

# Washington State Register

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## CITATION

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DENNIS W. COOPER  
Code Reviser

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# WASHINGTON STATE REGISTER

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## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

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

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

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

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

### 3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATTER

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

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

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

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

### 5. EFFECTIVE DATE OF RULES

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

### 6. EDITORIAL CORRECTIONS

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

### 7. INDEX AND TABLES

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

**1983**  
**DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION**

Issue No.	Closing Dates <sup>①</sup>			Distribution Date	First Agency Action Date <sup>③</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>②</sup> or 10 p. max. Non-OTS		
<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
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83-11	Apr 20	May 4	May 18	Jun 1	Jun 21
83-12	May 4	May 18	Jun 1	Jun 15	Jul 5
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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
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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 83-04-045**  
**RULES OF COURT**  
**STATE SUPREME COURT**  
 [January 21, 1983]

NO. 25700-A-343  
 ORDER

IN THE MATTER OF THE  
 RESCISSION OF THE DISCIPLINE  
 RULES FOR ATTORNEYS,  
 (DRA) THE ADOPTION OF THE  
 RULES FOR LAWYER DISCIPLINE,  
 (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	

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TITLE 1

GROUND AND JURISDICTION

RULE 1.1

GROUND FOR DISCIPLINE

A lawyer may be subjected to the disciplinary sanctions or actions set forth in these rules for any of the following:

(a) The commission of any act involving moral turpitude, dishonesty, or corruption, or any unjustified act of assault or other act which reflects disregard for the rule of law, whether the same be committed in the course of his or her conduct as a lawyer, or otherwise, and whether the same constitutes a felony or misdemeanor or not; and if the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action, nor shall acquittal or dismissal thereof preclude the commencement of a disciplinary proceeding;

(b) Willful disobedience or violation of a court order directing him or her to do or cease doing an act which he or she ought in good faith to do or forbear;

(c) Violation of his or her oath or duties as a lawyer;

(d) Willfully purporting to act as a lawyer for any person without the authority of that person;

(e) Permitting his or her name to be used as a lawyer by another person who is not a lawyer authorized to practice law in the state of Washington;

(f) Misrepresentation or concealment of a material fact made in his or her application for admission to the bar or admission to the bar examination or reinstatement or in support thereof;

(g) Suspension, disbarment or other disciplinary sanction by competent authority in any state, federal or foreign jurisdiction;

(h) Practicing law with or in cooperation with a disbarred or suspended lawyer, or maintaining an office for the practice of law in a room or office occupied or used in whole or in part by a disbarred or suspended lawyer, or permitting a disbarred or suspended lawyer to use his or her name for the practice of law, or practicing law for or on behalf of a disbarred or suspended lawyer, or practicing law under any arrangement or understanding for division of fees or compensation of any kind with a disbarred or suspended lawyer;

(i) Violation of the Code of Professional Responsibility of the profession adopted by the Supreme Court of the State of Washington;

(j) Violation of duties imposed by these rules, including but not limited to violation of rule 2.8, failing to respond to inquiries or requests regarding matters under

investigation; rule 4.5, failing to file an answer to a formal complaint; rule 4.6(c), failing to file an answer to an amendment to a formal complaint; rule 4.7(e), failing to cooperate with discovery; rule 4.10(g), failing to attend a hearing or failing to bring materials requested by state bar counsel; rule 5.5(b), failing to appear to receive a reprimand; rule 8.1, failing to notify clients and others of inability to act; rule 8.2, failing to discontinue practice; rule 8.3, failing to file an affidavit of compliance; rule 11.1(l), wrongful disclosure; rule 13.2, failing to cooperate with an examination of books and records; rule 13.3, failing to file a declaration or questionnaire certifying compliance with CPR DR 9-102;

(k) Violation of the Code of Judicial Conduct;

(l) Engaging in the practice of law while on inactive status, or while suspended from the practice of law for any cause;

(m) Failure to meet conditions of probation imposed pursuant to rule 5.2, or conditions of a stipulation approved pursuant to rule 4.14;

(n) Willful failure to pay restitution where required pursuant to rule 5.3, or to pay costs where required pursuant to rule 2.8(b) or rule 5.7;

(o) Attempting to commit an act, or assisting another in committing or attempting to commit an act, which if completed would be prohibited by this rule;

(p) Conduct demonstrating unfitness to practice law.

## RULE 1.2

### JURISDICTION

A lawyer admitted to the practice of law in this state, and any lawyer specially admitted by a court of this state for a particular case, shall be subject to these Rules for Lawyer Discipline. Jurisdiction shall continue whether or not the lawyer retains the authority to practice law in this state, and regardless of the residence of the lawyer.

## TITLE 2

### STRUCTURE AND DUTIES

#### RULE 2.1

##### SUPREME COURT

The Supreme Court of Washington has exclusive responsibility within the state for the administration of the lawyer discipline and disability system and has inherent power to maintain appropriate standards of professional conduct and to dispose of individual cases of lawyer discipline and disability. Persons carrying out the functions set forth in these rules are acting under the authority of the Supreme Court.

#### RULE 2.2

##### BOARD OF GOVERNORS

(a) Authority. The Board of Governors of the Association shall have the power and authority to:

(1) Supervise the general functioning of the Disciplinary Board, review committees, state bar counsel, bar staff and special district counsel;

(2) Make appointments, remove persons appointed, and fill vacancies as provided in these rules;

(3) Consider petitions for reinstatement after disbarment pursuant to Title 9;

(4) Perform such other functions and take such other actions as provided in these rules or as may be delegated to it by the Supreme Court or as may be necessary and proper to carry out its duties.

(b) Limitation of Authority. The Board of Governors shall have no right or responsibility to review decisions or recommendations of a hearing officer or panel or of the Disciplinary Board in specific cases except as provided in rule 7.3(c).

## RULE 2.3

### DISCIPLINARY BOARD

(a) Membership.

(1) Composition. The Board shall consist of not less than three nonlawyer members, appointed by the Supreme Court, and not less than one lawyer member from each congressional district, appointed by the Board of Governors.

(2) Qualifications. Lawyer members must have been active members of the Association for at least 7 years.

(3) Quorum. A majority of the Board members shall constitute a quorum. Given a quorum, the concurrence of a majority of those present shall constitute action of the Board.

(4) Disqualification. In the event a complaint is made to the Association alleging an act of misconduct by a lawyer member of the Board, such member shall take a leave of absence from the Board until the matter is resolved, unless otherwise directed by the Board of Governors. If a disciplinary sanction is imposed against the member, he or she shall be ineligible to serve further on the Board. The resulting vacancy shall be filled as set forth in rule 2.3(d).

(5) Voting. Each member, whether nonlawyer or lawyer, shall have one vote.

(b) Terms of Office. The term of office for a member of the Board shall be 3 years. Newly created Board positions may be filled by appointments of less than 3 years, as designated by the court or the Board of Governors, to permit as equal a number of positions as possible to be filled each year. All terms of office begin October 1 and end September 30 or when a successor has been appointed, whichever occurs later. Members may not serve more than one term except as otherwise provided in these rules. Members heretofore appointed shall continue to serve until replaced.

(c) Chairperson. The Board of Governors shall annually designate one lawyer member of the Board to act as chairperson and another as vice-chairperson. The vice-chairperson shall serve in the absence of or at the request of the chairperson.

(d) Vacancies. Vacancies in lawyer membership on the Board and in the office of the chairperson and the

vice-chairperson shall be filled by the Board of Governors. Vacancies in nonlawyer membership shall be filled by the Supreme Court. A person appointed to fill a vacancy shall complete the unexpired term of the person he or she replaces, and if that unexpired term is less than 18 months he or she may be reappointed to a consecutive term.

(e) Pro Tempore Members. When a member of the Board is disqualified or unable to function on a case for good cause, the chairperson of the Board may, by written order, designate a member pro tempore to sit with the Board to hear and determine the cause. A member pro tempore may be appointed from among those persons who have previously served as members of the Disciplinary Board, or from among lawyers appointed as alternate Board members by the Board of Governors and nonlawyers appointed as alternate Board members by the Supreme Court. A lawyer shall be appointed to substitute for a lawyer member of the Board, and a nonlawyer to substitute for a nonlawyer member of the Board.

(f) Authority of Board. The Board shall have the power and authority to:

(1) Review each proceeding in which a recommendation of disbarment, suspension, or transfer to disability inactive status has been made by a hearing officer or panel;

(2) Review each proceeding in which a recommendation other than disbarment or suspension from the practice of law has been made by a hearing officer or panel, including a recommendation of dismissal, upon an appeal filed pursuant to rule 6.1(b);

(3) Review stipulations entered into pursuant to rule 4.14 when such stipulations provide for suspension or disbarment;

(4) Review any prehearing ruling of a hearing officer or panel, upon request for review by either the respondent lawyer or state bar counsel, where the chairperson of the Board determines that such review is necessary and appropriate and will serve the ends of justice;

(5) Review the decision of a review committee dismissing allegations of misconduct by a lawyer when such review is directed by the chairperson of the Board, and upon such review order a hearing on the alleged misconduct, dismiss the matter, issue an advisory letter, or order such further investigation as may appear appropriate;

(6) Perform such other functions and take such other actions as provided in these rules or as may be delegated to it by the Board of Governors or Supreme Court, or as may be necessary and proper to carry out its duties.

(g) Meetings. The Board shall hold meetings at such times and places as it may determine. Where the chairperson of the Board determines that prompt action is necessary for protection of the public, and that circumstances do not permit a full meeting of the Board, the Board may vote on a matter otherwise ready for review without meeting together, through telephone or written communication.

(h) Clerk. The Executive Director of the Association, under the direction of the Board of Governors, may appoint a suitable person or persons to act as clerk to the

Board, to assist the Board and the review committees in carrying out their functions under these rules.

#### RULE 2.4

##### REVIEW COMMITTEES

(a) Membership. The chairperson of the Board shall appoint three or more review committees of three members each from among the members of the Board. Each review committee shall consist of two lawyers and one nonlawyer. The chairperson of the Board may reassign members among the several committees, on an interim or permanent basis. The chairperson of the Board shall not serve on a review committee.

(b) Chairperson. The chairperson of the Board shall designate one member of each review committee to act as its chairperson.

(c) Terms of Office. A member of a review committee shall serve until his or her term of office on the Board expires.

(d) Authority of Review Committees. Each review committee shall have the power and authority to:

(1) Review reports on investigations of alleged acts of misconduct by a lawyer, and upon such review order a hearing on the alleged misconduct, dismiss the matter, issue an advisory letter, or direct such further investigation as may appear appropriate;

(2) Order that an investigation into an alleged act of misconduct by a lawyer be deferred when it appears that the allegations are substantially similar to those in pending civil or criminal litigation, or when the lawyer complained against is physically or mentally unable to respond to the investigation, or for other good cause, where it appears that such deferral will not endanger the public;

(3) Review reports on investigations into allegations that a lawyer is mentally or physically unable to conduct the practice of law, and upon such review order a hearing into the capacity of the lawyer to conduct the practice of law, dismiss the matter, or direct such further investigation as may appear appropriate;

(4) Reconsider complaints conditionally dismissed by state bar counsel, when the complainant has disputed the dismissal and the complaint has not been reopened, and upon such reconsideration affirm the dismissal, order a hearing on the alleged misconduct, issue an advisory letter, or direct such further investigation as may appear appropriate;

(5) Review stipulations entered into pursuant to rule 4.14, other than stipulations for suspension or disbarment, and approve or reject such stipulations;

(6) Make determinations of whether a crime is a "serious crime" under rule 3.1 and authorize proceedings for suspension of a lawyer upon finding of risk to the public pursuant to rule 3.2(a);

(7) Perform such other functions and take such other actions as provided in these rules or as may be delegated to it by the Disciplinary Board or the Board of Governors, or as may be necessary and proper to carry out its duties.

(e) Distribution of Cases. The clerk of the Board if one has been appointed, or state bar counsel, shall have



the responsibility of transmitting matters to the several review committees under direction of the chairperson of the Board so as to equalize the case load of the committees to the extent possible.

(f) Meetings. Each review committee shall meet at such times and places as determined by the committee chairperson, under the general direction of the chairperson of the Board. A review committee may also conduct business and take action by conference call or through written communication without meeting together where the chairperson of the committee determines that prompt action is necessary.

#### RULE 2.5

##### HEARING OFFICER OR PANEL

(a) Eligibility. Hearing officers shall be assigned to cases from a list of lawyers maintained by the Board of Governors. The list shall include all lawyer members of the Disciplinary Board, and shall also include as many additional lawyers as the Board of Governors considers necessary to carry out the provisions of these rules effectively and efficiently.

(b) Qualifications. Appointment by the Board of Governors to the hearing officer list shall be made from among lawyers who have been active members of the Association for at least 7 years.

(c) Hearing Panel. When a hearing panel is assigned to hear a matter, the panel shall consist of three persons on the hearing officer list, or two such persons plus a nonlawyer. If the third member of a hearing panel is to be a nonlawyer, he or she shall be assigned from a list of suitable persons willing to serve in that capacity to be maintained by the Board of Governors. Such list may include the nonlawyer members of the Disciplinary Board, at the option of those members.

(d) Terms of Appointment. Appointment by the Board of Governors to the hearing officer list, or to the list of nonlawyers maintained pursuant to section (c), shall be for a period of 3 years. Eligibility of a member of the Disciplinary Board to serve as a hearing officer or panel member shall be concurrent with his or her term on the Board. Notwithstanding the provisions of this rule, a hearing officer or panel member shall have authority to act in any matter assigned to him or her prior to the expiration of his or her appointment or term.

(e) Duty. It shall be the duty of the hearing officer or panel to whom a case has been assigned for hearing to conduct the hearing as hereinafter provided.

#### RULE 2.6

##### STATE BAR COUNSEL

(a) Appointment. The Executive Director of the Association, under the direction of the Board of Governors, shall employ a suitable person or persons from among the members of the Association to act as counsel for the Association with respect to matters under these rules. Special state bar counsel may be appointed whenever necessary to conduct an individual investigation or proceeding.

(b) Duties. It shall be the duty of state bar counsel to:

(1) Take cognizance of any alleged or apparent act of misconduct by a lawyer, whether by complaint or otherwise, and investigate the same or assign the same for investigation to special district counsel;

(2) Assist in investigations conducted by special district counsel;

(3) Report results of investigations, except those conditionally dismissed, to a review committee;

(4) Conduct such additional investigation as a review committee may request;

(5) Act as counsel on behalf of the Association on all matters coming within these rules;

(6) Perform such other duties as shall be required by the Executive Director or the Board of Governors.

(c) Conditional Dismissals. State bar counsel shall have power conditionally to dismiss allegations of misconduct. A complainant may dispute such a conditional dismissal, in which case state bar counsel may either reopen the matter for investigation, or may refer the case to a review committee for reconsideration of the conditional dismissal.

(d) Discovery Prior to Formal Complaint. Where state bar counsel deems it advisable prior to the filing of a formal complaint to conduct the deposition of a lawyer being investigated or of a witness, or to issue requests for admission to a lawyer being investigated, he or she may do so.

(1) Procedure. Depositions pursuant to this rule shall be conducted in conformity with CR 30 or 31 to the extent possible. Requests for admission shall be governed by CR 36.

(2) Subpoenas for Depositions. A lawyer member of the Board or state bar counsel shall have the power to issue subpoenas to compel the attendance of the lawyer being investigated or of a witness, or the production of books, or documents, or other evidence, at the taking of a deposition. Subpoenas shall be served in the same manner as in civil cases in the superior court.

#### RULE 2.7

##### SPECIAL DISTRICT COUNSEL

(a) Appointment and Term of Office. The Board of Governors shall appoint one or more special district counsel in each congressional district of the state, from among the active members of the Association in good standing practicing in the district. The term of office for each special district counsel shall be 3 years. Special district counsel may be reappointed for consecutive terms.

(b) Duties. It shall be the duty of special district counsel to:

(1) Assist state bar counsel when requested in investigating allegations of misconduct by a lawyer, whether or not the lawyer resides or practices in the same congressional district;

(2) Forward to state bar counsel complaints alleging misconduct by a lawyer;

(3) Investigate at the request of a review committee any complaint of misconduct brought against state bar

counsel and report the same directly to the review committee.

(c) **Review by State Bar Counsel.** Upon receiving a report of an investigation conducted by a special district counsel, state bar counsel may request additional investigation, may conduct any additional investigation as may appear necessary, and may take any action under rule 2.6 as appears appropriate.

#### RULE 2.8

##### RESPONDENT LAWYER

(a) **Duty To Furnish Prompt Response.** It is the duty of every lawyer promptly to respond to any inquiry or request made pursuant to these rules for information relevant to complaints, grievances or matters under investigation concerning conduct of a lawyer. Upon such inquiry or request, every lawyer:

(1) Shall furnish in writing, or orally if requested, a full and complete response to inquiries and questions;

(2) Shall permit inspection and copying of his or her business records, files and accounts;

(3) Shall furnish copies of requested records, files and accounts;

(4) Shall furnish written releases or authorizations where needed to obtain access to documents or information in the possession of third parties, including in the case of inquiries into the physical or mental capacity of a lawyer written releases or authorizations needed to obtain access to medical, psychiatric, psychological or other relevant records and opinions; and

(5) Shall comply with discovery conducted pursuant to rule 2.6.

(b) **Failure To Cooperate.** When a lawyer has failed to comply with any request made pursuant to section (a) for more than 30 days, state bar counsel may notify the lawyer that failure to so comply within 10 days may necessitate the taking of the deposition of the lawyer pursuant to subpoena.

(1) Any deposition conducted after the expiration of that 10-day period and necessitated by the continued failure to cooperate by the lawyer may be conducted at any place within the state of Washington.

(2) A lawyer whose failure to cooperate has resulted in a deposition being conducted pursuant to the preceding subsection shall be liable for the actual costs of conducting such deposition, including but not limited to service fees, court reporter fees, travel expenses and the cost of transcribing the deposition, if ordered by state bar counsel, regardless of the ultimate disposition of the underlying complaint. Upon application of state bar counsel to a review committee itemizing the costs and setting forth the reasons necessitating the deposition, and after giving the lawyer 10 days to respond, the review committee shall by order assess such costs as appear appropriate against the lawyer. Board review of an order assessing costs under this rule may be conducted in the same manner and under the same terms as review under rule 5.7(e).

(3) Failure of a lawyer to cooperate fully and promptly with an investigation as required by section (a) of this rule shall also constitute grounds for discipline.

(c) **Privilege Against Self-Incrimination.** The duty of a lawyer to cooperate during the course of an investigation shall be subject to the lawyer's proper exercise of his or her privilege against self-incrimination, where applicable.

(d) **Attorney-Client Privilege.** A lawyer may not assert the attorney-client privilege or other prohibitions on revealing client confidences or secrets as a ground for refusing to provide information during the course of an investigation, but any information obtained during an investigation which involves client confidences or secrets shall be kept confidential to the extent possible under these rules unless the client otherwise consents.

(e) **Right to Representation.** A lawyer may be represented by counsel during any stage of an investigation or proceeding under these rules.

#### RULE 2.9

##### COMPLAINANT

(a) **Rights.** Any person filing a complaint with the Association alleging an act of misconduct by a lawyer shall have the right to:

(1) Be advised promptly of the receipt of the complaint, and of the name, address and office phone number of the person assigned to its investigation if such an assignment is made;

(2) Request reconsideration by a review committee of a conditional dismissal of the complaint by state bar counsel or reconsideration by the Board of a dismissal of the complaint by a review committee when the chairperson of the Board so directs;

(3) Have a reasonable opportunity to speak with the investigator assigned to the complaint, by telephone or in person, concerning the substance of the complaint or its status;

(4) Receive a copy of any response submitted by the lawyer complained against, except when that response makes reference to confidences or secrets of a client of the lawyer to which the complainant is not privy, or contains information of a personal and private nature regarding the lawyer, or when a review committee determines that the interests of justice would better be served if the response is not released;

(5) Submit additional supplemental written information or documentation at any time;

(6) Attend and testify as a witness at any hearing conducted into the complaint, subject to the applicable rules of evidence and any protective order issued pursuant to rule 11.1(f);

(7) Be advised of the disposition of the complaint.

(b) **Duties.** A person filing a complaint shall have the duty to furnish the person assigned to its investigation with documentary evidence in his or her possession, and the names and addresses of witnesses; to assist in securing evidence in relation to the facts charged; and to appear and testify at any hearing resulting from the complaint. Failure to fulfill these duties may be grounds for dismissal of a complaint.

(c) **Consent to Disclosure.** The filing of a complaint shall constitute consent to disclose the content of the complaint to the lawyer or to any other person contacted

during the investigation of the complaint, unless the complainant specifically withholds such consent. The filing of a complaint shall also constitute consent to disclosure by the lawyer complained against, or by any other lawyer contacted by the complainant, of any information relevant to the investigation of the complaint, unless the complainant specifically withholds such consent.

(d) Continuation of Complaint. Neither the unwillingness of a complainant to continue his or her complaint, nor withdrawal of the complaint, nor compromise between the complainant and the lawyer, nor restitution by the lawyer, shall in itself require dismissal of a complaint.

### TITLE 3

#### SUSPENSION BEFORE FINAL DISPOSITION

##### RULE 3.1

#### SUSPENSION FOR CONVICTION OF A CRIME

(a) Court Clerk To Advise Association of Conviction. The clerk of any court of this state in which a lawyer is convicted of a crime shall advise the Association of the conviction, and shall provide the Association upon request with certified copies of any order or other document evidencing the conviction. "Conviction" for the purposes of this rule shall be considered to have occurred upon entry of a plea of guilty, unless the defendant affirmatively shows that the plea was not accepted or was withdrawn, or upon entry of a finding or verdict of guilty, unless the defendant affirmatively shows that judgment was arrested or a new trial granted.

(b) Determination of "Serious Crime." Upon being advised that a lawyer has been convicted of a crime, a review committee shall determine whether the crime constitutes a serious crime as defined by this rule, unless the crime is a felony. If the crime is a felony, or if a review committee determines by order that the crime constitutes a serious crime, state bar counsel shall petition the Supreme Court for an order suspending the lawyer during the pendency of disciplinary proceedings, and shall also proceed to file a formal complaint with regard to the conviction. The petition for suspension may be filed before the formal complaint. If the crime is not a felony and is determined not to be a serious crime, the review committee shall consider the report of the conviction in the same manner as any other report of possible misconduct by a lawyer.

(c) Petition. A petition to the Supreme Court for suspension of a lawyer under this rule shall include a copy of any available document establishing the fact of conviction. When the crime is not a felony, the petition shall also include a copy of the order of the review committee finding that the crime is a serious crime. The petition may also include additional facts, statements, arguments, affidavits, and documents in the discretion of state bar counsel. A copy of the petition shall be personally served upon the respondent lawyer, and proof of service filed with the court.

(d) Immediate Interim Suspension. Upon the filing of a petition for suspension pursuant to this rule, the court

shall determine whether the crime constitutes a serious crime as defined herein. If the crime is a felony, the court shall enter an order immediately suspending the lawyer from the practice of law. If the crime is not a felony, a show cause proceeding shall be conducted as provided in rule 3.2(d)-(e) to determine whether the crime is a serious crime as defined herein. Suspension under this rule shall occur whether the conviction of the serious crime was under a law of this state or of any other state or was under federal law, and whether the conviction was after a plea of guilty, nolo contendere, not guilty, or otherwise, and regardless of the pendency of an appeal. Upon such suspension the lawyer shall comply with the notice provisions of rule 8.1(a). If the court determines that the crime is not a serious crime, the Association shall be advised and the matter shall be processed in the ordinary manner.

(e) Duration of Suspension. When a lawyer is suspended under this rule, the duration of such suspension shall not exceed final disposition of the disciplinary proceeding commenced against the lawyer. When the disciplinary proceeding is fully completed, after appeal or otherwise, the suspension occurring under this rule shall end.

(f) Termination of Suspension. The Board may, upon petition of the respondent lawyer, recommend to the Supreme Court the termination of a suspension under this rule at any time prior to the final disposition of the disciplinary proceedings. State bar counsel may file a response to the petition for termination of suspension and may be directed by the chairperson of the Board to conduct such investigation as appears appropriate. Oral argument before the Board on the petition shall be permitted upon the request of either the respondent lawyer or state bar counsel and shall be conducted at such time and place and under such terms as the chairperson of the Board shall direct. A recommendation for termination of suspension may be made only upon an affirmative finding of the Board that there is good cause for terminating the suspension. Upon receipt by the court of a recommendation for termination of suspension, it shall be reviewed under such proceedings as the court may direct. There shall be no right of appeal from a decision of the Board declining to recommend termination of a suspension under this rule.

(g) Notice of Dismissal to Supreme Court. When a petition for suspension has been filed under this rule, and the disciplinary proceedings based on the criminal conviction of the lawyer are dismissed, the Supreme Court shall be provided with a copy of the decision granting dismissal whether or not the lawyer is under suspension at the time of dismissal.

(h) Definition of "Serious Crime." "Serious crime" includes any felony and also includes any other crime a necessary element of which, as determined by the statutory or common law definition of such crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation or theft; or an attempt, or a conspiracy, or solicitation of another, to commit a "serious crime".

## RULE 3.2

## SUSPENSION IN OTHER CIRCUMSTANCES

(a) Upon Finding of Risk to Public. At any time when it appears that a continuation of the practice of law by a respondent lawyer during the pendency of any proceeding under these rules, including proceedings under Title 10, will result in substantial harm, loss or damage to the public, the Association, on unanimous recommendation of a review committee, may petition the Supreme Court for an order suspending the respondent lawyer during the pendency of the proceedings.

(b) Upon Board Recommendation for Disbarment. When the Board enters a decision providing for disbarment of a lawyer, state bar counsel shall file a petition under this rule for suspension of the lawyer during the remainder of the proceedings. Suspension under this section shall occur unless a lawyer makes an affirmative showing that his or her continuation of the practice of law will not be detrimental to the integrity and standing of the bar and the administration of justice, or be contrary to the public interest. If the decision of the Board is not appealed and becomes final, such petition need not be filed, or if filed may be withdrawn.

(c) Petition. A petition to the Supreme Court under this rule shall set forth the acts of the respondent lawyer believed to constitute grounds for such suspension, and if filed pursuant to section (b) shall include a copy of the decision of the Board. The petition may be supported by documents or affidavits. A copy of the petition shall be personally served upon the respondent lawyer.

(d) Show Cause Order. Upon filing of the petition an order to show cause, signed by the Chief Justice of the Supreme Court, shall be issued requiring the respondent lawyer to appear before the court on such date as the Chief Justice may set, and then and there show cause why the petition for suspension should not be granted. A copy of the order to show cause shall be personally served upon the respondent lawyer by the Association at least 5 days before the scheduled show cause hearing.

(e) Answer to Petition. The respondent lawyer may answer the petition. Any such answer may be supported by documents or affidavits. Failure to answer shall not result in default or waive the right to appear at the show cause hearing.

(f) Filing of Answer. A copy of any answer shall be filed with both the Supreme Court and the Association at least 3 days before the scheduled show cause hearing.

(g) Application of Other Rules. If the Supreme Court enters an order suspending the lawyer, the provisions of these rules relating to suspended attorneys, including Title 8, shall apply.

## TITLE 4

## HEARING PROCEDURES AND STIPULATIONS

## RULE 4.1

## APPLICATION OF CIVIL RULES

(a) General Conformance With Civil Rules. Proceedings pursuant to these rules shall be conducted in general conformance with the civil rules applicable to actions

in the superior courts of the State of Washington. Those rules shall apply directly when indicated, and in all other cases shall serve as guidance.

(b) Meaning of Terms. In applying the civil rules to proceedings pursuant to these rules, terms shall have the following meanings:

(1) "Court" or "judge" as used in the civil rules shall mean the hearing officer or panel chairperson; the hearing panel; or the Board or Board chairperson, as appropriate;

(2) "Parties" as used in the civil rules shall mean the respondent lawyer and state bar counsel.

## RULE 4.2

## APPOINTMENT OF HEARING OFFICER OR PANEL

(a) Appointment. The chairperson of the Board shall appoint a hearing officer or panel to hear a matter ordered to hearing from among the persons eligible under rule 2.5, except that a member of the review committee which ordered the matter to hearing shall not be appointed on the case. When a panel is appointed the committee shall designate one lawyer member as chairperson. Any vacancy in the position of hearing officer or hearing panel member or chairperson may be filled by the chairperson of the Board.

(b) Disqualification. The respondent attorney may seek the disqualification of the hearing officer or any hearing panel member for cause.

(1) A request for disqualification of a hearing officer or panel member shall be filed in writing within 20 days of service upon the respondent lawyer of the name of the officer or panel member challenged. The request shall set forth in detail the reason for the request.

(2) The unchallenged member or members of the hearing panel, if any, shall rule on the request. In the event the challenge is against a hearing officer or against all members of the panel, or if the remaining members of the panel cannot agree, the chairperson of the Board shall rule on the requested disqualification.

(3) If a request for disqualification is granted, the chairperson of the Board shall fill the vacancy created. The respondent lawyer shall have the right to request the disqualification of any such appointee in the same manner as the original appointee.

(c) Authority. In addition to the powers specifically provided herein, the hearing officer or panel chairperson appointed to hear a matter may make any ruling which appears necessary and appropriate to insure a fair and orderly proceeding.

## RULE 4.3

## COMMENCEMENT OF PROCEEDINGS

(a) Formal Complaint. Following a decision that a hearing should be held to determine whether a lawyer has committed an act of misconduct under rule 1.1, state bar counsel shall prepare a formal complaint and file it in the office of the Association. State bar counsel shall additionally send a copy of the formal complaint to the hearing officer or to each member of the hearing panel

appointed to hear the matter, upon filing of the complaint or as soon thereafter as a hearing officer or panel is appointed.

(b) Content. The formal complaint shall set forth the acts or omissions of the respondent lawyer in sufficient detail to make the lawyer aware of the nature of the allegations of misconduct. It shall be signed by state bar counsel, but need not be verified.

(c) Prior Discipline. The record of prior disciplinary proceedings resulting in the imposition of sanctions against the respondent lawyer may be made a separate count of the formal complaint if the lawyer is being charged with conduct demonstrating unfitness to practice law.

(d) Joinder. The body ordering a hearing on alleged misconduct may in its discretion consolidate for hearing two or more charges as to the same lawyer, or may join the charges as to two or more lawyers in one formal complaint.

(e) Filing Commences Proceedings. A disciplinary proceeding shall be deemed commenced when the formal complaint is filed.

(f) Service. After the formal complaint is filed it shall be personally served on the respondent lawyer, together with a notice to answer.

RULE 4.4

NOTICE TO ANSWER

(a) Content. The notice to answer shall be substantially in the following form:

BEFORE THE DISCIPLINARY BOARD OF THE WASHINGTON STATE BAR ASSOCIATION

In re \_\_\_\_\_  
an Attorney at Law.

NOTICE TO ANSWER  
AND NOTICE OF HEARING  
OFFICER [OR PANEL]

TO: The above named attorney at law:

You are notified that a formal complaint has been filed against you, a copy of which is served upon you with this notice. You are notified that you must file your answer to the complaint within 20 days of the date of service upon you, by filing the original and one copy of your answer at the office of the Washington State Bar Association, at the address given below, and by filing one copy [with the hearing officer] [with each member of the hearing panel] at the address[es] given below. Failure to file an answer may result in the imposition of a disciplinary sanction against you. Upon the filing of your answer, or in the case of your failure to answer within 20 days, further proceedings will be had in accordance with the Rules for Lawyer Discipline, and shall become public pursuant to rule 11.1.

You are further notified that the [hearing officer] [hearing panel] assigned to this proceeding is: [insert name, address and telephone number of hearing officer, or name, address and telephone number of each hearing

panel member with an indication of the chairperson of the panel].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

WASHINGTON STATE BAR ASSOCIATION  
By \_\_\_\_\_  
State Bar Counsel  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

(b) Notice When Hearing Officer or Panel Not Appointed. When at the time a formal complaint is filed no hearing officer or panel has been appointed to conduct the proceeding, the formal complaint and a notice to answer in the form prescribed in section (a), but omitting reference to the hearing officer or panel, shall be served on the respondent lawyer. In such case state bar counsel shall serve upon the lawyer a separate notice of hearing officer or panel promptly upon appointment of a hearing officer or panel, and no action shall be taken by state bar counsel in the proceeding except action permitted under Title 3 until such notice is given.

RULE 4.5

ANSWER

(a) Content. A respondent lawyer must file and serve an answer containing:

(1) A specific denial of each fact or claim asserted in the formal complaint in accordance with the provisions of CR 8(b);

(2) A statement of any matter or facts constituting a defense, affirmative defense or justification, in ordinary and concise language without repetition; and

(3) An address at which all further pleadings, notices and other documents in relation to the proceeding may be served upon the respondent lawyer.

(b) Filing and Service. The answer shall be filed and served pursuant to rules 12.1 and 12.2. When a hearing panel has been appointed to hear a matter each member shall be sent a copy of the answer.

(c) Time To Answer. The respondent lawyer shall have 20 days from the date of service of the formal complaint and notice to answer to file his or her answer. Failure to file an answer as required may constitute grounds for discipline.

RULE 4.6

AMENDMENT OF FORMAL COMPLAINT

(a) Right To Amend. State bar counsel shall have the right to amend a formal complaint at any time to set forth additional facts or to add new charges, where the additional facts or new charges relate to the matters set forth in the complaint to be amended or to the conduct of the lawyer with respect to the pending proceedings. A review committee need not authorize such amendment.

(b) Amendment With Authorization. A review committee may authorize an amendment of a formal complaint to add additional facts or new charges in other cases, or may require that the additional facts or charges be made the subject of a separate formal complaint. The

chairperson of the Board, with the consent of the respondent lawyer, and after consultation with the hearing officer or panel chairperson on the previously filed matter, may consolidate hearing on such a separate formal complaint with hearing on the other pending formal complaint against the lawyer.

(c) Service and Answer. Service of an amendment to a formal complaint shall be made on the respondent lawyer as provided in rule 12.1(a). The respondent lawyer must file an answer to the amendment within 20 days of service, unless the time to answer is shortened upon motion of state bar counsel. The answer to an amendment shall be governed by rule 4.5, except that any part of a previous answer may be incorporated therein by reference. Failure to file an answer to an amendment may constitute grounds for discipline.

#### RULE 4.7

##### DISCOVERY

(a) Depositions. The taking of depositions pursuant to either CR 30 or 31 is permitted after the filing of a formal complaint under the following circumstances:

(1) Either state bar counsel or the respondent lawyer may take the deposition of a witness living outside the state or county in which the hearing is to be held or who is physically unable to attend the hearing.

(2) The hearing officer or panel chairperson shall have the power to authorize the taking of any other deposition, and to make such further orders relative thereto as will insure a fair and orderly hearing.

(3) Where depositions are to be taken outside of the state of Washington, a commission need not issue, but a copy of the order of the hearing officer or panel chairperson, certified by the officer or chairperson, shall be sufficient authority to authorize the taking of such depositions.

(4) Subpoenas for depositions may be issued pursuant to the provisions of CR 45.

(5) All depositions when taken and transcribed shall be filed in the office of the Association.

(b) Requests for Admission. After the filing of a formal complaint, the respondent lawyer and the Association may use requests for admission as set forth in CR 36. Under appropriate circumstances, in the exercise of his or her discretion, the hearing officer or panel chairperson may apply the sanctions set forth in CR 37(c) for improper denial of requests for admission.

(c) Other Discovery. After the filing of a formal complaint, the respondent lawyer and state bar counsel shall have the rights given to superior court civil litigants under CR 33, 34, and 35 only upon application and under such terms, and with such limitations, as the hearing officer or panel chairperson deems just.

(d) Limitations. In the exercise of his or her discretion, the hearing officer or panel chairperson shall impose such terms or limitations on the exercise of discovery as may appear necessary to prevent undue delay or expense in bringing the matter to hearing and to promote the interests of justice.

(e) Duty To Cooperate. It shall be the duty of the lawyer who has been served with a formal complaint to

respond to discovery requests and to all lawful orders made by the hearing officer or panel chairperson pursuant to this rule. Failure to so respond may constitute grounds for discipline, and the hearing officer or panel may additionally draw such adverse inferences as appear warranted by the lawyer's failure to respond.

#### RULE 4.8

##### MOTIONS

(a) Filing and Service. Motions made by any party to the hearing officer or panel chairperson, except motions which may be made ex parte or motions made at hearing, shall be in writing and shall be filed and served as required by rules 12.1 and 12.2.

(b) Response. The opposing party shall be allowed 5 days from service of a motion on him or her to respond, unless the time is shortened by the hearing officer or panel chairperson for good cause. A request to shorten time for response to a motion may be made ex parte.

(c) Consideration of Motion. Upon expiration of the time for response, the hearing officer or panel chairperson shall promptly rule on the motion, with or without argument as may appear appropriate. Argument on a motion may be heard by conference telephone call.

(d) Ruling. A ruling on a written motion shall be in writing and filed with the Association.

(e) Minor Matters. Alternatively, motions on minor matters may be made in letter form to the hearing officer or panel chairperson, with a copy to the opposing party and to the Association for inclusion in the bar file. The provisions of sections (b) and (c) shall apply to such matters. A ruling on such motion may also be in letter form, directed to each party and with a copy to the Association for inclusion in the bar file.

#### RULE 4.9

##### PROCEEDING BASED ON CRIMINAL CONVICTION

When a formal complaint charges a lawyer with an act of misconduct for which the lawyer has been convicted in a criminal proceeding, the court record setting forth the conviction shall be conclusive evidence at the ensuing disciplinary hearing of the guilt of the respondent lawyer of the crime for which he or she was convicted and of his or her violation of the statute upon which the conviction was based.

#### RULE 4.10

##### DISCIPLINARY HEARING

(a) Where Held. All disciplinary hearings shall be held in the state of Washington at a location designated by the hearing officer or panel chairperson, except that if the respondent lawyer is not a resident of the state, or cannot be found in the state, the hearing may be held outside of the state.

(b) Scheduling of Hearing. When possible, state bar counsel and the respondent lawyer should arrange a date, time, and place for the hearing by agreement

among themselves and the hearing officer or panel members. Alternatively, at any time after the respondent lawyer has filed his or her answer to the formal complaint, or after the time to file such an answer has expired, either state bar counsel or the respondent lawyer may move the hearing officer or hearing panel chairperson for an order setting a date, time, and place for the hearing. Such a motion shall be made pursuant to rule 4.8 and shall set forth the requested date or dates for the hearing, other dates that are available to the requesting party, the expected length of time the hearing will take, the nature of matters including discovery which are pending or which must be completed prior to the hearing, and the requested time and place for the hearing. A response to such a motion shall contain the same information. The hearing officer or panel chairperson shall rule on the motion as provided in rule 4.8(c) and file a ruling as provided in rule 4.8(d).

(c) Motion for Hearing Within 120 Days. A request by a respondent lawyer, made by motion pursuant to section (b), for a hearing within 120 days shall be granted, unless state bar counsel shows good cause for setting the hearing at a later date.

(d) Notice. Service of a copy of an order or ruling of the hearing officer or panel chairperson setting a date, time, and place for the hearing shall constitute notice of the hearing. The respondent lawyer shall be given at least 10 days' notice of the hearing unless he or she otherwise consents.

(e) Continuance. Either the respondent lawyer or state bar counsel may by motion request a continuance of the hearing date. Such a motion may be granted in the discretion of the hearing officer or panel chairperson for good cause shown.

(f) Representation. The Association shall be represented at the hearing by state bar counsel. The respondent lawyer may be represented by counsel.

(g) Lawyer Must Attend. A respondent lawyer given notice of a hearing must attend the hearing. In addition, the lawyer must bring to the hearing such documents, files, records, or other written materials or things as state bar counsel may request in writing. The written request shall be served on the respondent lawyer at least 3 days before the scheduled hearing. Failure to attend the hearing or bring requested materials as herein provided, without good cause, may constitute grounds for discipline.

(h) Default. In no event shall a default be entered against a respondent lawyer, but:

(1) If the respondent lawyer fails to attend the hearing, after proper notice, regardless of whether an answer has been filed, the hearing officer or panel may draw an adverse inference from the failure to attend as to any questions which might have been asked the lawyer at the hearing and shall allow evidence and testimony to be submitted through affidavit and/or deposition regardless of the whereabouts of the person supplying the affidavit or testifying at the deposition.

(2) If the respondent lawyer fails to answer the formal complaint, but attends the hearing, the hearing officer or panel shall grant a request of state bar counsel to allow

presentation of additional evidence at a later date, which request may be made before or after the available witnesses have testified and the available evidence has been submitted.

(i) Witnesses. Except as provided under section (h)(1), witnesses shall testify under oath. Testimony may also be submitted by deposition under the same terms as permitted by CR 32. Testimony shall be recorded by a court reporter or by tape recording if allowed by the hearing officer or panel chairperson.

(j) Subpoenas. Subpoenas for witnesses or for production of documents or things shall be available to both the respondent lawyer and state bar counsel pursuant to the terms of CR 45.

#### RULE 4.11

##### EVIDENCE AND BURDEN OF PROOF

(a) Proceedings Not Civil or Criminal. In resolving evidentiary and other procedural questions the hearing officer or panel chairperson should make rulings based upon the legal principle that disciplinary proceedings are neither civil nor criminal but are sui generis hearings intended to determine whether a lawyer's conduct should have an impact upon his or her license to practice law.

(b) Burden of Proof. State bar counsel shall have the burden of establishing an act of misconduct by a clear preponderance of the evidence.

(c) Rules of Evidence. Consistent with sections (a) and (b) of this rule the following rules of evidence shall apply during disciplinary hearings:

(1) The hearing officer or panel may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The hearing officer or panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(2) All evidence, including but not limited to records and documents in the possession of the Association of which it desires to avail itself, shall be offered and made a part of the record in the case and no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.

(3) The respondent and state bar counsel shall have the right of cross examination of witnesses who testify and shall have the right to submit rebuttal evidence.

(4) The hearing officer or panel may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within the hearing officer's or panel's specialized knowledge. The respondent and state bar counsel shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed and shall be afforded an opportunity to contest the facts so noticed.

## RULE 4.12

## PRIOR DISCIPLINARY RECORD

(a) Required Part of Record of Proceedings. If a lawyer has a record of prior discipline, the nature of that record, or the fact that the lawyer has had no prior discipline, must be made a part of the hearing record before the decision of the hearing officer or panel is filed.

(b) Bifurcated Proceedings. Upon written motion filed no later than 20 days prior to the scheduled hearing, either the respondent lawyer or state bar counsel may request that the disciplinary proceeding be bifurcated. The motion shall be granted when bifurcation appears necessary to insure a fair and orderly proceeding.

(1) A bifurcated proceeding shall begin with an initial factfinding hearing. During this stage of the proceedings evidence of a prior disciplinary record shall not be admissible to prove the character of the respondent lawyer or to impeach his or her credibility. Evidence of prior acts of misconduct may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake, or accident. At the conclusion of that hearing, the hearing officer or panel shall file findings and conclusions. If no misconduct is found, the proceedings are concluded and the findings and conclusions shall be the decision of the hearing officer or panel.

(2) After the filing of the findings and conclusions, if misconduct is found, a second proceeding shall be held to determine the appropriate recommendation. During the second proceeding evidence of the existence or lack of any prior disciplinary record shall be admissible. At the conclusion of the second proceeding, the hearing officer or panel shall file its recommendation. The recommendation together with the previously filed findings and conclusions shall be the decision of the hearing officer or panel.

## RULE 4.13

## DECISION OF HEARING OFFICER OR PANEL

(a) Proposed Findings. At the request of the hearing officer or panel chairperson, or without such request, either the respondent lawyer or state bar counsel may submit a proposed decision in the form of findings, conclusions, and recommendation to the hearing officer or to each member of the hearing panel.

(b) Filing. Within 20 days after the proceedings are concluded, unless extended by agreement, the hearing officer or panel chairperson should file a decision in the form of findings, conclusions, and recommendation in the office of the Association.

(c) Amendment. Within 5 days of service of the decision of the hearing officer or panel on the respondent lawyer, either the respondent lawyer or state bar counsel may file a motion to modify, amend, or correct the decision. When a hearing panel member dissents from a decision of the majority, the 5-day period shall not begin until the written dissent is filed or the period to file such a dissent has expired, whichever is sooner. Consideration of such a motion shall be governed by the provisions of rule 4.8, except that all members of a hearing panel

shall be served with the motion and any response thereto, and shall participate in a decision on the motion. Deliberation by a panel may be conducted through telephone conference call. The hearing officer or panel shall rule on such a motion within 15 days after the filing of a timely response or after the period to file such a response under rule 4.8(b) has expired. The ruling may deny the motion or may allow such amendment, modification, or correction of the decision as may appear appropriate. Failure to move for a modification, correction, or amendment shall not affect any appeal to the Board or review by the Supreme Court.

(d) Dissent of Panel Member. Any member of a hearing panel who dissents from the decision of the majority of the panel shall file a dissent, which may consist of alternative findings, conclusions, or recommendation. A dissent should be filed within 10 days of the filing of the decision of the majority of the panel and shall become part of the record of the proceedings.

(e) Panel Members Unable To Agree. Where no two panel members are able to agree on a decision, each panel member shall file his or her own findings, conclusions, and recommendation, and the Board shall review the matter whether or not an appeal is filed.

(f) Decision Final. When the decision of a hearing officer or panel recommends reprimand or censure upon a finding of misconduct, or recommends dismissal of the charges against the respondent lawyer, the recommendation shall become the final decision in the case if neither the respondent lawyer nor state bar counsel files an appeal within the time permitted by rule 6.1.

## RULE 4.14

## STIPULATIONS

(a) Requirements. Any disciplinary matter or proceeding may be disposed of by a stipulation for discipline entered into at any time. The stipulation shall be signed by the respondent lawyer and approved by state bar counsel. The stipulation may contain the imposition of terms and conditions of probation and such other provisions as may appear appropriate.

(b) Form. A stipulation for discipline shall:

(1) Set forth the material facts relating to the particular acts or omissions of the respondent lawyer in such detail as to enable a review committee or the Board to form an opinion as to the propriety of the discipline being agreed upon, and, if approved, to make the stipulation useful in any subsequent disciplinary proceeding against the respondent lawyer;

(2) Set forth the respondent lawyer's prior disciplinary record or the absence of such record;

(3) State that the stipulation is not binding on the Association as a statement of all existing facts relating to the professional conduct of the respondent lawyer, but that any additional existing facts may be proven in any subsequent disciplinary proceeding; and

(4) Fix the amount of the costs and expenses to be paid by the lawyer.

(c) Approval. A stipulation providing for suspension or disbarment shall be filed with the Board. Any other stipulation shall be filed with a review committee. A



stipulation may be presented to the Board or to a review committee without notice and shall be reviewed solely on the basis of the record as agreed upon by the respondent lawyer and state bar counsel. The Board or review committee may either approve a stipulation or reject it. Regardless of the provisions of rule 11.1(g), the Board or a review committee may direct that information or documents considered in reviewing a stipulation be kept confidential.

(d) Stipulation Not Approved. If a stipulation is not approved by a review committee or by the Board as herein provided, then the stipulation shall be of no force and effect and neither it nor the fact of its execution shall be admissible in evidence in the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil or criminal action.

(e) Failure To Comply. Failure of a respondent lawyer to comply with the terms of a stipulation for discipline entered into and approved as provided in this rule may constitute grounds for discipline.

## TITLE 5

### SANCTIONS AND OTHER REMEDIES

#### RULE 5.1

##### SANCTIONS

Upon a finding that a lawyer has committed an act of misconduct, one or more of the following sanctions may be imposed:

- (a) Disbarment;
- (b) Suspension from the practice of law for an appropriate fixed period of time not exceeding 2 years;
- (c) Reprimand;
- (d) Censure;
- (e) Cumulative disciplinary suspension pursuant to rule 5.4.

#### RULE 5.2

##### PROBATION

(a) Conditions of Probation. A lawyer who has been found to have committed an act of misconduct and who has been sanctioned pursuant to rule 5.1 may in addition be placed on probation for a fixed period not in excess of 2 years, under such conditions as may appear appropriate. Such conditions may include but are not limited to requiring alcohol or drug treatment, requiring medical care, requiring psychological or psychiatric care, requiring professional office practice or management counseling, and requiring periodic audits or reports. In any case where a lawyer is placed on probation pursuant to this rule, the chairperson of the Board may upon the request of state bar counsel appoint a suitable person to supervise the probation. Cooperation with a person so appointed shall be a condition of the probation.

(b) Failure To Comply. Failure to comply with a condition of probation may result in a disciplinary proceeding pursuant to rule 1.1(m), and any sanction to be imposed for violation of that provision shall take into

account the act or acts of misconduct leading to the probation.

#### RULE 5.3

##### RESTITUTION

(a) Restitution May Be Required. A lawyer who has been found to have committed an act of misconduct and who has been sanctioned pursuant to rule 5.1 may in addition be ordered to make restitution to persons financially injured by the lawyer's conduct.

(b) Payment of Restitution. A lawyer ordered to make restitution shall do so within 30 days of the date upon which the decision requiring restitution becomes final, unless otherwise provided in that decision, or unless a periodic payment plan has been entered into with the approval of state bar counsel. State bar counsel shall have authority to enter into an agreement with a lawyer for a reasonable periodic payment plan upon the lawyer's affirmative written demonstration of present inability to meet the terms of a decision requiring restitution, and after consultation with the persons to whom restitution is to be made.

(c) Failure To Comply. Failure of a lawyer to make restitution when ordered to do so, or failure of a lawyer to comply with the terms of a periodic payment plan entered into by agreement between the lawyer and state bar counsel, may constitute grounds for discipline.

#### RULE 5.4

##### SUSPENSION FOR CUMULATIVE DISCIPLINE

(a) Grounds. A lawyer may be suspended from the practice of law for a fixed period of time not exceeding 2 years upon accumulation of:

- (1) Three or more censures and/or reprimands;
- (2) Any combination of a suspension or disbarment plus one or more censures or reprimands.

(b) Procedure. Suspension for cumulative discipline may be recommended by a hearing officer or panel or by the Board during the course of any disciplinary proceeding when a recommended sanction in that proceeding results in an accumulation of discipline equal to or exceeding that provided in section (a). Alternatively, a review committee may authorize the filing of a formal complaint based solely on the provisions of this rule. The issues in such a proceeding, which shall be conducted in the same manner as any disciplinary proceeding, shall be whether the respondent lawyer has accumulated a record of discipline which would subject him or her to the provisions of this rule and, if so, whether a suspension for cumulative discipline should be recommended.

#### RULE 5.5

##### ADMINISTRATION OF CENSURE AND REPRIMAND

(a) Censure. A censure shall be administered to a respondent lawyer by letter. The letter shall be prepared by state bar counsel and shall be signed by the president of the Association. If the respondent lawyer objects to the content of such letter, he or she may file a request

for review of the content of the letter of censure with the Board. The Board shall review the letter of censure in light of the decision or stipulation imposing the censure and may take whatever action appears appropriate under the circumstances. The action of the Board shall be final and not subject to further review.

(b) Reprimand. A reprimand shall be administered personally to a respondent lawyer. The lawyer shall appear at a time and place directed by the Board of Governors to receive the reprimand. Notice shall be given at least 20 days before the scheduled appearance at which time a copy of the proposed reprimand shall be provided to the respondent lawyer. Within 5 days of receipt of the notice the lawyer may file a request for review of the content of the proposed reprimand with the Disciplinary Board. Such a request will stay the administration of the reprimand. The Disciplinary Board shall review the proposed reprimand in light of the decision or stipulation imposing the reprimand and may take whatever action appears appropriate under the circumstances. The action of the Board shall be final and not subject to further review. If no such request is received, the reprimand shall be administered at the time and place set. It shall be given privately, and the respondent lawyer shall not make any statement in support of or in opposition thereto or in mitigation thereof. A reprimand shall be deemed administered at the time it is scheduled whether or not the lawyer appears as required. Failure to so appear after proper notice may constitute grounds for discipline.

#### RULE 5.6

##### ADVISORY LETTER

An advisory letter may be issued when a hearing does not appear warranted but when it appears appropriate to caution a lawyer concerning his or her conduct. An advisory letter may be issued by a review committee, or by the Board when reviewing a matter under rule 2.3(f)(5), but shall not be issued when a complaint is dismissed following a hearing. An advisory letter shall not constitute a finding of misconduct and is not a disciplinary sanction.

#### RULE 5.7

##### COSTS AND EXPENSES

(a) Assessment. In all cases in which a sanction is imposed upon a lawyer following a hearing and a finding of misconduct, costs and expenses as herein defined may be assessed against the lawyer in favor of the Association.

(b) Costs Defined. The term "costs" for the purposes of this rule shall include all obligations in money reasonably and necessarily incurred by the Association in the complete performance of its duties under these rules, whether incurred before or after the filing of a formal complaint, except attorney's fees. Costs shall include, by way of illustration and not of limitation:

- (1) Charges of court reporters in attending and transcribing depositions or hearings;
- (2) Charges of process servers;

(3) Necessary travel expenses of hearing officers or hearing panel members, or of state bar counsel, or of witnesses;

(4) Charges of expert witnesses;

(5) Costs in conducting an examination of books and records or an audit pursuant to Title 13;

(6) Costs incurred in supervising probation imposed pursuant to rule 5.2;

(7) Telephone toll charges;

(8) Charges of a lawyer appointed pursuant to rule 10.2(d);

(9) Costs of copying materials for submission to a review committee, a hearing officer or panel, the Disciplinary Board, or the Board of Governors.

(c) Expenses Defined. "Expenses" for the purposes of this rule shall mean a reasonable charge for attorney's fees and administrative costs. Expenses assessed pursuant to this rule may equal the actual expenses incurred by the Association, but in any case the following amounts shall conclusively be presumed reasonable:

(1) For a matter which becomes final without review by the Board, \$350.

(2) For a matter which becomes final following Board review, without appeal to the Supreme Court, a total of \$450.

(3) For a matter appealed to the Supreme Court, a total of \$750.

(d) Association To File Statement of Costs and Expenses. When the decision of a hearing officer or panel imposing a sanction becomes final without Board review, or when a decision of the Board imposing a sanction is served on the respondent lawyer after Board review, the Association shall have 10 days in which to file a statement of costs and expenses in the office of the Association.

(1) Content. A statement of costs and expenses shall state with particularity the nature and amount of the costs claimed and shall state the expenses requested. The statement shall be signed by state bar counsel, which signature shall constitute a certification that all reasonable attempts have been made to insure the accuracy of the statement.

(2) Exceptions. The respondent lawyer shall have 10 days from service of the statement of costs and expenses on him or her to file exceptions in the office of the Association.

(e) Assessment. The chairperson of the Board shall review the statement of costs and expenses and any exceptions thereto after the period for filing such exceptions has passed and the decision of the hearing officer or panel or of the Board and shall enter and file with the Association an order assessing costs and expenses. The order shall be served on the respondent lawyer.

(1) Request for Review by Board. Within 10 days of service on the respondent lawyer of the order assessing costs and expenses, the lawyer may file with the Association a request for Board review of the order. Upon the timely filing of such a request, the Board shall review the order assessing costs and expenses, based upon the statement of costs and expenses of the Association and the exceptions thereto, the decision of the hearing officer or panel or of the Board, and any written statement

submitted by either party within such time as the chairperson of the Board may direct.

(2) Board Action. The Board may approve or modify the order assessing costs and expenses by order filed with the Association and served upon the respondent lawyer. The decision of the Board shall be final when filed and not subject to further review, except in cases reviewed by the Supreme Court pursuant to Title 7.

(f) Assessment in Matters Reviewed by the Supreme Court. When a matter is reviewed by the Supreme Court as provided in Title 7, any order assessing costs and expenses entered pursuant to section (e) and any statement of costs and expenses and exceptions thereto filed in the proceeding shall be made a part of the record transmitted to the court. Upon filing of an opinion by the court imposing a sanction, costs and expenses may be assessed in favor of the Association pursuant to the procedures of RAP Title 14, except that "costs" as used in that rule shall mean any costs and expenses allowable under this rule.

(g) Waiver. In all cases where costs and expenses are sought pursuant to this rule, assessment of any or all such costs and expenses may be denied where it appears in the interests of justice to do so.

(h) Payment of Costs and Expenses. A lawyer ordered to pay costs and expenses shall do so within 30 days of the date upon which the assessment becomes final, unless otherwise ordered at the time costs and expenses are assessed, or unless a periodic payment plan has been entered into with the approval of state bar counsel. State bar counsel shall have authority to enter into an agreement with a lawyer for a reasonable periodic payment plan upon the lawyer's affirmative written demonstration of present inability to meet the terms of an order or decision assessing costs and expenses.

(i) Failure To Comply. Failure of a lawyer to pay costs and expenses when ordered to do so or failure of a lawyer to comply with the terms of a periodic payment plan entered into by agreement between the lawyer and state bar counsel may constitute grounds for discipline.

(j) Costs in Other Cases. Costs in cases involving stipulations shall be governed by the provisions of rule 4.14. Assessment of costs in cases of transfer to disability inactive status shall be governed by the provisions of this rule, but payment of such costs shall not become due until 90 days after the lawyer is reinstated to active status.

## TITLE 6

### REVIEW BY BOARD

#### RULE 6.1

##### DECISIONS SUBJECT TO BOARD REVIEW

The decision of a hearing officer or panel shall be reviewed by the Board when:

(a) The recommendation is for the suspension or disbarment of the respondent lawyer; or

(b) The respondent lawyer or state bar counsel files a notice of appeal with the Association within 15 days of service of the decision on the respondent lawyer. When a motion to amend is filed as permitted by rule 4.13(c) the

15-day period shall not begin until the motion is decided. A notice of appeal shall specify the issues intended to be raised before the Board.

#### RULE 6.2

##### REVIEW OF SUSPENSION OR DISBARMENT RECOMMENDATION

(a) Statements in Support or Opposition. When a matter is before the Board for review of a recommendation of suspension or disbarment, the respondent lawyer and state bar counsel may each file a statement in support of or in opposition to the decision of the hearing officer or panel, or any part of that decision.

(b) Transcript Required. When a hearing officer or panel has entered a recommendation for suspension or disbarment, a transcript of the hearing shall be prepared, served and settled as provided in rule 6.6.

(c) Time for Filing Statements. Statements shall be filed with the Association according to the following schedule:

(1) The respondent lawyer shall file his or her statement (i) within 20 days of service on the lawyer of a copy of the transcript of the hearing, whether or not the transcript has been settled, or (ii) within 20 days of the service on the lawyer of the decision of the hearing officer or panel when the transcript has previously been prepared and served on the respondent lawyer, whichever occurs later. When a motion to amend has been filed as permitted by rule 4.13(c), the 20-day period shall not begin until the motion is decided.

