricated and precast items, equipment and supplies upon which the retail sales tax has not been paid. This tax also applies in respect to articles produced or manufactured by them for commercial use. (See WAC 458-20-134.)

The use tax does not apply in respect to the use of any sand, gravel, or rock to the extent of the cost of or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling such sand, gravel, or rock, when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is either (1) stockpiled in said pit or quarry for placement or is placed on the street, road, place, or highway of the county or city by the county or city itself (i.e., by its own employees), or (2) sold by the county or city to a county or a city at actual cost for placement on a street, road, place, or highway owned by the county or city. This exemption shall not apply to the use of such material to the extent of the cost of or charge made for such labor and services, if the material is used for other than public road purposes or is sold otherwise than as here indicated.

(For lien of unpaid taxes on the retained percentage withheld on public improvement contract, see WAC 458-20-217.)

AMENDATORY SECTION (Amending Order ET 71-1, filed 7/22/71)

WAC 458-20-172 (~~(RULE 172))~~) CLEARING LAND, MOVING EARTH, CLEANING, FUMIGATING, RAZING OR MOVING EXISTING BUILDINGS, AND JANITORIAL SERVICES. Persons engaged in performing well drilling, contracts for the grading or clearing of land or the moving of earth, and which do not involve the building, repairing or improving of any streets, roads, etc. which are owned by a municipal corporation or political subdivision of the state or by the United States (See WAC 458-20-171); and persons engaged in performing contracts which involve the cleaning, fumigating, razing or moving of existing buildings or structures and persons performing janitorial services are taxable as follows:

BUSINESS AND OCCUPATION TAX

Taxable under the classification Retailing upon gross income from contracts to perform such services for consumers, but excluding gross income from contracts providing solely for the performance of janitorial services the mere core drilling of or testing of soil samples, or the mere leveling of land for agricultural purposes.

Taxable under the classification Wholesaling—All Others upon gross income from subcontracts to perform such services for resale.

Taxable under the classification Service and Other Activities upon gross income from contracts to perform janitorial services the mere core drilling of or testing of soil samples, or the mere leveling of land for agricultural purposes.

The term "janitorial services" includes activities performed regularly and normally by commercial janitor service businesses. Generally, these activities include the washing of interior and exterior window surfaces, floor cleaning and waxing, the cleaning of interior walls and woodwork, the cleaning in place of rugs, drapes and upholstery, dusting, disposal of trash, and cleaning and sanitizing bathroom fixtures. The term "janitorial services" does not include, among others, cleaning

the exterior walls of buildings, the cleaning of septic tanks, special clean up jobs required by construction, fires, floods, etc., painting, papering, repairing, furnace or chimney cleaning, snow removal, sand-blasting, or the cleaning of plant or industrial machinery or fixtures.

RETAIL SALES TAX

Persons engaged in performing contracts for the grading or clearing of land, the moving of earth or the cleaning, fumigating, razing or moving of existing buildings or structures must collect the retail sales tax upon the full contract price when the work is performed for consumers. The retail sales tax is not applicable to charges for janitorial services or the mere leveling of land for agricultural purposes.

The retail sales tax applies upon the sales to such contractors of equipment and supplies used or consumed in the performance of such contracts and which are not resold as a component part of the work.

USE TAX

The use tax applies to the ~~((use))~~ use by such contractors of equipment and supplies upon which the retail sales tax has not been paid.

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-173 (~~(RULE 173))~~) INSTALLING, CLEANING, REPAIRING OR OTHERWISE ALTERING OR IMPROVING PERSONAL PROPERTY OF CONSUMERS.

BUSINESS AND OCCUPATION TAX

RETAILING. Persons installing, cleaning, decorating, beautifying, repairing or otherwise altering or improving tangible personal property of consumers or for consumers are taxable under the Retailing classification upon the gross proceeds received from sales of tangible personal property and the rendition of services.

WHOLESALE. Persons who sell tangible personal property to, or render any of the above services for others than consumers, are taxable under the Wholesaling classification upon the gross proceeds of sales received therefrom.

There must be included within gross amounts reported for tax all fees for services rendered and all charges recovered for expenses incurred in connection therewith, such as transportation costs, hotel, restaurant, telephone and telegraph charges, etc.

RETAIL SALES TAX

Persons engaged in the business of installing, cleaning, decorating, beautifying, repairing or otherwise altering or improving tangible personal property of consumers or for consumers are required to collect the retail sales tax upon the total charge made for the rendition of such services, even though no tangible personal property in the form of materials or supplies is sold or used in connection with such services. Where tangible personal property in the form of materials and supplies is sold or used in connection with such services, the retail sales tax applies to the total charges made for the sale of the materials and supplies and the services rendered in connection therewith.

The following are illustrative of services upon which the retail sales tax applies to the total charge made to consumers:

- Laundering, dyeing and cleaning;
- Automobile repairing, washing and painting;
- Boat repairing (see WAC 458-20-175 and 458-20-176 for certain exemptions); Shoe repairing and shining;
- Altering or repairing wearing apparel.

In general, the repairing of any personal property, such as radios, refrigerators, machines, watches and jewelry and other articles.

The retail sales tax does not apply to sales to such persons of materials which are resold as a part of the articles of tangible personal property being repaired, altered or improved. Therefore, upon giving a resale certificate the retail sales tax will not apply to purchases such as:

1. Parts or paint by an automotive repairman;
2. Lumber, chandlery, etc., by a boat repairman;
3. Shoe findings, thread, nails, polish and dyes by a shoe repairman;
4. Solder, wire, condensers, etc., by a radio or television repairman.

On the other hand the retail sales tax does apply to the purchase of all other supplies which may be consumed and utilized by such persons in the rendition of such services, such as fuel, lubricant, machines, hand tools, stationery and other supplies and equipment.

REPAIRS FOR OUT-OF-STATE PERSONS. Persons residing outside this state may ship into this state articles of tangible personal property for the purpose of having the same repaired, cleaned or

otherwise altered, and thereafter returned to them. The retail sales tax is not applicable to the charge made for labor and/or materials, provided the seller, as a requirement of the agreement, delivers the property to the purchaser at a point outside this state or delivers the property to a common or bona fide private carrier consigned to the purchaser at a point outside this state. Proof of exempt sales will be the same as that required for sales of tangible personal property in interstate commerce. WAC 458-20-193, Part A. No deduction is allowed, however, under the business and occupation tax.

((Revised June 1, 1965-))

For taxability of warranty, service, or maintenance contracts, see WAC 458-20-107.

AMENDATORY SECTION (Amending Order ET 71-1, filed 7/22/71)

WAC 458-20-174 ((~~RULE 174~~)) SALES ((~~OF~~)) TO MOTOR CARRIERS OPERATING IN INTERSTATE OR FOREIGN COMMERCE OF MOTOR VEHICLES, TRAILERS, PARTS, ETC.

BUSINESS AND OCCUPATION TAX

In computing tax liability under the Retailing classification, persons engaged in the business of selling motor vehicles, trailers, parts and accessories, and persons engaged in the business of installing, cleaning, repairing or otherwise altering or improving such vehicles or parts are not permitted any deduction by reason of the fact that such sales or services are made to or for persons for use in conducting interstate or foreign commerce. Insofar as concerns the tax liability of vendors of such property or services it is immaterial that the purchaser may be entitled to a statutory exemption from payment of the retail sales tax.

RETAIL SALES TAX

1. SALES OF MOTOR VEHICLES AND TRAILERS. Under RCW ((~~82.08.030(12)~~)) 82.08.0263 of the law, sales of motor vehicles and trailers to be used for the purpose of transporting therein persons or property for hire in interstate or foreign commerce whether such use is by the owner or whether such motor vehicles and trailers are leased to the user with or without driver, are not subject to the retail sales tax when delivery is made to the purchaser in this state: PROVIDED, both of the following requirements are met:

- a. The purchaser or user is the holder of a carrier permit issued by the Interstate Commerce Commission; and
b. Said vehicle will ((~~first~~)) move upon the highways of this state from the point of delivery in this state to a point outside the state under the authority of a ((~~one-transit~~)) trip permit issued by the director of motor vehicles pursuant to the provisions of RCW ((~~46.16.100~~)) 46.16.160.

In order to qualify for this exemption from the retail sales tax such buyers must furnish to their vendors the number of the permit issued to the carrier by the Interstate Commerce Commission and must have affixed to the vehicle before it leaves the premises of the dealer the necessary ((~~one-transit~~)) trip permit. In addition, and as evidence of the exempt nature of such sales, the seller is required to obtain from the buyer an exemption certificate, to which he must append his own certification, all reading substantially to the following effect:

EXEMPTION CERTIFICATE

The undersigned hereby certifies that is is the holder of carrier permit No., issued by the Interstate Commerce Commission; that the vehicle this date purchased from you being a (specify truck or trailer and make), Motor No., Serial No., will ((~~first~~)) move on the highways of this state from (point of origin in state) to (out of state destination), under the authority of a ((~~one-transit~~)) trip permit dated, issued by the director of motor vehicles through the agency of the Washington State Patrol Office located at, and that the sale of this vehicle is entitled to exemption from the Retail Sales Tax under the provisions of RCW ((~~82.08.030(12)~~)) 82.08.0263.

Dated
(name of carrier-purchaser)
By
(title)
(address)

CERTIFICATE OF DEALER

I hereby certify that upon the delivery of the above described vehicle to said purchaser there was affixed thereto ((~~one-transit~~)) trip permit No., and that the same authorized the transit of this vehicle between the points of origin and destination as hereinabove set forth.

.....
(name of dealer)
.....
(title)

In all other cases where the purchaser takes delivery of the vehicle in this state the retail sales tax is applicable to the sale and must be collected from the purchaser.

2. SALES OF COMPONENT PARTS OF MOTOR VEHICLES AND TRAILERS AND CHARGES FOR REPAIRS, ETC. RCW ((~~82.08.030(11)~~)) 82.08.0262 exempts from the application of the retail sales tax sales of tangible personal property which becomes a component part (as that term is hereinafter defined) of motor vehicles and trailers whether owned by or leased with or without drivers and used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state, in the course of constructing, repairing, cleaning, altering, or improving the same, also sales of or charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving. In applying this statutory exemption it is important that both sellers and buyers notice the distinction between this and the exemption provided for in RCW ((~~82.08.030(12)~~)) 82.08.0263 of the law (see 1 above). This exemption is not open to all motor carriers operating under a permit issued by the Interstate Commerce Commission, but only to those whose permits authorize actual transportation across the state boundaries.

The term "component part" is construed to mean all tangible personal property which is attached to and becomes an integral part of the motor vehicle or trailer. It includes such items as motors, motor and body parts, batteries and tires. The term also includes spare parts which are designed and intended for ultimate attachment to the carrier vehicle. It does not include equipment or tools which may be used in connection with the operation of the truck or trailer as a carrier of persons or goods but which will not become permanently attached to and an integral part of the same, nor does it include consumable supplies, such as lubricants and ice.

Buyers claiming sales tax exemption under this statutory section are required to furnish to their vendors the number of the permit issued to the carrier by the Interstate Commerce Commission authorizing transportation across the boundaries of the state and, as evidence of the exempt nature of such sales, sellers must take from the buyer an exemption certificate reading in substance, as follows:

EXEMPTION CERTIFICATE

The undersigned hereby certifies that it is the holder of a carrier permit, No., issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state, and that the motor truck or trailer to be constructed, repaired, cleaned, altered, or improved by you, or to which the subject matter of this purchase is to become a component part, will be used in direct connection with the business of conducting interstate or foreign commerce by transporting persons or property for hire across the boundaries of this state; and that such sale and/or charges are exempt from the Retail Sales Tax under the provisions of RCW ((~~82.08.030(11)~~)) 82.08.0262.

Dated
(name of carrier-purchaser)
(address)
By
(title)

The retail sales tax does apply to the sale of all other accessories, supplies and equipment to motor carriers operating under permits authorizing transportation across the boundaries of the state.

Furthermore, the retail sales tax applies to the sale of all tangible personal property, irrespective of whether or not the same may be construed to be a "component part" of a truck or trailer, and the sale of or charge made for labor and services rendered in respect to the constructing, operating, cleaning, altering or improving of motor vehicles and trailers where the Interstate Commerce Commission permit held

by the operator of such vehicles does not authorize transportation across the boundaries of this state.

The exemption certificates referred to in this rule must be retained by the seller in his files as a part of his permanent records subject to audit by the Department of Revenue. As to any sales transactions claimed to be exempt from the retail sales tax under the provisions of ~~((section (11) or (12) of RCW 82.08.030 of the Revenue Act))~~ RCW 82.08.0262 and 82.08.0263, ~~((and))~~ where no exemption certificate has been secured and retained as required herein, or where the exemption certificate does not substantially comply with the essentials set out in the foregoing forms, the seller will bear the burden of proving its tax exempt status.

USE TAX

The use tax applies upon the actual use within this state of all articles of tangible personal property purchased at retail and upon the acquisition of which the retail sales tax has not been paid to this state, unless such use is exempt from use tax under the provisions of chapter 82.12 RCW. Pursuant to RCW ~~((82.12.030(4)))~~ 82.12.0254 the use tax does not apply to the following uses:

a. The use by the holder of a carrier permit issued by the Interstate Commerce Commission of any motor vehicle or trailer whether owned by or leased with or without driver to the permit holder and used in substantial part in the normal and ordinary course of the user's business for transporting persons or property for hire across the boundaries of this state if the first use ~~((of which))~~ within this state is actual use in conducting interstate or foreign commerce.

b. The use of tangible personal property which becomes a component part of any motor vehicle or trailer used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state whether such motor vehicle or trailer is owned by or leased with or without driver to the permit holder.

c. The use of any motor vehicle or trailer while being operated under the authority of a ~~((one-transit))~~ trip permit issued by the director of motor vehicles pursuant to RCW ~~((46.16.100))~~ 46.16.160 and moving upon the highways from the point of delivery within this state to a point outside this state.

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-175 ~~((RULE 175))~~ PERSONS ENGAGED IN THE BUSINESS OF OPERATING AS A PRIVATE OR COMMON CARRIER BY AIR, RAIL OR WATER IN INTERSTATE OR FOREIGN COMMERCE. The term "private carrier" means every carrier, other than a common carrier, engaged in the business of transporting persons or property for hire.

The term "watercraft" includes every type of floating equipment which is designed for the purpose of carrying therein or therewith persons or cargo. It includes tow boats, but it does not include floating dry docks, dredges or pile drivers, or any other similar equipment.

The term "carrier property" means airplanes, locomotives, railroad cars or water craft, and component parts of the same.

The term "component part" includes all tangible personal property which is attached to and a part of carrier property. It also includes spare parts which are designed for ultimate attachment to carrier property. The said term does not include furnishings of any kind which are not attached to the carrier property nor does it include consumable supplies. For example, it does not include, among other things, bedding, linen, table and kitchen ware, tables, chairs, ice for icing perishables or refrigerator cars or cooling systems, fuel or lubricants.

"Such persons," and "such businesses" mean the persons and businesses described in the title of this rule.

BUSINESS AND OCCUPATION TAX, PUBLIC UTILITY TAX

Persons engaged in such businesses are not subject to business tax or utility tax with respect to operating income received for transporting persons or property in interstate or foreign commerce. (See WAC 458-20-179, 458-20-181 and 458-20-193.)

When such persons also engage in intrastate business activities they become taxable at the rates and in the manner stated in WAC 458-20-179, 458-20-181 and 458-20-193. For example, such persons are taxable under the Retailing business tax classification upon the gross proceeds of sales of tangible personal property, including sales of meals, when such sales are made within this state.

Persons selling tangible personal property to, or performing services for, others engaged in such businesses, are taxable to the same extent as they are taxable with respect to sales of property or services made to other persons in this state.

RETAIL SALES TAX

Sales of meals (including those sold to employees, see WAC 458-20-119) and retail sales of other tangible personal property, made by such persons, are subject to the retail sales tax when such sales are made within this state.

By reason of specific exemptions contained in RCW ~~((82.08.030(10) and (11) of the law))~~ 82.08.0261 and 82.08.0262 the retail sales tax does not apply upon the following sales:

1. Sales of airplanes, locomotives, railroad cars, or watercraft for use in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire;

2. Sales of tangible personal property which becomes a component part of such carrier property in the course of constructing, repairing, cleaning, altering or improving the same;

3. Sales of or charges made for labor or services rendered with respect to the constructing, repairing, cleaning, altering or improving of such carrier property;

4. Sales of any tangible personal property other than the type referred to in 1 and 2 above, for use by the purchaser in connection with such businesses, provided that any actual use thereof in this state shall, at the time of actual use, be subject to the use tax.

Except as to sales of or charges made for labor or services rendered with respect to the constructing, repairing, cleaning, altering or improving of carrier property, the foregoing exemptions are limited to sales of tangible personal property. Hence the retail sales tax applies upon the sales of or charges made for labor or services rendered in respect to (1) the installing, repairing, cleaning, altering, imprinting or improving of any other type of tangible personal property; and in respect to (2) the constructing, repairing, decorating or improving of new or existing buildings or other structures. Thus the retail sales tax applies upon the charge made for repairing within this state of such things as switches, frogs, office equipment, or any other property which is not carrier property. It also applies upon the charge made for laundering linen and bedding. The tax also applies upon the charge made for constructing buildings, such as depots, wharves and hangars, or for repairing, decorating or improving the same.

However, the cost of installing, repairing, cleaning, altering, imprinting or improving of tangible personal property prior to its initial use by the carrier is considered as part of the initial cost of the property involved and therefore exempt from the sales tax. Thus, for example, the treating of railroad ties prior to their initial use is considered as part of the original cost of the ties and therefore exempt from the sales tax under RCW ~~((82.08.030(10)))~~ 82.08.0261.

EXEMPTION CERTIFICATES REQUIRED. Persons selling tangible personal property or performing services which come within any of the foregoing exemptions are required to obtain from the purchaser, or his authorized agent, a certificate evidencing the exempt nature of the transaction. This certificate must identify the operator of the carrier by name and by its Department of Revenue registration number, if registered, and if not registered, by address.

The certificate may be in blanket form—that is, may certify as to all future purchases, or individual certificates may be made for each purchase. Also the certificate may be incorporated in or stamped upon the purchase order.

The certificate should be in substantially the following form:

EXEMPTION CERTIFICATE

WE HEREBY CERTIFY that all the tangible personal property to be purchased from you will be for use in connection with our business of operating as a (private or common) carrier by (air, rail or water) in (interstate or foreign) commerce; that all (airplanes, locomotives, railroad cars or water craft) or component parts thereof, to be constructed, repaired, cleaned, altered or improved by you, will be used in conducting (interstate or foreign) commerce; and that all such sales are entitled to exemption from the Retail Sales Tax under the provisions of ~~((Section 19j or 19k (RCW 82.08.030(10) and (11)) of the Washington Revenue Act of 1935, as amended))~~ RCW 82.08.0261 and 82.08.0262.

Dated, 19...

CERTIFICATE

(Purchaser)
By (Title-Officer or Agent)
Address

Seller Purchaser
Name of Carrier Name of Owner or Agent

Department of Revenue Registration No.

USE TAX

The use tax does not apply upon the use of airplanes, locomotives, railroad cars or watercraft, including component parts thereof, which are used primarily in conducting such businesses.

"Actual use within this state," as used in RCW ((82.08.030(10))) 82.08.0261 does not include use of durable goods aboard carrier property while engaged in interstate or foreign commerce. Thus the use tax does not apply upon the use of furnishings and equipment (whether attached to the carrier or not) intended for use aboard carrier property while operating partly within and partly without this state. Included herein are such items as bedding, table linen and wares, kitchen equipment, tables and chairs, hand tools, hawsers, life preservers, parachutes, and other durable goods which are necessary, convenient or desirable for the proper operation of such carrier property.

The use tax does apply upon the actual use within this state of all other types of tangible personal property purchased at retail and upon which the sales tax has not been paid. Included herein are all consumable goods for use on and placed aboard carrier property while within this state, but only to the extent of that portion consumed herein. Thus the tax applies upon the use of the amount consumed in this state of ice, fuel and lubricants which are placed aboard in this state, and upon food supplies or catered meals placed aboard carrier property in this state and served to customers in this state by transportation companies when the meals so served are included in the charge for transportation. (The retail sales tax must be collected upon separate sales within this state of meals or other tangible personal property.) The tax does not apply upon the use within this state of any part of consumable goods for use on carrier property and placed aboard outside this state.

Liability for the use tax arises at the time of actual use thereof in this state.

Due to the difficulty in many cases of determining at the time of purchase whether or not the property purchased or a part thereof will be put to use in this state and due to the resulting accounting problems involved, persons engaged in the business of operating as private or common carriers by air, rail or water in interstate or foreign commerce will be permitted to pay the use tax directly to the Department of Revenue rather than to the seller, and such sellers are relieved of the liability for the collection of such tax. This permission is limited, however, to persons duly registered with the department. The registration number given on the certificate which will be furnished to the seller ordinarily will be sufficient evidence that the purchaser is properly registered.

As to persons operating in interstate or foreign commerce as carriers by air, rail or water who are not registered with the department and who, therefore, are not regularly filing tax returns with the department, sellers of durable goods must either collect the use tax at the time of the sale or require from such purchasers a further certificate to the effect that no part of the subject matter of the sale is for actual use in this state.

Similarly, where consumable goods, such as ice, bunker fuel, or lubricants are purchased by or for carriers not registered with the department, and delivered on board a carrier regularly engaged in interstate or foreign commerce for consumption while both within and without the territorial boundaries of the State of Washington, the seller is required to collect from the buyer the amount of use tax applicable to that portion of the products sold which will be consumed within this state.

It will be presumed that the entire amount of the goods purchased will be consumed within this state unless the seller obtains from the buyer a certificate certifying as to the amount thereof which will be consumed while within the territorial boundaries hereof.

The certificate shall be made by the master or chief engineer of the carrier, or by some other person known by the seller to be competent to make the same, and shall be substantially in the following form:

The undersigned does hereby certify as follows:
1. The purchaser has this day purchased from the seller in the State of Washington certain amounts of (type of goods purchased), and has taken delivery thereof aboard said carrier for its exclusive use while regularly engaged in transporting persons or property for profit in interstate or foreign commerce.

2. While the said carrier is within the territorial boundaries of the State of Washington, it will consume the following amounts of the commodities purchased:

- barrels of fuel oil
gallons of lubricants
pounds of grease
other consumable goods

Dated, 19...

Name
Office or Title

((Revised June 1, 1970))

AMENDATORY SECTION (Amending Order ET 78-4, filed 6/27/78)

WAC 458-20-176 ((RULE 176)) PERSONS ENGAGED IN THE BUSINESS OF CONDUCTING COMMERCIAL DEEP SEA FISHING OPERATIONS OUTSIDE THE TERRITORIAL WATERS OF WASHINGTON. As used herein:

The terms "such persons" and "such businesses" mean the persons and businesses described in the title of this rule.

The terms do not include sport fishermen nor persons operating charter boats for sport fishing. (See WAC 458-20-183 for tax liability of such persons.) Nor do the terms include persons who operate or purchase watercraft for kelping, purse seining, or gill netting, because such fishing methods can be legally engaged in only within the territorial waters of the state (the three-mile limit). Therefore, watercraft rigged for fishing by any of these methods will be deemed for use in other than commercial deep sea fishing.

The term "watercraft" means every type of floating equipment which is designed for the purpose of carrying therein or therewith fishing gear, fish catch or fishing crews, and used primarily in commercial deep sea fishing operations outside the territorial waters of the state of Washington.

The term "component part" includes all tangible personal property which is attached to and a part of a watercraft. It includes dories, gurdies and accessories, bait tanks, baiting tables and turntables. It also includes spare parts which are designed for ultimate attachment to a watercraft. The said term does not include equipment or furnishings of any kind which are not attached to a watercraft, nor does it include consumable supplies. Thus it does not include, among other things, bedding, table and kitchen wares, fishing nets, hooks, lines, floats, hand tools, ice, fuel or lubricants.

BUSINESS AND OCCUPATION TAX

Such persons are not taxable under the Extracting classification with respect to catches obtained outside the territorial waters of this state.

Such persons are taxable under either the Retailing or the Wholesale classification with respect to sales made within this state, unless entitled to exemption by reason of the commerce clauses of the federal constitution. (See WAC 458-20-193.)

RETAIL SALES TAX

By reason of the exemption contained in RCW 82.08.030(11), the retail sales tax does not apply upon sales of watercraft (including component parts thereof) which are primarily for use in conducting commercial deep sea fishing operations outside the territorial waters of this state, nor does said tax apply to sales of or charges made for labor and services rendered in respect to the constructing, repairing, cleaning, altering or improving of such property.

The retail sales tax applies upon sales made to such persons of every other type of tangible personal property and upon sales of or charges

made for labor and services rendered in respect to the construction, repairing, cleaning, altering or improving of such other types of property. This the retail sales tax applies upon sales to such persons of such things as fishing nets, hooks, lines, floats and bait; table and kitchen wares; hand tools, ice, fuel, and lubricants for use or consumption, except only sales of watercraft and component parts thereof. For sales of food products see WAC 458-20-119 and 458-20-244.

EXEMPTION CERTIFICATES REQUIRED

Persons selling watercraft or component parts thereof to such persons or performing services with respect to the same, are required to obtain from the purchaser a certificate evidencing the exempt nature of the transaction. This certificate must identify the purchaser by name and address, and by name of the watercraft with respect to which the purchase is made, and must contain a statement to the effect that the property purchased or repaired is for use primarily in commercial deep sea fishing operations.

The certificate should be in substantially the following form:

EXEMPTION CERTIFICATE

I HEREBY CERTIFY that the this day ordered from or purchased from you, will be used primarily in commercial deep sea fishing operations outside the territorial waters of the state of Washington; that the vessel is not for fishing inside such territorial waters, and is not rigged or equipped for such fishing; that the registered name of the water craft to which said purchase applies is (name of fishing boat) ; that said sale is entitled to exemption under the provisions of RCW ((82.08.030(11) of the Washington Revenue Act of 1935, as amended)) 82.08.0262. Dated19...

(Name of Purchaser)

By (Name of officer or agent)

Address

Incidental use within the waters of this state of fishing boats which are used primarily in deep sea fishing operations, will not deprive the owners thereof of the statutory exemption from the retail sales tax.

In the event the fishing boat with respect to which an exemption is claimed is of a type used in the waters of Puget Sound or the Columbia River and the tributaries thereof, and is not practical for use in deep sea fishing, sellers should collect the retail sales tax upon all sales of such boats and component parts thereof and upon charges made for the repair of the same.

It is a gross misdemeanor for a buyer to make a false certificate of exemption for the purpose of avoiding the tax.

USE TAX

The use tax does not apply upon the use of watercraft or component parts thereof.

The use tax does apply upon the actual use within this state of all other types of tangible personal property purchased at retail and upon which the sales tax has not been paid (See WAC 458-20-178).

((Revised April 28, 1978. Effective July 1, 1978.))

AMENDATORY SECTION (Amending Order ET 71-1, filed 7/22/71)

WAC 458-20-178 ((~~RULE 178~~)) USE TAX. NATURE OF THE TAX. The use tax supplements the retail sales tax by imposing a tax of like amount upon the use within this state as a consumer of any article of tangible personal property purchased at retail or acquired by lease, gift, or bailment, or extracted, produced or manufactured by the person so using the same, where the user, donor or bailor has not paid retail sales tax under chapter 82.08 RCW with respect to the sale to him of the property used.

In general, the use tax applies upon the use of any tangible personal property, the sale or acquisition of which has not been subjected to the Washington retail sales tax. Conversely, it does not apply upon the use of any property if the sale to the user or to his donor or bailor has been subjected to the Washington retail sales tax, and such tax paid thereon. Thus, these two methods of taxation stand as complements to each other in the state revenue plan, and taken together, provide a uniform tax upon the sale or use of all tangible personal property, irrespective of where it may have been purchased or how acquired.

WHEN TAX LIABILITY ARISES. Tax liability imposed under the use tax arises at the time the property purchased, received as a gift, acquired by bailment, or extracted or produced or manufactured by the person using the same is first put to use in this state. The terms "use," "used," "using," or "put to use" include any act by which the taxpayer takes or assumes dominion or control over the article and shall include installation, storage, withdrawal from storage, or any other act preparatory to subsequent actual use or consumption within the state. Tax liability arises as to that use only which first occurs within the state and no additional liability arises with respect to any subsequent use of the same article by the same person. As to lessees of tangible personal property who have not paid the retail sales tax to their lessors, liability for use tax arises as of the time rental payments fall due and is measured by the amount of such rental payments.

PERSONS LIABLE FOR THE TAX. As has been indicated, the person liable for the tax is the purchaser, the extractor or manufacturer who uses articles produced by himself, the bailor or donor and the bailee or donee if the tax is not paid by the bailor or donor, and the lessee (to the extent of the amount of rental payments to a lessor who has not collected the retail sales tax). A lessor who leases equipment with an operator is deemed a user and is liable for the tax on the full value of the equipment.

It should be noted also that the law provides that the term "sale at retail" means, among other things, every sale of tangible personal property to persons taxable under the classifications of Public Road Construction and Service and Other Business Activities of the business and occupation tax. Hence, persons engaged in such businesses are liable for the payment of the use tax with respect to the use of materials purchased by them for the performance of those activities, when the Washington retail sales tax has not been paid on the purchase thereof, even though title to such property may later be transferred to another either as personal or as real property. It will be noted also that persons engaged in the types of businesses referred to in this paragraph are expressly included within the statutory definition of the word "consumer." (See RCW 82.04.190.) Also liable for tax is any person who distributes or displays or causes to be distributed or displayed any article of tangible personal property except newspapers the primary purpose of which is to promote the sale of products and services. (See RCW 82.12.010(5).)

LESSORS AND LESSEES. Any use tax liability with respect to leased tangible personal property will be that of the lessee and is limited to the amount of rental payments paid or due the lessor. However, when boats, motor vehicles, equipment and similar property are rented under conditions whereby the lessor supplies an operator or crew, the lessor is a user and the use tax is applicable to the value of the property so used.

EXEMPTIONS. Persons who purchase, produce, manufacture, or acquire by lease or gift tangible personal property for their own use or consumption in this state, are liable for the payment of the use tax, except as to the following uses which are exempt under RCW ((~~82.12.030~~) 82.12.0251 through 82.12.033) of the law:

- 1. Any of the following uses:
a. the use of tangible personal property brought into the State of Washington by a nonresident thereof for his use or enjoyment while temporarily within the state, unless such property is used in conducting a nontransitory business activity within the state; or
b. the use by a nonresident of a motor vehicle which is currently licensed under the laws of the state of his residence and is not used in this state more than three months and which is not required to be registered or licensed under the laws of this state, or
c. the use of household goods, personal effects, and private automobiles by a bona fide resident of this state if such articles were acquired and used by such person in another state while a bona fide resident thereof and such acquisition and use occurred more than thirty days prior to the time he entered this state.

2. The use of any article of tangible personal property purchased at retail or acquired by lease, by bailment or by gift if the sale thereof to or the use thereof by the present user or his bailor or donor has already been subjected to tax under the retail sales tax or use tax and such tax has been paid by the present user or by his bailor or donor; or in respect to the use of property acquired by bailment when tax has been paid by the bailee or any previous bailee, based on reasonable rental value as provided by RCW 82.12.060, equal to the amount of tax multiplied by the value of the article used at the time of first use, at the tax rate then applicable, or in respect to the use by a bailee of property acquired prior to June 9, 1961, by a previous bailee from the same bailor for use in the same general activity.

Proposed / Not adopted

3. The use of any article of tangible personal property the sale of which is specifically taxable under the Public Utility Tax.

4. a. In respect to the use of any airplane, locomotive, railroad car, or water craft used primarily in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or used primarily in commercial deep sea fishing operations outside the territorial waters of the state, and;

b. In respect to the use of tangible personal property which becomes a component part of any such airplane, locomotive, railroad car, or water craft, and in respect to the use by a nonresident of this state of any motor vehicle or trailer used exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such motor vehicle or trailer is registered and licensed in a foreign state; also in respect to the use by a nonresident of this state of any motor vehicle or trailer so registered and licensed and used within this state for a period not exceeding fifteen consecutive days when the user has furnished the department of revenue with a written statement containing the following information:

1. Name of registered owner.

2. Name of the foreign state in which motor vehicle or trailer is registered.

3. License number.

4. Make and model.

5. Purpose of use in Washington.

6. Date of first use in Washington.

7. Date last used in Washington.

For reasons valid to the department of revenue, fifteen additional days may be granted consecutive to the original period of use. Application for such additional use must be made in writing in advance of the expiration of the original period of use and must set out the justification for and the reason why such additional time should be allowed.