(2) State bar counsel shall file his or her statement within 15 days of service on state bar counsel of the statement of the respondent lawyer, or, if no statement is filed by the respondent lawyer, within 15 days of the expiration of the period for the respondent lawyer to file such a statement.

(3) The respondent lawyer may file a response to a statement of state bar counsel within 10 days of service of that statement upon the respondent lawyer.

#### RULE 6.3

##### APPEAL BY RESPONDENT LAWYER OR STATE BAR COUNSEL

(a) Transcript To Be Ordered. When Board review is being conducted pursuant to a notice of appeal filed under rule 6.1(b), state bar counsel shall cause a transcript of the hearing to be prepared and settled pursuant to rule 6.6, unless the respondent lawyer and state bar counsel agree that no transcript or only a partial transcript of the hearing is necessary for review.

(b) Statement in Opposition. The appealing party shall file with the Association a statement in opposition to the decision of the hearing officer or panel (1) within 20 days of service on the respondent lawyer of a copy of the transcript, whether or not the transcript has been settled; or (2) within 20 days of filing of the notice of appeal when the transcript has previously been prepared and served on the respondent lawyer or when the parties have agreed that no transcript is necessary for review,

whichever occurs later. Failure to file such a statement within the required period shall constitute an abandonment of the appeal.

(c) Counterstatement. The opposing party shall have 15 days from service on him or her of the statement of the appealing party to file a counterstatement, in response to the issues raised on appeal.

(d) Response. The appealing party may file a response to the counterstatement of the opposing party within 10 days of service of the counterstatement on him or her.

(e) Procedure When Both Parties Appeal. When the respondent lawyer and state bar counsel both file notices of appeal pursuant to rule 6.1(b), the respondent lawyer shall be considered the appealing party and state bar counsel shall be considered the opposing party for purposes of this rule. In such case the counterstatement of state bar counsel may raise any issue for Board review, and the respondent lawyer shall have an additional 5 days to file the response permitted by rule 6.3(d).

#### RULE 6.4

##### REFERENCE TO RECORD

Statements, counterstatements and responses filed pursuant to rules 6.2 and 6.3 shall make specific reference to the record where available, using the designations TR for transcript of hearing, EX for exhibits, and BF for bar file documents. Copies of any exhibits to which the parties refer in their statements may be appended to those statements.

#### RULE 6.5

##### REQUEST TO REOPEN PROCEEDINGS

(a) How Made. In making any statement, counterstatement or response as permitted in rules 6.2 and 6.3, the respondent lawyer or state bar counsel may request that the record be reopened to allow the submission of additional evidence, or that an additional hearing be held before the hearing officer or panel on the ground of newly discovered evidence. A request to reopen the record or to conduct an additional hearing shall be supported by affidavit describing in detail the additional evidence sought to be admitted, and the reason or reasons why the same was not presented at the hearing. Such request may be granted or denied in the discretion of the Board.

(b) No Additional Evidence. Except as allowed under rule 6.5(a), evidence not presented to the hearing officer or panel shall not be presented to the Board by any party without the consent of the opposing party.

#### RULE 6.6

##### TRANSCRIPT OF HEARING

(a) Ordering Transcript. A transcript or partial transcript of the hearing may be ordered at any time by the hearing officer or panel, respondent lawyer, state bar counsel, or the Board. When prepared, the original of

the transcript shall be filed in the office of the Association. State bar counsel shall cause a copy of the transcript to be served on the respondent lawyer except when the respondent has ordered the transcript.

(b) Proposed Corrections. Within 10 days of service of a copy of the transcript on the respondent lawyer, or within 10 days of the filing of the transcript in the office of the Association when the respondent lawyer has ordered the transcript, state bar counsel and the respondent lawyer may each file with the Association any proposed corrections to the transcript. Each party shall have 5 days after service of the proposed corrections of the opposing party on him or her to file objections to those proposed corrections.

(c) Settlement of Transcript. If either party files objections to any proposed correction as permitted under section (b), the hearing officer or panel chairperson shall, upon review of the proposed corrections and objections, enter an order settling the transcript. In all other cases the transcript shall be deemed settled, and any proposed corrections deemed incorporated therein, if at the expiration of the time to file proposed corrections none is filed, or if at the expiration of the time to file objections to proposed corrections none is filed.

#### RULE 6.7

##### DECISION OF BOARD

(a) Basis for Review. Review by the Board shall be based on the decision of the hearing officer or panel; any dissent of a hearing panel member; the statements and responses filed by the respondent lawyer and state bar counsel pursuant to rule 6.2 or 6.3; and the transcript or partial transcript of the hearing if one has been prepared. The Board may additionally review any other portion of the record of the matter including bar file documents and exhibits.

(b) Participation by Hearing Officer. A member of the Board who sat as hearing officer or as a member of a hearing panel on a matter shall not be present during the review of that matter by the Board.

(c) Oral Argument. Oral argument before the Board shall be permitted upon the request of either the respondent lawyer or state bar counsel. Such request shall be filed with the Association no later than the date on which the party requesting oral argument is permitted to file his or her final statement, counterstatement or response under rule 6.2 or rule 6.3. Oral argument shall be conducted at such time and place and under such terms as the chairperson of the Board shall direct.

(d) Action by Board. Upon review the Board may adopt, modify or reverse the findings, conclusions or recommendation of the hearing officer or panel. The Board may also reopen the record to allow the admission of additional evidence, or direct that an additional hearing be held with regard to any issue, on its own motion or upon request of either party.

(e) Decision. The action of the Board shall be set forth in a written order filed with the Association, a copy of which shall be served upon the respondent lawyer. If the Board amends, modifies, or reverses any finding, conclusion or recommendation of the hearing officer or

panel, the order of the Board shall set forth the reasons for its decision. A member of the Board agreeing with the decision of the majority may file separate concurring reasons.

(f) Dissent. If any member of the Board dissents from the decision of a majority of the Board in a matter in which the majority of the Board recommends suspension or disbarment, he or she shall set forth in writing the reasons for that dissent. Written dissents may be filed in any other case. A copy of any dissent shall be served upon the respondent lawyer, and shall be part of the record.

(g) Decision Final Unless Appealed. A decision of the Board shall become final if neither a notice of appeal nor a petition for review is filed by the respondent lawyer or state bar counsel within the time permitted by Title 7. A decision of the Board shall also become final upon denial by the Supreme Court of a petition for discretionary review.

#### RULE 6.8

##### CHAIRPERSON MAY MODIFY REQUIREMENTS

Upon written motion filed with the Association by a respondent lawyer or state bar counsel, for good cause shown, the chairperson of the Board may modify the time periods set forth in Title 6, and make such other orders as may appear appropriate to assure fair and orderly Board review, provided, that the time period for filing a notice of appeal set forth in rule 6.1(b) may not be extended or altered.

#### TITLE 7

##### REVIEW BY SUPREME COURT

#### RULE 7.1

##### METHODS OF SEEKING REVIEW

(a) Two Methods for Seeking Review of Board Decisions. There are two methods for seeking review by the Supreme Court of decisions of the Board entered pursuant to rule 6.7(e): (1) Review as a matter of right, called "appeal"; and (2) Review by permission of the Supreme Court, called "discretionary review." Both "appeal" and "discretionary review" are called "review."

(b) Power of Court Not Affected. This rule shall not affect the power of the Supreme Court to exercise its inherent and exclusive jurisdiction over the lawyer discipline and disability system.

#### RULE 7.2

##### APPEAL

(a) Respondent Lawyer May Appeal Decision Imposing Suspension or Disbarment. The right to appeal a decision of the Board finding misconduct shall be available only to the respondent lawyer, and only in cases where the decision provides for suspension or disbarment.

(b) Notice of Appeal. In order to exercise a right to appeal, the respondent lawyer must file a notice of appeal with the Association within 15 days of service of the decision of the Board on the respondent lawyer.

#### RULE 7.3

##### DISCRETIONARY REVIEW

(a) Decisions Subject to Discretionary Review. Decisions of the Board entered pursuant to rule 6.7(e) which do not provide for suspension or disbarment are subject to review by the Supreme Court only through discretionary review. Discretionary review will be accepted only:

(1) If the decision of the Board is in conflict with a decision of the Supreme Court; or

(2) If a significant question of law is involved; or

(3) If there is no substantial evidence in the record to support a material finding of fact upon which the decision of the Board is based; or

(4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

(b) Respondent Lawyer May Petition. A respondent lawyer wishing to seek discretionary review by the Supreme Court of a decision of the Board must file a petition for review with the Supreme Court within 25 days of service of the decision of the Board upon the respondent lawyer.

(c) Board of Governors May Authorize Petition by State Bar Counsel. The Board of Governors may authorize state bar counsel to seek discretionary review by the Supreme Court of a decision of the Disciplinary Board. In order to seek such review, state bar counsel must file a notice of intention to seek discretionary review with the Association within 15 days of service of the decision of the Board upon the respondent lawyer. Within 45 days thereafter state bar counsel must file a petition for review with the Supreme Court, together with an order of the Board of Governors, signed by the president, authorizing such a petition. If the Board of Governors denies such authorization, the respondent lawyer shall be promptly notified.

(d) Content of Petition; Answer; Service; Decision. A petition for review should be substantially in the form prescribed by RAP 13.4(c) for petitions for review by the Supreme Court of decisions of the Court of Appeals, except that references in that rule to the Court of Appeals shall be considered references to the Board. The appendix to the petition or an appendix to an answer or reply may additionally contain any part of the record, including portions of the transcript or exhibits, to which the party refers in the petition, answer or reply. The provisions of RAP 13.4(d), (e), (f), (g) and (h) shall govern answers and replies to petitions for review and related matters including service and decision by the court. Any party filing a petition for review with the court shall give notice of that fact to the other party.

(e) Acceptance of Review. The Supreme Court accepts discretionary review of a decision of the Board by

granting a petition for review. Upon acceptance of review, procedures in the Supreme Court for matters subject to appeal and for matters subject to discretionary review are the same.

#### RULE 7.4

##### APPLICABILITY OF RULES OF APPELLATE PROCEDURE

The Rules of Appellate Procedure shall serve as guidance for review conducted pursuant to this rule, except that these rules shall control as to matters specifically dealt with herein.

#### RULE 7.5

##### RECORD TO SUPREME COURT

(a) Transmittal. Upon filing of a notice of appeal by the respondent attorney or upon acceptance of discretionary review by the Supreme Court, the record shall be transmitted to the Supreme Court by the clerk of the Board if one has been appointed, or by state bar counsel. Each party shall be provided with a list of the portions of the record so transmitted.

(b) Content. The record transmitted to the court shall consist of:

(1) Any notice of appeal filed by the respondent attorney, and any notice of intention to seek discretionary review filed by state bar counsel;

(2) The decision of the Board, including any dissents or concurring statements;

(3) The decision of the hearing officer or panel, including any dissent;

(4) The transcript or partial transcript of the hearing if one has been prepared;

(5) Exhibits admitted in evidence;

(6) Any order assessing costs and expenses and any statements of costs and expenses and exceptions thereto;

(7) Any other portions of the record, including bar file documents, which appear necessary for full review.

(c) Additions to Record. The respondent lawyer and state bar counsel shall each have the right at any time to request the transmittal of additional portions of the record to the court.

#### RULE 7.6

##### BRIEFS

(a) Brief Required. The party seeking review shall file a brief setting forth his or her objections to the decision of the Board.

(b) Time for Filing. The brief of the party seeking review should be filed with the Supreme Court within 45 days after he or she is notified of transmittal of the record to the Supreme Court.

(c) Answering Brief. The answering brief of the other party should be filed with the Supreme Court within 30 days after service of the brief of the party seeking review.

(d) Reply Brief. A reply brief of a party seeking review should be filed with the Supreme Court within the sooner of 30 days after service of the answering brief or 14 days before oral argument. A reply brief should be limited to a response to the issues in the brief to which the reply brief is directed.

(e) Briefs When Both Parties Seek Review. When both the respondent lawyer and state bar counsel seek review of a decision of the Board, the respondent lawyer is deemed the party seeking review for the purposes of this rule. In such case state bar counsel may file a brief in reply to any response the respondent lawyer has made to the issues presented by state bar counsel, to be filed with the Supreme Court the sooner of 30 days after service of the reply brief of the respondent lawyer or 14 days before oral argument.

(f) Form of Briefs. Briefs filed pursuant to this rule shall conform as nearly as possible to the requirements of RAP 10.3 and 10.4. Bar file documents should be abbreviated BF and the transcript or partial transcript of the hearing should be abbreviated TR.

(g) Reproduction and Service of Briefs by Clerk. Briefs filed pursuant to this rule shall be reproduced and served by the clerk as provided in RAP 10.5.

#### RULE 7.7

##### ARGUMENT

(a) Rules Applicable. Oral argument before the Supreme Court shall be conducted under the provisions of Title 11 of the Rules of Appellate Procedure, unless the court shall otherwise direct.

(b) Priority. Disciplinary proceedings shall have priority and shall be set upon compliance with the above rules.

#### RULE 7.8

##### OPINION

(a) Finality. An opinion in a disciplinary proceeding is final when filed unless the court specifically provides otherwise.

(b) Motion for Reconsideration. A motion for reconsideration may be filed as provided in RAP 12.4, but the motion will not stay the judgment unless a stay is entered by the court.

#### RULE 7.9

##### VIOLATION OF RULES

Sanctions for violation of these rules may be imposed on a party pursuant to the provisions of RAP 18.9. Upon dismissal of a review sought by a respondent lawyer pursuant to that rule and expiration of the period to file objections under RAP 17.7, or after dismissal of his or her review by the court if timely objections are filed, the decision of the Board shall become final.

## TITLE 8

## PROTECTION OF PUBLIC WHEN LAWYER UNABLE TO ACT

## RULE 8.1

## NOTICE TO CLIENTS AND OTHERS

(a) Upon Disbarment or Suspension of Certain Kinds. A lawyer who has been disbarred, suspended for more than 60 days, or suspended pursuant to the provisions of Title 3, APR 11, or for nonpayment of dues, shall within 10 days of the effective date of his or her disbarment or suspension:

(1) Notify all clients of his or her inability to act as their lawyer and the reason therefor, and advise them that they should seek legal advice elsewhere; and

(2) Advise all clients involved in litigation or administrative proceedings to seek the prompt substitution of another lawyer. In the event the client does not substitute counsel within 10 days of being notified of the lawyer's inability to act, it shall be the responsibility of the lawyer to advise the court or agency of the lawyer's inability to act; and

(3) Notify the lawyer or lawyers of each adverse party in pending litigation or administrative proceedings, or the adverse party directly if not represented by counsel, of the lawyer's inability to act further on the client's behalf; and

(4) Provide clients or their substituted counsel upon request with their files and other documents of the client in the possession of the lawyer, regardless of any possible claim of lien under RCW 60.40.

(b) Upon Transfer to Disability Inactive Status. A lawyer transferred to disability inactive status, or his or her guardian if one has been appointed, shall give all notices required by section (a), except that such notices need not refer to disability.

(c) Upon Suspension for 60 Days or Less. A lawyer who has been suspended for 60 days or less shall within 10 days of the effective date of his or her suspension:

(1) Notify all clients involved in litigation or administrative proceedings, and the lawyer or lawyers for each adverse party (or the adverse party directly if not represented by counsel) in such litigation or proceeding, of the suspension and the reason therefor, and of his or her consequent inability to act as a lawyer after the effective date of the suspension, and shall advise all such clients to seek prompt substitution of another lawyer. In the event the client does not substitute counsel within 10 days of being notified of the lawyer's inability to act, it shall be the responsibility of the lawyer to advise the court or agency of the lawyer's inability to act; and

(2) Notify all other clients of his or her suspension and the reason therefor and consequent inability to act during the period of that suspension. The notice shall advise the clients to seek legal advice elsewhere if they feel they need such advice during the period of the lawyer's suspension; and

(3) Provide clients or their substituted counsel upon request with their files and other documents of the client in the possession of the lawyer, regardless of any possible claim of lien under RCW 60.40.

(d) Address of Client. All notices to lawyers, adverse parties, courts or agencies as required by sections (a), (b), or (c) shall contain the name and last known address of the person being represented by the lawyer, unless disclosure would violate a confidence or secret of the client. If the name and address are omitted, as permitted herein, the client shall be advised that so long as his or her address remains undisclosed and no new attorney is substituted, the client may be served by leaving papers with the clerk of the court pursuant to CR 5(b)(1) in pending superior court actions, and that comparable provisions may allow similar service in other court proceedings or administrative actions.

## RULE 8.2

## LAWYER TO DISCONTINUE PRACTICE

A disbarred or suspended lawyer, or a lawyer transferred to disability inactive status, shall not accept any new retainer, give any legal advice, or act as the lawyer for another in a pending case or legal matter of any nature after the effective date of his or her disbarment, suspension, or transfer to disability inactive status, and shall also take whatever steps may be necessary to avoid any possibility that any person may think that he or she is a lawyer authorized to practice law. This rule shall not preclude a disbarred or suspended lawyer, or a lawyer transferred to disability inactive status, from providing information on the facts of a case and its status to a succeeding lawyer, and such information shall be provided on request and without charge.

## RULE 8.3

## AFFIDAVIT OF COMPLIANCE

Within 25 days after the effective date of his or her disbarment, suspension, or transfer to disability inactive status, the lawyer shall file with the Association an affidavit stating that he or she has fully complied with the provisions of these rules. The affidavit shall also set forth the residence or other address of the lawyer to which communications may thereafter be directed. The lawyer shall attach to the affidavit copies of the form letters of notification sent to the lawyer's clients, and to opposing counsel or opposing parties, and copies of letters to any court, together with a list of names and addresses of all clients and adverse parties or their lawyers to whom notices were sent.

## RULE 8.4

## PUBLIC NOTICE

(a) Publication. The Association shall cause a notice of the disbarment, suspension, or transfer to disability status of a lawyer to be published in the Washington State Bar News and a newspaper of general circulation in the county in which the lawyer maintained his or her practice, except that in the case of transfer to disability inactive status no reference shall be made to disability.

(b) Notice to Judges. The Association shall promptly notify the presiding judge of the superior court of the

county in which the lawyer maintained his or her practice of the lawyer's disbarment, suspension or transfer to disability inactive status, and may similarly notify the presiding judge of any district court located in the county where the lawyer practiced, or the judge of any other court in which the lawyer may have practiced or is known to have practiced.

(c) Other Notice. The notice provisions of this rule shall be in addition to the notice requirements of rule 11.2, which shall also be followed.

#### RULE 8.5

##### LAWYER TO KEEP RECORDS OF COMPLIANCE

A lawyer who has been disbarred, suspended, or transferred to disability inactive status must maintain written records of the various steps taken by him or her under these rules, so that upon any subsequent proceeding instituted by or against him or her proof of compliance with these rules will be available.

#### RULE 8.6

##### APPOINTMENT OF COUNSEL TO PROTECT CLIENTS' INTERESTS

(a) Appointment. Whenever a lawyer has been transferred to disability inactive status, suspended, or disbarred, and fails to carry out the obligations of this rule or fails to protect his or her clients' interests, or whenever a lawyer disappears or dies, the chairperson of the Board may appoint a lawyer or lawyers to protect the clients' interests, unless a partner, personal representative or other responsible person appears to be properly protecting those interests. The appointment shall be made upon application of the Association or any interested party and upon proper proof of facts. The appointed lawyer or lawyers shall take possession of the necessary files and records and take such action as seems indicated to protect the clients' interests or as required under these rules. Such action may include but is not limited to assuming control of trust accounts or other financial affairs. Any bank or other person honoring the authority of the appointed lawyer or lawyers shall be exonerated from any liability resulting therefrom.

(b) Costs. Payment of any costs incurred by the Association pursuant to this rule may be made a condition of reinstatement of a disbarred lawyer or a lawyer transferred to disability inactive status, or may be ordered as restitution in a disciplinary proceeding brought against a suspended lawyer for failure to comply with rule 8.1.

#### TITLE 9

##### REINSTATEMENT AFTER DISBARMENT

#### RULE 9.1

##### RESTRICTIONS AGAINST PETITIONING

(a) When Petition May Be Filed. No petition for reinstatement shall be filed within a period of 3 years after disbarment or within a period of 2 years after an adverse

decision of the Supreme Court upon a former petition, or within a period of 1 year after an adverse recommendation of the Board of Governors on a former petition when that recommendation is not submitted to the Supreme Court. If prior to disbarment the lawyer was suspended from the practice of law pursuant to the provisions of Title 3, or any comparable rule, the period of such suspension shall be credited toward the 3 years referred to above.

(b) Payment of Obligations. No disbarred lawyer may file a petition for reinstatement until costs and expenses assessed pursuant to these rules, and restitution ordered as provided herein, have been paid and until amounts paid out of the Clients' Security Fund as a result of the conduct of the petitioner have been repaid to the Association, or until periodic payment plans for costs and expenses, restitution and repayment to the Clients' Security Fund have been entered into by agreement between the respondent lawyer and state bar counsel.

#### RULE 9.2

##### REVERSAL OF CONVICTION

If a lawyer has been disbarred solely because of his or her conviction of a crime and the conviction is later reversed and the charges dismissed on their merits, the Supreme Court may in its discretion, upon direct application by the lawyer, enter an order reinstating the lawyer to active status. At the time such direct application is filed with the court a copy shall be filed with the Association.

#### RULE 9.3

##### FORM OF PETITION

A petition for reinstatement as a member of the Association after disbarment shall be in writing in such form as the Board of Governors may prescribe. The petition shall be filed with the Board of Governors. The petition shall set forth the age, residence and address of the petitioner, the date of disbarment, and a concise statement of facts claimed to justify reinstatement. The petition shall be accompanied by the total fees required of a lawyer applicant under the Admission to Practice Rules.

#### RULE 9.4

##### INVESTIGATION

The Board of Governors may in its discretion refer the petition for reinstatement for investigation and report to the Board by state bar counsel, special district counsel, or by such other person or persons as may be determined by the Board of Governors.

#### RULE 9.5

##### HEARING BEFORE BOARD OF GOVERNORS

(a) Notice. The Board of Governors may fix a time and place for a hearing on the petition, and shall serve



notice thereof 10 days prior to the hearing upon the petitioner and upon such other persons as may be ordered by the Board of Governors. Notice of the hearing shall also be published at least once in the Washington State Bar News or such other newspaper or periodical as the Board of Governors may direct. Such published notice shall contain a statement that a petition for reinstatement has been filed and shall give the date fixed for the hearing.

(b) Statement in Support or Opposition. On or prior to the date of hearing, anyone wishing to do so may file with the Board of Governors a written statement for or against reinstatement, such statements to set forth factual matters showing that the petitioner does or does not meet the requirements of rule 9.6(a). Except by its leave no person other than the petitioner or petitioner's counsel shall be heard orally by the Board of Governors.

#### RULE 9.6

##### ACTION BY BOARD OF GOVERNORS

(a) Requirements for Favorable Recommendation. Reinstatement may be recommended by the Board of Governors only upon an affirmative showing that the petitioner possesses the qualifications and meets the requirements as set forth in the Admission to Practice Rules for lawyer applicants, and that his or her reinstatement will not be detrimental to the integrity and standing of the judicial system or to the administration of justice, or be contrary to the public interest.

(b) Action on Recommendation. The recommendation of the Board of Governors shall be served upon the petitioner. If the Board recommends reinstatement, the record and recommendation shall be transmitted to the Supreme Court for disposition. If the Board recommends against reinstatement, the record and recommendation shall be retained in the office of the Association unless the petitioner requests that it be submitted to the Supreme Court. If the petitioner so requests the record and recommendation shall be transmitted to the Supreme Court for disposition. If the petitioner does not so request, the bar examination fee shall be refunded to the petitioner, but the petitioner shall still be responsible for payment of the costs incidental to the reinstatement proceeding as directed by the Board of Governors.

#### RULE 9.7

##### ACTION ON SUPREME COURT'S DETERMINATION

(a) Petition Approved. If the petition for reinstatement is granted by the Supreme Court, the reinstatement shall be subject to the petitioner's taking and passing the bar examination and paying the costs incidental to the reinstatement proceeding as directed by the Supreme Court.

(b) Petition Denied. If the petition for reinstatement is denied, the bar examination fee shall be refunded to the petitioner, but the petitioner shall still be responsible for payment of the costs incidental to the reinstatement proceeding.

#### TITLE 10

##### TRANSFER TO DISABILITY INACTIVE STATUS

#### RULE 10.1

##### AUTOMATIC TRANSFER

(a) Grounds. In the event that an active lawyer (1) has been found to be incapable of assisting in his or her own defense in a criminal action; or (2) has been acquitted of a crime on the ground of insanity; or (3) has had a guardian (but not a limited guardian) appointed for his or her person or estate upon a finding of incompetency; or (4) has been found to be mentally incapable of conducting the practice of law in any other jurisdiction, he or she shall automatically be transferred from active to disability inactive membership status upon receipt by the Association of a certified copy of the judgment, order or other appropriate document demonstrating that one or more of the above events has occurred.

(b) Notice to Lawyer. The disabled lawyer and his or her guardian, if one has been appointed, shall forthwith be notified of the transfer to disability inactive status. The Supreme Court shall be notified of the transfer to disability inactive status and shall be provided with a copy of the judgment, order or other appropriate document upon which the transfer was based.

#### RULE 10.2

##### DISCRETIONARY TRANSFER

(a) Review Committee May Order Inquiry. When it appears to a review committee that there is reasonable cause to believe that an active lawyer is unable adequately to practice law because of insanity, mental illness, senility, excessive use of alcohol or drugs, or other mental or physical incapacity, the committee shall order that a hearing be held to inquire into the capacity of the lawyer to practice law.

(b) Inquiry During Course of Disciplinary Proceedings. When it appears to the Board, a hearing officer or a hearing panel that there is reasonable cause to believe that a respondent lawyer is incapable of conducting a proper defense to a disciplinary proceeding against him or her because of insanity, mental illness, senility, excessive use of alcohol or drugs, or other mental or physical incapacity, the Board, officer or panel shall order that a supplemental hearing be held to inquire into the capacity of the lawyer to conduct a proper defense. Such hearing shall be automatic where the respondent lawyer alleges in the course of a disciplinary proceeding that he or she is unable to conduct a proper defense because of mental or physical incapacity.

(c) Procedure. Proceedings conducted pursuant to this rule are not disciplinary proceedings, but shall be conducted under the same procedural rules as disciplinary proceedings. Any hearing held under section (b) above may be treated either as a new proceeding or as part of an existing proceeding, in the discretion of the Board, hearing officer or panel, and the disciplinary proceedings shall be held in abeyance pending the outcome of the

supplemental proceeding. A recommendation of a hearing officer or panel that a lawyer be transferred to inactive status under this rule shall be treated as a recommendation for suspension for the procedural purposes of these rules, including rule 6.1(a) and rule 7.2(a).

(d) Appointment of Counsel. In the event the respondent lawyer does not appear by counsel within the time required by these rules for the filing of an answer, or within 20 days of being notified of the issues to be considered in a supplemental proceeding under section (b), the chairperson of the Board shall appoint a member of the Association as counsel for such respondent lawyer.

(e) Finding of Incapacity. If after review of the decision of the hearing officer or panel, the Board finds that a lawyer does not have adequate mental or physical capacity to practice law or to conduct a proper defense to disciplinary charges, it shall enter an order immediately transferring the lawyer to disability inactive status. Such transfer shall become effective upon service of such order upon the lawyer or his or her counsel.

(f) Appeal to Supreme Court. The lawyer may appeal an order of transfer to disability inactive status pursuant to the provisions of rule 7.2. The order of the Board shall remain in effect, regardless of the pendency of such appeal, unless and until reversed by the Supreme Court.

(g) Proceedings Confidential. All proceedings conducted pursuant to this rule shall be confidential.

### RULE 10.3

#### REINSTATEMENT TO ACTIVE STATUS

(a) Restriction, Right of Petition and Burden. No lawyer transferred to disability inactive status may resume active status except by order of the Board or the Supreme Court. Any lawyer transferred to disability inactive status shall be entitled to petition the Board for transfer to active status. The lawyer shall have the burden of showing that the disability has been removed.

(b) Petition and Initial Review. The petition for reinstatement shall set forth the facts demonstrating that the disability has been removed. The petition shall be filed with the Board at the office of the Association. Upon the filing of the petition the chairperson of the Board shall direct whatever action appears necessary or proper to determine whether the disability has been removed. Such actions include but are not limited to direction: (1) that state bar counsel or any other person conduct an investigation and file a report; (2) that an examination of the lawyer be conducted by a qualified expert or experts; and (3) that a hearing be held before the Board, or before a hearing officer or panel.

(c) Waiver of Doctor-Patient Privilege. The filing of a petition for reinstatement to active status by a lawyer transferred to disability inactive status shall be deemed to constitute a waiver of any doctor-patient privilege with respect to any treatment of the lawyer during the period of his or her disability. The lawyer shall be required to disclose the name of each psychiatrist, psychologist, physician, or other person, and each hospital or other institution by whom or in which the lawyer has been examined or treated since his or her transfer to

disability inactive status. The lawyer shall furnish, if requested by the Board or state bar counsel, written consent to each person or hospital to divulge information and records relating to the disability.

(d) Review of Record. Prior to the submission of the petition and any report to the Board the lawyer shall have a reasonable opportunity to review the report and to make any additional submissions he or she deems desirable.

(e) Board Review. The Board shall review the petition and report as expeditiously as possible and take one or more of the following actions:

(1) Grant the petition;

(2) Direct whatever additional action the Board deems necessary or proper to determine whether the disability has been removed;

(3) Direct that the lawyer establish proof of competence and learning in the law, which proof may include certification by the bar examiners of his or her successful completion of an examination for admission to practice;

(4) Deny the petition, but no such denial shall occur except as hereinafter provided without the lawyer having the opportunity for a hearing before the Board, or before a hearing officer or panel. A hearing is not necessary if the lawyer has failed to state a prima facie case for reinstatement in his or her petition, or if the petition does not indicate a material change of circumstance since a previous denial of a petition for reinstatement filed by the lawyer;

(5) Direct the lawyer to pay the costs of the reinstatement proceedings.

(f) Petition Granted. If the petition for reinstatement is granted, the lawyer shall immediately be transferred to active status and the Supreme Court notified thereof. If a disciplinary proceeding has been held in abeyance because of the disability transfer, the proceeding shall go forward upon reinstatement.

(g) Review by Supreme Court. If the petition for reinstatement is not granted, the respondent lawyer shall have the right to appeal the decision of the Board to the Supreme Court, by filing a notice of appeal with the Association within 15 days of service of the decision of the Board upon the respondent lawyer. Review shall be conducted pursuant to the procedures of Title 7.

### TITLE 11

#### ACCESS TO DISCIPLINARY INFORMATION

##### RULE 11.1

#### PENDING INVESTIGATIONS AND PROCEEDINGS

(a) Investigations Confidential. An investigation into an alleged act of misconduct by a lawyer shall be confidential except as necessary to conduct the investigation or to keep a complainant advised of the status of a matter, but the pendency, subject matter, and status of an investigation may be disclosed if:

(1) Both the respondent lawyer and the complainant have waived confidentiality; or

(2) The proceeding is based upon the conviction of a crime; or

(3) A review panel finds that the investigation is based upon allegations that have become generally known to the public.

(b) Release May Be Authorized. The Board of Governors, or the Executive Director acting under the direction of the Board, may authorize the general or limited release of any confidential information obtained during the course of an investigation when to do so appears necessary to protect the interests of clients or other persons, the public, or the integrity of the bar. A respondent lawyer shall be served with notice of a decision to release information under this section 5 days prior to its release unless the Board finds that such notice would jeopardize serious interests of any person or the public.

(c) Proceedings Public. Upon the filing and service of a formal complaint and after the lawyer has answered that complaint, or failed to answer within the time required, a disciplinary proceeding shall be public, subject to the provisions of any protective order as may be entered pursuant to section (f). The filing of a motion for a protective order shall stay the provisions of this rule with regard to any matter sought to be kept confidential in that motion, and the motion itself shall be confidential, until ruled upon.

(d) Matters Which Are Public. In a matter which is public pursuant to section (c), any person may have access to the contents of the bar file in the pending proceeding, may attend any hearing on the charges against the attorney, except a hearing on a motion, and may attend any oral argument before the Board conducted pursuant to rule 6.7(c). In any disciplinary matter referred to the Supreme Court, the file, record, briefs, and argument in the case shall also be public except to the extent previously made confidential by a protective order or as otherwise ordered by the court.

(e) Matters Which Are Not Public. In no case shall deliberations of a hearing panel, board or court, or matters made confidential by a protective order, be public.

(f) Protective Orders. In order to protect a compelling interest of a complainant, witness, third party, or respondent, the hearing officer or panel chairperson to whom a matter is assigned, the chairperson of a review committee or of the Board when a matter is before a committee or the Board for review, or the president of the Association in the case of a petition for reinstatement after disbarment, may, upon motion and for good cause shown, issue a protective order prohibiting the disclosure of specific information or specific documents or pleadings, and direct that the proceedings be conducted so as to implement the order.

(g) Application to Stipulations. A stipulation entered into pursuant to rule 4.14 shall be confidential until approved by a review committee or the Board, except that a complainant may be advised concerning a stipulation and its proposed or actual content at any time. A stipulation which is approved by a review committee or the Board shall be public, except that a stipulation entered into prior to the filing of a formal complaint and which provides for dismissal or conditional dismissal of a complaint without the imposition of a disciplinary sanction shall be confidential, unless and until proceedings are

instituted for failure to comply with the conditions of the stipulation.

(h) Application to Title 3 Suspensions. Proceedings for suspension of a lawyer for conviction of a crime pursuant to rule 3.1 shall be public upon the filing of the petition. Proceedings for suspension of a lawyer for other causes pursuant to rule 3.2 shall be public upon issuance of a show cause order by the Chief Justice of the Supreme Court.

(i) Application for Disability Proceedings. Proceedings for transfer to and from disability inactive status are confidential. However, a complainant may be advised of disability proceedings or transfers affecting a lawyer complained against. The fact that a lawyer is on inactive status, or has been reinstated to active status, is public.

(j) Application to Reinstatement Proceedings. A petition for reinstatement after disbarment shall be a public proceeding within this rule from the time the petition is filed.

(k) Regulations. Public access to file materials and proceedings as permitted by this rule may be subject to reasonable regulation as to time, place and circumstances. Certified copies of public bar file documents shall be made available at the same rate as certified copies of superior court records. Uncertified copies of public bar file documents shall be made available at a rate to be set by the Executive Director of the Association.

(l) Wrongful Disclosure. Disclosure by any person of any information concerning a pending or completed investigation or proceeding, except as permitted by these rules, may subject that person to an action for contempt of the Supreme Court. When the person is a lawyer, such wrongful disclosure may also be grounds for discipline.

## RULE 11.2

### NOTICE OF DISCIPLINE

(a) Discipline To Be Public. In any case in which a disciplinary sanction is imposed upon a lawyer pursuant to these rules, whether after a hearing or by stipulation, the nature of the sanction and the decision or stipulation upon which it is based shall be public. When a lawyer is permitted to resign with discipline pending, the fact of the resignation with discipline pending shall also be public.

(b) Notice to Supreme Court. A copy of any decision imposing a disciplinary sanction on a lawyer shall be filed with the Supreme Court when that decision becomes final.

(c) Other Notices. Notice of the imposition of a disciplinary sanction on a lawyer shall also be given to the following authorities, in such form as may appear appropriate:

(1) The lawyer discipline authority or highest court in any jurisdiction where the lawyer is believed to be admitted to practice;

(2) The chief judge of each federal district court in the state of Washington, and the chief judge of the United States Court of Appeals for the Ninth Circuit;

(3) The National Discipline Data Bank.

(d) Notices of Suspension, Disbarment, or Disability Inactive Status. Additional notices in any case where a lawyer is suspended, disbarred, or transferred to disability inactive status shall be given as provided in rule 8.4.

(e) Person Responsible. The clerk of the Board if one has been appointed, or state bar counsel, shall be responsible for providing the notices set forth in this rule.

(f) Discipline Under Prior Rules. Discipline imposed on a lawyer under prior rules of this state which was confidential when imposed shall remain confidential, regardless of the provisions of section (a). A record of confidential discipline may be kept confidential during the course of proceedings under these rules, or in connection with the consideration of a stipulation under rule 4.14, through a protective order issued under rule 11.1(f).

## TITLE 12

### GENERAL PROVISIONS

#### RULE 12.1

##### SERVICE OF PAPERS

(a) Service Required. Every pleading, every paper relating to discovery, every written request or motion other than one which may be heard ex parte, and every similar paper or document issued by state bar counsel or the respondent lawyer under any provision of these rules shall be served on the opposing party (the respondent lawyer or state bar counsel as the case may be) as follows, unless personal service is required or unless these rules specifically provide otherwise:

(1) On the respondent lawyer, by mailing the same postage prepaid to the lawyer or his or her attorney of record, or leaving the same, at the address set forth in the answer or in a notice of appearance filed by an attorney on behalf of the lawyer or at the address set forth in any subsequent document filed by the lawyer or his or her attorney; or, in the absence of an answer, by mailing the same postage prepaid to the lawyer or leaving the same at his or her address on file with the Association;

(2) On state bar counsel, by mailing the same postage prepaid, or leaving the same, at the address of the Association or such other address as state bar counsel may request;

(3) Service by mail under this section shall be by certified or registered mail, return receipt requested, unless the parties agree otherwise, except that when one or more certified mailings properly made pursuant to this rule is returned as unclaimed service may be made by regular first class mail. Service properly made as herein provided shall be effective regardless of whether the person to whom the mail is addressed actually receives it.

(b) Personal Service. When personal service upon a respondent lawyer is required by these rules, it shall be accomplished as follows:

(1) If the respondent lawyer is found in the state of Washington, by personal service upon him or her in the manner required for personal service of a summons in a civil action in the superior court.

(2) If the respondent lawyer cannot be found in the state of Washington, service can be made either by (i)

leaving a copy at his or her place of usual abode in the state of Washington with some person of suitable age and discretion then resident therein; or (ii) mailing by registered or certified mail, postage prepaid, a copy addressed to him or her at his or her last known place of abode, or office address maintained by him or her for the practice of law, or post office address or address on file with the Association.

(3) If the respondent lawyer is found outside of the state of Washington, then by service as set forth in (1) or (2) above.

(c) Service Where Question of Mental Competence. If a guardian or guardian ad litem has been duly appointed for a respondent lawyer who has been judicially declared to be of unsound mind or incapable of conducting his or her own affairs, service under sections 12.1(a) and (b) above shall also be made on the guardian or guardian ad litem.

(d) Proof of Service. Proof of service when personal service is required shall be made by affidavit of service, sheriff's return of service, or a signed acknowledgment of service. Proof of service in other cases may alternatively be made by certificate of an attorney similar to that allowed by CR 5(b)(2)(B), which certificate shall state the form of mail used. Proof of service in all cases shall be filed in the office of the Association, or with the Supreme Court in matters before the court, but need not be served on the opposing party.

#### RULE 12.2

##### FILING; COPY TO HEARING OFFICER; ORDERS

(a) Filing Originals; Copies to Hearing Officer or Panel. The original of any pleading, motion, discovery document or other paper authorized by these rules, except in matters before the Supreme Court, shall be filed in the office of the Association. Filing may be made by first class mail, and shall be deemed accomplished on the date of mailing. In addition to service upon the opposing party as required by rule 12.1(a), in cases where a hearing is pending a copy of any such paper except discovery documents shall be sent or delivered to the hearing officer or panel chairperson, or to each member of a hearing panel where required by these rules. Service on a hearing officer or panel may be by regular first class mail.

(b) Filing and Service of Orders. Any written order, decision or ruling entered under these rules, except an order of the Supreme Court or an informal ruling issued pursuant to rule 4.8(e), shall be filed with the Association, and shall be served upon the respondent lawyer by the clerk to the Board if one has been appointed, or by state bar counsel as provided in rule 12.1(a).

#### RULE 12.3

##### PAPERS

All pleadings or other papers under these rules must be typewritten or printed, double spaced, on good quality 8 1/2 by 11-inch or 8 1/2 by 13-inch paper.

## RULE 12.4

## EXPENSES

(a) Board, Special District Counsel, Hearing Officer or Panel. The members of the Board, special district counsel, hearing officers and hearing panel members shall receive no compensation for their services, except as hereinafter provided, but expenses incurred in connection with their duties shall be paid from the funds of the Association subject to any limitation established by resolution of the Board of Governors. The Board of Governors shall have discretionary authority to provide compensation to hearing officers or hearing panel members in cases which are unusually time consuming or where some other especially burdensome circumstance is involved.

(b) Special Appointments. The fees for counsel appointed pursuant to rule 8.6 or rule 10.2(d) and costs or expenses reasonably incurred by such counsel under authority of these rules shall be paid by the Association.

## RULE 12.5

## RESTRICTIONS ON REPRESENTATION OF RESPONDENT

A former president of the Association, a former member of the Board of Governors, or a former member of the Disciplinary Board shall not represent a respondent lawyer in any proceeding under these rules until 3 years have elapsed following expiration of his or her term of office.

## RULE 12.6

## RECIPROCAL DISCIPLINE

(a) Supreme Court Action. Upon receipt of a certified copy of an order demonstrating that a lawyer admitted to practice in this state has been disciplined in another jurisdiction, the Supreme Court shall forthwith direct the Association to issue a notice directed to the respondent lawyer containing:

(1) A copy of the order from the other jurisdiction; and

(2) An order directing that the respondent lawyer inform the court within 30 days from service of the notice of any claim that the imposition of the identical discipline in this state would be unwarranted, and if so the reasons therefor. The notice shall be personally served on the respondent lawyer as provided in rule 12.1(b).

(b) Deferral. In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this state shall be deferred until the stay expires.

(c) Conclusive Effect. In all other respects, a final adjudication in another jurisdiction that a lawyer has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this state.

## RULE 12.7

## REMOVAL OF APPOINTEES

The power granted by these rules to any person, committee or board to make any appointment shall include the power to remove the person appointed whenever that person appears unwilling or unable to perform his or her duties, or for any other cause, and to fill the resulting vacancy.

## RULE 12.8

## MAINTENANCE OF RECORDS

(a) Permanent Records. In any matter in which a disciplinary sanction has been imposed on a lawyer, the bar file and transcripts in the proceeding shall be permanent records of the Association and/or of the Supreme Court. Related file materials, including investigatory files, may be maintained in the discretion of state bar counsel. Exhibits may be returned to the party supplying them, but copies shall be retained where possible.

(b) Destruction of Files. In any matter in which a complaint or investigation has been dismissed without the imposition of a disciplinary sanction, whether following a hearing or otherwise, file materials relating to the matter may be destroyed 5 years after the dismissal occurred, and shall be destroyed at that time upon the request of the lawyer involved unless the files are being used in an ongoing investigation or unless other good cause exists for retention. The Board of Governors shall rule on a request by a lawyer for destruction of files pursuant to this rule when that request is opposed by state bar counsel.

(c) Retention of Docket. When a file on a matter has been destroyed pursuant to section (b), the Association may retain a docket record of the matter for statistical purposes only. That docket record shall not include the name or other identification of the lawyer complained against.

(d) Deceased Lawyers. Records and files relating to a lawyer who has died, including permanent records, may be destroyed at any time in the discretion of state bar counsel.

## RULE 12.9

## CONFIDENTIAL SOURCES

When a complaint is made or information provided to state bar counsel or the Association regarding a possible act of misconduct by a lawyer, or possible mental or physical inability of a lawyer to conduct his or her practice of law, and the person making the complaint or providing the information requests that his or her identity be kept confidential, an investigation may be conducted in the name of the Association. Unless otherwise ordered, the identity of the person complaining or providing information, the "confidential source," shall not be disclosed to the lawyer, either during the investigation or in subsequent formal proceedings if such proceedings are ordered. The chairperson of the Board, the chairperson of a review committee, or a hearing officer or panel

chairperson before whom a matter is pending may order state bar counsel to reveal the identity of a confidential source upon motion of the lawyer, where after private examination of state bar counsel and any requested documents or file materials it appears necessary to reveal the identity of the confidential source to the lawyer to enable the lawyer to conduct a proper defense to the charges against him or her.

#### RULE 12.10

##### STATUTE OF LIMITATION

There is no statute of limitation or other time limitation restricting the bringing of a proceeding under these rules, but the passage of time since an act of misconduct occurred may be considered in determining what if any action or sanction is warranted.

#### RULE 12.11

##### EXONERATION FROM LIABILITY

(a) Association and Its Agents. No cause of action shall accrue in favor of a respondent lawyer or any other person, arising from an investigation or proceeding pursuant to these rules, against the Association, or its officers or agents (including but not limited to its staff, members of the Board of Governors, the Disciplinary Board, review committees, hearing panels, hearing officers, state bar counsel, special district counsel, a lawyer appointed pursuant to rule 8.6 or 10.2(d), probation officers appointed pursuant to rule 5.2, or any other individual acting under authority of these rules) provided only that the Association or individual shall have acted in good faith. The burden of proving bad faith in this context shall be upon the party asserting it. The Association shall provide defense to any action brought against an officer or agent of the Association for actions taken in good faith under these rules and shall bear the costs of that defense.

(b) Complainants and Witnesses. Communications to the Association, Board of Governors, Disciplinary Board, review committee, hearing officer or panel, state bar counsel, special district counsel, Association staff, or any other individual acting under authority of these rules, are absolutely privileged, and no lawsuit predicated thereon may be instituted against any complainant, witness or other person providing information.

#### RULE 12.12

##### COMPUTATION OF TIME

In computing any period of time under these rules the provisions of CR 6(a) and (e) shall apply.

#### RULE 12.13

##### STIPULATION TO EXTENSION OF TIME

In any proceeding under these rules, except matters pending before the Supreme Court, the respondent lawyer and state bar counsel may stipulate to extension of

the time requirements provided herein, except the time within which any notice of appeal must be filed.

#### RULE 12.14

##### PRIORITIES

Guidelines may be established by the Board of Governors or the Disciplinary Board providing for the priority under which investigations or proceedings will be processed, with first priority being given to those allegations or charges which appear to represent the most immediate threat of harm to the public.

#### RULE 12.15

##### DEFINITIONS

Unless the context clearly indicates otherwise, terms used in these rules shall have the following meaning:

(a) "Association" shall mean the Washington State Bar Association.

(b) "Bar file" shall mean the pleadings, motions, rulings, decisions, and other formal papers filed in a proceeding beginning with the formal complaint.

(c) "Board" when used alone in these rules shall mean the Disciplinary Board.

(d) "Panel" shall mean a hearing panel.

#### RULE 12.16

##### EFFECT ON PENDING PROCEEDINGS

Upon the effective date of these rules as ordered by the Supreme Court they shall apply in their entirety to any matter or investigation which is pending and which has not yet been ordered to hearing or ordered dismissed. They shall apply to other pending matters insofar as practicable. The hearing officer or panel chairperson appointed to hear a matter, or the chairperson of the Board in a matter pending before the Board, shall rule on questions concerning the appropriate procedure to be followed with a view to insuring a fair and orderly proceeding.

#### TITLE 13

##### AUDITS

#### RULE 13.1

##### AUDIT AND INVESTIGATION OF BOOKS AND RECORDS

The Board and its chairperson shall have the following authority to examine, investigate and audit the books and records of any lawyer for the purpose of ascertaining and reporting whether CPR DR 9-102 has been or is being complied with by such lawyer:

(a) Random Examination. The Board may from time to time authorize examinations of the books and records of any lawyer or firm of lawyers selected at random. Such examinations shall extend only to the books and records of such lawyer or firm of lawyers.

(b) Particular Examination. The chairperson of the Board may, upon receipt of information that a particular lawyer or firm of lawyers may not be in compliance with

CPR DR 9-102, authorize an examination limited to the scope set forth in section (a). Such information may be presented to the chairperson without notice to the lawyer or firm of lawyers.

(c) Audit. Upon the examination set forth in section (a) or (b), if the chairperson of the Board shall determine that further examination is warranted, the chairperson may then order an appropriate audit of the lawyer's or the firm's books and records, including verification of the information therein from available sources.

#### RULE 13.2

##### COOPERATION OF LAWYER

It shall be the duty and obligation of any lawyer or firm who is subject to examination, investigation and audit under rule 13.1 to cooperate with the person conducting the examination, investigation or audit, subject only to the proper exercise of any privilege against self-incrimination where applicable, by:

(a) Producing to such person forthwith all evidence, books, records and papers as such person shall request for the purpose of his or her examination, investigation or audit;

(b) Furnishing forthwith such explanations as the person may require for the purpose of his or her examination, investigation or audit;

(c) Producing, in those cases where the examination, investigation or audit is being conducted pursuant to rule 13.1, to such person forthwith written authorization, directed to any bank or depository, for the person to examine, investigate or audit trust and general accounts, safe deposit boxes and other forms of maintaining trust property by the lawyer in such bank or depository.

#### RULE 13.3

##### DECLARATION OR QUESTIONNAIRE

(a) Questionnaire. The Association shall cause to be directed annually to each active lawyer a written declaration or questionnaire designed to determine whether such lawyer is complying with CPR DR 9-102. Such declaration or questionnaire shall be completed, executed and delivered by such lawyer to the Association on or before the date of delivery specified in such declaration or questionnaire.

(b) Noncompliance. Failure to file the declaration or questionnaire on or before the date specified in section (a) shall be grounds for discipline. Such failure shall also subject the lawyer who has failed to comply with this rule to a full audit of his or her books and records as provided in rule 13.1(c), upon request of state bar counsel to a review committee. A copy of any request made under this section shall be served upon the lawyer involved. The request shall be granted upon a showing that the lawyer has failed to comply with section (a) of this rule. If the lawyer should later comply, state bar counsel shall have discretion to determine whether an audit should be conducted, and if so the scope of that audit. A lawyer audited pursuant to this section shall be liable for

all actual costs of conducting such audit, and also a charge of \$100 per day spent by the auditor in conducting the audit and preparing an audit report. Costs and charges shall be assessed in the same manner as costs under rule 2.8(b)(2).

#### RULE 13.4

##### DISCLOSURE

The examination and audit report shall be open to the Board, state bar counsel, the lawyer or firm examined, investigated or audited, and to the Board of Governors upon its request, unless a disciplinary proceeding is commenced in which event the disclosure provisions of Title 11 shall apply.

#### RULE 13.5

##### REGULATIONS

The Disciplinary Board may adopt regulations pertinent to the powers set forth in this rule subject to the approval of the Board of Governors and the Supreme Court.

#### WSR 83-06-001

##### PROPOSED RULES

#### SEATTLE COMMUNITY COLLEGE DISTRICT

[Filed February 17, 1983]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Seattle Community College District intends to adopt, amend, or repeal rules concerning student policies and procedures, chapter 132F-120 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 7, 1983.

The authority under which these rules are proposed is chapters 28B.50 and 28B.19 RCW.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before March 7, 1983.

This notice is connected to and continues the matter in Notice No. WSR 83-01-114 filed with the code reviser's office on December 22, 1983[1982].

Dated: February 11, 1983

By: John W. Casey  
Chancellor

#### WSR 83-06-002

##### ADOPTED RULES

#### DEPARTMENT OF AGRICULTURE

[Order 1785—Filed February 17, 1983]

I, Michael Schwisow, deputy director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Washington cattle sale requirements, WAC 16-86-015.

This action is taken pursuant to Notice No. WSR 83-02-061 filed with the code reviser on January 5, 1983. 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 February 17, 1983.

By Michael V. Schwisow  
Deputy Director

AMENDATORY SECTION (Amending Order 1742, filed July 1, 1981)

✓ WAC 16-86-015 WASHINGTON CATTLE SALE REQUIREMENTS. (1) No breeding cattle may be sold in this state unless within the thirty days immediately preceding the change of ownership the animal has been tested for brucellosis and the result of that test is negative. Except the following classes of cattle are exempt from this test requirement:

- (a) Calves under twelve months of age.
- (b) Cattle sold or consigned to a quarantined registered ((quarantine)) feed lot.
- (c) Cattle sold or consigned to an official slaughter establishment for slaughter within fourteen days.
- (d) Steers and spayed heifers.
- (e) Officially calfhood vaccinated dairy cattle under twenty months of age and officially vaccinated beef cattle under twenty-four months of age from herds not under quarantine.

(2) The department shall review operation of WAC 16-86-015(1) in August 1982 to determine the results of the testing program in terms of the numbers of suspects and reactors discovered and the status of the brucellosis situation in the state. The purpose of the review is to assess the need for changes.

Unless after a hearing renewal is determined to be necessary, WAC 16-86-015(1) shall expire on August 1, 1983.

(3) ((~~After September 1, 1979,~~)) No female ((~~dairy~~)) cattle may be sold, or introduced into ((~~commercial dairy herds~~)) any herd, in the state of Washington unless they are properly identified as official brucellosis vaccinates; except the following classes of cattle are exempt from this requirement:

(a) Calves under four months of age: PROVIDED, That female calves under four months acquired by ((~~the commercial~~)) any herd and natural female additions ((~~shall~~)) must be officially brucellosis calfhood vaccinated and identified before the age of twelve months. ((~~or removed from the herd:~~

~~(b) Female cattle over two years of age in Washington herds.~~

~~(c) After January 1, 1980, female cattle over three years of age in Washington herds.~~

~~(d) After January 1, 1981, female cattle over four years of age in Washington herds.~~

~~(e) After January 1, 1982, female cattle over five years of age in Washington herds.~~

~~(f) After January 1, 1983, female cattle over six years of age in Washington herds.))~~

(b) In Washington herds, female dairy breed cattle, after January 1, 1983, over six years of age.

(c) In Washington herds, female beef breed cattle, after January 1, 1984, over twelve months of age; after January 1, 1985, over two years of age; after January 1, 1986, over three years of age; after January 1, 1987, over four years of age; after January 1, 1988, over five years of age; after January 1, 1989, over six years of age.

(d) Cattle sold or consigned to a quarantined registered feed lot.

(e) Cattle sold or consigned to a federally inspected slaughter plant.

(f) Cattle sold or consigned to a public livestock market for immediately slaughter only.

(g) Spayed heifers.

(4) All Washington cattle shall be individually identified and permanently recorded as to herd of origin prior to being sold or consigned for slaughter. Such identity shall be transferred to the blood sample taken for MCI test purposes. These records shall be made available to the department upon request. Except the following classes of cattle shall be exempt from this requirement:

- (a) Cattle under twenty-four months of age. (Not parturient or post parturient.)
- (b) Steers and spayed heifers.

#### WSR 83-06-003

#### EMERGENCY RULES

#### DEPARTMENT OF GAME

#### (Game Commission)

[Order 193—Filed February 17, 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 the Quillayute River system to the taking of steelhead trout by treaty Indians, WAC 232-32-150.

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 the Quileute Tribe and fish buyers reporting sales of steelhead harvested by treaty Indian fishermen from the Quillayute 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 the Quillayute River



system to treaty Indian fishing 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 February 17, 1983.

By Archie U. Mills  
Chairman, Game Commission

### NEW SECTION

**WAC 232-32-150 CLOSURE OF THE QUILLAYUTE RIVER SYSTEM TO THE TAKING OF STEELHEAD TROUT BY TREATY INDIANS.**  
*Effective 6:00 p.m., February 19, 1983, it is unlawful for treaty Indians to take, fish for or possess steelhead trout in or from the Quillayute River system.*

**WSR 83-06-004  
PROPOSED RULES  
PARKS AND RECREATION  
COMMISSION**

[Filed February 17, 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 solicitation in state parks, religious services and group rallies, and use of state park areas by permit for public meetings and assemblies;

that the agency will at 9:00 a.m., Thursday, March 17, 1983, in the International Dunes - Rivershore Motel, 50 Comstock, Richland, WA 99352, 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 43.51.060(1) and 43.51.040(3).

The specific statute these rules are intended to implement is RCW 43.51.040(3).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Tuesday, March 15, 1983.

This notice is connected to and continues the matter in Notice No. WSR 83-02-041 filed with the code reviser's office on December 30, 1982.

Dated: February 17, 1983

By: Durand A. Cox  
Chairman

### WSR 83-06-005

#### ADOPTED RULES DEPARTMENT OF PERSONNEL (Personnel Board)

[Order 180—Filed February 18, 1983]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 600 South Franklin, Olympia, WA 98504, that it does adopt the annexed rules relating to Salaries—Reduction-in-force register appointment, amending WAC 356-14-085.

This action is taken pursuant to Notice No. WSR 82-24-024 filed with the code reviser on November 23, 1982. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 41.06.150 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 February 10, 1983.

By Leonard Nord  
Secretary

### AMENDATORY SECTION (Amending Order 154, filed 5/19/81)

**WAC 356-14-085 SALARIES—REDUCTION-IN-FORCE REGISTER APPOINTMENT.** When an eligible is appointed from a certification off of a reduction-in-force register, his/her salary will be set as follows:

(1) If the employee was demoted due to a reduction-in-force action or the reallocation of a position downward, the salary will be the basic dollar amount the employee was being paid at the time he/she left the range to which he/she is being appointed, plus, whatever the periodic increases and the salary adjustments that would have been made had the employee remained in that classification and range. ((Separations due to reduction-in-force)) If the employee was separated from state service due to a reduction-in-force action, the separation will not be regarded as a break in service((-but)). The time during which employees are off the payroll will not be used in computing periodic increases except for practices in effect prior to October 14, 1980, for setting periodic increment dates for employees involving recurring reduction-in-force. ((The)) An eligible still employed by the state will not be entitled to further increases in salary based on promotion as prescribed in WAC 356-14-140.

(2) Such increases above the basic dollar amount in (1) above shall not place the employee higher than the maximum salary for the range, except general salary increase specifically granted to Y-rated employees.

**WSR 83-06-006**  
**NOTICE OF PUBLIC MEETINGS**  
**WHATCOM COMMUNITY COLLEGE**  
 [Memorandum—February 16, 1983]

You are hereby notified that the February 24, 1983, meeting of the board of trustees of Whatcom Community College, District Number Twenty-One, has been cancelled.

**WSR 83-06-007**  
**EMERGENCY RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**  
 [Order 194—Filed February 22, 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 the Samish River and Marine Area 7C to the taking of steelhead trout by treaty Indians, WAC 232-32-151.