This exemption is not available to persons performing construction or service contracts in this state but is limited to casual or isolated use by a nonresident for servicing of his own facilities.

For the purpose of this exemption the term "nonresident" shall include a user who has one or more places of business in this state as well as in one or more other states, but the exemption for nonresidents shall apply only to those vehicles which are most frequently dispatched, garaged, serviced, maintained, and operated from the user's place of business in another state, and;

c. In respect to the use by the holder of a carrier permit issued by the Interstate Commerce Commission of any motor vehicle or trailer used in substantial part in the normal and ordinary course of the user's business for transporting therein persons or property for hire across the boundaries of this state if the first use of which within this state is actual use in conducting interstate or foreign commerce. Also in respect to use by subcontractors to such interstate carriers, (i.e., persons operating their own vehicles under leases with operator) and;

d. In respect to the use of any motor vehicle or trailer while being operated under the authority of a one-transit permit issued by the Department of Motor Vehicles pursuant to RCW 46.16.100 and moving upon the highways from the point of delivery in this state to a point outside this state, and;

e. In respect to the use of tangible personal property which becomes a component part of any motor vehicle or trailer used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state. Also in respect to use by subcontractors to such interstate carriers (i.e., persons operating their own vehicles under leases with operator).

5. The use of any article of tangible personal property which the state is prohibited from taxing under the constitution of the state or under the constitution or laws of the United States;

6. The use of motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes, and motor vehicle fuel taxable under chapter 82.36 RCW: PROVIDED, That the use of such fuel upon which a refund of the motor vehicle fuel tax is obtained shall not be exempt, and the Department of Motor Vehicles shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter, and remit the same to the Department of Revenue.

7. In respect to the use of any article of tangible personal property included within the transfer of the title to the entire operating property of a publicly or privately owned public utility, or a complete operating integral section thereof by the state or a political subdivision thereof in conducting any business defined in subdivision 1 through ((++)) 12 of RCW 82.16.010.

8. The use of tangible personal property (including household goods) which has been used in conducting a farm activity, but only when that property was purchased from a farmer at an auction sale held or conducted by an auctioneer upon a farm and not otherwise.

9. The use of tangible personal property by corporations which have been incorporated under any act of the Congress of the United States of America and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities, and to devise and carry on measures for preventing the same. (The Red Cross is the only existing organization that qualifies for this exemption.)

10. The use of purebred livestock for breeding purposes where said animals are registered in a nationally recognized breed association, the use of semen in the artificial insemination of livestock, and in respect to the use of cattle and milk cows used on the farm.

11. The use of poultry in the production for sale of poultry or poultry products.

12. The use of fuel by the extractor or manufacturer thereof when used directly in the operation of the particular extractive operation or manufacturing plant which produced or manufactured the same.

13. The use of motor vehicles, equipped with dual controls, which are loaned to accredited schools and used in connection with their driver training programs.

14. The use by a bailee of any article of tangible personal property which is entirely consumed in the course of research, development, experimental and testing activities conducted by the user, provided the acquisition or use of such articles by the bailor was not subject to sales or use tax.

15. The use by residents of this state of motor vehicles and trailers acquired outside this state and used while such persons are members of the armed services and are stationed outside this state pursuant to military orders, but this exemption does not apply to the use of motor vehicles or trailers acquired less than thirty days prior to the discharge or release from active duty of such person from the armed services. This exemption is not permitted to persons called to active duty for training periods of less than six months.

16. The use of sand, gravel, or rock to the extent of the cost of or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling such sand, gravel, or rock, when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is (1) either stockpiled in said pit or quarry for placement or is placed on the street, road, place or highway of the county or city by the county or city itself (i.e., by its own employees), or (2) sold by the county or city to a county or a city at actual cost for placement on a publicly owned street, road, place, or highway. This exemption shall not apply to the use of such material to the extent of the cost of or charge made for such labor and services, if the material is used for other than public road purposes or is sold otherwise than as here indicated.

17. The use of form lumber by any person engaged in the construction, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property of or for consumers: Provided, That such lumber is used or to be used first by such person for the molding of concrete in a single such contract, project or job and is thereafter incorporated into the product of that same contract, project or job as an ingredient or component thereof.

18. The use of wearing apparel only as a sample for display for the purpose of effecting sales of goods represented by such sample.

19. The use of tangible personal property held for sale and displayed in single trade shows for a period not in excess of thirty days, the primary purpose of which is to promote the sale of products or services.

20. The use of pollen.

21. The use of the personal property of one political subdivision by another political subdivision directly or indirectly arising out of or resulting from the annexation or incorporation of any part of the territory of one political subdivision by another.

22. The use of prescription drugs, including the use by the state or a political subdivision or municipal corporation thereof of drugs to be dispensed to patients by prescription without charge.

23. The use of returnable containers for beverages and foods, including but not limited to soft drinks, milk, beer, and mixers.

24. The use of insulin, prosthetic and orthotic devices prescribed for an individual by a chiropractor, osteopath, or physician, ostomic items, and medically prescribed oxygen.

25. The use of food products for human consumption (see Rule 244).

26. The use of ferry vessels of the state of Washington or of local governmental units in the state of Washington in transporting pedestrian or vehicular traffic within and outside the territorial waters of the state. Also, the use of tangible personal property which becomes a component part of any such ferry vessel.

27. Alcohol that is sold in this state for use solely as fuel in motor vehicles, farm implements and machines, or implements of husbandry. This exemption expires December 31, 1986.

28. The use of vans used regularly as ride sharing vehicles, as defined in RCW 46.74.010(3), by not less than seven persons, including passengers and driver, if the vans are exempt under the motor vehicle excise tax for thirty-six consecutive months beginning within thirty days of application for exemption under the use tax. This exemption expires January 1, 1988.

29. The use of used mobile homes as defined in RCW 28A.45.032 if the sale thereof to the present user has already been subjected to tax under chapter 28A.45 RCW.

RCW ~~((82.08.030(+)))~~ 82.08.0251 provides expressly that the exemption therein with respect to casual sales shall not be construed as exempting from the use tax the use of any article of tangible personal property acquired through a casual sale. Thus, while casual sales made by persons who are not registered with the Department of Revenue are exempt from the retail sales tax (for the obvious reason that the procedure for collection of that tax is impractical in those cases), the use of property acquired through such sales is not exempt from the use tax, except as provided in RCW ~~((82.12.030))~~ 82.12.0251 through 82.12.033.

See also WAC 458-20-106 regarding the use tax on use of article purchased at a casual sale.

USE BY A NONRESIDENT. The exemption set forth in subdivision "1" above, does not extend to the use of articles by a ~~((psiding))~~ person residing in and regularly employed in this state irrespective of whether or not such person claims a legal domicile elsewhere or intends to leave this state at some future time, nor does it extend to the use of property brought into this state by a nonresident for the purpose of conducting herein a nontransitory business activity.

The term "nontransitory business activity" means and includes the business of extracting, manufacturing, selling property, printing, publishing, and performing contracts for the constructing or improving of real or personal property. It does not include the business of conducting a circus or other form of amusement when the personnel and property of such business regularly moves from one state into another, nor does it include casual or incidental business done by a nonresident lawyer, doctor or accountant.

When property purchased elsewhere is brought into this state for use or consumption the use tax will apply upon the use thereof, but a credit is allowed for the amount of sales or use tax paid by the user or his bailor or donor on such property to any other state, political subdivision thereof, or the District of Columbia prior to the use of the property in this state.

COMPUTATION OF TAX. The tax is levied and collected on an amount equal to the value of the article used by the taxpayer. The term "value of the article used" is defined by the law as being the total of the consideration paid or given by the purchaser to the seller for the article used plus any additional amounts paid by the purchaser as tariff or duty with respect to the importation of the article used. In case the article used was extracted or produced or manufactured by the person using the same or was acquired by gift or was sold under conditions where the purchase price did not represent the true value thereof, the value of the article used must be determined as nearly as possible according to the retail selling price, at the place of use, of similar products of like quality, quantity and character. In case the articles used are acquired by bailment, the value of the use of the articles so used shall be in an amount representing a reasonable rental for the use of the articles so bailed, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character. In case the articles used are acquired by lease or rental, use tax liability is measured by the amount of rental payments to a lessor who has not collected the retail sales tax.

RETURNS AND REGISTRATION. Persons subject to the payment of the use tax, and who are not required to register or report under the provisions of chapters 82.04, 82.08, 82.16, or 82.28 RCW, are not required to secure a certificate of registration as provided under WAC 458-20-101. As to such persons, returns must be filed with the Department of Revenue on or before the fifteenth day of the month

succeeding the end of the period in which the tax accrued. Forms and instructions for making returns will be furnished upon request made to the department at Olympia or to any of its branch offices.

See WAC 458-20-221 for liability of certain selling agents for collection of use tax.

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-180 ~~((RULE 180))~~ MOTOR TRANSPORTATION, URBAN TRANSPORTATION. The term "motor transportation business" means the business (except urban transportation business) of operating any motor propelled vehicle by which persons or property of others are conveyed for hire, and includes, but is not limited to the operation of any motor propelled vehicle as an auto transportation company (except urban transportation business), common carrier or contract carrier as defined by RCW 81.68.010 and 81.80.010.

It includes the business of hauling for hire any extracted or manufactured material, over the highways of the state and over private roads but does not include the transportation of logs or other forest products exclusively upon private roads.

It does not include the hauling of any earth or other substance excavated or extracted from or taken to the right of way of a publicly owned street, place, road or highway, by a person taxable under the classification of Public Road Construction of the business and occupation tax. (See WAC 458-20-171.)

The term "urban transportation business" means the business of operating any vehicle for public use in the conveyance of persons or property for hire, insofar as (A) operating entirely within the corporate limits of any city of [or] town, or within five miles of the corporate limits thereof, or (B) operating entirely within and between cities and towns whose corporate limits are not more than five miles apart or within five miles of the corporate limits of either thereof. Included herein, but without limiting the scope thereof, is the business of operating passenger vehicles of every type and also the business of operating cartage, pickup or delivery services, including in such services the collection and distribution of property arriving from or destined to a point within or without the state, whether or not such collection or distribution be made by the person performing a local or interstate line-haul of such property.

It does not include the business of operating any vehicle for the conveyance of persons or property for hire when such operating extends more than five miles beyond the corporate limits of any city (or contiguous cities) through which it passes. Thus an operation extending from a city to a point which is more than five miles beyond its corporate limits does not constitute urban transportation, even though the route be through intermediate cities which enables the vehicle, at all times to be within five miles of the corporate limits of some city.

The terms "motor transportation" and "urban transportation" include the business of renting or leasing trucks, trailers, busses, automobiles and similar motor vehicles to others for use in the conveyance of persons or property when as an incident of the rental contract such motor vehicles are operated by the lessor or by an employee of the lessor. These terms include the business of operating taxicabs ~~((and))~~, armored cars, and contract mail delivery vehicles, but do not include the businesses of operating auto wreckers or towing vehicles (taxable as sales at retail or wholesale under RCW 82.04.050), school busses, ambulances, nor the collection and disposal of refuse and garbage (taxable under the business and occupation tax classification, Service and Other Activities). Amounts received for providing commuter share riding or ride sharing for the elderly and the handicapped in accordance with RCW 46.74.010 are not subject to tax.

RETAIL SALES TAX

Persons engaged in the business of motor transportation or urban transportation are required to collect the retail sales tax upon gross retail sales of tangible personal property sold by them. The retail sales tax must also be collected upon retail sales of services defined as "sales" in RCW 82.04.040 and "sales at retail" in RCW 82.04.050, including charges for the rental of motor vehicles or other equipment without an operator.

Persons engaged in the business of motor transportation or urban transportation must pay the retail sales tax to their vendors when purchasing motor vehicles, trailers, equipment, tools, supplies and other tangible personal property for use in the conduct of such businesses. (See WAC 458-20-174 for limited exemptions allowed in the Act for motor carriers operating in interstate or foreign commerce.) Persons

buying motor vehicles, trailers and similar equipment solely for the purpose of renting or leasing the same without an operator are making purchases for resale and are not required to pay the retail sales tax to their vendors.

BUSINESS AND OCCUPATION TAX

RETAILING. Persons engaged in either of said businesses are taxable under the Retailing classification upon gross retail sales of tangible personal property sold by them and upon retail sales of services defined as "sales" in RCW 82.04.040 or "sales at retail" in RCW 82.04.050.

SERVICE AND OTHER BUSINESS ACTIVITIES. Persons engaged in either of said businesses are taxable under the Service and Other Activities classification upon gross income received from checking service, packing and crating, the mere loading or unloading for others, commissions on sales of tickets for other lines, travelers' checks and insurance, etc. and the transportation of logs and other forest products exclusively over private roads.

PUBLIC UTILITY TAX

Persons engaged in the business of urban transportation are taxable under the Urban Transportation classification upon the gross income from such business.

Persons engaged in the business of motor transportation are taxable under the Motor Transportation classification upon the gross income from such business.

Persons engaged in the business of both urban and motor transportation are taxable under the Motor Transportation classification upon gross income, unless a proper segregation of such revenue is shown by the books of account of such persons. (See WAC 458-20-193 for interstate and foreign commerce.)

((Revised June 1, 1970:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-181 ((~~RULE 181~~)) **VESSELS, INCLUDING LOG PATROLS, TUGS AND BARGES, OPERATING UPON WATERS IN THE STATE OF WASHINGTON.**

BUSINESS AND OCCUPATION TAX

RETAILING. Persons engaged in the business of operating such vessels and tugs are taxable under the Retailing classification upon the gross sales of meals (including meals to employees) and other tangible personal property taxable under the retail sales tax.

SERVICE AND OTHER BUSINESS ACTIVITIES. The business of operating lighters is a service business taxable under the Service and Other Business Activities classification upon the gross income from such service. Also taxable under this classification is gross income from operation of vessels to provide scenic cruises.

RETAIL SALES TAX

Sales of meals and other tangible personal property by persons operating such vessels and tugs are sales at retail and the retail sales tax must be collected thereon. For applicability of Retail Sales Tax where meals are furnished to members of the crew or to other employees as a part of their compensation for services rendered, see WAC 458-20-119.

Sales of foodstuff and other articles to such operators for resale aboard ship are not subject to Retail Sales Tax.

Sales to all such operators of fuel, lubricants, machinery, equipment and supplies which are not resold are sales at retail and the retail sales tax must be paid thereon, unless exempt by law.

Charges made by others for the repair of any boat or barge are also sales at retail and the retail sales tax must be paid upon the total charge made for both labor and materials.

Charges made for drydocking are not subject to the retail sales tax provided such charges are shown as an item separate from charges made for repairing.

USE TAX

The use tax applies upon the use within this state of all articles of tangible personal property purchased at retail and upon which the retail sales tax has not been paid, unless exempt by law.

PUBLIC UTILITY TAX

The business of operating upon waters wholly within the State of Washington vessels which are common carriers regulated by the Utilities and Transportation Commission is taxable under the public utility tax as follows:

1. Vessels under sixty-five feet in length, taxable under the classification Vessels Under Sixty-five Feet upon gross income.

2. Vessels sixty-five feet or more in length, taxable under the classification Other Public Service Business upon gross income.

The Other Public Service classification of the public utility tax applies to the business of operating tugs, barges, and log patrols.

((Revised June 1, 1965:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-184 ((~~RULE 184~~)) **TAX ON CONVEYANCES, GENERAL PROVISIONS.** The provisions of the conveyance tax impose a tax upon conveyances (deed, instrument or writing) whereby any lands, tenements or other realty sold are granted, transferred or otherwise conveyed to, or vested in, a purchaser or any other person by his direction. The tax is paid by means of stamps to be affixed to the instrument, document or paper conveying the property, by the person making, signing, issuing or accepting any such instrument. When the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale and not removed by the sale, exceeds \$100.00, the tax is imposed at the rate of 50¢ for each \$500.00 or fractional part thereon.

METER STAMPING MACHINES. In addition to the documentary stamps customarily sold and used for payment of the conveyance tax, stamps produced by stamp meter machines may be used when authorized and approved by the director of revenue. A stamp printed directly on a document by an authorized meter machine is considered cancelled provided the printing on such stamp contains the date of such printing and a number which identifies the machine printing the stamp.

The tax applies to:

1. Deeds dated prior to May 1, 1935, but delivered after that date;
2. Deeds in escrow upon delivery to the grantee, unless deposited before May 1, 1935.

The tax does not apply to:

1. Any instrument or writing given to secure a debt;
2. Deeds dated and delivered prior to May 1, 1935, even though recorded after that date;
3. Deeds deposited in escrow before May 1, 1935; (the presumption is that a deed was not deposited in escrow prior to May 1, 1935.)
4. Transfers without a valuable consideration in property or money;
5. Instruments conveying personal property only, or to instruments that do not convey a fee estate in real property, such as leases, contracts, options, etc.;
6. Deeds by savings and loan associations to a holding corporation made pursuant to chapter 33.04 RCW;
7. Deeds executed by County and City Treasurers conveying realty sold for nonpayment of taxes or assessments;
8. Deeds to the State of Washington, its departments and institutions.

TAX—HOW COMPUTED. In calculating the amount of stamps which must be affixed to a deed of conveyance, the tax is computed upon the full value of the property conveyed less all encumbrances which rest on the property before the sale and are not removed by the sale. Encumbrances placed on the property in connection with, and as a result of, the sale or transfer, as well as notes for deferred payments, cannot be deducted in determining the amount upon which the tax is calculated. For example:

a. B, the owner of certain real estate, sold it to C for a consideration of \$4,000. C paid \$2,500 in cash, leaving a balance due of \$1,500. B accepted C's note for the balance and gave C a deed to the property. The tax should be computed upon \$4,000.

Where the property conveyed is encumbered, the tax is computed according to the following examples:

b. B, for a consideration of \$5,000, conveys to C land on which there is an encumbrance of \$1,000 at the time of sale. At the time of sale B signs a contract agreeing to pay off the encumbrance at a later date. The deed of conveyance from B to C is subject to tax on \$5,000.

c. B conveys land to C on which there is a mortgage of \$1,000. C pays B \$2,000 in consideration for the transfer and assumes, or agrees

to pay, the mortgage. The deed of conveyance from B to C is subject to tax on \$2,000.

CONVEYANCE BY A MORTGAGOR TO A MORTGAGEE. A conveyance by a defaulting mortgagor to a mortgagee in consideration of the cancellation of the mortgage debt is subject to a conveyance tax calculated on the amount of the mortgage debt, plus unpaid accrued interest. A deed of trust is in legal effect only a form of mortgage, so that a conveyance accomplished by foreclosing the lien of a deed of trust is subject to the conveyance tax. For example:

B holds a mortgage upon C's property for \$5,000. C pays \$2,000 on the mortgage, leaving a balance due of \$3,000. In order to avoid the expense of a foreclosure sale B and C enter into an agreement whereby C conveys the property to B in consideration of the cancellation of the mortgage debt. The deed of conveyance is subject to tax on \$3,000 plus any unpaid accrued interest.

ACTUAL VALUE AT TIME OF CONVEYANCE THE MEASURE OF THE TAX. Where the consideration for a conveyance of lands, tenements, or other real property is left open, to be fixed by future contingencies, the actual value at the time of conveyance is the measure of the tax upon the deed, instrument, or writing whereby the conveyance is made.

DEEDS CONVEYING PROPERTY SOLD UNDER FORECLOSURE OR EXECUTION. Deeds executed by sheriffs, clerks of courts, etc., to cover transfers of property sold under a judgment of foreclosure or execution are subject to the conveyance tax. The grantee or vendee is required to pay the tax.

The conveyance tax does not attach when the sheriff's certificate of sale is issued, since such certificate does not vest title to the property. The tax attaches when the sheriff's confirmatory deed is issued.

A deed to real estate, executed by a sheriff to a mortgagee who bids in property at a foreclosure sale to satisfy a mortgage lien, is likewise subject to the conveyance tax, the tax to be computed upon the amount bid for the property.

DEEDS EXPRESSING A NOMINAL CONSIDERATION. All deeds in which the stated consideration is less than \$100 are presumed not to be subject to the conveyance tax, unless the conditions in respect to the conveyance indicate otherwise.

GIFTS. A deed issued to cover a bona fide gift of real property from one individual to another is not taxable.

SALES OF STANDING TIMBER, MINERALS IN PLACE OR OTHER NATURAL RESOURCE PRODUCTS. Where standing timber, minerals in place and other natural resources in place are sold and conveyed by deed or other written instrument, the provisions of the conveyance tax apply if the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, and not removed by the sale, exceeds \$100.00.

DEEDS ON EXCHANGE OF PROPERTIES. In the case of an exchange of two properties, the deeds transferring title to each are subject to tax, which should in each case be computed on the basis of the actual value of the interest or property conveyed, the amount of any pre-existing lien or encumbrance which is not removed by the sale being deductible.

ASSIGNMENT OF REAL ESTATE CONTRACTS. The vendee's interest in a real estate contract is real property and therefore the transfer of such an interest is a transfer of real estate which is subject to the conveyance tax. However, a vendor's interest in a real estate contract is personal property and the tax does not apply to the transfer of such an interest.

STAMPS, WHEN PROCURED. Stamps to denote payment of the tax imposed upon conveyances have been issued by the Department of Revenue in denominations of 50¢, \$1.00, \$2.00, \$5.00, \$10.00, \$50.00, \$100.00 and \$500.00. Conveyance stamps may be obtained from the office of the Department of Revenue in Olympia, or from any of its branch offices or from any county auditor.

WHO SHALL AFFIX STAMPS. The Act requires that the person who makes, signs, or issues any instrument taxable thereunder shall affix and cancel the revenue stamps. It also prohibits any person from accepting such instruments unless they are properly stamped.

CANCELLATION OF STAMPS. The person using or affixing conveyance stamps upon any instrument, document or paper shall write or stamp the initials of his name and the date upon which the stamp is affixed or used.

DEEDS TO AND BY THE UNITED STATES AND THE STATE OF WASHINGTON AND ITS POLITICAL SUBDIVISIONS. The provisions of the conveyance tax do not apply to a conveyance of real estate sold to or by the United State government or

any instrumentality thereof. Furthermore, the tax does not apply to a conveyance of real estate sold by the State of Washington or any political subdivision thereof exercising essential governmental functions, nor does it apply to any conveyance to the State of Washington itself, or to its departments or institutions.

However, a conveyance of real estate sold to any political subdivision of the State of Washington is subject to the tax and the proper amount of conveyance stamps must be affixed thereto by the person making, signing or issuing such instrument. The law provides that it shall be a gross misdemeanor for any person to make, sign, issue or accept or cause to be made, signed, issued or accepted any instrument without the full amount of the tax thereon being duly paid. Therefore, any officer, agent or employee of any political subdivision of the State of Washington, before accepting any such instrument on its behalf, must require that the proper amount of stamps be affixed thereto.

((Revised June 1, 1970:))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-189 ((~~RULE 189~~)) SALES TO AND BY THE STATE OF WASHINGTON, COUNTIES, CITIES, SCHOOL DISTRICTS AND OTHER MUNICIPAL SUBDIVISIONS.

BUSINESS AND OCCUPATION TAX

No deduction is allowed a seller in computing tax under the provisions of the business and occupation tax with respect to sales to the State of Washington, its departments and institutions or to counties, cities, school districts or other municipal subdivisions thereof.

The State of Washington, its departments and institutions and all counties, cities and other municipal subdivisions engaging in governmental functions and receiving income therefrom in the form of license fees, inspection fees, permits, or taxes are not subject to the provisions of the business and occupation tax upon such revenues. However, subdivisions are taxable with respect to income however designated derived from any activity whether proprietary or governmental wherein a specific charge is made to its residents or others based upon and measured by some service actually rendered by the subdivision, such as a charge made for water or electrical energy (both taxable under the public utility tax and not under the business and occupation tax) or a charge made for sewer service, garbage collection or for admission to any place.

All counties, cities and other municipal subdivisions and all corporate agencies or instrumentalities of the State of Washington engaging in proprietary functions or services for which a specific charge is made as above-mentioned are subject to tax under the business and occupation tax as follows:

1. Extracting or Manufacturing - Taxable upon the value of products manufactured or extracted.
2. Retailing or Wholesaling - Taxable upon gross proceeds of sales.
3. Persons taxable under either the Retailing or Wholesaling classifications are not taxable under either Extracting or Manufacturing in respect to sales of articles extracted or manufactured by them in this state.
4. Service and Other Business Activities - Taxable under the Service and Other Business Activities classification upon the gross income derived from services rendered by them, including the gross income received from admission charges, garbage collection, and sewer service.

However, municipal sewerage utilities and other public corporations imposing and collecting fees or charges for such services may deduct from the measure of the tax, amounts paid to another municipal corporation or governmental agency for performance of such services.

Counties and cities are not subject to the business and occupation tax on the cost of labor and service in the mining, sorting, crushing, screening, washing, hauling and stockpiling of sand, gravel and rock taken from a pit or quarry owned by or leased to the county or city when these materials are sold at cost to another county or city for use on public roads. (See also WAC 458-20-171.)

For operation of hospitals by the state or its political subdivisions see WAC 458-20-168 and 458-20-188.

The business and occupation tax does not apply to the value of materials printed solely for their own use by school districts, educational service districts, counties, cities, towns, libraries, or library districts.

RETAIL SALES TAX

The retail sales tax applies to all retail sales made to the State of Washington, its departments and institutions and to counties, cities, school districts and all other municipal subdivisions of the state irrespective of whether the property purchased is for use in carrying on a governmental or proprietary function. The retail sales tax does not apply to sales to city or county housing authorities which were created under the provisions of the Washington Housing Authorities Law, chapter 35.82 RCW. An exemption is also allowed municipal corporations, the state and all political subdivisions thereof for that portion of the selling price of contracts for watershed protection or flood control which is reimbursed by the United States Government according to the provisions of the Watershed Protection and Flood Prevention Act, Public Laws 566, as amended.

Where tangible personal property or taxable services are purchased by the State of Washington, its departments or institutions for the purpose of resale to any other department or institution of the State of Washington, or for the purpose of consuming the property purchased in manufacturing or producing for use or for resale to any other department or institution of the State of Washington a new article of which such property is an ingredient or component part, the transaction is deemed a purchase at retail and the retail sales tax must be paid by the State of Washington to its vendors. So-called sales between a department or institution of the State of Washington and any other such department or institution constitute interdepartmental charges (see WAC 458-20-201) and the retail sales tax is not applicable.

All counties, cities, and other municipal subdivisions are required to collect the retail sales tax on all retail sales of tangible personal property or services classified as retail sales, including sales of equipment or other capital assets (~~made by them in carrying on a proprietary function, even though such sales are made to a department or municipal subdivision performing a governmental function. Sales of capital assets, such as second hand furniture and equipment, made by departments or municipal subdivisions carrying on an essential governmental function are casual and isolated and, hence, not subject to the retail sales tax. (See WAC 458-20-106.))~~). The retail sales tax is not applicable to the cost of labor and services in the mining, sorting, crushing, screening, washing, hauling and stockpiling of sand, gravel and rock taken from a pit or quarry owned by or leased to the county or city when these materials are sold at cost to another county or city for use on public roads. (See also WAC 458-20-171.) The sales tax does not apply to sales to one political subdivision directly or indirectly arising out of annexation of territory of one political subdivision by another.

The sales tax does not apply to sales to the state or a local governmental unit thereof of ferry vessels, component parts thereof, nor labor and services in respect to construction or improvement of such vessels.

USE TAX

The State of Washington, its departments and institutions and all counties, cities, school districts, and other municipal subdivisions are required to report the use tax upon the use of all tangible personal property purchased or acquired under conditions whereby the Washington retail sales tax has not been paid.

Counties and cities are not subject to use tax upon the cost of labor and services in the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel, and rock taken from a pit or quarry owned or leased to a county or city when the materials are for use on public roads. The use tax does not apply to property acquired by one political subdivision directly or indirectly through annexation of territory of another political subdivision.

The use tax does not apply to the use of ferry vessels or component parts thereof by the state or local governmental units.

PUBLIC UTILITY TAX

No deduction in computing tax liability under the provisions of the public utility tax is allowed to any person or firm by reason of the fact that sales are to the State of Washington or any of its municipal subdivisions.

Counties, cities and other municipal subdivisions of the state operating public utilities are subject to the provisions of the public utility tax.

Neither the public utility tax nor the business tax apply to amounts or value paid or contributed to any county, city, town, political subdivision, or municipal or quasi municipal corporation of the State of Washington representing payments of special assessments or installments thereof and interests and penalties thereon, charges in lieu of

assessments, or any other charges, payments or contributions representing a share of the cost of capital facilities constructed or to be constructed or for the retirement of obligations and payment of interest thereon issued for capital purposes. Service charges shall not be included in this exemption even though used wholly or in part for capital purposes.

((Revised June 1, 1970.))

AMENDATORY SECTION (Amending Order ET 75-1, filed 5/2/75)

WAC 458-20-190 (~~(RULE 190))~~ SALES TO AND BY THE UNITED STATES, ITS DEPARTMENTS, INSTITUTIONS AND INSTRUMENTALITIES—SALES TO FOREIGN GOVERNMENTS.

BUSINESS AND OCCUPATION TAX

The United States, its departments, institutions and instrumentalities, including corporate instrumentalities, are not subject to tax under chapter 82.04 RCW.

In computing business tax liability of others, no deduction from value of products, gross sales or gross income is allowed in respect to business transacted with the United States, its departments, institutions or instrumentalities.

RETAIL SALES TAX

The retail sales tax does not apply to sales to the United States, its departments, institutions and instrumentalities, except sales to such institutions as have been chartered or created under Federal authority, but which are not directly operated and controlled by the government for the benefit of the public generally.

Departments, instrumentalities or agencies which are directly operated and controlled by the Federal government for the benefit of the public generally include, among others, the Departments of Agriculture, Commerce, Interior (including the Bonneville Power Administration and the Tennessee Valley Authority), Justice, Labor, Post Office, State, and Treasury, also the National Military Establishment which includes the Departments of the Army, the Navy and the Air Force (~~and~~). Also, the following federal agencies are exempt from payment of sales tax either by reason of congressional exemption in the course of their establishment or by reason of specific federal statutory exemption: The Civil Service Commission, Farm Credit Administration, Federal Housing Administration (including Housing and Urban Development), Federal Land Banks, Federal Reserve Banks, Home Owner's Loan Corporation, Interstate Commerce Commission, ((Reconstruction Finance Corporation,)) Rural Electrification Administration, Social Security Board, United States Maritime Commission, Veterans' Administration, and ((War Shipping Administration. Also)) federally chartered credit unions, federal home loan banks, farm credit banks, export-import bank, federal savings and loan insurance corporation, federal deposit insurance corporation, federal home loan mortgage corporation, government national mortgage association, federal national mortgage association, Farm Loan Associations, ((Production Credit Associations, Production Credit Corporations)) and Central Banks for Cooperatives, the stock of which is owned by the United States. ((Credit Unions chartered under the Federal Credit Union Act are exempt from payment of the retail sales tax by reason of a specific statutory exemption:))

The retail sales tax does not apply to sales made by the United States, or any instrumentality thereof, or by voluntary unincorporated organizations of Army or Navy personnel to authorized purchasers within a Federal area. The term "authorized purchasers" means civil employees and members of the armed forces of the United States who are permitted to purchase from such organizations under regulation by the Secretaries of Navy, Army, Air Force, or Defense.

Sales to persons in the Army or Navy service of the United States, including civilian employees in such service, are not exempt from the retail sales tax, except where such sales are made to them as authorized purchasers by an instrumentality of the United States operating exclusively within a Federal area. Furthermore, no exemption is permitted with respect to sales to or by voluntary unincorporated organizations of Army or Navy personnel which are not instrumentalities of the United States, national banking associations, persons licensed to engage in private businesses under federal statutes, or contractors engaged in performing contracts for the United States Government.

Likewise, the retail sales tax applies upon the sales made to the Department of Employment Security of the State of Washington, irrespective of whether or not such department is reimbursed therefor with federal funds.

Sales to federal employees or representatives of the federal government are subject to sales tax, even though the federal government may reimburse them for all or a part of such expenses. Direct purchases by the federal government are sales tax exempt, but purchases by others whether with federal funds or through a reimbursement arrangement are fully subject to the retail sales tax.

FOREIGN GOVERNMENTS. The retail sales tax does not apply to sales to a foreign government or to any department thereof.

USE TAX

The use tax does not apply upon the use of any article by the United States, its departments, institutions and instrumentalities, except institutions chartered or created under Federal authority, but which are not directly operated and controlled by the government for the benefit of the public generally, nor does said tax apply upon the use of any article by a foreign government.

PUBLIC UTILITY TAX

In computing the public utility tax no deduction is allowed with respect to gross operating revenue derived from services supplied or furnished to the United States, its departments, institutions or instrumentalities.

((Revised))

AMENDATORY SECTION (Amending Order ET 75-1, filed 5/2/75)

~~WAC 458-20-191 ((**RULE 191**))~~ **FEDERAL RESERVATIONS.** The State of Washington has jurisdiction and authority to levy and collect taxes under the provisions of the Revenue Act of 1935, as amended, upon persons residing within, or with respect to business transactions conducted upon Federal reservations; provided, however, that no tax may be levied upon or collected from the United States, its departments, institutions and instrumentalities or from any authorized purchaser therefrom. (See ~~((**Rule 190** [WAC 458-20-190]))~~) WAC 458-20-190.

A concessionaire, operating within a Federal area under a grant or permit issued by the United States or by a department or instrumentality thereof, is not exempt from state excise taxes, but is taxable to the same extent as any private operator engaging in a similar business outside a Federal area and without specific authority from the United States.

The term "Federal reservation," as used herein, means any land or premises within the exterior boundaries of the State of Washington which are held or acquired by and for the use of the United States, its departments, institutions or instrumentalities.

BUSINESS AND OCCUPATION TAX

RETAILING AND WHOLESALING. Persons making retail or wholesale sales to persons residing within or conducting business upon Federal reservations are taxable upon gross proceeds of sales under the Retailing or Wholesaling classification.

With respect to the tax liability of sales to the United States, its departments, institutions or instrumentalities under these classifications, see ~~((**Rule 190** [WAC 458-20-190]))~~ WAC 458-20-190.

SERVICE AND OTHER BUSINESS ACTIVITIES. Persons performing services within Federal reservations are taxable under the Service and Other Business Activities classification upon the gross income derived therefrom, irrespective of the fact that such services are rendered for the United States, its departments, institutions or instrumentalities, or for military personnel.

RETAIL SALES TAX

The retail sales tax applies to all retail sales made to or by persons residing within or conducting business upon Federal reservations, excepting sales made to the United States, and also excepting sales made by the United States or an instrumentality thereof to authorized purchasers.

The retail sales tax applies upon retail sales made by concessionaires to military personnel and others.

USE TAX

Persons residing within or conducting business upon Federal reservations who produce or manufacture tangible personal property for commercial use or who purchase tangible personal property under conditions wherein the Washington retail sales tax has not been paid are subject to the provisions of the use tax.

The use tax does not apply to the use of property by the United States or any instrumentality thereof nor to the use of property sold by the United States or any instrumentality thereof to any authorized purchaser for use in such reservation. The term "authorized purchaser," as used herein, means and includes those persons who are permitted to purchase from voluntary unincorporated organizations of military personnel operating exclusively within Federal reservations and authorized by the Secretary of Defense.

CIGARETTE TAX

Washington cigarette tax stamps must be affixed to all cigarettes sold to persons residing within or conducting business upon Federal reservations: provided, however, that such stamps need not be affixed to cigarettes sold to the United States or any instrumentality thereof including voluntary organizations of military personnel authorized by the Secretary of Defense or the Secretary of the Navy or by the United States or any instrumentality thereof to authorized purchasers, for use in such reservation.

((Revised))

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

~~WAC 458-20-193A ((**RULE 193 - PART A**))~~ **SALES OF GOODS ORIGINATING IN WASHINGTON TO PERSONS IN OTHER STATES.**

WAC 458-20-193 deals with interstate and foreign commerce and is published in four separate parts:

- Part A. Sales of Goods Originating in Washington to Persons in Other States.
- Part B. Sales of Goods Originating in Other States to Persons in Washington.
- Part C. Imports and Exports: Sales of Goods From or To Persons in Foreign Countries.
- Part D. Transportation, Communication, Public Utility Activities, or Other Services In Interstate or Foreign Commerce.

PART A.

BUSINESS AND OCCUPATION TAX

RETAILING AND WHOLESALING. Where tangible personal property in Washington is delivered to the purchaser in this state, the sale is subject to tax under the Retailing or Wholesaling classification, even though the purchaser intends to and thereafter does transport or send the property out of state for use or resale there, or for use in conducting interstate or foreign commerce. It is immaterial that the contract of sale or contract to sell is negotiated and executed outside the state, that the purchaser resides outside the state, or that the purchaser is a carrier.

Where the seller agrees to and does deliver the goods to the purchaser at a point outside the state, neither Retailing nor Wholesaling business tax is applicable. Such delivery may be by the seller's own transportation equipment or by a carrier for hire. In either case for proof of entitlement to exemption the seller is required to retain in his records documentary proof (1) that there was such an agreement and (2) that delivery was in fact made outside the state. Acceptable proof will be:

- a. The contract or agreement AND
- b. if shipped by a for hire carrier, a waybill, bill of lading or other contract of carriage by which the carrier agrees to transport the goods sold, ~~((as agent))~~ at the risk and expense of the seller, to the buyer at a point outside the state; or
- c. if sent by the seller's own transportation equipment, a tripsheet signed by the person making delivery for the seller and showing the (1) buyer's name and address, (2) time of delivery to the buyer, together

with (3) signature of the buyer or his representative acknowledging receipt of the goods at the place designated outside the State of Washington.

EXTRACTING, MANUFACTURING. Persons engaged in these activities in Washington and who transfer or make delivery of articles produced to points outside the state are subject to business tax under the Extracting or Manufacturing classification and are not subject to tax under the Retailing or Wholesaling classification. See also ((WAC 458-20-135 and 458-20-136)) WAC 458-20-135 and 458-20-136. The activities taxed occur entirely within the state, are inherently local, and are conducted prior to the commercial journey. The tax is measured by the value of products as determined by the selling price. See WAC 458-20-112. It is immaterial that the value so determined includes an additional increment of value because the sale occurs outside the state.

EXTRACTING OR PROCESSING FOR HIRE, PRINTING AND PUBLISHING, REPAIR OR ALTERATION OF PROPERTY FOR OTHERS. These activities when performed in Washington are also inherently local and the gross income or total charge for work performed is subject to business tax, since the operating incidence of the tax is upon the business activity performed in the state. No deduction is permitted even though the articles produced, imprinted, repaired or altered are delivered to persons outside the state. It is immaterial that the customers are located outside the state, that the work was negotiated or contracted for outside the state, or that the property was shipped in from without the state for such work.

RETAIL SALES TAX

The retail sales tax is imposed upon all retail sales made within this state. The legal incidence of the tax is upon the buyer and the seller is obligated to collect and remit the tax to the state upon civil and criminal penalties. The retail sales tax applies to all sales to consumers of goods located in the state when delivery is made in Washington, irrespective of the fact that the purchaser may use the property elsewhere. However, see WAC 458-20-174, 458-20-175, 458-20-176, 458-20-177, 458-20-238 and 458-20-239 for certain statutory exemptions.

The retail sales tax does not apply when, as a necessary incident to the contract of sales, the seller agrees to, and does, deliver the property to the buyer at a point outside the state, or delivers the same to a for hire carrier consigned to the purchaser outside the state. The facts must disclose that the carrier is the agent of the seller and the seller must retain proof of exemption as outlined above under Retailing and Wholesaling.

A statutory exemption (RCW ((82-08.030(18))) 82.08.0269) is allowed in respect to sales for use in states, territories and possessions of the United States which are not contiguous to any other state (Alaska, Hawaii, etc.), but only when, as a necessary incident to the contract of sale, the seller delivers the property to the purchaser or his designated agent at the usual receiving terminal of the carrier selected to transport the goods, under such circumstance that it is reasonably certain that the goods will be transported directly to a destination in such noncontiguous states, territories and possessions.

As proof of exemption, the vendor must retain the following as part of his permanent sales records:

a. A certification of the buyer that the goods being purchased will not be used in the State of Washington and are intended for use in the specified noncontiguous state, territory or possession.

b. Written instructions signed by the buyer directing delivery of the goods to a dock, depot, warehouse, airport or other receiving terminal of the transportation agency designated by him for transportation of the goods to their place of ultimate use. Where the buyer is also the carrier, delivery may be to a warehouse receiving terminal or other facility maintained by the buyer when the circumstances are such that it is reasonably certain that the goods will be transported directly to their place of ultimate use.

c. A dock receipt, memorandum bill of lading, trip sheet, cargo manifest or other document evidencing actual delivery to such dock, depot, warehouse or receiving terminal.

As to persons whose purchases from a vendor are primarily for use in states, territories and possessions which are not contiguous to any other state and are delivered as herein provided, the requirements of "a" and "b" above may be complied with through the use of a blanket exemption certificate ((which should contain the buyer's statement that all of the goods purchased are for use in the specified state, territory or possession, together with delivery instructions according to the requirements of this rule and should include the buyer's statement that this certificate shall be considered a part of each order that we may

hereafter give to you, unless otherwise specified, and shall be valid until revoked by us in writing." The certificate should be dated and signed by the purchaser or his agent:)) as follows:

EXEMPTION CERTIFICATE

We hereby certify that all of the goods which we have purchased and which we will purchase from you will not be used in the State of Washington but are for use in the state, territory or possession of

You are hereby directed to deliver all such goods to the dock, depot, warehouse or other receiving terminal of the following transportation agency or agencies:

.....
.....
for the transportation of those goods to their place of ultimate use.

This certificate shall be considered a part of each order that we have given you and which we may hereafter give to you, unless otherwise specified, and shall be valid until revoked by us in writing.

DATED

.....
(Purchaser)

By
(Officer or Agent)

Address

No deduction is allowed under the business and occupation tax of the gross proceeds of sales made in the manner hereinabove described.

See WAC 458-20-173 for explanation of sales tax exemption in respect to charges for labor and materials in the repair, cleaning or altering of tangible personal property for nonresidents when the repaired property is delivered to the purchaser at an out-of-state point.

((Revised June 1, 1970.))

AMENDATORY SECTION (Amending Order ET 74-1, filed 5/7/74)

WAC 458-20-193B ((~~RULE 193-PART B~~)) SALES OF GOODS ORIGINATING IN OTHER STATES TO PERSONS IN WASHINGTON.

WAC 458-20-193 deals with interstate and foreign commerce and is published in four separate parts:

- Part A. Sales of Goods Originating in Washington to Persons in Other States.
- Part B. Sales of Goods Originating in Other States to Persons in Washington.
- Part C. Imports and Exports: Sales of Goods From or To Persons in Foreign Countries.
- Part D. Transportation, Communication, Public Utility Activities, or Other Services in Interstate or Foreign Commerce.

PART B.

BUSINESS AND OCCUPATION TAX

RETAILING, WHOLESALING. Sales to persons in this state are taxable when the property is shipped from points outside this state to the buyer in this state and the seller carries on or has carried on in this state any local activity which is significantly associated with the seller's ability to establish ((and)) or maintain a market in this state for the sales. If a person carries on significant activity in this state and conducts no other business in this state except the business of making sales, this person has the distinct burden of establishing that the instate activities are not significantly associated in any way with the sales into this state. The characterization or nature of the activity performed in this state is immaterial so long as it is significantly associated in any way with the seller's ability to establish ((and)) or maintain a market for its products in this state. The essential question is whether the instate services enable the seller to make the sales.

Applying the foregoing principles to sales of property shipped from a point outside this state to the purchaser in this state, the following activities are examples of sufficient local nexus for application of the business and occupation tax:

1. The seller's branch office, local outlet or other place of business in this state is utilized in any way, such as in receiving the order, franchise or credit investigation, or distribution of the goods.

2. The order for the goods is given in this state to an agent or other representative connected with the seller's branch office, local outlet, or other place of business.

3. The order for the goods is solicited in this state by an agent or other representative of the seller.

4. The delivery of the goods is made by a local outlet or from a local stock of goods of the seller in this state.

5. Where an out-of-state seller, either directly or by an agent or other representative, performs significant services in relation to establishment (~~and~~) or maintenance of sales into the state, the business tax is applicable, even though (a) the seller may not have formal sales offices in Washington or (b) the agent or representative may not be formally characterized as a "salesman."

6. Where an out-of-state seller either directly or by an agent or other representative in this state installs its products in this state as a condition of the sale, the installation services shall be deemed significant services for establishing (~~and~~) or maintaining a market in this state for such installed products and the gross proceeds from the sale and installation are subject to business tax.

Under the foregoing principles, sales transactions in which the property is shipped directly from a point outside the state to the purchaser in this state are exempt only if there is and there has been no participation whatsoever in this state by the seller's branch office, local outlet, or other local place of business, or by an agent or other representative of the seller. A franchise or credit investigation of a prospective purchaser and/or recommendation or approval by a local office upon which subsequent transactions are based is such a utilization of the local office as to render such subsequent transactions taxable.

CONSTRUCTION, REPAIR. Construction or repair of buildings or other structures, public road construction, repair of tangible personal property and similar contracts performed in this state are inherently local business activities subject to tax even though materials involved may have been delivered from outside the state or the contracts may have been negotiated outside the state and notwithstanding the fact that the work may be done by foreign vendors who performed preliminary services outside the state with respect thereto.

RENTING OR LEASING OF TANGIBLE PERSONAL PROPERTY. Persons outside this state who rent or lease tangible personal property for use in this state are subject to tax upon their gross proceeds from such rentals, irrespective of the fact that possession to the property leased may have passed to the lessee outside the state or that the lease agreement may have been consummated outside the state.

SALES AND USE TAX

Retail sales tax must be collected and accounted for in every case where business and occupation tax is due as outlined above.

The following sets forth the conditions under which out-of-state vendors are required to collect and remit the retail sales tax or use tax on deliveries to customers in this state. It conforms to the recommended jurisdiction standards of the Multistate Tax Commission.

JURISDICTION STANDARD. A vendor is required to pay or collect and remit the tax imposed by chapter 82.08 RCW or chapter 82.12 RCW if within this state he directly or by any agent or other representative:

1. Has or utilizes an office, distribution house, sales house, warehouse, service enterprise or other place of business; or

2. Maintains a stock of goods; or

3. Regularly solicits orders whether or not such orders are accepted in this state, unless the activity in this state consists solely of advertising or of solicitation by direct mail; or

4. Regularly engages in the delivery of property in this state other than by common carrier or U.S. mail; or

5. Regularly engages in any activity in connection with the leasing or servicing of property located within this state.

All vendors who are registered with the Department of Revenue are required to collect use tax or sales tax from all persons to whom goods are sold for use in this state irrespective of the absence of local activity on any given sale.

Every person who engages in this state in the business of acting as an independent selling agent for unregistered principals, and who receives compensation by reason of sales of tangible personal property of such principals for use in this state, is required to collect the use tax from purchasers, and remit the same to the Department of Revenue, in the manner and to the extent set forth in WAC 458-20-221.

The use tax is imposed upon the use, including storage, of all tangible personal property acquired for any use or consumption in this state unless specifically exempt by statute.

((Revised May 3, 1974.))

AMENDATORY SECTION (Amending Order ET 76-3, filed 8/31/76)

WAC 458-20-193C (~~((RULE 193—PART C))~~) **IMPORTS AND EXPORTS—SALES OF GOODS FROM OR TO PERSONS IN FOREIGN COUNTRIES.**

Rule 193 [WAC 458-20-193] deals with interstate and foreign commerce and is published in four separate parts:

Part A. Sales of Goods Originating in Washington to Persons in Other States.

Part B. Sales of Goods Originating in Other States to Persons in Washington.

Part C. Imports and Exports: Sales of Goods From or To Persons in Foreign Countries.

Part D. Transportation, Communication, Public Utility Activities, or Other Services In Interstate or Foreign Commerce.

Part C.

FOREIGN COMMERCE

Foreign commerce means that commerce which involves the purchase, sale or exchange of property and its transportation from a state or territory of the United States to a foreign country, or from a foreign country to a state or territory of the United States.

IMPORTS. An import is an article which comes from a foreign country (not from a state, territory or possession of the United States) for the first time into the taxing jurisdiction of a state.

Taxation of such goods is impermissible while the goods are still in the process of importation, i.e., while they are still in import transportation. Further, such goods are not subject to taxation if the imports are merely flowing through this state on their way to a destination in some other state.

EXPORTS. An export is an article which originates within the taxing jurisdiction of the state destined for a purchaser in a foreign country. Thus ships stores and supplies are not exports.

BUSINESS AND OCCUPATION TAX

WHOLESALE AND RETAILING.

IMPORTS. Sales of imports by an importer or his agent are not taxable and a deduction will be allowed with respect to the sales of such goods, if at the time of sale such goods are still in the process of import transportation. Immunity from tax does not extend: (1) to the sale of imports to Washington customers by the importer thereof or by any person after completion of importation whether or not the goods are in the original unbroken package or container; nor (2) to the sale of imports subsequent to the time they have been placed in use in this state for the purpose for which they were imported; nor (3) to sales of products which, although imports, have been processed or handled within this state or its territorial waters.

EXPORTS. A deduction is allowed with respect to export sales when as a necessary incident to the contract of sale the seller agrees to, and does deliver the goods (1) to the buyer at a foreign destination; or (2) to a carrier consigned to and for transportation to a foreign destination; or (3) to the buyer at shipside or aboard the buyer's vessel or other vehicle of transportation under circumstances where it is clear that the process of exportation of the goods has begun, and such exportation will not necessarily be deemed to have begun if the goods are merely in storage awaiting shipment, even though there is reasonable certainty that the goods will be exported. The intention to export, as evidenced for example, by financial and contractual relationships does not indicate "certainty of export" if the goods have not commenced

their journey abroad; there must be an actual entrance of the goods into the export stream.

In all circumstances there must be (a) a certainty of export and (b) the process of export must have started.

~~((As proof of export the seller must obtain and keep in his files a bona fide bill of lading, in which he is the consignor and by which the carrier agrees to transport the goods sold to a foreign destination, or obtain and keep a copy of the shipper's export declaration, showing export of the goods sold:))~~

It is of no importance that title and/or possession of the goods pass in this state so long as delivery is made directly ~~((to))~~ into the export channel ~~((as above set forth))~~. To be tax exempt upon export sales, the seller must document the fact that he placed the goods into the export process. That may be shown by the seller obtaining and keeping in his files any one of the following documentary evidence:

(1) A bona fide bill of lading in which the seller is shipper/consignor and by which the carrier agrees to transport the goods sold to the foreign buyer/consignee at a foreign destination; or

(2) A copy of the shipper's export declaration, showing that the seller was the exporter of the goods sold; or

(3) Documents consisting of:

(a) Purchase orders or contracts of sale which show that the seller is required to get the goods into the export stream, e.g., "f.a.s. vessel;" and

(b) Local delivery receipts, tripsheets, waybills, warehouse releases, etc., reflecting how and when the goods were delivered into the export stream; and

(c) When available, United States export or customs clearance documents showing that the goods were actually exported; and

(d) When available, records showing that the goods were packaged, numbered, or otherwise handled in a way which is exclusively attributable to goods for export.

Thus, where the seller actually delivers the goods into the export stream and retains such records as above set forth, the tax does not apply. It is not sufficient to show that the goods ultimately reached a foreign destination; but rather, the seller must show that he was required to, and did put the goods into the export process.

Sales of tangible personal property, of ships stores, and supplies to operators of steamships, etc., are not deductible irrespective of the fact that the property will be consumed on the high seas, or outside the territorial jurisdiction of this state, or by a vessel engaged in conducting foreign commerce.

EXTRACTING, MANUFACTURING. Persons engaged in these activities in Washington and who transfer or make delivery of articles produced to points outside the state are subject to business tax under the Extracting or Manufacturing classification and are not subject to business tax under the Retailing or Wholesaling classification. See also Rules 135 and 136 [WAC 458-20-135 and 458-20-136]. The activities taxed occur entirely within the state, are inherently local, and are conducted prior to the commercial journey. The tax is measured by the value of products as determined by the selling price. See Rule 112 [WAC 458-20-112]. It is immaterial that the value so determined includes an additional increment of value because the sale occurs outside the state.

RETAIL SALES TAX

The same principles apply to the retail sales tax as are set forth for business and occupation tax above, except that certain statutory exemptions may apply. (See Rules 174, 175, 176, 177, 238 and 239 [WAC 458-20-174, 458-20-175, 458-20-176, 458-20-177, 458-20-238 and 458-20-239].)

USE TAX

The use tax is imposed upon the use, including storage, of all tangible personal property acquired for any use or consumption in this state unless specifically exempt by statute.

~~((Revised August 31, 1976:))~~

AMENDATORY SECTION (Amending Order ET 74-1, filed 5/7/74)

WAC 458-20-193D ~~((RULE 193-PART D))~~ TRANSPORTATION, COMMUNICATION, PUBLIC UTILITY ACTIVITIES, OR OTHER SERVICES IN INTERSTATE OR FOREIGN COMMERCE.

WAC 458-20-193 deals with interstate and foreign commerce and is published in four separate parts:

- Part A. Sales of Goods Originating in Washington to Persons in Other States.
- Part B. Sales of Goods Originating in Other States to Persons in Washington.
- Part C. Imports and Exports: Sales of Goods From or to Persons in Foreign Countries.
- Part D. Transportation, Communication, Public Utility Activities, or other Services in Interstate or Foreign Commerce.

PART D.

BUSINESS AND OCCUPATION TAX, PUBLIC UTILITY TAX

In computing tax there may be deducted from gross income the amount thereof derived as compensation for performance of services which in themselves constitute interstate or foreign commerce to the extent that that a tax measured thereby constitutes an impermissible burden upon such commerce. A tax does not constitute an impermissible burden upon interstate or foreign commerce unless the tax discriminates against that commerce by placing a burden thereon that is not borne by intrastate commerce, or unless the tax subjects the activity to the risk of repeated exactions of the same nature from other states. Transporting across the state's boundaries is exempt, whereas supplying such transporters with facilities, arranging accommodations, providing funds and the like, by which they engage in such commerce is taxable.

EXAMPLES OF EXEMPT INCOME:

1. Income from those activities which consist of the actual transportation of persons or property across the state's boundaries is exempt.
2. That portion of commissions received by local brokers or commission merchants for interstate or foreign sales which was paid to out-of-state independent agents is exempt.
3. Income from services rendered by an out-of-state branch or office of the taxpayer regularly maintained outside the state is exempt. (See WAC 458-20-194.)

EXAMPLES OF TAXABLE INCOME:

1. Compensation received by persons engaged in business within this state for performance of business activities which are only ancillary to transportation across the state's boundaries is taxable.
2. Compensation received by merchandise brokers or commission merchants for services rendered within this state to principals engaged in interstate or foreign commerce is taxable.
3. Compensation received by contracting, stevedoring or loading companies for services performed within this state is taxable.

Persons engaged in stevedoring and associated activities involving the movement of goods and commodities in waterborne interstate or foreign commerce are subject to business tax at the rate .0033 upon the gross proceeds from such activities. Stevedoring and associated activities means all activities of a labor, service, or transportation nature whereby cargo is loaded or unloaded to or from vessels or barges, passing over, onto, or under a wharf, pier, or similar structure, including also the moving of cargo to a warehouse or similar holding or storage yard or area to await further movement in import or export; also the movement to a consolidation freight station to be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loading on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

Persons engaging in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, or international air cargo agent are subject to business tax at the rate .0033 upon gross income with respect to such international activities.

In computing public utility tax, there may be deducted from gross income so much thereof as is derived from actually transporting persons or property or transmitting communications or electrical energy, from this state to another state or territory or to a foreign country and vice versa.

Persons, including dock companies or wharfage companies, are permitted no deduction ~~(of)~~ from gross income ~~(from)~~ of amounts received for services performed in this state consisting of the handling of cargo or freight even though such cargo or freight has moved or will move across the state's boundaries.

No deduction is permitted with respect to gross income derived from activities which are ancillary to transportation across the state's boundaries, such as income received by a wharf company or warehouse company for the storage of goods. The mere ownership or operation of facilities by means of which others engage in foreign or interstate commerce is an activity ancillary to such commerce and any income received therefrom is taxable.

Insofar as the transportation of goods is concerned, the interstate movement of cargo or freight ceases when the goods have arrived at the destination to which it was billed by the out-of-state shipper, and no deduction is permitted of the gross income derived from transporting the same from such point of destination in this state to another point within this state. Thus, freight is billed from San Francisco, or a foreign point, to Seattle. After arrival in Seattle it is transported to Spokane. No deduction is permitted of the gross income received for the transportation from Seattle to Spokane. Again, freight is billed from San Francisco, or a foreign point, to a line carrier's terminal, or a public warehouse in Seattle. After arrival in Seattle it is transported from the line carrier's terminal or public warehouse to the buyer's place of business in Seattle. No deduction is permitted of the gross income received as transportation charges from the line carrier's terminal or public warehouse to the buyer's place of business in Seattle.

~~((Revised May 3, 1974))~~

The interstate movement of cargo or freight begins when the goods are committed to a carrier for transportation out of the state, which carrier will start the transportation to a point outside the state.

**WSR 83-04-065
PROPOSED RULES
HIGHER EDUCATION
PERSONNEL BOARD**

[Filed February 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Personnel Board intends to adopt, amend, or repeal rules concerning:

- Amd WAC 251-04-020 Definitions, "cyclic year position", "instructional year", and "layoff seniority".
- Amd WAC 251-08-100 Periodic increment date.
- Amd WAC 251-22-040 Holidays.
- Amd WAC 251-22-060 Annual leave—Accrual.
- Amd WAC 251-22-200 Leave of absence without pay.
- Rep WAC 251-18-380 Appointment—Instructional year.
- New WAC 251-18-381 Appointment—Cyclic year position.

The purpose of the changes is to generalize the concept of "instructional year" to include any known, recurring period in an annual cycle when a position is not needed; i.e., "cyclic year position". Such a position does not have to be tied to the requirements of a given academic or training program, but there must be known, specified periods in the year when the position is not needed;

that the agency will at 10:00 a.m., Friday, March 18, 1983, in the Don Talley Room (#203), Lower Columbia College, Longview, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place at 10:00 a.m., Friday, March 18, 1983.

The authority under which these rules are proposed is RCW 28B.16.100.

The specific statute these rules are intended to implement is RCW 28B.16.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 18, 1983.

Dated: February 2, 1983

By: John A. Spitz
Director

STATEMENT OF PURPOSE

This statement is related to the notice filed with the code reviser on February 2, 1983, and is filed pursuant to RCW 24.04.025[34.04.025].

Rules Affected: Same as shown above.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rules: Provide definition of the schedule established by an institution to meet the educational requirements of a given academic or training program. Also provide procedures for making appointment to instructional year positions established to meet such schedules.

Summary of Proposed Changes: To generalize the concept of "instructional year" to include any known, recurring period in an annual cycle when a position is not needed; i.e., "cyclic year position". Such a position does not have to be tied to the requirements of a given academic or training program, but there must be known, specified periods in the year when the position is not needed.

Agency Person Responsible for Rule: John A. Spitz, Director, Higher Education Personnel Board, 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, Scan 234-3730 or (206) 753-3730.

Organization Proposing Change: Higher Education Personnel Board staff.

The agency makes no additional comments/recommendations regarding the proposal.

The change is not the result of federal law or state court action.

AMENDATORY SECTION (Amending Order 98, filed 7/22/82, effective 9/1/82)

WAC 251-04-020 DEFINITIONS. Unless the context clearly indicates otherwise, the words used in these rules shall have the meanings given in this section.

"ADMINISTRATIVE ASSISTANT EXEMPTION" - A president or vice president may have individual(s) acting as his/her administrative assistant(s). The employee normally performs supportive work for his/her superior as an individual contributor without subordinates.

"ADMINISTRATIVE EMPLOYEES" - Personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

- (1) Primary duty is office or nonmanual work directly related to the management policies or general business operations; and
- (2) Must have the authority to make important decisions, customarily and regularly exercise discretion and independent judgment, as distinguished from using skills and following procedures; and
- (3) Must regularly assist an executive or administrative employee, or perform work under, only general supervision along specialized or technical lines requiring special training, experience or knowledge; and

(4) Must be paid at a rate of at least \$672 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if the primary duty consists of responsible office or nonmanual work directly related to management policies or general business operations.

"AGRICULTURAL EMPLOYEES" – Employees performing work which includes farming and all its branches, including cultivating the soil, or growing or harvesting crops, or raising livestock, bees, fur-bearing animals, or poultry; or doing any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations.

"ALLOCATION" – The assignment of an individual position to an appropriate class on the basis of the kind, difficulty, and responsibility of the work of the position.

"APPOINTING AUTHORITY" – A person or group of persons lawfully authorized to make appointments.

"AVAILABILITY" – An estimate of the number of women, minorities, and handicapped persons who have the skills and abilities required for employment in a particular job group as determined from an analysis of relevant data.

"BOARD" – The higher education personnel board established under the provisions of the higher education personnel law.

"CERTIFICATION" – The act of providing an employing official or appointing authority with the names of the appropriate eligibles to be considered for appointment to fill a vacancy.

"CHARGES" – A detailed statement of the specific incidents alleging cause for dismissal or disciplinary action.

"CLASS" – One or more positions sufficiently similar with respect to duties and responsibilities that the same descriptive title may be used with propriety to designate each position allocated to the class; that the same general qualification requirements are needed for performance of the duties of the class; that the same tests of fitness may be used to select employees; and that the same schedule of pay can be applied with equity to all positions in the class under the same or substantially the same employment conditions.

"CLASSIFIED SERVICE" – All positions in the higher education institutions which are subject to the provisions of the higher education personnel law.

"COLLECTIVE BARGAINING" – The performance of the mutual obligation of the appointing authority and the certified exclusive bargaining representative to meet at reasonable times, to confer and bargain in good faith, and to execute a written agreement with respect to those personnel matters over which the appointing authority may lawfully exercise discretion.

"COMPETITIVE SERVICE" – All positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

"CORRECTIVE EMPLOYMENT PROGRAM" – A program designed to increase the employment of handicapped persons and of women and minorities who are underutilized in certain job groups because of present or past practices or other conditions which resulted in limited employment opportunities.

"COUNSELING EXEMPTION" – Individuals in counseling-exempt positions are responsible for directing and/or participating in providing academic, athletic, medical, career, financial aid, student activity and/or personal counseling to students. Such activities include, but are not limited to, providing individual and group guidance services using recognized professional techniques and practices.

"CYCLIC YEAR POSITION" – A position scheduled to work less than twelve full months each year, due to known, recurring periods in the annual cycle when the position is not needed.

"DEMOTION" – The change of an employee from a position in one class to a position in another class which has a lower salary range maximum.

"DEVELOPMENT" – The attainment through work experience and training of proficiency in skills which will enable the employee to perform higher level duties.

"DIRECTOR" – The personnel director of the higher education personnel board.

"DISMISSAL" – The termination of an individual's employment for just cause as specified in these rules.

"ELIGIBLE" – An applicant for a position in the competitive service who has met the minimum qualifications for the class involved, has been admitted to and passed the examinations, and has met all requirements for eligibility as stated on the bulletin board posting; or an

applicant for a position in the noncompetitive service who has met all requirements for eligibility as stated on the bulletin board posting.

"ELIGIBLE LIST" – A list established by the personnel officer, composed of names of persons who have made proper application, met the minimum qualifications, and successfully completed the required examination process to be certified for vacancies in a class at the institution.

"EMPLOYEE" – A person working in the classified service at an institution.

"EMPLOYEE ORGANIZATION" – Any lawful association, labor organization, federation, council, or brotherhood, having as one of its purposes the improvement of working conditions among employees, and which has filed a notice of intent to represent employees with the director, and which has been authorized in accordance with WAC 251-14-020.

"EMPLOYING OFFICIAL" – An administrative or supervisory employee designated by the appointing authority to exercise responsibility for requesting certification, interviewing eligibles, and employing classified employees.

"EXECUTIVE EMPLOYEES" – Management personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

- (1) Primary duty must be management of a recognized department or subdivision; and
- (2) Must customarily and regularly direct the work of two or more employees; and
- (3) Must have the authority to hire and fire, or to recommend with authority on these and other actions affecting employees; and
- (4) Must customarily and regularly exercise discretionary powers; and
- (5) Must be paid at a rate of at least \$672 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if he/she regularly directs the work of at least two other employees and the primary duty is management of a recognized department or subdivision.

"EXECUTIVE HEAD EXEMPTION" – Executive heads of major academic or administrative divisions are analogous in the hierarchy to vice presidents, deans and chairmen. Directors may be executive heads as determined by the higher education personnel board. An executive head is in charge of a separate budget unit and directs subordinates.