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 the Lummi and Nooksack tribes and fish buyers reporting sales of steelhead harvested by treaty Indian fishermen from the Samish River system and Area 7C (pursuant to the reporting system approved by the United States District Court in United States vs. Washington) indicates that the treaty Indian share of harvestable steelhead for these areas has been reached or will have been reached on the effective date of this order. Therefore, it is necessary to close the Samish River system and Area 7C to treaty Indian fishing to assure spawning escapement and to assure that non-Indian sport fishermen can take their remaining 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 February 22, 1983.  
 By Archie U. Mills  
 Chairman, Game Commission

**NEW SECTION**

**WAC 232-32-151 CLOSURE OF THE SAMISH RIVER SYSTEM AND MARINE AREA 7C TO THE TAKING OF STEELHEAD TROUT BY**

*TREATY INDIANS. Effective 6:00 p.m., February 23, 1983, it is unlawful for treaty Indians to take, fish for or possess steelhead trout in or from the Samish River system and Marine Area 7C.*

**WSR 83-06-008**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—February 18, 1983]

The dates for the meetings of the board of regents (subject to change) for the remainder of 1983 are:

March 18  
 April 26 (morning)  
 (previously set for April 29)  
 May 20  
 June 10  
 July 15  
 August 19  
 September 16  
 October 14  
 November 18  
 December 9

**WSR 83-06-009**  
**PROPOSED RULES**  
**COMMUNITY COLLEGE**  
**DISTRICT 17**  
 [Filed February 22, 1983]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Washington Community College District 17 intends to adopt, amend, or repeal rules concerning examination of public records;

that the institution will at 1:30 p.m., Tuesday, April 12, 1983, in the District Office Board Room, North 2000 Greene Street, Spokane, WA 99207, 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.50.140.

The specific statute these rules are intended to implement is RCW 42.17.250.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before Monday, April 4, 1983.

Dated: February 18, 1983  
 By: C. Nelson Grote  
 Chief Executive Officer

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 28B.19.033. Add chapter 132Q-276 WAC, Public records—Initiative 276. The purpose of adding chapter 132Q-276 WAC is to establish procedures for examination of public records.

Statutory Authority: RCW 28B.50.140 and 42.17.250.

The Person Responsible for the Drafting, Implementation and Enforcement of this Rule: Dr. C. Nelson Grote, Chief Executive Officer, Washington Community College District 17, North 2000 Greene Street, Spokane, WA 99207.

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

## NEW SECTION

### Chapter 132Q-276

#### PUBLIC RECORDS—INITIATIVE 276

##### WAC

132Q-276-010	Purpose.
132Q-276-020	Definitions.
132Q-276-030	Central and Field Organization.
132Q-276-040	Operations and Procedures.
132Q-276-050	Public Records Available.
132Q-276-060	Public Records Officer.
132Q-276-070	Office Hours.
132Q-276-080	Requests for Public Records.
132Q-276-090	Copying.
132Q-276-100	Exemptions.
132Q-276-110	Appeal of Denials.
132Q-276-120	Protection of Public Records.
132Q-276-130	Records Index.
132Q-276-140	Adoption of Form.

WAC 132Q-276-010 **PURPOSE.** The purpose of this chapter shall be to insure compliance by Washington Community College District 17 with the provisions of Chapter 42.17 RCW, Disclosure—Campaign—Finance—Lobbying—Records: and, in particular, with RCW 42.17.250 – RCW 42.17.340 dealing with public records.

WAC 132Q-276-020 **DEFINITIONS.** (1) **PUBLIC RECORDS.** "Public Record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(2) **WRITING.** "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) **WASHINGTON COMMUNITY COLLEGE DISTRICT 17.** Washington Community College District 17 is a state agency created and organized by statute pursuant to RCW 28B.50.040, and shall hereinafter be referred to as the "District". Where appropriate, the term "District" shall also refer to the staff and board of trustees of the District.

WAC 132Q-276-030 **CENTRAL AND FIELD ORGANIZATION.** The District is a community college district organized under RCW 28B.50.040. The administrative office of the District and its staff is located at North 2000 Greene, Spokane, Washington, 99207. The District operates two colleges, Spokane Community College, located at North 1810 Greene, Spokane, Washington, 99207, and Spokane Falls Community College, located at West 3410 Fort George Wright Drive, Spokane, Washington, 99204. The District also operates extension and continuing education programs in the counties of Ferry, Lincoln (except Consolidated School District 105-157-166J) and the Lincoln County portion of Common School District 167-202), Pend Orielle, Spokane, Stevens, and Whitman.

WAC 132Q-276-040 **OPERATIONS AND PROCEDURES.** The District is established under RCW 28B.50.040 to implement the educational purposes established by RCW 28B.50.020. The District is operated under the supervision and control of a board of trustees appointed by the governor as provided in RCW 28B.50.130. The chief administrative officer of the District is the district president, who also

serves as secretary to the board of trustees. The day-to-day operation of the District, pursuant to policy established and approved by the board of trustees, is implemented through the office of the district president or the president's designee.

The board of trustees meets the second Tuesday of each month at 1:30 p.m. in the board room of the district offices located at North 2000 Greene Street, Spokane, Washington, 99207, unless public notice is given of a special meeting. At such time, the trustees exercise the powers and duties granted to the board by RCW 28B.50.140.

WAC 132Q-276-050 **PUBLIC RECORDS AVAILABLE.** All public records of the District, as defined in WAC 132Q-276-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310 and WAC 132Q-276-100.

WAC 132Q-276-060 **PUBLIC RECORDS OFFICER.** The District's public records shall be in the charge and control of the public records officer designated by the district president. The person so designated shall be located in the administrative office of the District. The public records officer shall be responsible for implementing the District's rules and regulations regarding release of public records, coordinating the staff of the District in this regard, and generally insuring compliance by the staff with the public records disclosure of Chapter 42.17 RCW.

WAC 132Q-276-070 **OFFICE HOURS.** Public records shall be available for inspection and copying during the customary office hours of the District. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. until noon and from 1:00 p.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

WAC 132Q-276-080 **REQUESTS FOR PUBLIC RECORDS.** In accordance with requirements of RCW 42.17.290, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the District which shall be available at its administrative office. The form shall be presented to the public records officer or to any member of the District's administrative staff, if the public records officer is not available, at the District office during customary office hours. The request shall include the following information:

- The name of the person requesting the records;
- The time of day and calendar date on which the request was made;
- The nature of the request;
- The matter requested as referenced within the current index maintained by the records officer, or if the matter is not identifiable by reference in the District's current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or other staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

WAC 132Q-276-090 **COPYING.** No fee shall be charged for the inspection of public records. The District may charge a fee per page of copy for providing copies of public records, for use of the District's copy equipment, and labor costs. This charge shall be an amount necessary to reimburse the District for its actual costs incident to such copying.

WAC 132Q-276-100 **EXEMPTIONS.** (1) The District reserves the right to determine that the public record requested in accordance with the procedures outlined in WAC 132Q-276-080 is exempt under the provisions of Chapter 42.17 RCW.

(2) In addition, pursuant to RCW 42.17.260, the District reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy

protected by Chapter 42.17 RCW. The public records officer shall fully justify any such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the records withheld.

**WAC 132Q-276-110 APPEAL OF DENIALS.** (1) Any person who objects to the denial of a request for a public record may appeal such decision by tendering a written request for appeal. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for appeal of a decision denying a public record, the public records officer or other administrative staff member denying the request shall refer the written request to the district president or the president's designee. The district president or the designee shall immediately consider the matter, may consult with the Office of the Attorney General, and either affirm or reverse such denial of access to a public record. In any case, the request shall be returned with a final decision within two (2) business days following the filing of the written request for review.

(3) Administrative remedies shall not be considered exhausted until the District has returned the petition with a decision or until the close of the second business day following a request for appeal, whichever occurs first.

**WAC 132Q-276-120 PROTECTION OF PUBLIC RECORDS.** It is the policy of the District, in order to protect public records from damage or disorganization and to prevent excessive interference with other essential functions of the District, that original copies of records are not to be taken from the District designated area of custody or storage. Any examination and copying of records subject to these regulations is to occur at places designated by the District through the public records officer and/or his designee. The fullest assistance to inquiries and the most timely possible action on request for information consistent with protection of the public records is to be supplied.

**WAC 132Q-276-130 RECORDS INDEX.** (1) The District has available to all persons a current index which provides identifying information as to the following records issued, adopted, or promulgated since June 30, 1972: (a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases; (b) Those statements of policy and interpretations of policy, statutes and the constitution which have been adopted by the agency; (c) Administrative staff manuals and instructions to staff that affect a member of the public; (d) Planning policies and goals, and interim and final planning decisions; (e) Factual staff reports and studies, factual consultants reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and (f) Correspondence and materials referred therein by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines or opines upon, or is asked to determine or opine upon, the rights of state, the public, a subdivision of state government or any private agency.

(2) The current index described in WAC 132Q-276-130(1) shall be available to all persons under the same rules and on the same conditions as they are applied to public records available for inspection.

**WAC 132Q-276-140 ADOPTION OF FORM.** The District shall adopt a form for use by all persons requesting inspection and/or copying or copies of its public records.

**WSR 83-06-010  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Health)**

[Filed February 22, 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:

- Amd WAC 248-22-036 Infection control—Psychiatric and alcoholism hospitals.  
Amd WAC 248-23-050 Infection control—Residential treatment facilities for psychiatrically impaired children and youth.

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 April 13, 1983. The meeting site is in a location which is barrier free;

that the agency will at 10:00 a.m., Wednesday, April 27, 1983, in the Third Floor Conference Room H-19, Office Building #2, 12th and Franklin, 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 May 4, 1983.

The authority under which these rules are proposed is chapter 71.12 RCW.

The specific statute these rules are intended to implement is chapter 71.12 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 27, 1983.

Dated: February 22, 1983

By: David A. Hogan, Director

Division of Administration and Personnel

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.045. Amending WAC 248-23-050, Infection control, residential treatment facilities for psychiatrically impaired children and youth, and WAC 248-22-036, Infection control, psychiatric and alcoholism hospitals.

The Purpose of the Rule Change: To eliminate the requirement for x-ray screening of employees after an initial evaluation.

The Amendment is Necessary Because: It will result in minimizing employee exposure to x-rays and substantial cost savings for the program without compromising the quality of tuberculosis surveillance in Washington.

Statutory Authority: Chapter 71.12 RCW.

**Summary of the Rule Change:** The rule change represents a lessening of tuberculosis screening requirements for employees of residential treatment facilities for psychiatrically impaired children and youth, psychiatric hospitals and alcoholism hospitals. According to the tuberculosis control program, division of health, the suggested changes do not compromise the quality of tuberculosis surveillance in Washington. Annual x-ray screening for employees with positive Mantoux tests is no longer required.

**Person Responsible for Drafting, Implementation and Enforcement of the Rule:** John H. Gerth, Section Head, Licensing and Development Section, Office of State Health Planning and Development, Division of Health, Mailstop: LM-13, Phone: 753-5851.

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

#### AMENDATORY SECTION (Amending Order 1898, filed 11/4/82)

WAC 248-22-036 INFECTION CONTROL. (1) There shall be written policies and procedures addressing infection control.

(2) Provisions shall be made for isolation of patients in accordance with the most recent edition of Isolation Techniques for Use in Hospitals, United States Department of Health, Education and Welfare.

(3) There shall be a written policy related to reporting of communicable disease in accordance with chapter 248-100 WAC.

(4) Recognized standards of medical aseptic techniques including basic handwashing practices shall be followed in all direct personal care of patients.

(5) Methods for cleaning, disinfecting or sterilizing, handling and storage of all supplies and equipment shall be such as to prevent the transmission of infection.

(6) There shall be in effect a current system of discovering, reporting, investigating, and reviewing infections among patients and personnel with maintenance of records on such infections.

(7) Upon employment, each person shall have or provide documented evidence of a tuberculin skin test by the Mantoux method, unless medically contraindicated. When this skin test is negative (less than ~~((+0mm))~~ ten millimeters induration read at forty-eight to seventy-two hours), no further tuberculin skin tests shall be required. A positive skin test shall consist of ~~((+0mm))~~ ten millimeters of induration, or greater, read at forty-eight to seventy-two hours. Positive reactors shall have a chest x-ray within ninety days of the first day of employment. ~~((Exceptions))~~ Exemptions and ~~((specifics))~~ specific requirements are as follows:

(a) Those with a positive skin ~~((tests as defined above, shall have an annual screening in the form of a chest x-ray))~~ test who have completed a recommended course of preventive or curative treatment, as determined by the local health officer, shall be exempted from testing.

(b) ~~((Those with positive skin test whose chest x-ray shows no sign of active disease at least two years after the first documented positive skin test shall be exempted from further annual testing and chest x-rays))~~ Records of test results, x-rays or exemptions from such shall be kept by the facility.

~~((c) Those with positive skin test who have completed a recommended course of preventive or curative treatment, as determined by the local health officer, shall be exempted from further testing.~~

~~((d) A record of test results, x-rays or exemptions from such shall be kept by the facility.))~~

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

#### AMENDATORY SECTION (Amending Order 1899, filed 11/4/82)

WAC 248-23-050 INFECTION CONTROL. (1) There shall be written policies and procedures addressing infection control and isolation of clients (should isolation be necessary and medically appropriate for an infectious condition).

(2) There shall be reporting of communicable disease in accordance with WAC 248-100-075 and 248-100-080 as now or hereafter amended.

(3) There shall be a current system for reporting, investigating and reviewing infections among clients and personnel and for maintenance of records on such infections.

(4) Upon employment, each person shall have or provide documented evidence of a tuberculin skin test by the Mantoux method, unless medically contraindicated. When the skin test is negative (less than ten millimeters induration read at forty-eight to seventy-two hours), no further tuberculin skin test shall be required. A positive skin test shall consist of ten millimeters of induration, or greater, read at forty-eight to seventy-two hours. Positive reactors shall have a chest x-ray within ninety days of the first day of employment. ~~((Exceptions))~~ Exemptions and specific requirements are as follows:

(a) Those with positive skin tests ~~((as defined above) shall have an annual screening in the form of a chest x-ray))~~ who have completed a recommended course of preventive or curative treatment, as determined by the local health officer, shall be exempted from testing.

(b) ~~((Those with positive skin tests whose chest x-rays show no sign of active disease at least three years after the first documented positive skin test shall be exempted from further annual testing.~~

~~((c) Those with positive skin tests who have completed a recommended course of preventive or curative treatment, as determined by the local health officer, shall be exempted from further testing and chest x-rays.~~

~~((d) A record))~~ Records of test results, x-rays or exemptions to such shall be kept by the facility.

(5) Employees with communicable diseases in an infectious stage shall not be on duty.

### WSR 83-06-011

#### PROPOSED RULES

#### DEPARTMENT OF CORRECTIONS

[Filed February 22, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Corrections intends to adopt, amend, or repeal rules concerning telephone usage, inmate mail, and inmate personal property, adopting chapters 137-36, 137-48 and 137-50 WAC, and repealing chapters 275-87 and 275-96 WAC.

Any questions regarding these rules should be sent to:

John J. Sinclair, Administrator  
Office of Contracts and Regulations  
Division of Management and Budget  
Mailstop FN-61  
Scan 234-5770

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 28, 1983.

The authority under which these rules are proposed is RCW 72.09.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1983.

This notice is connected to and continues the matter in Notice Nos. WSR 83-02-018, 83-02-048 and 83-02-049 filed with the code reviser's office on December 27, 1982, and January 4, 1983.

Dated: February 9, 1983

By: Amos E. Reed  
Secretary

**WSR 83-06-012**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Order 83-6—Filed February 22, 1983]

I, Sam Kinville, director of the Department of Labor and Industries, do promulgate and adopt at Room 334, General Administration Building, Olympia, Washington 98504, the annexed rules relating to medical aid rules and maximum fee schedule, chapter 296-20 WAC, dealing rules for medicine, anesthesia, radiology, pathology, hospital, physical therapy, chiropractic, therapeutics, and nurse practitioners.

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 this medication has recently been released by the federal food and drug administration. It is considered to be safe and an effective alternative to surgery. It would be in the best interest for injured workers. WAC 296-20-03002 forbids authorization, and is hereby modified.

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(4) and 51.04.030 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.  
**APPROVED AND ADOPTED** February 22, 1983.

By Sam Kinville  
 Director

**NEW SECTION**

**WAC 296-20-03004 CHEMONUCLEOLYSIS**  
*Chymopapain injections may be authorized in the treatment of lumbar disc disease under the following limitations and criteria:*

a) Only physicians 1) who routinely care for patients with herniated lumbar intervertebral discs, 2) who are qualified by training and experience to diagnose lumbar disc disease and to perform laminectomy, discectomy or other spinal procedures, 3) who have received specialized training in chemonucleolysis, may administer the procedure for industrial injured workers covered under state industrial insurance fund or self-insurance.

b) Pre-administration work-up shall include but is not limited to 1) a concurring opinion from a physician familiar with the procedure and qualified by training and experience to diagnose and treat lumbar disc disease, 2) diagnostic studies indicative of level of disc herniation i.e., myelogram, a high resolution CT scan, discogram, etc., 3) other diagnostic studies including sedimentation rate (anaphylaxis has occurred primarily

in females with sedimentation rates in excess of 20 mm per hour) as indicated for the individual patient.

c) Procedure will be authorized 1) one time only in the treatment life of any given patient, 2) maximum of two levels per patient (Generally only one level will be authorized. Indications for a second level are infrequent. However, authorization may be granted if diagnostic studies and/or concurring opinion so indicates.), 3) only for patients who have had no previous lumbar surgery at that level.

d) Procedure must be carried out in hospital setting under radiographic or fluoroscopic control, with a permanent x-ray record maintained.

e) **PRIOR AUTHORIZATION FROM THE DEPARTMENT OR THE SELF-INSURER MUST BE OBTAINED BEFORE PROCEDURE IS SCHEDULED.**

f) These rules were formulated based upon the recommendations of the Federal Food and Drug Administration, the drug manufacturer, and the Industrial Insurance Committee of the Washington State Medical Association.

	Unit Value	Follow- up	Anes.
<u>Surgery Procedure #</u>			
62292 Injection procedure for Chemonucleolysis, intervertebral disc, one or more levels- lumbar	13.0	180 days	4.0

Radiographic or Fluoroscopic Procedure #

Radiologists should use discography procedure: Codes - 72295 and 72296.

**AMENDATORY SECTION** (Amending Order 81-28, filed 11/30/81, effective 1/1/82)

**WAC 296-20-03002 TREATMENT NOT AUTHORIZED.** The department or self-insurer will not allow nor pay for following treatment:

(1) **USE OF DIAPULSE, THERMATIC** (standard model only), **SPECTROWAVE AND SUPERPULSE MACHINES ON WORKERS ENTITLED TO BENEFITS UNDER THE INDUSTRIAL INSURANCE ACT.**

(2) Iontophoresis; prolotherapy; (~~chymopapain injections;~~) acupuncture; injections of fibrosing or sclerosing agents; and injections of substances other than anesthetic or contrast into the subarachnoid space (intra-thecal injections).

(3) Prescription and/or injection of vitamins to improve or maintain general health.

(4) Continued treatment beyond stabilization of the industrial condition(s), i.e., maintenance care, except where necessary to monitor prescription of medication necessary to maintain stabilization i.e., anti-convulsive, anti-spasmodic, etc.

(5) After consultation and advice to the department or self-insurer, any treatment measure deemed to be dangerous or inappropriate for the injured worker in question.

(6) Treatment measures of an unusual, controversial, obsolete, or experimental nature (see WAC 296-20-045). Under certain conditions, treatment in this category may be approved by the department or self-insurer.

*Approval must be obtained prior to treatment. Requests must contain a description of the treatment, reason for the request with benefits and results expected.*

**WSR 83-06-013**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Institutions)**

[Order 1950—Filed February 23, 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 group homes for the mentally and physically handicapped, amending chapter 275-36 WAC.

This action is taken pursuant to Notice No. WSR 83-01-119 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 72.33.850 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 23, 1983.

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

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

WAC 275-36-010 DEFINITIONS. ~~((1))~~ "Secretary" means the secretary of the department or such officer of the department as he may designate to carry out in whole or in part the administration of the provisions of these rules and regulations, and chapter 72.33 RCW in relation to group homes.)

~~((2))~~ (1) "Department" means the department of social and health services of the state of Washington.

(2) "Developmentally disabled client" means an individual who has a mental or physical deficiency and is so determined by the department under WAC 275-27-030.

(3) ~~((("Bureau")))~~ "Division" means the ~~((bureau))~~ division of developmental disabilities of the department of social and health services.

(4) ~~((A))~~ "Group home" means a ~~((residential facility capable of serving among others, a small number of mentally and/or physically handicapped individuals (maximum of 20) who are able to participate in a variety of jobs, sheltered workshops, day care centers, activity centers, educational facilities, and/or other community based programs that are meaningful for their training, rehabilitation, and/or general well-being))~~ home which uses training and support services staff to assist each resident to move toward an independent life

style, or the governing body of a home which uses training and support services staff to assist each resident to move toward an independent life style, or an individual appointed by the governing body to act in behalf of the governing body. The residents of a group home shall be individuals certified as eligible for division of developmental disabilities services by staff of the division, or approved by the division as compatible with developmentally disabled persons in the residential setting.

(a) A group home is usually a single dwelling, a series of apartments or other buildings with sound structure which shall offer a pleasant and healthful environment for ~~((human life and welfare))~~ residents.

~~((b))~~ The building for a group home may be an owned or leased house, apartment or apartments, or a segment of a larger facility.

~~((c))~~ (b) Group homes must be located within reasonable proximity to ~~((those))~~ the community resources that are necessary ~~((adjuncts to a training or education and/or rehabilitation program))~~ to the implementation of individual service plans.

~~((d))~~ (c) ~~((Living quarters shall emulate a home-like atmosphere and the))~~ Residents will take part, insofar as ~~((they are))~~ capable, in their own personal care and in the care of their own quarters.

~~((e))~~ A group home may be an extension of programs of existing residential facilities serving mentally and physically handicapped individuals and will be viewed as an element in a comprehensive plan for mental retardation services in a region.

(5) "Mental deficiency" means a state of subnormal development of the human organism in consequence of which the individual affected is mentally incapable of assuming those responsibilities expected of the socially adequate person such as self-direction, self-support, and social participation. [RCW 72.33.020(1)]

(6) "Physical deficiency" means a state of physical impairment of the human organism in consequence of which the individual affected is physically incapable of assuming those responsibilities expected of the socially adequate person such as self-direction, self-support, and social participation. [RCW 72.33.020(2)]

(7) "Parent" means the person or persons having the legal rights to the custody of a child by reason of kinship by birth or adoption. [RCW 72.33.020(3)]

(8) "Court" means the superior court of the state of Washington. [RCW 72.33.020(6)]

(9) "Guardian" means a person or an appropriate agency appointed by the superior court of the state of Washington to supervise and administer all or a portion of the affairs of a person and/or his estate.

(10) "Placement" means an extramural status for the resident's best interests granted by the secretary after reasonable notice and consultation with the parents or guardian of such resident. [RCW 72.33.020(11)]

(11) "County mental retardation board" means the board established by the authority of the community mental retardation services act, chapter 110, Laws of 1967 ex. sess.

(12) "Living space" means living rooms, indoor recreation areas, and dining areas.)

(5) "Secretary" means the secretary of the department or such officer of the department as the secretary may designate to carry out in whole or in part the administration of the provisions of these rules and regulations, and chapter 72.33 RCW in relation to group homes.

(6) "Support services" are those services provided to the resident by a staff of the group home designed to assist the resident in adjustments to community living. There are two types of support services:

(a) The resident will receive direction or assistance in accomplishing a given task or will be monitored during an activity by a staff member of the group home.

(b) Someone else will do the task for the resident.

(7) "Training" is goal-oriented individualized instruction taught to the resident by a staff member of the group home. This instruction is designed to remediate skill deficiencies affecting the survival of the resident, quality of life, or limits the resident's independence.

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

✓ WAC 275-36-020 APPROVAL AND CERTIFICATION OF GROUP HOMES. In order for a group home to be approved and to maintain an approved status pursuant to chapter 72.33 RCW and these rules and regulations, ((it)) the group home shall:

(1) Comply with all relevant state and local laws and ordinances applicable to group homes, ((institutions, and boarding homes for aged and infirm;)) and comply with standards of care, training, and maintenance, established by the ((bureau)) division of developmental disabilities.

((2) Establish or utilize an existing citizen's board or advisory committee composed of a representative group of people interested and knowledgeable in mental retardation and who are not employed by a group home, do not have a beneficial interest in a group home and who are not relatives by blood or marriage of a group home operator, administrator, or employee.

(a) The said committee shall have a membership of at least five persons, plus a representative of the bureau of developmental disabilities. The representative shall be a nonvoting member of the board or the committee.

(b) The citizen board or advisory committee shall meet at least quarterly, keep minutes of its meetings, and send copies of such minutes to the county mental retardation board and appropriate department of social and health services employees as designated by the bureau of developmental disabilities:

(c) The role of the advisory board shall be to:

(i) Visit the group home periodically and observe the program in operation;

(ii) Keep abreast of all developments affecting the lives of residents in the group home;

(iii) Be aware and advise the group home administrator regarding the policies, rules, practices and procedures in the group home which directly affect the residents;

(iv) Become an advocate for all the residents regarding their legal rights, social environment, and training programs;

(v) Review and advise the group home administrator regarding the group home's budget and administrator's monthly report;

(vi) Work in conjunction with, and in support of, the administrator, lending professional experience to the group home;

(vii) Give advice to the group home operator/administrator as necessary to insure quality care and program;

(viii) Discuss recommendations with appropriate group home staff and forward them in writing to the bureau;

(3) Submit budgets, staffing patterns, plans for in-service training programs, plans for health care and a statement of its operating policies and procedures to the bureau and the local county mental retardation board. These documents shall be submitted annually or at other times as required.

(4)) (2) Permit the county ((mental retardation)) developmental disabilities board to inspect the group home and report to the department any deficiencies in ((its)) the group home's programs.

((5) Utilize all appropriate community resources to enhance the physical, social, and mental well-being of its residents;

(6)) (3) File with the ((bureau)) division a statement of assurance ((which shall provide)) providing, in substance, that in operation and administration of the group home no person shall be refused admission to, or employment in the group home, or otherwise denied participation in the activities of the group home on the grounds of race, religion, color, creed or national origin.

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

✓ WAC 275-36-030 CERTIFICATION OF GROUP HOMES. Upon determination by the department of satisfactory compliance with the rules and regulations prescribed herein, through inspection pursuant to WAC 275-36-061, the ((bureau)) division may certify a group home as approved for the placement of residents under the provisions of chapter 72.33 RCW. ((This)) The certification is required ((annually)) biennially, if the group home is in compliance with all sections of chapter 275-36 WAC at the time of certification inspection. If the group home is not in compliance with all of the sections of chapter 275-36 WAC, an annual certification and inspection may be required. Initial application for certification shall be reviewed by the county and recommendations shall be forwarded by the county to the ((bureau)) division. The county may submit recommendations to the ((bureau)) division pursuant to WAC 275-36-020((4)) (2) prior to annual certification by the department.

For initial certification, the group home must submit budgets, staffing patterns, plans for in-service training, plans for health care, and a statement of the group home's operating policies and procedures to the division and the local county board. These documents shall be reviewed by the division as part of the biennial certification process or at other times to assure the documents are kept consistent with the division philosophy.



AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

✓ WAC 275-36-040 ~~((TEMPORARY))~~ PROVISIONAL INITIAL CERTIFICATION OR INTERIM RENEWAL CERTIFICATION. (1) ~~((Temporary))~~ Provisional initial certification or temporary interim renewal certification may be granted ~~((after))~~ where appropriate licensure has been obtained, the group home has been inspected pursuant to WAC 275-36-061, and upon assurance that the group homes will comply with these rules and regulations within a specified period of time acceptable to the secretary.

(2) Provisional initial certification or interim certification shall be granted for a period not to exceed six months. If the group home does not comply with the requirements of WAC 275-36-020(1) within the six-month period, the department shall withdraw provisional initial and temporary interim certification of the group home.

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

✓ WAC 275-36-061 SUPERVISION. (1) The secretary ~~((or his designee))~~ shall ~~((at least annually))~~ inspect and evaluate the operation of the group home to insure ~~((that))~~ proper standards of operation are maintained.

(2) The secretary ~~((or his designee))~~ shall periodically but at least ~~((semi-annually))~~ biennially evaluate the individual placements to make certain that the ~~((interests, needs and welfare))~~ training and support service needs of the resident continue to be effectively served in the group home.

(3) The secretary ~~((or his designee))~~ shall be informed by the group home administrator if a resident of a group home is in need of exceptional services, such as intensive medical care, that cannot be provided by private or local resources.

NEW SECTION

✓ WAC 275-36-065 INVESTIGATION OF COMPLAINTS. (1) The secretary shall investigate complaints made regarding the group home or the treatment of residents within the group home and shall cause a report to be filed. The report shall specify the corrective action to be implemented with specific time limits for corrective action completion. If such corrective actions are not implemented within specified times, the group home certification may be withdrawn.

(2) In cases where an imminent danger to the health or safety of the residents exists or if the home is not in substantial compliance with licensing and/or certification standards, the certification of a facility may be suspended immediately.

(3) Such revocation, suspension or denial shall be done in accord with the rules governing administrative hearings and the laws of the state of Washington (chapter 34.04 RCW).

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

✓ WAC 275-36-071 PAYMENT FOR SERVICE. (1) The department shall ~~((make payment to group homes upon the submission of itemized state vouchers for the care, the supervision, and the training rendered to residents placed in such group homes, such vouchers to be prepared in such form as may be prescribed by the department or shall make payment directly to the resident for such costs where necessary to maximize benefits under federal programs))~~ pay for allowable group home program services provided to eligible developmentally disabled persons. Such payment by the department shall consist of two separate parts:

- (a) Staff reimbursement; and
- (b) Nonstaff rates.

(2) All payments from the department pursuant to this chapter shall be supplemental to all other financial resources of the resident.

(3) Insofar as reasonably possible the resident will pay from his or her own earnings or other financial resources the charges for his or her care. Resident payments will be made directly to the group home operator and payment so made shall be reported by the group home operator to the secretary ~~((or his designee: PROVIDED; That the first \$65.00 of earned income and one-half the remainder shall be exempt from payment each month: PROVIDED FURTHER; That an estate valued at \$1,500.00 or less shall be exempt, and all unearned income shall not be exempt)).~~ Residents making payments directly to the group home shall be given a receipt by the group home operator for such payment. Additionally, policies regarding such payments and award letter instructions are to be adhered to by the group home. Where a guardian controls the income and/or estate of an individual in a group home, such guardian will reimburse the group home pursuant to the ~~((above))~~ criteria in this section.

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

✓ WAC 275-36-081 RESIDENT REMUNERATION. Whenever appropriate or required by law, individual residents ~~((who perform))~~ performing work for the group home shall be given remuneration in accordance with the minimum wage law unless exemption has been granted to the minimum wage under applicable laws of federal department of labor and state department of labor and industries.

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

✓ WAC 275-36-091 GROUP HOME ADMINISTRATION. (1) The group home shall have ~~((written statements to include the following))~~ a governing body that is responsible for:

- (a) ~~((Its))~~ The group home's general philosophy ~~((; objectives))~~ and ~~((goals))~~ direction;
- (b) Developing written statements directing the operation of the group home including, but not limited to the following:

~~(i) The group home's objectives and goals;~~  
~~((b)) (ii) A description of the ((facility,)) facility's admission criteria and programs;~~

~~((c)) iii ((Its)) The group home's policies and procedures that protect the financial interests of residents and provide accountability of resident funds;~~

~~(iv) The policies and procedures that govern the staff activities in implementing group home services.~~

~~(c) Review and approval of the group home budget.~~

~~(d) ((Its policy explaining how the staff shall respond to behavior problems of the residents)) Employment of a qualified administrator, i.e.:~~

~~(i) At least twenty-one years of age;~~

~~(ii) Holding a baccalaureate degree; and~~

~~(iii) At least two years' experience in training and/or care of developmentally disabled persons.~~

~~(iv) Persons employed as group home administrators before January 1, 1983, are exempt from the qualifications as stated in subsection (1)(c)(ii) of this section.~~

~~((2) The group home administrator shall sign and file with the bureau group home document administrative policy #1 prohibiting mistreatment, neglect, or abuse of residents. All group home staff shall sign a similar document compiled by and kept on file at the group home.~~

~~(3)) (2) Written operational statements produced by the governing body shall be approved by the ((bureau)) secretary.~~

~~(3) The group home may operate under interim certification pending approval of written statements by the secretary, but a plan of correction with compliance to this section no later than ninety days after the plan of correction is written.~~

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

WAC 275-36-101 PERSONNEL. (1) The facility shall maintain current personnel policies and practices in writing ~~((and these))~~ which shall be made available to all employees.

(2) ~~((All personnel may be initially screened by the group home advisory board to determine if they are capable of fulfilling specific job requirements.~~

(3)) The performance of each employee shall be evaluated in writing regularly at least annually by the group home administrator.

~~((4)) (3) Residents shall not be routinely involved in the care ((feeding, clothing, bathing, etc.)), training or supervision of other residents.~~

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

WAC 275-36-110 STAFFING. ~~((1) Administrative staff:~~

(a) The group home shall designate staff to be responsible for administration of the group home and group home programs as outlined in these standards, and to perform other duties as required.

(b) The administrator(s) shall have administrative ability, leadership ability, and general knowledge of mental retardation.

~~(c) The administrator(s) shall designate another staff member or members to be responsible for the administration and supervision of the group home in his absence.~~

~~(2) Resident care and training staff services:~~

~~(a) There shall be sufficient, appropriately qualified, and adequately trained personnel to conduct the resident training and care program in accordance with the standards as specified herein.~~

~~(b) Resident care and training staff services shall include the care, maintenance and training of residents, dietary services, household maintenance services, clerical services, record-keeping services, and implementation of the resident's program plans in accordance with the standards as specified herein.~~

~~(c) The proportion of direct resident care staff services to non-direct resident care staff services for each group home shall be approved by the bureau of developmental disabilities.)~~

~~(1) An administrator appointed by the governing body shall be responsible for:~~

~~(a) The daily operation and maintenance of the group home in compliance with chapter 275-36 WAC and other applicable state regulations, policies and procedures.~~

~~(b) Development and administration of policies and procedures to assure clear definition of staff roles and responsibilities; lines of authority and equitable workloads which assure support and training services for residents.~~

~~(c) Recruiting, employing or arranging for training of residential care and training staff; and terminating from employment any employee performing in an unsatisfactory manner.~~

~~(d) Reporting to the governing body on the operations of the group home.~~

~~(e) Delegating his or her authority and responsibility for the operation and maintenance of the group home in his or her absence.~~

~~(f) Notifying the division in cases of unauthorized leave of a resident.~~

~~(g) Preparation, maintenance, and safe storage of all resident, personnel, and financial records.~~

~~(h) Ensure compliance with the division policies governing group home operations.~~

~~(2) There shall be sufficient, appropriately qualified, and adequately trained resident care and training staff that shall be responsible for:~~

~~(a) Resident training.~~

~~(b) Resident support services.~~

~~(c) Resident supervision.~~

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

WAC 275-36-120 STAFF RATIOS. (1) ~~((Administration:~~

(a)) A group home ~~((licensed to serve 12 or less residents))~~ shall have a minimum of one paid half-time ~~((20))~~ twenty hours per week administrator.

~~((b) A group home licensed to serve 13 or more residents shall have a minimum of one paid full-time administrator.~~

(c)) (2) ~~((Notwithstanding subdivisions (a) and (b),))~~ Organizations or corporations operating more than one group home ~~((shall))~~ may utilize a single full-time administrator for two or more such homes, at the discretion of the ~~((bureau))~~ division.

~~((2))~~ Resident care and training staff services:

(a) Children group homes:

~~((i))~~ (3) ~~((A minimum of one resident care and training staff member shall be on duty at all times to serve in the capacity of facilitating the group home's program))~~ Each certified group home shall maintain minimum staffing requirements applicable to the specific license regulations under which the group home operates: PROVIDED, That a certified group home shall have a minimum of one staff member on duty whenever a resident is in the facility.

~~((ii))~~ The group home shall normally have two resident care and training staff members on duty during waking hours whenever between six and twelve children are on the premises, and shall normally have three resident care and training staff members on duty during waking hours whenever between thirteen and twenty children are in the home.

~~((iii))~~ Whenever only one resident care and training staff member is on duty, there shall be provisions for a second person to be on call in case of emergency.

~~((iv))~~ Group homes serving children with special needs requiring additional training and supervision should have a minimum of one additional resident care and training staff member during waking hours whenever children are on the premises:))

(4) The group home shall have a staffing schedule approved by the division at the time of certification and whenever substantial changes occur.

~~((v))~~ Reduced staff coverage is permissible when the group home is complying with approved vacation or sick-leave plans: PROVIDED, That at least one staff member shall be on duty at all times.

(b) Adult group homes:

~~((i))~~ A minimum of one resident care and training staff member shall be on duty at all times to serve in the capacity of facilitating the group home's program.

~~((ii))~~ A minimum of two resident care and training staff members shall normally be on duty during the waking hours whenever between nine and fifteen residents are on the premises:

~~((iii))~~ A minimum of three resident care and training staff members shall normally be on duty between waking hours whenever sixteen or more residents are on the premises:

~~((iv))~~ (5) Whenever only one resident care and training staff member is on duty, there shall be provisions for a second person to be on call in case of emergency.

~~((v))~~ Reduced staff coverage is permissible when the group home is complying with approved vacation or sick-leave plans: PROVIDED, That at least one staff member shall be on duty at all times.

~~((vi))~~ Group homes serving adults with special needs requiring additional training and supervision should have a minimum of one additional resident care and training staff member during waking hours whenever adult residents are on the premises:

~~((c))~~ The secretary or his designee may grant exemption of up to six months from specific resident care and training staff minimum ratio requirements to any group home:))

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

✓ WAC 275-36-130 ((IN-SERVICE)) INSERVICE STAFF TRAINING. (1) The group home shall have an orientation for all new employees to acquaint ~~((them))~~ the employees with the philosophy, organization, program, practices, and goals of the group home.

(2) The group home, in cooperation with the ~~((bureau))~~ division shall provide on-the-job training for each employee and participate in programs relating to ~~((the developmentally disabled))~~ people with developmental disabilities so ~~((that))~~ skills in working with the residents are increased.

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

✓ WAC 275-36-140 RESIDENT RECORDS. (1) The group home shall maintain and keep current a record for each resident that will serve as a basis for review, study, and evaluation of the overall programs provided by the group home for ~~((its))~~ the residents.

(2) All information contained in a resident's record shall be considered ~~((privileged and))~~ confidential, shall be used in the best interest of the resident, and shall be made available to all training and ~~((care))~~ support staff, ~~((and))~~ to the department, and pursuant to RCW 71-20.075, the county community ~~((mental retardation and))~~ developmental disabilities board ~~((in accordance with chapter 71.20 RCW and rules and regulations promulgated thereunder)).~~

(3) Any transfer or inspection of records, except pursuant to subsection (2) of this section, shall be authorized by a release of information form, signed by the resident of legal age or a parent of residents under ~~((18))~~ eighteen, or a legal guardian.

(4) All record entries shall be made in ink prepared at the time or immediately following the occurrence of the event being recorded. The entries shall be legible, dated, and signed by the person making the entry.

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

✓ WAC 275-36-150 PERSONAL CARE AND HYGIENE. (1) The group home shall have a means and procedure for ~~((providing and))~~ ensuring the provision of personal care and hygiene services, health services, and dental services for each resident.

(2) Written policies and procedures that govern the safe supervision and handling of all drugs shall be developed by the group home in conjunction with a qualified pharmacist, nurse or physician.

(3) There shall be a written policy governing the self-administration of drugs whether prescribed or not.

(4) Food consumed in the group home shall generally be prepared on the group home grounds.

NEW SECTION

WAC 275-36-153 FIRST AID SERVICES. (1) Staff having the responsibility for resident care and training shall have basic first aid training and shall be oriented to written emergency policies.

(2) There shall be written policies to guide the action of resident care and training staff should a resident present a medical emergency.

(3) An adequate first aid kit and a first aid manual shall be kept in a designated location in the group home and readily available to all staff who have responsibility for resident care and training.

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

WAC 275-36-160 TRANSPORTATION. (1) The group home shall arrange and aid the residents' utilization of transportation to:

- (a) Religious activities;
- (b) Recreational activities;
- (c) Appointments with doctors, dentists, psychologists, etc.;
- (d) Return from school/work because of illness, injury, etc.;
- (e) Field trips;
- (f) Daily commuting between ~~((developmental centers, sheltered workshops))~~ sheltered employment, community integration services, and independent employment when public transportation is not available or appropriate(;
- (g) ~~The residents' family~~).

(2) The group home shall have available a licensed, well-functioning vehicle, properly maintained in accordance with motor vehicle safety laws and standards.

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

WAC 275-36-170 ~~((PROGRAM))~~ INDIVIDUAL SERVICE PLAN. The group home shall ~~((develop))~~ participate in cooperation with ~~((the bureau of developmental disabilities' case service))~~ staff and other interested persons in developing a ~~((detailed))~~ written individual service plan for each resident ~~((encompassing))~~. For adults and adolescents, the plan shall encompass the areas of ~~((physical and mental health, education and functional and social competence))~~ age-level residence, earning competitive wages; and age-level contacts and relationships. For younger children, the plan shall encompass the areas of age-level self-reliance living in a family setting, and age-level contacts and relationships. The plan ~~((shall))~~ should be developed so that the program is the least restrictive alternative commensurate with ~~((his abilities and potential))~~ resident's support and training needs and delivered using methods to enhance the resident's competence and status in the community. ~~((Said))~~ The individual service plan shall be kept current ~~((and))~~, evaluated, and reviewed at least ~~((annually))~~ biennially by the ~~((bureau))~~ division.

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

WAC 275-36-180 ~~((TRAINING))~~ GROUP HOME SERVICE PLAN. The group home shall, as ~~((specified))~~ identified in the ~~((program))~~ written individual service plan, provide each resident an on-going ~~((training))~~ specific service program documenting progress in:

- (1) ~~((Self-help skills))~~ Responding to emergencies;
- (2) ~~((Community skills))~~ Safety measures;
- (3) ~~((Development of interpersonal and social relationships))~~ Self reliance;
- (4) ~~((Recreation skills and participation))~~ Transportation;
- (5) Appropriate community participation;
- (6) Development of age-level contacts/relationships.

AMENDATORY SECTION (Amending Order 1070, filed 11/21/75)

WAC 275-36-190 EDUCATIONAL AND VOCATIONAL TRAINING. (1) Educational services facilitating the intellectual, sensorimotor, and affective development of the individual shall be available to all children.

~~((a) Residents who are over eighteen years of age shall be offered participation in appropriate community colleges or adult basic education or continuing education programs when they are available.~~

~~((b))~~ Residents ~~((eighteen))~~ twenty years of age and under shall attend a public school program. Exceptions may be provided with prior written approval by the division. Attendance is not required in those cases where the resident has graduated from an accredited program.

(2) Residents ~~((eighteen))~~ twenty-one years and older ~~((not attending a public school program))~~ or having graduated from an accredited public school program, shall be provided a community-based educational and/or vocational program as described in ~~((their program))~~ the resident's service plan.

(3) The group home staff shall consult with educators regarding:

- (a) Specific programs of residents;
- (b) Coordination and reinforcement of school and group home program goals.
- (4) The group home staff shall consult with ~~((workshop and developmental center staff to coordinate and reinforce vocational and group home program))~~ employment and/or community integration services staff to coordinate and reinforce service goals.

NEW SECTION

WAC 275-36-211 GROUP HOME SET-UP COST. (1) For the purpose of establishing a developmental disabilities group home, the department may enter into a contractual agreement with a group home service provider to reimburse the service provider for actual cost incurred for administrative staff to initiate the organizational facility administration, for employee time to assure adequately trained and competent staff, and purchase of allowable supplies of the group home.

(2) The department shall reimburse the group home costs up to a maximum of three thousand seven hundred dollars for salaries and wages including fringe benefits and up to a maximum of three thousand five hundred dollars for the purchase of allowable operating supplies.

(3) The group home shall submit a billing document as approved by the department, thirty days after the effective date of the contract. The billing document shall include a detailed listing of wages and salaries paid, supplies purchased, and shall contain a signed certification of accuracy statement.

#### NEW SECTION

✓WAC 275-36-260 CHANGE OF OWNERSHIP. On the effective date of a change of ownership as defined in WAC 275-36-010, the department certification with the previous group home operator shall be terminated. The previous owner shall give the department sixty days notice of such termination in accord with the terms of the contract. Final payment to the previous group home operator shall be withheld until all reports and required documents are submitted to and accepted by the department.

#### NEW SECTION

✓WAC 275-36-270 ACCOUNTING PROCEDURES FOR RESIDENT TRUST ACCOUNTS. (1) The administrator shall maintain a subsidiary ledger with an account for each resident for whom the group home holds money in trust. Each account and related supporting information shall:

- (a) Be maintained at the group home;
- (b) Be kept current;
- (c) Be balanced each month; and
- (d) Show in detail, with supporting verification, all moneys received on behalf of the individual resident and the disposition of all moneys so received.

(2) Each account shall be available for audit and inspection by a department representative and be maintained for a minimum of three years. The administrator shall notify the division of developmental disabilities, field services office, of the department when:

- (a) The account of any individual resident reaches the sum of one thousand four hundred fifty dollars.
- (b) The accumulation toward the limit, after admission to the group home, is permitted only from savings from the clothing and personal incidental allowance and other income which the department specifically designates as exempt income from time to time.

(c) No resident account shall be overdrawn (show a debit balance). If a resident wants to spend an amount greater than is in such a resident's trust account, the group home may provide money from the home's own funds and collect the debt by installments from the portion of the resident's allowance remaining at the end of each month. No interest may be charged to the residents for such loans.

(3) In order to ensure that residents' trust accounts are not charged for services provided by state-funded programs, any charge for medical services otherwise

properly made to a resident's trust account must be supported by a written denial from the department.

#### NEW SECTION

✓WAC 275-36-275 TRUST MONEYS—IMPREST FUND. (1) The provider may maintain a petty cash fund originating from trust moneys of an amount reasonable and necessary for the size of the facility and the needs of the residents, not to exceed two hundred fifty dollars. This petty cash fund shall be an imprest fund. All moneys over and above the trust fund petty cash amount shall be deposited intact in a trust fund checking account, separate and apart from any other bank account(s) of the facility or other facilities.

(2) Cash deposits of resident allowances must be made intact to the trust account within one week from the time that payment is received.

(3) Any related bank books, bank statements, check-book, check register, and all voided and cancelled checks, shall be made available for audit and inspection by a department representative, and shall be maintained by the group home for not less than three years.

(4) No service charges for such checking account shall be paid by resident trust moneys.

(5) The trust account per bank shall be reconciled monthly to the trust account per resident ledgers.

#### NEW SECTION

✓WAC 275-36-280 TRUST MONEYS CONTROL OR DISBURSEMENT. Trust moneys shall be held in trust and are not to be turned over to anyone other than the resident or his or her guardian without the written consent of the resident, his or her designated agent as appointed by power of attorney, or appropriate department of social and health services personnel as designated by the DDD regional services administrator.

(1) When moneys are received, a receipt should be filled out in duplicate; one copy should be given to the person making payment or deposit, and the other copy should be retained in the receipt book for easy reference.

(2) Checks received by residents must be endorsed by the resident. Each resident receiving a check or state warrant is responsible for endorsement by his or her own signature. Only when the resident is incapable of signing his or her name may the provider assume the responsibility of securing the resident's mark "X" followed by the name of the resident and the signature of two witnesses.

(3) If both the general fund account and the trust fund account are the same bank, the trust portion of checks which include care payments can be deposited directly to the trust by including a trust account deposit slip for the correct amount with the checks and the general account deposit slip.

(4) The resident's trust account ledger sheet must be credited with the allowance received. This should be referenced with the receipt number and must be supported by a copy of the deposit slip (one copy for all deposits made).

NEW SECTION

WAC 275-36-285 TRUST MONEYS AVAILABILITY. Moneys so held in trust for any resident shall be available for his or her personal and incidental needs when requested by the resident.

NEW SECTION

WAC 275-36-290 ACCOUNTING UPON CHANGE OF OWNERSHIP. (1) Upon sale of the facility or other transfer of ownership, the administrator must provide the new owner with a written accounting, in accordance with generally accepted auditing procedures, of all resident funds being transferred, and obtain a written receipt for those funds from the new owner.

(2) The administrator must give each resident or representative a written accounting of any personal funds held by the facility before any transfer of ownership occurs.

(3) In the event of a disagreement with the accounting provided by the administrator, the resident retains all rights and remedies provided under state law.

NEW SECTION

WAC 275-36-295 PROCEDURE FOR REFUNDING OR TRANSFERRING TRUST FUNDS. When a resident is discharged or transferred, the balance of the resident's trust account will be returned to the individual resident or transferred to the new facility with an accounting of the funds provided the resident, the resident's guardian or attorney within thirty days and a receipt obtained.

NEW SECTION

WAC 275-36-300 LIQUIDATION OF TRUST FUNDS. If the resident has expired, the administrator of the group home shall contact the field services office of the division for assistance in determining the disposition of the remainder of the resident's trust funds.

NEW SECTION

WAC 275-36-305 RESIDENT PROPERTY RECORDS. (1) The administrator must maintain a current, written record for each resident that includes written receipts for all personal possessions with a value of fifty dollars or more per item, deposited with the group home by the resident.

(2) The property record must be available to the resident and departmental representatives for review.

(3) The record shall include but is not limited to:

- (a) The description and identifying numbers, if any;
- (b) The date of inclusion in the record;
- (c) The date and reason for removal from the record; and
- (d) The signature of the staff making the entry.

NEW SECTION

WAC 275-36-310 ADMINISTRATIVE REVIEW CONFERENCE PROCESS. (1) If a group home wishes to challenge an action taken or a determination made by the division under chapter 275-36 WAC, the group home shall request in writing that the director of the division of developmental disabilities review such a determination. The written request must be received by the division within thirty days of the date the group home was notified of such a determination. The request shall be signed by the group home or the administrator of the facility, shall identify the challenged determination and the date thereof, and shall state as specifically as practicable the grounds for the group home operator's or administrator's contention that the determination was erroneous. Copies of any documentation the group home operator intends to rely on to support the group home operator's position shall be included with the request.

(2) After receiving a request meeting the criteria in subsection (1) of this section, the director of the division of developmental disabilities will contact the group home to schedule a conference for the earliest mutually convenient time. The conference shall be scheduled for no later than thirty days after a properly completed request is received unless both parties agree in writing to a specific later date.

(3) The group home and appropriate representatives of the department shall attend the conference. In addition, representatives selected by the group home may attend and participate. The group home shall bring to the conference, or provide to the department in advance of the conference, any documentation the group home intends to rely on to support the group home operator's contentions. The parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty days after the initial session unless both parties agree in writing to a specific later date.

(4) Unless informal agreement has been reached at the conference, a written decision by the director of the division of developmental disabilities will be furnished to the group home within sixty days after the conclusion of the conference.

(5) If the group home desires review of an adverse decision of the director of the division of developmental disabilities, the group home shall within thirty days following receipt of such decision request a fair hearing in writing in accordance with the Administrative Procedure Act, chapter 34.04 RCW.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 275-36-210 FACILITY REQUIREMENTS.

**WSR 83-06-014**  
**EXECUTIVE ORDER**  
**OFFICE OF THE GOVERNOR**  
 [EO 83-03]

**RESCINDING EO 82-25**

On December 20, 1982, I issued Executive Order 82-25, which ordered across-the-board reductions in state General Fund expenditures of 2.2 percent of each agency's total biennial appropriations. I have today approved portions of Senate Bill 3258 that will bring in additional revenues during the remainder of this biennium. For this reason, the cuts ordered by EO 82-25 need not be imposed.

However, the revenues that will be generated by those portions of Senate Bill 3258 that I have approved will be insufficient to meet all of the needs of the state for this biennium. Therefore, shortly after the latest revenue forecasts from the Office of Financial Management become available, and in the absence of further legislative action, which I have requested, a new Executive Order will issue ordering cuts to compensate for the revenue shortfall anticipated at that time.

NOW, THEREFORE, I, John Spellman, Governor of the state of Washington, by virtue of the authority vested in me, do hereby rescind EO 82-25.

IN WITNESS WHERE-  
 OF, I have hereunto set my  
 hand and caused the seal of  
 the state of Washington to  
 be affixed at Olympia this  
 22nd day of February,  
 A.D., nineteen hundred and  
 eighty-three.

John Spellman

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

BY THE GOVERNOR:

Laura E. Eckert

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

**WSR 83-06-015**  
**ADOPTED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Order R-194, Cause No. TG-1686—Filed February 23, 1983]

In the matter of amending WAC 480-70-330 relating to drivers logs and drivers hours of service and amending WAC 480-70-400 relating to equipment safety of garbage and/or refuse collection companies.

This action is taken pursuant to Notice No. WSR 83-03-055 filed with the code reviser on January 19, 1983. This rule change hereinafter adopted shall take effect pursuant to RCW 34.04.040(2).

This rule-making proceeding is brought on pursuant to RCW 81.77.030 and is intended administratively to implement this statute.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), and the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Small Business Regulatory Fairness Act (chapter 6, Laws of 1982).

Pursuant to Notice No. WSR 83-03-055 the above matter was scheduled for consideration at 8:00 a.m., Wednesday, February 23, 1983, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington, before Commissioners Mary D. Hall and A. J. "Bud" Pardini.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to Friday, February 18, 1983. Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments orally at 8:00 a.m., Wednesday, February 23, 1983, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington.

At the February 23, 1983, meeting the commission considered the rule change proposal. No written or oral comments were received.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-70-330 and 480-70-440 should be amended to read as set forth in Appendix A shown below and by this reference made a part hereof. These rules, as amended, will update the present rules which adopt federal DOT standards for drivers hours of service and drivers logs and safety of equipment. The major impact of the updating will be in the area of maintaining and preparing log books. The twelve month retention period will change to six months. The standard log form need not be used, so long as the graph of hours of driving time, on-duty time, and off-duty time is prepared. Shipper document numbers, shipper name, origin and destination points, total miles, and co-driver name need no longer be shown separately. Origin and destination will be required to be shown on the graph, however, as before. On duty time for driving with the 100 mile radius zone is changed from 12 to 15 consecutive hours. Finally, regarding driver inspection reports, no report need be filed if no defects are found. This is an exception to the federal rule adopted by the commission.

**ORDER**

WHEREFORE, IT IS ORDERED That WAC 480-70-330 and 480-70-400 as set forth in Appendix A, be amended as rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rules, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for

filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 23rd day of February, 1983.

Washington Utilities and Transportation Commission  
Mary D. Hall, Commissioner  
A. J. "Bud" Pardini, Commissioner

#### APPENDIX "A"

AMENDATORY SECTION (Amending Order R-145, Cause No. TG-1357, filed 8/7/80)

WAC 480-70-330 DRIVERS, HOURS OF WORK. (1) The rules and regulations relating to drivers' logs and drivers' hours of service adopted by the United States department of transportation in Title 49, Code of Federal Regulations, Part 395, as well as and including all appendices and amendments thereto in effect on ~~((the effective date of this rule))~~ January 1, 1983, are adopted and prescribed by the commission to be observed by all garbage and/or refuse collection companies operating under chapter 81.77 RCW.

(2) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator", and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (1) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

AMENDATORY SECTION (Amending Order R-183, Cause No. TG-1568, filed 2/10/82)

√ WAC 480-70-400 EQUIPMENT—SAFETY. (1) All motor vehicles operated under authority of chapter 81.77 RCW, as amended, shall be maintained in a safe and sanitary condition. They shall at all times be subject to inspection by the commission and its duly authorized representatives, inspection stations, or the state patrol, who shall have power to order out of service any vehicle which in their judgment is unsafe or not being operated in compliance with the state laws in regard to equipment or method.

(2) Failure of any certificate holder to obey and comply with all motor vehicle safety laws of the state of Washington shall be grounds for cancellation of certificate.

(3) In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.77 RCW shall comply with the following:

(a) The rules and regulations governing motor carrier safety prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, part 392, excluding section 392.2 and paragraph (c) of section 392.1; part 393, excluding paragraph (b) of section 393.1, and sections 393.16, 393.17, 393.76, 393.100, 393.102, 393.104, 393.106; part 396, except that with respect to section 396.11 no driver vehicle inspection report need be filed if no defects are found, and excluding paragraph (b) of section 396.1; part 397, excluding section 397.21 and paragraph (c) of section 397.1; as well

as and including all appendices and amendments thereto in effect on ~~((the effective date of this rule))~~ January 1, 1983, are adopted and prescribed by the commission to be observed by all garbage and/or refuse collection companies operating under chapter 81.77 RCW.

(b) The rules and regulations governing hazardous materials prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, parts 170-189, as well as and including all appendices and amendments thereto, in effect on January 1, ~~((1982))~~ 1983, are adopted and prescribed by the commission to define hazardous materials for motor vehicle transportation purposes, and to state the precautions that must be observed in storage, packaging, loading, and unloading such materials, and in maintaining, placarding, marking, and certifying motor vehicles and equipment used in transporting such materials, and in the maintenance of shipping papers prepared in conjunction with transporting such materials. The rules and regulations adopted and prescribed by this rule shall be observed by all garbage and/or refuse collection companies operating under chapter 81.77 RCW.

(c) In addition to any accident reporting requirement now or hereafter prescribed by the commission, every garbage and/or refuse collection company operating under chapter 81.77 RCW who reports to the United States department of transportation any incidents occurring in this state involving hazardous materials, shall send a copy of any such report to the commission.

(d) Qualifications of drivers. Adoption of United States department of transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, part 391, excluding paragraphs (a) and (b) of section 391.2, section 391.69, subparagraph (2) of paragraph 391.71(a), and subparagraph (4) of paragraph 391.71(b); as well as and including all appendices and amendments thereto, in effect on ~~((the effective date of this rule))~~ January 1, 1983, are adopted and prescribed by the commission to be observed by all garbage and/or refuse collection companies operating under chapter 81.77 RCW except:

(i) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.

(ii) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to the effective date of this rule.

(iii) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date the effective date of this rule.

(iv) Section 391.21, 391.23, 391.25, 391.27, 391.31, 391.33, 391.35, and 391.37 shall not apply to a single vehicle owner driver when operating under its own permit.