"EXEMPT POSITION" – A position properly designated as exempt from the application of these rules as provided in WAC 251-04-040. (Also see separate definitions of "administrative assistant exemption," "executive head exemption," "research exemption," "counseling exemption," "extension and/or continuing education exemption," "graphic arts or publication exemption," and "principal assistant exemption".)

"EXTENSION AND/OR CONTINUING EDUCATION EXEMPTION" – Individuals considered exempt in this category are responsible for originating and developing formal education programs for the general public, usually involving close contact with faculty and staff or training or consulting with specific groups in the community to enable them to provide specialized training and/or services to the community.

"FRINGE BENEFITS" – As used in the conduct of salary surveys, the term shall include but not be limited to compensation for leave time, including vacation, civil, and personal leave; employer retirement contributions; health insurance payments, including life, accident, and health insurance, workmen's compensation, and sick leave; and stock options, bonuses, and purchase discounts where appropriate.

"FULL-TIME EMPLOYMENT" – Work consisting of forty hours per week.

"GRAPHIC ARTS OR PUBLICATION EXEMPTION" – Individuals qualifying for exemption under this category will be involved in performing selected graphic arts or publication activities requiring prescribed academic preparation or special training. Positions of this type are those which use special visual techniques, require original design and layout and/or can be distinguished from positions associated with the standard editorial functions.

"GRIEVANCE" – A dispute filed in accordance with a grievance procedure of a signed collective bargaining agreement.

"HANDICAPPED PERSON" – Any person with physical, mental or sensory impairments that would impede that individual in obtaining and maintaining permanent employment and promotional opportunities. The impairments must be material rather than slight, static and

permanent in that they are seldom fully corrected by medical replacement, therapy, or surgical means.

"HEARING EXAMINER" - An individual appointed by the board to preside over, conduct and make recommended decisions including findings of fact and conclusions of law in all cases of employee appeals to the board.

"INSTITUTIONS OF HIGHER EDUCATION" - The University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges. For purposes of application of these rules, the term shall be considered to include the various related boards as defined in this section, unless specifically indicated to the contrary.

~~("INSTRUCTIONAL YEAR" - The schedule established annually by an institution to identify the period required to meet the educational requirements of a given academic or training program:)~~

"JOB GROUP" - For affirmative action goal-setting purposes, a group of jobs having similar content, wage rates and opportunities. An EEO job category may consist of one or more job groups.

"JOB CATEGORIES" - Those groupings required in equal employment opportunity reports to federal agencies.

"LATERAL MOVEMENT" - Appointment of an employee to a position in another class which has the same salary range maximum as the employee's current class.

"LAYOFF" - Any of the following management initiated actions caused by lack of funds, curtailment of work, or good faith reorganization for efficiency purposes:

- (1) Separation from service to an institution;
- (2) Separation from service within a class;
- (3) Reduction in the work year; and/or
- (4) Reduction in the number of work hours.

"LAYOFF SENIORITY" - The last period of unbroken service in the classified service of the higher education institution. Authorized leave of absence or leave without pay shall not constitute a break in service; however, the time spent on such leave shall not be included in computing seniority except where required by statute and except in the case of ~~(positions established on the basis of an instructional year) cyclic year positions~~. Permanent employees who are veterans or their unmarried widows/widowers as identified in WAC 251-10-045 shall have added to their unbroken institution service the veteran's active military service to a maximum of five years' credit.

"LAYOFF UNIT" - A clearly identified structure within an institution, which is approved by the director, and within which employment/layoff options are determined in accordance with the reduction in force procedure.

"LEAD" - An employee who performs the same duties as other employees in his/her work group and in addition regularly assigns, instructs and checks the work of the employees.

"NONCOMPETITIVE SERVICE" - All positions in the classified service for which a competitive examination is not required.

"ORGANIZATIONAL UNIT" - A clearly identified structure, or substructure of persons employed to achieve a common goal or function under the direction of a single official. An organizational unit may consist of either an administrative entity or a geographically separated activity.

"PART-TIME EMPLOYMENT" - Work of twenty or more hours per week but less than full time employment with an understanding of continuing employment for six months or more.

"PERIODIC INCREMENT DATE" - ("P.I.D.") - The date upon which an employee is scheduled to move to a higher salary step within the range for his/her current class, as provided in WAC 251-08-090 and 251-08-100.

"PERMANENT EMPLOYEE" - An employee who has successfully completed a probationary period at the institution within the current period of employment.

"PERSONNEL OFFICER" - The principal employee in each institution/related board responsible for administrative and technical personnel activities of the classified service.

"P.I.D." - Commonly used abbreviation for periodic increment date.

"POSITION" - A set of duties and responsibilities normally utilizing the full or part time employment of one employee.

"PRINCIPAL ASSISTANT EXEMPTION" - Individuals qualifying for exemption under this category function as second-in-command in importance levels. The individual may perform many of the functions of his/her superior in the superior's absence, or alternatively may

have major administrative or program responsibilities. Reporting relationships will not be below that of the executive head. In some institutions an executive head may have more than one principal assistant as determined by the higher education personnel board.

"PROBATIONARY PERIOD" - The initial six-month period of employment in a class following appointment from an eligible list of a nonpermanent employee of the institution. However, upon prior approval by the board, the probationary period for selected classes may be established for a period in excess of six months but not to exceed twelve months.

"PROBATIONARY REAPPOINTMENT" - Appointment of a probationary employee from an eligible list to a position in a different class.

"PROFESSIONAL EMPLOYEES" - Personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

- (1) Primary duty must involve work that requires knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction and study or work that is original and creative in character in a recognized field of artistic endeavor and the result of which depends primarily on invention, imagination, or talent; and
- (2) Must consistently exercise discretion and judgment; and
- (3) Must do work that is predominantly intellectual and varied, as distinguished from routine or mechanical duties; and
- (4) Must be paid at a rate of at least \$737 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if the primary duty consists of work requiring knowledge of an advanced type in a field of science or learning which requires consistent exercise of discretion and judgment.

"PROMOTION" - The appointment as a result of recruitment, examination and certification, of a permanent employee to a position in another class having a higher salary range maximum.

"PROVISIONAL APPOINTMENT" - Appointment made prior to establishment of an eligible list, per the provisions of WAC 251-18-300. A person so appointed is required to apply through the competitive process to be considered for the position on a permanent basis.

"PUBLIC RECORDS" - Any writing containing information relating to conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

"REALLOCATION" - The assignment of a position by the personnel officer to a different class.

"REASSIGNMENT" - A management initiated movement of a classified employee from one position to another in the same class.

"RELATED BOARDS" - The state board for community college education, the council for postsecondary education, the higher education personnel board, and such other boards, councils and commissions related to higher education as may be established. For purposes of application of these rules, the term "institution" shall be considered to include these related boards, unless specifically indicated to the contrary.

"RESEARCH EXEMPTION" - Individuals in research-exempt positions spend the majority of their time in one or more of the following activities: Identification and definition of research problems, design of approaches or hypotheses and methodology to be used, design of specific phases of research projects, analysis of results, development of conclusion and hypothesis, presentation of research results in publishable form.

"RESIGNATION" - A voluntary termination of employment.

"REVERSION" - The return of a permanent employee from trial service to the most recent class in which permanent status was achieved.

"SUPERVISOR" - Any individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them or adjust their grievances, or effectively to recommend such action if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

"SUSPENSION" - An enforced absence without pay for disciplinary purposes.

"TEMPORARY APPOINTMENT" -

- (1) Work performed in the absence of an employee on leave for:
- (a) Less than ninety consecutive calendar days (WAC 251-18-350(4));

(b) Ninety or more consecutive calendar days (WAC 251-18-350(2)); or

(2) Formal assignment of the duties and responsibilities of a higher level class for a period of less than ninety consecutive calendar days; or

(3) Performance of extra work required at a work load peak, a special project, or a cyclic work load which does not exceed one hundred seventy-nine consecutive calendar days.

"TRAINING" - Formal and systematic learning activities intended to provide employees with the knowledge and skills necessary to become proficient or qualified in a particular field.

"TRANSFER" - An employee initiated change from one classified position to another in the same class within the institution without a break in service.

"TRIAL SERVICE" - The initial period of employment following promotion, demotion or lateral movement into a class in which the employee has not held permanent status, beginning with the effective date of the change and continuing for six months, unless interrupted as provided in these rules or extended as provided in WAC 251-18-330(5).

"UNDERUTILIZATION" - Having fewer minorities, women, or handicapped persons in a particular job group than would reasonably be expected by their availability.

"UNION SHOP" - A union membership provision which, as a condition of employment, requires all employees within a bargaining unit to become members of an employee organization.

"UNION SHOP REPRESENTATIVE" - An employee organization which is the exclusive representative of a bargaining unit that has been certified by the director as the union shop representative following an election wherein a majority of employees in the bargaining unit voted in favor of requiring membership in the employee organization as a condition of employment.

"UNION SHOP REPRESENTATION FEE" - Employees who are granted a nonassociation right based on religious tenets or teachings of a church or religious body of which they are members, must pay a representation fee to the union shop representative. Such fee is equivalent to the regular dues of the employee organization minus any monthly premiums for union sponsored insurance programs.

"WRITING" - Handwriting, typewriting, printing, photostating, photographing and every other means of recording any form of communication or representation including letters, words, pictures, sounds; or symbols or combination thereof and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

AMENDATORY SECTION (Amending Order 68, filed 5/25/78, effective 7/1/78)

WAC 251-08-100 PERIODIC INCREMENT DATE. (1) For purposes of payment of periodic increment increases, the effective date shall be determined as follows:

(a) The first of the current month for actions occurring between the first and the fifteenth of the month; or

(b) The first of the following month for actions occurring between the sixteenth and the end of the month.

(2) The periodic increment date of new employees or probationary employees who are reappointed to a new class during the probationary period shall be established:

(a) Upon completion of the probationary period for those appointed at the first step in the salary range; or

(b) Upon completion of twelve months' service in the class for those appointed at a salary step above the first step in the salary range.

(3) The periodic increment date of all employees shall be changed as follows:

(a) Upon promotion, the existing periodic increment date will be eliminated and a new date established to be effective upon completion of the trial service period;

(b) Upon reappointment of a probationary employee during the probationary period, the former periodic increment date will be eliminated and a new date established as provided in WAC 251-08-100(2);

(c) Upon reallocation under WAC 251-06-080(1)(a) of an employee who is at the top step of the current salary range, the employee will be given a new periodic increment date which will be six months following the reallocation action;

(d) When a leave of absence without pay exceeds ten working days in any calendar month, or exceeds ten consecutive working days, the date will be extended by one month, except as provided by WAC 251-22-180 and 251-18-380;

(e) When employees return from layoff status, the date will be reestablished and extended by an amount of time equal to the period of layoff in order to give credit for time served in a salary step prior to layoff;

(f) When ~~((an instructional year))~~ a cyclic year position leave of absence without pay exceeds ninety calendar days, the periodic increment date shall be extended on a month-for-month basis. Provisions of WAC 251-08-100(3)(d) shall apply to that period exceeding the ninety calendar days. ~~((Instructional year))~~ Cyclic year position employees serving a probationary or trial service period will have their periodic increment dates extended by an amount of time equal to the period in which the employee is on leave of absence without pay;

(g) When employees are reverted from trial service following promotion (or return from alternate appointment), the periodic increment date held prior to promotion or layoff will be reestablished;

(h) When the board or the director order remedial action per WAC 251-12-600, the periodic increment date may be modified as part of the order.

(4) The periodic increment date of all employees shall remain unchanged for all other actions including, but not limited to, transfer within class, appointment to another class with the same or lower salary range maximum, and reallocations except as provided in WAC 251-08-100(3)(c).

(5) The periodic increment date for incumbents of exempt positions which are converted to classified status shall be established as provided in WAC 251-18-420.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-22-040 HOLIDAYS. (1) Legal holidays are designated by statute. The following holidays are identified per RCW 1.16.050:

(a) The first day of January (New Year's Day);

(b) The twelfth day of February (Abraham Lincoln's birthday);

(c) The third Monday of February (George Washington's birthday);

(d) The last Monday of May (Memorial Day);

(e) The fourth day of July (Independence Day);

(f) The first Monday in September (Labor Day);

(g) The eleventh day of November, (Veteran's Day);

(h) The fourth Thursday of November (Thanksgiving Day);

(i) The day immediately following Thanksgiving Day; and

(j) The twenty-fifth day of December (Christmas Day).

Each higher education institution will provide qualifying employees in pay status with a paid holiday on the above days. However, the governing board of each institution, and in the case of the community college system through the state board for community college education, may designate other days to be observed in lieu of the above holidays. Holiday schedules must be filed annually with the director for approval prior to implementation and may not be modified without prior approval by the director. Schedules may be submitted on a calendar or fiscal year basis. When an institution establishes an in lieu of schedule, paid holidays shall be granted based on the approved in lieu of schedule.

(2) Classified employees working twelve-month schedules or ~~((instructional year))~~ cyclic year position employees who work full monthly schedules throughout their work year shall receive the number of holidays for which they qualify during their scheduled work year as set forth in this section. Qualification is determined by being in pay status on the work day preceding the holiday(s).

(3) ~~((Instructional year))~~ Cyclic year position employees scheduled to work less than full monthly schedules throughout their work year qualify for holiday compensation if they work or are in pay status on their last regularly scheduled working day preceding the holiday(s) in that month.

(4) Part time classified employees shall be entitled to the number of paid hours on a holiday that their monthly schedule bears to a full time schedule.

(5) Full time alternate work schedule employees shall receive eight hours of regular holiday pay per holiday. Any differences between the scheduled shift for the day and eight hours may be adjusted by use of annual leave, use or accumulation of compensatory time as appropriate, or leave without pay.

(6) When a holiday falls on an employee's regularly scheduled day off, he/she shall receive a day of compensatory time off.

(7) Holiday time worked shall be compensated as provided in WAC 251-09-035.

(8) Whenever a holiday falls on Sunday, the following Monday shall be considered a nonworking or legal holiday. When a holiday falls on

Saturday, the preceding Friday shall be considered a nonworking or legal holiday.

(9) Employees terminating immediately prior to a holiday do not qualify for holidays occurring after termination.

(10) Employees shall be entitled to one paid personal holiday per calendar year in addition to those specified in this section as provided in WAC 251-22-045.

AMENDATORY SECTION (Amending Order 71, filed 2/27/79, effective 4/2/79)

WAC 251-22-060 ANNUAL LEAVE—ACCRUAL. (1) Full-time employees eligible for annual leave shall accrue annual leave, to be credited monthly, at the following rates:

(a) During the first year of continuous state employment - 12 days (8.0 hours per month);

(b) During the 2nd year of continuous state employment - 13 days (8 hours, 40 minutes per month);

(c) During the 3rd and 4th years of continuous state employment - 14 days (9 hours, 20 minutes per month);

(d) During the 5th through the 9th years of total state employment - 15 days (10 hours per month);

(e) During the 10th year of total state employment - 16 days (10 hours, 40 minutes per month);

(f) During the 11th year of total state employment - 17 days (11 hours, 20 minutes per month);

(g) During the 12th year of total state employment - 18 days (12 hours per month);

(h) During the 13th year of total state employment - 19 days (12 hours, 40 minutes per month);

(i) During the 14th year of total state employment - 20 days (13 hours, 20 minutes per month);

(j) During the 15th year of total state employment - 21 days (14 hours per month);

(k) During the 16th and succeeding years of total state employment - 22 days (14 hours, 40 minutes per month).

(2) Employees working less than full time schedules shall accrue annual leave credit on the same prorata basis that their appointment bears to a full time appointment.

(3) Per the provisions of WAC (~~(251-18-380(2))~~) 251-18-381(2), the scheduled period of (~~(instructional year)~~) cyclic year position leave of absence without pay shall not be deducted for purposes of computing the rate of annual leave accrual for (~~(instructional year)~~) cyclic year position employees.

(4) The following shall apply for purposes of computing years of qualifying state employment:

(a) Employment in the legislative and/or the judicial branch shall not be credited;

(b) Employment exempt by the provisions of WAC 251-04-040(2) or employment under the state personnel board jurisdiction which is analogous to the conditions specified in WAC 251-04-040(2) shall not be credited;

(c) Each contract year of full time faculty and/or administrative exempt employment within the higher education institutions shall be credited as a year of qualifying service;

(d) Employment in part time classified positions shall be credited as full time service.

(5) Annual leave credits shall not accrue during a leave of absence without pay which exceeds ten working days in any calendar month, nor shall credit be given toward the rate of annual leave accrual.

AMENDATORY SECTION (Amending Order 98, effective 9/1/82)

WAC 251-22-200 LEAVE OF ABSENCE WITHOUT PAY.

(1) Leave of absence without pay may be allowed for any of the following reasons:

(a) Conditions applicable for leave with pay;

(b) Maternity leave;

(c) Educational leave;

(d) Leave for Government service in the public interest;

(e) To accommodate annual work schedules of employees occupying positions established on the basis of an (~~(instructional year)~~) cyclic year position as specified in WAC (~~(251-18-380)~~) 251-22-381.

(2) Requests for leave of absence without pay must be submitted in writing to the employing official or designee and must receive the approval of both the employing official and the personnel officer.

(3) Leave of absence without pay extends from the time an employee's leave commences until he/she is scheduled to return to continuous

service, unless at the employee's request the employing official and the personnel officer agree to an earlier date.

(4) Annual leave and sick leave credits will not accrue during a leave of absence without pay which exceeds ten working days in any calendar month, except as provided in WAC 251-18-380(2).

(5) A classified employee taking an appointment to an exempt position shall be granted a leave of absence without pay, with the right to return to his/her regular position, or to a like position at the conclusion of the exempt appointment; provided application for return to classified status must be made not more than thirty calendar days following the conclusion of the exempt appointment.

NEW SECTION

WAC 251-18-381 APPOINTMENT—CYCLIC YEAR POSITION. (1) Cyclic year positions are to be filled in accord with chapter 251-18 WAC.

(2) At the start of each annual cycle, incumbents of cyclic year positions will be informed of their scheduled periods of leave without pay in the ensuing twelve months. Such leave without pay shall not constitute a break in service and shall not be deducted from the employees' length of service in granting periodic increments except as provided in WAC 251-08-100(3)(f), nor in computing the employees' annual leave accrual rate.

(3) When an institution wishes to work a cyclic year position twenty days or less in any single period which had been scheduled for leave without pay, the work will be offered to the incumbent. If the incumbent declines, the temporary work may be handled under other rules in chapter 251-18 WAC.

(4) When an institution wishes to work a cyclic year position more than twenty days in any single period which had been scheduled for leave without pay, the opening will be posted for bidding by eligible cyclic year position employees who are scheduled for leave without paying during this same period. The temporary work will be awarded to the bidding eligible cyclic year position employee having the greatest institutional seniority.

(5) Transfers for cyclic year position employees will be handled in accord with the institution's transfer procedures as provided in WAC 251-18-346.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 251-18-380 APPOINTMENT—INSTRUCTIONAL YEAR.

**WSR 83-04-066
PROPOSED RULES
HIGHER EDUCATION
PERSONNEL BOARD**

[Filed February 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Personnel Board intends to adopt, amend, or repeal rules concerning the amending of WAC 251-04-020 definitions, by modifying language in "layoff" definition by deleting reference to "good faith reorganization for efficiency purposes" as a reason for layoff. The change was inadvertently overlooked in March 1982 when the board took action to amend WAC 251-10-030 (layoff) by making the same deletion. Additionally, the change was adopted on an emergency basis at the board's January 1983 meeting;

that the agency will at 10:00 a.m., Friday, March 18, 1983, in the Don Talley Room (203), Lower Columbia College, Longview, 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 28B.16.100.

The specific statute these rules are intended to implement is RCW 28B.16.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 18, 1983.

This notice is connected to and continues the matter in Notice No. WSR 83-01-122 filed with the code reviser's office on December 22, 1982.

Dated: February 2, 1983

By: John A. Spitz
Director

WSR 83-04-067
PROPOSED RULES
GAMBLING COMMISSION
[Filed February 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Gambling Commission intends to adopt, amend, or repeal rules concerning the repealing of WAC 230-20-150 and adopting new section WAC 230-12-020 to clarify instructions for the deposit of gambling receipts by charitable and nonprofit organizations;

that the agency will at 10 a.m., Friday, March 11, 1983, in the Council Chambers, Olympia City Hall, 8th and Plum, 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 9.46.070(9), (12) and (14).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 11, 1983.

This notice is connected to and continues the matter in Notice No. WSR 83-01-107 filed with the code reviser's office on December 21, 1982.

Dated: February 2, 1983

By: Elwin Hart
Deputy Director

STATEMENT OF PURPOSE

Title: Repeal of WAC 230-20-150, Gambling Receipts Deposit Required by all Bona Fide Charitable and Nonprofit Organizations, and new section WAC 230-12-020, Gambling Receipts Deposit Required by all Bona Fide Charitable and Nonprofit Organizations.

Description of Purpose: To clarify instructions regarding deposit of gambling receipts by charitable and nonprofit organizations.

Statutory Authority: RCW 9.46.070(9), (12) and (14).

Summary of Proposed Rules and Reasons Supporting Action: Repeal of WAC 230-20-150, current rule is too

general in that it does not provide specific instructions on the deposit of receipts for all of the types of gambling activities authorized to be conducted by nonprofit organizations; and new section WAC 230-12-020, new rule replaces current rule and provides more complete instructions.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Keith Kisor, Director, and Elwin Hart, Deputy Director, Capitol Plaza Building, 1025 East Union, Olympia, WA, 234-0865 Scan, 753-0865 Comm.

Proponents and Opponents: Gambling Commission Staff, no known opposition.

Agency Comments: The agency believes the proposed rules are self-explanatory and need no further comment.

These rules were 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 businesses in the state of Washington by the adoption of these amendments or new rules.

NEW SECTION

WAC 230-12-020 GAMBLING RECEIPTS DEPOSIT REQUIRED BY ALL BONA FIDE CHARITABLE AND NON-PROFIT ORGANIZATIONS. (1) Every licensed bona fide charitable or nonprofit organization shall keep a separate gambling receipts' account in a recognized Washington state depository authorized to receive funds, which shall be kept separate and apart and actually segregated from the licensee's general funds: PROVIDED, That if such activities are conducted on the United States' portion of the Point Roberts Peninsula, Washington, the deposit may be made in a British Columbia branch of a Canadian bank. Licensees are not limited to a single gambling receipts account so long as a minimum of one separate account is maintained. The following conditions of deposit will be met:

(a) No expenditures other than for prizes shall be made from the receipts of any licensed gambling activity until such receipts have first been deposited in the gambling receipts' account;

(b) All net receipts from the operation of bingo which are being held pending disbursement shall be deposited in the licensee's gambling receipts' account not later than the second banking day following receipt thereof;

(c) All net receipts from the operation of card rooms, punchboards, pull tabs, raffles (class D and above), and amusement games (class B and above) shall be deposited in the licensee's gambling receipts' account at least once each week.

(d) All deposits from bingo net receipts made to the gambling receipts' account shall be made separately from all other deposits, and the validated deposit receipt shall be kept with the daily records as required by WAC 230-08-080.

(2) Bona fide charitable or nonprofit organizations that conduct only one or more of the following activities and do not possess any other licenses issued by the Gambling Commission are exempt from this rule:

(a) Raffles under the provisions of RCW 9.46.030(2);

(b) Bingo, raffles, or amusement games under the provisions of RCW 9.46.030(3);

(c) Class A or B bingo game;

(d) Class C raffle; or

(e) Class A amusement game.

(3) Bona fide charitable or nonprofit organizations who conduct only fund raising events or membership raffles and have no other gambling licenses are exempt from having a separate gambling receipts account, but must meet the following conditions of deposit:

(a) No expenditures other than for prizes shall be made until such receipts have first been deposited in the licensee's bank account;

(b) All net receipts shall be deposited within two banking days following receipt thereof; and

(c) The validated deposit receipt shall be kept with the licensee's gambling records.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-20-150 GAMBLING RECEIPTS DEPOSIT REQUIRED BY ALL BONA FIDE CHARITABLE AND NON-PROFIT ORGANIZATIONS.

WSR 83-04-068
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed February 2, 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 vehicle impound, adding new chapter 308-95 WAC.

A copy of the proposed rules are shown below, however, changes may be made at the public hearing;

that the agency will at 10 a.m., Tuesday, March 8, 1983, in Conference Room A, 4th Floor, Highways-Licenses Building, 12th and Franklin Streets, 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 46.20.435.

The specific statute these rules are intended to implement is RCW 46.20.435.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 1, 1983.

Dated: February 2, 1983
 By: John Gonzalez
 Director

STATEMENT OF PURPOSE

Title: New sections WAC 308-95-010, Vehicle Impound—Notice of Right to Formal Hearing—Hearing Request; WAC 308-95-020, Transcripts or Abstracts of Driving Record Certified—As Prima Facie Evidence; and WAC 308-95-030, Penalties, Fines or Forfeitures Defined.

Description of Purpose: New rule WAC 308-95-010, to provide notice to a driver of an impounded vehicle of the right to a formal hearing and how to obtain one; new rule WAC 308-95-020, gives authority to the director to certify transcripts or abstracts of person's driving record for use in a formal hearing which may be used as prima facie evidence; and new rule WAC 308-95-030, defines what penalties, fines or forfeitures are for purposes of the formal hearing and release of vehicle.

Statutory Authority: For adoption of WAC 308-95-010, 308-95-020 and 308-95-030, the authority is found in RCW 46.20.435.

Summary of Proposed Rules and Reasons Supporting Action: New rule WAC 308-95-010, this section provides for notice to be given to the driver of the vehicle impounded of the right to a formal hearing and how to obtain a formal hearing; new rule WAC 308-95-020,

this section provides for the director to certify transcripts or abstracts of a person's driving record for use in a formal hearing. These transcripts or abstracts can be used as prima facie evidence of the driving status of the person requesting the hearing and whether that person had any penalties, fines or forfeitures; and new rule WAC 308-95-030, this section defines what penalties, fines or forfeitures are for purposes of the formal hearing and release of a vehicle.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Dave Kirk, Administrator, Driver Control Division, Department of Licensing, Highways-Licenses Building, Olympia, WA 98504, (206) 234-6972 Scan, (206) 753-6972 Comm.

Proponents and Opponents: These rules are proposed by the Department of Licensing.

Agency Comments: These rules are promulgated pursuant to the authority granted to the Department of Licensing in RCW 46.20.435.

These rules were not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: A small business economic impact statement is not required and has not been filed since these rules do not impact any small business as that term is defined by RCW 43.31.920.

Chapter 308-95 WAC
 VEHICLE IMPOUND

WAC 308-95-010	VEHICLE IMPOUND - NOTICE OF RIGHT TO FORMAL HEARING - HEARING REQUEST.
308-95-020	TRANSCRIPTS OR ABSTRACTS OF DRIVING RECORD CERTIFIED - AS PRIMA FACIE EVIDENCE.
308-95-030	PENALTIES, FINES OR FORFEITURES DEFINED.

NEW SECTION

WAC 308-95-010 VEHICLE IMPOUND - NOTICE OF RIGHT TO FORMAL HEARING - HEARING REQUEST. Whenever a vehicle has been impounded by a law enforcement officer pursuant to RCW 46.20.435, the law enforcement officer shall immediately serve upon the driver of the impounded vehicle a notice which shall inform the recipient thereof of his or her right to a formal hearing and specify the steps which must be taken in order to obtain such hearing.

The person upon receiving such notice may, in writing, and within ten days therefrom request a formal hearing: PROVIDED, That if such request is not made within the prescribed time the right to a hearing shall be deemed to have been waived.

Upon receipt of a request for a hearing, the department of licensing shall promptly schedule a hearing in the county in which the person making the request resides, or within a reasonable distance from his place of residence, and if such person is a nonresident of this state, the hearing shall be held in Thurston County. The hearing may be set for some other county by agreement between the department and the person requesting the hearing.

NEW SECTION

WAC 308-95-020 TRANSCRIPTS OR ABSTRACTS OF DRIVING RECORD CERTIFIED - AS PRIMA FACIE EVIDENCE. Upon receiving a request for a formal hearing, the director of the department shall certify a transcript or abstract of the driving record of the driver to the hearing officer appointed to conduct the hearing. The transcript or abstract shall indicate the status of the driving privilege of the driver at the time the impound occurred and

whether the driver was responsible for any penalties, fines or forfeitures owed or due on the day of the impound. Such transcript or abstract may be admitted as evidence in any hearing and shall be prima facie evidence of the status of the driving privilege of the person named therein at the time of the impound and whether there were penalties, fines or forfeitures due and owing by the person named therein at the time the impound occurred.

The scope of the hearings provided by this section shall be limited to determining whether the driver of the vehicle impounded was operating a motor vehicle without a valid driver's license in violation of RCW 46.20.021 or with a license that had been expired for 90 days or more, or with a suspended or revoked license in violation of RCW 46.20.342 or 46.20.420. The hearing shall also determine whether the driver was responsible for any penalties, fines or forfeitures owed or due at the time of the impound.

NEW SECTION

WAC 308-95-030 PENALTIES, FINES OR FORFEITURES DEFINED. The term "penalties, fines or forfeitures" as used in RCW 46.20.435 shall mean any penalty, fine or forfeiture imposed by law for violation of a written promise to appear in court as defined in RCW 46.64.025; failure to respond to a notice of traffic infraction or failure to appear at a requested hearing as defined in RCW 46.63.070; or failure to pay a monetary penalty as defined in RCW 46.63.110.

WSR 83-04-069
PROPOSED RULES
LOTTERY COMMISSION
[Filed February 2, 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 adding new section WAC 315-11-041; that the agency will at 10:00 a.m., Wednesday, March 9, 1983, in the Sea-Tac Tower Building, 5th Floor, Room 500, 18000 Pacific Highway South, Seattle, WA 98188, 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 67.70.040 and 67.70.050.

The specific statute these rules are intended to implement is RCW 67.70.040 and 67.70.050.

Dated: January 28, 1983

By: Paul Mack
Chairman

STATEMENT OF PURPOSE

Title and Number of Rule Section or Chapter, and Summary of the Rule: WAC 315-11-041 Criteria for Instant Game Number 2, provides criteria for Instant Game Number 2, including the price of a ticket, determination of winning tickets, the requirement of meeting ticket validation tests, ticket redemption, grand prize drawing procedures, and the director's authority to vary the game's length and/or the number of tickets sold.

Statutory Authority for Adopting the Rule and the Specific Statute the Rule is Intended to Implement: RCW 67.70.040 and 67.70.050.

Description of the Purpose of the Rule: To set forth criteria for Instant Game Number 2, including the price of a ticket, determination of winning tickets, ticket validation requirements, ticket redemption, grand prize

drawing procedures, and the director's authority to vary the game's length and/or the number of tickets sold.

Reasons for Supporting the Proposed Rule: Licensed agents, the lottery, and players of Instant Game Number 2 need to know how the game will function. Specifying the criteria which apply to Instant Game Number 2 will provide this information.

The Agency Personnel Responsible for Drafting: Richard Finnigan, Assistant Attorney General, 5th Floor, Highways-Licenses Building, Olympia, WA 98504, (206) 753-2702, and Jeffrey Gonzalez, Deputy Contracting Officer, (206) 754-1093; Implementation: Washington State Lottery Commission, (206) 753-1412, Robert Boyd, Director, Office of the Director, (206) 753-3330, C. Peter Eck, Deputy Director, Office of the Director, (206) 753-3330, N. A. Stussy, Assistant Director, Office of the Director, (206) 753-3329, William Robinson, Assistant Director, Office of the Director, (206) 753-3379, and Hugh Mann, Assistant Director, Office of the Director, (206) 753-3384; Enforcement: Washington State Lottery Commission, (206) 753-1412, Robert Boyd, Director, Office of the Director, (206) 753-3330, C. Peter Eck, Deputy Director, Office of the Director, (206) 753-3330, N. A. Stussy, Assistant Director, Office of the Director, (206) 753-3329, William Robinson, Assistant Director, Office of the Director, (206) 753-3379, and Hugh Mann, Assistant Director, Office of the Director, (206) 753-3384, all located at the Washington State Lottery Commission, P.O. Box 9770, Olympia, WA 98504.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Washington State Lottery Commission.

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 federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: The Office of the Director, Washington 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 rule proposed by the Washington State Lottery Commission for the following reason: This rule will only affect those businesses, large and small, which voluntarily apply to be licensed agents for the sale of lottery tickets or contractors who provide other services to the Office of the Director, Washington State Lottery or voluntarily interact with the Office of the Director, Washington State Lottery. No business or industry will be required to comply with this rule unless they wish to provide services to or interact with the Office of the Director, Washington State Lottery.