(e) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator", and



"federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (3) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

(f) Whenever the term "lightweight vehicle" is used in Title 49, Code of Federal Regulations, part 391 and part 395, adopted in this section, such term shall mean a motor vehicle that:

(i) Was manufactured on or after January 1, 1972, and has a manufacturer's gross vehicle weight rating of ten thousand pounds or less, in the case of a single vehicle, or a manufacturer's gross combination weight rating of ten thousand pounds or less, in the case of an articulated vehicle; or

(ii) Was manufactured before January 1, 1972, and has a gross weight, including its load and the gross weight of any vehicle being towed by the motor vehicle, of ten thousand pounds or less, except:

(iii) The term "lightweight vehicle" does not include a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with WAC 480-12-195.

### WSR 83-06-016

#### ADOPTED RULES

#### UTILITIES AND TRANSPORTATION COMMISSION

[Order R-195, Cause No. U-83-02—Filed February 23, 1983]

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

This action is taken pursuant to Notice No. WSR 83-03-023 filed with the code reviser on January 13, 1983. This rule change hereinafter adopted shall take effect pursuant to RCW 34.04.040(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and 80.04.300 through 80.04.330 and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), and the State Environmental Policy Act of 1971 (chapter 43.21C RCW).

Pursuant to Notice No. WSR 83-03-023 the above matter was scheduled for consideration at 8:00 a.m., Wednesday, February 23, 1983, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington, before Commissioners Mary D. Hall and A. J. "Bud" Pardini.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to February 22, 1983. Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments orally at 8:00 a.m., Wednesday,

February 23, 1983, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington.

At the February 23, 1983, meeting the commission considered the rule change proposal. No written or oral comments were received.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-140-040 and 480-140-160 should be amended to read as set forth in Appendix A shown below and by this reference made a part hereof. WAC 480-140-040 and 480-140-160 as amended will ease reporting requirements in budgets required to be filed by public service companies, and provide a mechanism whereby specific requirements may be waived upon a showing of good cause by the affected public service company for so doing.

#### ORDER

WHEREFORE, IT IS ORDERED That WAC 480-140-040 and 480-140-160 as set forth in Appendix A, be amended as rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rules, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 23rd day of February, 1983.

Washington Utilities and Transportation Commission  
Mary D. Hall, Commissioner  
A. J. "Bud" Pardini, Commissioner

#### APPENDIX "A"

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

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

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

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

**WSR 83-06-017****ADOPTED RULES****UTILITIES AND TRANSPORTATION  
COMMISSION**

[Order R-196, Cause No. TV-1674—Filed February 23, 1983]

In the matter of amending WAC 480-12-180 relating to equipment safety and qualification of drivers and WAC 480-12-190 relating to drivers logs and drivers hours of service for common and contract carriers.

This action is taken pursuant to Notice No. WSR 83-03-054 filed with the code reviser on January 19, 1983. This rule change hereinafter adopted shall take effect pursuant to RCW 34.04.040(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040, 81.80.130, 81.80.140 and 81.80.290 and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Small Business Regulatory Fairness Act (chapter 6, Laws of 1982).

Pursuant to Notice No. WSR 83-03-054 the above matter was scheduled for consideration at 8:00 a.m., Wednesday, February 23, 1983, in the Commission's Conference Room, Seventh Floor, Highways-Licenses

Building, Olympia, Washington, before Commissioners Mary D. Hall and A. J. "Bud" Pardini.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to Friday, February 18, 1983. Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments orally at 8:00 a.m., Wednesday, February 23, 1983, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington.

At the February 23, 1983, meeting the commission considered the rule change proposal. No written or oral comments were received.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-12-180 and 480-12-190 should be amended to read as set forth in Appendix A shown below and by this reference made a part hereof. The amendment to WAC 480-12-180 and 480-12-190 will update commission rules which adopt federal DOT standards for drivers hours of service and drivers' logs and safety equipment. The major impact of the updating will be in the area of maintaining and preparing log books.

**ORDER**

WHEREFORE, IT IS ORDERED That WAC 480-12-180 and 480-12-190 as set forth in Appendix A, be amended as rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rules, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 23rd day of February, 1983.

Washington Utilities and Transportation Commission  
Mary D. Hall, Commissioner  
A. J. "Bud" Pardini, Commissioner

**APPENDIX "A"**AMENDATORY SECTION (Amending Order R-171, Cause No. TV-1508, filed 8/28/81)

WAC 480-12-180 EQUIPMENT—DRIVERS—SAFETY. In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.80 RCW shall comply with the following:

(1) Adoption of United States department of transportation motor carrier safety regulations. The rules and regulations governing motor carrier safety prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, part 392, excluding section 392.2 and paragraph (c) of section 392.1; part 393, excluding paragraph (b) of section 393.1; part 396, except that with respect to section 396.11 no driver vehicle inspection report need be filed if no defects are found, and excluding paragraph (b) of section 396.1;

part 397, excluding section 397.21 and paragraph (c) of section 397.1; as well as and including all appendices and amendments thereto in effect on (~~October 31, 1980~~;) January 1, 1983, are adopted and prescribed by the commission to be observed by all common, contract, and registered carriers operating under chapter 81.80 RCW.

(2) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator", and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (1) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

(3) Safety chains or other load fastening devices. Any motor truck, truck tractor, trailer, semitrailer, or any combination thereof, transporting logs upon a public highway where binder devices are required, shall have the load thereon securely fastened and protected as follows:

(a) Placement and number of wrappers required on log trucks using stakes.

(i) In the hauling of one log loads, one wrapper chain or cable shall be required and it shall be secured to the rear bunk and the log shall be properly blocked or secured in a manner which will prevent it from rolling or shifting. An additional wrapper, secured to the front bunk, is optional.

(ii) In the hauling of two log loads, not less than two wrapper chains or cables shall be used to secure the load. The logs shall be properly blocked to prevent them from rolling or shifting.

(iii) On loads consisting of three or four logs not over forty-four feet in length, the load shall be secured by not less than two properly spaced wrapper chains or cables. Ends of short logs not secured by such wrappers shall be secured with extra wrappers. If any log is over forty-four feet in length, the load shall be secured by not less than three properly spaced wrappers.

(iv) Loads consisting of five or more logs, when the logs are all seventeen feet or less in length, shall be secured by not less than two properly spaced wrappers. Loads consisting of five or more logs, when any log is over seventeen feet in length, shall be secured by not less than three properly spaced wrappers.

(b) Placement and number of wrappers required on log trucks using chock blocks.

(i) In the hauling of one log load, one wrapper chain or cable shall be required and secured to the rear bunk and the log shall be properly blocked in a manner to prevent it from rolling or shifting.

(ii) One additional wrapper chain or cable shall be required on log trucks using chock blocks over and above the requirements in subparagraphs (a) (iii) and (iv) of this subsection.

(c) Placement and number of wrappers required on crosswise loaded trucks, trailers, etc. In the case of short logs loaded crosswise, the following method of securing the load shall be used if the truck trailer is not provided with solid ends of a height sufficient to prevent any log in the load from rolling off: Not less than two chock

blocks shall be used at each open end of the vehicle and the load shall be held with at least two wrapper chains or cables. The wrappers shall be firmly attached to the end of the truck or trailer. Rigid standards or stakes may be used in lieu of chock blocks but each such standard or stake shall be either rigidly connected to the bed of the truck or trailer or shall be placed in a tight fitting socket at least twelve inches in depth. Other means furnishing equivalent security may be acceptable.

(d) Wrapper placement. When two wrappers are required, they shall be applied within six feet of the front and rear bunks. When more than two wrappers are required, the front and back binder shall be applied within six feet of the front and rear bunks.

(e) Short logs. To properly secure short logs, binders shall be placed near the end, not less than twelve inches from the end of the log.

(f) Log on top or in outside saddle. No log loaded on top or in outside saddles of a load shall be transported unless secured by not less than two wrapper chains or cables, one of which shall be placed near each end of such log.

(g) Fasten in place. All wrappers and binders shall be fastened in place prior to tightening to prevent the displacement of logs on the top of the load.

(h) Surround load. All wrapper chains or cables, except in the case of one log loads, shall entirely surround the load. This does not apply to gut-wrappers.

(i) Gut-wrappers. Gut-wrappers, when used, shall be adjusted so as to be tightened by, but not carry the weight of the logs above them.

(j) Wrappers and binders to be placed before leaving immediate loading area. Wrappers and binders shall be placed and tightened around the completed load before the truck leaves the immediate loading area.

(k) Construction of wrappers and binders. Wrapper chains or cables, binders, fasteners, or attachments thereof, used for any purpose as required by these standards, shall have a minimum breaking strength of not less than fifteen thousand pounds and shall be rigged so that it can be safely released.

(l) Bundle straps or banding. For the purposes of this standard, applied bundle straps or banding are not acceptable as wrappers and binders.

(m) Loose ends secured. All loose ends of wrapper chains or cables shall be securely fastened so as to prevent their swinging free in a manner that will create a hazard.

(n) Trucks in sorting yards. Trucks and trailers used around sorting yards, etc., which travel at slow speeds, will not be required to use wrappers providing all logs are contained by and lie below the height of the stakes and there are no persons on the ground exposed to such traffic.

(o) Binder hook design. Binders for securing wrappers on logging trucks shall be fitted with hooks of proper size and design for the wrapper chain being used.

(p) Defective wrappers. Wrappers shall be removed from service when any of the following conditions exist:

- (i) Excessively worn links on chains;
- (ii) Deformed or stretched chain links;
- (iii) Cracked chain links;

(iv) Frayed, stranded, knotted, or otherwise defective wire rope.

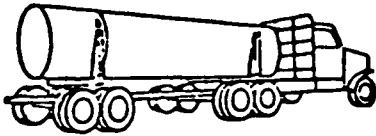
(q) Binder extensions. Pipe extension handles (swedes) for tightening or securing binders shall be limited to not longer than thirty-six inches. Care shall be taken that a sufficient amount of the pipe extends over the binder handle.

(r) Defective binders. Defective binders shall be immediately removed from service.

NOTE: See the following Diagrams I and II for illustrations of placement and number of load fastening devices.

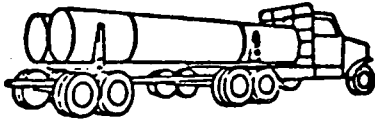
PLACEMENT AND NUMBER OF WRAPPERS

One log load



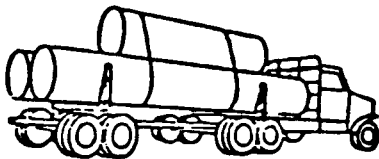
One wrapper required which shall be secured to the rear bunk. Log shall be blocked or secured in a manner to prevent it from rolling or shifting. A second wrapper secured to the front bunk is optional.

Two log load



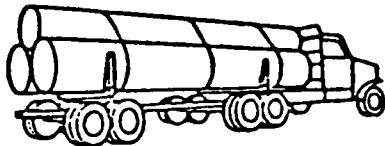
A minimum of two wrappers required. Logs shall be blocked to prevent them from rolling or shifting.

Three or four log load forty-four feet or less



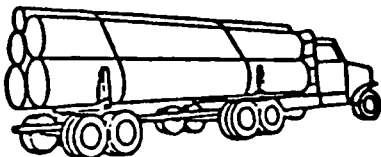
A minimum of two wrappers required.

Three or four log loads more than forty-four feet



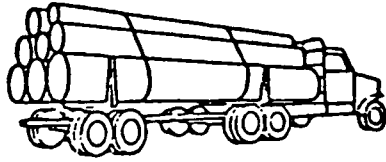
A minimum of three wrappers required.

Five or six log load all logs seventeen feet or less



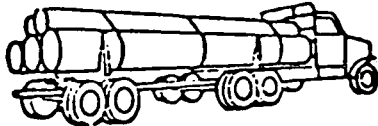
A minimum of two wrappers required.

Seven or more log load  
all logs seventeen feet or less



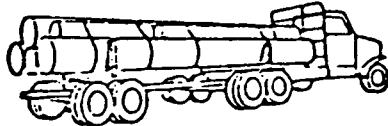
A minimum of two wrappers required.

Five or more log load  
if any logs are more than seventeen feet



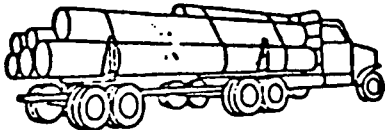
A minimum of three wrappers required.

Outside logs or top logs



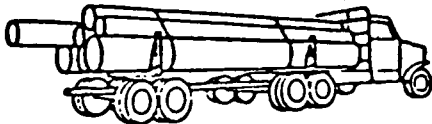
All outside or top logs shall be secured by a binder near but not within 12 inches of each end.

A wrapper shall be near each bunk



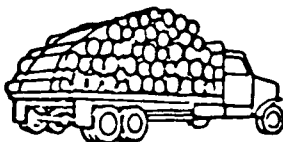
Each load shall be secured by having a wrapper within 6 feet of each bunk except on one log loads.

Proper support for logs



Not more than approximately one-third the weight of any log shall extend beyond the end of the logs or bunk supporting it.

Short logs loaded crosswise



A minimum of two wrappers are required and two chocks or stakes shall be used on the open end of the truck.

NOTE: All loads of logs on logging trucks equipped with chock blocks instead of stakes, shall have at least one additional wrapper over and above the requirements for trucks equipped with

stakes, excepting on one and two log loads and trucks with short logs loaded crosswise.

(4) Approved load fastening devices. The following binder devices are hereby approved for purposes of transporting logs as referred to in subsection (3) of this section, provided that they meet a breaking strength of at least fifteen thousand pounds:

- (a) Three-eighths inch high-test steel chain;
- (b) One-half inch diameter steel cable; and
- (c) Steel strapping not less than two inches by fifty one-thousandths inches in dimension.

(5) Anti-spray devices. Every vehicle shall be equipped with a device adequate to effectively reduce the wheel spray or splash of water from the roadway to the rear thereof. All such devices shall be as wide as the tires behind which they are mounted and extend downward at least to the center of the axle.

(6) Qualifications of drivers. Adoption of United States department of transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, part 391, excluding paragraphs (a) and (b) of section 391.2, section 391.69, subparagraph (2) of paragraph 391.71(a), and subparagraph (4) of paragraph 391.71(b); as well as and including all appendices and amendments thereto in effect on ((~~October 20, 1979~~) January 1, 1983), are adopted and prescribed by the commission to be observed by all common, contract, and registered carriers operating under chapter 81.80 RCW except:

(a) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.

(b) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to October 20, 1979.

(c) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date October 20, 1979.

(d) Sections 391.21, 391.23, 391.25, 391.27, 391.31, 391.33, 391.35, and 391.37 shall not apply to a single vehicle owner driver when operating under its own permit.

(7) Whenever the designation "director, bureau of motor carrier safety" is used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (6) of this section, such designation for the purpose of this rule shall mean the "Washington utilities and transportation commission", located in Olympia, Washington.

(8) Whenever the term "lightweight vehicle" is used in this section or is used in rules adopted herein by reference, such term shall mean a motor vehicle that:

(a) Was manufactured on or after January 1, 1972, and has a manufacturer's gross vehicle weight rating of ten thousand pounds or less, in the case of a single vehicle, or a manufacturer's gross combination weight rating of ten thousand pounds or less, in the case of an articulated vehicle; or

(b) Was manufactured before January 1, 1972, and has a gross weight, including its load and the gross

weight of any vehicle being towed by the motor vehicle, of ten thousand pounds or less, except:

(c) The term "lightweight vehicle" does not include a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with WAC 480-12-195.

AMENDATORY SECTION (Amending Order R-171, Cause No. TV-1508, filed 8/28/81)

✓ WAC 480-12-190 HOURS OF SERVICE—ON DUTY—ADOPTION OF FEDERAL SAFETY REGULATIONS. The rules and regulations adopted by the United States department of transportation in Title 49, Code of Federal Regulations, Part 395, as well as and including all appendices and amendments thereto in effect on January ((~~30, 1978~~) 1, 1983), are adopted and prescribed by the commission to be observed by all common, contract, and registered carriers operating under chapter 81.80 RCW, except:

(1) A driver who is driving a motor vehicle in the hauling of logs from the point of production or in dump truck operations, exclusively in intrastate commerce, shall not drive nor be permitted to drive more than twelve hours following eight consecutive hours off duty. Such driver shall not be on duty nor be permitted to be on duty more than ninety hours in any period of seven consecutive days.

(2) A driver who is driving a motor vehicle in the hauling of agricultural products from the point of production on farms, exclusively in intrastate commerce, shall not drive nor be permitted to drive more than twelve hours following eight consecutive hours off duty. Such driver shall not be on duty nor be permitted to be on duty more than ninety hours in any period of seven consecutive days.

(3) The rules and regulations governing driver's daily logs prescribed in Title 49, Code of Federal Regulations, section 395.8 and adopted in this section, do not apply to a driver who drives wholly within a radius of one hundred miles of the terminal or garage at which he or she reports for work, if the motor carrier who employs the driver maintains and retains for a period of one year accurate and true records showing the total number of hours of driving time and the time that the driver is on duty each day and the time at which the driver reports for, and is released from, duty each day. A tacograph showing the required driver hourly information may be substituted for the required records.

(4) Whenever the term "lightweight vehicle" is used in Title 49, Code of Federal Regulations, Part 395, adopted in this section, such term shall mean a motor vehicle that:

(a) Was manufactured on or after January 1, 1972, and has a manufacturer's gross vehicle weight rating of ten thousand pounds or less, in the case of a single vehicle, or a manufacturer's gross combination weight rating of ten thousand pounds or less, in the case of an articulated vehicle; or

(b) Was manufactured before January 1, 1972, and has a gross weight, including its load and the gross

weight of any vehicle being towed by the motor vehicle, of ten thousand pounds or less, except:

(c) The term "lightweight vehicle" does not include a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with WAC 480-12-195.

### WSR 83-06-018

#### ADOPTED RULES

### UTILITIES AND TRANSPORTATION COMMISSION

[Order R-197, Cause No. TC-1684—Filed February 23, 1983]

In the matter of amending WAC 480-30-095 relating to equipment safety for auto transportation companies and WAC 480-30-100 relating to drivers logs and drivers hours of service, qualification of drivers, and operation of motor vehicles for auto transportation companies.

This action is taken pursuant to Notice No. WSR 83-03-053 filed with the code reviser on January 19, 1983. This rule change hereinafter adopted shall take effect pursuant to RCW 34.04.040(2).

This rule-making proceeding is brought on pursuant to RCW 81.68.030 and is intended administratively to implement this statute.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Small Business Regulatory Fairness Act (chapter 6, Laws of 1982).

Pursuant to Notice No. WSR 83-03-053 the above matter was scheduled for consideration at 8:00 a.m., Wednesday, February 23, 1983, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington, before Commissioners Mary D. Hall and A. J. "Bud" Pardini.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to Friday, February 18, 1983. Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments orally at 8:00 a.m., Wednesday, February 23, 1983, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington.

At the February 23, 1983, meeting the commission considered the rule change proposal. No written or oral comments were received.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-30-095 and 480-30-100 should be amended to read as set forth in Appendix A shown below and by this reference made a part hereof. These rules, as amended, will update the present rules which adopt federal DOT standards for drivers hours of service and drivers logs and safety equipment. The major impact of the updating will be in the area of maintaining

and preparing log books. The twelve month retention period will change to six months. The standard log form need not be used, so long as the graph of hours of driving time, on-duty time, and off-duty time is prepared. Shipper document numbers, shipper name, origin and destination points, total miles, and co-driver name need no longer be shown separately. Origin and destination will be required to be shown on the graph, however, as before. On duty time for driving within the 100 mile radius zone is changed from 12 to 15 consecutive hours. Finally, regarding driver inspection reports, no report need be filed if no defects are found. This is an exception to the federal rule, adopted by the commission.

#### ORDER

WHEREFORE, IT IS ORDERED That WAC 480-30-095 and 480-30-100 as set forth in Appendix A, be amended as rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rules, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 23rd day of February, 1983.

Washington Utilities and Transportation Commission  
Mary D. Hall, Commissioner  
A. J. "Bud" Pardini, Commissioner

#### APPENDIX "A"

AMENDATORY SECTION (Amending Order R-143, Cause No. TC-1355, filed 8/14/80)

WAC 480-30-095 EQUIPMENT—SAFETY. In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.68 RCW shall comply with the following:

(1) Adoption of United States department of transportation motor carrier safety regulations. The rules and regulations governing motor carrier safety prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, part 392, excluding section 392.2 and paragraph (c) of section 392.1; part 393, excluding paragraph (b) of section 393.1, and sections 393.13, 393.14, 393.15, 393.16, 393.76, 393.100, 393.102, 393.104, 393.106; part 396, except that with respect to section 396.11 no driver vehicle inspection report need be filed if no defects are found, and excluding paragraph (b) of section 396.1; part 397, excluding section 397.21 and paragraph (c) of section 397.1; as well as and including all appendices and amendments thereto in effect on ((the effective date of this rule)) January 1, 1983, are adopted and prescribed by the commission to be observed by all auto transportation companies operating under chapter 81.68 RCW.

(2) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator", and

"federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (1) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

**AMENDATORY SECTION** (Amending Order R-143, Cause No. TC-1355, filed 8/14/80)

**WAC 480-30-100 OPERATION OF MOTOR VEHICLES.** (1) All motor vehicles shall be operated in accordance with the requirements of existing state laws and no driver or operator thereof shall operate the same in any other than a careful and prudent manner, nor at any greater speed than is reasonable or proper, having due regard to the traffic and use of the highway by others, or so as to endanger the life and limb of any person.

(2) Qualifications of drivers. Adoption of United States department of transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, part 391, excluding paragraphs (a) and (b) of section 391.2, section 391.69, subparagraph (2) of paragraph 391.71(a), and subparagraph (4) of paragraph 391.71(b); as well as and including all appendices and amendments thereto, in effect on ~~((the effective date of this rule))~~ January 1, 1983, are adopted and prescribed by the commission to be observed by all auto transportation companies operating under chapter 81.68 RCW except:

(a) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.

(b) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to the effective date of this rule.

(c) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date the effective date of this rule.

(3) No driver or operator of a motor vehicle carrying passengers shall smoke any cigar, cigarette, tobacco or other substance in such vehicle during the time he is driving the vehicle.

(4) No driver or operator of a motor vehicle shall create any disturbance or unnecessary noise to attract persons to the vehicle.

(5) The rules and regulations relating to drivers' logs and drivers' hours of service adopted by the United States department of transportation in Title 49, Code of Federal Regulations, part 395, as well as and including all appendices and amendments thereto in effect on ~~((the effective date of this rule))~~ January 1, 1983, are adopted and prescribed by the commission to be observed by all auto transportation companies operating under chapter 81.68 RCW, except that the radius distance identified in paragraph (f) of section 395.8 shall be one hundred miles.

(6) No driver or operator of any motor vehicle used in the transportation of passengers shall refuse to carry any

person offering himself or herself at a regular stopping place for carriage and who tenders the regular fare to any stopping place on the route of said motor vehicle, or between the termini thereof, if allowed to carry passengers to such point under the certificate for such route: PROVIDED, HOWEVER, That the driver or operator of such motor vehicle may refuse transportation to any person who is in an intoxicated condition or conducting himself in a boisterous or disorderly manner or is using profane language, who is suffering from a contagious disease, or whose condition is such as to be obnoxious to passengers on such motor vehicle. A driver is responsible for the comfort, safety and peace of mind of his passengers to the extent that he should be constantly on the alert for and immediately correct any act of misconduct on the part of occupants of the vehicle.

(7) No auto transportation company operating any motor vehicle used in the transportation of persons, shall permit smoking on said vehicle either by passengers or other persons while present in said motor vehicle.

Auto transportation companies shall place suitable signs in buses, of sufficient size and number to adequately inform passengers that smoking is not permitted in the motor vehicle: PROVIDED, That any such company operating buses equipped with air conditioning or efficient ventilating systems may permit smoking therein on certain schedules and routes when and where in the judgment of the company management smoking can be permitted without offense to the nonsmoking traveling public, and then only to the extent shown on signs prominently displayed within the buses.

(8) No motor vehicle used in the transportation of persons shall carry more persons than one hundred fifty percent of its rated carrying capacity but no paying passenger shall be required to stand for a distance in excess of twenty miles. The commission may amend, rescind or grant exceptions to this rule in the event of emergency.

(9) The front seat of all passenger carrying vehicles, if connected with the driver's seat, shall be considered as an emergency seat and no passenger will be allowed to occupy the same unless all of the other seats of such vehicle are fully occupied. In no case shall more than one passenger be allowed to occupy the front seat of any motor vehicle unless such seat is forty-eight or more inches in width in the clear. No passenger shall be allowed to sit in the front seat to the left of the driver.

(10) No motor vehicle used for the transportation of passengers shall carry or transport any baggage, trunk, crate or other load which shall extend beyond the running board of said motor vehicle on the left side.

(11) Except when specially authorized by the commission, no motor vehicle used in the transportation of passengers shall be operated or driven with any trailer or other vehicle attached thereto; except in case a vehicle becomes disabled while on a trip and is unable to be operated by its own power, such disabled vehicle may be towed without passengers to the nearest point where repair facilities are available. No right-hand drive vehicle shall be used except by special authorization of the commission and then only when equipped as directed by it.



(12) Accidents occurring in this state arising from or in connection with the operations of any auto transportation companies operating under chapter 81.68 RCW resulting in an injury to any person, or the death of any person shall be reported by such carrier to the commission as soon as possible, but in no event later than twelve hours after the occurrence of the accident. The occurrence of such accidents shall be reported to the commission by telephone at the following numbers: 1-800-562-6150; or if the call is made from out of the state: 1-206-753-6411. Copies of written reports of all accidents, including those described in this section, shall be maintained in the main office of the carrier subject to inspection by the commission.

(13) Auto transportation companies transporting passengers shall maintain such comfort stations in a clean and sanitary condition along its line or route, and shall make such regular stops thereat as shall be necessary to care properly for the comfort of its patrons.

(14) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator", and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsections (2) and (5) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

### WSR 83-06-019

#### ADOPTED RULES

### UTILITIES AND TRANSPORTATION COMMISSION

[Order R-198, Cause No. TCH-1685—Filed February 23, 1983]

In the matter of amending WAC 480-40-070 relating to drivers logs and drivers hours of service and drivers qualifications and amending WAC 480-40-075 relating to equipment safety for passenger charter carriers.

This action is taken pursuant to Notice No. WSR 83-03-052 filed with the code reviser on January 19, 1983. This rule change hereinafter adopted shall take effect pursuant to RCW 34.04.040(2).

This rule-making proceeding is brought on pursuant to RCW 81.70.130 and 81.70.140 and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Small Business Regulatory Fairness Act (chapter 6, Laws of 1982).

Pursuant to Notice No. WSR 83-03-052 the above matter was scheduled for consideration at 8:00 a.m., Wednesday, February 23, 1983, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington, before Commissioners Mary D. Hall and A. J. "Bud" Pardini.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to Friday, February 18, 1983. Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments orally at 8:00 a.m., Wednesday, February 23, 1983, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington.

At the February 23, 1983, meeting the commission considered the rule change proposal. No written or oral comments were received.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-40-070 and 480-40-075 should be amended to read as set forth in Appendix A shown below and by this reference made a part hereof. These rules, as amended, will update present rules which adopt federal DOT standards for drivers hours of service and drivers logs and safety of equipment. The major impact of the updating will be in the area of maintaining and preparing log books. The twelve month retention period will change to six months. The standard log form need not be used, so long as the graph of hours of driving time, on-duty time, and off-duty time is prepared. Shipper document numbers, shipper name, origin and destination points, total miles, and co-driver name need no longer be shown separately. Origin and destination will be required to be shown on the graph, however, as before. On duty time for driving within the 100 mile radius zone is changed from 12 to 15 consecutive hours. Finally, regarding driver inspection reports, no report need be filed if no defects are found. This is an exception to the federal rule, adopted by the commission.

#### ORDER

WHEREFORE, IT IS ORDERED That WAC 480-40-070 and 480-40-075 as set forth in Appendix A, be amended as rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rules, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 23rd day of February, 1983.

Washington Utilities and Transportation Commission  
Mary D. Hall, Commissioner  
A. J. "Bud" Pardini, Commissioner

#### APPENDIX "A"

AMENDATORY SECTION (Amending Order R-144, Cause No. TCH-1356, filed 8/14/80)

WAC 480-40-070 OPERATION OF MOTOR VEHICLES. (1) All motor vehicles shall be operated in accordance with the requirements of existing state laws and no driver or operator thereof shall operate the same

in any other than a careful and prudent manner, nor at any greater speed than is reasonable or proper, having due regard to the traffic and use of the highway by others, or so as to endanger the life and limb of any person.

(2) Qualifications of drivers. Adoption of United States department of transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, part 391, excluding paragraphs (a) and (b) of section 391.2, section 391.69, subparagraph (2) of paragraph 391.71(a), and subparagraph (4) of paragraph 391.71(b); as well as and including all appendices and amendments thereto, in effect on ~~((the effective date of this rule))~~ January 1, 1983, are adopted and prescribed by the commission to be observed by all charter party carriers of passengers operating under chapter 81.70 RCW except:

(a) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.

(b) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to the effective date of this rule.

(c) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date the effective date of this rule.

(3) No driver or operator of a motor vehicle carrying passengers shall smoke any cigar, cigarette, tobacco or other substance in such vehicle during the time he is driving the vehicle.

(4) No driver or operator of a motor vehicle shall create any disturbance or unnecessary noise to attract persons to the vehicle.

(5) The rules and regulations relating to drivers' logs and drivers' hours of service adopted by the United States department of transportation in Title 49, Code of Federal Regulations, Part 395, as well as and including all appendices and amendments thereto in effect on ~~((the effective date of this rule))~~ January 1, 1983, are adopted and prescribed by the commission to be observed by all charter party carriers of passengers operating under chapter 81.70 RCW, except that the radius distance identified in paragraph (f) of section 395.8 shall be one hundred miles.

(6) No motor vehicle used in the transportation of persons shall carry more persons than one hundred fifty percent of its rated carrying capacity but no passenger shall be required to stand for a distance in excess of twenty miles. The commission may amend, rescind or grant exceptions to this rule in the event of emergency.

(7) Except when specially authorized by the commission, no motor vehicle used in the transportation of passengers shall be operated or driven with any trailer or other vehicle attached thereto; except in case a vehicle becomes disabled while on a trip and is unable to be operated by its own power, such disabled vehicle may be towed without passengers to the nearest point where repair facilities are available. No right-hand drive vehicle shall be used except by special authorization of the

commission and then only when equipped as directed by it.

(8) Accidents occurring in this state arising from or in connection with the operations of any charter party carrier of passengers operating under chapter 81.70 RCW resulting in an injury to any person, or the death of any person shall be reported by such carrier to the commission as soon as possible, but in no event later than twelve hours after the occurrence of the accident. The occurrence of such accidents shall be reported to the commission by telephone at the following numbers: 1-800-562-6150; or if the call is made from out of the state: 1-206-753-6411. Copies of written reports of all accidents, including those described in this section, shall be maintained in the main office of the carrier subject to inspection by the commission.

(9) Charter party carriers transporting passengers shall maintain busses in a clean and sanitary condition and shall make such stops as shall be necessary to care properly for the comfort of their patrons.

(10) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator", and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsections (2) and (5) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

#### AMENDATORY SECTION (Amending Order R-144, Cause No. TCH-1356, filed 8/14/80)

WAC 480-40-075 EQUIPMENT—SAFETY. In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.70 RCW shall comply with the following:

(1) Adoption of United States department of transportation motor carrier safety regulations. The rules and regulations governing motor carrier safety prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, part 392, excluding section 392.2 and paragraph (c) of section 392.1; part 393, excluding paragraph (b) of section 393.1, and sections 393.13, 393.14, 393.15, 393.16, 393.76, 393.100, 393.102, 393.104, 393.106; part 396, except that with respect to section 396.11 no driver vehicle inspection report need be filed if no defects are found, and excluding paragraph (b) of section 396.1; part 397, excluding section 397.21 and paragraph (c) of section 397.1; as well as and including all appendices and amendments thereto, in effect on ~~((the effective date of this rule))~~ January 1, 1983, are adopted and prescribed by the commission to be observed by all charter party carrier of passengers operating under chapter 81.70 RCW.

(2) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator", and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (1) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

**WSR 83-06-020**  
**PROPOSED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Filed February 23, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules concerning Cause No. TR-1691, relating to railroad track equipment-operations. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendments on economic values, pursuant to chapter 43.21 RCW and WAC 480-08-050(17);

that the agency will at 8:00 a.m., Wednesday, April 6, 1983, in the Commission's Conference Room, 7th Floor, Highways-Licenses Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 80.01.040 as adopted in RCW 81.01.010.

The specific statute these rules are intended to implement is RCW 80.01.040 as adopted in RCW 81.01.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Friday, April 1, 1983.

Dated: February 23, 1983

By: Barry M. Mar  
 Secretary

**STATEMENT OF PURPOSE**

In the matter of adopting WAC 480-62-110 relating to railroad track equipment operations.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040, as adopted in RCW 81.01.010 which direct that the commission has authority to implement the provisions of Title 81 RCW, as it relates to railroad operations.

The rules proposed by the Washington Utilities and Transportation Commission are designed to require all track cars and on-track equipment to approach all highway grade crossings prepared to stop. If necessary to protect the motoring public and/or the movement of track car and on-track equipment, the crossing must be flagged.

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

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

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040, as adopted in RCW 81.01.010.

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

The rule change proposed will affect no economic values. The rule change proposed does not fall within the purview of the Small Business Regulatory Fairness Act (chapter 6, Laws of 1982) inasmuch as the railroad companies do not fall within the definition of a small business.

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

**APPENDIX "A"**

**NEW SECTION**

**WAC 480-62-110 TRACK EQUIPMENT OPERATIONS**  
 Track cars and on-track equipment must approach all public highway grade crossings prepared to stop. If necessary to protect the motoring public and/or the movement of track car and on-track equipment, the crossing must be flagged.

**WSR 83-06-021**  
**PROPOSED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Filed February 23, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules concerning Cause No. TR-1692 relating to Train operation - Tacoma. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendments on economic values, pursuant to chapter 43.21 RCW and WAC 480-08-050(17);

that the agency will at 8:00 a.m., Wednesday, April 6, 1983, in the Commission's Conference Room, 7th Floor, Highways-Licenses Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 80.01.040 as adopted in RCW 81.01.010.

The specific statute these rules are intended to implement is RCW 80.01.040 as adopted in RCW 81.01.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Friday, April 1, 1983.

Dated: February 23, 1983

By: Barry M. Mar  
 Secretary

**STATEMENT OF PURPOSE**

In the matter of adopting WAC 480-62-120 relating to Train operation - Tacoma.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040, as adopted in RCW 81.01.010, which direct that the commission has authority to

implement the provisions of Title 81 RCW, as it relates to railroad operations.

The rules proposed by the Washington Utilities and Transportation Commission are designed to require all transfer trains and yard trains crossing tracks on the Pacific Division, 3rd Subdivision of the Burlington Northern Railroad and Union Pacific Diamond, Union Pacific Milepost 146.5 to stop no more than 500 feet before the crossing and not proceed until it has been determined that no other trains occupy the crossing.

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

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

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040, as adopted in RCW 81.01.010.

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

The rule change proposed will affect no economic values. The rule change proposed does not fall within the purview of the Small Business Regulatory Fairness Act (chapter 6, Laws of 1982) inasmuch as the railroad companies do not fall within the definition of a small business.

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

NEW SECTION

WAC 480-62-120 TRAIN OPERATIONS - TACOMA All trains and yard trains handling railroad cars shall come to a full stop at a distance not greater than five hundred feet before the railroad crossing on the Pacific Division, 3rd subdivision of the Burlington Northern Railroad at the Muni Line and Union Pacific Diamond, Union Pacific, milepost 146.5, and shall not proceed across such crossing until it has been specifically determined that no other train is approaching the crossing, or is in any other respect in a position whereby a collision could occur.

**WSR 83-06-022**  
**ADOPTED RULES**  
**INSURANCE COMMISSIONER**  
**FIRE MARSHAL**

[Order FM 83-01—Filed February 23, 1983]

I, Thomas R. Brace, director of the Division of State Fire Marshal, do promulgate and adopt at Insurance Building, Room 140, Olympia, Washington 98504, the annexed rules relating to Private adult treatment homes—Standards for fire protection, chapter 212-45 WAC.

This action is taken pursuant to Notice No. WSR 83-03-027 filed with the code reviser on January 14, 1983. These rules shall take effect thirty days after they are

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

This rule is promulgated pursuant to RCW 71.12.485 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 22, 1983.

By Thomas R. Brace  
Director

Chapter 212-45 WAC  
PRIVATE ADULT TREATMENT HOMES—  
STANDARDS FOR FIRE PROTECTION

- WAC
- 212-45-001 Purpose.
- 212-45-005 Applicability.
- 212-45-010 Definitions.
- 212-45-015 Compliance.
- 212-45-020 Inspection.
- 212-45-025 Approval.
- 212-45-030 Appeal of fire marshal action or order; summary suspension of approval.
- 212-45-035 Local codes.
- 212-45-040 Client mobility and cognitive functions.
- 212-45-045 Standards.
- 212-45-050 Construction requirements.
- 212-45-055 Modernization or renovation.
- 212-45-060 Additions.
- 212-45-065 Design, operation.
- 212-45-070 Smoke detection.
- 212-45-075 Means of escape.
- 212-45-080 Exit doors.
- 212-45-085 Interior finish.
- 212-45-090 Heating equipment.
- 212-45-095 Fire and evacuation plan.
- 212-45-100 Fire drills.
- 212-45-105 Portable fire extinguishers.
- 212-45-110 Fire protection and fire prevention operating features.
- 212-45-115 Severability.

NEW SECTION

✓ WAC 212-45-001 PURPOSE. The purpose of this regulation is to adopt recognized standards for the the protection of life against the cause and spread of fire and fire hazards pursuant to RCW 71.12.485 with respect to all facilities to be licensed as private adult treatment homes by the department of social and health services.

NEW SECTION

✓ WAC 212-45-005 APPLICABILITY. This regulation applies to private adult treatment homes licensed or subject to licensure by the department of social and health services, pursuant to RCW 71.12.

NEW SECTION

WAC 212-45-010 DEFINITIONS. The following definitions shall apply to this regulation:

(1) "Ambulatory" means a client physically and mentally capable of walking unaided or is capable of independent mobility with the use of a cane, crutches, walkerette, walker, wheelchair, or artificial limb. Ambulatory shall be interpreted to mean an individual able to walk or traverse a normal path to safety unaided by another individual. Ambulatory shall not be interpreted to mean an individual needing the assistance of another individual in order to get into and out of bed, to transfer to a chair or toilet or to move from place to place.

(2) "Approved" means approval by the state fire marshal.

(3) "Authority having jurisdiction" means the duly authorized representative or agency having legal enforcement responsibility where these regulations are applied with the force of law.

(4) "Building official" means the person or agency appointed by the governing body of each city, town or county for the administration and enforcement of the Uniform Building Code, adopted by reference in the State Building Code Act.

(5) "Client" means an individual living in an adult residential facility for the purpose of participating in treatment and rehabilitation for psychiatric impairment or an individual living in the facility for board and domiciliary care.

(6) "Fire chief" means the chief of the fire department providing fire protection services to the facility.

(7) "Fire official" means the person or agency appointed by the governing body of each city, town or county for the administration and enforcement of the Uniform Fire Code, adopted by reference in the State Building Code Act.

(8) "Licensing agency" means the Washington state department of social and health services.

(9) "NFPA" means National Fire Protection Association.

(10) "Private adult treatment home" means a dwelling which is the residence or home of two adults providing food, shelter, beds, and care for two or fewer psychiatrically impaired clients, provided these clients are detained under chapter 71.05 RCW and the dwelling is certified as an evaluation and treatment facility under chapter 71.05 RCW.

(11) "Psychiatric impairment" means serious mental disorders, excluding mental retardation, substance abuse disorders, simple intoxication with alcohol or drugs, personality disorders, and specific developmental disorders as defined in the third edition of "American Psychiatric Association Diagnostic and Statistical Manual," 1980, where one or more of the following symptomatic behaviors is exhibited:

(a) Bizarreness, severe self-destructiveness, schizophrenic ideation, or other signs or symptoms resulting from gross, on-going distortions in thought processes;

(b) Suicide attempts or other signs or symptoms associated with marked, severe, or chronic affective disorders;

(c) Chronic sexual maladjustment, or other grossly maladaptive behaviors, in accordance with (a) or (b) of this subsection.

(12) "State Building Code Act" means chapter 19.27 RCW, effective January 1, 1975, which establishes state-wide building and fire prevention codes, and mandates enforcement by each city, town and county.

NEW SECTION

WAC 212-45-015 COMPLIANCE. All facilities licensed by the department of social and health services as private adult treatment homes shall comply with the provisions of this regulation.

NEW SECTION

WAC 212-45-020 INSPECTION. The licensing agency, upon receipt of an application for a license, or at least thirty days before the expiration date of an existing license, shall submit to the state fire marshal in writing, a request for an inspection. The state fire marshal or his authorized representative shall make an inspection of the facility, and if it is found that the facility does not comply with the standards contained in this regulation, a written report shall be made to the facility listing the violations found, corrective actions necessary and time allowed for correction. As soon as practicable after the expiration date of the time allowed to effect the corrective measures, a reinspection shall be made to determine compliance.

NEW SECTION

WAC 212-45-025 APPROVAL. (1) Upon the completion of the inspection, if the facility is in compliance with applicable standards, a notice of approval for licensing shall be forwarded to the licensing agency.

(2) Approval of a facility may be denied, suspended, or revoked for failure to comply with any applicable standard or regulation. Notice of such action shall be given to the facility and to the licensing agency.

NEW SECTION

WAC 212-45-030 APPEAL OF FIRE MARSHAL ACTION OR ORDER; SUMMARY SUSPENSION OF APPROVAL. (1) A facility aggrieved by an act or order of the state fire marshal made under RCW 71.12.485 or these rules may appeal such act or order to the state fire marshal. Such appeal shall be heard and determined pursuant to the provisions of chapter 34.04 RCW and chapter 1-08 WAC.

(2) If the fire marshal finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in his order, summary suspension of the approval required by RCW 71.12.485 may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

NEW SECTION

WAC 212-45-035 LOCAL CODES. Approvals are issued or denied on the basis of applicant's compliance

with the state fire marshal's minimum fire and life safety standards. The enforcement of local fire and building codes is the responsibility of the respective fire and building officials.

#### NEW SECTION

WAC 212-45-040 CLIENT MOBILITY AND COGNITIVE FUNCTIONS. Clients shall be ambulatory as defined in WAC 212-43-010(2). State fire marshal approval is required for facilities or portions of facilities before the use of mobility aids are permitted. Clients must be managed without the use of seclusion, restraints, or locked doors. Patients' sensory perceptions must be sufficiently functional to respond to outside stimuli of an endangering nature; e.g., fire alarms, and have adequate cognitive functioning so as to evacuate the premises without assistance under such conditions.

#### NEW SECTION

WAC 212-45-045 STANDARDS. The following standards, WAC 212-45-045 through 212-45-115 shall be applicable to all facilities built or licensed after the effective date of this regulation.

#### NEW SECTION

WAC 212-45-050 CONSTRUCTION REQUIREMENTS. (1) Construction or major remodeling shall comply with the Group R Division 3 requirements of the 1982 Uniform Building Code, plus the additional standards as contained in this regulation. This minimum requirement is mandatory; however, local fire and building officials charged with the administration and enforcement of the State Building Code Act, chapter 19.27 RCW, may exceed these requirements.

(2) New and existing buildings not over three stories in height may be of any recognized construction, provided that the building has been maintained to the extent that fire and life safety features have not been reduced.

#### NEW SECTION

WAC 212-45-055 MODERNIZATION OR RENOVATION. Alterations shall not diminish the level of life safety below that which exists prior to the alterations except that life safety features in excess of those required for new construction are not required to be maintained. In no case shall the resulting life safety be less than that required for existing buildings. Alterations or installations of new building services equipment shall be accomplished as nearly as possible in conformance with the requirements for new construction.

#### NEW SECTION

WAC 212-45-060 ADDITIONS. Any addition shall be separated from any existing nonconforming structure as required in table 5B of the Uniform Building Code.

#### NEW SECTION

WAC 212-45-065 DESIGN, OPERATION. All facilities shall be so designed, constructed, maintained,

and operated as to minimize the possibility of a fire emergency requiring the evacuation of patients. The protection of patients from fire shall be provided by appropriate arrangement of facilities, adequate staffing, and careful development of operating and maintenance procedures composed of the following:

(1) Proper design, construction, and compartmentation.

(2) Provision for detection, alarm, and extinguishment.

(3) Fire prevention and planning, training, and drilling programs for the isolation of fire, transfer of clients to areas of refuge, or evacuation of the building.

#### NEW SECTION

WAC 212-45-070 SMOKE DETECTION. (1) Approved smoke detectors shall be provided in accordance with the standard for the installation, maintenance, and use of household fire warning equipment, NFPA 74-1980 and appendixes.

(2) In existing construction approved smoke detectors powered by batteries may be used. When activated, the detector shall initiate an alarm which is audible in the sleeping rooms.

#### NEW SECTION

WAC 212-45-075 MEANS OF ESCAPE. (1) Every sleeping room above or below the level of exit discharge shall have access to two separate means of escape one of which shall be either an enclosed interior stairway, an exterior stairway, or a horizontal exit. Exception: In existing buildings a fire escape stair is acceptable.

(2) At least one means of escape shall be located to provide a safe path of travel to the outside of the building without traversing any corridor or space exposed to an unprotected vertical opening.

(3) Every sleeping room located on the level of exit discharge shall have access to two separate means of escape, one of which may be an operable window.

Exception: One-story buildings with rooms having direct access to the exterior at grade.

(4) Every sleeping room below the fourth story shall have at least one operable window or exterior door approved for emergency escape or rescue. The units shall be operable from the inside to provide a full clear opening without the use of separate tools.

All escape or rescue windows from sleeping rooms shall have a minimum net clear opening of 5.7 square feet. The minimum net clear opening height dimension shall be twenty-four inches. The minimum net clear opening width dimension shall be twenty inches. Where windows are provided as a means of escape or rescue they shall have a finished sill height not more than forty-eight inches above the floor.

Bars, grills, grates or similar devices may be installed on an emergency escape or rescue windows or doors, provided:

(a) Such devices are equipped with approved release mechanisms which are openable from the inside without the use of a key or special knowledge or effort; and

(b) The building is equipped with smoke detectors.

(5) The use of a fire escape ladder may be substituted for one of the approved means of escape. The type, placement, and construction of a fire escape ladder is subject to fire marshal approval.

NEW SECTION

✓ WAC 212-45-080 EXIT DOORS. Exterior exit doors from the building shall be operable from the inside without the use of a key or any special knowledge or effort, and the unlatching shall not require more than a single operation. No door in path of travel shall be less than twenty-eight inches wide. Chain locks and dead bolts are not permitted. Doors shall be openable with a single motion.

NEW SECTION

✓ WAC 212-45-085 INTERIOR FINISH. The interior finish on walls and ceilings of occupied spaces shall be class A, B, or C, in accordance with section 6-5 of the 1981 life safety code.

NEW SECTION

✓ WAC 212-45-090 HEATING EQUIPMENT. No stove or combustion heater shall be so located as to block escape in case of fire arising from malfunction of the stove or heater. Proper ventilation shall be maintained for all solid or liquid fuel heaters and fireplaces. Portable space heating devices are prohibited. The installation of heating equipment shall meet all applicable codes.

NEW SECTION

✓ WAC 212-45-095 FIRE AND EVACUATION PLAN. The administration of every facility shall have in effect, and available to all supervisory personnel, written copies of a plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge and from the building, when necessary. All employees shall be instructed and kept informed respecting their duties under the plan.

NEW SECTION

WAC 212-45-100 FIRE DRILLS. At least four fire drills shall be held every year. Drills shall be conducted quarterly to familiarize personnel with signals and emergency action required under varied conditions. Fire drills shall include the activation of a fire alarm signal and simulation of emergency fire conditions. Fifty percent of drills shall be held during the nighttime hours. Records of drills shall be available for review.

NEW SECTION

WAC 212-45-105 PORTABLE FIRE EXTINGUISHERS. The type, size, and location of portable fire extinguishers shall be installed and maintained in accordance with NFPA Standard 10-1981. At least one 2A rated extinguisher and one 10BC rated extinguisher shall be provided. These may be provided singly or in combination, such as the all purpose extinguisher.

NEW SECTION

✓ WAC 212-45-110 FIRE PROTECTION AND FIRE PREVENTION OPERATING FEATURES. Operating features shall be maintained in accordance with sections 31-1 1981 life safety code, NFPA Standard 101.

NEW SECTION

✓ WAC 212-45-115 SEVERABILITY. In any provision of this regulation or its application to any person is held invalid, the remainder of the regulation or the application of the provision to other persons or circumstances is not affected.

**WSR 83-06-023**

**EMERGENCY RULES**

**DEPARTMENT OF FISHERIES**

[Order 83-12—Filed February 23, 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 upper Columbia River regulations to the Columbia River compact and Oregon state regulations as harvestable numbers 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 23, 1983.

By W. R. Wilkerson  
Acting Director

NEW SECTION

WAC 220-32-05700R SEASON AND GEAR—STURGEON. Notwithstanding the provisions of WAC 220-32-057, effective immediately until further notice, 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 1G, 1F and 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 Umatilla, Warm Springs, Yakima and Nez

*Perce treaties may fish for sturgeon for commercial purposes.*

(2) *The open fishing period is immediately until 12:00 noon, April 30, 1983.*

(3) *Setline gear limited to a maximum of 100 single hooks per setline, hook size is 9/0 minimum, and each setline must have at least one bouy on which is legibly marked the tribal identification number of the fisherman operating the gear.*

(4) *All sturgeon under 48 inches in length or over 72 inches in length must be released immediately and all sturgeon in transit must not have head or tail removed.*

(5) *It is unlawful for any fisherman 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 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 that the sturgeon is offered for sale.*

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

#### REPEALER

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

**WAC 220-32-05700Q SEASON AND GEAR—STURGEON. (83-08)**

#### **WSR 83-06-024**

##### **EMERGENCY RULES**

#### **DEPARTMENT OF FISHERIES**

[Order 83-13—Filed February 23, 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 the harvestable quota of Pacific hake has been reached is selected Puget Sound waters.

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 23, 1983.

By William R. Wilkerson  
Acting Director

#### NEW SECTION

**WAC 220-48-01500A PACIFIC HAKE TRAWL CLOSURE.** Notwithstanding the provisions of WAC 220-48-015, WAC 220-48-017, and WAC 220-48-019, effective 12:00 noon, February 24, 1983 until further notice, it is unlawful to take or possess Pacific hake taken with bottom trawl, beam trawl, pelagic trawl, or roller trawl from Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, or 26A.

#### **WSR 83-06-025**

##### **PROPOSED RULES**

#### **LIQUOR CONTROL BOARD**

[Filed February 23, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning advertising by retail licensees, WAC 314-52-110;

that the agency will at 9:30 a.m., Wednesday, July 13, 1983, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

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

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

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 13, 1983.

This notice is connected to and continues the matter in Notice No. WSR 83-03-013 filed with the code reviser's office on January 12, 1983.

Dated: February 23, 1983

By: Robert D. Hannah  
Chairman

#### **WSR 83-06-026**

##### **ADOPTED RULES**

#### **LIQUOR CONTROL BOARD**

[Order 120, Resolution No. 129—Filed February 23, 1983]

Be it resolved by the Washington State Liquor Control Board, acting at Capital Plaza Building, 1025 East Union Avenue, Olympia, WA, that it does adopt the annexed rules relating to conduct on licensed premises, WAC 314-16-120.

This action is taken pursuant to Notice No. WSR 83-03-013 filed with the code reviser on January 12, 1983. 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 66.98.070.

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 23, 1983.

By Robert D. Hannah  
Chairman

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

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

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

**WSR 83-06-027**  
**PROPOSED RULES**  
**LIQUOR CONTROL BOARD**  
[Filed February 23, 1983]

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

that the agency will at 9:30 a.m., Wednesday, September 7, 1983, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

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

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

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 7, 1983.

Dated: February 23, 1983  
By: Robert D. Hannah  
Chairman

## STATEMENT OF PURPOSE

Title: WAC 314-12-125 English language capability required during operating hours.

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

Statutory Rule-Making Authority: RCW 66.08.030 and 66.98.070.

Statutes Implemented by the Rule: RCW 66.24.010.

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

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

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

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

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

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

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

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

#### NEW SECTION

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

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

**WSR 83-06-028**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
[Filed February 24, 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 repeal of WAC 308-08-030.

A copy of the rule is shown below, however, changes may be made at the public hearing;

that the agency will at 10 a.m., Thursday, April 14, 1983, in the 4th Floor Conference Room, Highways-Licenses Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 34.04.020 and 46.01.110.

The specific statute these rules are intended to implement is RCW 34.04.020.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 24, 1983.

Dated: February 18, 1983

By: John Gonzalez  
Director

#### STATEMENT OF PURPOSE

**Title and Number:** WAC 308-08-030 Appearance and practice before agency—Solicitation of business unethical.

**Statutory Authority for Rule:** RCW 34.04.020 (see also, WAC 10-108-020 adopted by the Chief Administrative Law Judge of the Office of Hearings) and RCW 46.01.110.

**Specific Statute Rule is Intended to Implement:** RCW 34.04.020.

**Summary of Rule:** The current rule makes it unethical for a person who acts in a representative capacity before the Department of Licensing or a related board or commission to solicit business by circulars, advertisements or personal communication not warranted by personal relations, making an exception for business cards. It also makes it unethical the procurement of business indirectly through solicitors of any kind. The action proposed by the department is to repeal that rule.

**Reasons Supporting the Action:** The department believes that the rule, for the most part, creates an unconstitutional prohibition upon professional advertising.

**Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rule:** In addition to the director of the Department of Licensing, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Joan Baird, Assistant Director, Business and Professions Administration, 234-1369 scan, 753-1369 comm, Charles Stansbury, Assistant Director, Driver Services, 234-6977 scan, 753-6977 comm, and Jesus Sanchez, Assistant Director, Vehicle Services, 234-6914 scan, 753-6914 comm, all located at Highways-Licenses Building, Olympia, WA 98504.

**Person or Organization Proposing Rule, and Whether Public, Private or Governmental:** Repeal of this rule was proposed by Miller and Darr, a private law firm, through its attorney Mr. Andrew K. Dolan, in a petition for rule-making filed with the director of the Department of Licensing pursuant to RCW 34.04.060.

**Agency Comments:** This agency is now reviewing this area of its procedural rules and may soon propose more limited requirements than the rule which is here proposed for repeal.

**Whether the Rule is Necessary as a Result of Federal Law or Federal or State Court Action:** The U.S. Supreme Court has found in at least two recent cases that blanket prohibitions against advertising by professionals are unconstitutional. Those cases are: Bates v. State Bar of Arizona, 433 U.S. 315 (1977); and In the Matter of R.M.J., 455 U.S. 191 (1982). Both the petitioner, Mr. Dolan, and this agency believe that the subject rule is clearly overbroad and, for the most part, inconsistent with these cases.

**Small Business Economic Impact:** This agency has determined that there would be no adverse economic impact upon small business in the state of Washington by the repeal of this rule.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

(1) WAC 308-08-030 APPEARANCE AND PRACTICE BEFORE AGENCY - SOLICITATION OF BUSINESS UNETHICAL.

**WSR 83-06-029**  
**EMERGENCY RULES**  
**DEPARTMENT OF LICENSING**  
 [Order DOL 712—Filed February 24, 1983]

I, John Gonzalez, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to adding new chapter 308-95 WAC vehicle impound and adopting WAC 308-95-010, 308-95-020 and 308-95-030.

I, John Gonzalez, 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 RCW 46.20.435, which provides for impoundment of vehicles is currently in effect and rules providing a hearing regarding the impound are necessary.

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

This rule is promulgated pursuant to RCW 46.20.435 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 23, 1983.

By John Gonzalez  
 Director

*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 83-06-030**  
**EMERGENCY RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**  
 [Order 195—Filed February 24, 1983]

Be it resolved by the Game Commission of the state of Washington, acting at Cavanaugh's Motor Inn, 1101 North Columbia Center Boulevard, Kennewick, WA, that it does adopt the annexed rules relating to closure of all lands within the Colville Indian Reservation to the trapping and hunting of all wild animals, blue grouse, ruffed grouse, Franklin grouse, sharp-tailed grouse, sage hen grouse, and mourning doves, WAC 232-28-20502.

We, the Game Commission of the state of Washington, 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 there are insufficient populations of the above mentioned wildlife species to allow non-tribal hunting and trapping. The commission passed Order No. 182 on October 4, 1982, in accordance with the agreement between the department and the Colville Indian Tribe.

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

This rule is promulgated pursuant to RCW 77.12.040 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 10, 1983.

By Archie U. Mills  
 Chairman, Game Commission

NEW SECTION

*WAC 232-28-20502 CLOSURE OF ALL LANDS WITHIN THE COLVILLE INDIAN RESERVATION TO THE TRAPPING AND HUNTING OF ALL WILD ANIMALS, BLUE GROUSE, RUFFED GROUSE, FRANKLIN GROUSE, SHARP-TAILED GROUSE, SAGE HEN GROUSE, AND MOURNING DOVES. Notwithstanding the provisions of WAC's 232-28-205, 232-28-505, and 232-28-405, it is unlawful to trap or hunt wild animals, blue grouse, ruffed grouse, Franklin grouse, sharp-tailed grouse, sage hen grouse and mourning doves within the Colville Indian Reservation boundaries.*

**WSR 83-06-031**  
**ADOPTED RULES**  
**SHORELINES HEARINGS BOARD**  
 [Order 83-1, Resolution No. 83-1—Filed February 24, 1983]

Be it resolved by the Shorelines Hearings Board, acting at 4224 6th Avenue S.E., Building 2, Rowesix, Olympia, WA 98504, that it does adopt the annexed rules relating to practice and procedure before the board, WAC 461-08-180.

This action is taken pursuant to Notice No. WSR 83-04-037 filed with the code reviser on January 28, 1983. 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 Shorelines Hearings Board as authorized in RCW 90.58.175.

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 23, 1983.

By Gayle Rothrock  
 Chairman

AMENDATORY SECTION (Amending Order 74-4, filed 7/3/74)

✓ WAC 461-08-180 RULES OF EVIDENCE—ADMISSIBILITY CRITERIA. (1) General. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the officer conducting the hearing, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the officer conducting the hearing shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings in matters not involving trial by jury in the superior courts of the state of Washington.

(2) Agency records. Copies of all records and documents on record or on file pertaining to the granting, denying or rescinding of a permit maintained in the office of the local government, or Department, when duly certified by the respective officers having by law the custody thereof, under their respective seals where such officers have official seals, shall be admitted in evidence if offered.

**WSR 83-06-032**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 83-14—Filed February 25, 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 these rules are necessary to conform state rules and federal regulations to preserve rockfish stocks.

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

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

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

APPROVED AND ADOPTED February 25, 1983.

By William R. Wilkerson  
Acting Director

#### NEW SECTION

**WAC 220-44-04000D COASTAL BOTTOM-FISHING SEASONS.** *Effective February 28, 1983, until further notice, it is unlawful to possess, transport through the waters of the state, or land in any Washington State port bottomfish taken from Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the species indicated:*

(1) *Widow Rockfish (Sebastes entomelus)— 30,000 pounds per vessel trip; no minimum size.*

(2) *Shortbelly Rockfish (Sebastes jordani)— No maximum poundage per vessel trip, no minimum size.*

(3) *Pacific Ocean Perch (Sebastes alutus)— 5,000 pounds or 10 percent of total weight of fish on board, whichever is greater, per vessel trip; no minimum size.*

(4) *All other species of rockfish (Sebastes spp.)— 40,000 pounds of all other species combined per vessel trip; no minimum size.*

(5) *Sablefish— Minimum size 22 inches in length, unless dressed in which case minimum size 16 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail, except that an incidental catch less than the minimum size of 1,000 pounds of weight, 333 fish, or 10 per cent of the weight of the sablefish aboard, whichever is greater, is allowed.*

#### REPEALER

*The following section of the Washington Administrative Code is repealed effective February 28, 1983:*

**WAC 220-44-04000C COASTAL BOTTOM-FISHING SEASONS (83-01)**

**WSR 83-06-033**

**PROPOSED RULES**

### **PUBLIC DISCLOSURE COMMISSION**

[Filed February 25, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Disclosure Commission intends to adopt, amend, or repeal rules concerning optional format for requests for lists of individuals, new section WAC 390-13-010;

that the agency will at 9:00 a.m., Tuesday, April 26, 1983, in the 2nd Floor Conference Room, Evergreen Plaza 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 April 26, 1983.

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 26, 1983.

Dated: February 24, 1983

By: Graham E. Johnson  
Administrator

#### **STATEMENT OF PURPOSE**

Title: WAC 390-13-010.

Description of Purpose: Adopts a possible format for release of public records and defines commercial purpose.

Statutory Authority: RCW 42.17.370(1).

Summary of Rule: Adopts a format for release of public records and defines commercial purpose.

Reasons Supporting Proposed Action: There is a need to bring about uniformity to the administration of public records access.

Agency Personnel Responsible for Drafting: Chip Holcomb, Assistant Attorney General; Implementation: Graham E. Johnson, Administrator; and Enforcement: Members, Public Disclosure Commission and staff.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: County treasurers and county assessors (governmental).

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: No.

Chapter 390-13 WAC

General Provisions Relating to Public Records of State & Local Agencies

#### NEW SECTION

**WAC 390-13-010 OPTIONAL FORMAT FOR REQUESTS FOR LISTS OF INDIVIDUALS.** The use of a list of individuals obtained from an agency for commercial purposes is prohibited by RCW 42.17.260(5). The commission finds that the term "commercial purposes" has been interpreted by different agencies in inconsistent ways resulting in confusion and a lack of uniform administration of that statute. Therefore, the following format is adopted by the commission and authorized for use by agencies, at their option, to bring uniformity to the administration of that statute.

(Name of Agency) PUBLIC RECORDS ACCESS

STATE OF WASHINGTON )
COUNTY OF \_\_\_\_\_ ) s.s. AFFIDAVIT TO RELEASE PUBLIC RECORDS

(Name and Address)

having been duly sworn, deposes and says:

- 1. I have requested copies of the following public records:
2. I understand that Washington State law, RCW 42.17.260(5), prohibits the use of lists of individuals for commercial purposes.
3. I understand that the use for commercial purposes of said records may also violate the rights of the individuals named therein and may subject me to liability for such commercial use.
4. I understand that section 2 and 3 herein apply when I use said records for commercial purposes and when others use said records or copies of same for commercial purposes.
5. I understand that "commercial purposes" means that the person requesting the record intends to contact the individuals named in the record for the purpose of facilitating the requester's profit expecting activity.
6. Therefore, I do hereby swear and affirm on oath and penalty of law that I will not use said records for commercial purposes and that further, it is my affirmative duty to prevent others from using said records for commercial purposes.
7. I do further swear and affirm on oath and under penalty of law that I will protect and hold harmless, including the cost of defending, the agency and its agents and employees from which I have obtained said records from any and all claims arising either directly or indirectly from the commercial use of said records.

Signature

SUBSCRIBED AND SWORN to before me this \_\_\_ day of \_\_\_\_\_, 19\_\_.

Notary Public in and for the State of Washington residing at

WSR 83-06-034
ADOPTED RULES
STATE CONVENTION AND TRADE CENTER

[Order 1, Resolution No. 9—Filed February 28, 1983]

Be it resolved by the board of directors, acting at Seattle, Washington, that it does adopt the annexed rules relating to the implementation of the State Environmental Policy Act.

This action is taken pursuant to Notice No. WSR 83-02-053 filed with the code reviser on January 4, 1983. 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 43.21C 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 February 24, 1983.
By Suzanne C. Cole
Administrator

Chapter 140-08 WAC
WASHINGTON STATE CONVENTION AND TRADE CENTER—SEPA GUIDELINES

NEW SECTION

WAC 140-08-010 PURPOSE. This chapter is promulgated in order to comply with RCW 43.21C.120.

NEW SECTION

WAC 140-08-020 POLICIES. The corporation adopts by reference the policies of the State Environmental Policy Act as expressed in RCW 43.21C.010 and 43.21C.020.

NEW SECTION

WAC 140-08-030 ADOPTION BY REFERENCE. The corporation hereby adopts by reference, pursuant to RCW 43.21C.135, the following sections or subsections of chapter 197-10 of the Washington Administrative Code (the "SEPA guidelines" adopted by the state of Washington, council on environmental policy and amended by the state of Washington, department of ecology), three copies of which shall be maintained on file at the SEPA public information center designated in WAC 140-08-070, for public use and examination:

- WAC 197-10-040: Definitions.
WAC 197-10-050: Environmental checklist.
WAC 197-10-055: Timing of the EIS process.
WAC 197-10-060: Scope of the proposal and its impacts.
WAC 197-10-100: Summary of information which may be required of private applicant.
WAC 197-10-150: Exemptions exclusive—Approval of changes in exemptions.
WAC 197-10-160: No presumption of significance for nonexempt actions.
WAC 197-10-170: Categorical exemptions.
WAC 197-10-175: Exemptions and nonexemptions applicable to specific state agencies.
WAC 197-10-180: Exemptions for emergency actions.
WAC 197-10-190: Use and effect of categorical exemptions.
WAC 197-10-200: Lead agency—Responsibilities.
WAC 197-10-203: Determination of lead agency—Procedures.
WAC 197-10-205: Lead agency designation—Governmental proposals.
WAC 197-10-210: Lead agency designation—Proposals involving both private and public construction activity.

- WAC 197-10-215: Lead agency designation—Private projects for which there is only one agency with jurisdiction.
- WAC 197-10-220: Lead agency designation—Private projects requiring licenses from more than one agency when one of the agencies is city/county.
- WAC 197-10-225: Lead agency designation—Private projects requiring licenses from more than one state agency.
- WAC 197-10-230: Lead agency designation—Specific proposals.
- WAC 197-10-240: Agreements as to lead agency status.
- WAC 197-10-245: Agreements between agencies as to division of lead agency duties.
- WAC 197-10-260: Dispute as to lead agency determination—Resolution by CEP.
- WAC 197-10-270: Assumption of lead agency status by another agency with jurisdiction.
- WAC 197-10-300: Threshold determination requirement.
- WAC 197-10-305: Recommended timing for threshold determination.
- WAC 197-10-310: Threshold determination procedures—Environmental checklist.
- WAC 197-10-320: Threshold determination procedures—Initial review of environmental checklist.
- WAC 197-10-330: Threshold determination procedures—Information in addition to checklist.
- WAC 197-10-340: Threshold determination procedures—Negative declarations.
- WAC 197-10-345: Assumption of lead agency status by another agency with jurisdiction—Prerequisites, effect and form of notice.
- WAC 197-10-350: Affirmative threshold determination.
- WAC 197-10-355: Form of declaration of significance/nonsignificance.
- WAC 197-10-360: Threshold determination criteria—Application of environmental checklist.
- WAC 197-10-365: Environmental checklist.
- WAC 197-10-370: Withdrawal of affirmative threshold determination.
- WAC 197-10-375: Withdrawal of negative threshold determination.
- WAC 197-10-390: Effect of threshold determination by lead agency.
- WAC 197-10-400: Duty to begin preparation of a draft EIS.
- WAC 197-10-405: Purpose and function of a draft EIS.
- WAC 197-10-410: Predraft consultation procedures.
- WAC 197-10-420: Preparation of EIS by persons outside lead agency.
- WAC 197-10-425: Organization and style of a draft EIS.
- WAC 197-10-440: Contents of a draft EIS.
- WAC 197-10-442: Special considerations regarding contents of an EIS on a nonproject action.
- WAC 197-10-444: Lists of elements of the environment.
- WAC 197-10-446: Draft EIS—Optional additional elements—Limitation.
- WAC 197-10-450: Public awareness of availability of draft EIS.
- WAC 197-10-455: Circulation of the draft EIS—Review period.
- WAC 197-10-460: Specific agencies to which draft EIS shall be sent.
- WAC 197-10-465: Agencies possessing environmental expertise.
- WAC 197-10-470: Cost to public for reproduction of environmental documents.
- WAC 197-10-480: Public hearing on a proposal—When required.
- WAC 197-10-485: Notice of public hearing on environmental impact of proposal.
- WAC 197-10-490: Public hearing on the proposal—Use of environmental documents.
- WAC 197-10-495: Preparation of amended or new draft EIS.
- WAC 197-10-500: Responsibilities of consulted agencies—Local agencies.
- WAC 197-10-510: Responsibilities of consulted agencies—State agencies with jurisdiction.
- WAC 197-10-520: Responsibilities of consulted agencies—State agencies with environmental expertise.
- WAC 197-10-530: Responsibilities of consulted agencies—When predraft consultation has occurred.
- WAC 197-10-535: Cost of performance of consulted agency responsibilities.
- WAC 197-10-540: Limitations on responses to consultation.
- WAC 197-10-545: Effect of no written comment.
- WAC 197-10-550: Preparation of the final EIS—Time period allowed.
- WAC 197-10-570: Preparation of the final EIS—When no critical comments received on the draft EIS.
- WAC 197-10-580: Preparation of the final EIS—When critical comments received on the draft EIS.
- WAC 197-10-600: Circulation of the final EIS.
- WAC 197-10-650: Effect on an adequate final EIS prepared pursuant to NEPA.
- WAC 197-10-652: Supplementation by a lead agency of an inadequate final NEPA EIS.
- WAC 197-10-660: Use of previously prepared EIS for a different proposed action.
- WAC 197-10-690: Use of lead agency's EIS by other acting agencies for the same proposal.
- WAC 197-10-695: Draft and final supplements to a revised EIS.

- WAC 197-10-700: No action for seven days after publication of the final EIS.
- WAC 197-10-710: EIS combined with existing planning and review processes.
- WAC 197-10-831: Responsibility of agencies—SEPA public information.
- WAC 197-10-840: Application of agency guidelines to ongoing actions.

**NEW SECTION**

WAC 140-08-040 **ADDITIONAL DEFINITIONS.** In addition to those definitions contained in WAC 197-10-040, the following terms shall have the following meanings, unless the context indicates otherwise:

- (1) "Corporation" means the Washington state convention and trade center, a state agency, or any organizational unit thereof.
- (2) "SEPA guidelines" means chapter 197-10 WAC adopted by the council on environmental policy and amended by the department of ecology.

**NEW SECTION**

WAC 140-08-050 **DESIGNATION OF OFFICIAL TO PERFORM CONSULTED AGENCY RESPONSIBILITIES FOR THE CORPORATION.** (1) The following person shall be responsible for the preparation of the written comments for the corporation in response to a consultation request prior to a threshold determination, participation in a predraft consultation, or reviewing a draft EIS: The administrator of the Washington state convention and trade center.

(2) The official designated in subsection (1) of this section shall be responsible for compliance by the corporation with WAC 197-10-500 through 197-10-540 whenever the corporation is a consulted agency, and is hereby authorized to develop operating procedures which will insure that responses to consultation requests are prepared in a timely fashion and include all appropriate data.

**NEW SECTION**

WAC 140-08-060 **DESIGNATION OF RESPONSIBLE OFFICIAL.** (1) For those proposals for which the corporation is the lead agency, the responsible official shall be the administrator of the Washington state convention and trade center.

(2) The responsible official or his designee shall make threshold determinations, supervise preparation of any required EIS, and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA guidelines, which are adopted by reference in WAC 140-08-030, for all proposals for which the corporation is the lead agency.

**NEW SECTION**

WAC 140-08-070 **SEPA PUBLIC INFORMATION CENTER.** The following location constitutes the corporation's SEPA public information center:  
Washington State Convention Trade Center

720 Olive Way, Suite 1520  
Seattle, Washington 98101  
Telephone: (206) 621-7772

(1) Reasonable means will be used to make the existence and location of the corporation's SEPA public information center known to both the public generally and the employees of the corporation.

(2) The SEPA public information center shall contain the documents and provide the services required by WAC 197-10-831.

**NEW SECTION**

WAC 140-08-080 **RESPONSIBILITY OF CORPORATION—PUBLIC INFORMATION.** The documents required by the SEPA guidelines (chapter 197-10 WAC) shall be retained by the corporation and made available in accordance with chapter 42.17 RCW.

**NEW SECTION**

WAC 140-08-090 **NOTICE/STATUTE OF LIMITATIONS.** The corporation, applicant for, or proponent of an action may, at its option, publish Notice of Action pursuant to RCW 43.21C.080 for any action. The form of any such notice shall be as proscribed by the department of ecology and/or substantially in the form and manner set forth in RCW 43.21C.080. The notice shall be published by the corporation, applicant, or proponent pursuant to RCW 43.21C.080.

**NEW SECTION**

WAC 140-08-100 **SEVERABILITY.** If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

**NEW SECTION**

WAC 140-08-110 **COMPLIANCE.** Compliance with the guidelines adopted by this chapter shall constitute complete procedural compliance with SEPA for any "action" as defined above.

**WSR 83-06-035**

**ADOPTED RULES  
STATE CONVENTION  
AND TRADE CENTER**

[Order 2, Resolution No. 10—Filed February 28, 1983]

Be it resolved by the board of directors, acting at Seattle, Washington, that it does adopt the annexed rules relating to corporate organization, methods of operation, and procedures whereby the public can obtain public information.

This action is taken pursuant to Notice No. WSR 83-02-054 filed with the code reviser on January 4, 1983. 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 42.17.250 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 24, 1983.  
By Suzanne C. Cole  
Administrator

Chapter 140-12 WAC  
GENERAL PROCEDURES

NEW SECTION

WAC 140-12-010 NATURE AND PURPOSE OF WASHINGTON STATE CONVENTION AND TRADE CENTER. The Washington state convention and trade center, hereinafter referred to as the corporation, has been established pursuant to chapter 34, Laws of 1982, to acquire, design, construct, maintain, operate, promote and manage a state convention and trade center. The corporation is a public nonprofit corporation formed in the same manner as a private nonprofit corporation is formed under chapter 24.03 RCW. The corporation is an instrumentality of the state, and has all the powers, and is subject to the same restrictions as are permitted or prescribed to private nonprofit corporations, but may exercise those powers only for carrying out the purposes of chapter 34, Laws of 1982, and those purposes necessarily implied therefrom.

NEW SECTION

WAC 140-12-020 CORPORATION ORGANIZATION. (1) The corporation is governed by a board of nine directors appointed by the governor. The directors serve terms of six years, except that two of the the original directors serve for two years and two of the original directors serve for four years.

(2) The organization and methods of operation of the corporation are established in the corporation's articles of incorporation, and in bylaws adopted by the board of directors.

(3) The administrative head of the corporation is the administrator of the Washington state convention and trade center, who is appointed by, and is responsible to, the board of directors.

(4) The principal office of the corporation shall be at Seattle, Washington, and shall be open each day for the transaction of business from 9:00 a.m. to 5:00 p.m. (Saturdays, Sundays and legal holidays excepted).

Submissions, requests and communications to the corporation shall be sent or made to the Administrator, Washington State Convention and Trade Center, 720 Olive Way, Suite 1520, Seattle, Washington 98101.

NEW SECTION

WAC 140-12-030 PURPOSE OF RULES. The purpose of WAC 140-12-040 through 140-12-110 is to

ensure compliance by the Washington state convention and trade center, hereinafter referred to as the corporation, including its officers and employees, with the applicable provisions of chapter 42.17 RCW, and in particular with RCW 42.17.250 through 42.17.320, dealing with public records.

NEW SECTION

WAC 140-12-040 PUBLIC RECORDS AVAILABLE. All public records of the corporation, as defined in RCW 42.17.020(26), are deemed to be available except as provided by the applicable provisions of chapter 42.17 RCW.

NEW SECTION

WAC 140-12-050 PUBLIC RECORDS OFFICER. The corporation's public records shall be the responsibility of the administrator of the corporation. The administrator shall be responsible for the implementation of these rules regarding release of public records and coordination and compliance by staff with the applicable provisions of chapter 42.17 RCW.

NEW SECTION

WAC 140-12-060 REQUEST FOR PUBLIC RECORDS. Public records may be inspected or copies of such records may be obtained by members of the public upon compliance with the following procedures:

(1) A request shall be made in writing upon a form in substantial compliance with the provisions of WAC 140-12-070. The form shall be available at the corporation's office and shall be presented to the administrator or to any member of the office staff. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request; and
- (d) An appropriate description of the matter requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the administrator or staff to assist the member of the public in appropriately identifying the matter requested.

(3) Staff members shall make a good faith effort to respond to the request within two working days after its receipt.

(4) Public records shall be available for inspection during the customary office hours of the corporation's office.

NEW SECTION

WAC 140-12-070 ADOPTION OF FORM. The corporation hereby adopts the following form for use by all persons requesting inspection and/or copies of public records:

\_\_\_\_\_  
Name of Applicant

\_\_\_\_\_  
Mailing Address of Applicant

\_\_\_\_\_  
Phone Number

Date Request Made at Washington State Convention and Trade Center \_\_\_\_\_ Time of Day of Request Made \_\_\_\_\_

Nature of Request: \_\_\_\_\_

\_\_\_\_\_

Description of Record Requested: \_\_\_\_\_

\_\_\_\_\_

Said Records Have Not Been Requested to Provide Access to Lists of Individuals for Commercial Purposes.

Signature \_\_\_\_\_ Signature (please print) \_\_\_\_\_

Request: Approved \_\_\_\_\_ By \_\_\_\_\_ Date \_\_\_\_\_

Denied Date: \_\_\_\_\_

Reasons for Denial: \_\_\_\_\_

\_\_\_\_\_

Referred to \_\_\_\_\_ Date \_\_\_\_\_ By \_\_\_\_\_

**NEW SECTION**

WAC 140-12-080 **COPYING FEES.** No fees are to be charged for inspection of public records. The corporation will charge a fee not to exceed twenty-five cents per page of copy for use of the corporation's copy equipment in cases where no significant staff time is taken up with the request.

**NEW SECTION**

WAC 140-12-090 **REVIEW OF DENIALS.** (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by submitting a written request for review to the administrator. The written request shall specifically refer to the written statement by the staff member which constituted or accompanied the denial.

(2) Immediately upon receipt of a written request for review of a decision denying a public record, the written request for review shall be referred to the administrator. The administrator or his or her designee shall consider the matter and either affirm or reverse such denial. The request shall be returned with a final decision within two business days of the date of filing of the request for review.

(3) Administrative remedies shall not be considered exhausted until the agency has returned the request for review with a decision or until the close of the second business day following date of filing the request for review, whichever occurs first.

**NEW SECTION**

WAC 140-12-100 **PROTECTION OF PUBLIC RECORDS.** Requests for public records shall be made in the office of the corporation. Such records shall not be removed from the place designated for their inspection. Copies shall be made in the office or, if copying facilities are not available, the office will arrange to have copies made subject to the provisions of WAC 140-12-070.

**NEW SECTION**

WAC 140-12-110 **INDEX OF RECORDS NOT MAINTAINED.** The corporation does not maintain the current index of records specified in RCW 42.17.260(2). The corporation has determined, pursuant to RCW 42.17.260(3), that compliance with RCW 42.17.260(2) would unduly burden the corporation because there are a very large number and variety of documents involved in planning and constructing the state convention and trade center which would have to be indexed under RCW 42.17.260(2), and because the corporation has only a limited permanent staff. The corporation shall make available for public inspection and copying all indexes maintained by the corporation for its use.

**WSR 83-06-036**

**ADOPTED RULES**

**HOSPITAL COMMISSION**

[Order 83-02, Resolution No. 83-02—Filed February 28, 1983]

Be it resolved by the Washington State Hospital Commission, acting at Vance Airport Inn, Seattle, that it does adopt the annexed rules relating to revision and update chapters 261-02, 261-06, 261-08, 261-10, 261-12, 261-20, 261-40 WAC and repealing chapter 261-30 WAC.

This action is taken pursuant to Notice No. WSR 82-24-076 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  
Executive Director

**Chapter 261-02 WAC**

**ORGANIZATION—OPERATIONS—PROCEDURES**

**WAC**

- 261-02-010 Purpose.
- 261-02-020 Hospital commission definition.
- 261-02-040 Operations and procedures.

**AMENDATORY SECTION** (Amending Order 73-01, filed 1/11/74)

WAC 261-02-010 **PURPOSE.** The purpose of this chapter shall be to ensure compliance by the hospital commission with the provisions of chapter 42.17 RCW (Initiative 276) and chapter 34.04 ((~~WAC [RCW]~~)) RCW.

AMENDATORY SECTION (Amending Order 73-01, filed 1/11/74)

✓ WAC 261-02-020 HOSPITAL COMMISSION DEFINITION. The hospital commission is the commission appointed by the governor pursuant to (~~chapter 5, Laws of 1973 1st ex. sess.~~) chapter 70.39 RCW. The hospital commission shall hereinafter be referred to as the "commission". Where appropriate, the term commission also refers to the staff, legal counsel, and employees of the commission.

AMENDATORY SECTION (Amending Order 77-01, filed 12/23/77)

✓ WAC 261-02-040 OPERATIONS AND PROCEDURES. (1) Vice chairman: By majority vote, the members of the commission shall elect from among themselves a vice-chairman who shall act as chairman in the absence of the chairman. The vice-chairman shall hold office for two years or until his successor is elected, whichever is later. Whenever a vacancy occurs in the office of vice-chairman, the members of the commission shall elect a successor who shall serve out the remaining term of the prior vice-chairman.

(2) Commission staff: The staff of the commission shall consist of a full-time executive director, a deputy director, a confidential secretary and such other employees as are necessary to fulfill the responsibilities and duties of the commission. The executive director shall be the chief administrative officer of the commission and shall be subject to its direction. All other staff shall be under the supervision and direction of the executive director and the commission.

(3) Administrative office: The administrative office of the commission and its staff is located at 206 Evergreen Plaza Building, 711 South Capitol Way, Olympia, Washington 98504, which office shall be open each day for the transaction of business from 8:00 a.m. to 5:00 p.m. (Saturdays, Sundays, and legal holidays excepted(~~; and except for business relating to public records which is governed by WAC 261-06-050~~)).

(4) Address for communications: All communications with the commission including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 42.17 RCW, and these rules; requests for copies of the commission's decisions and other matters, shall be addressed as follows: Washington State Hospital Commission, c/o Public Records Officer, 206 Evergreen Plaza Building, 711 South Capitol Way, FJ-21, Olympia, Washington 98504.

(5) Commission meetings: The meetings of the commission shall be held on the second and fourth Thursdays of each month, beginning at 9:30 a.m. (~~in the University Towers Hotel, Northeast 45th and Brooklyn Avenue, Seattle, Washington,~~) unless previously cancelled, moved or otherwise rescheduled, in which case such meetings shall be deemed a special meeting. The location of each meeting is announced in the agenda which is mailed to each person on the commission's general mailing list. Any person may be placed on that list by filing a written request.

~~((Commission meetings shall be open to the public except for those portions of meetings of the commission during which the commission serves as the State Advisory Board pursuant to section 14, chapter 5, Laws of 1973 1st ex. sess. In that capacity, the commission is responsible for recommending increases in rates for hospital and related health care institutions to the Federal Price Commission or its successor in implementing the Federal Economic Stabilization Act of 1970. Section 205 of that federal act prohibits the disclosure of "... information provided to the commission in its state advisory board role.["] Consequently these portions of the commission meetings that relate to state advisory board matters will be executive sessions and closed to all but Commission members, staff, legal counsel, and persons specifically invited by the commission, notwithstanding the provisions of the Washington State Open Public Meetings Act, chapter 42.30 RCW))~~ The meetings of the commission are governed by the Washington State Open Public Meetings Act, chapter 42.30 RCW. In accordance with that act, all commission meetings will be open to the public except those portions which are governed by RCW 42.30.110 (executive sessions), RCW 42.30.140 (exceptions) or those portions which involve the attorney-client privilege.

(6) Quorum: Three members shall constitute a quorum, but a vacancy on the commission shall not impair its power to act. No action of the commission shall be effective unless three members concur therein.

(7) Chairman's voting rights: The chairman shall have the right to vote on all matters before the commission, just as any other Commission member.

(8) Minutes of meetings: Minutes shall be kept of the proceedings of an action taken by the commission.

(9) Rule of order: The commission shall generally follow Robert's Rules of Order in conducting its business meetings.

Chapter 261-06 WAC  
PUBLIC RECORDS

WAC

- 261-06-020 Definitions.
- 261-06-030 Public records available.
- 261-06-050 Office hours.
- 261-06-060 Requests for public records.
- 261-06-070 Copying.
- 261-06-080 Exemptions.
- 261-06-090 Review of denials of public records requests.
- 261-06-100 Protection of public records.

AMENDATORY SECTION (Amending Order 73-01, filed 1/11/74)

✓ WAC 261-06-020 DEFINITIONS. (1) "Public record" includes any writing containing information relating to the conduct of governmental 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.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means

of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) "Hospital commission" and "commission" (~~refer to that state agency described in WAC 261-02-020~~) shall mean the Washington state hospital commission created by chapter 70.39 RCW.

AMENDATORY SECTION (Amending Order 73-01, filed 1/11/74)

WAC 261-06-030 PUBLIC RECORDS AVAILABLE. ~~((+))~~ All public records of the commission, as defined in WAC 261-06-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310 ~~((and WAC 261-06-030(2)))~~.

~~((2) Section 205 of the Federal Economic Stabilization Act of 1970 requires information relating to income, profits, losses, or expenditures of health care institutions be kept confidential. When fulfilling its duties as the state advisory board according to the Economic Stabilization Regulations, 6 C.F.R. 300.18, 36 F.R. 23384 (December 30, 1971) as now or hereafter amended, the commission will not make available to the public information provided to the commission which it is required to keep confidential, notwithstanding the public records provisions of Initiative 276, RCW 42.17.250-42.17.340.))~~

AMENDATORY SECTION (Amending Order 73-01, filed 1/11/74)

WAC 261-06-050 OFFICE HOURS. Public records shall be available for inspection and copying during the customary office hours of the commission. ~~((For the purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.))~~

AMENDATORY SECTION (Amending Order 73-01, filed 1/11/74)

WAC 261-06-060 REQUESTS FOR PUBLIC RECORDS. In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the commission, which form shall be available at its administrative office. The form shall be presented to the public records officer, or to any member of the commission's staff if the public records officer is not available, at the administrative office of the commission during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within ~~((he))~~ the current index maintained by the public records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the commission's current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, the public records officer or staff member to whom the request is made shall assist the member of the public in appropriately identifying the public record requested.

AMENDATORY SECTION (Amending Order 73-01, filed 1/11/74)

WAC 261-06-070 COPYING. No fee shall be charged for the inspection of public records. The commission shall charge a fee of ~~((twenty-five))~~ ten cents per page of copy for providing copies of public records and for use of the commission's copy equipment. This charge is the amount necessary to reimburse the commission for its actual costs incident to such copying.

AMENDATORY SECTION (Amending Order 73-01, filed 1/11/74)

WAC 261-06-080 EXEMPTIONS. (1) The commission reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 261-02-060 is exempt under the provisions of RCW 42.17.310 ~~((or WAC 261-06-030(2)))~~.

(2) In addition, pursuant to RCW 42.17.260, the commission reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for ~~((authorizing the))~~ withholding ~~((of))~~ the record and a brief explanation of how the exemption applies to the record withheld.

AMENDATORY SECTION (Amending Order 73-01, filed 1/11/74)

WAC 261-06-090 REVIEW OF DENIALS OF PUBLIC RECORDS REQUESTS. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request

shall refer it to the ~~((executive))~~ executive director of the commission. The ~~((executive))~~ executive director may request that a special meeting of the commission be called as soon as legally possible to review the denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the commission has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

AMENDATORY SECTION (Amending Order 73-01, filed 1/11/74)

WAC 261-06-100 PROTECTION OF PUBLIC RECORDS. In order that public records maintained on the premises of the commission may be protected from damage or disorganization as required by chapter 42.17 RCW, the following procedures and practices are hereby instituted:

(1) Upon receipt of a request by a member of the public for a public record, the public records officer or the staff member in the commission office receiving the request shall review the request for a public record and the requested public record to determine whether deletions from such record should be made or the request for such record should be denied pursuant to WAC 261-06-080.

(2) Only after a determination has been made that all or such portion of a public record as is not deleted may be inspected, shall such public record or portion thereof be made available ~~((of))~~ for inspection by a member of the public.

(3) Only the staff and members of the commission may open commission files to gain access to commission records for either commission business or to respond to a request for a public record.

(4) No public record of the commission may be taken from the premises of the commission by a member of the public.

(5) Public inspection of commission records shall be done only in such locations as are approved by the public records officer, which locations must provide an opportunity for commission staff members to insure no public record of the commission is damaged, destroyed, or unreasonably disorganized or removed from its proper location or order by a member of the public.

(6) Public records of the commission may be copied only on the copying machinery of the commission unless other arrangements are authorized by the public records officer.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 261-08-010 UNIFORM PROCEDURAL RULES.

Chapter 261-10 WAC  
ASSESSMENTS AND RELATED REPORTS

WAC

- 261-10-020 Definitions.
- 261-10-030 Levying of assessment.
- 261-10-040 Payment of assessment.
- 261-10-060 Reporting of information.

AMENDATORY SECTION (Amending Order 74-03, filed 2/15/74)

WAC 261-10-020 DEFINITIONS. As used in this chapter, unless the context requires otherwise,

(1) "Commission" shall mean the Washington state hospital commission created by chapter 70.39 RCW.

(2) "Hospital" shall mean any health care institution which is required to qualify for a license under RCW 70.41.020(2); or as a psychiatric hospital under chapter 71.12 RCW, but shall not include any health care institution conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any church or denomination.

(3) "Gross operating costs" shall mean the sum of ~~((the hospital expense items defined in either the American Institute of Certified Public Accountant's Hospital Audit Guide, 1972 ed., or the American Hospital Association's Chart of Accounts for Hospitals, 1966 ed))~~ direct operating expenses required to be reported in cost centers 6000-8899, excluding the professional component of hospital-based physicians, and prior to the distribution of other operating revenue reported in accounts 5000-5799, all as specified in the manual adopted under WAC 261-20-030.

AMENDATORY SECTION (Amending Order 74-03, filed 2/15/74)

WAC 261-10-030 LEVYING OF ASSESSMENT. ~~((+))~~ Rate: The commission, pursuant to RCW 70.39.170 hereby levies upon each hospital an annual assessment at the rate of four ~~((one-hundredths))~~ one-hundredths of one percent of such hospital's gross operating costs(-

~~((2))~~ Applicable fiscal year basis for period of assessment: For the assessment period July 1, 1973, through June 30, 1974, the amount of the assessment shall be based on the gross operating costs of such hospital during its fiscal year ending on or before June 30, 1972. The amount of each subsequent annual assessment shall be based on the gross operating costs of such hospital) incurred during its fiscal year ending on or before June 30th of ~~((each succeeding))~~ the preceding calendar year.

AMENDATORY SECTION (Amending Order 74-03, filed 2/15/74)

WAC 261-10-040 PAYMENT OF ASSESSMENT. (1) ~~((For the assessment period July 1, 1973, through June 30, 1974, the commission shall prepare and mail to each hospital, forms requiring such financial and operating information as the commission deems necessary to calculate the assessment due from such hospital. Such forms shall be completed in a manner~~

satisfactory to the commission and returned to the commission, together with any required attachments, on or before March 1, 1974. Upon receipt of such forms, the commission shall calculate the amount of the initial assessment due from each hospital, and shall prepare and mail to such hospital a statement indicating the amount of the assessment due. The initial assessment shall be due and payable June 15, 1974.

(2) For the assessment period July 1, 1974, through June 30, 1975, each hospital shall submit to the commission on or before January 1, 1975, the information required pursuant to WAC 261-10-050, for its fiscal year ending on or before June 30, 1973. Upon receipt of such information, the commission shall calculate the amount of the second assessment due from each hospital, and shall prepare and mail to such hospital a statement indicating the amount of the assessment. The second assessment shall be due and payable June 15, 1975.

(3) For the assessment period July 1, 1975, through June 30, 1976, each hospital shall submit to the commission on or before January 1, 1976, the information required pursuant to WAC 261-10-050, for its fiscal year ending on or before June 30, 1974. Upon receipt of such information, the commission shall calculate the amount of the third assessment due from each hospital, and shall prepare and mail to such hospital a statement indicating the amount of the assessment. The third assessment shall be due and payable June 15, 1976.

(4) After the first three assessments,) The commission annually shall calculate the amount of assessment due from each hospital, and shall prepare and mail to such hospital a statement indicating the amount of the assessment. ((Any subsequent)) The assessment shall be paid within ninety days after the statement of such assessment is mailed by the commission.

((5) Any assessment not paid on or by the date due shall be deemed delinquent and a penalty shall be payable on such delinquent assessment, calculated as interest on the principal amount due at the rate of twelve per cent per annum. Any hospital not remitting the amount of an assessment on or before the date due shall be considered in violation of chapter 70.39 RCW and subject to the penalties provided therein:))

(2) An assessment reminder notice shall be mailed forty-five days after the mailing of the initial statement.

(3) A second assessment reminder notice shall be mailed ninety days after the mailing of the initial statement. This reminder shall declare the assessment delinquent and a penalty shall be payable, calculated as interest on the delinquent assessment at the rate of twelve percent per annum.

(4) A third assessment reminder notice shall be mailed one hundred twenty days after the mailing of the initial statement. This reminder shall state the delinquent status of the assessment and the total accrued interest to the date of this reminder notice.

(5) A fourth assessment reminder notice shall be mailed one hundred fifty days after the mailing of the initial statement. This reminder shall be the final reminder and shall state the amount of the delinquent assessment and total interest accrued to the date of this reminder. In addition, the hospital will be notified that if

payment of the assessment and all accrued interest in not made within thirty days of the reminder, the account will be sent to the attorney general for appropriate action.

(6) Whenever a partial payment is made, the remaining balance shall be treated in the same manner as provided in subsections (2) through (5) of this section.

AMENDATORY SECTION (Amending Order 74-03, filed 2/15/74)

WAC 261-10-060 REPORTING OF INFORMATION. ((From and after July 1, 1974, each hospital annually shall file with the commission within 120 days after the close of its fiscal year in the form and manner prescribed by the commission:

(1) a balance sheet detailing the assets, liabilities, and net worth of the hospital;

(2) a statement of income and expenses;

(3) a statement of changes in fund balances;

(4) a statement of detailed operating expenses by department;

(5) a statement of detailed revenues by department; and

(6) such other reports of costs incurred in rendering services as the commission may prescribe. PROVIDED; HOWEVER, the 120 period may be extended up to and including an additional discretion, may consider good and sufficient reasons. Where more than one hospital is operated by the reporting organization, the information required by this section shall be reported for each hospital separately)) For the purpose of calculating the assessment, the commission will use the most recent year-end report submitted pursuant to WAC 261-20-050.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 261-10-070 CERTIFICATION AND ATTESTATION OF REPORTS.

#### Chapter 261-12 WAC RULES FOR REPORTING HOSPITAL ((RATE)) PRICE INFORMATION

WAC	
261-12-040	Report of changes in or new prices— <u>Reporting form.</u>
261-12-050	((Changes in)) <u>Information regarding pricing policy.</u>
261-12-055	Time deadline for submission of report.

AMENDATORY SECTION (Amending Order 76-01, filed 2/13/76)

WAC 261-12-040 REPORT OF CHANGES IN OR NEW PRICES—REPORTING FORM. ((From and after April 1, 1976, each hospital shall report to the Commission in the form and manner prescribed by the Commission any and all proposed changes in prices reported pursuant to WAC 261-12-030, as well as any and all prices proposed to be established for a service

~~newly instituted and not previously or otherwise reported under WAC 261-12-030(1). In such report the hospital shall include a brief description of the reasons why such price change(s) or new price(s) is/are necessary)) Each hospital shall report any and all proposed changes in existing prices as well as any prices to be established for a new service on form number 510, changes in hospital prices, which form is hereby incorporated by this reference.~~

AMENDATORY SECTION (Amending Order 76-01, filed 2/13/76)

~~WAC 261-12-050 ((CHANGES IN)) INFORMATION REGARDING PRICING POLICY. ((From and after April 1, 1976, each hospital shall report to the Commission, in the form and manner prescribed by the Commission any and all proposed changes in pricing policy regarding services listed in WAC 261-12-030(2). In such report the hospital shall include a description of the probable impact on prices and revenues of the hospital which will result from the change(s) in pricing policy)) In addition to information reported under WAC 261-12-040, the commission may request a hospital to provide information regarding its pricing policy. Such a request shall describe the requested information and set a time within which it will be provided.~~

AMENDATORY SECTION (Amending Order 76-01, filed 2/13/76)

~~WAC 261-12-055 TIME DEADLINE FOR SUBMISSION OF REPORT. The commission expects a hospital to submit to the commission any report required by WAC 261-12-040 ((or 261-12-050)) immediately after the adoption or approval of such proposed price change(s) or new price(s) by the hospital's appropriate governing authority. In no event, however, shall a hospital fail to provide such report to the commission within thirty days after the date of adoption or approval of such price ((or pricing policy)) change(s) or price(s) for newly instituted service(s).~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 261-12-030 REPORTING OF INFORMATION.

Chapter 261-20 WAC  
REGULATIONS RELATING TO, AND ESTABLISHMENT OF, A UNIFORM SYSTEM OF ACCOUNTING((AND)), FINANCIAL REPORTING, BUDGETING, COST ALLOCATION, AND PROSPECTIVE RATE SETTING

WAC	
261-20-010	Purpose.
261-20-020	Definitions.
261-20-030	Adoption and establishment of uniform system ((of accounts)).
261-20-040	((Adoption and establishment of a uniform system for the reporting of

	information)) <u>Submission of budget and rate request.</u>
261-20-045	Budget amendment submittals authorized—Time limitations—Presumption.
261-20-050	((Certification and attestation of reports)) <u>Submission of year-end report.</u>
261-20-060	Alternative system of financial reporting.
261-20-070	((Uniformly applicable interpretive rulings)) <u>Modifications of uniform system.</u>
261-20-074	Modifications of uniform system applicable to only "basic service" hospitals.
261-20-080	((Criminal provisions)) <u>Uniformly applicable interpretive rulings and minor manual modifications.</u>
261-20-090	Criminal provisions.

AMENDATORY SECTION (Amending Order 81-01, Resolution R-81-01, filed 2/20/81)

WAC 261-20-010 PURPOSE. ((This chapter is adopted by the Washington state hospital commission pursuant to RCW 70.39.180 to implement the provisions of RCW 70.39.100 and 70.39.110 regarding the establishment of a uniform system of accounting and financial reporting by which hospitals shall record and report their revenues, expenses, other income, other outlays, assets and liabilities, and units of service.)) This chapter is adopted by the Washington state hospital commission pursuant to RCW 70.39.180 to implement the provisions of RCW 70.39.100, 70.39.110, 70.39.120, and 70.39.140 regarding the establishment of a uniform system of accounting, financial reporting, budgeting, cost allocation, and prospective rate setting for hospitals in Washington state. This system shall be utilized by each hospital to record and report its revenues, expenses, other income, other outlays, assets and liabilities, and units of service and to submit information, as may be required by the commission, pertaining to the total financial needs of the hospital and the resources available or expected to become available to meet such needs. This system is intended to carry out the commission's mandate to assure all purchasers of hospital health care services that the total costs of a hospital are reasonably related to the total services offered by that hospital, that the hospital's aggregate revenues as expressed by rates are reasonably related to the hospital's aggregate costs, and that rates are set equitably among all purchasers or classes of purchasers of services without undue discrimination or preference.

AMENDATORY SECTION (Amending Order 81-01, Resolution R-81-01, filed 2/20/81)

WAC 261-20-020 DEFINITIONS. As used in this chapter, unless the context requires otherwise.  
(1) "Washington state hospital commission" and "commission" each shall mean the Washington state hospital commission created by chapter 70.39 RCW.



(2) "Hospital" shall mean any health care institution which is required to qualify for a license under RCW 70.41.020(2); or as a psychiatric hospital under chapter 71.12 RCW, but shall not include any health care institution conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any church or denomination.

(3) ("~~System of accounts~~" shall mean the list of accounts, code numbers, definitions, units of measure, and principles and concepts included in the commission's publication entitled Accounting and Reporting Manual for Hospitals.) "Manual" means the Washington State Hospital Commission Accounting and Reporting Manual for Hospitals, adopted under WAC 261-20-030.

(4) "~~System of accounts~~" means the list of accounts, code numbers, definitions, units of measure, and principles and concepts included in the manual.

(5) "Rate" means the revenue per defined unit of service for each revenue center identified in the manual.

(6) "Budget" means the forecast of each hospital's total financial needs and the resources available to meet such needs for its next fiscal year and includes such information as shall be specified in the manual concerning goals and objectives, volume and utilization projections, operating expenses, planned capital and service component (applicable to nonprofit hospitals) or return on investment (applicable to proprietary hospitals), deductions from revenue, and proposed rates.

AMENDATORY SECTION (Amending Order 81-01, Resolution R-81-01 and Order 81-02, Resolution R-81-02, filed 2/20/81)

WAC ~~261-20-030~~ ADOPTION AND ESTABLISHMENT OF UNIFORM SYSTEM ((OF ACCOUNTS)). ((The commission pursuant to RCW 70.39.100, hereby adopts and establishes a uniform system of accounts for accounting and reporting to the commission by all hospitals, such system being described in the commission's publication Accounting and Reporting Manual for Hospitals, which publication is hereby incorporated by this reference as though set forth in full and at length. From and after October 1, 1974, each hospital shall utilize the established system of accounts for accounting and reporting to the commission for the hospital's fiscal years that begin on or after October 1, 1974. The system of accounts also shall be utilized by each hospital for filing information, as may be required by the commission, pertaining to the total financial needs of the hospital and the resources available or expected to become available to meet such needs.)) The commission, pursuant to RCW 70.39.100, hereby adopts and establishes a uniform system of accounting, financial reporting, budgeting, cost allocation, and prospective rate setting for hospitals in Washington state, which system is described in the commission's publication entitled Washington State Hospital Commission Accounting and Reporting Manual for Hospitals, which publication is hereby incorporated by this reference. The manual shall be utilized by each hospital for submitting information, as may be required by the commission, pertaining to the total financial needs of the hospital and the resources

*note following photo copy of 2/20/81*

available or expected to become available to meet such needs.

AMENDATORY SECTION (Amending Order 81-01, Resolution R-81-01, filed 2/20/81)

✓ WAC 261-20-040 ((~~ADOPTION AND ESTABLISHMENT OF A UNIFORM SYSTEM FOR THE REPORTING OF INFORMATION~~)) SUBMISSION OF BUDGET AND RATE REQUEST. ((~~From and after September 30, 1974, each hospital annually shall file with the commission within one hundred twenty days after the close of its fiscal year in the form and manner prescribed by the commission:~~

- (1) ~~A balance sheet detailing the assets, liabilities, and net worth of the hospital;~~
- (2) ~~A statement of income and expenses;~~
- (3) ~~A statement of changes in fund balances;~~
- (4) ~~A statement of detailed operating expenses by department;~~
- (5) ~~A statement of detailed revenues by department; and~~

(6) ~~Such other reports of costs incurred in rendering services as the commission may prescribe: PROVIDED, HOWEVER, The one hundred twenty day period may be extended up to and including an additional sixty days upon submission to the commission, of what it, in its discretion, may consider good and sufficient reasons. Where more than one hospital is operated by the reporting organization, the information required by this section shall be reported for each hospital separately.)) (1) Each hospital shall submit its budget and rate request to the commission not less than seventy-five days prior to the beginning of its fiscal year, including the effect of proposals made by area-wide and state comprehensive health planning agencies: PROVIDED, That for hospitals with fiscal years ending on or before September 30, 1983, the time for submission of the budget and rate request shall not be less than sixty days prior to the beginning of the next fiscal year. The budget and rate request shall contain that information specified in the commission's manual and shall be submitted in the form and manner specified in the manual. Where more than one hospital is operated by the reporting organization, the information required by this section shall be reported for each hospital separately.~~

(2) The chief executive officer and chairman of the governing board of the hospital shall attest that the information submitted under this section or budget amendments under WAC 261-20-045 has been examined by such person and that to the best of his/her knowledge and belief such information is a true and correct statement of the total financial needs of the hospital and the rates necessary to meet those needs for the budget period.

NEW SECTION

✓ WAC 261-20-045 BUDGET AMENDMENT SUBMITTALS AUTHORIZED—TIME LIMITATIONS—PRESUMPTION. (1) Hospitals are authorized, upon learning of facts justifying revision of their



approved budgets, to submit amendments to such budgets not less than thirty days in advance of the proposed effective date of any associated proposed rate changes; amendments submitted without effective dates will be assigned effective dates falling thirty days after receipt.

(2) Within thirty days after receipt of a budget amendment submittal, the staff shall determine whether it is complete and conforms to commission regulations, policies, and instructions, and shall verify the data contained therein.

(3) The provisions of WAC 261-40-100, 261-40-105, 261-40-110, 261-40-115, 261-40-120, 261-40-125, 261-40-130, 261-40-135, 261-40-140, 261-40-145, and 261-40-150 shall apply to budget amendment submittals with the same force with which they apply to annual budget submittals.

(4) Any element of a hospital's budget amendment submittal which is not specifically identified as changed from the previously approved amount will be presumed to remain the same as previously approved.

AMENDATORY SECTION (Amending Order 81-01, Resolution R-81-01, filed 2/20/81)

WAC 261-20-050 ((CERTIFICATION AND ATTESTATION OF REPORTS)) SUBMISSION OF YEAR-END REPORT. ((All financial reports filed with the commission pursuant to WAC 261-20-040 or 261-20-060 shall be certified by the hospital's certified or licensed public accountant, or under oath by the hospital's administrative and financial officers, that such reports, to the best of their knowledge and belief, have been prepared in accordance with the prescribed system of accounting and reporting, and fairly state the financial position of the hospital as of the specified date; the commission also may require attestation as to such statements from responsible officials of the hospital so designated by the governing board, if any, of the hospital.)) (1) Each hospital annually shall file its year-end report with the commission within one hundred twenty days after the close of its fiscal year in the form and manner specified in the manual (chapter 10000): PROVIDED, HOWEVER, The one hundred twenty-day period may be extended up to and including an additional sixty days upon submission to the commission, of what it in its discretion, may consider good and sufficient reasons. Where more than one hospital is operated by the reporting organization, the information required by this section shall be reported for each hospital separately.

(2) Information submitted pursuant to this section shall be certified by the hospital's certified or licensed public accountant, or under oath by the hospital's administrative and financial officers, that such reports, to the best of their knowledge and belief, have been prepared in accordance with the prescribed system of accounting and reporting, and fairly state the financial position of the hospital as of the specified date; the commission also may require attestation as to such statements from responsible officials of the hospital so designated by the governing board, if any, of the hospital.

AMENDATORY SECTION (Amending Order 81-01, Resolution R-81-01, filed 2/20/81)

WAC 261-20-060 ALTERNATIVE SYSTEM OF FINANCIAL REPORTING. Upon receipt of a request in detail to the satisfaction of the commission, the commission ((shall consider, and)) in its discretion may approve by resolution an alternative system for reporting of information under WAC 261-20-040 or 261-20-050 by a hospital for such period(s) or portion thereof as the commission shall specify, ((for one or more of the following reasons)) if:

(1) The hospital charges no fee to users of its services, presents no billing, either direct or indirect, to users of its services, and presents no billing and accepts no payment for services from private or public insurers.

(2) The hospital is significantly different from other hospitals in one or more of the following respects: Size; financial structure; methods of payment for services; or scope, type, and method of providing services.

(3) The hospital has other pertinent distinguishing characteristics.

(4) Such alternative system will avoid otherwise unduly burdensome costs in meeting the requirements of the uniform reporting system ((of information reporting)) established by the commission.

AMENDATORY SECTION (Amending Order 81-01, Resolution R-81-01, filed 2/20/81)

WAC 261-20-070 ((UNIFORMLY APPLICABLE INTERPRETIVE RULINGS)) MODIFICATIONS OF UNIFORM SYSTEM. ((The executive director of the commission is authorized to make uniformly applicable interpretive rulings with respect to the assignment of specific items to specific accounts and with respect to the interpretation of the commission's publication Accounting and Reporting Manual for Hospitals when such rulings appear necessary to assure uniformity of accounting procedures or to facilitate fair, accurate, and efficient reporting of hospital financial data.)) The commission, after due consideration, in its discretion, may prepare and publish modifications of the manual, for such period and under such conditions as the commission shall determine. Such modifications shall be prepared in the format of, and shall be adopted by the commission as a rule pursuant to chapter 34.04 RCW. A copy of such modifications shall be mailed to each hospital and manual holder of record.

NEW SECTION

WAC 261-20-074 MODIFICATIONS OF UNIFORM SYSTEM APPLICABLE TO ONLY "BASIC SERVICE" HOSPITALS. (1) The commission may notify a hospital at any time that it will be classified as a "basic service" hospital for the purpose of submitting its next budget and year-end report. Notice of such change to the affected hospital shall be provided at least six months before the beginning of the hospital's next fiscal year.

(2) Any hospital notified by the commission that it has been classified as a "basic service" hospital may combine the accounts specified below in the following

manner for the purpose of submitting information to the commission pursuant to WAC 261-20-040 and 261-20-050:

(a) Combine Electrodiagnosis-7110 into Laboratory-7070.

(b) Combine Cafeteria-8330 into Dietary-8320.

(c) Combine Accounting-8510, Communications-8520, Patient Accounting-8530, Data Processing-8540, and Admitting-8560 into a single account, Fiscal Services-8500, which cost center should be allocated on the basis of accumulated costs.

(d) Combine Hospital Administration-8610, Public Relations-8630, Management Engineering-8640, Personnel-8650, Auxiliary-8660, and Chaplaincy-8670 into a single account, Administrative Services-8600, which cost center should be allocated on the basis of accumulated costs.

(e) Combine Medical Library-8680 into Medical Records-8690.

(f) Combine Inservice Education-Nursing-8740 into Nursing Administration-8720.

(3) The commission will provide notice to the affected hospital of any change from "basic service" to a more complex class at least four months before the next budget is due.

AMENDATORY SECTION (Amending Order 81-01, Resolution R-81-01, filed 2/20/81)

WAC 261-20-080 ((CRIMINAL PROVISIONS)) UNIFORMLY APPLICABLE INTERPRETIVE RULINGS AND MINOR MANUAL MODIFICATIONS. ((RCW 70.39.200 provides that every person who shall violate or knowingly aid and abet the violation of chapter 70.39 RCW or any valid orders, rules, or regulations thereunder, or who fails to perform shall be guilty of a misdemeanor. Following official notice to the accused by the commission of the existence of an alleged violation, each day upon which a violation occurs shall constitute a separate violation. Any person violating the provisions of chapter 70.39 RCW may be enjoined from continuing such violation.)) (1) The executive director of the commission is authorized to make uniformly applicable interpretive rulings with respect to matters contained in the manual. The executive director of the commission is also authorized to correct typographical and coding errors as well as make other minor organizational modifications when such corrections and modifications appear to be necessary. The commission shall be notified in advance of the executive director's proposed actions.

(2) Any such interpretive ruling, correction, or modification shall be in writing and distributed as an attachment to a consecutively numbered transmittal. Such transmittal shall describe the changes in detail and shall include instructions regarding the placement of such material in the manual. Each hospital and manual holder of record shall be sent a copy of any such transmittal together with all attachments.

#### NEW SECTION

WAC 261-20-090 CRIMINAL PROVISIONS. RCW 70.39.200 provides that every person who shall violate or knowingly aid and abet the violation of chapter 70.39 RCW or any valid orders, rules, or regulations thereunder, or who fails to perform shall be guilty of misdemeanor. Following official notice to the accused by the commission of an alleged violation, each day upon which a violation occurs shall constitute a separate violation. Any person violating the provisions of chapter 70.39 RCW may be enjoined from continuing such violation.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

✓ WAC 261-20-065 COMPLIANCE WITH WAC 261-10-060 AND 261-10-070.

#### REPEALER

The following chapter of the Washington Administrative Code is repealed in its entirety:

- ✓ (1) WAC 261-30-010 PURPOSE.
- ✓ (2) WAC 261-30-020 DEFINITIONS.
- ✓ (3) WAC 261-30-030 ADOPTION AND ESTABLISHMENT OF UNIFORM SYSTEM.
- ✓ (4) WAC 261-30-040 DATE OF REQUIRED INFORMATION SUBMITTAL TO COMMISSION—FORM AND MANNER OF SUBMITTAL.
- ✓ (5) WAC 261-30-042 FISCAL AND BUDGET YEARS REFLECTED IN INITIAL SUBMITTAL OF MATERIALS REQUIRED UNDER WAC 261-30-040.
- ✓ (6) WAC 261-30-050 ALTERNATIVE SYSTEM FOR SUBMITTING BUDGETING, COST ALLOCATION, AND PROSPECTIVE RATE SETTING INFORMATION TO THE COMMISSION.
- ✓ (7) WAC 261-30-060 NOTIFICATION DATE AND EFFECTIVE PERIOD OF CLASSIFICATION STATUS.
- ✓ (8) WAC 261-30-070 MODIFICATIONS OF UNIFORM SYSTEM.
- ✓ (9) WAC 261-30-072 MODIFICATIONS OF UNIFORM SYSTEM FOR INITIAL BUDGET YEAR.
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Chapter 261-40 WAC  
REVIEW AND APPROVAL OF ANNUAL BUDGET SUBMITTALS, RATES, RATE SCHEDULES, OTHER CHARGES AND CHANGES

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PART 0  
GENERAL PROVISIONS

AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

✓ WAC 261-40-015 DEFINITIONS. As used in this chapter, unless the context requires otherwise:

(1) "Annual budget submittal" and "submittal" mean the information submitted to the commission pursuant to WAC ((~~261-30-040~~)) 261-20-040.

(2) "Washington state hospital commission" and "commission" mean the Washington state hospital commission created by chapter ((~~70.30~~)) 70.39 RCW.

(3) "Hospital" means any health care institution which is required to qualify for a license under RCW 70.41.020(2); or as a psychiatric hospital under chapter 71.12 RCW, but shall not include any health care institution conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any church or denomination. The term "hospital" also refers to an entity that has submitted to the commission an annual budget submittal, which submittal is subject to review by the staff and commission in accordance with the provisions of this chapter.

(4) "Person" ((or "party")) when used in this chapter means any individual, partnership, association, corporation, comprehensive health planning agency created pursuant to chapter 70.38 RCW, hospital ((as defined in chapter ~~70.39~~ RCW)), or any body politic or municipal corporation.

(5) "Rate" means the revenue per defined unit of service for each revenue center identified in the commission's publication entitled Accounting and Reporting Manual for Hospitals adopted under ((chapter ~~261-30~~ WAC)) WAC 261-20-030.

(6) "Staff" means the executive director, deputy director ((and)), confidential secretary and all other employees of the commission ((as well as the employees of the Department of Social and Health Services furnished the commission pursuant to RCW 70.30.060 to carry out its duties)).

(7) "Party" means those persons described in WAC ~~261-40-201~~.

AMENDATORY SECTION (Amending Order 79-02, Resolution 79-03, filed 6/19/79)

✓ WAC 261-40-020 APPLICABILITY OF THIS CHAPTER. (1) Required commission approval of rate changes: No rate described in any hospital's annual budget submittal (~~and~~) as approved by the commission may be changed by such hospital without applying to the commission for the approval of a rate change in accordance with the procedures set forth in this chapter. Rate changes for volume variance under WAC 261-40-150 are not considered rate changes under this section.

(2) ~~((Required use of))~~ Effective date of change in approved rates: Hospitals shall utilize only those rates that have been approved by the commission~~((PROVIDED, That except for hospitals which have not filed such information as the commission shall require concerning the total financial needs of such hospital within the period specified in WAC 261-30-040, this subsection shall not apply if, on the effective date of any proposed rate change filed by any hospital with the commission, no order shall have been issued by the commission either suspending, approving, disapproving or modifying such proposed rate change. PROVIDED FURTHER, That for any hospital concerning whose proposed rate change the commission shall have instituted proceedings as to the reasonableness of the proposed change pursuant to RCW 70.39.160(2) or (4), the period during which this subsection shall not apply due to the passage of the effective date of the hospital's proposed rate change without the commission having issued its order either suspending, approving, disapproving or modifying such proposed rate change shall extend only until the issuance by the commission of an order either approving, disapproving or modifying such proposed rate change on a prospective basis)).~~ Every request for a change in rates shall provide for a proposed effective date for that change which shall be no sooner than thirty days after the commission receives the request. If the request does not include a proposed effective date, that date shall be deemed to be thirty days after the receipt of the request.

The new rates may be utilized by the hospital after the proposed effective date unless the commission has suspended the date pursuant to WAC 261-40-030.