NEW SECTION

WAC 315-11-041 CRITERIA FOR INSTANT GAME NUMBER 2. (1) The price of each 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.

that the agency will at 1:30 p.m., Tuesday, March 15, 1983, in the Department of Licensing, 4th Floor, Conference Room "A", 12th and Washington, 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 43.24.020 and 43.24.024.

The specific statute these rules are intended to implement is RCW 43.24.020.

Dated: February 2, 1983

By: John Gonzalez
Director

STATEMENT OF PURPOSE

Name of Agency: Washington State Department of Licensing.

Purpose of Proposed Amendment: To clarify whom are acceptable licensing examination patients.

Statutory Authority: RCW 43.24.020 and 43.24.024.

Summary: WAC 308-25-020 The Examination.

Reason for Proposed Amendment: To assure that the examination of applicants is efficient and uncompromised.

Responsible Personnel: The Department of Licensing and its director have the responsibility for drafting, implementing and enforcing this rule. Contact in the department is Susan E. Shoblom, P.O. Box 9649, Olympia, Washington 98504, telephone (206) 235-1867 Scan, (206) 754-1867 Comm.

Proponents of the Proposed Amendment: This amendment was proposed by the director of the Department of Licensing.

Agency Comments: This amendment was proposed pursuant to RCW 43.24.020 and 43.24.024.

Federal Law or State Court Requirements: The proposed amendment is not necessitated as a result of federal law or federal or state court action.

AMENDATORY SECTION (Amending Order PL 398, filed 5/14/82)

WAC 308-25-020 THE EXAMINATION. The dental hygiene examination will consist of a written section and a practical section.

(1) Written examination: The written examination will cover ten (10) subject areas including inorganic chemistry, physiology, anatomy, bacteriology, anesthesia, radiography, materia medica, dental histology, principles of nursing and hygiene, and restorative dentistry: PROVIDED, That, a certificate granted by the National Board of Dental Hygiene Examinations may be accepted in lieu of the written examination: PROVIDED, FURTHER, that such applicant may also be required to successfully complete a written examination covering anesthesia, restorative dentistry, or other kindred subjects.

(2) Practical examination: The practical examination will be a clinical demonstration of a prophylaxis case to consist of the removal of deposits from and the polishing of the surfaces of the teeth.

(i) Patients must be attained by the applicant and be at least eighteen (18) years of age with a minimum of twenty-four (24) teeth. A patient shall not be a dentist, dental student, dental hygienist, or dental hygiene student. It is not recommended that patients be selected who have advanced stages of periodontal involvement, such as 6 mm sulcus depth with moderate degrees of alveolar bone loss. Patients must have sufficient supragingival and subgingival calculus and stain to provide a suitable test. Applicant will be required to furnish radiographs and a patient health history as specified. If case is not adequate for testing the applicant's competency, patient will be rejected.

WSR 83-04-070

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed February 2, 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 examination, WAC 308-25-020.

A copy of the proposed amendment is shown below, however, changes may be made at the hearing;

WSR 83-04-071
ADOPTED RULES
DEPARTMENT OF LICENSING
(Board of Registration for Architects)
[Order PL 422—Filed February 2, 1983]

Be it resolved by the Washington State Board of Registration for Architects, acting at Seattle, Washington, that it does adopt the annexed rules relating to the amending of WAC 308-12-010, 308-12-040, 308-12-050, 308-12-080, 308-12-110, 308-12-120, 308-12-130, 308-12-320, adding new sections WAC 308-12-031, 308-12-081, 308-12-082 and repealing WAC 308-12-030.

This action is taken pursuant to Notice No. WSR 82-24-084 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 18.08.130 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 14, 1983.
By Carolyn Geise

AMENDATORY SECTION (Amending Order PL-132, filed 9/25/72)

WAC 308-12-010 STATE BOARD OF REGISTRATION. (1) Meetings: The Washington state board of registration for architects, hereinafter called the board, shall hold its regular public meeting annually in September. Special public meetings may be held at such times and places as the board may deem necessary. Public notice of all public meetings shall be issued as required by ((law)) the Open Public Meeting Act, chapter 42.30 RCW.

Executive sessions may be held by the board in conjunction with all public meetings, and at such other times as the board shall deem necessary and for the primary purpose of preparing and grading examinations, approving applications, conducting written and oral examinations, examining reciprocity applications, and acting on applications for reinstatement of revoked licenses, and confidential matters between candidates or registrants and the board.

(2) Rules of order. The latest edition of Robert's Rules of Order shall govern the conduct of business at meetings and sessions of the board.

(3) Officers. At the regular annual public meeting the board shall elect a chairman, a vice-chairman and a secretary for the ensuing year.

(4) Quorum. A quorum at any regular or special meeting or session shall consist of three members of the board.

(5) Rule changes. Prior to and during any adoption, amendments, or repeal of any rule, the board of registration shall conduct its business in accordance with chapter 34.04 RCW the Administrative Procedure Act.

(6) Annual report. The board shall issue an annual report and roster.

NEW SECTION

WAC 308-12-031 LICENSING EXAMINATION. The form of the examination required of applicants shall consist of a written and an oral examination.

The board adopts the Architectural Registration Examination prepared in 1983 by the National Council of Architectural Registration Boards to test the applicant's qualifications and minimum competency for registration.

(1) Requirements for admittance to the Architects Registration Examination are found in RCW 18.08.140 and 18.08.150.

(2) Application and fee for examination:

(a) The application for examination must be received by the board prior to April first to be considered for the next scheduled examination.

(b) Applications shall be submitted on forms provided by the board and must be accompanied by education and/or experience verification as per the filing instructions.

(c) An examination fee must accompany all applications.

(d) Notice of acceptance of applications will be mailed to all applicants approximately six weeks in advance of the examination along with detailed information as to time, place and extent of examination.

(e) No application fee will be refunded because of withdrawal from the examination.

(3) The examination: The Architectural Registration Examination is divided into nine divisions which will be administered over a four day period in June of each year. The examinees are tested on their ability to exercise value judgments in actual architectural practice situations. The examination covers the following:

Table with 2 columns: Division and Approximate Hours. Rows include Division A (Pre-design, 4), Division B (Site Design, 3), Division C (Building Design, 12), Division D (Structural - General, 2 1/2), Division E (Structural - Lateral Forces, 1 1/2), Division F (Structural - Long Span, 1 1/2), Division G (Mechanical, Plumbing, Electrical and Life Safety Systems, 2 1/2), Division H (Materials and Methods, 3), and Division I (Construction Documents and Services, 2 1/2).

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To pass the examination, an applicant must achieve a passing grade on each division.

RETAKES: First time examinees must take all nine divisions of the A.R.E. on their first attempt. On subsequent attempts, the examinees must retake all divisions not passed on previous attempts. Examinees transferring

from the previous examination series need only take those divisions for which credit has not been received.

(4) The oral examination is given upon the applicant's completion of the written examination, the fulfilling of the experience requirement and submittal of an acceptable written summary of the law.

The oral part of the examination shall include a review of the applicant's practical experience, the applicant's understanding of the law and the applicant's responsibility to safeguard life, health and property and to promote the public welfare.

The oral examination may be conducted by the full board or by a member of the board. The board may recommend waiver of full board examination if the examining board member deems applicant prepared for licensure. Such a recommendation shall be circulated to the balance of the board members and must receive approval by a majority before the candidate may be registered. If such a recommendation is not made or approved, the candidate shall be called before the full board for further consideration.

AMENDATORY SECTION (Amending Order PL 178, filed 10/23/74)

✓ WAC 308-12-040 REVIEW OF EXAMINATIONS. Only ~~((graphic type examinations are))~~ division C, building design is subject to review before the board ~~((if it is the))~~ and only if it is the remaining subject not passed in the written examination. Any candidate requesting review of a ~~((graphic type))~~ building design examination must apply within thirty days after date of release of grades. ~~((Multiple choice examinations are computer scored:))~~

✓ AMENDATORY SECTION (Amending Order PL-132, filed 9/25/72)

✓ WAC 308-12-050 LICENSE BY RECIPROCI-
TY. Any architect registered in another ~~((of the United States and in good standing:))~~ state who desires ~~((registration))~~ a license to practice architecture in Washington, shall make formal application on forms provided by the board, accompanied by the reciprocity application fee.

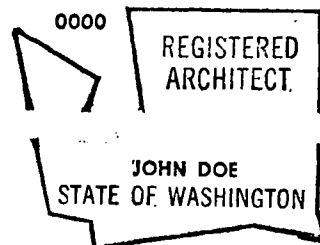
The board will require ~~((personal audience))~~ an oral examination of any candidate for license by reciprocity, except that ~~((personal audience))~~ oral examination may be waived in cases where documentary or other evidence shows sufficient information for the board to reach judgment without ~~((audience, (waiver not applicable if candidate lacks substantial formal education)))~~ examination.

✓ AMENDATORY SECTION (Amending Order PL-294, filed 12/27/78)

✓ WAC 308-12-080 APPROVED SCHOOLS OF ARCHITECTURE. The board adopts the current "List of Accredited Schools of Architecture" as ~~((accredited))~~ published by the National Architectural Accrediting Board and universities and colleges of architecture in the state of Washington as its "approved~~((=colleges))~~ schools".

NEW SECTION

✓ WAC 308-12-081 THE SEAL. Every architect licensed in the state of Washington shall have a seal of design authorized by the board, bearing the registrant's name, license number and the legend "Registered Architect, State of Washington." The seal with the registrant's counter signature shall appear on every drawing filed with public authorities. A facsimile of the seal appears herewith.



No architect shall stamp or countersignature shall be affixed to any drawings not prepared by the architect or his or her regularly employed subordinates.

NEW SECTION

✓ WAC 308-12-082 CORPORATE PRACTICE. The corporate practice of architecture is limited to:

Domestic professional service corporations (P.S.) where all stockholders are architects or architects and engineers licensed in the state of Washington, under chapters 18.08 and 18.100 RCW.

Business corporations or stock companies cannot be licensed to practice architecture, or in any way list, imply or advertise that the corporation offers or provides architectural services.

AMENDATORY SECTION (Amending PL 178, filed 10/23/74)

✓ WAC 308-12-110 ARCHITECT LISTINGS. ~~((All firms and/))~~ Any firm or individuals offering to provide architectural services in the state of Washington, ~~((are))~~ through listings, advertisements, publications or directories is required to clearly identify ~~((with their firm title,))~~ the name or names of the architect or architects registered in Washington who ~~((are))~~ is a principal~~((s))~~ as defined in WAC 308-12-120. ~~((Such identification on firm listings shall apply, but not be limited to, design documents, letterheads, business cards, brochures, promotional literature, telephone directories and all other media intended for public display or circulation:))~~

✓ AMENDATORY SECTION (Amending Order PL-294, filed 12/27/78)

✓ WAC 308-12-120 DEFINITION OF PRINCIPAL. The word "principal" as used herein shall mean ~~((one))~~ a member of an architectural firm who is ~~((a registered))~~ an architect registered in this state; a ~~((director of a corporation))~~ shareholder, if the practice is through a ~~((corporate organization))~~ professional service corporation; a ~~((general))~~ partner if the practice is

through a partnership; or the proprietor if the practice is through a proprietorship; and is the person in charge of the ((organization's)) architectural practice, either alone or in concert with others who qualify as herein described.

AMENDATORY SECTION (Amending Order PL-294, filed 12/27/78)

WAC 308-12-130 DEFINITION OF SUPERVISION. The word "supervision" in RCW 18.08.110 means the periodic observation of materials and work in progress or completed work to observe the general compliance with plans, specifications, and design and planning concepts, and does not include responsibility for the superintendence of construction processes, site conditions, operations equipment, personnel or maintenance of a safe place to work, or any safety in, on((t,)) or about the site of the work.

AMENDATORY SECTION (Amending Order PL 262, filed 1/13/77)

WAC 308-12-320 RENEWAL OF LICENSES. (1) ((Effective with the renewal period beginning July 1, 1977;)) The annual license renewal date for architects ((will)) shall be ((changed to coincide with the licensee's birthdate. Conversion to this staggered renewal system will be accomplished as follows:

(a) ~~Current licensees, as of June 30, 1977. Licensed architects desiring to renew their license will be required to pay a fee of twenty-five dollars plus approximately one-twelfth of that amount for each month, or fraction thereof, in order to extend their license to expire on their birth anniversary date next following June 30, 1978.~~

(b) ~~On and after July 1, 1977, all new or initial architect licenses issued will expire on the applicant's next birth anniversary date.~~

(2) ~~After this conversion to a staggered renewal system, licensees may annually renew their license from birth anniversary date to the next)) the architects birth ((anniversary)) date. ((However;)) Licensees who fail to pay the license renewal fee within thirty days of license expiration date will be subject to the late payment penalty fee as set forth in WAC ((308-12-310)) 308-12-.... Architects whose renewal fees are delinquent will be listed with the state building officials.~~

REPEALER

The following section of the Washington Administration Code is repealed:

WAC 308-12-030 EXAMINATIONS.

WSR 83-04-072
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed February 2, 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 education for all handicapped children, chapter 392-171 WAC;

that the agency will at 9:00 a.m., Thursday, March 17, 1983, in the Old Capitol Building, Washington and Legion Way, State Board of Education Conference Room, 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 22, 1983.

The authority under which these rules are proposed is RCW 28A.13.070(7).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 17, 1983.

Dated: February 2, 1983

By: Frank B. Brouillet
Superintendent of Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-171 WAC Education for all Handicapped Children.

Rule Section(s): WAC 392-171-386, Definition and Eligibility for Seriously Behaviorally Disabled; WAC 392-171-401, Definition for Eligibility Criteria for Health Impaired; WAC 392-171-631, Consent; WAC 392-171-661, Service Arrangements; WAC 392-171-691, Annual Applications—Contents; WAC 392-171-761, Right to Register and Process Complaints; WAC 392-171-766, Complaint Directed to School District and Designation of Responsible School District Employee; WAC 392-171-771, School District Investigation of and Response to Complaints Directed to the School District; WAC 392-171-776, Appeal to the Superintendent of Public Instruction; and WAC 392-171-781, Actions in Response to Notices of Appeal and Notices Registering Complaints.

Statutory Authority: RCW 28A.13.070(7).

Purpose of the Rule(s): Provide special education and related services to children with handicapping conditions.

Summary of the New Rule(s) and/or Amendments: WAC 392-171-386, removes autism from definition of behaviorally disabled; WAC 392-171-401, adds autism to definition of health impaired; WAC 392-171-631, changes cross references to federal code; WAC 392-171-661, corrects incorrect code reference; WAC 392-171-691, corrects code reference to federal code; and WAC 392-171-761 through 392-171-781, changes complaint process to permit direct complaint to SPI and shortens timelines for action.

Reasons Which Support the Proposed Action(s): Necessary to bring state into compliance with federal rules.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph Julnes, SPI, Room 1500, 753-2298; Implementation: Greg Kirsch, SPI, Room 2000, 754-1842; and Enforcement: Judy Schrag, SPI, Room 2000, 754-1842.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency].

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): Except for code corrections, resulted from federal monitoring of state program and change in federal definitions.

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-386 DEFINITION AND ELIGIBILITY FOR SERIOUSLY BEHAVIORALLY DISABLED. (1) Seriously behaviorally disabled students are those who exhibit one or more of the following characteristics over a long period of time and to a marked degree, which adversely affects their own educational performance:

- (a) An inability to learn which cannot be explained by intellectual, sensory or health factors;
- (b) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- (c) Inappropriate types of behavior or feelings under normal circumstances;
- (d) A general pervasive mood of unhappiness or depression; or
- (e) A tendency to develop physical symptoms or fears associated with personal or school problems.

(2) The term includes students who are schizophrenic (~~or autistic~~). The term does not include students who are socially maladjusted, unless it is determined that they are also seriously behaviorally disabled.

Students whose primary disability is identified in another handicapping category do not qualify as seriously behaviorally disabled.

(3) All students considered for initial placement in special education as seriously behaviorally disabled shall be assessed by a multidisciplinary team including at least one school psychologist or school social worker and determined as eligible for special education and related services according to the following:

(a) A current school district evaluation which concludes that the student has a serious behavioral disability and which considers and describes the student's social and emotional behaviors and provides any implications for educational planning.

(i) For the purposes of establishing that the student has a behavioral disability, the evaluation shall describe behaviors which distinguish between common disciplinary problem behaviors and serious behavioral disabilities. Common disciplinary problem behaviors (e.g. truancy, smoking, breaking school conduct rules) may exist in conjunction with serious behavioral disabilities, but cannot be used as the sole criteria for recommending special education and related services.

(ii) The evaluation must include:

(A) Dated and signed documented anecdotal records of behavioral observations made by two or more persons at separate times and places, each of which cite and corroborate specific behaviors which, in the aggregate, provide foundation for probable concern for serious behavioral disability. Multiple settings are required (e.g., in addition to the classroom setting consider playground, cafeteria, school bus, hallway, etc.); and

(B) Dated and signed documented evidence of at least two intervention techniques that have been tried and the effect of each. These interventions may include, but are not limited to, changes in student's regular class schedule, and/or curriculum, and/or teacher; school counseling or community agency therapy or counseling; and

(C) A social or developmental history compiled directly from the parent(s) and/or records, when parents are not available.

(b) Current assessment of level of academic or cognitive achievement as measured by standardized tests appropriate to age level and administered individually.

(c) A current vision and hearing screening report.

EXCEPTION: Provided that the required academic assessment and vision and hearing screening are concluded, and provided that there are documented and dated anecdotal records of behavioral observations showing that the student's disability is evidenced in the school environment, the following evaluation reports may be substituted for the school district's evaluation:

(i) A current psychiatric evaluation which considers and describes the student's social and emotional behaviors, which concludes and describes a serious behavioral disability and where implications for educational planning are provided, the multidisciplinary team must consider these implications in planning and implementing the student's educational program; or

(ii) A current psychological evaluation by a nonpublic school mental health professional who holds a graduate degree in a recognized mental health specialty that considers and describes the student's social

and emotional behaviors, which concludes that the student has a serious behavioral disability, the consequences of which entail the necessity for active, on-going therapy and/or counseling, and where implications for educational planning are provided, the multidisciplinary team must consider these implications in planning and implementing the student's educational program.

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-401 DEFINITION AND ELIGIBILITY CRITERIA FOR HEALTH IMPAIRED. Health impaired students are those who have chronic or acute health problems such as students with serious congenital heart defect, other disorders of the cardiorespiratory systems, disorders of the central nervous system including epilepsy or neurological impairment or other profound health circumstances which adversely affect their educational performance or having an autistic condition which is manifested by severe communicational problems.

All students considered for initial placement in special education as health impaired shall be assessed and determined eligible for special education and related services according to the following:

(1) A current medical evaluation by a qualified medical practitioner which describes and confirms the student's health circumstances and which provides any medical implications for educational planning; and

(2) Current assessment of level of academic achievement as measured by standardized tests appropriate to age level and administered individually; and

(3) A current evaluation which considers and describes the student's social and emotional behaviors and which provides any implications for educational planning which may include an evaluation of adaptive behaviors as measured by standardized instrument(s), or professionally recognized scales addressing the student's self-help and interpersonal communication skills in relation to chronological age/grade peers; and

(4) A current vision and hearing screening report.

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-631 CONSENT. (1) Consent of a parent (or adult student) shall be obtained before personally identifiable information is:

(a) Disclosed to anyone other than officials of participating agencies collecting or using the information under this chapter subject to subsection (2) of this section; or

(b) Used for any purpose other than meeting a requirement imposed by this chapter.

(2) No school district shall release information from education records to participating agencies without the consent of a parent (or adult student) except in those cases in which a release of information without consent is permitted by the rules that implement the federal ((Family Educational) Privacy Rights of Parents and ((Privacy Act (the "Buckley Amendment")—45)) Students Part 99 of 34 Code of Federal Regulations (CFR) 34 sections 99.1 et seq. See ((45)) 34 CFR 99.31 (when prior consent not required), ((45)) 34 CFR ((99.34)) 99.35 (disclosure to state and federal officials) and ((45)) 34 CFR ((99.36)) 99.37 (directory information).

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-661 SERVICE ARRANGEMENTS. (1) Special education and related services to private school handicapped students may be provided through such arrangements as dual enrollment pursuant to chapter ((392-181)) 392-134 WAC, educational radio and television, and the provision of mobile educational services and equipment.

(2) No services, material, or equipment of any nature shall be provided to or on the site of any private school or agency subject to sectarian (i.e., religious) control or influence.

(3) Handicapped students enrolled in any private school or agency subject to sectarian control or influence shall be provided services in a manner that:

(a) Maintains a physical and administrative separation between the private and the public school programs; and

(b) Does not benefit the private school at public expense, e.g., pursuant to dual enrollment or shared time arrangements in accordance with chapter ((392-181)) 392-134 WAC.

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-691 ANNUAL APPLICATIONS—CONTENTS. As a condition to the receipt and expenditure of federal special education funds, a school district shall annually submit an application to the superintendent of public instruction or his or her designee on or before such date is announced and conduct its special education and related services program in compliance therewith. The applications shall be made pursuant to forms developed and distributed by the superintendent or his or her designee. Application forms shall include, but not necessarily be limited to, the following assurance(s) and types of information:

(1) An assurance that:

(a) The school district is in compliance with the provisions of this chapter and the rules implementing P.L. 94-142 ((45)) 34 CFR ((+21a.+) 300.1 et seq.) that may supplement this chapter;

(b) That the district shall remain in compliance with this chapter and any such supplemental rules for the entire school year; and

(c) That the funds applied for shall be expended in compliance with the application, this chapter, and any such supplemental federal rules;

(2) The information and assurances required by ((45)) 34 CFR ((+21a.220)) 300.220 through ((45)) 34 CFR ((+21a.240)) 300.240 and any other pertinent federal rules;

(3) Identification of the local district designee responsible for child identification activities and confidentiality of information;

(4) A description of the procedures and/or activities to be implemented or continued to provide for:

(a) Identification, location and evaluation of handicapped children not currently receiving special education and related services;

(b) Assurance of confidentiality of personally identifiable information;

(c) Implementation of a system for personnel development;

(d) Involvement of parents of handicapped children;

(e) Participation of handicapped students with nonhandicapped students;

(f) Placement of handicapped students in the least restrictive environment;

(g) Development of individualized education programs for each eligible handicapped student;

(h) Availability of career development and vocational education programs for handicapped students;

(i) A description of the numbers and types of handicapped students receiving special education and related services by placement option within the district's continuum of alternative placements;

(j) A description of the kind of and number of facilities, personnel, and services necessary to meet the district's full educational opportunity goal, including a detailed timetable for reaching that goal; and

(k) A description of the use of funds received under P.L. 94-142 ((45)) 34 CFR ((+21a.+) 300.1 et seq.).

(5) Any other pertinent information requested by the superintendent of public instruction which is necessary for the management of the special education program.

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-761 RIGHT TO REGISTER AND PROCESS COMPLAINTS. (1) Any person, entity, or organization may register and process complaints alleging one or more violations of this chapter as provided for in WAC 392-171-761(2) through 392-171-781 complaint issues involve alleged violations of established laws and regulations.

(2) If a parent (or adult student) has a complaint which constitutes a basis in whole or in part for initiation of a due process hearing pursuant to WAC 392-171-531, a citizen complaint by that same parent (or adult student) will be held in abeyance until the hearing has been concluded.

(3) Complaints shall:

(a) Be written;

(b) Be signed by the complaining party;

(c) Set forth the specific acts, conditions, or circumstance alleged to be in violation of this chapter (~~and~~).

((+d)) (4) The complaint may be directed to the ((superintendent of the)) school district alleged to be in violation or to the superintendent of public instruction.

If to the superintendent of public instruction, the complaint will be referred to the school district alleged to be in violation for action pursuant to WAC 392-171-766 through 392-171-781.

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-766 COMPLAINT DIRECTED TO SCHOOL DISTRICT AND DESIGNATION OF RESPONSIBLE SCHOOL DISTRICT EMPLOYEE. The superintendent of each school district shall designate at least one employee for monitoring and coordinating the district's compliance with this chapter. The employee designated pursuant to this section shall also be charged with the responsibility for investigating any complaint(s) communicated to the school district pursuant to WAC 392-171-761.

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-771 SCHOOL DISTRICT INVESTIGATION OF AND RESPONSE TO COMPLAINTS DIRECTED TO THE SCHOOL DISTRICT. (1) Upon receipt of a complaint pursuant to WAC 392-171-761, the employee(s) designated pursuant to WAC 392-171-766 or his or her designee shall investigate the allegation(s) set forth.

(2) Upon completion of the investigation, the designated employee(s) shall provide the district superintendent with a written report of the complaint and the results of the investigation. The district superintendent or his or her designee shall respond in writing to the complaining party as expeditiously as possible but in no event later than ((thirty)) twenty calendar days after the date of receipt of such complaint by the school district.

(3) The response of the school district superintendent or his or her designee shall clearly state either:

(a) That the school district denies the allegations contained in the complaint; or

(b) The nature of such reasonable corrective measures deemed necessary to eliminate any such act, condition, or circumstance within the school district: PROVIDED, That any such corrective measures deemed necessary shall be instituted as expeditiously as possible but in no event later than thirty calendar days following the date of the response to the complaining party.

AMENDATORY SECTION (Amending Order 80-31 filed 8/19/80)

WAC 392-171-776 APPEAL TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION. (1) In the event a complainant remains aggrieved with the decision of a school district superintendent or his or her designee provided pursuant to WAC 392-171-771 or upon failure or refusal of the school district to respond, the complainant may appeal the decision to the superintendent of public instruction or in the case of a failure or refusal to respond may register the complaint with the superintendent of public instruction: ~~((PROVIDED, That a parent (for adult student) with a complaint which constitutes a basis, in whole or part, for initiation of a hearing pursuant to WAC 392-171-531 shall exercise his or her hearing rights in lieu of an appeal to the superintendent of public instruction pursuant to this section.))~~ PROVIDED ~~((further)),~~ That upon the refusal of a school district to grant a request of the parent (or adult student) for such a hearing made in conformance with WAC 392-171-531, the parent (or adult student) may register the complaint with the superintendent of public instruction.

(2) A written notice of appeal must be received by the superintendent of public instruction on or before the ((thirtieth)) fifteenth day after the date the complainant received the written response of the school district superintendent pursuant to WAC 392-171-771 or in the case of a failure or refusal to respond pursuant to WAC 392-171-771, a written notice registering the complaint must be received by the state superintendent of public instruction on or before the ((forty-fifth)) thirty-fifth day after the date the citizen registered the complaint with the school district. The notice shall set forth:

(a) A statement of the portion(s) of the school district superintendent's decision which is appealed ~~((from))~~ or in the case of a failure or refusal to respond, a statement so indicating; and

(b) The relief or remedy requested by the complainant/appellant.

(3) "In the case of a school district's refusal to grant a request of a parent (or adult student) for a hearing made in conformance with WAC 392-171-531, a written notice registering the complaint must be received by the superintendent of public instruction on or before either the ((thirtieth)) fifteenth day after the day the parent or adult student received notice of the district's refusal to grant a hearing or on or before the ((thirtieth)) fifteenth day after the expiration of the time period for rendering a final decision pursuant to a request for a hearing

(i.e., forty-five days after the date of receipt of a request for a hearing), whichever occurs first."

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-781 ACTIONS IN RESPONSE TO NOTICES OF APPEAL AND NOTICES REGISTERING COMPLAINTS. (1) The superintendent of public instruction or his or her designee shall act expeditiously to investigate the allegation(s) in a written notice of appeal or a written notice registering the complaint that is deemed to be of substance and make a decision no later than fifteen calendar days after the receipt of either notice registered by a citizen.

(2) If the investigation reveals that there is merit to the allegation(s), the superintendent or his or her designee will provide for negotiations, or technical advice and assistance, or other remedial action in an attempt to achieve ~~((compliance))~~ compliance with this chapter: PROVIDED, That any corrective measures deemed necessary shall be instituted no later than ten calendar days following the decision of the superintendent of public instruction.

(3) If compliance is not achieved pursuant to subsection (2) of this section, the superintendent of public instruction or his or her designee will initiate fund withholding in compliance with the notice requirements of WAC 392-171-746, or initiate fund recovery, or initiate any other sanction deemed appropriate.

(4) In the event a complainant or school district remains aggrieved with the decision of the superintendent of public instruction or his or her designee, either party may appeal the decision to the secretary, department of education.

WSR 83-04-073
PROPOSED RULES
PARKS AND RECREATION
COMMISSION

[Filed February 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Parks and Recreation Commission intends to adopt, amend, or repeal rules concerning camping WAC 352-32-030, reservations for environmental learning centers WAC 352-32-037, reservations for group day use WAC 352-32-045, and standard fees charged WAC 352-32-250;

that the agency will at 9:00 a.m., Thursday, March 17, 1983, in the Rivershore Inn, 50 Comstock, Richland, 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 43.51.040 and 43.51.060.

The specific statute these rules are intended to implement is RCW 43.51.040 and 43.51.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 14, 1983.

Dated: February 2, 1983

By: Gary Robinson
Executive Assistant

STATEMENT OF PURPOSE

Title: Camping WAC 352-32-030; Reservations for Environmental Learning Centers WAC 352-32-037; Reservations for Group Day Use WAC 352-32-045; and Standard Fees Charged WAC 352-32-250.

Description of Purpose: The amendments to the rules referenced above increase certain fee and revise other provisions on the management of state park facilities.

Statutory Authority: RCW 43.51.040 and 43.51.060.

Statutes Which Rules Implement: RCW 43.51.040 and 43.51.060.

Summary of Rule: The amendments to the rules referenced above revise provisions on the number of people and vehicles that may occupy a campsite, increase the deposit and cancellation notice period for reservations at environmental learning centers, eliminate refunds of group day use reservation fees, establish a nonrefundable reservation fee for group camping, establish a group day use fee, and increase the fees for the following: Campsites, group camping areas, environmental learning centers, hot showers, electric stoves, senior citizen passes, and extra vehicles.

Reasons Supporting Proposed Action: The amendments to the rules referenced above reflect fee increases which respond to higher operating costs of state park facilities and other management revisions which improve the operation of state park facilities.

Agency Personnel Responsible for Drafting: Dennis Smith, Assistant Director, Administrative Services, Washington State Parks and Recreation Commission, 7150 Cleanwater Lane, Olympia, WA 98504, (206) 753-5766; **Implementation and Enforcement:** Lynn Genasci, Assistant Director, Operations, Washington State Parks and Recreation Commission, 7150 Cleanwater Lane, Olympia, WA 98504, (206) 753-5761.

Proposing: Washington State Parks and Recreation Commission.

Federal Law/Court Action: The proposed amendments to the rules referenced above are not necessary because of federal law or state court action.

AMENDATORY SECTION (Amending Order 60, filed 4/14/82)

WAC 352-32-030 **CAMPING.** (1) No person shall camp in any state park area except in areas specifically designated and/or marked for that purpose or as directed by a ranger.

(2) Occupants shall vacate camping facilities by removing their personal property therefrom prior to 3:00 p.m., (or other appropriate, established time in parks where camping is reserved) if the applicable camping fee has not been paid or if the time limit for occupancy of the campsite has expired or the site is reserved by another party. Remaining in a campsite beyond the established checkout time shall subject the occupant to the payment of an additional camping fee.

(3) No tent camper shall be allowed to occupy a designated utility campsite except as directed by a ranger. Use of utility campsites by tent campers shall be subject to payment of the utility campsite fee except when directed by a ranger to occupy a utility campsite.

(4) A campsite is considered occupied when it is being used for purposes of camping by a person or persons who have paid the camping fee within the applicable time limits or when it has been reserved through the appropriate procedures of the reservation system. No person shall take or attempt to take possession of a campsite when it is being occupied by another party, or when informed by a ranger that such site is occupied, or when the site is posted with a "reserved" sign. In the case of a reserved site, a person holding a valid reservation for that specific site may occupy it according to the rules relating to the reservation system for that park.

(5) In order to afford the general public the greatest possible use of the state park system, on a fair and equal basis, continuous occupancy of facilities by the same person shall be limited to ten consecutive nights in one park. This limitation shall not apply to those individuals who meet the qualifications of WAC 352-32-280 and 352-32-285.

(6) Only one camping unit with a maximum of eight people shall be permitted at a campsite, unless otherwise authorized by a ranger. The number of vehicles occupying a campsite shall be limited to one car or one recreational vehicle; PROVIDED, That one additional vehicle without built-in sleeping accommodations may occupy a designated campsite when in the judgment of a ranger the constructed facilities so warrant. ((A greater number may be authorized in specific areas when constructed facilities so warrant.))