~~((3) Public hearing on initial annual budget submittal: Since no hospital will have utilized the rate concept adopted by the commission under chapter 261-30 WAC prior to preparation and submission of its initial annual budget submittal, the rates proposed therein will constitute "new" rates. As such, they will be deemed by the commission to propose a change in rates subject to commission review in a public hearing in accordance with RCW 70.39.160.))~~

AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

✓ WAC 261-40-030 SUSPENSION OF PROPOSED EFFECTIVE DATE OF RATE, RATE

SCHEDULE, OTHER CHARGES, OR ANY CHANGE THEREIN. (1) General: Under RCW 70.39.160, the commission is authorized to suspend the effective date of a rate, rate schedule, other charge, or any change therein proposed by a hospital in its annual budget submittal. Any such suspension is a totally discretionary act by the commission. A written explanation of the reasons for such commission action will be provided to the hospital promptly following such action.

(2) Reasons for suspension: It shall be the policy of the commission to review and process annual budget submittals proposing rates, rate schedules, other charges, and any changes therein within a timely fashion so as to avoid having to suspend the proposed effective date thereof. Nevertheless, the commission may choose to suspend the proposed effective date of any rate, rate schedule, other charge, or any change therein for any of the following reasons:

(a) The hospital has failed to submit information or a modified or corrected annual budget submittal within the required time period ~~((specified by the staff;))~~ or has requested a continuance in a hearing under WAC 261-40-200.

(b) The staff needs additional time to properly review and process the submittal for good cause shown by the staff;

(c) Other just causes or reasons.

(3) Period of suspension: The initial suspension ~~((subsequently))~~ shall be for not more than thirty days. The commission may subsequently suspend the effective date of any rate, rate schedule, other charge, or any change therein for an additional period not to exceed thirty days.

(4) Notice of suspension to hospital: Whenever the commission suspends the effective date of any proposed rate, rate schedule, other charge, or changes therein, it shall immediately notify in writing the hospital subject to suspension of such commission action and the period thereof. Whenever the next commission meeting will be after the proposed effective date of a change in rates, the executive director is authorized to notify the hospital of a suspension in the effective date if he finds any of the conditions under subsection (2) of this section to exist. The executive director shall present any such suspension at the next commission meeting for ratification or modification.

#### PART I ANNUAL BUDGET SUBMITTAL REVIEW PROCESS

AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

✓ WAC 261-40-100 RECEIPT OF ANNUAL BUDGET SUBMITTAL OR AMENDMENT. (1) Date stamped upon receipt: Every annual budget submittal or amendment provided the commission pursuant to RCW 70.39.120 and 70.39.140, and WAC ((261-30-040)) 261-20-040 and 261-20-045, shall be stamped as to the date of receipt upon receipt in the commission's office.

(2) Acknowledgement of receipt: The receipt in the commission's office, and date thereof, of a hospital's annual budget submittal shall be acknowledged by the staff in written notice to such hospital. Such notice shall also indicate the date the staff (~~expect~~) expects such annual budget submittal will be considered by the commission in an informal hearing.

AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

WAC 261-40-115 EFFECT OF RESPONSE TO NOTICE WITHIN SPECIFIED TIME PERIOD. In the event such corrected or modified submittal is returned to the commission's office within the specified time period (generally, a period of seven days) the staff shall make reasonable effort to continue the processing of such submittal as if there had been no delay; the commission, however, may still suspend the effective date of a proposed rate, rate schedule, other charge, for the reasons set forth in WAC 261-40-030.

AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

WAC 261-40-120 EFFECT OF DETERMINATION THAT ANNUAL BUDGET SUBMITTAL IS COMPLETE AND CONFORMING, AND CONTAINS VERIFIABLE DATA. Whenever the staff determines the annual budget submittal is complete and conforming, it shall commence its process of verifying the data contained in such submittal. Whenever the staff determines the data contained in such submittal is verifiable it shall complete its processing of the submittal and prepare its findings and recommendations (~~to the commission regarding such submittal~~). See WAC 261-40-135.

AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

WAC 261-40-125 CRITERIA FOR DETERMINING COMPLETENESS, CONFORMANCE, AND VERIFIABILITY OF DATA. (1) An annual budget submittal shall be deemed

(a) "Complete", when it contains all data required by the commission pursuant to chapter (~~261-30~~) 261-20 WAC and this chapter, including information in response to special information requests made by the commission pursuant to WAC 261-40-130; and

(b) "In conformance" when it has been prepared in the form and manner specified by the commission and otherwise conforms to the requirements of commission regulations, policies, and any instructions regarding annual budget submittals in effect at the time such submittal was submitted to the commission.

(2) The data contained in a hospital's annual budget submittal shall be deemed verifiable when such data is properly included in appropriate commission forms; figures reconcile to proper balances; the statistical bases of computations, extensions, footings, etc. test out; and other statistical and financial examinations established

by the staff to measure data verifiability show the data to be verifiable.

AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

WAC 261-40-130 SPECIAL INFORMATION REQUESTS. In the event the staff desires additional information not provided by a hospital (~~in its annual budget submittal~~), a written request detailing the additional information to be provided the staff will be mailed to the hospital (~~during the review period~~). The failure of a hospital to respond to such information requests (~~in a timely manner~~) within the time set forth in the request may result in the suspension of the effective date of, or the modification or disapproval of proposed rates, rate schedules, other charges, or changes therein.

AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

WAC 261-40-135 STAFF FINDINGS AND RECOMMENDATION REGARDING ANNUAL BUDGET SUBMITTAL. (1) Contents: Upon completion of the staff review of a hospital's annual budget submittal, the staff shall prepare a written statement of its findings and recommendations to the commission. Such statement shall include:

(a) An analysis of the annual budget submittal in such form as the commission shall direct, as corrected or modified by the hospital in response to WAC 261-40-110(1) notice;

(b) A description of the exceptions noted in the primary, secondary, or detailed expense screening process used by the staff together with any explanation or justification provided by the hospital or determined by the staff for such exception;

(c) Recommendations of the staff regarding the rates, rate schedules, other charges, or changes therein proposed in the annual budget submittal; and

(d) Such other matters as the staff deems appropriate.

(2) Date of providing of statement: A copy of the staff's statement shall be (~~mailed~~) provided to the hospital not less than fifteen days prior to the date last set for commission consideration of the hospital's annual budget submittal. Copies of the statement also shall be provided to commission members by that same date.

AMENDATORY SECTION (Amending Order 79-02, Resolution 79-03, filed 6/19/79)

WAC 261-40-140 NOTICE TO PUBLIC REGARDING ANNUAL BUDGET SUBMITTAL FINDINGS AND RECOMMENDATIONS AND PUBLIC HEARING. Not less than twenty days prior to the date last set for commission consideration of a hospital's annual budget submittal, the staff shall provide notice to (~~the general public~~) that hospital and those persons on the commission's general mailing list regarding the impending hearing. Any person may be placed on the commission's general mailing list by written request to the commission.

AMENDATORY SECTION (Amending Order 79-02, Resolution 79-03, filed 6/19/79)

✓ WAC 261-40-145 HOSPITAL'S RESPONSE TO STAFF FINDINGS AND RECOMMENDATIONS; WRITTEN TESTIMONY FROM GENERAL PUBLIC, TIME FOR SUBMISSION. A hospital may submit to the commission a response to the staff findings and recommendations. Such response, and any other written (~~testimony from the general public~~) response submitted pursuant to WAC 261-40-140 notice, must be received in the commission's office not less than three days prior to the date last set for commission consideration of the hospital's annual budget submittal in any informal hearing. (~~A hospital's response and any written testimony from the general public~~) Any response received after that date may not be considered by the commission.

AMENDATORY SECTION (Amending Order 72-09, Resolution 79-03, filed 6/19/79)

✓ WAC 261-40-150 CRITERIA FOR APPROVAL, MODIFICATION, OR DISAPPROVAL OF ANNUAL BUDGET SUBMITTAL AND RATES, RATE SCHEDULES, OTHER CHARGES, AND CHANGES THEREIN. The following criteria shall be utilized by the commission in reviewing and acting on annual budget submittals (~~pursuant to chapter 70.39 RCW and this chapter~~); (~~the weighting~~) however, the relative importance of each criterion listed below (~~however,~~) is a matter of commission discretion:

(1) Whether the hospital's annual budget submittal and the rates, rate schedules, other charges, and changes therein:

(a) Are such that the commission can assure all purchasers of that hospital's health care services that the total costs of the hospital are reasonably related to the total services offered by that hospital;

(b) Are such that the hospital's aggregate revenues as expressed by rates are reasonably related to the hospital's aggregate costs;

(c) Are such that rates are set equitably among all purchasers or classes of purchasers of services without undue discrimination or preference.

(2) Whether the commission action will permit a non-profit hospital to render effective and efficient service in the public interest and on a solvent basis.

(3) Whether the commission action will permit a proprietary profit-making hospital to render effective and efficient service in the public interest as well as allow such hospital's shareholders a fair return based upon actual investment or, if the hospital elects, upon the fair value of the investment on July 16, 1973: PROVIDED, That, once the election is made it may not be changed without the approval of the commission.

(a) For the purposes of this subsection, "investment" is defined as the sum of the differences between a hospital's current assets and current liabilities on the one hand and long term assets and long term liabilities, on the other hand, to the extent such assets and liabilities are allowable for ratemaking. The commission has

adopted written policies regarding the allowance of assets and liabilities which are available upon request.

(b) For the purposes of this subsection, the term "actual investment" shall refer to assets computed as set forth in subdivision (a) of this subsection on the basis of historical cost less accumulated depreciation.

(c) For the purposes of this subsection, the term "fair value of the investment" shall mean the result of the computation performed in subdivision (a) of this subsection on assets whose value as of July 16, 1973 is determined by means of impartial appraisal.

(4) Whether the appropriate area-wide and state comprehensive health planning agencies have recommended approval, modification, or disapproval of the annual budget submittal, or the rates, rate schedules, other charges, or changes therein.

(5) Whether the hospital's annual budget submittal and the rates, rate schedules, other charges, and changes therein will in the aggregate produce sufficient total revenue for the hospital to meet all of the reasonable obligations specified in chapter 70.39 RCW.

(6) Whether the rates, rate schedules, other charges, and changes therein contained in the hospital's annual budget submittal are reasonable.

(7) Whether the rates implemented and revenues collected by the hospital in previous budget years conformed to the applicable commission determinations for such years. (~~according to the criteria set forth in the applicable subdivision of this subsection:~~

(a) ~~For hospitals participating under types II and III of the Prospective Reimbursement Demonstration Project, and for hospitals which have been excluded from participation in the Prospective Reimbursement Demonstration Project, and for all hospitals, beginning at such time and continuing for so long as the Prospective Reimbursement Demonstration Project becomes ineffective due to interruption or termination of the project,~~) Conformance will be determined by comparing, at the end of the budget year, actual revenues for the budget year to commission-approved revenues, on the basis of either the aggregate rate per adjusted patient day, or the revenues for individual revenue centers, as either may be modified, where appropriate, for volume variance between budgeted and actual levels; such comparison shall be made using actual, rather than budgeted, deductions from revenue (~~and shall be subject to whichever of the qualifications contained in items (i) through (iii) of this subdivision, may be applicable to the specific budget year: PROVIDED, That any hospital may submit justification for any deviation from its approved rates~~)).

((i) For fiscal years beginning prior to January 1, 1977, hospitals shall be deemed in conformance if actual revenues are within plus or minus three percent of approved revenues as adjusted for volume variance and actual deductions from revenue for hospitals in peer groups 1 and 2 and specialty hospitals having fewer than fifty beds, or within plus or minus one point five percent of such approved revenues as adjusted for hospitals in peer groups 3, 4 and 5 and specialty hospitals having fifty or more beds.

~~(ii) For fiscal years beginning January 1, 1977 through December 31, 1977, all costs will be presumed to vary with changes in patient volumes. PROVIDED: That hospitals may, at their option, use the schedule of ratios of fixed costs to variable costs contained in item (iii) of this subdivision, or submit suggested ratios of fixed costs to variable costs, either in the aggregate or by revenue center, along with any other reasonable, justifying information to explain deviation from approved revenues. Upon approval by the commission, such approved ratios will be used to determine allowable revenue variance due to volume changes.~~

~~(iii) For fiscal years beginning adjusted on and after January 1, 1978,) The approved planned capital and service component and return on investment shall be considered a fixed cost when considering year-end conformance. Only that portion of total costs per patient day designated as variable according to the following schedule will be adjusted for ((variances in patient)) volume((s)) variance:~~

Peer groups 1 and 2 and specialty hospitals having fewer than fifty beds; fixed costs - eighty percent, variable costs - twenty percent

Peer groups 3 and 4 and specialty hospitals having fifty or more beds; fixed costs - seventy percent, variable costs - thirty percent

Peer ~~((group-5))~~ groups 5 and 6 hospitals; fixed costs - sixty percent, variable costs - forty percent

Alternatively, the hospital may submit suggested ratios of fixed costs to variable costs, either in the aggregate or by revenue center. Upon approval by the commission, such approved ratios will be used only prospectively to determine allowable revenue variance due to volume changes.

~~((b) For and after the fiscal year beginning July 1, 1977 of hospitals participating under type I of the Prospective Reimbursement Demonstration Project, conformance will be determined as follows:~~

~~(i) When actual rate setting revenue adjusted for actual deductions from revenue (which includes contractual allowances) is equal to or less than that approved by the commission, the hospital shall be deemed in conformance:~~

~~(ii) If a hospital is out of conformance under subparagraph (i) above, the hospital shall be subjected to year-end conformance on revenue from nonparticipating payors in accordance with the conformance criteria contained in subdivision (a) above.~~

~~(iii) When deductions from revenue are adjusted for type I hospitals at either departmental or aggregate conformance level, budgeted contractual allowances will be used when the actual contractual allowances are determined to be less than the budgeted level.))~~

The hospital may submit any justifying information to explain deviations/variances from approved revenues.

AMENDATORY SECTION (Amending Order 79-02, Resolution 79-03, filed 6/19/79)

✓ WAC 261-40-160 APPROVAL OF RATES FOR LESS THAN FULL FISCAL YEAR. The commission, in its discretion, may grant approval of rates as submitted in a hospital's annual budget submittal or as modified by the commission, either for the full fiscal year of the hospital or any ~~((less than that))~~ lesser period. The decision and order of the commission notifying a hospital of such action shall specify the period of time within which the hospital may utilize the approved rates as well as what action (if any) must be taken by the hospital to secure commission approved rates after the specified period.

~~((PART H  
BUDGET AMENDMENT SUBMITTAL REVIEW  
PROCESS))~~

~~((PART H)) PART II  
GENERAL PROCEDURES APPLICABLE TO ALL  
COMMISSION HEARINGS ((REGARDING  
ANNUAL BUDGET SUBMITTALS))~~

AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

✓ WAC 261-40-200 CONTINUANCES. Any person who desires a continuance of any proceeding before the commission shall, ~~((immediately upon receipt of notice of the hearing, or))~~ as soon ~~((thereafter))~~ as facts requiring such continuance come to his/her knowledge, notify the commission ~~((of said desire, stating in detail the identification constituting an appearance pursuant to WAC 261-40-300 if he/she has not made an appearance, as well as the)).~~ The notice shall identify the interest of the person in the proceeding as well as the reasons why such continuance is necessary. The commission, or presiding officer in a formal hearing, on passing upon a request for a continuance shall consider whether such request was promptly made. Except in cases of hardship or unless good cause is shown, no such continuance shall be granted unless such a request is made to the commission at least three days preceding the date upon which the matter is set for hearing. The commission may grant such a continuance and may at any time order a continuance upon its own motion. During the ~~((hearing))~~ proceeding, if it appears in the public interest that further testimony or argument should be received, the presiding officer may in his/her discretion continue the hearing and fix the date for introduction of additional testimony or presentation of argument. Such oral notice shall constitute final notice of such continued hearing. The granting of a continuance by the commission may result in a concurrent suspension of the effective date of proposed rates.

NEW SECTION

✓ WAC 261-40-201 CLASSIFICATION OF PARTIES. Parties to proceedings before the commission shall be styled applicants, intervenors, petitioners, or



protestants, according to the nature of the proceeding and the relationship of the parties thereto.

(1) Applicants: Hospitals applying for any right or authority from the commission, including an approved rate, rate schedule, or other charges, or any change therein, or the reconsideration of an informal hearing decision shall be styled "applicants".

(2) Intervenors: Persons permitted to intervene, as hereinafter provided, shall be styled "intervenors".

(3) Petitioners: Persons petitioning for opportunity to intervene, or for other relief shall be styled "petitioners".

(4) Protestants: Persons, including the staff, opposing petitions or applications or seeking the disapproval or modification of requests therein shall be styled "protestants".

#### NEW SECTION

✓ WAC 261-40-202 INTERVENTION. (1) General intervention: Any person who desires to appear and participate in any proceeding before the commission may petition in writing for leave to intervene in the proceeding prior to, or at the time, it is called for hearing; or may make an oral motion for leave to intervene at the time of the hearing. No such petition or motion shall be filed or made after the proceeding is underway, except for good cause shown. The petition or motion to intervene must disclose the name and address of the person intervening; the name and address of such person's attorney, if any; such person's interest in the proceeding, and position in regard to the matter before the commission. The written petition shall be filed with the commission and copies shall be provided to all other parties to the proceeding.

(2) Disposition of petitions and motions to intervene: Petitions and motions to intervene may be heard before the presentation of evidence in the proceeding, or may be set for prior hearing; an opportunity shall be afforded all other parties to be heard thereon. If it appears that the petition or motion discloses a substantial interest in the subject matter of the hearing, or that participation of the petitioner may be in the public interest, the commission may grant the same, which may be done by oral order at the time of the hearing. Thereafter such petitioner shall become a party to the proceeding and shall be known as an "intervenor", with the same right to produce witnesses and of cross-examination as other parties to the proceeding. Whenever it appears, during the course of a proceeding, that an intervenor has no substantial interest in the proceeding, and that the public interest will not be served by such intervention therein, the commission may dismiss such person from the proceeding: PROVIDED, HOWEVER, That a party whose intervention has been allowed shall not be dismissed from a proceeding except upon notice and a reasonable opportunity to be heard.

#### NEW SECTION

✓ WAC 261-40-203 APPEARANCES. (1) Parties shall enter their appearances by giving their names, addresses and party they represent, if any, in writing to the

commission and all other parties. Thereafter, all future notices, pleadings and orders may be served upon that representative, and such service shall be considered valid service for all purposes upon the party represented. The presiding officer conducting the hearing may, in addition, require appearances to be stated orally, so that the identity and interest of all parties present will be known to those at the hearing.

(2) No person may appear in a representative capacity before the commission other than the following:

(a) Attorneys at law duly qualified and entitled to practice before the Supreme Court of the state of Washington;

(b) Certified public accountants qualified and entitled to practice in the state of Washington; and

(c) Upon permission of the presiding officer at such hearing, a bona fide officer, trustee, director, or full time employee of an individual, partnership, association, corporation, comprehensive health planning agency, or hospital who appears for such planning agency, or hospital.

#### AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

✓ WAC 261-40-210 ORDER OF PROCEDURE. Requests for the suspension of the effective date of proposed rates, rate schedules, other charges, or changes therein contained in an annual budget submittal; and requests for continuances shall be considered first in any hearing regarding annual budget submittals. (~~Testimony may be given to the commission ordinarily in the following order:~~

(i) ~~The hospital or petitioners;~~

(ii) ~~Staff;~~

(iii) ~~Protestants, and~~

(iv) ~~Rebuttal by the hospital or petitioners. Intervenors shall follow the party in whose behalf the intervention is made. If the intervention is not in support of either the hospital or petitioners, or the staff, the presiding officer shall designate the point during the hearing such intervenors shall be heard.)~~ When two or more annual budget submittals are set for hearing at the same time and place, (~~the submittal first having been received in the commission's office shall first be heard, if all parties thereto are ready. PROVIDED, Presentations and testimony to the commission during informal hearings shall be given in the following order:~~

(i) ~~The summarization of the annual budget submittal and presentation of staff findings and recommendations by the executive director or his designee;~~

(ii) ~~The response thereto by representative(s) of the hospital;~~

(iii) ~~Answers to questions of commission members by the staff and hospital representatives;~~

(iv) ~~The comments by the general public and protestants;~~

(v) ~~Rebuttal thereto by the hospital representative(s) or staff;~~

AND PROVIDED, FURTHER, That the presiding officer may direct a different order to suit the convenience of the parties)) the commission will usually hear the matters in the same order as they appear in the agenda.



AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

✓ WAC 261-40-220 RULES OF EVIDENCE. (1) General: In accordance with the provisions of RCW 70.39.160(3), formal rules of evidence shall not apply to matters coming before the commission. During informal and formal hearings, the commission, in its discretion, either with or without objection, shall determine whether testimony or evidence presented to it for consideration is admissible for consideration. Generally, the commission will consider any relevant testimony or evidence presented to it in an informal hearing. ~~((Objections to the admissibility of such testimony or evidence, based on formal rules of evidence, generally will not be sustained by the commission;))~~ When objection is made to the admissibility of evidence, ~~((however;))~~ such evidence may be received subject to later ruling by the commission. Parties objecting to the introduction of evidence shall state the grounds of such ~~((objectives))~~ objections at the time such evidence is offered. In any hearing the presiding officer may, in his/her discretion, either with or without objection, order cumulative evidence discontinued.

(2) Official notice: In addition to matters which courts of this state may take judicial notice and those matters specified in WAC 1-08-370 and 1-08-380, official notice may be taken of the following matters~~(:)~~ by the commission in informal hearings, and by the presiding officer or hearing examiner in formal hearings, respectively:

(a) Rules, regulations, administrative rulings and orders, exclusive of findings of fact, of the commission and other governmental agencies;

(b) Contents of certificates, permits and licenses ~~((issued-issued))~~ issued by the commission or other governmental agencies;

(c) Rates, classifications, and schedules established or approved by the commission.

In addition, upon request by all parties ~~((to the proceeding so to do)),~~ official notice may be taken of the results of the commission's own inspection of the physical conditions involved. ~~((With or without being requested by a party so to do;))~~ Official notice may be taken of the results of previous commission experience in similar situations, and the general information concerning the subject which goes to make up the commission's fund of expert knowledge. Where official notice is taken of any matter, the findings of fact shall so specify and shall state the basis upon which notice is taken.

(3) Resolutions: Resolutions, properly authenticated, of the governing bodies of cities, towns, other municipal corporations, and of comprehensive health planning agencies and associations of hospitals will be received in evidence ~~((if offered by the president, secretary or other proper officer in person at the hearing, provided such officer was present when the resolution was passed)).~~ Such resolution shall be received subject to rebuttal by adversely affected parties as to either the authenticity of the resolution or the circumstances surrounding its procurement. Recitals of facts contained in resolutions shall not be deemed proof of those facts.

AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

✓ WAC 261-40-225 EXHIBITS AND DOCUMENTARY EVIDENCE. (1) ~~((Size of exhibits: Except by special permission of the presiding officer no specially prepared exhibit offered as evidence shall be of greater size when folded than 8 1/2 inches by 13 inches: PROVIDED, That maps of greater size, necessary to a presentation of evidence, and commission reports and forms of greater size, whether completed by a hospital or the staff, are admissible.~~

~~((2))~~ Designation of part of document as evidence: When relevant and material matter offered in evidence by any party is embraced in a book, paper, or document containing other matter not material or relevant, the party offering the same must plainly designate the matter so offered. Only a true copy of such portion of the book, paper or document containing the relevant or material matter in proper form shall be received as an exhibit ~~((and in a formal hearing, only after proper authentication)).~~ Like copies of such matter shall be delivered by the party offering the same to all other parties or their ~~((attorneys))~~ representatives appearing at the hearings, who shall be afforded an opportunity to examine the book, paper or document, and to offer in evidence in like manner other portions thereof if found to be material and relevant.

~~((3))~~ (2) Official records: An official rule, report, order, record or other document, prepared and issued by any governmental authority, when admissible for any purpose may be evidenced by an official publication thereof; or by a copy attested by the officer having the legal custody thereof, or his/her deputy, and accompanied by a certificate that such officer has the custody, made by any public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his/her office.

~~((4))~~ (3) Commission's files: Paper and documents on file with the commission, if otherwise admissible, and whether or not the commission has authority to take official notice of the same under WAC 261-40-220(2), may be introduced by reference to number, date, or by any other method of identification satisfactory to the presiding officer. If only a portion of any such paper or document is offered in evidence, the part so offered shall be clearly designated. ~~((Intra-office commission memoranda and reports when designated as confidential by the commission to the extent permitted by RCW 42.17.310, are not public records subject to inspection, nor shall such documents be introduced in evidence.~~

~~((5))~~ (4) Records in other proceedings: In case any portion of the record in any other proceeding is admissible for any purpose and is offered in evidence, a true copy of such portion shall be presented for the record in the form of an exhibit unless:

(a) The person offering the same agrees to supply such copies later at his/her own expense, if and when required by the commission; and

(b) The portion is specified with particularity in such manner as to be readily identified; and

(c) The parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference, and that any portion offered by any other party may be incorporated by like reference; and

(d) The presiding officer directs such incorporation.

~~((6))~~ (5) Copies of exhibits ~~((to opposing counsel))~~: When specially prepared exhibits of a documentary character are offered in evidence, unless the presiding officer otherwise directs, copies must be furnished to ~~((opposing counsel, (if any);))~~ all commission members, staff, all other parties, and in a formal hearing, the presiding officer. Whenever practicable, the parties should interchange copies of exhibits before ~~((, at))~~ the commencement of the hearing.

AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

WAC 261-40-230 STIPULATION AS TO FACTS. The parties to any commission proceeding or investigation may enter into a written stipulation as to the facts or any portion thereof involved in such proceeding or investigation. Such stipulation may be included as part of the staff statement of findings and recommendations or hospital's response or may be a separate submittal to the commission. It shall be binding upon the parties thereto and not only may be regarded and used by the commission or presiding officer as evidence at a hearing, but also may be one of the bases for the commission's findings and its recommendation regarding a hospital's annual budget submittal. It is desirable that the facts be thus agreed upon whenever practicable. Nevertheless, proof by evidence of the facts stipulated to, may still be required by the commission notwithstanding the stipulation of the parties.

PART ~~((V))~~ III  
SPECIAL INFORMAL HEARING PROCEDURES

AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

WAC 261-40-300 APPEARANCES AND ATTENDANCE AT INFORMAL HEARING. (1) The presiding officer conducting an informal hearing may require representatives of the hospital, staff members responsible for the statement of findings and recommendation, and members of the general public who have submitted written testimony regarding such hospital's annual budget submittal, that are in attendance, to orally identify themselves, their address, and their interest in the matter to be considered by the commission so that the identity and interest of such persons will be known to those at the hearing. Representatives of the hospital are not required to attend the informal hearing conducted by the commission regarding that hospital's annual budget submittal; such failure to attend, however, may result in commission ~~((member's))~~ members' questions remaining unanswered, which, itself, may lead to a continuance, or the suspension, modification or disapproval of rates, rate schedules, other charges, or changes therein proposed in such submittal.

(2) Presentations and testimony to the commission during informal hearings shall be given in the following order:

(a) The summarization of the matter and presentation of staff findings and recommendations by the executive director or his designee;

(b) The response by the hospital;

(c) Answers to questions asked by the commission;

(d) Any comments by other persons or parties in attendance;

(e) Any response by the hospital, staff, or the commission to comments: PROVIDED, That the presiding officer may direct a different order to suit the convenience of all participants.

AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

WAC 261-40-310 QUESTIONS BY COMMISSION MEMBERS. At any point during an informal hearing, questions may be asked by commission members of any ~~((representative(s) of the hospital the annual budget submittal of which is being reviewed by the commission, members of the staff, and members of the general public who have submitted to the commission written testimony regarding the matter subject to commission review and action))~~ party or other person in attendance.

PART ~~((V))~~ IV  
FORMAL HEARING PROCEDURES

AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

WAC 261-40-400 OPPORTUNITIES FOR FORMAL HEARINGS. (1) Petition for reconsideration of informal hearing decision: A hospital or other person that has been ~~((adversely affected))~~ aggrieved by a final decision of the commission in an informal hearing, may petition the commission for a reconsideration of its decision through a formal hearing process. Such petition shall state in detail the issues or portions of the commission's informal hearing decision that should be reconsidered by the commission, together with the reasons therefor.

(2) As initial hearing on hospital's annual budget submittal: A hospital may submit its annual budget submittal to the commission, together with a petition that it be considered initially in a formal hearing rather than informal hearing pursuant to Part III of this chapter ~~((; only with respect to the second and subsequent annual budget submittals subject to review and approval by the commission)).~~

AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

WAC 261-40-405 COMMISSION ACTION ON PETITION FOR FORMAL HEARING. (1) General: At its earliest opportunity the commission shall consider and approve or deny a petition submitted pursuant to WAC 261-40-400(1), and shall approve a petition submitted pursuant to WAC 261-40-400(2).

(2) Criteria for denial of WAC 261-40-400(1) petition: A petition submitted to the commission pursuant to WAC 261-40-400(1) may be denied on the following grounds:

(a) The petition is frivolous;

(b) The petitioner has not been ~~((adversely affected))~~ aggrieved by the commission's informal hearing decision or has been ~~((adversely affected))~~ aggrieved to such a minor amount that reconsideration is not justifiable;

(c) The reasons for reconsideration stated in the petition do not justify reconsideration.

(3) Notice of commission action: The petitioner and all other parties shall be notified in writing of the commission's action regarding the petition, together with the reasons therefor, following such action.

(4) Effect of commission action:

~~((+))~~ (a) No stay of enforcement or effect of the informal hearing decision: Neither the filing with the commission pursuant to WAC 261-40-400(1) nor the granting of a petition for reconsideration through the formal hearing process of all or any portions of a decision by the commission made in an informal hearing, shall stay enforcement or the effect of the commission's decision in the informal hearing.

(b) De novo hearing on reconsideration: Issues included in the petition for formal hearing reconsideration shall be considered on a de novo basis by the commission.

(c) Reviewability of action: A decision by the commission denying a petition for reconsideration submitted pursuant to WAC 261-40-400(1) shall be ~~((subject to))~~ the final decision of the commission for purposes of judicial review ~~((in accordance with))~~ under chapter 34.04 RCW.

#### AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

✓ WAC 261-40-430 PLEADINGS. (1) Pleadings enumerated: Pleadings before the commission shall be applications, petitions, responses, replies, and motions.

(2) Verification: All pleadings, except the commission's own motions, shall be verified in the manner prescribed for verification of pleadings in the Superior Court of Washington.

(3) Time for motions: Any motion directed toward an application or petition must be filed before the response is due, otherwise such objection must be raised in the response. If a motion is directed toward a response, it must be filed before the reply is due, otherwise such objection must be raised in the reply. If a motion is directed toward a reply, it must be filed within ten days after service of the reply.

(4) Time for response or reply: A response, if made, must be filed within ten days, and a reply, if made, must be filed within ten days, after the service of the pleading against which it is directed, unless otherwise provided in these rules or ordered by the commission. Whenever the commission believes the public interest requires expedited procedure it may shorten the time required for any response or reply.

(5) Defective pleadings: Upon the filing of any pleading, it will be inspected by the commission and if found

to be defective or insufficient, it may be returned to the party filing it for correction.

(6) Liberal construction: All pleadings shall be liberally construed with a view to effect justice between the parties, and the commission will, at every stage of a formal hearing, disregard errors or defects in the pleadings or proceeding which do not affect the substantial rights of the parties.

(7) Amendments: The commission may allow amendments to the pleadings or other relevant documents at any time upon such terms as may be lawful and just, provided that such amendments do not adversely affect the interest of persons who are not parties to the proceeding.

(8) Response: Except as otherwise provided in subsection (4), any party who desires to contest an application or petition or make any representation to the commission in connection therewith except a general objection to affirmative commission action with respect to such application or petition (in which case no response shall be required) shall file with the commission and serve upon the applicant or petitioner a response thereto.

Any response shall be so drawn as to advise the parties and the commission fully and completely of the party's objection to affirmative commission action with respect to such application or petition; it shall admit or deny specifically and in detail all material allegations of the application or petition. In case a party fails to respond within the time specified in subsection (4) such party shall be deemed to have objected generally to affirmative commission action with respect to the application.

(9) Reply: An applicant or petitioner desiring to reply to a response shall file the same with the commission, together with proof of service, within the time set forth in subsection (4). Failure to file a reply within said time shall be deemed a general disagreement with the material in the response.

(10) Motions: Subject to the provisions of subsection (6), the practice respecting motions including the grounds therefor, and forms thereof, shall conform insofar as possible with the practice relative thereto in the Superior Court of Washington.

#### AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

✓ WAC 261-40-450 HEARINGS. (1) The time and place of holding formal hearings will be set by the presiding officer and notice thereof served upon all parties at least twenty days in advance of the hearing date, unless the presiding officer ~~((finds than))~~ and the parties agree that an emergency exists requiring the hearing to be held upon less notice ~~((when all parties agree to less notice of such hearing))~~. An effort will be made to set all formal hearings sufficiently in advance so that all parties will have a reasonable time to prepare their cases, and so that continuances will be reduced to a minimum.

(2) Testimony may be given ordinarily in the following order:

(a) The hospital;

(b) Commission staff;

(c) Protestants; and

(d) Rebuttal by the hospital. Intervenor shall follow the party in whose behalf the intervention is made. If the intervention is not in support of either the hospital or the staff, the presiding officer shall designate the time when the intervenor shall be heard: PROVIDED, The presiding officer may direct a different order to suit the convenience of the parties.

AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

✓ WAC 261-40-460 FAILURE OF HOSPITAL TO APPEAR AT FORMAL HEARING. In the event a representative of a hospital fails to appear at the time and place set for the formal hearing of that hospital's annual budget submittal, (~~said hearing may be continued to a later period to be set by the presiding officer to enable said representative to attend; but if at the time set for the resumption of the hearing said hospital is not represented;~~) the hospital's submittal may be disapproved.

✓ AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

WAC 261-40-475 DISPOSITION OF MOTIONS: CONSOLIDATION OF PROCEEDINGS. (1) Disposition of motions: The commission may direct all motions to be submitted for commission decision on either written or oral argument, and may permit the filing of affidavits in support (~~(of)~~) or contravention thereof. Motions filed by different parties but involving the same point of law may be set for hearing at the same time.

(2) Consolidation of proceedings: Two or more proceedings where the facts or principles of law are related may be consolidated and heard together.

✓ AMENDATORY SECTION (Amending Order 75-05, filed 11/10/75)

WAC 261-40-485 ORDERS. (1) Preparation of proposed order: The presiding officer for a formal hearing shall prepare a proposed order including findings of fact, conclusions of law, and a decision regarding the hospital's annual budget submittal and the rates, rate schedules, other charges, and changes therein; and the same shall be served upon all parties of record.

(2) Exceptions; Number filed and time for filing: Six copies of exceptions to proposed orders must be filed with the commission and a copy must be served upon all other parties within twenty days from the date of issuance of said order, unless a different time for filing is designated by the commission at or following the issuance of the proposed order. Proof of service must be made in accordance with WAC 261-40-440(3).

(3) Exceptions: Who may file: Any party of record may file exceptions to the presiding officer's proposed order.

(4) Exceptions: Contents: Exceptions to proposed orders shall be specific and must be stated and numbered

separately. Exceptions to findings of fact must be supported by a reference to that page or part of the record or in the alternative by a statement of the evidence relied upon to support the exception, and shall be accompanied by a recommended finding of fact. Exceptions to conclusions of law must be supported by reference to the appropriate statute or regulation involved and shall be accompanied by a corrected conclusion of law. When exceptions are taken to conclusions in the summary portion of the proposed order there shall be included a statement showing the legal or factual justification for such exceptions, together with a statement showing how the alleged defect in the summary affects the findings of fact or conclusions of law, or the ultimate decision.

(5) Replies: Six copies of a reply to exceptions must be filed with the commission and a copy served upon the excepting party within ten days of the date of service of the exceptions, unless a different time for filing is designated by the commission.

(6) Briefs and arguments supporting exceptions or replies: Briefs or written arguments supporting exceptions or replies thereto shall be attached to such documents and shall be served and filed in the same manner as provided in subsections (2) and (5). The commission may in its discretion hear oral arguments at a time and place to be designated by it upon notice to all affected parties.

(7) Final Order: After reviewing the exceptions, replies, briefs, oral arguments, if any, and the record or such portions thereof as may be cited by the parties, a majority of the commission may affirm the proposed order by an appropriate final order, or it may make such changes as it deems necessary in its final order. The statutory time for judicial review (~~(proceedings)~~) under chapter 34.04 RCW shall not commence until the date of the commission's final order.

REPEALER

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

- ✓ (1) WAC 261-40-025 INAPPLICABILITY OF UNIFORM PROCEDURE RULES.
- ✓ (2) WAC 261-40-165 BUDGET AMENDMENT SUBMITTALS AUTHORIZED—TIME LIMITATIONS—PRESUMPTIONS.
- ✓ (3) WAC 261-40-415 CLASSIFICATION OF PARTIES.
- ✓ (4) WAC 261-40-420 INTERVENTION.
- ✓ (5) WAC 261-40-425 RULES OF PRACTICE BEFORE COMMISSION.
- ✓ (6) WAC 261-40-440 SERVICE OF PLEADINGS.
- ✓ (7) WAC 261-40-445 PREHEARING CONFERENCES.
- ✓ (8) WAC 261-40-455 APPEARANCES.
- ✓ (9) WAC 261-40-465 TESTIMONY UNDER OATH.

**WSR 83-06-037**  
**EMERGENCY RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**

[Order 196—Filed February 28, 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 the Elwha River system to the taking of steelhead trout by treaty Indians, WAC 232-32-152.

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 fish buyers reporting sales of steelhead harvested by treaty Indian fishermen from the Elwha River system (pursuant to the reporting system approved by the United States District Court in United States vs. Washington) indicates that the treaty Indian share of harvestable steelhead for the Elwha River system has been reached or exceeded. Therefore, it is necessary to close the Elwha River system to treaty Indian fishing 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 February 28, 1983.

By Archie U. Mills  
 Chairman, Game Commission

NEW SECTION

*WAC 232-32-152 CLOSURE OF THE ELWHA RIVER SYSTEM TO THE TAKING OF STEELHEAD TROUT BY TREATY INDIANS. Effective 4:00 p.m., March 1, 1983, it is unlawful for treaty Indians to take, fish for or possess steelhead trout in or from the Elwha River system.*

**WSR 83-06-038**  
**EMERGENCY RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**

[Order 197—Filed February 28, 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 amendments to the 1983 Game Fish Seasons and Catch Limits, WAC 232-28-605.

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 numerous inadvertent errors in the pamphlet as printed require correction.

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

This rule is promulgated pursuant to RCW 77.12.040 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 February 28, 1983.

By Archie U. Mills  
 Chairman, Game Commission

AMENDATORY SECTION (Amending Order 197, filed 12/2/82)

**WAC 232-28-605 1983 GAME FISH SEASONS AND CATCH LIMITS.**

**Reviser's note:** The text and accompanying pamphlet comprising the amendment of the 1983 Game Fish Seasons and Catch Limits adopted by the Department of Game have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the amended rules may be obtained from the main office of the Department of Game, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

**WSR 83-06-039**  
**NOTICE OF PUBLIC MEETINGS**  
**WESTERN WASHINGTON UNIVERSITY**  
 [Memorandum—February 24, 1983]

The board of trustees of Western Washington University will hold their regular meeting on Thursday, March 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 the PAC Concert Hall.

**WSR 83-06-040**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**  
**(Board of Natural Resources)**  
 [Filed March 1, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Board of Natural Resources intends to adopt, amend, or repeal rules concerning reducing the minimum royalty for oil and gas leases issued by the Department of Natural Resources from ten dollars to five dollars per acre per year, amending WAC 332-12-310(1).

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 43.30.150(6) and 79.14.120.

The specific statute these rules are intended to implement is chapter 79.14 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 25, 1983.

This notice is connected to and continues the matter in Notice Nos. WSR 83-01-103 and 83-05-004 filed with the code reviser's office on December 21, 1982, and February 3, 1983.

Dated: March 1, 1983  
 By: John L. Chambers  
 for Commissioner of Public Lands  
 Department of Natural Resources

**WSR 83-06-041**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed March 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 addition of a new section, WAC 296-150B-185 reciprocal agreement for recreational vehicles. It provides for a contract with the National Conference of States on Building Codes and Standards, Inc., acting as an agent representing states for reciprocal agreements between states. The states that have entered into the agreement meet and enforce the standards and regulations prescribed by this state for recreational vehicles.

Written or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

James I. Louvier, Chief  
 Factory Assembled Structures  
 300 West Harrison  
 Seattle, Washington 98119  
 (206) 281-5530

that the agency will at 9:00 a.m., Tuesday, April 26, 1983, in Room 412, 300 West Harrison Street, Seattle, WA 98119, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place at 9:00 a.m., Tuesday, May 24, 1983.

The authority under which these rules are proposed is RCW 43.22.340 and 43.22.400.

The specific statute these rules are intended to implement is RCW 43.22.400.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before 9:00 a.m., Tuesday, April 26, 1983.

Dated: March 1, 1983  
 By Sam Kinville  
 Director

#### STATEMENT OF PURPOSE

Title and Number of Rule: WAC 296-150B-185 Reciprocal agreement for recreational vehicles.

Statutory Authority: RCW 43.22.340 and 43.22.400.

Summary of the Rules: The factory assembled structures section presently approves the same plans and inspects the same out-of-state manufacturers as other states. This redundancy of services adds multiple costs to the recreational vehicles at the manufacturers. These unnecessary duplicative costs are ultimately passed on to and paid by the consumer. The proposed rule provides for a more effective, economical service to the industry and the consumer.

Description of the Purposes of the Rule: The rule will eliminate the duplicative plan review and inspections of recreational vehicles of units manufactured in other states that are sold in Washington.

Reasons Supporting the Proposed Rule: The elimination of the redundant services by many states will reduce the manufacturers' cost, which will benefit the economy and especially the ultimate consumer. Also, the factory assembled structures section will benefit by relieving it from the plan review and out-of-state services. The time saved by the sections personnel can be used to provide better, more effective service to the people of this state. Less expenditures and more revenue will result from the adoption of this proposed rule.

The Agency Employee who is Responsible for the Drafting, Implementation and Enforcement of the Rule: James I. Louvier, Chief, F.A.S. Section, 300 West Harrison, Room 512, Seattle, Washington 98119, (206) 281-5530.

Name of 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: The rule provides for better and more economical use of personnel. It will reduce expenditures and increase revenue which is required to reduce the existing budget deficit.

The rule is not necessary to comply with a 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.

Statement of Small Business Economic Impact: No small business impact statement is necessary because the proposed rule will lessen costs to any affected business and industry.

#### NEW SECTION

WAC 296-150B-185 **RECIPROCAL AGREEMENT FOR RECREATIONAL VEHICLES.** The Department has entered into a contract with the National Conference of States on Building Codes and Standards, Inc. (NCSBCS) by which NCSBCS administers a reciprocal program between States for recreational vehicles. The States entering into the reciprocal agreements meet and enforce the standards prescribed by this State. The Department, by this rule, accepts in this State all recreational vehicles manufactured by the States that are parties to the NCSBCS recreational reciprocal program.

**WSR 83-06-042**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Order 83-7—Filed March 1, 1983]

I, Sam Kinville, director of the Department of Labor and Industries, do promulgate and adopt at Room 334, General Administration Building, Olympia, Washington 98504, the annexed rules relating to provide for a contract with the National Conference of States on Building Codes and Standards, Inc., acting as an agent representing states for reciprocal agreements between states. The states shall meet and enforce the standards and regulations prescribed by this state for recreational vehicles.

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 a reciprocal program under the guidance and supervision of the National Conference of Building Codes and Standards (NCSBCS), an organization of code enforcement members of the states, will impartially initiate and standardize the approval and inspection procedures of all the participating states and manufacturers.

The redundancy of plan approval and inspection fees charged by each individual state, adds to the manufacturers and ultimately the purchasers cost of recreational vehicles. The elimination of plan review and out-of-state

inspection trips will provide additional inspection time which will increase revenue.

An emergency exists, due to the present recession. The factory assembled structure section of the department has a large financial deficit and, therefore, requires this economy measure to help balance the budget. The manufacturers and dealers need the reduction in costs of the product to benefit the consumer and the economy.

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

This rule is promulgated pursuant to RCW 43.22.400 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 28, 1983.

By Sam Kinville  
Director

#### NEW SECTION

WAC 296-150B-185 **RECIPROCAL AGREEMENT FOR RECREATIONAL VEHICLES.** The Department has entered into a contract with the National Conference of States on Building Codes and Standards, Inc. (NCSBCS) by which NCSBCS administers a reciprocal program between States for recreational vehicles. The States entering into the reciprocal agreements meet and enforce the standards prescribed by this State. The Department, by this rule, accepts in this State all recreational vehicles manufactured by the States that are parties to the NCSBCS recreational reciprocal program.

**WSR 83-06-043**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**  
[Filed March 1, 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 356-06-055 | Exempt—Classified service—Movement between.      |
| Amd | WAC 356-26-070 | Certification—Registers—Order of rank—Exception; |

that the agency will at 10:00 a.m., Thursday, April 14, 1983, in the Board Hearing Room, Department of Personnel, 600 South Franklin, Olympia, WA 98504, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 41.06.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 12, 1983.

Dated: March 1, 1983  
By: Leonard Nord  
Secretary

### STATEMENT OF PURPOSE

Amend WAC 356-06-055.

Title: Exempt—Classified service—Movement between.

Purpose: Outlines procedures and rights of employees moving between the classified service and exempt service.

Statutory Authority: RCW 41.06.150.

Summary and Reasons: The proposed change is of a housekeeping nature only. WAC 356-30-045 has been repealed and the contents of that section were merged with WAC 356-06-055. Therefore, it is necessary to remove reference to WAC 356-30-045 from WAC 356-06-055.

Responsibility for Drafting: Roger Sanford, 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.

Amend WAC 356-26-070.

Title: Certification—Registers—Order of rank—Exception.

Purpose: Lists the order in which names are certified from the registers and the exceptions to this order.

Statutory Authority: RCW 41.06.150.

Summary and Reasons: The proposed change is of a housekeeping nature only. Renumbers subsections within the section for better clarification of references to contents in this section.

Responsibility for Drafting: Carol Schmitt, Personnel Analyst, Department of Personnel, 600 South Franklin, MS: FE-11, Olympia, WA 98504, Phone: 753-2374; Implementation and Enforcement: Department of Personnel.

Proposed by: Department of Personnel, governmental agency.

### AMENDATORY SECTION (Amending Order 177, filed 10/26/82)

WAC 356-06-055 EXEMPT—CLASSIFIED SERVICE—MOVEMENT BETWEEN. (1) Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right to return to the highest class of position in which the employee previously held permanent status, or to a position of similar nature and salary, within four years from the date of appointment to the exempt position. However, (a) upon the prior request of the appointing authority of the exempt position, the personnel board may approve one extension of no more than four years; and (b) if an appointment was accepted prior to July 10, 1982, then the four-year period shall begin as of that date. Such employee must apply to return to classified service within 30 calendar days of:

- ((a)) (i) Termination of employment in such exempt position, or
  - ((b)) (ii) Termination of employment in any other exempt position in which the employee subsequently served provided there was no break in his/her service with the state of more than 30 calendar days.
- (2) Any classified employee who holds a position in the classified service which is subsequently exempted and who previously held permanent status in another classified position shall have a right to return

to the highest classified position in which the employee previously held permanent status or to a similar position. Such employee must apply to return to classified service within 30 calendar days of:

- (a) Termination of employment in such exempt position, or
  - (b) Termination of employment in any other exempt position in which the employee subsequently served provided there was no break in his/her service with the state of more than 30 calendar days.
- (3) Employees exercising return rights within the time specified, as provided in WAC 356-06-055, shall return:
- (a) At the time of separation or application, whichever is later.
  - (b) To a salary not less than the salary they left, adjusted according to salary changes made in the interim.
  - (c) With the same status they last held at the time they left the classified service.
  - (d) With their seniority credited with the full time of their absence from the classified service and with no break in service.
- (4) An employee's continuation in a position that has been exempted shall constitute the acceptance of an exempt appointment. The employee who accepts an appointment in this manner shall have the right of return as specified in subsection (1) of this section.

(5) Present or past employees of the exempt service who have not previously left the classified service specifically to take an exempt position shall not be entitled to move back into the classified service under the provisions of this section or WAC ((356-30-045 or)) 356-30-330.

(6) Classified employees under the jurisdiction of the higher education personnel board who are otherwise exempt from the right by WAC 356-06-020, and have been or are going to be separated because of reduction-in-force action shall be certified to any vacant classified positions under the jurisdiction of the state personnel board provided:

- (a) The employees are qualified as determined by the director of personnel, or designee; and
- (b) No other employees under the jurisdiction of the state personnel board are eligible to be certified from the reduction-in-force registers, or transferred, or promoted into vacancies; and
- (c) The employees have greater seniority than other such qualified employees under the jurisdiction of the higher education personnel board involved in reduction-in-force action; and
- (d) The employees are being offered the opportunity according to the department of personnel procedure established for that purpose.

(7) Employees may replace incumbents currently in the positions to which they are returning. The replaced incumbents are entitled to the rights and options of the reduction-in-force procedures of their agency.

Employees in the classified service whose positions have been exempted from the civil service law in accordance with RCW 41.06.070 (21) or (22) and have not previously held other classified positions may return to the classified service in any vacant positions in their respective departments provided the employees:

- (a) Meet the minimum qualifications;
- (b) Have greater seniority than other employees who would be offered the vacancy(ies) as a reduction-in-force option or certifications from the reduction-in-force register.

### AMENDATORY SECTION (Amending Order 161, filed 10/5/81)

WAC 356-26-070 CERTIFICATION—REGISTERS—ORDER OF RANK—EXCEPTION. The director of personnel will normally certify names from the registers in the following order:

- (1) Agency reduction-in-force register.
- (2) Service-wide reduction-in-force register.
- (3) Dual-agency reversion register.
- (4) Agency promotional register.
- (5) Service-wide reversion register.
- (6) Transfer register.
- (7) Voluntary demotion register.
- (8) Service-wide promotional register.
- (9) Reemployment unranked register.
- (10) Open competitive register.

However, if the director of personnel and appointing authority establish that it is in the best interest of the state to broaden the competition, agencies may request the director of personnel to certify names combined from registers (4), (8), and (10) provided:

((+)) (a) That the written request to the director shall be evidence of assurance that:

- ((+)) (i) Such a request will not harmfully affect utilization of protected group members who are applicants for this class.



~~((b))~~ (ii) If the position is within a collective bargaining unit, the exclusive representative will be provided copy of the request.

~~((c))~~ (iii) That the request is in the best interest of the state and not solely intended to circumvent the policy of promotion from within the state as provided in WAC 356-30-150.

~~((z))~~ (b) Request for combined registers must be made on a position-by-position or a class basis and prior to recruitment.

**WSR 83-06-044**  
**PROPOSED RULES**  
**DEPARTMENT OF FISHERIES**  
 [Filed March 1, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning commercial fishing rules;

that the agency will at 10:00 a.m., Tuesday, April 5, 1983, in the Large Conference Room, General Administration Building, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 12, 1983.

The authority under which these rules are proposed is RCW 75.08.080.

The specific statute these rules are intended to implement is RCW 75.08.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1983.

Dated: March 1, 1983  
 By: William R. Wilkerson  
 Acting Director

**STATEMENT OF PURPOSE**

Title: WAC 220-52-053 Shrimp fishery—Areas and gear, and WAC 220-52-075 Shellfish harvest logs.

Description of Purpose: Modify gear and reporting requirements for Hood Canal commercial shrimp fishery.

Summary of Rule: WAC 220-52-053, conforms general shrimp trawl regulation with Order 82-215, filed December 1, 1982; makes fluorescent orange buoys and non-floating line mandatory for commercial Hood Canal shrimp fishing; and WAC 220-52-075, requires additional information on harvest logs from Hood Canal shrimp fishery and requires more frequent reporting.

Reasons Supporting Proposed Action: WAC 220-52-053, code revision deleted the previous trawl section; gear loss due to accidental severing of floating lines and inconspicuous buoys results in damage to shellfish stocks from trapping in unretrievable shellfish pots; and WAC 220-52-075, increased accuracy of the spot shrimp catch statistics is necessary to prevent overharvest.

Agency Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, Washington, 754-2429; Implementation: Ronald E. Westley, 115 General Administration Building, Olympia, Washington, 753-6772; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, Washington, 753-6585.

These rules are proposed by the Washington Department of Fisheries.

Comments: None.

These proposals are not the result of federal law or court order.

Small Business Economic Impact Statement: No impact, as all businesses are equally effected.

AMENDATORY SECTION (Amending Order 82-6, filed 2/18/82)

WAC 220-52-053 SHRIMP FISHERY—AREAS AND GEAR.  
 (1) It is ~~((lawful))~~ unlawful except during the period May 15 through September 15 of each year to take, fish for, ~~((and))~~ or possess shrimp taken for commercial purposes with shellfish pot gear in the waters of Puget Sound ~~((PROVIDED))~~, except that all waters of Hood Canal southerly of the Hood Canal floating bridge and Carr Inlet inside and northerly of a line projected from Penrose Point to Green Point are closed except as specifically provided for by emergency regulation.

(2) It is ~~((lawful))~~ unlawful except during the period April 15 through October 15 of each year to take, fish for, ~~((and))~~ or possess shrimp taken for commercial purposes with beam trawl gear in any Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area described in WAC 220-22-400, except ~~((in Puget Sound marine fish-shellfish))~~ that the following areas are closed: 27A, 27B, 27C, 28A, 28B, 28C, 28D, and ~~((other))~~ all waters ~~((when closed))~~ not open to ~~((otter and))~~ beam ~~((trawling))~~ trawl and bottom trawl as provided for in WAC ~~((220-48-090))~~ 220-48-015.

(3) It is unlawful at any time to take or fish for shrimp for commercial purposes with otter trawl gear in the waters of Puget Sound.

(4) It is ~~((lawful))~~ unlawful except during the period April 1 through October 31 of each year to take, fish for, land, or possess shrimp for commercial purposes taken with shrimp trawl or beam trawl gear in or from the coastal waters of the state of Washington ~~((and))~~ or the adjoining waters of the Pacific Ocean.

(5) It is lawful the entire year to take, fish for, land, or possess shrimp for commercial purposes taken with shellfish pot gear in or from the coastal waters and the adjoining waters of the Pacific Ocean.

(6) It is unlawful to take, fish for, or possess shrimp taken for commercial purposes with shellfish pot gear in the waters of Hood Canal southerly of the Hood Canal floating bridge unless such gear meets the following requirements:

(a) The top, bottom, and at least one-half of the area of sides of the shellfish pots ~~((shall))~~ must have ~~((the))~~ a minimum mesh size ~~((defined below))~~:

~~((b))~~ The minimum mesh size for shrimp pots is defined as) of a square or rectangular mesh such that the inside distance between any knot or corner and each adjacent knot or corner ~~((shall be))~~ is no less than 7/8 of an inch provided that the shortest inside diagonal of each mesh ~~((shall be))~~ is no less than 1-1/8 inches.

~~((b))~~ All buoys attached to commercial shrimp gear must be fluorescent orange in color and consist of a durable material that will remain floating on the surface when 5 pounds of weight is attached; it is unlawful to use bleach or antifreeze bottles or any other container.

~~((c))~~ The line attaching the bouy to the shellfish pot must be weighted sufficiently to prevent the line from floating on the surface, if the gear is unattended.

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

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

AMENDATORY SECTION (Amending Order 82-6, filed 2/18/82)

WAC 220-52-075 SHELLFISH HARVEST LOGS. It is unlawful for any vessel operator engaged in commercial crawfish, sea cucumber, sea urchin, scallop, ~~((and))~~ or shrimp ~~((fisheries))~~ fishing ~~((and))~~ or ~~((operators))~~ operator of mechanical clam digging ~~((devices))~~ device to fail to obtain and accurately maintain the appropriate harvest log available from the Washington department of fisheries. The harvest log must be kept aboard the vessel while the vessel is engaged in harvest or has crawfish, sea urchins, shrimp, scallops, or clams aboard. The vessel operator must submit the log book for inspection upon request by authorized department of fisheries representatives.

The department's copies of the completed harvest log must be submitted to the department for each calendar month in which fishing activity occurs. State copies must be received within ten days following any calendar month in which fishing occurred and by the tenth day following the termination of commercial fishing activity, whichever occurs first. Vessel operators engaged in commercial harvest of:

(1) Shrimp (~~and~~) or crawfish with shellfish pot or ring net gear must record the vessel (~~identity~~) Washington department of fisheries boat registration number, number of pots or ring nets pulled, date pulled, soak (~~times~~) time, and gear location before leaving the catch area where taken and weights must be recorded upon landing or sale. In addition, vessel operators engaged in commercial harvest of shrimp in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 27A, 27B, or 27C (Hood Canal) must record the total number of pots they have in the water and the total number of bouys attached to those pots, and the department's copy of the completed harvest log must be submitted weekly, postmarked no later than Friday and showing harvest activity for the period Thursday of the week previous to submission through Wednesday of the week the harvest log is submitted.

(2) Shrimp with beam trawl or shrimp trawl gear must record the vessel identity, date, location, duration, and estimated weight of shrimp caught for each tow before leaving the catch area where taken.

(3) Sea urchins(~~;~~) or sea cucumbers must record the vessel identity, date, location, and approximate number of sea urchins or sea cucumbers before leaving the catch area where taken and the exact weight must be recorded upon landing or sale.

(4) Clams with mechanical digging devices must record the vessel identity, location, and date of harvest before the end of each days' fishing and the weights by clam species must be recorded upon landing or sale.

(5) Scallops with dredge or trawl gear must record the vessel identity, date, location, and duration of harvest and estimated weight of scallops caught for each tow before leaving the catch area where taken.

**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 83-06-045**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
[Order 83-15—Filed March 1, 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.

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 this regulation is necessary to allow opportunity to harvest surplus spring chinook of Cowlitz River and Willamette River origin.

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 28, 1983.

By William R. Wilkerson  
Acting Director

NEW SECTION

*WAC 220-57-16000Y COLUMBIA RIVER. Notwithstanding the provisions of WAC 220-57-160, Bag limit A - March 16, 1983, through March 31, 1983: Waters downstream of the Interstate 5 bridge to a line projected true north-south through Buoy 10 at the mouth of the river.*

**WSR 83-06-046**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
[Filed March 1, 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 retail sales tax collection schedules, WAC 458-20-237;

that the agency will at 10:30 a.m., Wednesday, April 13, 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 April 15, 1983.

The authority under which these rules are proposed is RCW 82.32.300.

The specific statute these rules are intended to implement is section 6, chapter 7, Laws of 1983 and RCW 82.08.020, 82.08.060 and 82.14.030.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 13, 1983.

Dated: March 1, 1983

By: J. Johnson  
for Don R. McCuiston, Director  
Tax Rules, Interpretation and Appeals Division

**STATEMENT OF PURPOSE**

Title: WAC 458-20-237 Retail sales tax collection schedules.

Description of Purpose: To set forth new state retail sales tax rate; to note that the state retail tax rate is lower in certain "border counties;" to provide the local sales and use tax rates; to eliminate the listing of retail sales tax collection schedules; and to set forth places where published schedules may be obtained.

Statutory Authority: RCW 82.32.300.

Specific Statute Rule is Intended to Implement: Section 6, chapter 7, Laws of 1983 and RCW 82.08.020, 82.08.060 and 82.14.030.

Reasons Supporting Proposed Action: Effective March 1, 1983, the state retail sales tax was increased to 6.5%,

except in four "border counties" where the rate remained at 5.4%. Past legislative action also imposed optional local sales and use tax of .5%, additional local option sales and use tax of up to .5%, and additional public transportation sales and use tax of up to .6% (depending on class of county). The department publishes retail sales tax collection schedules and those may be obtained from the department in any of its state offices.

Agency Personnel Responsible for Drafting and Implementation: Don R. McCuiston, 415 General Administration Building, Olympia, Washington 98504, telephone: 753-5525; and Enforcement: Department of Revenue, 415 General Administration Building, Olympia, Washington 98504, telephone: 753-5540.

**AMENDATORY SECTION** (Amending Order ET 82-7, filed 7/30/82)

WAC 458-20-237 **RETAIL SALES TAX COLLECTION SCHEDULES.** Under the provisions of (~~chapter 35, Laws of 1982 1st ex. sess.;~~) section 6, chapter 7, Laws of 1983 the state retail sales tax was (~~decreased~~) increased to (~~(5.4%)~~) 6.5% effective (~~May 1, 1982~~) March 1, 1983, except that the retail sales tax levied and collected in the "border counties" (as defined in section 3, chapter 7, Laws of 1983, i.e., Clark, Cowlitz, Klickitat, and Skamania) remains at 5.4%. For purposes of the state retail sales tax, where a retail sale occurs is to be determined under RCW 82.14.020 and WAC 458-20-145.

RCW 82.14.030 (1) and (2) authorizes counties and cities to levy a local sales and use tax of .5% and an additional local option sales and use tax of up to .5%, such local (~~tax~~) taxes to be collected along with the 6.5% or 5.4% state tax (~~, making a total combined tax of 5.9% in areas imposing the local tax~~). By RCW 82.14.045 all cities and counties, after voter approval, are authorized to levy an additional sales and use tax of .1%, .2%, or .3%, and, in the case of a class AA county, .4%, .5%, or .6%, to finance public transportation systems, which tax is also to be collected along with the state tax (~~, making a total combined tax of 6.1%, 6.2%, or 6.5%~~).

Under the authority of RCW 82.08.060 and 82.14.070, (~~and in accordance with chapter 34.04 RCW;~~) the department of revenue has (~~adopted the following 5.4%, 5.9%, 6.1%, 6.2%, and 6.5%~~) published schedules to govern the collection of retail sales tax on all retail sales. (~~Also, under chapter 49, Laws of 1982 1st ex. sess., counties and cities are authorized to impose optional sales tax or use tax at rates up to five-tenths of one percent. Imposition of these taxes will affect the foregoing collection schedules accordingly.~~

**RETAIL SALES TAX COLLECTION SCHEDULE**

May 1, 1982

5.4 Percent

SALE	TAX
.10	.27 .01
.28	.46 .02
.47	.64 .03
.65	.83 .04
.84	1.01 .05
1.02	1.20 .06
1.21	1.38 .07
1.39	1.57 .08
1.58	1.75 .09
1.76	1.94 .10
1.95	2.12 .11
2.13	2.31 .12
2.32	2.49 .13
2.50	2.68 .14
2.69	2.87 .15
2.88	3.05 .16
3.06	3.24 .17
3.25	3.42 .18
3.43	3.61 .19
3.62	3.79 .20

**SALE TAX**

3.80	3.98 .21
3.99	4.16 .22
4.17	4.35 .23
4.36	4.53 .24
4.54	4.72 .25
4.73	4.90 .26
4.91	5.09 .27
5.10	5.27 .28
5.28	5.46 .29
5.47	5.64 .30
5.65	5.83 .31
5.84	6.01 .32
6.02	6.20 .33
6.21	6.38 .34
6.39	6.57 .35
6.58	6.75 .36
6.76	6.94 .37
6.95	7.12 .38
7.13	7.31 .39
7.32	7.49 .40
7.50	7.68 .41
7.69	7.87 .42
7.88	8.05 .43
8.06	8.24 .44
8.25	8.42 .45
8.43	8.61 .46
8.62	8.79 .47
8.80	8.98 .48
8.99	9.16 .49
9.17	9.35 .50
9.36	9.53 .51
9.54	9.72 .52
9.73	9.90 .53
9.91	10.09 .54

**RETAIL SALES TAX COLLECTION SCHEDULE**

May 1, 1982

5.9 Percent

**SALE TAX**

.09	.25 .01
.26	.42 .02
.43	.59 .03
.60	.76 .04
.77	.93 .05
.94	1.10 .06
1.11	1.27 .07
1.28	1.44 .08
1.45	1.61 .09
1.62	1.77 .10
1.78	1.94 .11
1.95	2.11 .12
2.12	2.28 .13
2.29	2.45 .14
2.46	2.62 .15
2.63	2.79 .16
2.80	2.96 .17
2.97	3.13 .18
3.14	3.30 .19
3.31	3.47 .20
3.48	3.64 .21
3.65	3.81 .22
3.82	3.98 .23
3.99	4.15 .24
4.16	4.32 .25
4.33	4.49 .26
4.50	4.66 .27
4.67	4.83 .28
4.84	4.99 .29
5.00	5.16 .30
5.17	5.33 .31
5.34	5.50 .32
5.51	5.67 .33
5.68	5.84 .34

SALE	TAX
5.85	.35
6.02	.36
6.19	.37
6.36	.38
6.53	.39
6.70	.40
6.87	.41
7.04	.42
7.21	.43
7.38	.44
7.55	.45
7.72	.46
7.89	.47
8.06	.48
8.23	.49
8.39	.50
8.56	.51
8.73	.52
8.90	.53
9.07	.54
9.24	.55
9.41	.56
9.58	.57
9.75	.58
9.92	.59

RETAIL SALES TAX COLLECTION SCHEDULE  
May 1, 1982

6.1 Percent

SALE	TAX
.09	.01
.25	.02
.41	.03
.58	.04
.74	.05
.91	.06
1.07	.07
1.23	.08
1.40	.09
1.56	.10
1.73	.11
1.89	.12
2.05	.13
2.22	.14
2.38	.15
2.55	.16
2.71	.17
2.87	.18
3.04	.19
3.20	.20
3.37	.21
3.53	.22
3.69	.23
3.86	.24
4.02	.25
4.19	.26
4.35	.27
4.51	.28
4.68	.29
4.84	.30
5.00	.31
5.17	.32
5.33	.33
5.50	.34
5.66	.35
5.82	.36
5.99	.37
6.15	.38
6.32	.39
6.48	.40
6.64	.41
6.81	.42
6.97	.43

SALE	TAX
7.14	.44
7.30	.45
7.46	.46
7.63	.47
7.79	.48
7.96	.49
8.12	.50
8.28	.51
8.45	.52
8.61	.53
8.78	.54
8.94	.55
9.10	.56
9.27	.57
9.43	.58
9.60	.59
9.76	.60
9.92	.61

RETAIL SALES TAX COLLECTION SCHEDULE

May 1, 1982

6.2 Percent

SALE	TAX
.09	.01
.25	.02
.41	.03
.57	.04
.73	.05
.89	.06
1.05	.07
1.21	.08
1.38	.09
1.54	.10
1.70	.11
1.86	.12
2.02	.13
2.18	.14
2.34	.15
2.50	.16
2.67	.17
2.83	.18
2.99	.19
3.15	.20
3.31	.21
3.47	.22
3.63	.23
3.80	.24
3.96	.25
4.12	.26
4.28	.27
4.44	.28
4.60	.29
4.76	.30
4.92	.31
5.09	.32
5.25	.33
5.41	.34
5.57	.35
5.73	.36
5.89	.37
6.05	.38
6.21	.39
6.38	.40
6.54	.41
6.70	.42
6.86	.43
7.02	.44
7.18	.45
7.34	.46
7.50	.47
7.67	.48
7.83	.49

SALE	TAX
7.99	8.14 .50
8.15	8.30 .51
8.31	8.46 .52
8.47	8.62 .53
8.63	8.79 .54
8.80	8.95 .55
8.96	9.11 .56
9.12	9.27 .57
9.28	9.43 .58
9.44	9.59 .59
9.60	9.75 .60
9.76	9.91 .61
9.92	10.08 .62

SALE	TAX
8.54	8.69 .56
8.70	8.84 .57
8.85	8.99 .58
9.00	9.15 .59
9.16	9.30 .60
9.31	9.46 .61
9.47	9.61 .62
9.62	9.76 .63
9.77	9.92 .64
9.93	10.07 .65

**RETAIL SALES TAX COLLECTION SCHEDULE**

May 1, 1982

6.5 Percent

SALE	TAX
.08	.23 .01
.24	.38 .02
.39	.53 .03
.54	.69 .04
.70	.84 .05
.85	.99 .06
1.00	1.15 .07
1.16	1.30 .08
1.31	1.46 .09
1.47	1.61 .10
1.62	1.76 .11
1.77	1.92 .12
1.93	2.07 .13
2.08	2.23 .14
2.24	2.38 .15
2.39	2.53 .16
2.54	2.69 .17
2.70	2.84 .18
2.85	2.99 .19
3.00	3.15 .20
3.16	3.30 .21
3.31	3.46 .22
3.47	3.61 .23
3.62	3.76 .24
3.77	3.92 .25
3.93	4.07 .26
4.08	4.23 .27
4.24	4.38 .28
4.39	4.53 .29
4.54	4.69 .30
4.70	4.84 .31
4.85	4.99 .32
5.00	5.15 .33
5.16	5.30 .34
5.31	5.46 .35
5.47	5.61 .36
5.62	5.76 .37
5.77	5.92 .38
5.93	6.07 .39
6.08	6.23 .40
6.24	6.38 .41
6.39	6.53 .42
6.54	6.69 .43
6.70	6.84 .44
6.85	6.99 .45
7.00	7.15 .46
7.16	7.30 .47
7.31	7.46 .48
7.47	7.61 .49
7.62	7.76 .50
7.77	7.92 .51
7.93	8.07 .52
8.08	8.23 .53
8.24	8.38 .54
8.39	8.53 .55

Note: Brackets are repetitive above \$10.) The schedules are in the amounts 5.9%, 6.2%, 6.4%, 6.5%, 7.2%, 7.3%, 7.5%, 7.6%, 7.7%, 7.8%, 7.9%, and 8.1%. These schedules have been distributed to all retailers registered with the department of revenue. Additional copies of the schedules may be obtained by writing to Department of Revenue, Office Operations, 4th Floor, General Administration Building, Olympia, Washington 98504 or by contacting one of the local department of revenue district offices listed below.

- |   |   |
|---|---|
| 2700 Simpson Avenue<br>P.O. Box 1018<br><b>ABERDEEN 98520</b><br>(206) 533-9312                           | 919 SW Grady Way<br>P.O. Box 877<br><b>RENTON 98057</b><br>(206) 382-6100                   |
| 2500 Elm Street, Suite C<br>P.O. Box 1176<br><b>BELLINGHAM 98227</b><br>(206) 676-2114                    | 710 Second Avenue<br>901 Dexter Horton Bldg.<br><b>SEATTLE 98104</b><br>(206) 464-6827      |
| 245 4th Street Bldg., Rm. 408<br><b>BREMERTON 98310</b><br>(206) 478-4961                                 | 300 Northtown Office Bldg.<br>North 4407 Division<br><b>SPOKANE 99207</b><br>(509) 456-3140 |
| 2020 35th Street<br>P.O. Box 6<br><b>EVERETT 98206</b><br>(206) 259-8566                                  | Professional Bldg., Rm. 207<br>705 South 9th<br><b>TACOMA 98405</b><br>(206) 593-2874       |
| 711 Vine Street<br>P.O. Box 240<br><b>KELSO 98626</b><br><b>LONGVIEW/KELSO OFFICE</b><br>(206) 577-2015   | 311 West 11th<br>P.O. Box 787<br><b>VANCOUVER 98666</b><br>(206) 696-6151                   |
| 1024 Cleveland, Suite B<br>P.O. Box 278<br><b>MOUNT VERNON 98273</b><br>(206) 336-9616                    | 1815 Portland Avenue<br><b>WALLA-WALLA 99362</b><br>(509) 527-4412                          |
| 9th and Columbia Bldg.<br>P.O. Box 448<br><b>OLYMPIA 98504</b><br>(206) 753-5510                          | 1139 Princeton<br><b>WENATCHEE 98801</b><br>(509) 663-9714                                  |
| 2110 West Henry<br><b>PASCO 99301</b><br>(509) 545-2442   | 214 Washington Mutual Bldg.<br><b>YAKIMA 98907</b><br>(509) 575-2783                        |
| 1601 East Front Street<br>Bldg. 2, Suite A<br>P.O. Box 400<br><b>PORT ANGELES 98362</b><br>(206) 457-8503 |   |

**WSR 83-06-047**  
**EMERGENCY RULES**  
**DEPARTMENT OF REVENUE**  
[Order ET 82-14—Filed March 1, 1983]

I, Donald R. Burrows, director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to retail sales tax collection schedules, WAC 458-20-237.

I, Donald R. Burrows, 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 revised section must be amended by March 1, 1983, to reflect amended law which goes into effect on that date.

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 Department of Revenue as authorized in RCW 82.32.300.

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 March 1, 1983.

By J. Johnson  
for Don R. McCuiston, Director  
Tax Rules, Interpretation and Appeals Division

AMENDATORY SECTION (Amending Order ET 82-7, filed 7/30/82)

WAC 458-20-237 RETAIL SALES TAX COLLECTION SCHEDULES. Under the provisions of ((chapter 35, Laws of 1982 1st ex. sess.)) section 6, chapter 7, Laws of 1983 the state retail sales tax was ((decreased)) increased to ((5.4%)) 6.5% effective ((May 1, 1982)) March 1, 1983, except that the retail sales tax levied and collected in the "border counties" (as defined in section 3, chapter 7, Laws of 1983, i.e., Clark, Cowlitz, Klickitat, and Skamania) remains at 5.4%. For purposes of the state retail sales tax, where a retail sale occurs is to be determined under RCW 82.14.020 and WAC 458-20-145.

RCW 82.14.030 (1) and (2) authorizes counties and cities to levy a local sales and use tax of .5% and an additional local option sales and use tax of up to .5%, such local ((tax)) taxes to be collected along with the 6.5% or 5.4% state tax((, making a total combined tax of 5.9% in areas imposing the local tax)). By RCW 82.14.045 all cities and counties, after voter approval, are authorized to levy an additional sales and use tax of .1%, .2%, or .3%, and, in the case of a class AA county, .4%, .5%, or .6%, to finance public transportation systems, which tax is also to be collected along with the state tax((, making a total combined tax of 6.1%, 6.2%, or 6.5%)).

Under the authority of RCW 82.08.060 and 82.14.070, ((and in accordance with chapter 34.04 RCW,)) the department of revenue has ((adopted the following 5.4%, 5.9%, 6.1%, 6.2%, and 6.5%)) published schedules to govern the collection of retail sales tax on all retail sales. ((Also, under chapter 49, Laws of 1982 1st ex. sess., counties and cities are authorized to impose optional sales tax or use tax at rates up to five-tenths of one percent. Imposition of these taxes will affect the foregoing collection schedules accordingly.

RETAIL SALES TAX COLLECTION SCHEDULE

May 1, 1982

5.4 Percent

~~SALE TAX~~

<del>.10</del>	<del>.27</del>	<del>.01</del>
<del>.28</del>	<del>.46</del>	<del>.02</del>
<del>.47</del>	<del>.64</del>	<del>.03</del>
<del>.65</del>	<del>.83</del>	<del>.04</del>
<del>.84</del>	<del>1.01</del>	<del>.05</del>
<del>1.02</del>	<del>1.20</del>	<del>.06</del>
<del>1.21</del>	<del>1.38</del>	<del>.07</del>
<del>1.39</del>	<del>1.57</del>	<del>.08</del>
<del>1.58</del>	<del>1.75</del>	<del>.09</del>
<del>1.76</del>	<del>1.94</del>	<del>.10</del>
<del>1.95</del>	<del>2.12</del>	<del>.11</del>
<del>2.13</del>	<del>2.31</del>	<del>.12</del>
<del>2.32</del>	<del>2.49</del>	<del>.13</del>
<del>2.50</del>	<del>2.68</del>	<del>.14</del>
<del>2.69</del>	<del>2.87</del>	<del>.15</del>
<del>2.88</del>	<del>3.05</del>	<del>.16</del>
<del>3.06</del>	<del>3.24</del>	<del>.17</del>
<del>3.25</del>	<del>3.42</del>	<del>.18</del>
<del>3.43</del>	<del>3.61</del>	<del>.19</del>
<del>3.62</del>	<del>3.79</del>	<del>.20</del>
<del>3.80</del>	<del>3.98</del>	<del>.21</del>
<del>3.99</del>	<del>4.16</del>	<del>.22</del>
<del>4.17</del>	<del>4.35</del>	<del>.23</del>
<del>4.36</del>	<del>4.53</del>	<del>.24</del>
<del>4.54</del>	<del>4.72</del>	<del>.25</del>
<del>4.73</del>	<del>4.90</del>	<del>.26</del>
<del>4.91</del>	<del>5.09</del>	<del>.27</del>
<del>5.10</del>	<del>5.27</del>	<del>.28</del>
<del>5.28</del>	<del>5.46</del>	<del>.29</del>
<del>5.47</del>	<del>5.64</del>	<del>.30</del>
<del>5.65</del>	<del>5.83</del>	<del>.31</del>
<del>5.84</del>	<del>6.01</del>	<del>.32</del>
<del>6.02</del>	<del>6.20</del>	<del>.33</del>
<del>6.21</del>	<del>6.38</del>	<del>.34</del>
<del>6.39</del>	<del>6.57</del>	<del>.35</del>
<del>6.58</del>	<del>6.75</del>	<del>.36</del>
<del>6.76</del>	<del>6.94</del>	<del>.37</del>
<del>6.95</del>	<del>7.12</del>	<del>.38</del>
<del>7.13</del>	<del>7.31</del>	<del>.39</del>
<del>7.32</del>	<del>7.49</del>	<del>.40</del>
<del>7.50</del>	<del>7.68</del>	<del>.41</del>
<del>7.69</del>	<del>7.87</del>	<del>.42</del>
<del>7.88</del>	<del>8.05</del>	<del>.43</del>
<del>8.06</del>	<del>8.24</del>	<del>.44</del>
<del>8.25</del>	<del>8.42</del>	<del>.45</del>
<del>8.43</del>	<del>8.61</del>	<del>.46</del>
<del>8.62</del>	<del>8.79</del>	<del>.47</del>
<del>8.80</del>	<del>8.98</del>	<del>.48</del>
<del>8.99</del>	<del>9.16</del>	<del>.49</del>
<del>9.17</del>	<del>9.35</del>	<del>.50</del>
<del>9.36</del>	<del>9.53</del>	<del>.51</del>
<del>9.54</del>	<del>9.72</del>	<del>.52</del>
<del>9.73</del>	<del>9.90</del>	<del>.53</del>
<del>9.91</del>	<del>10.09</del>	<del>.54</del>

**RETAIL SALES TAX COLLECTION SCHEDULE**

May 1, 1982

5.9 Percent

~~SALE~~ — ~~TAX~~

<del>.09</del>	<del>.25</del>	<del>.01</del>
<del>.26</del>	<del>.42</del>	<del>.02</del>
<del>.43</del>	<del>.59</del>	<del>.03</del>
<del>.60</del>	<del>.76</del>	<del>.04</del>
<del>.77</del>	<del>.93</del>	<del>.05</del>
<del>.94</del>	<del>1.10</del>	<del>.06</del>
<del>1.11</del>	<del>1.27</del>	<del>.07</del>
<del>1.28</del>	<del>1.44</del>	<del>.08</del>
<del>1.45</del>	<del>1.61</del>	<del>.09</del>
<del>1.62</del>	<del>1.77</del>	<del>.10</del>
<del>1.78</del>	<del>1.94</del>	<del>.11</del>
<del>1.95</del>	<del>2.11</del>	<del>.12</del>
<del>2.12</del>	<del>2.28</del>	<del>.13</del>
<del>2.29</del>	<del>2.45</del>	<del>.14</del>
<del>2.46</del>	<del>2.62</del>	<del>.15</del>
<del>2.63</del>	<del>2.79</del>	<del>.16</del>
<del>2.80</del>	<del>2.96</del>	<del>.17</del>
<del>2.97</del>	<del>3.13</del>	<del>.18</del>
<del>3.14</del>	<del>3.30</del>	<del>.19</del>
<del>3.31</del>	<del>3.47</del>	<del>.20</del>
<del>3.48</del>	<del>3.64</del>	<del>.21</del>
<del>3.65</del>	<del>3.81</del>	<del>.22</del>
<del>3.82</del>	<del>3.98</del>	<del>.23</del>
<del>3.99</del>	<del>4.15</del>	<del>.24</del>
<del>4.16</del>	<del>4.32</del>	<del>.25</del>
<del>4.33</del>	<del>4.49</del>	<del>.26</del>
<del>4.50</del>	<del>4.66</del>	<del>.27</del>
<del>4.67</del>	<del>4.83</del>	<del>.28</del>
<del>4.84</del>	<del>4.99</del>	<del>.29</del>
<del>5.00</del>	<del>5.16</del>	<del>.30</del>
<del>5.17</del>	<del>5.33</del>	<del>.31</del>
<del>5.34</del>	<del>5.50</del>	<del>.32</del>
<del>5.51</del>	<del>5.67</del>	<del>.33</del>
<del>5.68</del>	<del>5.84</del>	<del>.34</del>
<del>5.85</del>	<del>6.01</del>	<del>.35</del>
<del>6.02</del>	<del>6.18</del>	<del>.36</del>
<del>6.19</del>	<del>6.35</del>	<del>.37</del>
<del>6.36</del>	<del>6.52</del>	<del>.38</del>
<del>6.53</del>	<del>6.69</del>	<del>.39</del>
<del>6.70</del>	<del>6.86</del>	<del>.40</del>
<del>6.87</del>	<del>7.03</del>	<del>.41</del>
<del>7.04</del>	<del>7.20</del>	<del>.42</del>
<del>7.21</del>	<del>7.37</del>	<del>.43</del>
<del>7.38</del>	<del>7.54</del>	<del>.44</del>
<del>7.55</del>	<del>7.71</del>	<del>.45</del>
<del>7.72</del>	<del>7.88</del>	<del>.46</del>
<del>7.89</del>	<del>8.05</del>	<del>.47</del>
<del>8.06</del>	<del>8.22</del>	<del>.48</del>
<del>8.23</del>	<del>8.38</del>	<del>.49</del>
<del>8.39</del>	<del>8.55</del>	<del>.50</del>
<del>8.56</del>	<del>8.72</del>	<del>.51</del>
<del>8.73</del>	<del>8.89</del>	<del>.52</del>
<del>8.90</del>	<del>9.06</del>	<del>.53</del>
<del>9.07</del>	<del>9.23</del>	<del>.54</del>
<del>9.24</del>	<del>9.40</del>	<del>.55</del>
<del>9.41</del>	<del>9.57</del>	<del>.56</del>

~~SALE~~ — ~~TAX~~

<del>9.58</del>	<del>9.74</del>	<del>.57</del>
<del>9.75</del>	<del>9.91</del>	<del>.58</del>
<del>9.92</del>	<del>10.08</del>	<del>.59</del>

**RETAIL SALES TAX COLLECTION SCHEDULE**

May 1, 1982

6.1 Percent

~~SALE~~ — ~~TAX~~

<del>.09</del>	<del>.24</del>	<del>.01</del>
<del>.25</del>	<del>.40</del>	<del>.02</del>
<del>.41</del>	<del>.57</del>	<del>.03</del>
<del>.58</del>	<del>.73</del>	<del>.04</del>
<del>.74</del>	<del>.90</del>	<del>.05</del>
<del>.91</del>	<del>1.06</del>	<del>.06</del>
<del>1.07</del>	<del>1.22</del>	<del>.07</del>
<del>1.23</del>	<del>1.39</del>	<del>.08</del>
<del>1.40</del>	<del>1.55</del>	<del>.09</del>
<del>1.56</del>	<del>1.72</del>	<del>.10</del>
<del>1.73</del>	<del>1.88</del>	<del>.11</del>
<del>1.89</del>	<del>2.04</del>	<del>.12</del>
<del>2.05</del>	<del>2.21</del>	<del>.13</del>
<del>2.22</del>	<del>2.37</del>	<del>.14</del>
<del>2.38</del>	<del>2.54</del>	<del>.15</del>
<del>2.55</del>	<del>2.70</del>	<del>.16</del>
<del>2.71</del>	<del>2.86</del>	<del>.17</del>
<del>2.87</del>	<del>3.03</del>	<del>.18</del>
<del>3.04</del>	<del>3.19</del>	<del>.19</del>
<del>3.20</del>	<del>3.36</del>	<del>.20</del>
<del>3.37</del>	<del>3.52</del>	<del>.21</del>
<del>3.53</del>	<del>3.68</del>	<del>.22</del>
<del>3.69</del>	<del>3.85</del>	<del>.23</del>
<del>3.86</del>	<del>4.01</del>	<del>.24</del>
<del>4.02</del>	<del>4.18</del>	<del>.25</del>
<del>4.19</del>	<del>4.34</del>	<del>.26</del>
<del>4.35</del>	<del>4.50</del>	<del>.27</del>
<del>4.51</del>	<del>4.67</del>	<del>.28</del>
<del>4.68</del>	<del>4.83</del>	<del>.29</del>
<del>4.84</del>	<del>4.99</del>	<del>.30</del>
<del>5.00</del>	<del>5.16</del>	<del>.31</del>
<del>5.17</del>	<del>5.32</del>	<del>.32</del>
<del>5.33</del>	<del>5.49</del>	<del>.33</del>
<del>5.50</del>	<del>5.65</del>	<del>.34</del>
<del>5.66</del>	<del>5.81</del>	<del>.35</del>
<del>5.82</del>	<del>5.98</del>	<del>.36</del>
<del>5.99</del>	<del>6.14</del>	<del>.37</del>
<del>6.15</del>	<del>6.31</del>	<del>.38</del>
<del>6.32</del>	<del>6.47</del>	<del>.39</del>
<del>6.48</del>	<del>6.63</del>	<del>.40</del>
<del>6.64</del>	<del>6.80</del>	<del>.41</del>
<del>6.81</del>	<del>6.96</del>	<del>.42</del>
<del>6.97</del>	<del>7.13</del>	<del>.43</del>
<del>7.14</del>	<del>7.29</del>	<del>.44</del>
<del>7.30</del>	<del>7.45</del>	<del>.45</del>
<del>7.46</del>	<del>7.62</del>	<del>.46</del>
<del>7.63</del>	<del>7.78</del>	<del>.47</del>
<del>7.79</del>	<del>7.95</del>	<del>.48</del>
<del>7.96</del>	<del>8.11</del>	<del>.49</del>
<del>8.12</del>	<del>8.27</del>	<del>.50</del>

SALE	TAX
8.28	.51
8.45	.52
8.61	.53
8.78	.54
8.94	.55
9.10	.56
9.27	.57
9.43	.58
9.60	.59
9.76	.60
9.92	.61

SALE	TAX
6.70	.42
6.86	.43
7.02	.44
7.18	.45
7.34	.46
7.50	.47
7.67	.48
7.83	.49
7.99	.50
8.15	.51
8.31	.52
8.47	.53
8.63	.54
8.80	.55
8.96	.56
9.12	.57
9.28	.58
9.44	.59
9.60	.60
9.76	.61
9.92	.62

RETAIL SALES TAX COLLECTION SCHEDULE

May 1, 1982

6.2 Percent

SALE	TAX
.09	.01
.25	.02
.41	.03
.57	.04
.73	.05
.89	.06
1.05	.07
1.21	.08
1.38	.09
1.54	.10
1.70	.11
1.86	.12
2.02	.13
2.18	.14
2.34	.15
2.50	.16
2.67	.17
2.83	.18
2.99	.19
3.15	.20
3.31	.21
3.47	.22
3.63	.23
3.80	.24
3.96	.25
4.12	.26
4.28	.27
4.44	.28
4.60	.29
4.76	.30
4.92	.31
5.09	.32
5.25	.33
5.41	.34
5.57	.35
5.73	.36
5.89	.37
6.05	.38
6.21	.39
6.38	.40
6.54	.41

RETAIL SALES TAX COLLECTION SCHEDULE

May 1, 1982

6.5 Percent

SALE	TAX
.08	.01
.24	.02
.39	.03
.54	.04
.70	.05
.85	.06
1.00	.07
1.16	.08
1.31	.09
1.47	.10
1.62	.11
1.77	.12
1.93	.13
2.08	.14
2.24	.15
2.39	.16
2.54	.17
2.70	.18
2.85	.19
3.00	.20
3.16	.21
3.31	.22
3.47	.23
3.62	.24
3.77	.25
3.93	.26
4.08	.27
4.24	.28
4.39	.29
4.54	.30
4.70	.31
4.85	.32



**SALE TAX**

<del>5.00</del>	<del>5.15</del>	<del>.33</del>
<del>5.16</del>	<del>5.30</del>	<del>.34</del>
<del>5.31</del>	<del>5.46</del>	<del>.35</del>
<del>5.47</del>	<del>5.61</del>	<del>.36</del>
<del>5.62</del>	<del>5.76</del>	<del>.37</del>
<del>5.77</del>	<del>5.92</del>	<del>.38</del>
<del>5.93</del>	<del>6.07</del>	<del>.39</del>
<del>6.08</del>	<del>6.23</del>	<del>.40</del>
<del>6.24</del>	<del>6.38</del>	<del>.41</del>
<del>6.39</del>	<del>6.53</del>	<del>.42</del>
<del>6.54</del>	<del>6.69</del>	<del>.43</del>
<del>6.70</del>	<del>6.84</del>	<del>.44</del>
<del>6.85</del>	<del>6.99</del>	<del>.45</del>
<del>7.00</del>	<del>7.15</del>	<del>.46</del>
<del>7.16</del>	<del>7.30</del>	<del>.47</del>
<del>7.31</del>	<del>7.46</del>	<del>.48</del>
<del>7.47</del>	<del>7.61</del>	<del>.49</del>
<del>7.62</del>	<del>7.76</del>	<del>.50</del>
<del>7.77</del>	<del>7.92</del>	<del>.51</del>
<del>7.93</del>	<del>8.07</del>	<del>.52</del>
<del>8.08</del>	<del>8.23</del>	<del>.53</del>
<del>8.24</del>	<del>8.38</del>	<del>.54</del>
<del>8.39</del>	<del>8.53</del>	<del>.55</del>
<del>8.54</del>	<del>8.69</del>	<del>.56</del>
<del>8.70</del>	<del>8.84</del>	<del>.57</del>
<del>8.85</del>	<del>8.99</del>	<del>.58</del>
<del>9.00</del>	<del>9.15</del>	<del>.59</del>
<del>9.16</del>	<del>9.30</del>	<del>.60</del>
<del>9.31</del>	<del>9.46</del>	<del>.61</del>
<del>9.47</del>	<del>9.61</del>	<del>.62</del>
<del>9.62</del>	<del>9.76</del>	<del>.63</del>
<del>9.77</del>	<del>9.92</del>	<del>.64</del>
<del>9.93</del>	<del>10.07</del>	<del>.65</del>

Note: Brackets are repetitive above \$10.) The schedules are in the amounts 5.9%, 6.2%, 6.4%, 6.5%, 7.2%, 7.3%, 7.5%, 7.6%, 7.7%, 7.8%, 7.9%, and 8.1%. These schedules have been distributed to all retailers registered with the department of revenue. Additional copies of the schedules may be obtained by writing to Department of Revenue, Office Operations, 4th Floor, General Administration Building, Olympia, Washington 98504 or by contacting one of the local department of revenue district offices listed below.

2700 Simpson Avenue  
P.O. Box 1018  
ABERDEEN 98520  
(206) 533-9312

2500 Elm Street, Suite C  
P.O. Box 1176  
BELLINGHAM 98227  
(206) 676-2114

245 4th Street Bldg., Rm. 408  
BREMERTON 98310  
(206) 478-4961

2020 35th Street  
P.O. Box 6  
EVERETT 98206  
(206) 259-8566

711 Vine Street

919 SW Grady Way  
P.O. Box 877  
RENTON 98057  
(206) 382-6100

710 Second Avenue  
901 Dexter Horton Bldg.  
SEATTLE 98104  
(206) 464-6827

300 Northtown Office Bldg.  
North 4407 Division  
SPOKANE 99207  
(509) 456-3140

Professional Bldg., Rm. 207  
705 South 9th  
TACOMA 98405  
(206) 593-2874

311 West 11th

P.O. Box 240  
KELSO 98626  
LONGVIEW/KELSO OFFICE  
(206) 577-2015

1024 Cleveland, Suite B  
P.O. Box 278  
MOUNT VERNON 98273  
(206) 336-9616

9th and Columbia Bldg.  
P.O. Box 448  
OLYMPIA 98504  
(206) 753-5510

2110 West Henry  
PASCO 99301  
(509) 545-2442

1601 East Front Street  
Bldg. 2, Suite A  
P.O. Box 400  
PORT ANGELES 98362  
(206) 457-8503

P.O. Box 787  
VANCOUVER 98666  
(206) 696-6151

1815 Portland Avenue  
WALLA WALLA 99362  
(509) 527-4412

1139 Princeton  
WENATCHEE 98801  
(509) 663-9714

214 Washington Mutual Bldg.  
YAKIMA 98907  
(509) 575-2783

**WSR 83-06-048**

**ADOPTED RULES**

**DEPARTMENT OF AGRICULTURE**

[Order 1786—Filed March 1, 1983]

I, M. Keith Ellis, director of the Department of Agriculture, do promulgate and adopt at General Administration Building, Olympia, Washington, the annexed rules regarding horticultural inspection fees, chapter 16-400 WAC.

This action is taken pursuant to Notice No. WSR 83-03-058 filed with the code reviser on January 19, 1983. 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 15.17 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 March 1, 1983.

By M. Keith Ellis  
Director

AMENDATORY SECTION (Amending Order 1578, filed 5/17/78)

WAC 16-400-150 SHIPPING PERMITS. By law, each shipment of apples, apricots, Italian prunes, peaches, pears, ((and)) certified seed potatoes, and asparagus must be covered by a shipping permit for grade; and cherries for freedom from cherry fruit fly larvae, whether certified or not. Shipments to processors of apricots, cherries, peaches, ((and)) prunes, and asparagus do not require a shipping permit. If the lot has been certified for each shipment by car or truck, a permit will be issued without additional charge. If the lot has not been certified, the basis of charges shall be as follows:

(1) Apples, pears, and soft fruits (carlots and trucklots).

(a) ~~((80 or less containers of 28 lbs to 65 lbs, 5¢ per container. 81 and over, the shipping permit shall be 2/3 the fee for grade and condition certificate with a minimum fee of \$4.00.~~

~~(i) 17 to 27 lbs = two containers = 5¢ up to the \$4.00 minimum. 16 lbs and under = three containers = 5¢ up to the \$4.00 minimum.)~~

Shipping permit fees:

(i) Containers of twenty-eight pounds to sixty-five pounds, eighty or less . . . . . per container . \$0.05

(ii) Containers of twenty-eight pounds to sixty-five pounds, eighty-one and over . . . . . two-thirds the fee for grade and condition certificate.

(Minimum fee . . . . . \$4.00)

(iii) Seventeen to twenty-seven pounds—two containers . . . . . up to minimum . . . . . \$0.05

(Minimum fee . . . . . \$4.00)

(iv) Sixteen pounds and under—three containers . . . . . up to minimum . . . . . \$0.05

(Minimum fee . . . . . \$4.00)

(b) Permit to ship apples and/or pears to a by-product plant outside the district ((=)) . . . . . \$2.00((-)).

(Permits to by-product plants are for transportation only in accordance with state law.)

(2) Vegetables.

(a) Potatoes - ~~((minimum charge))~~ per permit ~~((2/3)),~~ two-thirds of certificate charge ((or \$4.00 minimum)). (Minimum fee . . . . . \$4.00)

(b) Processing plant or livestock feed shipments - for transportation only, in accordance with state law . . . . . per load . . . . . \$2.00 ((per load))  
OR where point of origin or out-of-district inspection required . . . . . per ton . . . . . \$((-50 per ton))  
0.50

(c) Certified seed potatoes . . . . . per cwt . . . . . ((4¢))  
\$0.04

~~((PROVIDED, That))~~  
No charge shall be made for shipping permits when seed potatoes are grown, graded and shipped in full compliance with the provisions of the rules for the certification of seed potatoes, and the grades and standards for certified seed potatoes. ~~((Shipments not in compliance with the above shall be charged in accordance~~

~~with WAC 16-400-150(2)(c).))~~

(d) Asparagus  
(i) Containers of twenty-six to thirty-five pounds, eighty or less . . . . . per container . . . . . \$0.05

(ii) Containers of twenty-six to thirty-five pounds, eighty-one and over . . . . . two-thirds the fee for grade and condition certificate. (Minimum fee . . . . . \$4.00)

(iii) Twelve to twenty-five pounds—two containers . . . . . up to minimum . . . . . \$0.05 (Minimum fee . . . . . \$4.00)

(3) Container weight, or checkloading certificates ~~((shall be 1 cent))~~ . . . . . per container((, except that the minimum charge shall be)) . . . . . \$0.01  
(Minimum fee . . . . . \$12.00((-))

REPEALER

The following sections of the Washington Administrative Code are repealed:

- ✓ (1) WAC 16-400-001 PROMULGATION.
- ✓ (2) WAC 16-400-003 PROMULGATION.
- ✓ (3) WAC 16-400-004 PROMULGATION.
- ✓ (4) WAC 16-400-005 PROMULGATION.
- ✓ (5) WAC 16-400-006 PROMULGATION.
- ✓ (6) WAC 16-400-00601 PROMULGATION.

**WSR 83-06-049**

**ADOPTED RULES**

**DEPARTMENT OF AGRICULTURE**

[Order 1787—Filed March 1, 1983]

I, M. Keith Ellis, director of the Department of Agriculture, do promulgate and adopt at General Administration Building, Olympia, Washington, the annexed rules regarding asparagus and adding new sections to chapter 16-409 WAC.

This action is taken pursuant to Notice No. WSR 83-03-059 filed with the code reviser on January 19, 1983. 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 15.17 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 March 1, 1983.

By M. Keith Ellis  
Director

### NEW SECTION

WAC 16-409-015 DEFINITIONS. (1) "Clean" means that the asparagus is free from excessive dirt, dust, residue or foreign matter.

(2) "Fresh" means that the stalk is not limp or flabby.

(3) "Diameter" means the greatest thickness of the stalk measured at a point one inch from the butt.

(4) "Fairly uniform in length" means that stalks within a container shall vary not more than one and one-half inches in length.

(5) "White" means that portion of the stalk near the butt, which is white in color or light purple over white. White is measured from the extreme tip of the butt to the point of beginning of green color.

(6) "Green" means that portion of the stalk having green color, purplish-green or greenish-purple color, and purple at the tip.

(7) "Damage" means any defect, or combination of defects, which materially affects the appearance, or the edible or marketing quality of the stalk.

(8) "Serious damage" means any defect, or combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the stalk.

(9) "Badly misshapen" means the stalk is so badly flattened, crooked or otherwise so badly deformed that its appearance is seriously affected.

(10) "Fresh asparagus" as used in the standards means a lot of asparagus marketed for the purpose of fresh consumption.

(11) "Lot" means any number of containers of fresh asparagus being offered as a unit for the purpose of inspection, sale, or shipment.

(12) "Shipment" means any number of containers of fresh asparagus transported on a single conveyance from the area of production.

(13) "Field container" means an open lug made of wood, plastic, or similar material and used repetitively for field harvesting.

### AMENDATORY SECTION (Amending Order 795, Regulation 2 (1), (2), effective 2/16/60)

WAC 16-409-020 WASHINGTON STANDARDS—WASHINGTON NO. 1 GRADE(~~—TOLERANCES FOR DIAMETER AND LENGTH~~). (1) (~~Defined:~~) Washington no. 1 shall consist of:

(a) Clean, fresh stalks of asparagus, fairly uniform in length, which are not wilted or crooked; which (~~do not show broken or spreading tips and which~~) are free from damage caused by spreading or broken tips, dirt, disease, insects or mechanical or other means ((and)). Each stalk shall (~~not~~) show not more than ((+1/2)) one and one-half inches of white.

(b) Each stalk shall have a diameter of not less than (~~(3/8)) three-eighths of an inch ((measured at a point + inch from the butt. In order to allow for variations incident to proper grading and handling, not more than 10~~

per cent, by count, of any lot may be below the requirements of this grade. An additional 10 per cent may be allowed for white)).

(2) (~~Tolerances for diameter and length. In order to allow for variations in diameter and length incident to proper sizing, not more than a total of 10 per cent, by count, of the stalks in any container may be below the prescribed minimum diameter, and/or any stalks below the minimum length, as defined under, "fairly uniform in length":~~) Washington no. 2 shall consist of:

(a) Clean, fresh stalks of asparagus, fairly uniform in length, which are not wilted and not badly misshapen; which are free from serious damage caused by spreading or broken tips, dirt, disease, insects, mechanical or other means. Stalks shall show not more than two inches of white.

(b) Each stalk shall have a diameter of not less than one-fourth inch.

(3) Washington consumer pack shall consist of:

(a) Clean, fresh stalks of asparagus and may be of random length, which are not wilted or crooked; which are free from damage caused by spreading or broken tips, dirt, disease, insects, mechanical or other means. Stalks shall show not more than two inches of white.

(b) Each stalk shall have a diameter of not less than one-fourth inch.

(4) Culls.

(a) Asparagus which is not graded in conformity with Washington no. 1, Washington no. 2, Washington consumer pack, U.S. no. 1, or U.S. no. 2 shall be designated as "culls."

(b) Culls shall not be marketed if more than ten percent by count of the stalks show white in excess of two inches.

(5) Any lot of fresh asparagus, including "culls" marketed within the state of Washington, shall have not more than ten percent of stalks with white in excess of two inches.

### AMENDATORY SECTION (Amending Order 795, Regulation 2 (3), (4), effective 2/16/60)

WAC 16-409-030 (~~WASHINGTON STANDARDS—WASHINGTON NO. 2 GRADE~~) TOLERANCES FOR DIAMETER AND LENGTH. (1) ((Defined: Washington no. 2 shall consist of clean, fresh stalks of asparagus, fairly uniform in length, which are not wilted and not badly misshapen; which are free from serious damage caused by spreading or broken tips, dirt, disease, insects, or mechanical or other means, and shall not show more than 2 inches of white and shall not be less than 1/4 inches in diameter at a point approximately 1 inch from the butt.)) In order to allow for variations incident to proper grading and handling((, not more than 10 per cent, by count, of any lot may be below the requirements of this grade. An additional 10 per cent may be allowed for white)) in the Washington no. 1, Washington no. 2, and Washington consumer pack grades, the following tolerances are provided as specified:

(a) Ten percent, by count, for stalks failing to meet the requirements of the grade, including therein, not more than one percent for stalks affected by decay.

(b) An additional ten percent, by count, for stalks showing excessive white.

(2) ~~((Tolerances for diameter and length.))~~ In order to allow for variations in diameter and length incident to proper sizing ~~((; not more than a total of 10 per cent, by count, of the stalks in any container may be below the prescribed))~~ in the Washington no. 1, Washington no. 2, and Washington consumer pack grades, the following tolerance is provided as specified: Ten percent, by count, for stalks failing to meet the required minimum diameter, and/or ((any stalks below the minimum)) length, as defined under, "fairly uniform in length".

NEW SECTION

WAC 16-409-035 APPLICATION OF TOLERANCES. Individual samples are subject to the following limitations: PROVIDED, That the averages for the entire lot are within the tolerances specified for the grade.

(1) For a tolerance of ten percent or more, individual samples shall contain not more than one and one-half times the tolerance specified.

(2) For a tolerance of less than ten percent, individual samples shall contain not more than double the tolerance specified.

AMENDATORY SECTION (Amending Order 795, Regulation 2(7), effective 2/16/60)

WAC 16-409-060 WASHINGTON STANDARDS—SIZE CLASSIFICATIONS. In addition to the statement of grade, any lot of asparagus may be classified as Washington small ~~((; medium))~~ or Washington large, if eighty percent, by count, of the stalks in any lot conform to the following ~~((requirements))~~ diameters for such ~~((sizes.))~~ classifications:

Washington Small <del>((3/8 to 9/16))</del> <u>(4/16) 1/4 inch diameter and larger</u>	<del>((Medium 9/16 to 3/4 inch inclusive))</del>	Washington Large <del>((Over 3/4))</del> <u>(6/16) 3/8 inch diameter and larger</u>
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~~((The foregoing table refers to the maximum diameter of the stalks measured at a point approximately 1 inch from the butt.))~~

NEW SECTION

WAC 16-409-065 CONTAINERS. (1) Fresh asparagus shall be marketed in containers which are clean and free from dirt, trash, and visible contaminates.

(2) Fresh asparagus of the Washington no. 1, Washington no. 2, Washington consumer pack, U.S. no. 1, and U.S. no. 2 grades shall be marketed in pyramid type containers with a moisture pad, or in fibre-board of wooden "Western Lug" containers having inside dimensions of approximately seven, by eleven and one-half, by eighteen inches, or capacity of thirteen hundred fifty to fifteen hundred fifty cubic inches. Western lugs shall contain not less than twenty pounds net weight.

(3) Cull shall be marketed in pyramid type containers with moisture pads.

(4) Fresh asparagus in field containers shall not be marketed.

(5) The director may allow the use of containers not specified in subsections (2) and (3) of this section, as

experimental containers for the purpose of test or trial marketing.

AMENDATORY SECTION (Amending Order 795, Regulation 3, effective 2/16/60)

WAC 16-409-070 ((WASHINGTON STANDARDS—MARKINGS)) MARKING REQUIREMENTS. (1) Open or closed containers shall be conspicuously and legibly ~~((stamped))~~ marked with the name and address of ~~((person, firm or association shipping the asparagus))~~ the grower, packer, or distributor, the grade, and net weight.

(2) The grade shall be ~~((legibly stamped))~~ marked in letters at least ~~((3/8))~~ three-eighths inch ~~((type))~~ in height.

(3) If culls are marketed, the word "Culls" shall be conspicuously and legibly marked in letters at least one inch in height and shall be predominant in size over other markings.

(4) All required markings shall be placed on one end of the container, and may be duplicated on opposite end of container.

NEW SECTION

WAC 16-409-075 EXEMPTION. Any individual shipment of fresh asparagus shall be exempted from the requirements of WAC 16-409-015 through 16-409-060, 16-409-065(1), (2), (3) and (5); and 16-409-070 when:

(1) The shipment consists of asparagus for home use and not for resale.

(2) The shipment does not exceed two hundred fifty pounds net weight.

NEW SECTION

WAC 16-409-085 ADOPTION OF UNITED STATES STANDARDS AS WASHINGTON STATE STANDARDS. In addition to the standards for asparagus as set forth in this chapter the United States standards for grades of fresh asparagus, as they apply to U.S. no. 1 and U.S. no. 2, are hereby adopted as additional standards for the state of Washington for asparagus.

REPEALER

The following sections of the Washington Administrative Code are repealed:

(1) WAC 16-409-001 PROMULGATION.

(2) WAC 16-409-010 WASHINGTON STANDARDS—VARIATIONS BETWEEN LOT AND INDIVIDUAL PACKAGE TOLERANCES.

(3) WAC 16-409-040 CULLS.

(4) WAC 16-409-050 WASHINGTON STANDARDS—DEFINITION OF TERMS.

(5) WAC 16-409-080 UNITED STATES STANDARDS FOR FRESH ASPARAGUS—AUTHORIZED U.S. GRADES—APPLICATION OF TOLERANCES.

(6) WAC 16-409-090 UNITED STATES STANDARDS FOR FRESH ASPARAGUS—U.S. NO. 1 GRADE.

(7) WAC 16-409-100 UNITED STATES STANDARDS FOR FRESH ASPARAGUS—U.S. NO. 2 GRADE.

(8) WAC 16-409-110 UNITED STATES STANDARDS FOR FRESH ASPARAGUS—DIAMETER CLASSIFICATION.

(9) WAC 16-409-130 UNITED STATES STANDARDS FOR FRESH ASPARAGUS—STALK LENGTH.

(10) WAC 16-409-140 UNITED STATES STANDARDS FOR FRESH ASPARAGUS—DEFINITION OF TERMS.

**WSR 83-06-050**

**ADOPTED RULES**

**DEPARTMENT OF AGRICULTURE**

[Order 1788—Filed March 1, 1983]

I, M. Keith Ellis, director of the Department of Agriculture, do promulgate and adopt at General Administration Building, Olympia, Washington, the annexed rules regarding movement of fruits and vegetables from area of production, chapter 16-461 WAC.

This action is taken pursuant to Notice No. WSR 83-03-060 filed with the code reviser on January 19, 1983. 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 15.17 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 March 1, 1983.

By M. Keith Ellis  
Director

AMENDATORY SECTION (Amending Order 1523, filed 4/20/77)

WAC 16-461-010 INSPECTION CERTIFICATE AND/OR PERMIT REQUIRED. (1) No person shall ship ((or)), transport or accept for shipment or transportation from the area of production without an inspection and the issuance of a certificate and/or a permit, allowing such shipment or movement by the division of plant industry of the department of agriculture, any of the following agricultural products:

(a) Apricots – in closed or open containers for fresh shipment.

(b) Italian prunes – in closed or open containers for fresh shipment.

(c) Peaches – in closed or open containers for fresh shipment.

(d) Potatoes – in closed or open containers, or bulk, for certified seed.

(e) Cherries – PROVIDED, That no permit shall be issued on cherries infested with live cherry fruit fly larvae.

(f) Apples – Pears (summer, fall and winter) – in closed or open containers, or bulk for shipment: PROVIDED, That pears for processing entering intrastate commerce will not require a permit for shipment: ((FURTHER)) PROVIDED FURTHER, That apples and/or pears may be shipped or transported if accompanied by certificates of compliance issued by the shipper or packer of ((such)) apples and/or pears, having the approval of the director to issue ((such)) the certificates of compliance.

(g) Asparagus – in closed or open containers for fresh shipment: PROVIDED, That asparagus may be shipped or transported if accompanied by certificates of compliance issued by the shipper or packer of the asparagus, having the approval of the director to issue the certificates of compliance.

(2) (a) Any shipper or packer of apples, apricots, cherries, pears, peaches, ((or)) prunes, or asparagus may petition the director for authority to issue certificates of compliance for each season. ((Such)) The authority shall be limited to the issuance of certificates of compliance for apples, apricots, cherries, pears, peaches, ((and)) prunes, and asparagus under ((said)) the applicant's direct control or being handled at ((said)) the shipper's or packer's facilities.

(b) ((Such)) The certificate of compliance shall be issued at time of shipment by the shipper or packer authorized to do so: PROVIDED, That the apples and/or pears and asparagus about to be shipped or transported are in full compliance with the requirements of chapter 15.17 RCW, regulations adopted thereunder and administrative directives of the director: ((FURTHER)) PROVIDED FURTHER, That apricots, cherries, peaches, or prunes about to be shipped or transported are in full compliance with the federal marketing order requiring quality and condition certification and Washington state lot identification.

(c) The director's approval to issue certificates of compliance shall be revoked for cause, and ((such)) that cause shall be the shipper's or packer's failure to comply with the requirements of paragraph (2)(b) of these regulations. The revocation shall be for the current season.

(d) Any shipper or packer whose authority to issue certificates of compliance has been revoked by the director shall be subject to those provisions of chapter 15.17 RCW and the regulations requiring the issuance of a shipping permit by the director before apples, apricots, cherries, pears, peaches, ((and)) prunes, and asparagus may be shipped or transported.

(e) Certificates of compliance shall be on forms approved and issued by the director of agriculture. Each ((such)) certificate of compliance shall be stamped with a number assigned to the authorized shipper or packer.

(f) Any shipper or packer authorized to issue certificates of compliance shall deposit with the director of agriculture at the regular base fee equivalent to that charged by the director for a shipping permit, for each certificate of compliance issued by the authorized shipper or packer. ((Such)) The base fees shall be deposited

with the director of agriculture in the same manner as fees for shipping permits.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

✓ WAC 16-461-005 PROMULGATION.

**WSR 83-06-051  
ADOPTED RULES  
PARKS AND RECREATION  
COMMISSION**

[Order 65—Filed March 2, 1983]

Be it resolved by the Washington State Parks and Recreation Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to moorage and use of marine facilities, WAC 352-12-010.

This action is taken pursuant to Notice No. WSR 83-02-057 filed with the code reviser on January 5, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 43.51.040 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 February 17, 1983.

By Durand A. Cox  
Chairman

**AMENDATORY SECTION** (Amending Order 59, filed 3/31/82)

✓ WAC 352-12-010 MOORAGE AND USE OF MARINE FACILITIES. (1) No person or persons shall moor or berth a vessel of any type in a commission owned or operated park or marine area except in designated marine park areas and at designated facilities.

(2) Use of designated marine park areas and facilities by commercial vessels is prohibited except for the loading and unloading of passengers transported for recreation purposes: PROVIDED HOWEVER, Park managers and park rangers may allow extended or night moorage at any facility during the period September 15 through April 30, inclusive, if in the manager's or ranger's sole discretion sufficient space is reasonably available therefor.

(3) In order to afford the general public the greatest possible use of marine park facilities, continuous moorage at a facility by the same vessel, person or persons shall be limited to three consecutive nights, unless otherwise posted by the commission at any individual facility or area.

(4) In order to maximize usable space at mooring floats, boaters shall, whenever necessary, moor their vessels as close as reasonably possible to vessels already moored. Rafting of vessels is also permitted, within posted limits, but not mandatory.

(5) Use of any state park marine facility shall be on a first-come, first-served basis only. Reserving or retaining space to moor or berth a vessel at any facility, by means of a dinghy or any method other than occupying the space by the vessel to be moored, shall not be permitted.

(6) Dinghies shall be tied up only in designated spaces on moorage floats.

(7) Open flames or live coals, or devices containing or using open flames, live coals or combustible materials, including but not limited to barbecues, hibachis, stoves and heaters, shall be permitted on state park floats or piers only when placed on a fireproof base and the fire is located away from fuel tanks and/or fuel vents. In case of dispute related to fire safety, the ranger shall make final determination.

**WSR 83-06-052  
ADOPTED RULES  
PLANNING AND COMMUNITY  
AFFAIRS AGENCY**

**(Drug Abuse Prevention Office)**  
[Order 83-01—Filed March 2, 1983]

I, Chuck Clarke, assistant director of the Planning and Community Affairs Agency, do promulgate and adopt at Ninth and Columbia Building, Olympia, Washington, the annexed rules relating to the state drug abuse prevention program, Title 167 WAC Drug Abuse Prevention Office, WAC 167-04-010 office purpose, WAC 167-04-030 office organization, WAC 167-04-050 Appearance and practice before office—Who may appear, WAC 167-06-010 purpose of chapter, WAC 167-06-020 availability of public records and office procedures applicable to such availability, and WAC 167-08-010 uniform procedural rules.

This action is taken pursuant to Notice No. WSR 82-07-084 filed with the code reviser on March 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 42.17.250 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 March 2, 1983.

By Chuck Clarke  
Assistant Director

**REPEALER**

✓ Chapter 167-04 of the Washington Administrative Code is repealed as follows:

- X (1) WAC 167-04-010 OFFICE PURPOSE.
- X (2) WAC 167-04-030 OFFICE ORGANIZATION.
- X (3) WAC 167-04-050 APPEARANCE AND PRACTICE BEFORE OFFICE—WHO MAY APPEAR.

**REPEALER**

Chapter 167-06 of the Washington Administrative Code is repealed as follows:

- X (1) WAC 167-06-010 PURPOSE OF CHAPTER.
- X (2) WAC 167-06-020 AVAILABILITY OF PUBLIC RECORDS AND OFFICE PROCEDURES APPLICABLE TO SUCH AVAILABILITY.

**REPEALER**

Chapter 167-08 of the Washington Administrative Code is repealed as follows:

- X WAC 167-08-010 UNIFORM PROCEDURAL RULES.

**WSR 83-06-053  
PROPOSED RULES  
PRODUCTIVITY BOARD  
[Filed March 2, 1983]**

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

- New WAC 383-06-010 Purpose.
- New WAC 383-06-020 Definitions.
- New WAC 383-06-030 Functions of the board.
- New WAC 383-06-040 Duties of the program administrator.
- New WAC 383-06-050 Appointment and responsibilities of agency coordinators.
- New WAC 383-06-060 Responsibilities of evaluators.
- New WAC 383-06-070 Procedures for processing multi-agency suggestions.
- New WAC 383-06-080 Eligibility to participate.
- New WAC 383-06-090 Suggestion format.
- New WAC 383-06-100 Suggestion acceptability.
- New WAC 383-06-110 Eligibility for awards.
- New WAC 383-06-120 Amount of awards.
- New WAC 383-06-130 Recognition of merit.
- New WAC 383-06-140 Appeals;

that the agency will at 9:00 a.m., Friday, April 8, 1983, in the Department of Personnel Board Room, 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 chapter 41.60 RCW.

The specific statute these rules are intended to implement is chapter 41.60 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 1, 1983.

Dated: March 2, 1983  
By: Carolyn W. Smith  
Program Administrator

**STATEMENT OF PURPOSE**

New WAC 383-06-010.

Title: Purpose.

Purpose: States intent of the chapter.

Summary: Provides guidelines for Productivity Board incentive programs.

Reason: To stipulate program procedures and policies.

New WAC 383-06-020.

Title: Definitions.

Purpose: Defines commonly used terms used throughout Title 383 WAC.