(7) Persons traveling by bicycles, motor bikes or other similar modes of transportation and utilizing campsites shall be limited to six persons per site.

(8) All persons camping in organized groups shall use designated group camp areas unless otherwise directed by a ranger and shall pay the applicable group camping fee.

A group can be any formalized group or an organized collection of families wishing to camp together.

Group camping areas may be reserved in advance through contact with the local ranger. Any group must have a leader who has reached the age of majority who will be required to read and sign a "group use permit and regulation form."

(9) Emergency camping areas set aside in certain state parks may be used only when all designated campsites are full but may not be used prior to 9:00 p.m. Persons using emergency areas must pay the standard campsite fee and must vacate the site by 8:00 the following morning.

AMENDATORY SECTION (Amending Order 48, filed 9/22/80)

WAC 352-32-037 RESERVATIONS FOR ENVIRONMENTAL LEARNING CENTERS. (1) All reservations for ELC use are to be made through the ELC reservation office, Washington State Parks and Recreation Commission, 7150 Cleanwater Lane, Olympia, WA 98504, except for reservations for schools and school districts for weekdays, excepting legal holidays, during the period the day after Labor Day until the day before Memorial Day. In the latter case, reservations are to be made and coordinated through the office of the Superintendent of Public Instruction. Applications for all other reservations shall be in writing indicating dates and ELC desired on a form provided by the ELC reservation office.

(2) Applications for overnight use of an ELC by any user group, for a maximum of seven consecutive days, during the period from Memorial Day to Labor Day, inclusive (summer season), should be filed with the ELC reservation office by September 1st of the year next preceding the summer season for which the reservation application is made. Applications submitted prior to September 1 will not be accepted for other than the upcoming summer season. As many applications as are desired may be filed, so long as in the aggregate they do not constitute a request by any one group to use a given ELC for longer than seven consecutive days. The seven consecutive day limitation shall apply in all cases, except where prior existing contract with the state specifies otherwise or after filling initial requests for up to seven days from all groups requesting reservations, space remains available. Applications thus submitted by September 1 will be confirmed (and a permit issued) or denied by the following October 31st. The ELC reservation office may schedule and conduct meetings during the period September 1 to October 31st for those requesting at the various ELCs to coordinate scheduling and confirm reservations using (b) through (d) below, in order, to set confirmation priorities.

In the event of more than one application for the same dates and ELC, the following priorities, in order, shall be observed:

(a) The group which does not already have a confirmed reservation for the ELC.

(b) The group which has utilized the ELC for the greatest number of consecutive preceding years immediately prior to the year presently being scheduled.

(c) The group which has utilized the ELC the greatest number of previous years.

(d) The group which has utilized the ELC the greatest number of times (during the summer months).

Applications received after September 1 will be considered on a space available basis using the prioritization process.

(3) Applications for overnight use of an ELC on holidays and weekends during other than the summer season may be made at any time up to 12 months in advance of the dates requested, and will be confirmed on a first-come-first-served basis.

(4) Applications for day use of an ELC during the summer season, or on holidays and weekends during other than the summer season, may be submitted at any time, but will not be confirmed any sooner

than two weeks prior to the requested dates. Assignments will be made on a first-come-first-served basis.

(5) A deposit of ~~\$(+0)~~25, up to a maximum of \$150, for each day of requested ELC use is required to be submitted with the reservation application form. Deposits must be made by check or money order, made payable to the Washington State Treasurer, and should indicate on their face the name of the user group and requested ELC. Deposits will be applied toward final camp fees incurred, or will be returned if no confirmation is made.

(6) Cancellation by user of any confirmed reservation must reach the ELC reservation office (~~(+0)~~) 60 days prior to the scheduled arrival date as stated on the application or permit, or the deposit will be forfeited.

AMENDATORY SECTION (Amending Order 60, filed 4/14/82)

WAC 352-32-045 RESERVATIONS FOR GROUP DAY USE.

(1) All reserved group day use activities shall be arranged for only at those parks having identified group day use activity areas. A group is defined as 20 or more people engaged together and commonly in outdoor day use recreation at one park location.

(2) Such identified group day use activity areas shall have a predetermined use capacity. No group exceeding this capacity in number shall use these areas.

(3) Use of these activity areas shall be by reservation. Requests for reservations for groups of 20 to 250 shall be made 15 days in advance and for groups in excess of 250 shall be made 30 days in advance of the proposed use date, using the group use permit. All conditions outlined on the group use permit shall be binding on the group.

(4) A nonrefundable permit fee of ten dollars shall be charged to reservations granted under this WAC. Payment of the fee must be made with the submission of the group use permit request. In those cases where the fee is submitted at a later date, it must be paid by certified check, bank money order, or postal money order. ~~((Refunds will be made only to those groups which cancel their reservation[s] seven or more days before the effective date of the reservations.))~~

(5) Reservation requests for groups of 20, but not exceeding 250, may be approved by the park manager of the park the group is requesting to use. Reservations for groups in excess of 250, but not exceeding 1,000, may be approved by the region supervisor for the region in which the park is located. Reservations for groups in excess of 1,000 may be approved by the assistant director for operations.

(6) A deposit shall be submitted with the request for reservation. In those cases where the deposit is submitted at a date later than the reservation request, it must be paid by certified check, bank money order, or postal money order. This deposit shall be held by the Washington state parks and recreation commission to encourage the cleanliness and good order of the group activity area. For groups of 20, but not exceeding 50, this deposit shall be \$35. For groups in excess of 50, but not exceeding 100, this deposit shall be \$75. For groups in excess of 100, but not exceeding 500, this deposit shall be \$150. For groups in excess of 500, this deposit shall be \$300. Refund of this deposit shall be determined after an inspection of the area by a ranger and the individuals responsible for the group.

(7) Reservations for all groups shall be made by a person of the age of majority, who must be in attendance during the group's activities.

(8) Any group wishing to sell or dispense alcoholic beverages must request and obtain all appropriate licenses and permits. In order to sell alcoholic beverages, the group must obtain a temporary concession permit from the headquarters office of the Washington state parks and recreation commission.

(9) It shall be within the authority of the park manager, or his representative, to rescind the rights of a reservation, and remove from the park, any or all members of the group whose behavior, at any time, is in conflict with any state laws, becomes detrimental to the health and safety of the group or other park users, or becomes so unruly as to affect the reasonable enjoyment of the park by other park users.

AMENDATORY SECTION (Amending Order 62, filed 7/20/82)

WAC 352-32-250 STANDARD FEES CHARGED. The following fees shall be charged in all parks operated by the Washington State Parks and Recreation Commission:

(1) Overnight camping - standard campsite: ~~\$(5-50)~~6.00 per night;

(2) Overnight camping - utility campsite ~~\$(5-50)~~6.00 per night plus a nightly fee of \$.50 for domestic water hookup, \$.50 for sewer

hookup, and \$1.50 for electrical hookup. Payment for all utility hookups available to the site will be collected whether utility is actually used or not;

(3) Overnight camping – primitive campsite: \$3.00 per night for nonmotorized vehicle and ~~\$(4.00))~~ 5.00 per night for motorized vehicle;

(4) Overnight camping – reservation fee: As specified in WAC 352-32-035;

(5) Group camping area – certain parks: ~~\$(35))~~ 50 per person per night; nonrefundable reservation fee – \$10.00. Recreational vehicle campers must pay the primitive campsite fee or other appropriate fee based on facilities available;

(6) Group day use – certain parks: \$25 per person per day;

(7) Environmental Learning Center ~~(s-(ELC))~~ – overnight camping: ~~\$(2.20))~~ 2.50 per camper per night: PROVIDED, HOWEVER, The fee shall be ~~\$(2.50))~~ 2.85 per camper per night, effective September ~~((7-1982))~~ 6, 1983;

(a) Camp Wooten and Cornet Bay Environmental Learning Centers during the season the swimming pools are operational: ~~\$(2.60))~~ 2.90 per camper per night: PROVIDED, HOWEVER, The fee shall be ~~\$(2.90))~~ 3.25 per camper per night, effective September ~~((7-1982))~~ 6, 1983;

(b) Environmental Learning Center – day use only: ~~\$(90))~~ 1.00 multiplied by the minimum capacity established for each ~~(ELC))~~ environmental learning center or ~~\$(90))~~ 1.00 for each member of the group – whichever is higher ~~((PROVIDED, HOWEVER, The amount to be multiplied or to be charged for each member of the group – whichever is higher, shall be \$1.00 effective September 7, 1982))~~;

~~((7))~~ (8) Hot showers: ~~\$(10))~~ 25 for ~~((four))~~ a minimum of six minutes shower time;

~~((8))~~ (9) Electric stoves: ~~\$(10))~~ 25 for thirty minutes cooking time;

~~((9))~~ (10) Senior citizens pass: ~~\$(12.00))~~ 15.00 per season (from September 15 through April 30). This fee will provide a maximum of 30 camping nights in one season. A nightly surcharge equal to the fee for electrical hookup established in subsection (2) of this section will be added for the use of an electrical hookup;

~~((10))~~ (11) Washington senior citizens and disabled or handicapped persons found eligible under RCW 43.51.055 shall be entitled to the issuance of an annual free pass entitling the card holder and his "camping unit" to free admission to any state park administered facility and fifty percent discount on any camping fees levied by the commission. Military veterans found eligible under RCW 43.51.055 shall be entitled to receive a lifetime free pass entitling the pass holder and his "camping unit" to free admission to any state park administered facility and free use of any campsite within the state park;

(a) A camping unit includes the pass holder and guest or guests in one car or one recreational vehicle per overnight campsite. A greater number may be authorized in specific areas when constructed facilities so warrant;

(b) Persons traveling by bicycle or motor bike, or mode of transportation other than those referenced above, and who are utilizing overnight campsites, shall be limited to six persons per site;

(c) These guidelines will also apply to group camping and emergency areas;

~~((11))~~ (12) Adirondacks – not to include those located in ELC areas: Same as fee charged for full utility campsite. Occupancy shall be limited to the number of built-in bunks provided;

~~((12))~~ (13) Extra vehicle charge: ~~\$(1.00))~~ 2.00 per night for each additional unhitched vehicle in excess of the one recreational vehicle allowed at each campsite: PROVIDED, An extra vehicle charge shall not be imposed when the recreational vehicle and the towed vehicle arrive at the park hitched together, and after the camper has registered for and occupied the assigned campsite either the recreational vehicle or the towed vehicle remain parked at the campsite for the duration of the camper's stay;

~~((13))~~ (14) Marine park moorage facilities – see WAC 352-12-020 and 352-12-030.

These fees do not apply in those circumstances set forth in WAC 352-32-280 and 352-32-285 as now or hereafter amended.

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	82-36-030	AMD 83-03-003	132L-128-080	REP-P 83-03-072
16-54-082	AMD 83-04-030	98-12-030	NEW 83-02-063	132L-128-090	REP-P 83-03-072
16-54-082	AMD-E 83-04-031	98-12-040	NEW 83-02-063	133-10-010	NEW-P 83-03-061
16-86-015	AMD-P 83-02-061	98-14-080	NEW 83-02-063	133-10-020	NEW-P 83-03-061
16-86-030	AMD-P 83-03-051	98-14-090	NEW 83-02-063	133-10-030	NEW-P 83-03-061
16-212-010	AMD-P 83-03-047	132L-112-010	REP-P 83-03-072	133-20-010	NEW-P 83-03-061
16-212-030	AMD-P 83-03-047	132L-112-020	REP-P 83-03-072	133-20-020	NEW-P 83-03-061
16-212-040	REP-P 83-03-047	132L-112-030	REP-P 83-03-072	133-20-030	NEW-P 83-03-061
16-212-050	AMD-P 83-03-047	132L-112-040	REP-P 83-03-072	133-20-040	NEW-P 83-03-061
16-212-060	AMD-P 83-03-047	132L-112-200	REP-P 83-03-072	133-20-050	NEW-P 83-03-061
16-212-065	AMD-P 83-03-047	132L-112-205	REP-P 83-03-072	133-20-060	NEW-P 83-03-061
16-212-070	AMD-P 83-03-047	132L-112-210	REP-P 83-03-072	133-20-070	NEW-P 83-03-061
16-212-080	AMD-P 83-03-047	132L-112-220	REP-P 83-03-072	133-20-080	NEW-P 83-03-061
16-212-085	REP-P 83-03-047	132L-112-230	REP-P 83-03-072	133-20-090	NEW-P 83-03-061
16-212-090	AMD-P 83-03-047	132L-112-240	REP-P 83-03-072	133-20-100	NEW-P 83-03-061
16-212-120	AMD-P 83-03-047	132L-112-250	REP-P 83-03-072	133-20-110	NEW-P 83-03-061
16-212-140	REP-P 83-03-047	132L-112-270	REP-P 83-03-072	133-20-120	NEW-P 83-03-061
16-212-150	REP-P 83-03-047	132L-112-280	REP-P 83-03-072	133-30-010	NEW-P 83-03-061
16-212-200	REP-P 83-03-047	132L-112-290	REP-P 83-03-072	133-30-020	NEW-P 83-03-061
16-212-210	REP-P 83-03-047	132L-112-900	REP-P 83-03-072	133-30-030	NEW-P 83-03-061
16-400-001	REP-P 83-03-058	132L-112-901	REP-P 83-03-072	133-30-040	NEW-P 83-03-061
16-400-003	REP-P 83-03-058	132L-112-902	REP-P 83-03-072	133-30-050	NEW-P 83-03-061
16-400-004	REP-P 83-03-058	132L-112-903	REP-P 83-03-072	133-30-060	NEW-P 83-03-061
16-400-005	REP-P 83-03-058	132L-112-904	REP-P 83-03-072	133-30-070	NEW-P 83-03-061
16-400-006	REP-P 83-03-058	132L-112-905	REP-P 83-03-072	133-30-080	NEW-P 83-03-061
16-400-00601	REP-P 83-03-058	132L-112-906	REP-P 83-03-072	133-40-010	NEW-P 83-03-061
16-400-150	AMD-P 83-03-058	132L-112-907	REP-P 83-03-072	133-40-020	NEW-P 83-03-061
16-409-001	REP-P 83-03-059	132L-112-908	REP-P 83-03-072	133-40-030	NEW-P 83-03-061
16-409-010	REP-P 83-03-059	132L-112-909	REP-P 83-03-072	133-40-040	NEW-P 83-03-061
16-409-015	NEW-P 83-03-059	132L-112-910	REP-P 83-03-072	133-40-050	NEW-P 83-03-061
16-409-020	AMD-P 83-03-059	132L-112-911	REP-P 83-03-072	133-40-060	NEW-P 83-03-061
16-409-030	AMD-P 83-03-059	132L-112-912	REP-P 83-03-072	133-50-010	NEW-P 83-03-061
16-409-035	NEW-P 83-03-059	132L-112-913	REP-P 83-03-072	133-50-020	NEW-P 83-03-061
16-409-040	REP-P 83-03-059	132L-112-914	REP-P 83-03-072	137-36-010	NEW-P 83-02-049
16-409-050	REP-P 83-03-059	132L-112-915	REP-P 83-03-072	137-36-010	NEW-E 83-02-051
16-409-060	AMD-P 83-03-059	132L-112-916	REP-P 83-03-072	137-36-020	NEW-P 83-02-049
16-409-065	NEW-P 83-03-059	132L-112-917	REP-P 83-03-072	137-36-020	NEW-E 83-02-051
16-409-070	AMD-P 83-03-059	132L-112-918	REP-P 83-03-072	137-36-030	NEW-P 83-02-049
16-409-075	NEW-P 83-03-059	132L-112-919	REP-P 83-03-072	137-36-030	NEW-E 83-02-051
16-409-080	REP-P 83-03-059	132L-112-920	REP-P 83-03-072	137-36-040	NEW-P 83-02-049
16-409-085	NEW-P 83-03-059	132L-112-921	REP-P 83-03-072	137-36-040	NEW-E 83-02-051
16-409-090	REP-P 83-03-059	132L-112-922	REP-P 83-03-072	137-36-050	NEW-P 83-02-049
16-409-100	REP-P 83-03-059	132L-112-923	REP-P 83-03-072	137-36-050	NEW-E 83-02-051
16-409-110	REP-P 83-03-059	132L-116-010	REP-P 83-03-072	137-36-060	NEW-P 83-02-049
16-409-130	REP-P 83-03-059	132L-116-020	REP-P 83-03-072	137-36-060	NEW-E 83-02-051
16-409-140	REP-P 83-03-059	132L-116-030	REP-P 83-03-072	137-36-070	NEW-P 83-02-049
16-461-005	REP-P 83-03-060	132L-116-040	REP-P 83-03-072	137-36-070	NEW-E 83-02-051
16-461-010	AMD-P 83-03-060	132L-116-050	REP-P 83-03-072	137-48-010	NEW-P 83-02-048
16-750-010	AMD-P 83-04-055	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

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
137-48-050	NEW-P	83-02-048	173-403-170	NEW-P	83-03-070
137-48-050	NEW-E	83-02-050	173-403-180	NEW-P	83-03-070
137-48-060	NEW-P	83-02-048	173-403-190	NEW-P	83-03-070
137-48-060	NEW-E	83-02-050	173-405-021	AMD-P	83-03-070
137-48-070	NEW-P	83-02-048	173-405-033	AMD-P	83-03-070
137-48-070	NEW-E	83-02-050	173-405-040	AMD-P	83-03-070
137-48-080	NEW-P	83-02-048	173-405-061	AMD-P	83-03-070
137-48-080	NEW-E	83-02-050	173-405-077	AMD-P	83-03-070
139-14-010	AMD-C	83-04-009	173-405-078	AMD-P	83-03-070
139-14-010	AMD-E	83-04-014	173-405-086	AMD-P	83-03-070
139-20-010	REP-C	83-04-008	173-405-090	REP-P	83-03-070
139-20-010	REP-E	83-04-012	173-405-101	REP-P	83-03-070
139-20-020	NEW-C	83-04-007	173-410-021	AMD-P	83-03-070
139-20-020	NEW-E	83-04-013	173-410-040	AMD-P	83-03-070
140-08-010	NEW-P	83-02-053	173-410-067	AMD-P	83-03-070
140-08-020	NEW-P	83-02-053	173-410-071	AMD-P	83-03-070
140-08-030	NEW-P	83-02-053	173-410-086	AMD-P	83-03-070
140-08-040	NEW-P	83-02-053	173-410-090	REP-P	83-03-070
140-08-050	NEW-P	83-02-053	173-410-091	REP-P	83-03-070
140-08-060	NEW-P	83-02-053	173-415-020	AMD-P	83-03-070
140-08-070	NEW-P	83-02-053	173-415-030	AMD-P	83-03-070
140-08-080	NEW-P	83-02-053	173-415-050	AMD-P	83-03-070
140-08-090	NEW-P	83-02-053	173-415-070	AMD-P	83-03-070
140-08-100	NEW-P	83-02-053	173-415-080	AMD-P	83-03-070
140-08-110	NEW-P	83-02-053	173-415-090	REP-P	83-03-070
140-12-010	NEW-P	83-02-054	204-24-030	AMD-E	83-03-014
140-12-020	NEW-P	83-02-054	204-24-040	AMD-E	83-03-014
140-12-030	NEW-P	83-02-054	204-24-050	AMD-E	83-03-014
140-12-040	NEW-P	83-02-054	204-24-070	AMD-E	83-03-014
140-12-050	NEW-P	83-02-054	212-43-001	NEW	83-03-028
140-12-060	NEW-P	83-02-054	212-43-005	NEW	83-03-028
140-12-070	NEW-P	83-02-054	212-43-010	NEW	83-03-028
140-12-080	NEW-P	83-02-054	212-43-015	NEW	83-03-028
140-12-090	NEW-P	83-02-054	212-43-020	NEW	83-03-028
140-12-100	NEW-P	83-02-054	212-43-025	NEW	83-03-028
140-12-110	NEW-P	83-02-054	212-43-030	NEW	83-03-028
142-30-010	AMD-P	83-04-048	212-43-035	NEW	83-03-028
173-19-130	AMD	83-02-066	212-43-040	NEW	83-03-028
173-19-2503	AMD-P	83-02-065	212-43-045	NEW	83-03-028
173-19-2505	AMD-P	83-02-064	212-43-050	NEW	83-03-028
173-19-2505	AMD-P	83-03-069	212-43-055	NEW	83-03-028
173-19-260	AMD-C	83-03-067	212-43-060	NEW	83-03-028
173-19-2521	AMD-P	83-02-065	212-43-065	NEW	83-03-028
173-19-370	AMD-P	83-02-065	212-43-070	NEW	83-03-028
173-19-4005	AMD-P	83-02-065	212-43-075	NEW	83-03-028
173-301	AMD-C	83-03-068	212-43-080	NEW	83-03-028
173-400-010	AMD-P	83-03-070	212-43-085	NEW	83-03-028
173-400-020	AMD-P	83-03-070	212-43-090	NEW	83-03-028
173-400-030	AMD-P	83-03-070	212-43-095	NEW	83-03-028
173-400-040	AMD-P	83-03-070	212-43-100	NEW	83-03-028
173-400-050	AMD-P	83-03-070	212-43-105	NEW	83-03-028
173-400-060	AMD-P	83-03-070	212-43-110	NEW	83-03-028
173-400-070	AMD-P	83-03-070	212-43-115	NEW	83-03-028
173-400-075	AMD-P	83-03-070	212-43-120	NEW	83-03-028
173-400-080	REP-P	83-03-070	212-43-125	NEW	83-03-028
173-400-090	REP-P	83-03-070	212-43-130	NEW	83-03-028
173-400-100	AMD-P	83-03-070	212-43-135	NEW	83-03-028
173-400-110	AMD-P	83-03-070	212-45-001	NEW-P	83-03-027
173-400-115	AMD-P	83-03-070	212-45-005	NEW-P	83-03-027
173-400-120	AMD-P	83-03-070	212-45-010	NEW-P	83-03-027
173-400-130	REP-P	83-03-070	212-45-015	NEW-P	83-03-027
173-400-135	REP-P	83-03-070	212-45-020	NEW-P	83-03-027
173-400-140	REP-P	83-03-070	212-45-025	NEW-P	83-03-027
173-400-150	REP-P	83-03-070	212-45-030	NEW-P	83-03-027
173-400-160	REP-P	83-03-070	212-45-035	NEW-P	83-03-027
173-400-170	REP-P	83-03-070	212-45-040	NEW-P	83-03-027
173-403-010	NEW-P	83-03-070	212-45-045	NEW-P	83-03-027
173-403-020	NEW-P	83-03-070	212-45-050	NEW-P	83-03-027
173-403-030	NEW-P	83-03-070	212-45-055	NEW-P	83-03-027
173-403-050	NEW-P	83-03-070	212-45-060	NEW-P	83-03-027
173-403-100	NEW-P	83-03-070	212-45-065	NEW-P	83-03-027
173-403-110	NEW-P	83-03-070	212-45-070	NEW-P	83-03-027
173-403-120	NEW-P	83-03-070	212-45-075	NEW-P	83-03-027
173-403-130	NEW-P	83-03-070	212-45-080	NEW-P	83-03-027
173-403-140	NEW-P	83-03-070	212-45-085	NEW-P	83-03-027
173-403-150	NEW-P	83-03-070	212-45-090	NEW-P	83-03-027
173-403-160	NEW-P	83-03-070	212-45-095	NEW-P	83-03-027
212-45-100	NEW-P	83-03-027	220-32-022001	NEW-E	83-04-005
212-45-105	NEW-P	83-03-027	220-32-04000Q	NEW-E	83-03-030
212-45-110	NEW-P	83-03-027	220-32-04000Q	REP-E	83-04-053
212-45-115	NEW-P	83-03-027	220-32-04000R	NEW-E	83-04-053
220-32-022001	NEW-E	83-04-005	220-32-05700P	NEW-E	83-03-030
220-32-04000Q	NEW-E	83-03-030	220-32-05700P	REP-E	83-04-053
220-32-04000Q	REP-E	83-04-053	220-32-05700Q	NEW-E	83-04-053
220-32-04000R	NEW-E	83-04-053	220-44-04000A	REP-E	83-03-007
220-32-05700P	NEW-E	83-03-030	220-44-04000B	REP-E	83-03-007
220-32-05700P	REP-E	83-04-053	220-44-04000C	NEW-E	83-03-007
220-32-05700Q	NEW-E	83-04-053	220-48-015	AMD	83-04-025
220-44-04000A	REP-E	83-03-007	220-49-020	AMD	83-04-025
220-44-04000B	REP-E	83-03-007	220-49-02000L	REP-E	83-04-036
220-44-04000C	NEW-E	83-03-007	220-49-02000M	NEW-E	83-04-036
220-48-015	AMD	83-04-025	220-49-056	AMD	83-04-025
220-49-020	AMD	83-04-025	220-52-050	AMD	83-04-025
220-49-02000L	REP-E	83-04-036	220-52-073	AMD	83-04-025
220-49-02000M	NEW-E	83-04-036	220-52-074	AMD	83-04-025
220-49-056	AMD	83-04-025	220-56-116	AMD-P	83-03-071
220-52-050	AMD	83-04-025	220-56-145	AMD-P	83-03-071
220-52-073	AMD	83-04-025	220-56-180	AMD-P	83-03-071
220-52-074	AMD	83-04-025	220-56-190	AMD-P	83-03-071
220-56-116	AMD-P	83-03-071	220-56-191	NEW-P	83-03-071
220-56-145	AMD-P	83-03-071	220-56-195	AMD-P	83-03-071
220-56-180	AMD-P	83-03-071	220-56-196	NEW-P	83-03-071
220-56-190	AMD-P	83-03-071	220-56-198	NEW-P	83-03-071
220-56-191	NEW-P	83-03-071	220-56-235	AMD-P	83-03-071
220-56-195	AMD-P	83-03-071	220-56-250	AMD-P	83-03-071
220-56-196	NEW-P	83-03-071	220-56-261	NEW-P	83-03-071
220-56-198	NEW-P	83-03-071	220-56-285	AMD-P	83-03-071
220-56-235	AMD-P	83-03-071	220-56-300	REP-P	83-03-071
220-56-250	AMD-P	83-03-071	220-56-310	AMD	83-04-027
220-56-261	NEW-P	83-03-071	220-56-350	AMD-P	83-03-071
220-56-285	AMD-P	83-03-071	220-56-360	AMD-P	83-03-071
220-56-300	REP-P	83-03-071	220-56-360	AMD	83-04-026
220-56-310	AMD	83-04-027	220-56-372	AMD-P	83-03-071
220-56-350	AMD-P	83-03-071	220-56-390	AMD-P	83-03-071
220-56-360	AMD	83-04-026	220-57-130	AMD-P	83-03-071
220-56-372	AMD-P	83-03-071	220-57-135	AMD-P	83-03-071
220-56-390	AMD-P	83-03-071	220-57-138	AMD-P	83-03-071
220-57-130	AMD-P	83-03-071	220-57-140	AMD-P	83-03-071
220-57-135	AMD-P	83-03-071	220-57-155	AMD-P	83-03-071
220-57-138	AMD-P	83-03-071	220-57-160	AMD-P	83-03-071
220-57-140	AMD-P	83-03-071	220-57-175	AMD-P	83-03-071
220-57-155	AMD-P	83-03-071	220-57-181	NEW-P	83-03-071
220-57-160	AMD-P	83-03-071	220-57-215	AMD-P	83-03-071
220-57-175	AMD-P	83-03-071	220-57-220	AMD-P	83-03-071
220-57-181	NEW-P	83-03-071	220-57-230	AMD-P	83-03-071
220-57-215	AMD-P	83-03-071	220-57-235	AMD-P	83-03-071
220-57-220	AMD-P	83-03-071	220-57-260	AMD-P	83-03-071
220-57-230	AMD-P	83-03-071	220-57-270	AMD-P	83-03-071
220-57-235	AMD-P	83-03-071	220-57-280	AMD-P	83-03-071
220-57-260	AMD-P	83-03-071	220-57-285	AMD-P	83-03-071
220-57-270	AMD-P	83-03-071	220-57-290	AMD-P	83-03-071
220-57-280	AMD-P	83-03-071	220-57-300	AMD-P	83-03-071
220-57-285	AMD-P	83-03-071	220-57-315	AMD-P	83-03-071
220-57-290	AMD-P	83-03-071	220-57-319	AMD-P	83-03-071
220-57-300	AMD-P	83-03-071	220-57-320	REP-P	83-03-071
220-57-315	AMD-P	83-03-071	220-57-327	NEW-P	83-03-071
220-57-319	AMD-P	83-03-071	220-57-330	AMD-P	83-03-071
220-57-320	REP-P	83-03-071	220-57-340	AMD-P	83-03-071
220-57-327	NEW-P	83-03-071	220-57-350	AMD-P	83-03-071
220-57-330	AMD-P	83-03-071	220-57-390	AMD-P	83-03-071
220-57-340	AMD-P	83-03-071	220-57-415	AMD-P	83-03-071
220-57-350	AMD-P	83-03-071	220-57-460	AMD-P	83-03-071
220-57-390	AMD-P	83-03-071	220-57-485	AMD-P	83-03-071
220-57-415	AMD-P	83-03-071	220-57-495	AMD-P	83-03-071
220-57-460	AMD-P	83-03-071	220-57-515	AMD-P	83-03-071
220-57-485	AMD-P	83-03-071	220-57-520	AMD-P	83-03-071
220-57-495	AMD-P	83-03-071	220-57-525	AMD-P	83-03-071
220-57-515	AMD-P	83-03-071	220-57A-012	AMD-P	83-03-071
220-57-520	AMD-P	83-03-071	220-57A-015	AMD-P	83-03-071
220-57-525	AMD-P	83-03-071	220-57A-040	AMD-P	83-03-071

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
220-57A-070	AMD-P 83-03-071	275-56-065	NEW-P 83-03-065	275-56-255	NEW-E 83-03-066
220-57A-082	AMD-P 83-03-071	275-56-065	NEW-E 83-03-066	275-56-260	NEW-P 83-03-065
220-57A-085	AMD-P 83-03-071	275-56-070	NEW-P 83-03-065	275-56-260	NEW-E 83-03-066
220-57A-105	AMD-P 83-03-071	275-56-070	NEW-E 83-03-066	275-56-265	NEW-P 83-03-065
220-57A-112	AMD-P 83-03-071	275-56-075	NEW-P 83-03-065	275-56-265	NEW-E 83-03-066
220-57A-120	AMD-P 83-03-071	275-56-075	NEW-E 83-03-066	275-56-270	NEW-P 83-03-065
220-57A-152	AMD-P 83-03-071	275-56-080	NEW-P 83-03-065	275-56-270	NEW-E 83-03-066
220-57A-165	AMD-P 83-03-071	275-56-080	NEW-E 83-03-066	275-56-275	NEW-P 83-03-065
220-57A-180	AMD-P 83-03-071	275-56-085	NEW-P 83-03-065	275-56-275	NEW-E 83-03-066
220-57A-190	AMD-P 83-03-071	275-56-085	NEW-E 83-03-066	275-56-280	NEW-P 83-03-065
223-08-020	AMD 83-03-005	275-56-090	NEW-P 83-03-065	275-56-280	NEW-E 83-03-066
230-12-020	NEW-P 83-04-067	275-56-090	NEW-E 83-03-066	275-56-285	NEW-P 83-03-065
230-20-150	REP-P 83-04-067	275-56-095	NEW-P 83-03-065	275-56-285	NEW-E 83-03-066
232-12-04501	NEW-E 83-03-017	275-56-095	NEW-E 83-03-066	275-56-290	NEW-P 83-03-065
232-14	NEW-W 83-04-040	275-56-100	NEW-P 83-03-065	275-56-290	NEW-E 83-03-066
232-28-60501	NEW-E 83-02-043	275-56-100	NEW-E 83-03-066	275-56-295	NEW-P 83-03-065
232-28-60503	NEW-E 83-04-039	275-56-105	NEW-P 83-03-065	275-56-295	NEW-E 83-03-066
232-32-145	NEW-E 83-03-048	275-56-105	NEW-E 83-03-066	275-56-300	NEW-P 83-03-065
232-32-146	NEW-E 83-03-049	275-56-110	NEW-P 83-03-065	275-56-300	NEW-E 83-03-066
232-32-147	NEW-E 83-03-057	275-56-110	NEW-E 83-03-066	275-56-305	NEW-P 83-03-065
232-32-148	NEW-E 83-04-024	275-56-115	NEW-P 83-03-065	275-56-305	NEW-E 83-03-066
248-18-180	AMD-P 83-04-059	275-56-115	NEW-E 83-03-066	275-56-307	NEW-P 83-03-065
248-18-685	AMD-P 83-04-059	275-56-120	NEW-P 83-03-065	275-56-307	NEW-E 83-03-066
248-18-718	AMD 83-03-026	275-56-120	NEW-E 83-03-066	275-56-310	NEW-P 83-03-065
248-21-035	AMD-P 83-03-042	275-56-125	NEW-P 83-03-065	275-56-310	NEW-E 83-03-066
248-29-020	AMD-P 83-03-043	275-56-125	NEW-E 83-03-066	275-56-315	NEW-P 83-03-065
248-29-050	AMD-P 83-03-044	275-56-130	NEW-P 83-03-065	275-56-315	NEW-E 83-03-066
248-990-990	AMD 83-04-011	275-56-130	NEW-E 83-03-066	275-56-320	NEW-P 83-03-065
251-04-020	AMD-E 83-04-016	275-56-135	NEW-P 83-03-065	275-56-320	NEW-E 83-03-066
251-04-020	AMD-P 83-04-065	275-56-135	NEW-E 83-03-066	275-56-325	NEW-P 83-03-065
251-04-020	AMD-C 83-04-066	275-56-140	NEW-P 83-03-065	275-56-325	NEW-E 83-03-066
251-08-100	AMD-P 83-04-065	275-56-140	NEW-E 83-03-066	275-56-330	NEW-P 83-03-065
251-18-380	REP-P 83-04-065	275-56-145	NEW-P 83-03-065	275-56-330	NEW-E 83-03-066
251-18-381	NEW-P 83-04-065	275-56-145	NEW-E 83-03-066	275-56-335	NEW-P 83-03-065
251-22-040	AMD-P 83-04-065	275-56-150	NEW-P 83-03-065	275-56-335	NEW-E 83-03-066
251-22-060	AMD-P 83-04-065	275-56-150	NEW-E 83-03-066	275-56-340	NEW-P 83-03-065
251-22-200	AMD-P 83-04-065	275-56-155	NEW-P 83-03-065	275-56-340	NEW-E 83-03-066
275-25-010	AMD 83-03-011	275-56-155	NEW-E 83-03-066	275-56-345	NEW-P 83-03-065
275-25-020	AMD 83-03-011	275-56-160	NEW-P 83-03-065	275-56-345	NEW-E 83-03-066
275-25-030	AMD 83-03-011	275-56-160	NEW-E 83-03-066	275-56-350	NEW-P 83-03-065
275-25-340	AMD 83-03-011	275-56-165	NEW-P 83-03-065	275-56-350	NEW-E 83-03-066
275-25-530	AMD 83-03-011	275-56-165	NEW-E 83-03-066	275-56-355	NEW-P 83-03-065
275-25-700	REP 83-03-011	275-56-170	NEW-P 83-03-065	275-56-355	NEW-E 83-03-066
275-25-710	REP 83-03-011	275-56-170	NEW-E 83-03-066	275-56-360	NEW-P 83-03-065
275-25-720	REP 83-03-011	275-56-175	NEW-P 83-03-065	275-56-360	NEW-E 83-03-066
275-25-730	REP 83-03-011	275-56-175	NEW-E 83-03-066	275-56-365	NEW-P 83-03-065
275-25-740	REP 83-03-011	275-56-180	NEW-P 83-03-065	275-56-365	NEW-E 83-03-066
275-25-750	REP 83-03-011	275-56-180	NEW-E 83-03-066	275-56-370	NEW-P 83-03-065
275-25-760	REP 83-03-011	275-56-185	NEW-P 83-03-065	275-56-370	NEW-E 83-03-066
275-25-770	REP 83-03-011	275-56-185	NEW-E 83-03-066	275-56-375	NEW-P 83-03-065
275-25-810	AMD 83-03-011	275-56-190	NEW-P 83-03-065	275-56-375	NEW-E 83-03-066
275-25-820	REP 83-03-011	275-56-190	NEW-E 83-03-066	275-56-380	NEW-P 83-03-065
275-25-830	REP 83-03-011	275-56-195	NEW-P 83-03-065	275-56-380	NEW-E 83-03-066
275-25-840	AMD 83-03-011	275-56-195	NEW-E 83-03-066	275-56-385	NEW-P 83-03-065
275-55-293	AMD 83-03-010	275-56-200	NEW-P 83-03-065	275-56-385	NEW-E 83-03-066
275-56-005	NEW-P 83-03-065	275-56-200	NEW-E 83-03-066	275-56-390	NEW-P 83-03-065
275-56-005	NEW-E 83-03-066	275-56-205	NEW-P 83-03-065	275-56-390	NEW-E 83-03-066
275-56-010	NEW-P 83-03-065	275-56-205	NEW-E 83-03-066	275-56-395	NEW-P 83-03-065
275-56-010	NEW-E 83-03-066	275-56-210	NEW-P 83-03-065	275-56-395	NEW-E 83-03-066
275-56-015	NEW-P 83-03-065	275-56-210	NEW-E 83-03-066	275-56-400	NEW-P 83-03-065
275-56-015	NEW-E 83-03-066	275-56-215	NEW-P 83-03-065	275-56-400	NEW-E 83-03-066
275-56-020	NEW-P 83-03-065	275-56-215	NEW-E 83-03-066	275-56-405	NEW-P 83-03-065
275-56-020	NEW-E 83-03-066	275-56-220	NEW-P 83-03-065	275-56-405	NEW-E 83-03-066
275-56-025	NEW-P 83-03-065	275-56-220	NEW-E 83-03-066	275-56-410	NEW-P 83-03-065
275-56-025	NEW-E 83-03-066	275-56-225	NEW-P 83-03-065	275-56-410	NEW-E 83-03-066
275-56-030	NEW-P 83-03-065	275-56-225	NEW-E 83-03-066	275-56-415	NEW-P 83-03-065
275-56-030	NEW-E 83-03-066	275-56-230	NEW-P 83-03-065	275-56-415	NEW-E 83-03-066
275-56-035	NEW-P 83-03-065	275-56-230	NEW-E 83-03-066	275-56-420	NEW-P 83-03-065
275-56-035	NEW-E 83-03-066	275-56-235	NEW-P 83-03-065	275-56-420	NEW-E 83-03-066
275-56-040	NEW-P 83-03-065	275-56-235	NEW-E 83-03-066	275-56-425	NEW-P 83-03-065
275-56-040	NEW-E 83-03-066	275-56-240	NEW-P 83-03-065	275-56-425	NEW-E 83-03-066
275-56-050	NEW-P 83-03-065	275-56-240	NEW-E 83-03-066	275-56-430	NEW-P 83-03-065
275-56-050	NEW-E 83-03-066	275-56-245	NEW-P 83-03-065	275-56-430	NEW-E 83-03-066
275-56-055	NEW-P 83-03-065	275-56-245	NEW-E 83-03-066	275-56-435	NEW-P 83-03-065
275-56-055	NEW-E 83-03-066	275-56-250	NEW-P 83-03-065	275-56-435	NEW-E 83-03-066
275-56-060	NEW-P 83-03-065	275-56-250	NEW-E 83-03-066	275-56-440	NEW-P 83-03-065
275-56-060	NEW-E 83-03-066	275-56-255	NEW-P 83-03-065	275-56-440	NEW-E 83-03-066

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
275-56-445	NEW-P	83-03-065	308-48-020	REP	83-04-021	356-26-100	AMD-P	83-04-035
275-56-445	NEW-E	83-03-066	308-48-030	AMD	83-04-020	356-30-330	AMD-C	83-03-035
275-87-005	REP-P	83-02-049	308-48-090	REP	83-04-021	381	NEW	83-03-036
275-87-005	REP-E	83-02-051	308-48-110	AMD	83-04-020	388-08-435	NEW	83-03-021
275-87-010	REP-P	83-02-049	308-48-115	REP	83-04-021	388-28-005	AMD	83-04-033
275-87-010	REP-E	83-02-051	308-48-165	NEW	83-04-020	388-28-355	AMD	83-04-033
275-87-015	REP-P	83-02-049	308-48-170	REP	83-04-021	388-28-400	AMD	83-04-033
275-87-015	REP-E	83-02-051	308-48-175	REP	83-04-021	388-28-415	AMD	83-04-033
275-87-020	REP-P	83-02-049	308-48-190	AMD	83-04-020	388-28-473	AMD	83-04-033
275-87-020	REP-E	83-02-051	308-48-19001	REP	83-04-021	388-28-475	AMD	83-04-033
275-87-025	REP-P	83-02-049	308-48-200	AMD	83-04-020	388-28-480	AMD	83-04-033
275-87-025	REP-E	83-02-051	308-49-100	NEW	83-04-021	388-28-481	AMD	83-04-033
275-96-005	REP-P	83-02-048	308-49-120	NEW	83-04-021	388-28-482	AMD	83-04-033
275-96-005	REP-E	83-02-050	308-49-130	NEW	83-04-021	388-28-483	NEW	83-04-033
275-96-010	REP-P	83-02-048	308-49-140	NEW	83-04-021	388-28-484	AMD	83-04-033
275-96-010	REP-E	83-02-050	308-49-150	NEW	83-04-021	388-28-500	AMD	83-04-033
275-96-015	REP-P	83-02-048	308-49-160	NEW	83-04-021	388-28-535	AMD	83-04-033
275-96-015	REP-E	83-02-050	308-49-170	NEW	83-04-021	388-28-560	AMD	83-04-033
275-96-021	REP-P	83-02-048	308-49-180	NEW	83-04-021	388-28-590	AMD	83-04-060
275-96-021	REP-E	83-02-050	308-52-135	AMD-P	83-03-045	388-28-600	AMD	83-04-033
275-96-022	REP-P	83-02-048	308-52-138	AMD	83-03-031	388-33-135	AMD	83-04-033
275-96-022	REP-E	83-02-050	308-52-140	AMD-P	83-03-045	388-33-140	AMD	83-04-033
275-96-025	REP-P	83-02-048	308-52-150	NEW	83-03-031	388-54-615	AMD-E	83-04-042
275-96-025	REP-E	83-02-050	308-52-500	AMD-P	83-03-045	388-54-615	AMD-P	83-04-043
275-96-030	REP-P	83-02-048	308-52-502	NEW-P	83-03-045	388-54-630	AMD-E	83-04-042
275-96-030	REP-E	83-02-050	308-52-504	AMD-P	83-03-045	388-54-630	AMD-P	83-04-043
275-96-045	REP-P	83-02-048	308-52-520	REP-P	83-03-045	388-54-640	AMD-E	83-04-042
275-96-045	REP-E	83-02-050	308-52-550	REP-P	83-03-045	388-54-640	AMD-P	83-04-043
275-96-050	REP-P	83-02-048	308-52-560	REP-P	83-03-045	388-54-645	AMD-E	83-04-042
275-96-050	REP-E	83-02-050	308-95-010	NEW-P	83-04-068	388-54-645	AMD-P	83-04-043
275-96-055	REP-P	83-02-048	308-95-020	NEW-P	83-04-068	388-54-650	AMD-E	83-04-042
275-96-055	REP-E	83-02-050	308-95-030	NEW-P	83-04-068	388-54-650	AMD-P	83-04-043
275-96-060	REP-P	83-02-048	308-116-295	AMD-P	83-02-062	388-54-655	AMD-E	83-04-042
275-96-060	REP-E	83-02-050	308-120-345	NEW	83-04-051	388-54-655	AMD-P	83-04-043
275-96-065	REP-P	83-02-048	308-151-080	AMD-P	83-04-029	388-54-665	AMD-E	83-04-042
275-96-065	REP-E	83-02-050	308-151-100	AMD-P	83-04-029	388-54-665	AMD-P	83-04-043
275-96-070	REP-P	83-02-048	314-12-125	NEW-P	83-03-012	388-54-670	AMD	83-03-015
275-96-070	REP-E	83-02-050	314-16-120	AMD-P	83-03-013	388-54-670	AMD-E	83-04-042
289-13-235	NEW-C	83-04-003	314-37-010	NEW	83-04-017	388-54-670	AMD-P	83-04-043
289-15-225	AMD	83-04-004	314-52-110	AMD-P	83-03-013	388-54-675	AMD-E	83-04-042
296-15-044	REP-P	83-04-057	315-04-090	AMD-E	83-03-041	388-54-675	AMD-P	83-04-043
296-15-045	NEW-P	83-04-057	315-04-190	AMD-E	83-03-041	388-54-687	AMD-E	83-04-042
296-15-200	AMD-E	83-04-002	315-04-200	AMD-P	83-03-046	388-54-687	AMD-P	83-04-043
296-15-200	AMD-P	83-04-058	315-04-220	NEW-E	83-03-041	388-54-695	AMD-E	83-04-042
296-17-345	NEW-E	83-04-038	315-06-020	AMD	83-03-034	388-54-695	AMD-P	83-04-043
296-27-020	AMD-P	83-04-044	315-06-050	AMD-E	83-03-041	388-54-715	AMD-E	83-04-042
296-27-078	NEW-P	83-04-044	315-06-060	NEW	83-03-034	388-54-715	AMD-P	83-04-043
296-54-507	AMD-E	83-03-022	315-06-060	NEW-E	83-04-019	388-54-730	AMD-E	83-04-042
296-116-320	AMD-P	83-02-045	315-06-080	AMD	83-03-033	388-54-730	AMD-P	83-04-043
296-116-330	NEW	83-03-037	315-06-080	NEW-E	83-04-019	388-54-740	AMD	83-03-015
296-401-070	AMD-C	83-03-039	315-06-120	NEW-E	83-03-041	388-54-740	AMD-E	83-04-042
296-401-080	AMD-C	83-03-039	315-10-020	AMD-E	83-03-041	388-54-740	AMD-P	83-04-043
304-20-060	AMD-P	83-03-074	315-10-030	AMD	83-03-034	388-54-750	AMD-E	83-04-042
304-25-560	AMD-P	83-03-073	315-11-010	NEW	83-03-034	388-54-750	AMD-P	83-04-043
308-12-010	AMD	83-04-071	315-11-010	NEW-E	83-04-019	388-54-760	AMD-E	83-04-042
308-12-030	REP	83-04-071	315-11-020	NEW	83-03-034	388-54-760	AMD-P	83-04-043
308-12-031	NEW	83-04-071	315-11-020	NEW-E	83-04-019	388-54-780	AMD-E	83-04-042
308-12-040	AMD	83-04-071	315-11-030	NEW	83-03-034	388-54-780	AMD-P	83-04-043
308-12-050	AMD	83-04-071	315-11-030	NEW-E	83-04-019	388-54-785	AMD	83-03-015
308-12-080	AMD	83-04-071	315-11-040	NEW-E	83-03-040	388-54-785	AMD-E	83-04-042
308-12-081	NEW	83-04-071	315-11-041	NEW-E	83-03-040	388-54-785	AMD-P	83-04-043
308-12-082	NEW	83-04-071	315-11-041	NEW-P	83-04-069	388-54-810	REP	83-03-015
308-12-110	AMD	83-04-071	315-11-042	NEW-E	83-03-040	388-70-068	AMD	83-04-061
308-12-120	AMD	83-04-071	332-30-142	AMD	83-02-055	388-70-069	AMD	83-04-061
308-12-130	AMD	83-04-071	332-44-100	NEW-E	83-03-029	388-73-014	AMD	83-02-060
308-12-320	AMD	83-04-071	332-44-110	NEW-E	83-03-029	388-73-01950	NEW	83-02-060
308-25-020	AMD-P	83-04-070	352-12-010	AMD-P	83-02-057	388-73-020	AMD	83-02-060
308-31-010	AMD	83-03-032	352-12-020	REP-W	83-02-058	388-73-024	AMD	83-02-060
308-31-030	NEW	83-03-032	352-12-030	REP-W	83-02-058	388-73-042	AMD	83-02-060
308-31-040	NEW	83-03-032	352-12-040	REP-W	83-02-058	388-73-050	AMD	83-02-060
308-31-050	NEW	83-03-032	352-12-050	REP-W	83-02-058	388-73-058	AMD	83-02-060
308-31-060	NEW	83-03-032	352-32-030	AMD-P	83-04-073	388-73-060	AMD	83-02-060
308-37-130	AMD	83-04-050	352-32-037	AMD-P	83-04-073	388-73-062	AMD	83-02-060
308-37-135	NEW	83-04-050	352-32-045	AMD-P	83-04-073	388-73-068	AMD	83-02-060
308-40-102	AMD-P	83-04-049	352-32-250	AMD-P	83-04-073	388-73-076	AMD	83-02-060
308-40-110	AMD-P	83-04-049	356-14-085	AMD-C	83-03-035	388-73-102	AMD	83-02-060
308-48-010	AMD	83-04-020	356-15-130	AMD-P	83-04-035	388-73-103	NEW	83-02-060

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
388-73-108	AMD	83-02-060	392-163-425	NEW-P	83-04-054	458-20-186	AMD-P	83-04-062
388-73-118	AMD	83-02-060	392-163-430	NEW-P	83-04-054	458-20-18801	AMD-P	83-04-062
388-73-132	AMD	83-02-060	392-163-440	NEW-P	83-04-054	458-20-189	AMD-P	83-04-064
388-73-134	AMD	83-02-060	392-163-445	NEW-P	83-04-054	458-20-190	AMD-P	83-04-064
388-73-136	AMD	83-02-060	392-163-450	NEW-P	83-04-054	458-20-191	AMD-P	83-04-064
388-73-140	AMD	83-02-060	392-163-455	NEW-P	83-04-054	458-20-193A	AMD-P	83-04-064
388-73-142	AMD	83-02-060	392-163-460	NEW-P	83-04-054	458-20-193B	AMD-P	83-04-064
388-73-144	AMD	83-02-060	392-163-465	NEW-P	83-04-054	458-20-193C	AMD-P	83-04-064
388-73-146	AMD	83-02-060	392-171-386	AMD-P	83-04-072	458-20-193D	AMD-P	83-04-064
388-73-304	AMD	83-02-060	392-171-401	AMD-P	83-04-072	458-20-196	AMD-P	83-04-062
388-73-310	AMD	83-02-060	392-171-631	AMD-P	83-04-072	458-20-198	AMD-P	83-04-062
388-73-504	AMD	83-02-060	392-171-661	AMD-P	83-04-072	458-20-199	AMD-P	83-04-062
388-73-604	AMD	83-02-060	392-171-691	AMD-P	83-04-072	458-20-224	AMD-P	83-04-062
388-73-708	AMD	83-02-060	392-171-761	AMD-P	83-04-072	458-20-235	AMD-P	83-04-062
388-73-714	AMD	83-02-060	392-171-766	AMD-P	83-04-072	458-40-19101	AMD-P	83-02-056
388-86-050	AMD-E	83-02-046	392-171-771	AMD-P	83-04-072	460-24A-050	AMD	83-03-024
388-86-075	AMD	83-03-016	392-171-776	AMD-P	83-04-072	460-33A-010	NEW	83-03-025
388-87-013	AMD	83-03-016	392-171-781	AMD-P	83-04-072	460-33A-015	NEW	83-03-025
388-87-070	AMD	83-03-016	446-50-080	AMD	83-03-008	460-33A-016	NEW	83-03-025
388-99-060	AMD	83-03-016	458-20-100	AMD-P	83-04-062	460-33A-017	NEW	83-03-025
388-320-220	AMD	83-03-021	458-20-101	AMD-P	83-04-062	460-33A-020	NEW	83-03-025
392-138	AMD-C	83-03-004	458-20-102	AMD-P	83-04-063	460-33A-025	NEW	83-03-025
392-163-005	REP-P	83-04-054	458-20-104	AMD-P	83-04-063	460-33A-030	NEW	83-03-025
392-163-100	NEW-P	83-04-054	458-20-106	AMD-P	83-04-063	460-33A-035	NEW	83-03-025
392-163-105	NEW-P	83-04-054	458-20-107	AMD-P	83-04-063	460-33A-040	NEW	83-03-025
392-163-110	NEW-P	83-04-054	458-20-108	AMD-P	83-04-063	460-33A-050	NEW	83-03-025
392-163-115	NEW-P	83-04-054	458-20-112	AMD-P	83-04-063	460-33A-055	NEW	83-03-025
392-163-120	NEW-P	83-04-054	458-20-113	AMD-P	83-04-063	460-33A-060	NEW	83-03-025
392-163-125	NEW-P	83-04-054	458-20-114	AMD-P	83-04-062	460-33A-065	NEW	83-03-025
392-163-130	NEW-P	83-04-054	458-20-116	AMD-P	83-04-063	460-33A-070	NEW	83-03-025
392-163-135	NEW-P	83-04-054	458-20-118	AMD-P	83-04-063	460-33A-075	NEW	83-03-025
392-163-140	NEW-P	83-04-054	458-20-121	AMD-P	83-04-063	460-33A-080	NEW	83-03-025
392-163-142	NEW-P	83-04-054	458-20-123	AMD-P	83-04-063	460-33A-085	NEW	83-03-025
392-163-145	NEW-P	83-04-054	458-20-124	AMD-P	83-04-063	460-33A-090	NEW	83-03-025
392-163-170	NEW-P	83-04-054	458-20-125	AMD-P	83-04-063	460-33A-100	NEW	83-03-025
392-163-175	NEW-P	83-04-054	458-20-126	AMD-P	83-04-063	460-33A-105	NEW	83-03-025
392-163-180	NEW-P	83-04-054	458-20-127	AMD-P	83-04-063	460-33A-110	NEW	83-03-025
392-163-185	NEW-P	83-04-054	458-20-128	AMD-P	83-04-063	460-65A-010	NEW	83-03-024
392-163-190	NEW-P	83-04-054	458-20-130	AMD-P	83-04-063	460-65A-020	NEW	83-03-024
392-163-195	NEW-P	83-04-054	458-20-131	AMD-P	83-04-063	460-65A-030	NEW	83-03-024
392-163-200	NEW-P	83-04-054	458-20-132	AMD-P	83-04-063	460-65A-040	NEW	83-03-024
392-163-205	NEW-P	83-04-054	458-20-134	AMD-P	83-04-062	460-65A-100	NEW	83-03-024
392-163-210	NEW-P	83-04-054	458-20-135	AMD-P	83-04-063	460-65A-105	NEW	83-03-024
392-163-215	NEW-P	83-04-054	458-20-136	AMD-P	83-04-062	460-65A-110	NEW	83-03-024
392-163-220	NEW-P	83-04-054	458-20-137	AMD-P	83-04-063	460-65A-115	NEW	83-03-024
392-163-225	NEW-P	83-04-054	458-20-140	AMD-P	83-04-063	460-65A-125	NEW	83-03-024
392-163-230	NEW-P	83-04-054	458-20-141	AMD-P	83-04-063	460-90-100	REP-P	83-03-056
392-163-235	NEW-P	83-04-054	458-20-142	AMD-P	83-04-063	460-90-110	REP-P	83-03-056
392-163-240	NEW-P	83-04-054	458-20-143	AMD-P	83-04-063	460-90-120	REP-P	83-03-056
392-163-245	NEW-P	83-04-054	458-20-145	AMD-P	83-04-062	460-90-122	REP-P	83-03-056
392-163-250	NEW-P	83-04-054	458-20-146	AMD-P	83-04-062	460-90-125	REP-P	83-03-056
392-163-255	NEW-P	83-04-054	458-20-148	AMD-P	83-04-063	460-90-130	REP-P	83-03-056
392-163-260	NEW-P	83-04-054	458-20-150	AMD-P	83-04-063	460-90-140	REP-P	83-03-056
392-163-300	NEW-P	83-04-054	458-20-151	AMD-P	83-04-062	460-90-150	REP-P	83-03-056
392-163-305	NEW-P	83-04-054	458-20-153	AMD-P	83-04-064	460-90-160	REP-P	83-03-056
392-163-310	NEW-P	83-04-054	458-20-156	AMD-P	83-04-064	460-90-170	REP-P	83-03-056
392-163-315	NEW-P	83-04-054	458-20-159	AMD-P	83-04-064	460-90-180	REP-P	83-03-056
392-163-320	NEW-P	83-04-054	458-20-161	AMD-P	83-04-064	460-90-190	REP-P	83-03-056
392-163-322	NEW-P	83-04-054	458-20-162	AMD-P	83-04-064	460-90-200	REP-P	83-03-056
392-163-325	NEW-P	83-04-054	458-20-163	AMD-P	83-04-064	460-90-300	REP-P	83-03-056
392-163-330	NEW-P	83-04-054	458-20-165	AMD-P	83-04-064	460-90-310	REP-P	83-03-056
392-163-335	NEW-P	83-04-054	458-20-166	AMD-P	83-04-064	460-90-320	REP-P	83-03-056
392-163-340	NEW-P	83-04-054	458-20-167	AMD-P	83-04-062	460-90-330	REP-P	83-03-056
392-163-345	NEW-P	83-04-054	458-20-168	AMD-P	83-04-064	460-90-400	REP-P	83-03-056
392-163-350	NEW-P	83-04-054	458-20-169	AMD-P	83-04-064	460-90-410	REP-P	83-03-056
392-163-355	NEW-P	83-04-054	458-20-170	AMD-P	83-04-064	460-90-420	REP-P	83-03-056
392-163-360	NEW-P	83-04-054	458-20-171	AMD-P	83-04-064	460-90-430	REP-P	83-03-056
392-163-365	NEW-P	83-04-054	458-20-172	AMD-P	83-04-064	460-90-440	REP-P	83-03-056
392-163-370	NEW-P	83-04-054	458-20-173	AMD-P	83-04-064	460-90-450	REP-P	83-03-056
392-163-375	NEW-P	83-04-054	458-20-174	AMD-P	83-04-064	460-90-460	REP-P	83-03-056
392-163-385	NEW-P	83-04-054	458-20-175	AMD-P	83-04-064	460-90-470	REP-P	83-03-056
392-163-390	NEW-P	83-04-054	458-20-176	AMD-P	83-04-064	460-90-480	REP-P	83-03-056
392-163-400	NEW-P	83-04-054	458-20-178	AMD-P	83-04-064	460-90-490	REP-P	83-03-056
392-163-405	NEW-P	83-04-054	458-20-180	AMD-P	83-04-064	460-90-500	REP-P	83-03-056
392-163-410	NEW-P	83-04-054	458-20-181	AMD-P	83-04-064	460-90-510	REP-P	83-03-056
392-163-415	NEW-P	83-04-054	458-20-184	AMD-P	83-04-064	460-90-900	REP-P	83-03-056
392-163-420	NEW-P	83-04-054	458-20-185	AMD-P	83-04-062	460-90A-010	NEW-P	83-03-056

Table of WAC Sections Affected

WAC #		WSR #
460-90A-020	NEW-P	83-03-056
460-90A-030	NEW-P	83-03-056
460-90A-040	NEW-P	83-03-056
460-90A-050	NEW-P	83-03-056
460-90A-060	NEW-P	83-03-056
460-90A-070	NEW-P	83-03-056
460-90A-080	NEW-P	83-03-056
460-90A-090	NEW-P	83-03-056
460-90A-100	NEW-P	83-03-056
460-90A-105	NEW-P	83-03-056
460-90A-110	NEW-P	83-03-056
460-90A-120	NEW-P	83-03-056
460-90A-130	NEW-P	83-03-056
460-90A-140	NEW-P	83-03-056
460-90A-150	NEW-P	83-03-056
461-08-180	AMD-C	83-04-037
463-28-060	AMD-E	83-04-023
463-28-060	AMD-P	83-04-047
468-46-040	AMD-P	83-04-056
468-300-010	AMD-P	83-04-052
468-300-020	AMD-P	83-04-052
468-300-030	AMD-P	83-04-052
468-300-040	AMD-P	83-04-052
468-300-070	AMD-P	83-04-052
480-12-180	AMD-P	83-03-054
480-12-190	AMD-P	83-03-054
480-30-095	AMD-P	83-03-053
480-30-100	AMD-P	83-03-053
480-40-070	AMD-P	83-03-052
480-40-075	AMD-P	83-03-052
480-70-330	AMD-P	83-03-055
480-70-400	AMD-P	83-03-055
480-140-040	AMD-P	83-03-023
480-140-160	AMD-P	83-03-023
504-16	REP-C	83-04-010
504-17	AMD-C	83-04-010

Subject/Agency Index

COMMUNITY COLLEGE DISTRICT 4 (See SKAGIT VALLEY COLLEGE)			
COMMUNITY COLLEGE DISTRICT 5 (See EDMONDS AND EVERETT COMMUNITY COLLEGES)			
COMMUNITY COLLEGE DISTRICT 6 (See SEATTLE COMMUNITY COLLEGE)			
COMMUNITY COLLEGE DISTRICT 7 (See SHORELINE COMMUNITY COLLEGE)			
COMMUNITY COLLEGE DISTRICT 8 (See BELLEVUE COMMUNITY COLLEGE)			
COMMUNITY COLLEGE DISTRICT 10 (See GREEN RIVER COMMUNITY COLLEGE)			
COMMUNITY COLLEGE DISTRICT 12 (SEE CENTRALIA COLLEGE AND OLYMPIA TECHNICAL COMMUNITY COLLEGE)			
COMMUNITY COLLEGE DISTRICT 14 (See CLARK COLLEGE)			
COMMUNITY COLLEGE DISTRICT 17 (See SPOKANE COMMUNITY COLLEGES)			
COMMUNITY COLLEGE DISTRICT 20 (See WALLA WALLA COMMUNITY COLLEGE)			
COMMUNITY COLLEGE EDUCATION, STATE BOARD FOR (See also individual community colleges)			
Vocational education duties	83-01-070		
COMMUNITY ECONOMIC REVITALIZATION BOARD			
General provisions	83-03-061		
Loans and grants	83-03-061		
Meeting schedule	83-01-086		
	83-03-062		
Practice and procedures	83-03-061		
Public records	83-03-061		
SEPA	83-03-061		
CONTRACTORS			
Small works roster	83-02-024		
CONVENTION AND TRADE CENTER			
General procedures	83-02-054		
Meeting schedule	83-03-006		
Public records	83-02-054		
SEPA compliance	83-02-053		
CORRECTIONS, DEPARTMENT OF			
Facility review committee membership	83-01-084		
Inmates			
mail	83-02-048		
	83-02-050		
out-of-state transfer	83-01-138		
personal property	83-02-049		
	83-02-051		
stationary and postage	83-02-019		
	83-02-020		
telephone usage	83-02-018		
	83-02-021		
Probation and parole			
cost of supervision	83-01-137		
interstate compact	83-01-139		
COUNTIES			
Alcoholism			
county plan	83-02-025		
	83-03-011		
Community mental health program (See MENTAL HEALTH/ILLNESS)			
Developmental disabilities			
county plan	83-02-025		
	83-03-011		
Drug abuse			
county plan	83-02-025		
	83-03-011		
COUNTIES—cont.			
Flooding emergency		83-01-020	
		83-01-021	
		83-01-095	
		83-01-096	
		83-03-009	
Health board			
on-site sewage disposal		83-01-125	
Home rule charter		83-01-035	
Probation and parole			
cost of supervision		83-01-137	
interstate compact		83-01-139	
Salaries of county officers		83-01-035	
CRAB (See FISHERIES, DEPARTMENT OF, subtopic Shellfish)			
CREDIT UNIONS (See GENERAL ADMINISTRATION, DEPARTMENT OF)			
CRIME VICTIMS COMPENSATION (See LABOR AND INDUSTRIES, subtopic Industrial insurance)			
CRIMINAL JUSTICE TRAINING COMMISSION			
Basic law enforcement training		83-04-009	
		83-04-014	
		83-04-007	
		83-04-013	
		83-04-008	
		83-04-012	
CRIPPLED CHILDREN'S SERVICES (See HEALTH, STATE BOARD OF)			
DAIRY PRODUCTS COMMISSION			
Milk assessment		83-04-048	
DANGEROUS WASTE (See ENERGY FACILITY SITE EVALUATION COUNCIL; STATE PATROL)			
DAY CARE			
Abuse, neglect, exploitation		83-02-060	
Fire standards		83-02-060	
General and seasonal services described		83-02-028	
Licensing			
adult family homes		83-02-060	
capacity		83-02-060	
family day care homes		83-02-060	
juvenile detention facilities		83-02-060	
Religious activities		83-02-060	
Safety and maintenance		83-02-060	
DENTAL DISCIPLINARY BOARD			
Prescription drugs			
inventory and recording		83-04-050	
Scheduled drugs			
recording		83-04-050	
DENTAL EXAMINERS, BOARD OF			
Examination content		83-04-049	
Foreign trained dentists		83-04-049	
DEVELOPMENTALLY DISABLED AND HANDICAPPED			
Community training program		83-01-118	
County plan		83-02-025	
		83-03-011	
Developmentally disabled planning council		83-01-033	
Discrimination in public accommodations and real estate (See HUMAN RIGHTS COMMISSION)			
Education for handicapped children		83-04-072	
Group homes			
mental/physical handicap		83-01-119	
DRUGS (See PHARMACY, BOARD OF)			
ECOLOGY, DEPARTMENT OF			
Air pollution sources		83-03-070	
general regulations		83-03-070	
implementation		83-03-070	
kraft pulping mills		83-03-070	
primary aluminum plants		83-03-070	

Subject/Agency Index

ECOLOGY, DEPARTMENT OF—cont.			
sulfite pulping mills	83-03-070		
Dangerous wastes	83-01-127		
Environmental hearings office (See ENVIRONMENTAL HEARINGS OFFICE)			
Groundwater			
designation of areas			
Walla Walla	83-02-039		
NPDES			
public hearings	83-02-040		
Shorelines management programs			
Anacortes	83-02-004		
Bellevue	83-02-065		
Bothell	83-02-064		
	83-03-069		
Clallam county	83-02-008		
	83-02-066		
Elma	83-02-003		
Kitsap county	83-02-010		
	83-03-067		
Seattle	83-02-065		
Skagit county	83-02-007		
	83-02-065		
Spokane county	83-02-005		
	83-02-065		
Whatcom county	83-02-006		
Solid waste			
minimum standards for handling	83-02-009		
	83-03-068		
EDMONDS AND EVERETT COMMUNITY COL- LEGES (District 5)			
Edmonds			
Everett			
meeting schedule	83-01-063		
EDUCATION, STATE BOARD OF			
Pupils			
uniform entry qualifications	83-01-131		
ELECTRIC ENERGY			
Public utility tax	83-01-059		
Weatherization assistance plan hearing	83-03-064		
ELMA			
Shoreline management master program	83-02-003		
EMERGENCY SERVICES, DEPARTMENT OF			
Aircraft rescue transmitters	83-01-039		
Flooding			
tidal shorelines	83-01-095		
western Washington	83-01-020		
	83-01-021		
	83-01-096		
	83-03-009		
	83-03-019		
EMPLOYMENT SECURITY, DEPARTMENT OF			
CETA phase-out	83-01-022		
Job Training Partnership Act			
coordinating council created	83-01-022		
implementation	83-01-022		
labor market information system	83-01-022		
ENERGY FACILITY SITE EVALUATION COUNCIL			
Council purpose	83-01-127		
Definition of issues before hearing	83-01-126		
Dangerous wastes	83-01-127		
monitoring and enforcement	83-01-127		
Energy facility applications			
legal descriptions and ownership	83-01-128		
transmission system criteria	83-01-128		
Prehearing conferences			
attendance by members	83-01-126		
orders	83-01-126		
Request for preemption			
contested case	83-04-023		
	83-04-047		
ENVIRONMENTAL HEARINGS OFFICE			
Shorelines hearing board			
ENVIRONMENTAL HEARINGS OFFICE—cont.			
rules of practice		83-01-019	
		83-04-037	
EQUIPMENT COMMISSION			
Traction devices		83-03-014	
EVERETT COMMUNITY COLLEGE (See EDMONDS AND EVERETT COMMUNITY COLLEGES)			
EXAMINING COMMITTEE OF PHYSICAL THERA- PISTS			
Annual report		83-01-116	
Examination			
passing score		83-01-116	
results may be withheld		83-01-116	
Reciprocity		83-01-116	
Reinstatement		83-01-116	
EXECUTIVE ORDERS (See GOVERNOR, OFFICE OF THE)			
FINANCIAL MANAGEMENT, OFFICE OF			
General fund allotments			
expenditure reductions		83-01-101	
Motor vehicle use		83-03-003	
FIREARMS (See GUNS)			
FIRE MARSHALL (See INSURANCE COMMISSION- ER)			
FISHERIES, DEPARTMENT OF			
Agency procedures			
small works roster		83-02-024	
Commercial fishing			
bottomfish			
anchovy		83-04-036	
baitfish regulations		83-01-133	
		83-04-025	
candle fish		83-04-036	
closed areas, trawl gear		83-01-133	
		83-04-025	
herring		83-04-036	
pilchard		83-04-036	
widow rockfish		83-03-007	
salmon			
Humptulips river		83-01-011	
		83-01-017	
Puget Sound			
fishery restrictions			
		83-01-008	
		83-01-012	
		83-01-027	
		83-01-044	
		83-01-100	
		83-03-071	
plan for chinook			
shellfish			
crab			
dungeness		83-01-026	
sea urchin		83-01-133	
		83-04-025	
shrimp		83-01-133	
		83-04-025	
smelt		83-01-133	
		83-04-025	
sturgeon			
gear		83-04-005	
seasons		83-03-030	
		83-04-053	
Indians (See INDIANS)			
Personal use and sport fishing rules			
bottomfish			
barbless hook rule		83-03-071	
lingcod areas and seasons		83-03-071	
possession limits		83-03-071	
general procedures for 1983-84 season		83-03-071	
salmon			
barbless hook rule		83-03-071	
closed areas		83-03-071	
saltwater seasons and bag limits		83-03-071	

Subject/Agency Index

FISHERIES, DEPARTMENT OF—cont.		GAMBLING COMMISSION (See also LOTTERY COMMISSION)—cont.	
size rule	83-03-071	raffles	83-01-107
shad		annual activity reports	83-01-107
areas and seasons	83-03-071	recordkeeping	83-01-107
shellfish		social and public card rooms	
clams		employee pictures	83-01-107
possession limits	83-01-134	quarterly activity reports	83-01-107
	83-04-027	Raffles	
hardshells, cockles, mussels	83-03-071	temporary prize limits	83-01-046
razor clams		GAME, DEPARTMENT OF	
areas and seasons	83-01-025	Agency procedures	
	83-01-132	meeting schedule	83-02-035
	83-03-026	small works roster	83-02-024
	83-03-071	Dogs, when they can be destroyed	83-03-017
squid or octopus	83-03-071	Fishing	
sturgeon		Chehalis river closed	83-03-048
areas and seasons	83-03-071		83-03-057
FISHING—GAME FISH (See GAME, DEPARTMENT OF)		Cowlitz county	
FOODFISH (See FISHERIES, DEPARTMENT OF)		certain lakes	83-01-004
FOREST PRACTICES APPEALS BOARD		game fish seasons and catch limits for 1983	83-01-005
Practice and procedure regulations	83-03-005	Grant county	83-04-039
FOOD STAMPS		Skamania county	
(See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)		certain lakes	83-01-004
FORESTS AND FOREST PRODUCTS		steelhead	
Forest land values	83-02-056	certain marine waters closed	83-01-091
Timber tax		Chehalis river closed to Indians	83-03-048
conversion definitions and factors	83-02-032		83-03-057
	83-02-033	Nisqually river closed to Indians	83-04-024
definitions	83-02-032	Nooksack river closed to Indians	83-04-024
	83-02-033	Pysht bay, Morse creek, Sekiu river	83-03-049
harvester adjustments	83-02-032	Pysht river closed to Indians	83-04-024
	83-02-033	Skagit river closed to Indians	83-04-024
hauling distance zones	83-02-032	Snake river	
	83-02-033	open fishing season	83-02-043
small harvester option	83-02-032	Sooes rivers closed to Indians	83-04-024
	83-02-033	Waatch river closed to Indians	83-04-024
stumpage value areas	83-02-032	Hunting	
	83-02-033	unlawful firearms	83-01-006
stumpage value tables	83-02-032	Hydraulic code	83-04-040
	83-02-033	GAS (See OIL AND GAS)	
timber piling volume	83-02-032	GENERAL ADMINISTRATION, DEPARTMENT OF	
	83-02-033	Banking	
timber pole volume	83-02-032	commercial banks	
	83-02-033	excess fund transactions	83-02-015
timber quality code numbers	83-02-032	U.S. government securities	
	83-02-033	purchase or sale	83-01-081
FOSTER CARE			83-01-082
Earnings of foster child	83-01-120	Minority and women's businesses	83-03-038
	83-04-061	Savings and loan associations	
Licensing of homes	83-02-060	credit unions	
Resources and income	83-01-120	audit and accounts	83-01-064
	83-04-061	generally	83-01-073
FUNERAL DIRECTORS AND EMBALMERS		satellite/network system	83-01-064
(See LICENSING, DEPARTMENT OF)			83-01-073
GAMBLING COMMISSION (See also LOTTERY COMMISSION)		application	83-01-065
Amusement games		definitions	83-02-013
authorized types	83-01-107	modification	83-01-065
Card games		Small works roster	83-02-024
limits on wagers	83-01-045	GLIDERS (See TRANSPORTATION, DEPARTMENT OF)	
Charitable and nonprofit organizations		GOVERNOR, OFFICE OF THE	
gambling receipt deposits	83-01-107	CETA phase-out	83-01-022
	83-04-067	Developmental disabilities planning council	83-01-033
Commission meeting schedule	83-02-059	Emergency	
Licenses		tidal shorelines	83-01-095
amusement games	83-01-107		83-03-019
annual activity reports	83-01-107	western Washington	83-01-020
bingo	83-01-107		83-01-021
activity reports	83-01-107		83-01-096
annual	83-01-107		83-03-019
quarterly	83-01-107	Skagit county	83-03-009
fund raisers	83-01-107	Whatcom county	83-03-009

Subject/Agency Index

GOVERNOR, OFFICE OF THE—cont.			
General fund allotments			
expenditure reductions	83-01-052		
	83-01-101		
Job training coordinating council	83-01-022		
Job Training Partnership Act	83-01-022		
Minority and women's business enterprises	83-03-038		
GRAYS HARBOR COLLEGE (District 2)			
Meeting schedule	83-01-102		
GREEN RIVER COMMUNITY COLLEGE (District 10)			
Meeting schedule	83-01-071		
GUNS			
Hunting			
unlawful firearms	83-01-006		
HANDICAPPED (See DEVELOPMENTALLY DISABLED AND HANDICAPPED)			
HEALTH, STATE BOARD OF			
Abortions (See ABORTIONS)			
Childbirth center			
license	83-03-043		
procedures	83-03-044		
Crippled children's services			
authorization of services	83-01-002		
definitions	83-01-002		
eligibility	83-01-002		
fees	83-01-002		
funding ceilings	83-01-002		
hospital qualifications	83-01-002		
third-party resources	83-01-002		
Dietary department	83-04-059		
Food service	83-04-059		
Health districts	83-04-011		
Hospice care centers			
infection control	83-03-042		
Hospitals			
definitions	83-01-003		
design requirements	83-03-026		
On-site sewage disposal	83-01-125		
HEALTH CARE FACILITIES AUTHORITY			
Equipment financing			
applications	83-01-061		
HIGHER EDUCATION PERSONNEL BOARD			
Annual leave accrual	83-04-065		
Definitions			
cyclic year	83-04-065		
instructional year	83-04-065		
lay off	83-01-122		
	83-04-016		
	83-04-066		
lay off seniority	83-04-065		
Holidays	83-04-065		
Leave of absence without pay	83-04-065		
Periodic increment date	83-04-065		
HIGHWAYS (See TRANSPORTATION, DEPARTMENT OF)			
HOSPITAL COMMISSION			
Accounting and reporting manual	83-04-032		
Budget and rate requests	83-04-006		
HUMAN RIGHTS COMMISSION			
Handicapped discrimination in public accommodation			
reasonable accommodation	83-02-012		
structural barriers to accessibility	83-02-012		
waiver of rights as condition unfair	83-02-012		
Handicap discrimination in real estate transaction			
structural barriers to accessibility	83-02-012		
Meeting schedule	83-01-078		
INDIANS			
Liquor sales	83-01-060		
	83-01-123		
	83-04-017		
Salmon			
INDIANS—cont.			
Humptulips river	83-01-011		
	83-01-017		
plan for Puget Sound chinook	83-03-071		
Puget Sound commercial fishing restrictions	83-01-008		
	83-01-012		
	83-01-027		
	83-01-044		
	83-01-100		
Steelhead			
certain rivers closed	83-04-024		
Chehalis river closed	83-03-048		
	83-03-057		
Pysht bay, Morse creek, Sekiu river	83-03-049		
Sturgeon	83-03-030		
	83-04-053		
INSURANCE COMMISSIONER			
Fire protection standards			
adult residential treatment facilities	83-01-049		
	83-03-028		
private adult treatment homes	83-01-024		
	83-03-027		
INDUSTRIAL INSURANCE (See LABOR AND INDUSTRIES)			
INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION			
Applications	83-01-030		
Definitions	83-01-030		
Federal overlay	83-01-030		
Funds	83-01-030		
Goals and objectives	83-01-030		
Grant-in-aid policy	83-01-030		
Local agency requirements	83-01-030		
Meeting schedules	83-01-009		
Off-road vehicles	83-01-030		
Organization, operations and procedures	83-01-030		
Participation manuals	83-01-030		
Project contract	83-01-030		
Public records	83-01-030		
Restrictions of sponsors	83-01-030		
JAIL COMMISSION			
Maximum capacities	83-04-004		
New facilities certification	83-04-003		
JOB TRAINING COORDINATING COUNCIL (See EMPLOYMENT SECURITY, DEPARTMENT OF)			
JUDGES			
Judicial qualification commission			
jurisdiction	83-01-048		
KITSAP COUNTY			
Shoreline management master program	83-02-010		
	83-03-067		
LABOR AND INDUSTRIES, DEPARTMENT OF			
Electricians			
journeyman	83-03-039		
specialty	83-03-039		
Industrial insurance			
appeals board			
administration and organization	83-01-001		
crime victims compensation	83-01-001		
hearing rules	83-01-001		
practice and procedures	83-01-001		
public records	83-01-001		
vocational rehabilitation appeals	83-01-001		
state fund deficit	83-04-057		
Industrial Safety and Health Act	83-04-044		
Logging	83-03-022		
Mobile homes			
building requirements	83-01-018		
fees	83-01-018		
inspections	83-01-018		
installation permits	83-01-018		
installation requirements	83-01-018		
Self-insurance			

Subject/Agency Index

LABOR AND INDUSTRIES, DEPARTMENT OF

—cont.

claim log 83-04-002
83-04-058
83-04-057

deficit assessment 83-01-023
83-01-075

groups
admission of new members 83-01-023
83-01-075

application 83-01-023
83-01-075

funds 83-01-023
83-01-075

reports 83-01-023
83-01-075

reserves 83-01-023
83-01-075

surplus distribution 83-01-023
83-01-075

termination of individual members 83-01-023
83-01-075

trustee responsibilities 83-01-023
83-01-075
83-01-076

Workers' compensation

classifications, rates, rating system 83-02-037

employees supporting separate operations 83-01-129

evaluation of incurred losses 83-01-129

group dividends 83-02-038

interstate or foreign carriers 83-04-038

penalty assessments 83-01-130

qualifications for employer participation 83-01-129

retrospective rating formula 83-01-129

risk classification 83-01-130

employees supporting separate operations 83-02-037

state fund deficit 83-04-057

LAWYERS (See ATTORNEYS)

LIBRARY, STATE

Library network rules and regulations 83-03-073

Meetings
reconsideration of proposals and grant awards 83-01-047

Public disclosure exemption 83-03-074

LICENSED PRACTICAL NURSES (See LICENSING, DEPARTMENT OF)

LICENSING, DEPARTMENT OF

Architects
corporate practice 83-04-071

examination
fees 83-01-110
form—oral and written 83-04-071

licenses 83-04-071

meetings 83-04-071

reciprocity 83-04-071

registration
fees 83-01-110

schools—approved 83-04-071

Camping clubs 83-03-056

Charitable Solicitations Act
definitions 83-01-112

exemption not transferable 83-01-112

percentage limitation waiver 83-01-112

Dental hygiene
examination 83-04-070

Funeral directors and embalmers
definitions 83-04-020

licenses 83-04-020

reciprocity applications 83-01-111

restrictions 83-04-020

Funeral services, prearrangement 83-04-021

Investment advisor 83-03-024

Licensed practical nurses 83-02-062

Motor vehicles
impoundment 83-04-068

Real estate
closing officers 83-02-044

Real estate commission

LICENSING, DEPARTMENT OF—cont.

meeting schedule 83-02-042

Securities
investment advisor 83-03-024

mortgages, trust, contracts 83-03-025

LIGHT AND POWER BUSINESSES (See ELECTRIC ENERGY)

LIQUOR CONTROL BOARD

Advertising 83-03-013

Indians
sales on reservations 83-01-060
83-01-123
83-04-017

Licenses
class H
liquor purchases 83-01-029

conduct on premises 83-03-013

Sales person must speak English 83-03-012

LOTTERY COMMISSION (See also GAMBLING COMMISSION)

Agent identification card 83-01-117

Commission organization 83-01-108

Definitions
instant game number 1 83-03-034
83-04-019
83-01-117

ticket bearer

Instant game number 1
criteria 83-04-019

ticket validation requirements 83-04-019

Instant game number 2
criteria 83-01-109
83-03-034
83-03-040
83-04-069

definitions 83-01-109
83-03-040

ticket validation requirements 83-01-109
83-03-034
83-03-040

Licenses
agent compensation 83-01-117
83-03-041

agent eligibility 83-01-117
83-03-041

authority to sell 83-03-034

definitions 83-03-041

general license 83-01-117

location of sale 83-01-117
83-03-041

revocation, denial, suspension 83-03-046

off premises sales permit 83-01-117
83-03-041

Meeting schedule 83-01-050

Operations and procedure 83-01-108

Prizes
certain winners prohibited 83-04-019

payment 83-01-117

Public records 83-01-108

Tickets
certain purchases prohibited 83-04-019

employees of commission 83-03-034

price 83-03-034
83-04-019

purchase by agent 83-03-033

MATERNITY CENTERS (See DAY CARE)

MEDICAL EXAMINERS

Physicians assistants 83-03-031
83-03-045

Physicians acupuncture assistants 83-03-045

MENTAL HEALTH/ILLNESS

Community mental health program 83-01-014

county administration regulations 83-03-065
83-03-066

Subject/Agency Index

MENTAL HEALTH/ILLNESS—cont.		PARKS AND RECREATION—cont.	
definitions	83-01-014	Meeting schedule	83-01-113
	83-03-065		83-01-124
	83-03-066	Public use of park area	
licensed service providers	83-01-014	assemblies, meetings	83-02-041
	83-03-065	religious services	83-02-041
	83-03-066	solicitation	83-02-041
priorities	83-01-014	Small works roster	83-02-024
	83-03-065		
	83-03-066		
County plan	83-02-025		
	83-03-011		
	83-03-065		
	83-03-066		
Group homes			
mentally and physically handicapped	83-01-119		
Recertification of facilities	83-03-010		
MEXICAN-AMERICAN AFFAIRS, COMMISSION ON		PERSONNEL, DEPARTMENT OF/PERSONNEL BOARD	
Meeting schedule	83-01-140	Board	
MOBILE HOMES (See LABOR AND INDUSTRIES, DEPARTMENT OF)		meeting schedule	83-03-018
OLYMPIA TECHNICAL COMMUNITY COLLEGE (See CENTRALIA COLLEGE AND OLYMPIA TECHNICAL COMMUNITY COLLEGE)		powers and duties	83-01-042
NATIONAL GUARD		Definitions	
Emergency		exit leave	83-01-115
flooding in tidal shorelines	83-01-095	seniority	83-01-115
flooding in western Washington	83-01-020	Demotion	
	83-01-021	subsequent elevation	83-01-093
	83-01-096	voluntary	83-01-042
	83-03-009	Exit leave	83-01-094
	83-03-019		83-01-115
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (See ECOLOGY, DEPARTMENT OF, subtopic NPDES)		Political activity	83-01-115
NATURAL RESOURCES, DEPARTMENT OF		Reduction-in-force	
Aquatic lands	83-02-055	reasons, regulations	83-01-041
Board meetings	83-04-018		83-01-094
Forest patrol, forest fire suppression account			83-01-115
assessment procedures	83-01-099		83-03-035
Log patrol closure on Lake Whatcom	83-03-029		
Oil and gas		Registers	
lease royalties	83-01-103	appointments	83-01-042
Pier spacing rules	83-02-055	certification, local areas	83-04-035
Timber tax (See FORESTS AND FORESTS PRODUCTS)		designation	83-01-115
NOXIOUS WEED CONTROL BOARD		Salaries	83-03-035
List of noxious weeds	83-04-055	special pay ranges	83-04-035
NURSING, BOARD OF		Transfer	
CRN renewal	83-04-051	between agencies	83-01-042
NURSING HOMES		between class	83-01-042
Accounting and reimbursement system	83-01-074	within class	83-01-042
Definitions	83-01-016	Vacation leave disposition	83-01-115
Medicaid contractors		PHARMACY, BOARD OF	
final settlement	83-01-067	Condom regulations	83-01-083
Personnel	83-01-016	wholesale/retail license	83-01-083
Residents		Drug abuse county plan	83-02-025
intermediate nursing care residents	83-01-016		83-03-011
skilled nursing care residents	83-01-016	Licenses	
OIL AND GAS		licensing periods	83-01-037
Lease royalties	83-01-103		83-01-082
OKANOGAN COUNTY		Operations and procedures of board	83-01-083
Dog problem	83-03-017	Patient medication record systems	83-01-083
PARACHUTING (See TRANSPORTATION, DEPARTMENT OF)		Public records	83-01-083
PARKS AND RECREATION		Schedule V controlled substances	83-01-083
Environmental learning centers	83-04-073	PHYSICAL THERAPISTS (See EXAMINING COMMITTEE ON PHYSICAL THERAPISTS)	
Marine facilities		PILOTAGE COMMISSIONERS, BOARD OF	
moorage and use	83-02-057	Marine pilot liability	83-03-037
	83-02-058	Retirement fund contribution	83-02-045
		PLANNING AND COMMUNITY AFFAIRS AGENCY	
		Weatherization plan hearing	83-03-064
		PODIATRY BOARD	
		Advertisements	83-03-032
		Examination	83-03-032
		Licenses	83-03-032
		Schools	83-03-032
		PREGNANCY TERMINATION (See ABORTION)	
		PRISON TERMS AND PAROLES	
		Public records	83-03-036
		PROCLAMATIONS (See GOVERNOR, OFFICE OF THE)	
		PUBLIC ASSISTANCE (See SOCIAL AND HEALTH SERVICES)	
		PUBLIC DISCLOSURE COMMISSION	
		Meeting schedule	83-02-030

Subject/Agency Index

PUBLIC UTILITIES			
(See also UTILITIES AND TRANSPORTATION COMMISSION)			
Public utility tax	83-01-059		
RAFFLES (See GAMBLING COMMISSION)			
REAL ESTATE (See LICENSING, DEPARTMENT OF)			
REVENUE, DEPARTMENT OF			
Appeal procedure			
administrative law judge	83-01-097		
in general	83-04-062		
Business and occupation tax			
banks	83-04-062		
conditional and installment sales	83-01-097		
credit losses, bad debts, recoveries	83-01-097		
dishonored checks	83-04-062		
fees, dues, contributions, donations	83-04-062		
hospitals dispensing drugs	83-04-062		
libraries	83-04-063		
manufacturer, definition revised	83-04-062		
service tax	83-04-062		
tax liability accounting method	83-01-097		
various services described	83-04-064		
Forest land values (See FORESTS AND FOREST PRODUCTS)			
Fuel sales	83-04-063		
Grain	83-04-064		
Public utility tax	83-01-059		
credit losses, bad debts, recoveries	83-01-097		
heat as service	83-04-063		
Real estate excise tax			
assignments, purchasers, transfers	83-02-022		
deferral	83-02-022		
definitions	83-02-022		
earnest money	83-02-022		
escrow, abstract, title business	83-04-064		
foreclosure	83-02-022		
gifts	83-02-022		
nominee	83-02-022		
refunds	83-02-022		
trustee sale	83-02-022		
Rate of change	83-04-062		
Resale certificates	83-04-063		
Retail sales tax			
conditional and installment sales	83-04-062		
credit losses, bad debts, recoveries	83-01-097		
farm use	83-04-063		
local tax	83-04-062		
state agency exemption	83-04-062		
Timber tax (See FORESTS AND FOREST PRODUCTS)			
Tobacco	83-04-062		
	83-04-063		
Use tax			
certificate of registration fee increased	83-04-062		
commercial or industrial			
pit run gravel	83-04-062		
conditional and installment sales	83-04-062		
exemptions	83-04-064		
insulin, oxygen, prosthetics	83-04-062		
orthotics	83-04-062		
ostomic	83-04-062		
state agencies	83-04-062		
ROCKETS AND MISSILES (See TRANSPORTATION, DEPARTMENT OF)			
SALMON (See FISHERIES, DEPARTMENT OF)			
SAVINGS AND LOAN ASSOCIATIONS (See GENERAL ADMINISTRATION, DEPARTMENT OF)			
SCHOOLS			
Chiropractic			
accreditation	83-01-028		
Colleges (See individual colleges)			
Kindergarten/1st grade			
uniform entry qualifications	83-01-131		
Public schools employee salaries	83-02-047		
SCHOOLS—cont.			
Universities (See individual universities)			
SEATTLE COMMUNITY COLLEGE (District 6)			
Meeting schedule		83-01-032	
		83-01-051	
		83-02-011	
		83-03-002	
		83-04-001	
		83-04-046	
		83-01-114	
Student policies and procedures			
SENTENCING GUIDELINES COMMISSION			
Meeting schedule		83-01-054	
SHELLFISH (See FISHERIES, DEPARTMENT OF)			
SHORELINE COMMUNITY COLLEGE (District 7)			
Faculty and staff parking		83-01-077	
Fines and penalties		83-01-077	
Grievance proceedings		83-01-077	
Meeting schedule		83-01-092	
Mitigation and suspension		83-01-077	
Student conduct code		83-01-031	
Vice president for student services			
enforcement of determinations		83-01-077	
SHORELINES HEARING BOARD (See ENVIRONMENTAL HEARINGS OFFICE)			
SHORELINE MANAGEMENT (See ECOLOGY, DEPARTMENT OF)			
SKAGIT COUNTY			
Emergency		83-03-009	
Shoreline management master program		83-02-007	
SKAGIT VALLEY COLLEGE (District 4)			
Meeting schedule		83-01-062	
SMALL WORKS ROSTER (See GENERAL ADMINISTRATION, DEPARTMENT OF)			
SOCIAL AND HEALTH SERVICES, DEPARTMENT OF			
AFDC and continuing general assistance			
alien sponsorship			
income of sponsor		83-01-034	
		83-04-060	
		83-01-104	
		83-04-060	
budgeting, prospective and retrospective			
eligibility			
date of change		83-01-104	
prospective		83-01-104	
WIN/employment and training		83-01-104	
grant income or decrease		83-01-057	
		83-01-104	
exemption		83-01-057	
nonexempt resource and income		83-01-104	
		83-04-033	
residence sharing		83-01-121	
standards of assistance		83-01-121	
transfer of property		83-01-104	
		83-04-033	
financial need			
computing income		83-01-104	
		83-04-033	
effect of resources and income		83-01-104	
		83-04-033	
net income		83-01-104	
		83-04-033	
rules and procedures		83-01-104	
		83-04-033	
types of income		83-01-104	
hearing		83-03-021	
income defined		83-01-104	
presumptive spouse		83-01-104	
		83-04-033	
Blind (See BLIND)			
Community mental health program			
(See MENTAL HEALTH/ILLNESS)			
Day care (See DAY CARE)			

Subject/Agency Index

SOCIAL AND HEALTH SERVICES, DEPARTMENT

OF—cont.	
Developmental disabilities	
(See DEVELOPMENTALLY DISABLED)	
Employment and training—work incentive	
community work experience program	83-01-057
job search program duration	83-01-057
refusal of training or work	83-01-057
Food stamps	
application and participation	83-04-042
certification periods	83-04-043
hearing	83-03-021
household determination	83-04-042
income deductions	83-03-015
income eligibility	83-04-042
monthly allotment	83-03-015
resources	83-04-042
student eligibility	83-03-015
work registration	83-04-042
Foster care (See FOSTER CARE)	
Group homes	
mental/physical handicap	83-01-119
Limited casualty program	
hospital care, payment	83-03-016
medically needy in own home	
certification	83-01-058
eligibility determination	83-01-058
outpatient and emergency care	83-03-016
Medical care	
eligibility	
allocation of income	83-02-027
certification	83-02-027
outpatient and emergency care	83-03-016
private duty nursing services	83-01-056
services provided	83-01-056
inpatient hospital care	83-02-023
social security benefits	
eligibility determination	83-02-026
Nursing homes (See NURSING HOMES)	
Overpayment and repayment of assistance	
definitions	
intentional overpayment	83-02-016
overpayment	83-02-017
underpayment	83-02-016
effective dates	83-02-017
liability	83-02-016
mandatory grant reduction	83-02-016
repayment	83-02-017
verification	83-02-016
Public records	83-03-021
Refugee assistance	83-01-034
Support enforcement	
fees	83-02-029
Water service area conflicts	83-01-015

SOLID WASTE (See ECOLOGY, DEPARTMENT OF)

SPOKANE COMMUNITY COLLEGES (District 17)	
Meeting schedule	83-04-041
SPOKANE COUNTY	
Shoreline management master program	83-02-005
STATE PATROL	
Hazardous materials	83-03-008
STEELHEAD (See GAME, DEPARTMENT OF)	
SUPERINTENDENT OF PUBLIC INSTRUCTION	
Elementary and Secondary Education Act	83-04-054
Finance	
ASB moneys	83-02-002
Grants management	83-03-004
Handicapped children	83-04-054
Vocational education duties	83-04-072
Supreme Court	
Disciplinary rules	83-01-048
Judicial qualifications commission	83-02-044
jurisdiction	
Limited practice rule, closing officers	
SWINE (See AGRICULTURE, DEPARTMENT OF)	
TAVERNS (See LIQUOR CONTROL BOARD)	
TAXATION (See REVENUE, DEPARTMENT OF)	
TRANSPORTATION, DEPARTMENT OF	
Aeronautics	
pilot registration and fees	83-01-038
pilot seminars and clinics	83-01-038
Ferry	
toll schedule	83-04-052
Interstate 205	
temporary lane closure for transit buses	83-01-010
Transit vehicle stop sign	83-04-056
Use of airspace without pilots	
gliders and models	83-01-039
operating rules, Lake Washington	83-01-039
parachuting	83-01-039
rescue transmitters	83-01-039
rockets and missiles	83-01-039
spraying and dusting	83-01-039
TRAPPING (See GAME, DEPARTMENT OF)	
UNIVERSITIES (See individual universities)	
UNIVERSITY OF WASHINGTON	
Meeting schedules	83-02-034
URBAN ARTERIAL BOARD	
Meeting schedule	83-02-052
UTILITIES (See PUBLIC UTILITIES)	
UTILITIES AND TRANSPORTATION COMMISSION	
Auto transportation companies	83-03-053
Carriers	
driver logs	83-03-054
driver hours	83-03-054
equipment safety	83-03-054
household goods	
liability insurance	83-02-014
written estimates	83-02-014
Garbage companies	83-03-055
Motor vehicles	
drivers logs	83-03-052
drivers hours	83-03-052
equipment safety	83-03-052
Public utility tax	83-01-059
Utility company budgets	83-03-023
VETERINARY BOARD OF GOVERNORS	
Examination	
procedure	83-04-029
results	83-04-029
VOCATIONAL EDUCATION, COMMISSION FOR	
Duties regarding 1975 VOC-ED Act	83-01-070
Meeting schedule	83-03-063

Subject/Agency Index

VOCATIONAL REHABILITATION (See LABOR AND INDUSTRIES)

WALLA WALLA

Ground water designation 83-02-039

WALLA WALLA COMMUNITY COLLEGE (District 20)

Civil service rules 83-01-090

Students

constitution and bylaws 83-01-089

procedures of enforcement 83-01-087

rules of conduct 83-01-087

summary suspension procedures 83-01-088

WASHINGTON STATE UNIVERSITY

Board of regents meeting schedule 83-01-013

Parking and traffic regulations 83-01-007

83-04-010

WATER ASSOCIATIONS, WATER COMPANIES (See PUBLIC UTILITIES)

WESTERN WASHINGTON UNIVERSITY

Meeting schedules 83-01-072

83-04-028

WHATCOM COUNTY

Emergency 83-03-009

Log patrol closure, Lake Whatcom 83-03-029

Shoreline management master program 83-02-006

WORKERS' COMPENSATION (See LABOR AND INDUSTRIES)