Summary: States meaning of board, act, agency, program, employee, suggestion, and multi-agency suggestion.

Reason: To provide understanding and consistent use of terminology.

New WAC 383-06-030.

Title: Functions of the board.

Purpose: Delineates duties of board members.

Summary: States minimum number of meetings, number of members making a quorum, voting rights, and board responsibilities, such as, policy development, rule adoption, and award determinations.

Reason: To set forth board responsibilities in order to implement chapter 41.60 RCW.

New WAC 383-06-040.

Title: Duties of the program administrator.

Purpose: States responsibilities of the program administrator.

Summary: Lists duties of the program administrator, including, records maintenance, rule proposals, staff supervision, and agency interaction.

Reason: To help implement chapter 41.60 RCW.

New WAC 383-06-050.

Title: Appointment and responsibilities of agency coordinators.

Purpose: Establishes appointment of agency coordinators by agency heads and defines areas of responsibility.

Summary: States duties of agency coordinators, including program promotion, records management, evaluator selection and follow-up, and interaction with others.

Reason: To implement chapter 41.60 RCW.

New WAC 383-06-060.

Title: Responsibilities of evaluators.

Purpose: Establishes evaluator's responsibilities in reviewing the feasibility of a suggestion.

Summary: States criteria evaluators should consider in determining benefits of an idea, recommendations, and time limits.

Reason: To implement chapter 41.60 RCW.

New WAC 383-06-070.

Title: Procedures for processing multi-agency suggestions.

Purpose: Sets forth procedures for handling suggestions affecting two or more agencies.

Summary: Establishes method for processing a suggestion that impacts more than one agency, including nomination, evaluation, and recommendation.

Reason: To implement chapter 41.60 RCW.

New WAC 383-06-080.

Title: Eligibility to participate.

Purpose: Establishes criteria for employee eligibility in participating in the suggestion program.

Summary: States which employees can and cannot participate in the program by submitting suggestions outside their normal line of duty.

Reason: To implement chapter 41.60 RCW.

New WAC 383-06-090.

Title: Suggestion format.

Purpose: Identifies information required for suggestions to be accepted by the Productivity Board.

Summary: States that suggestions submitted to the program administrator must include a summary of present and proposed methods or practices, anticipated benefits and savings, and pertinent information about the suggester.

Reason: To implement chapter 41.60 RCW.

New WAC 383-06-100.

Title: Suggestion acceptability.

Purpose: Defines criteria for acceptable suggestions and disqualifying circumstances.

Summary: States that acceptable suggestions improve the efficiency and/or effectiveness of state government through ideas which may reduce waste, conserve energy, improve services or working conditions, save time and/or money. Ineligible suggestions include those that fall within the realm of job requirements, duplicate previous ideas, deal with routine maintenance, or would personally benefit the suggester.

Reason: To implement chapter 41.60 RCW.

New WAC 383-06-110.

Title: Eligibility for awards.

Purpose: States who can and cannot receive awards for adopted suggestions.

Summary: Sets forth criteria for those ineligible to receive awards, including Productivity Board members and staff, suggesters submitting an idea they have power to implement or would benefit from personally. Qualified employees may receive awards for adopted suggestions.

Reason: To implement chapter 41.60 RCW.

New WAC 383-06-120.

Title: Amount of awards.

Purpose: States minimum and maximum award limits and other restrictions placed on awards.

Summary: Establishes minimum cash award as \$25 with maximum award the amount allowed by RCW 41.60.040. Cash awards are taxable and cannot be used in computing retirement.

Reason: To implement chapter 41.60 RCW.

New WAC 383-06-130.

Title: Recognition of merit.

Purpose: States conditions when board may issue certificates in lieu of or in addition to cash awards.

Summary: Sets forth circumstances when board may give non-cash awards, including when it cannot be proved action taken was caused by suggestion or when

the suggestion has been submitted more than 60 days after implementation.

Reason: To implement chapter 41.60 RCW.

New WAC 383-06-140.

Title: Appeals.

Purpose: States procedures for appeals.

Summary: Sets forth procedures for filing an appeal, including time limits for filing and for right to a suggestion previously rejected but subsequently implemented.

Reason: To implement chapter 41.60 RCW.

Statutory Authority: Chapter 41.60 RCW.

Responsibility for Drafting: Carolyn W. Smith, Program Administrator, The Productivity Board, Box 1789, MS: FE-11, Olympia, WA 98504; Implementation: All agencies; and Enforcement: The Productivity Board.

Proposed by: The Productivity Board, governmental agency.

Chapter 383-06 WAC  
GUIDELINES FOR THE PRODUCTIVITY BOARD PROGRAMS

NEW SECTION

WAC 383-06-010 PURPOSE. The purpose of this chapter is to provide guidelines for two incentive programs developed and administered by the productivity board under the authority of chapter 41.60 RCW. WAC 383-06-020 through 383-06-140 refer to the employee suggestion program. Rules for the incentive pay program begin with WAC 383-06-150.

NEW SECTION

WAC 383-06-020 DEFINITIONS. As used in these rules, unless the context requires otherwise:

- (1) "Board" means the productivity board.
- (2) "Program" means the employee suggestion program developed by the board under RCW 41.60.020.
- (3) "The act" referred to in these rules is chapter 41.60 RCW.
- (4) "Employee" is any person subject to chapter 41.06 or 28B.16 RCW.
- (5) "Suggestion" is a unique, useful or workable, constructive proposal offering a specific change or form of improvement which contributes to state efficiency, service, safety, economy or employee well-being.
- (6) "Agency" includes every subdivision of government which is eligible to participate under chapter 41.60 RCW.
- (7) "Multi-agency suggestion" meets the criteria for a suggestion, as defined in WAC 383-06-100, and in addition has one or more of the following characteristics:
  - (a) Requires cooperative evaluation or action by two or more agencies.
  - (b) Anticipates potential joint savings for two or more agencies in excess of fifty thousand dollars annually.
  - (c) Requires statutory support for implementation.

NEW SECTION

WAC 383-06-030 FUNCTIONS OF THE BOARD. (1) The board shall meet upon the call of the chairman or a majority of the board at least four times per year. Four voting members shall constitute a quorum. Ex officio members may not vote.

- (2) The responsibilities of the board shall include:
  - (a) Making the final determination as to whether or not an award should be made and the nature and extent of any award or recognition given.
  - (b) Adopting rules and regulations necessary for the administration of the act.
  - (c) Establishing policies under which the program shall be promoted and administered, including criteria for suggestion acceptability for evaluation and the granting of awards.
  - (d) Hearing of appeals pursuant to WAC 383-06-140.



(e) Evaluate multi-agency suggestions pursuant to WAC 383-06-070.

#### NEW SECTION

WAC 383-06-040 DUTIES OF THE PROGRAM ADMINISTRATOR. The program administrator shall be responsible and accountable to the board for the administrative work of the program, and shall:

- (1) Attend all meetings of the board, act as its executive secretary, record its official actions, and maintain minutes of its proceedings.
- (2) Propose rules and regulations appropriate for the administration of the program.
- (3) Direct the activity of subordinate staff.
- (4) Report to agencies about adopting suggestions, indicating those requiring a post audit.
- (5) Establish and maintain records showing the use and effectiveness of the system, including the participation rate and results of involved agencies.
- (6) Interact with agency coordinators regarding program promotion and participation.
- (7) Perform other duties as required by the board.

#### NEW SECTION

WAC 383-06-050 APPOINTMENT AND RESPONSIBILITIES OF AGENCY COORDINATORS. Each state agency head shall appoint one or more coordinator(s) who shall function as agency liaison with the board and shall be responsible to:

- (1) Promote the program among agency employees.
- (2) Distribute suggestion forms in their agency.
- (3) Effect timely review and evaluation of all suggestions referred by the secretary.
- (4) Document all agency evaluations, and, for those suggestions adopted:
  - (a) Maintain records of the first-year fiscal impact of adopted suggestions on agency operation.
  - (b) Monitor adopted suggestions and implementation by the agency.
  - (c) Notify the employee(s) who made the suggestion within five working days of its implementation.
- (5) Represent the agency in liaison with other agencies on suggestions of mutual interest.

#### NEW SECTION

WAC 383-06-060 RESPONSIBILITIES OF EVALUATORS.

- (1) Evaluators shall have a clear understanding of what is being suggested and how it could conceivably be used by the agency.
- (2) Evaluators shall determine the benefits of the suggestion which may include, but are not limited to:
  - (a) Savings in time, money, materials;
  - (b) Improved service or product;
  - (c) Eliminated waste or duplication.
- (3) Evaluators shall also consider:
  - (a) Cost effectiveness;
  - (b) Scope of application;
  - (c) Practicality of implementation.
- (4) Evaluators shall review the suggestion in timely manner, recommending adoption, partial adoption, or rejection. Suggestions shall be evaluated and returned to the agency coordinator within thirty days.

#### NEW SECTION

WAC 383-06-070 PROCEDURES FOR PROCESSING MULTI-AGENCY SUGGESTIONS. The program administrator will nominate to the board any suggestion which meets the criteria enumerated in WAC 383-06-020(7), following processing according to procedures developed in accordance to WAC 383-06-100. If the board approves nomination, it will coordinate administration of the suggestion through the multi-agency evaluation processing. Such coordination may entail:

- (1) Obtaining all pertinent information concerning the merits of the suggestion.
- (2) Making formal report to the office of the governor describing the suggestion, its possible advantages and disadvantages, potential benefits, savings or enhancements to safety, and necessary administrative and legislative action required for implementation.

#### NEW SECTION

WAC 383-06-080 ELIGIBILITY TO PARTICIPATE. (1) Classified employees of merit system and higher education system agencies under chapters 41.06 and 28B.16 RCW may submit suggestions concerning areas outside their normal line of duty. If a suggestion is adopted, employees may be eligible to receive cash awards or other forms of recognition.

(2) Employees whose normal duties involve research and planning may participate but may not receive cash awards unless the subject matter is unrelated to their routine work assignment.

(3) Employees with the authority to make the change suggested may not receive an award.

(4) Exempt employees, productivity board members and staff, and the program administrator may not participate.

#### NEW SECTION

WAC 383-06-090 SUGGESTION FORMAT. (1) Suggestions shall be submitted in a legible manner on the special forms made available by agency coordinators or from the productivity board office.

(2) Suggestions shall be submitted to the program administrator at the address indicated on the form, including:

(a) A specific statement of what is suggested and how it can be accomplished;

(b) A brief statement describing the present methods, practices or problem;

(c) A statement of the savings, improved services, or benefits which will accrue from adoption of the suggestion.

(3) Suggestions must also include the suggester's signature, title of position, department and division, mailing address and social security number.

#### NEW SECTION

WAC 383-06-100 SUGGESTION ACCEPTABILITY. (1) Suggestions considered acceptable are those which improve the efficiency and/or the effectiveness of state government. This may include, but is not limited to:

- (a) Savings in time or money;
- (b) Elimination of waste or duplication;
- (c) Improved service or product;
- (d) Energy conservation;
- (e) Improved working conditions.

Suggestions must be outside the normal job requirements of the person submitting the suggestion.

(2) In the case of suggestions identical or similar to others received before it, the suggestion officially received by the program administrator first shall receive consideration.

(3) The board retains the right to disqualify suggestions when a remedy exists through other established administrative procedures, each such as:

- (a) The need for routine maintenance of buildings or grounds;
- (b) Personalized complaint affecting suggester only;
- (c) Recommendation for a study, review, survey, design, audit, research, development, investigation, etc., without stating what the expected outcome should be or what solution might result from it;
- (d) Proposing items in state stock be issued and used for their intended purpose;
- (e) Changing in salary, position or classification;
- (f) Enforcement of laws, policies, procedures, regulations, rules, etc.

#### NEW SECTION

WAC 383-06-110 ELIGIBILITY FOR AWARDS. Qualified employees are eligible for awards for adopted suggestions, except that awards shall not be made for:

(1) Suggestions which represent a part of the normal duties or over which the suggester has the authority to make the change.

(2) Suggestions by employees whose normal duties are research or planning unless the subject matter is unrelated to normal work assignments.

(3) Suggestions made by any member of the board, its staff, or the program administrator.

(4) Suggestions submitted more than sixty days after the idea is fully and completely implemented. Implementation means the time the idea becomes operational, except when the decision of the agency to adopt the suggestion is withheld until the close of a trial period. The

board may in its discretion, in this instance, provide for a certificate of award or a partial award.

(5) Suggestions wherein the suggester, either directly or indirectly, has a proprietary interest in the suggestion.

#### NEW SECTION

WAC 383-06-120 AMOUNT OF AWARDS. No cash awards shall be for less than twenty-five dollars or for more than the maximum amount permitted by RCW 41.60.040.

(1) Awards for suggestions which will result in demonstrable savings of money shall be determined by the board after consideration of the savings to be effected.

(2) Suggestions which will result in intangible improvements, such as benefits in safety, health, welfare, morale, etc., may be granted cash awards in amounts to be determined by the board. The board shall set guidelines, insofar as possible, to make such awards commensurate with the benefits anticipated from the suggestion.

(3) The board reserves the right to schedule payment of any award.

(4) Cash awards shall be in addition to regular compensation and the acceptance of such cash awards shall constitute an agreement that the use by the state of Washington of the suggestion for which the award is made shall not form the basis for a further claim of any nature upon the state by the employee or the employees heirs or assignees.

(5) When a suggestion is submitted by more than one employee, the award shall be considered on the basis of the suggestion only. Any resulting award will be shared by the cosuggesters listed on the suggestion form.

(6) Warrants for awards shall be drawn on the signature of the state treasurer after the award amount has been approved by a quorum of the board as provided in RCW 41.60.070. Vouchers shall be jointly signed by the agency director and the program administrator.

(7) Incentive awards may not be used for the purpose of computing a retirement allowance under any public retirement system of the state.

#### NEW SECTION

WAC 383-06-130 RECOGNITION OF MERIT. The board may issue recognition of merit in such form and manner as it determines. Any certificates of merit may be in addition to or in lieu of cash awards. Certificates shall be presented for, but shall not be limited to, the following:

(1) When it cannot be proved whether or not a suggestion caused the action taken.

(2) When the suggestion is submitted more than sixty days after the idea is fully and completely implemented.

(3) When the agency personnel deserve recognition as deemed appropriate and otherwise outside the realm of specific suggestions.

#### NEW SECTION

WAC 383-06-140 APPEALS. (1) A suggester, or the suggester's representative, may, by written appeal, request that the board reconsider either a denial of award and/or the amount of an award. To be valid the appeal must be postmarked within thirty calendar days from when the suggester is notified of board action. Such appeal must demonstrate that the employee suggestion was instrumental in leading to actual implementation.

(2) An employee's right to a suggestion expires two years from date of board action. If a rejected suggestion is placed in effect during this two-year period, an employee may file an appeal based on the suggestion's implementation. Such appeal must be filed within sixty days of the date that the suggestion was placed into effect.

(3) The board reserves the right to rule on cases which involve extenuating circumstances.

**WSR 83-06-054**  
**PROPOSED RULES**  
**PRODUCTIVITY BOARD**  
[Filed March 2, 1983]

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

Rep	WAC 187-10-210	Definitions.
Rep	WAC 187-10-220	Functions of the board.
Rep	WAC 187-10-230	Duties of the secretary.
Rep	WAC 187-10-240	Appointment and responsibilities of agency coordinators.
Rep	WAC 187-10-250	Memorabilia.
Rep	WAC 187-10-260	Suggestion acceptability.
Rep	WAC 187-10-270	Eligibility for awards.
Rep	WAC 187-10-280	Procedures for processing suggestions.
Rep	WAC 187-10-290	Certificates of merit.
Rep	WAC 187-10-300	Amount of awards.
Rep	WAC 187-10-310	Appeals.
Rep	WAC 187-10-320	Procedures for processing multi-agency suggestions.
Rep	WAC 187-10-500	Effective date;

that such agency will at 9:00 a.m., Friday, April 8, 1983, in the Department of Personnel Board Room, 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 chapter 41.60 RCW.

The specific statute these rules are intended to implement is chapter 41.60 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 1, 1983.

Dated: March 2, 1983  
By: Carolyn W. Smith  
Program Administrator

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 187-10-210 DEFINITION  
WAC 187-10-220 FUNCTIONS OF THE BOARD  
WAC 187-10-230 DUTIES OF THE SECRETARY  
WAC 187-10-240 APPOINTMENT AND RESPONSIBILITIES OF AGENCY COORDINATORS  
WAC 187-10-250 MEMORABILIA  
WAC 187-10-260 SUGGESTION ACCEPTABILITY  
WAC 187-10-270 ELIGIBILITY FOR AWARDS  
WAC 187-10-280 PROCEDURES FOR PROCESSING SUGGESTIONS  
WAC 187-10-290 CERTIFICATES OF MERIT  
WAC 187-10-300 AMOUNT OF AWARDS  
WAC 187-10-310 APPEALS  
WAC 187-10-320 PROCEDURES FOR PROCESSING MULTI-AGENCY SUGGESTIONS  
WAC 187-10-500 EFFECTIVE DATE

These sections are no longer applicable because the Employee Suggestions Award Board no longer exists.

**WSR 83-06-055**  
**EMERGENCY RULES**  
**PRODUCTIVITY BOARD**  
 [Order 3-100—Filed March 2, 1983]

Be it resolved by the Productivity Board, acting at Olympia, Washington, that it does adopt the annexed rules relating to chapter 383-06 WAC.

We, the Productivity Board, 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 permanent and emergency rules are filed concurrently because the suggestion program begins operations prior to the hearing date.

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

This rule is promulgated pursuant to chapter 41.60 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 March 2, 1983.

By Carolyn W. Smith  
 Program Administrator

*Chapter 383-06 WAC*  
**GUIDELINES FOR THE PRODUCTIVITY BOARD PROGRAMS**

NEW SECTION

**WAC 383-06-010 PURPOSE.** *The purpose of this chapter is to provide guidelines for two incentive programs developed and administered by the productivity board under the authority of chapter 41.60 RCW. WAC 383-06-020 through 383-06-140 refer to the employee suggestion program. Rules for the incentive pay program begin with WAC 383-06-150.*

NEW SECTION

**WAC 383-06-020 DEFINITIONS.** *As used in these rules, unless the context requires otherwise:*

- (1) "Board" means the productivity board.
- (2) "Program" means the employee suggestion program developed by the board under RCW 41.60.020.
- (3) "The act" referred to in these rules is chapter 41.60 RCW.
- (4) "Employee" is any person subject to chapter 41.06 or 28B.16 RCW.

(5) "Suggestion" is a unique, useful or workable, constructive proposal offering a specific change or form of improvement which contributes to state efficiency, service, safety, economy or employee well-being.

(6) "Agency" includes every subdivision of government which is eligible to participate under chapter 41.60 RCW.

(7) "Multi-agency suggestion" meets the criteria for a suggestion, as defined in WAC 383-06-100, and in addition has one or more of the following characteristics:

- (a) Requires cooperative evaluation or action by two or more agencies.
- (b) Anticipates potential joint savings for two or more agencies in excess of fifty thousand dollars annually.
- (c) Requires statutory support for implementation.

NEW SECTION

**WAC 383-06-030 FUNCTIONS OF THE BOARD.** (1) *The board shall meet upon the call of the chairman or a majority of the board at least four times per year. Four voting members shall constitute a quorum. Ex officio members may not vote.*

(2) *The responsibilities of the board shall include:*

- (a) *Making the final determination as to whether or not an award should be made and the nature and extent of any award or recognition given.*
- (b) *Adopting rules and regulations necessary for the administration of the act.*

(c) *Establishing policies under which the program shall be promoted and administered, including criteria for suggestion acceptability for evaluation and the granting of awards.*

(d) *Hearing of appeals pursuant to WAC 383-06-140.*

(e) *Evaluate multi-agency suggestions pursuant to WAC 383-06-070.*

NEW SECTION

**WAC 383-06-040 DUTIES OF THE PROGRAM ADMINISTRATOR.** *The program administrator shall be responsible and accountable to the board for the administrative work of the program, and shall:*

(1) *Attend all meetings of the board, act as its executive secretary, record its official actions, and maintain minutes of its proceedings.*

(2) *Propose rules and regulations appropriate for the administration of the program.*

(3) *Direct the activity of subordinate staff.*

(4) *Report to agencies about adopting suggestions, indicating those requiring a post audit.*

(5) *Establish and maintain records showing the use and effectiveness of the system, including the participation rate and results of involved agencies.*

(6) *Interact with agency coordinators regarding program promotion and participation.*

(7) *Perform other duties as required by the board.*

NEW SECTION

**WAC 383-06-050 APPOINTMENT AND RESPONSIBILITIES OF AGENCY COORDINATORS.** *Each state agency head shall appoint one or more coordinator(s) who shall function as agency liaison with the board and shall be responsible to:*

- (1) *Promote the program among agency employees.*
- (2) *Distribute suggestion forms in their agency.*

(3) Effect timely review and evaluation of all suggestions referred by the secretary.

(4) Document all agency evaluations, and, for those suggestions adopted:

(a) Maintain records of the first-year fiscal impact of adopted suggestions on agency operation.

(b) Monitor adopted suggestions and implementation by the agency.

(c) Notify the employee(s) who made the suggestion within five working days of its implementation.

(5) Represent the agency in liaison with other agencies on suggestions of mutual interest.

#### NEW SECTION

**WAC 383-06-060 RESPONSIBILITIES OF EVALUATORS.** (1) Evaluators shall have a clear understanding of what is being suggested and how it could conceivably be used by the agency.

(2) Evaluators shall determine the benefits of the suggestion which may include, but are not limited to:

(a) Savings in time, money, materials;

(b) Improved service or product;

(c) Eliminated waste or duplication.

(3) Evaluators shall also consider:

(a) Cost effectiveness;

(b) Scope of application;

(c) Practicality of implementation.

(4) Evaluators shall review the suggestion in timely manner, recommending adoption, partial adoption, or rejection. Suggestions shall be evaluated and returned to the agency coordinator within thirty days.

#### NEW SECTION

**WAC 383-06-070 PROCEDURES FOR PROCESSING MULTI-AGENCY SUGGESTIONS.** The program administrator will nominate to the board any suggestion which meets the criteria enumerated in WAC 383-06-020(7), following processing according to procedures developed in accordance to WAC 383-06-100. If the board approves nomination, it will coordinate administration of the suggestion through the multi-agency evaluation processing. Such coordination may entail:

(1) Obtaining all pertinent information concerning the merits of the suggestion.

(2) Making formal report to the office of the governor describing the suggestion, its possible advantages and disadvantages, potential benefits, savings or enhancements to safety, and necessary administrative and legislative action required for implementation.

#### NEW SECTION

**WAC 383-06-080 ELIGIBILITY TO PARTICIPATE.** (1) Classified employees of merit system and higher education system agencies under chapters 41.06 and 28B.16 RCW may submit suggestions concerning areas outside their normal line of duty. If a suggestion is adopted, employees may be eligible to receive cash awards or other forms of recognition.

(2) Employees whose normal duties involve research and planning may participate but may not receive cash

awards unless the subject matter is unrelated to their routine work assignment.

(3) Employees with the authority to make the change suggested may not receive an award.

(4) Exempt employees, productivity board members and staff, and the program administrator may not participate.

#### NEW SECTION

**WAC 383-06-090 SUGGESTION FORMAT.** (1) Suggestions shall be submitted in a legible manner on the special forms made available by agency coordinators or from the productivity board office.

(2) Suggestions shall be submitted to the program administrator at the address indicated on the form, including:

(a) A specific statement of what is suggested and how it can be accomplished;

(b) A brief statement describing the present methods, practices or problem;

(c) A statement of the savings, improved services, or benefits which will accrue from adoption of the suggestion.

(3) Suggestions must also include the suggester's signature, title of position, department and division, mailing address and social security number.

#### NEW SECTION

**WAC 383-06-100 SUGGESTION ACCEPTABILITY.** (1) Suggestions considered acceptable are those which improve the efficiency and/or the effectiveness of state government. This may include, but is not limited to:

(a) Savings in time or money;

(b) Elimination of waste or duplication;

(c) Improved service or product;

(d) Energy conservation;

(e) Improved working conditions.

Suggestions must be outside the normal job requirements of the person submitting the suggestion.

(2) In the case of suggestions identical or similar to others received before it, the suggestion officially received by the program administrator first shall receive consideration.

(3) The board retains the right to disqualify suggestions when a remedy exists through other established administrative procedures, each such as:

(a) The need for routine maintenance of buildings or grounds;

(b) Personalized complaint affecting suggester only;

(c) Recommendation for a study, review, survey, design, audit, research, development, investigation, etc., without stating what the expected outcome should be or what solution might result from it;

(d) Proposing items in state stock be issued and used for their intended purpose;

(e) Changing in salary, position or classification;

(f) Enforcement of laws, policies, procedures, regulations, rules, etc.

NEW SECTION

**WAC 383-06-110 ELIGIBILITY FOR AWARDS.** Qualified employees are eligible for awards for adopted suggestions, except that awards shall not be made for:

(1) Suggestions which represent a part of the normal duties or over which the suggester has the authority to make the change.

(2) Suggestions by employees whose normal duties are research or planning unless the subject matter is unrelated to normal work assignments.

(3) Suggestions made by any member of the board, its staff, or the program administrator.

(4) Suggestions submitted more than sixty days after the idea is fully and completely implemented. Implementation means the time the idea becomes operational, except when the decision of the agency to adopt the suggestion is withheld until the close of a trial period. The board may in its discretion, in this instance, provide for a certificate of award or a partial award.

(5) Suggestions wherein the suggester, either directly or indirectly, has a proprietary interest in the suggestion.

NEW SECTION

**WAC 383-06-120 AMOUNT OF AWARDS.** No cash awards shall be for less than twenty-five dollars or for more than the maximum amount permitted by RCW 41.60.040.

(1) Awards for suggestions which will result in demonstrable savings of money shall be determined by the board after consideration of the savings to be effected.

(2) Suggestions which will result in intangible improvements, such as benefits in safety, health, welfare, morale, etc., may be granted cash awards in amounts to be determined by the board. The board shall set guidelines, insofar as possible, to make such awards commensurate with the benefits anticipated from the suggestion.

(3) The board reserves the right to schedule payment of any award.

(4) Cash awards shall be in addition to regular compensation and the acceptance of such cash awards shall constitute an agreement that the use by the state of Washington of the suggestion for which the award is made shall not form the basis for a further claim of any nature upon the state by the employee or the employees heirs or assignees.

(5) When a suggestion is submitted by more than one employee, the award shall be considered on the basis of the suggestion only. Any resulting award will be shared by the cosuggesters listed on the suggestion form.

(6) Warrants for awards shall be drawn on the signature of the state treasurer after the award amount has been approved by a quorum of the board as provided in RCW 41.60.070. Vouchers shall be jointly signed by the agency director and the program administrator.

(7) Agency awards may not be used for the purpose of computing a retirement allowance under any public retirement system of the state.

NEW SECTION

**WAC 383-06-130 RECOGNITION OF MERIT.** The board may issue recognition of merit in such form and manner as it determines. Any certificates of merit may be in addition to or in lieu of cash awards. Certificates shall be presented for, but shall not be limited to, the following:

(1) When it cannot be proved whether or not a suggestion caused the action taken.

(2) When the suggestion is submitted more than sixty days after the idea is fully and completely implemented.

(3) When the agency personnel deserve recognition as deemed appropriate and otherwise outside the realm of specific suggestions.

NEW SECTION

**WAC 383-06-140 APPEALS.** (1) A suggester, or the suggester's representative, may, by written appeal, request that the board reconsider either a denial of award and/or the amount of an award. To be valid the appeal must be postmarked within thirty calendar days from when the suggester is notified of board action. Such appeal must demonstrate that the employee suggestion was instrumental in leading to actual implementation.

(2) An employee's right to a suggestion expires two years from date of board action. If a rejected suggestion is placed in effect during this two-year period, an employee may file an appeal based on the suggestion's implementation. Such appeal must be filed within sixty days of the date that the suggestion was placed into effect.

(3) The board reserves the right to rule on cases which involve extenuating circumstances.

**WSR 83-06-056****PROPOSED RULES****DEPARTMENT OF GAME****(Game Commission)**

[Filed March 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Game Commission intends to adopt, amend, or repeal rules concerning closure of all lands within the Colville Indian Reservation to the trapping and hunting of all wild animals, blue grouse, ruffed grouse, Franklin grouse, sharp-tailed grouse, sage hen grouse, and mourning doves, WAC 232-12-24401;

that the agency will at 9:00 a.m., Thursday, Friday, April 7-8, 1983, in the Vance Tye, 500 Tye Drive, Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 7 or 8, 1983.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1983.

Dated: March 1, 1983

By: Frank R. Lockard  
Director

#### STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-12-24401 Closure of all lands within the Colville Indian Reservation to the trapping and hunting of all wild animals, blue grouse, ruffed grouse, Franklin grouse, sharp-tailed grouse, sage hen grouse, and mourning doves.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule(s): It is unlawful to trap or hunt wild animals, blue grouse, ruffed grouse, Franklin grouse, sharp-tailed grouse, sage hen grouse and mourning doves within the Colville Indian Reservation boundaries.

Reasons Supporting the Proposed Rule(s): There are insufficient populations of the above mentioned wildlife species to allow non-tribal hunting and trapping.

The Agency Personnel Responsible for Drafting and Implementation: Richard J. Poelker, Division Administrator, Wildlife Management Division, Dave Schultz, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, telephone: (206) 753-5740; and Enforcement: R. B. Rasmussen, Chief, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, telephone: (206) 753-5740.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

The rule is not necessary to comply with a 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.

A small business economic impact statement is not required.

#### NEW SECTION

WAC 232-12-24401 CLOSURE OF ALL LANDS WITHIN THE COLVILLE INDIAN RESERVATION TO THE TRAPPING AND HUNTING OF ALL WILD ANIMALS, BLUE GROUSE, RUFFED GROUSE, FRANKLIN GROUSE, SHARP-TAILED GROUSE, SAGE HEN GROUSE, AND MOURNING DOVES. It is unlawful to trap or hunt wild animals, blue grouse, ruffed grouse, Franklin grouse, sharp-tailed grouse, sage hen grouse and mourning doves within the Colville Indian Reservation boundaries.

#### WSR 83-06-057 PROPOSED RULES DEPARTMENT OF GAME

[Filed March 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Game intends to adopt, amend, or repeal rules concerning amendments to the 1983 Game Fish Seasons and Catch Limits, WAC 232-28-605;

that the agency will at 9:00 a.m., Thursday, Friday, April 7-8, 1983, in the Vance Tyee, 500 Tyee Drive, Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 7 or 8, 1983.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1983.

Dated: March 2, 1983

By: Frank R. Lockard  
Director

#### STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): WAC 232-28-605 1983 Game Fish Seasons and Catch Limits (amendments).

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule(s): Amends 1983 Game Fish Seasons and Catch Limits Pamphlet.

Reasons Supporting the Proposed Rule(s): Numerous inadvertent errors in the pamphlet as printed require correction.

The Agency Personnel Responsible for Drafting and Implementation: Sam Wright, Divisional Administrator, Fisheries Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, telephone: (206) 753-5713; and Enforcement: R. B. Rasmussen, Divisional Administrator, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, telephone: 753-5740.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

The rule is not necessary to comply with a 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.

A small business economic impact statement is not required.

AMENDATORY SECTION (Amending Order 197, filed 12/2/82)

WAC 232-28-605 1983 GAME FISH SEASONS AND CATCH LIMITS.

**Reviser's note:** The text and accompanying pamphlet comprising the amendment of the 1983 Game Fish Seasons and Catch Limits proposed by the Department of Game have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the amended rules may be obtained from the main office of the Department of Game, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

**WSR 83-06-058**  
**PROPOSED RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**  
 [Filed March 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Game Commission intends to adopt, amend, or repeal rules concerning 1983 fall opening dates, adopting WAC 232-28-206;

that the agency will at 9:00 a.m., Thursday, Friday, April 7-8, 1983, in the Vance Tye, 500 Tye Drive, Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 7 or 8, 1983.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1983.

Dated: March 1, 1983

By: Frank R. Lockard  
 Director

**STATEMENT OF PURPOSE**

Title and Number of Rule Section(s) or Chapter(s):  
 WAC 232-28-206 1983 Fall opening dates.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement:  
 RCW 77.12.040.

Summary of the Rule(s): Adopts 1983 fall opening dates.

Reasons Supporting the Proposed Rule(s): Resource management.

The Agency Personnel Responsible for Drafting and Implementation: Richard J. Poelker, Division Administrator, Wildlife Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, telephone: (206) 753-5728; and Enforcement: R. B. Rasmussen, Chief, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, telephone: (206) 753-5740.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule:  
 Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule:  
 No comments.

The rule is not necessary to comply with a 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.

A small business economic impact statement is not required.

NEW SECTION

WAC 232-28-206 1983 FALL OPENING DATES  
 OPENING DATES:

August 1

Westside black bear (except early buck area)  
 Westside pursuit only for cougar, bobcat and raccoon (except early buck areas)  
 Northeastern pursuit only for bear and cougar in units 100 through 124

September 1

Statewide forest grouse (blue ruffed spruce)  
 Band-tailed pigeons  
 Mourning doves  
 Westside rabbits and hares  
 Eastside snowshoe rabbits

September 7

Eastside black bear (except early buck areas and outside Umatilla National Forest in Walla Walla and Columbia counties).

September 10

Eastside pursuit only for cougar, bobcat and raccoon (except early buck areas and closed outside Umatilla National Forest in Walla Walla and Columbia counties.)

September 15

Early buck  
 Black bear in early buck areas  
 Cougar in early buck areas

September 24

Early partridge (Colockum and Southeast Washington only)

October 1

Early Western Washington pheasant

October 15 Buck deer, general statewide

Black bear in Walla Walla and Columbia counties outside of Umatilla National Forest  
 Cougar (except closed in units 536, 538, 669, 672, 675, 678, 681, and 684)  
 Bobcat  
 Raccoon  
 Pheasant  
 Partridge (chukar, red-leg, and Hungarian)  
 Waterfowl (except Brant)  
 Eastside cottontail rabbits  
 Whitetail jackrabbits (Eastside except closed in Okanogan, Douglas, and Grant counties).

October 27

Colockum elk season

November 2

Early Blue Mountains elk season

November 5

Lake Blue Mountains elk season  
 Westside elk season

November 6

Early Yakima elk season

November 12

Late Yakima elk season

November 18  
Westside lake buck deer  
November 23  
Northeast late buck deer

**WSR 83-06-059**  
**PROPOSED RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**  
[Filed March 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Game Commission intends to adopt, amend, or repeal rules concerning the 1983 Mountain Goat, Sheep and Moose Hunting Seasons, adopting WAC 232-28-805, and the 1982 Mountain Goat, Sheep and Moose Hunting Seasons, repealing WAC 232-28-804;

that the agency will at 9:00 a.m., Thursday, Friday, April 7-8, 1983, in the Vance Tyee, 500 Tyee Drive, Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 7 or 8, 1983.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1983.

Dated: March 1, 1983  
By: Frank R. Lockard  
Director

**STATEMENT OF PURPOSE**

Title and Number of Rule Section: New section WAC 232-28-805, 1983 Mountain Goat, Sheep and Moose Hunting Seasons.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule: Adopts rules and regulations relating to the 1983 Mountain Goat, Sheep, and Moose Hunting Seasons.

Reasons Supporting the Proposed Rule: Resource Management.

The Agency Personnel Responsible for Drafting and Implementation: Richard J. Poelker, Division Administrator, Wildlife Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, telephone: (206) 753-5728; Enforcement: R. B. Rasmussen, Chief, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, telephone: (206) 753-5740.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

The rule is not necessary to comply with a 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.

A small business economic impact statement is not required.

NEW SECTION

WAC 232-28-805 1983 MOUNTAIN GOAT, SHEEP AND MOOSE HUNTING SEASONS.

Reviser's note: The text and accompanying pamphlet comprising the 1983 Mountain Goat, Sheep and Moose Hunting Seasons proposed by the Department of Game have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Game, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

REPEALER

The following section of the Administrative Code is repealed:

WAC 232-28-804 1982 MOUNTAIN GOAT, SHEEP, AND MOOSE HUNTING SEASONS

**WSR 83-06-060**  
**PROPOSED RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**  
[Filed March 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Game Commission intends to adopt, amend, or repeal rules concerning adoption by reference WAC 220-110-010 et. seq. implementing procedural guidelines for administration of the state hydraulic code, RCW 75.20.100. See CR-1 notice dated March 2, 1983, filed by the state of Washington Department of Fisheries. Adoption of WAC 232-14-010 and deletion of WAC 232-12-294;

that the agency will at 9:00 a.m., Thursday, April 7, 1983, in the Tyee Motor Inn, Tyee Drive, Tumwater, Washington 98501, jointly with the director of the state of Washington Department of Fisheries, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 8, 1983.

The authority under which these rules are proposed is RCW 77.12.010, 75.20.100 and chapter 34.04 RCW.

The specific statute these rules are intended to implement is RCW 75.20.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1983.

Dated: March 1, 1983  
By: Frank R. Lockard  
Director



## STATEMENT OF PURPOSE

Joint agency statement of Washington State Department of Game and Washington State Department of Fisheries.

Title: Hydraulic code rules.

Description of Purpose: Proposed chapter 220-110 WAC, establishes procedures for obtaining approval (hydraulic project approval) for projects (hydraulic projects) which involve construction, repair or other work activities that will utilize waters of the state or materials from the stream beds and require approval under RCW 75.20.100. This proposed chapter incorporates criteria the Departments of Game and Fisheries have developed for the protection of fish life which are presently used for project review and conditioning hydraulic project approvals, as required by RCW 75.20.100.

The purpose of the proposed chapter is not to establish operative conditions that apply to all hydraulic projects, but rather to establish procedures to aid the public in applying for and securing a hydraulic approval, and to provide information to the public as to criteria, policies, and procedures typically utilized by the Departments of Fisheries and Game in administering RCW 75.20.100. The criteria and policies described do not differ from those applied in the past to enforce the terms of RCW 75.20.100.

RCW 75.20.100 is jointly administered by the Departments of Fisheries and Game. However, under state law, fisheries and game are separate agencies. Therefore, the statutory authority to adopt the proposed regulations implementing RCW 75.20.100 differ to some extent for each agency. Because RCW 75.20.100 is found in Title 75 RCW, the state fisheries' code, it has been determined that the regulations proposed, if adopted, will be placed by the code reviser in Title 220 WAC, rules and regulations of the Department of Fisheries, and that fisheries chapter 220-110 WAC in which the rules appear be adopted by reference by the Department of Game. This procedure will avoid unnecessary duplication of the rules but inform interested parties that rules do exist and where they may be found.

Statutory Authority - Department of Fisheries: RCW 75.08.012, 75.08.080, 75.20.100 and chapter 34.04 RCW.

Statutory Authority - Department of Game: RCW 77.12.010, 75.20.100 and chapter 34.04 RCW.

Summary: In State v. Crown Zellerbach, 92 Wn.2d 894 (1979), the state supreme court considered and upheld the constitutionality of the hydraulic code (RCW 75.20.100) but suggested to fisheries and game that implementing regulations should be adopted:

"We therefore suggest that the Departments take steps to promulgate rules and regulations regarding requirements and conditions which may be imposed as terms of a hydraulic permit."

The adoption of this chapter would carry out the recommendation of the state supreme court by establishing procedural rules to implement the hydraulic code (RCW 75.20.100) and provide the public with information as to standard conditions which typically apply to projects or work subject to the hydraulic code. The hydraulic code

is applicable to construction of any form of hydraulic project or other work that will use, divert, obstruct, or change the natural flow or bed of any river or stream or that will utilize any of the waters of the state or materials from the stream beds. The standards described are intended to protect the fishery resources of the state of Washington.

Agency Personnel Responsible for Drafting and Implementation: Chris Drivdahl, Chief, Habitat Management Division, Department of Game, 600 North Capitol Way, Olympia, Washington 98504, 753-3318; and Duane Phinney, Chief, Habitat Management Division, Department of Fisheries, 115 General Administration Building, Olympia, Washington 98504, 753-3621.

Small Business Regulatory Fairness Act: The department has considered whether the proposed rules are subject to the Regulatory Fairness Act (chapter 6, Laws of 1982) and has determined that it is not for the following reasons: The rules proposed establish procedures to comply with a statutory requirement (RCW 75.20.100). Therefore, the rules themselves impose no economic impact independent of that imposed by RCW 75.20.100.

Even if the laws imposed substantive guidelines, which they do not, department records show that based upon applications received for hydraulic approval, the proposed rules would not have an economic impact on at least 10% of the businesses in any one three-digit standard industrial classification or 20% of all businesses.

## NEW SECTION

WAC 232-14-010 HYDRAULIC CODE GUIDELINES The State hydraulic code, RCW 75.20.100 is jointly administered by the Departments of Fisheries and Game, by law separate agencies. That code requires that prior to construction, repair or other work that will use, divert, obstruct, or change the natural flow or bed of any river or stream or that will utilize any of the waters of the state or materials from the stream beds, that written approval be obtained from the Directors of the Departments of Fisheries and Game. Rules establishing procedures for obtaining a hydraulic approval and explaining criteria, policies and procedures typically utilized by the Department of Fisheries and Game in administering the Hydraulic Code have been jointly promulgated by the two agencies. The body of the regulations are codified as WAC Chapter 220-110-010, et. seq. which can be found under rules and regulations codified for the Department of Fisheries. Those rules, WAC Chapter 220-110 are here adopted by reference and also made a part of WAC Title 232.

WSR 83-06-061

ADOPTED RULES

DEPARTMENT OF GAME

(Game Commission)

[Order 200—Filed March 2, 1983]

Be it resolved by the Game Commission of the state of Washington, acting at Cavanaugh's Motor Inn, 1101 North Columbia Center Boulevard, Kennewick, WA, that it does adopt the annexed rules relating to the 1983 Spring Bear and Turkey Seasons, WAC 232-28-705.

This action is taken pursuant to Notice No. WSR 82-24-091 filed with the code reviser on December 1, 1982. There 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 77.12.040 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 10, 1983.

By Archie U. Mills  
Chairman, Game Commission

### NEW SECTION

#### WAC 232-28-705 1983 SPRING BEAR AND TURKEY SEASONS.

**Reviser's note:** The text and accompanying pamphlet comprising the 1983 Spring Bear and Turkey Seasons adopted by the Department of Game have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Game, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

### REPEALER

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

#### WAC 232-28-704 1982 EARLY SEASONS AND FALL OPENING DATES

### **WSR 83-06-062**

#### **PROPOSED RULES**

#### **DEPARTMENT OF FISHERIES**

[Filed March 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning hydraulic project approval;

that the agency will at 9:00 a.m., Thursday, April 7, 1983, in the Tyee Motor Inn, Tyee Drive, Tumwater, Washington, jointly with the Washington Department of Game, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 8, 1983.

The authority under which these rules are proposed is RCW 75.08.012, 75.08.080, 75.20.100 and chapter 34.04 RCW.

The specific statute these rules are intended to implement is RCW 75.20.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1983.

Dated: March 2, 1983  
By: William R. Wilkerson  
Acting Director

### STATEMENT OF PURPOSE

Title: Chapter 220-110 WAC.

Description of Purpose: Proposed chapter 220-110 WAC establishes procedures for obtaining approval (hydraulic project approval) for projects (hydraulic projects) which involve construction, repair or other work activities that will utilize waters of the state or materials from the stream beds and require approval under RCW 75.20.100. This proposed chapter incorporates criteria the Departments of Game and Fisheries have developed for the protection of fish life which are presently used for project review and conditioning hydraulic project approvals, as required by RCW 75.20.100. The purpose of the proposed chapter is not to establish operative conditions that apply to all hydraulic projects, but rather to establish procedures to aid the public in applying for and securing a hydraulic approval, and to provide information to the public as to criteria, policies, and procedures typically utilized by the Departments of Fisheries and Game in administering RCW 75.20.100. The criteria and policies described do not differ from those applied in the past to enforce the terms of RCW 75.20.100. RCW 75.20.100 is jointly administered by the Departments of Fisheries and Game. However, under state law, fisheries and game are separate agencies. Therefore, the statutory authority to adopt the proposed regulations implementing RCW 75.20.100 differ to some extent for each agency. Because RCW 75.20.100 is found in Title 75 RCW, the state fisheries code, it has been determined that the regulations proposed, if adopted, will be placed by the code reviser in Title 220 WAC, rules and regulations of the Department of Fisheries, and that fisheries chapter 220-110 WAC in which the rules appear be adopted by reference by the Department of Game. This procedure will avoid unnecessary duplication of the rules but inform interested parties that rules do exist and where they may be found.

Summary of Rule: In State v. Crown Zellerbach, 92 Wn.2d 894 (1979), the state supreme court considered and upheld the constitutionality of the hydraulic code (RCW 75.20.100) but suggested to fisheries and game that implementing regulations should be adopted:

"We therefore suggest that the Departments take steps to promulgate rules and regulations regarding requirements and conditions which may be imposed as terms of a hydraulic permit."

The adoption of this chapter would carry out the recommendation of the state supreme court by establishing procedural rules to implement the hydraulic code (RCW 75.20.100) and provide the public with information as to standard conditions which typically apply to projects or work subject to the hydraulic code. The hydraulic code is applicable to construction of any form of hydraulic project or other work that will use, divert, obstruct, or change the natural flow or bed of any river or stream or that will utilize any of the waters of the state or materials from the stream beds.

Agency Personnel Responsible for Drafting and Implementation: Chris Drivdahl, Chief, Habitat Management Division, Department of Game, 600 North Capitol Way, Olympia, Washington 98504, 753-3318, and

Duane Phinney, Habitat Management Division, Department of Fisheries, 115 General Administration Building, Olympia, Washington 98504, 753-3621; and Enforcement: Robert B. Rasmussen, Wildlife Enforcement, Department of Game, 600 North Capitol Way, Olympia, Washington 98504, and James W. McKillip, Fisheries Patrol, Department of Fisheries, 115 General Administration Building, Olympia, Washington 98504, 753-6585.

These rules are proposed jointly by the Departments of Game and Fisheries.

Comments: None.

These proposals are the result of suggestions made by the Washington State Supreme Court in State v. Crown Zellerbach, 92 Wn.2d 894 (1979).

**Small Business Economic Impact Statement:** The department has considered whether the proposed rules are subject to the Regulatory Fairness Act (chapter 6, Laws of 1982) and has determined that it is not for the following reasons: The rules proposed establish procedures to comply with a statutory requirement (RCW 75.20.100). Therefore, the rules themselves impose no economic impact independent of that imposed by RCW 75.20.100. Even if the laws imposed substantive guidelines, which they do not, department records show that based upon applications received for hydraulic approval, the proposed rules would not have an economic impact on at least 10 percent of the businesses in any one three-digit standard industrial classification on 20 percent of all businesses.

#### Chapter 220-110 WAC HYDRAULIC CODE RULES

#### WAC

220-110-010	Purpose.
220-110-020	Definitions.
220-110-030	Hydraulic project approvals.
220-110-040	Freshwater technical provisions.
220-110-050	Bank protection.
220-110-060	Bridge, pier, and piling construction.
220-110-070	Bridge construction—Stringer type.
220-110-080	Channel change—Temporary and permanent.
220-110-090	Channel realignment.
220-110-100	Conduit crossing.
220-110-110	Culvert installation.
220-110-120	Temporary bypass culvert or flume.
220-110-130	Dredging.
220-110-140	Gravel removal.
220-110-150	Log and log jam removal.
220-110-160	Logging.
220-110-170	Outfall structures.
220-110-180	Pond construction.
220-110-190	Water diversions and screens.
220-110-200	Mineral prospecting (panning).
220-110-210	Mineral prospecting (sluicing).
220-110-220	Mineral prospecting (motorized).
220-110-230	Saltwater technical provisions.
220-110-240	Tidal reference areas.
220-110-250	Surf smelt spawning beds.
220-110-260	Pacific herring spawning beds.
220-110-270	Common technical provisions.
220-110-280	Bulkheads and associated fills.
220-110-290	Boat launches.
220-110-300	Piers, pilings, docks, and floats.
220-110-310	Utility lines.
220-110-320	Dredging.
220-110-330	Marinas.
220-110-340	Informal appeal of adverse administrative decisions.
220-110-350	Formal appeal of adverse administrative decisions.

#### NEW SECTION

WAC 220-110-010 PURPOSE. This chapter establishes regulations for hydraulic projects or other work that will use, divert, obstruct, or change the natural flow or bed of any river or stream, or that will utilize any of the waters of the state, or materials from the stream beds and require approval under RCW 75.20.100, and establishes procedures for obtaining a hydraulic project approval. This chapter incorporates criteria the departments have developed for the protection of fish life which are presently used for project review and conditioning hydraulic project approvals. It is not intended by adoption of the following regulations to apply automatically the criteria described to each hydraulic project approval but rather to provide fair notice to the public of the criteria and guidelines generally utilized to administer RCW 75.20.100. This chapter shall be administered jointly by the department of fisheries and the department of game as required under RCW 75.20.100.

#### NEW SECTION

WAC 220-110-020 DEFINITIONS. As used in this chapter, unless the context clearly requires otherwise:

(1) "Beach area" means the beds between the ordinary high water line and extreme low tide.

(2) "Bed" means lands within or below the ordinary high water line.

(3) "Bed materials" means natural-occurring material found in the beds of waters of the state.

(4) "Cofferdam" means a temporary enclosure used to keep water from a work area.

(5) "Departments" means the department of fisheries and the department of game.

(6) "Dredging" means removal of bed material.

(7) "Equipment" means any device powered by internal combustion, hydraulics, or electricity, and the lines, cables, arms, or extensions associated with the device.

(8) "Extreme low tide" means the lowest level reached by a receding tide.

(9) "Freshwater area" means those state waters and associated beds below the ordinary high water line that are upstream of river mouths.

(10) "General provisions" means those provisions that are contained in every hydraulic project approval.

(11) "Hydraulic project" means work that will use, divert, obstruct, or change the natural flow or bed of any river or stream, or that will utilize any of the waters of the state, or materials from the stream beds.

(12) "Hydraulic project application" means a form provided by and submitted to the departments accompanied by plans and specifications of the hydraulic project.

(13) "Hydraulic project approval" (HPA) means a written approval signed by the director of the department of fisheries and the director of the department of game, or employees so designated and authorized. The approval will provide conditions for protection of fish life.

(14) "Mean lower low water" or "MLLW" means the 0.0 tidal elevation. It is determined by averaging each days' lowest tide at a particular location over a period of 18.6 years. It is the datum base for tide levels and vertical references in the saltwater area.

(15) "Ordinary high water line" means the mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: PROVIDED, That in any area where the ordinary high water line cannot be found the ordinary high water line adjoining saltwater shall be the line of mean higher high water and the ordinary high water line adjoining freshwater shall be the line of mean high water.

(16) "River or stream" means waters in which fish may spawn, reside, or through which they may pass. This includes watercourses which exist on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This also includes any natural watercourses which have been altered by man. This definition is not meant to include irrigation ditches, canals, storm water run-off devices, or other entirely artificial watercourses except where they exist in a natural watercourse which has been altered by man.

(17) "Saltwater area" means those state waters and associated beds below the ordinary high water line and downstream of river mouths.

(18) "Special provisions" means those conditions that are a part of the hydraulic project approval, but are site or project specific, and are used to supplement or amend the technical provisions.

(19) "Technical provisions" means those conditions that are a part of the hydraulic project approval and apply to most projects of that nature.

(20) "Watercourse" means any portion of a channel, bed, bank, or bottom within the ordinary high water line of waters of the state.

(21) "Waters of the state" means all waters within the territorial limits of the state.

(22) "Wetted perimeter" means the areas of a watercourse covered with water, flowing or nonflowing.

#### NEW SECTION

##### WAC 220-110-030 HYDRAULIC PROJECT APPROVALS.

(1) A person, firm, corporation, state, local, or other government agency shall secure a hydraulic project approval before conducting a hydraulic project.

(2) Failure to secure a hydraulic project approval from the departments or carry out any of the requirements or conditions as are made a part of such approval is unlawful.

(3) A person, firm, corporation, state, local, or government agency seeking hydraulic project approval shall submit to the departments full plans and specifications of the proposed hydraulic project. Where a minor portion of the total project is to be conducted below the ordinary high water mark, partial plans and specifications of the total project shall suffice provided that chapter 43.21C RCW, State Environmental Policy Act, is complied with, and the departments are able to make an analysis adequate for the protection of fish life.

(4) Receipt of any one of the following documents at the addresses listed below constitutes application for a hydraulic project approval:

Department of Fisheries Habitat Management Division 115 General Administration Bldg. Olympia, WA 98504	Department of Game Habitat Management Division 600 North Capitol Way Olympia, WA 98504
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(a) A completed hydraulic project application submitted to the departments;

(b) A completed forest practice application submitted to the department of natural resources, if the hydraulic project is a part of a forest practice as defined in WAC 222-16-010(19); or

(c) In saltwater areas, for projects investigated by the department of fisheries, a Section 10 or 404 Public Notice circulated by the Army Corps of Engineers.

(5) The processing time for an application is within thirty days of receipt of the application unless extended due to (a) receipt of an incomplete application, (b) inability to conduct field evaluations, (c) mutual agreement between the applicant and departments, or (d) lack of completion of State Environmental Policy Act requirements. The applicant shall be notified in writing if the application cannot be processed within thirty days, and the reason(s) therefore stated.

(6) Verbal applications may be accepted in lieu of written applications for emergency work to repair structures, moving obstructions, restoring banks, or protecting property that is subject to imminent danger by weather or flow conditions.

(7) The departments may accept written or verbal requests for time extensions, renewals, or alterations of an existing approval.

(8) Each approval is specific to a watercourse, stating the exact location of the project site, and consists of general, technical, and special provisions.

(9) The hydraulic project approval or exact copy shall be on the project site when work is being conducted and shall be immediately available for inspection.

(10) Unless specifically authorized, approvals are valid for a maximum period of twelve months. Renewals are normally issued upon verbal or written request, provided that the project scope or biological conditions have not changed.

(11) A hydraulic project approval will be denied when, in the judgment of these departments, the project is directly or indirectly harmful to fish life unless adequate protection, mitigation, or restoration can be assured by conditioning the approval or altering the proposal. If a hydraulic project approval is denied the applicant will be notified in writing of the reason(s) for denial.

(12) Hydraulic project approvals may have specific time limitations on project activities to protect fish life.

(13) Hydraulic project approvals do not exempt the applicant from obtaining the appropriate permits and following the rules or regulations of other local, state, and federal agencies.

(14) Administration of this chapter shall be conducted in compliance with the State Environmental Policy Act, chapter 43.21C RCW, chapter 197-10, 220-100 or 232-18 WAC.

(15) Placing rock, concrete, tires, or other materials on the beds in the saltwater area for the purpose of improving fish habitat requires a permit under WAC 220-20-040 for artificial reef construction.

(16) Hydraulic clam harvesters shall be governed by the provisions of WAC 220-52-018 and shall obtain and comply with the provisions of the department of fisheries' permit to operate a clam harvesting machine.

(17) The hydraulic code does not apply to the actual exercise of water rights (e.g. the amount of diversion or stream flow) which matters are generally regulated by the Washington department of ecology. However, structures or devices placed within waters of the state in order to take water allowed by a water right require hydraulic project approval.

(18) Each approval shall contain the following general provisions:

(a) This approval is to be available on the job site at all times and its provisions followed by the permittee and operator performing the work.

(b) The person(s) to whom this approval is issued may be held liable for any loss or damage to fish life or habitat which results from failure to comply with the provisions of this approval.

(c) Failure to comply with the provisions of this approval is a gross misdemeanor punishable by fine and/or imprisonment.

(d) The departments reserve the right subject to the holders opportunity to a hearing to contest agency actions as provided by the Administrative Procedure Act, chapter 34.04 RCW, to make additional restrictions or conditions or revoke the approval when new information shows such action is necessary by the departments for the protection of fish life.

(e) These departments cannot be held liable for any property damage which might occur as a result of this project.

(f) This approval pertains only to the provisions of the fisheries and game codes. Additional authorization from other public agencies may be necessary for this project.

#### NEW SECTION

WAC 220-110-040 FRESHWATER TECHNICAL PROVISIONS. WAC 220-110-050 through 220-110-220 set forth technical provisions that typically apply to freshwater hydraulic projects. Certain technical provisions may be required depending upon the individual proposal and site specific characteristics. Additional special provisions may be included. Those provisions which the departments determine are applicable to an individual project shall be contained in the hydraulic project approval, as necessary to protect fish life.

#### NEW SECTION

WAC 220-110-050 BANK PROTECTION. The following technical provisions may apply to bank protection projects:

(1) Bank protection work shall be confined to damaged banks.

(2) Watercourse encroachment shall be held to a minimum.

(3) Bank protection material shall not appreciably reduce normal watercourse capacity or configuration.

(4) The toe shall be designed to protect the integrity of bank protection material.

(5) Bank sloping shall be accomplished in a manner that will prevent the release of overburden material into the water.

(6) Bank protection material shall be clean, angular rock or other material of a sufficient size to prevent its being washed away by water action. River gravels shall not be used as exterior armor.

(7) Bank protection and filter blanket material shall be placed from the bank or a barge. Dumping onto the bank face shall be permitted only if the toe is established and the material can be confined to the bank face.

(8) Filter blanket material shall be placed prior to placement of bank protection material.

(9) Alteration or disturbance of the bank and bank vegetation shall be held to a minimum.

(10) Overburden material resulting from this project shall be deposited so as not to reenter the water.

(11) Bulkheads shall be constructed in the dry.

(12) Bulkhead faces shall be constructed of material not readily subject to erosion.

#### NEW SECTION

WAC 220-110-060 BRIDGE, PIER, AND PILING CONSTRUCTION. The following technical provisions may apply to bridge, pier, and piling construction projects:

(1) Excavation for the footings, piers, or abutments shall be isolated from the wetted perimeter by a dike, cofferdam, or similar mechanism.

(2) Wastewater discharged to receiving waters shall not adversely impact fish life.

(3) Structures containing concrete or wood preservatives shall be cured or dried prior to water encroachment.

(4) Abutments, piers, piling, sills, etc., shall not restrict the flow so as to cause any appreciable increase in backwater elevation or scour and shall be aligned to cause the least effect on the hydraulics of the body of water.

(5) Riprap material used for structure protection shall be clean and of sufficient size to prevent their being washed away.

(6) Backfilling and armoring around each structure shall take place prior to removal of cofferdams.

(7) The bridge shall be constructed high enough to pass the fifty-year flood level.

(8) Alteration or disturbance of bank or bank vegetation shall be held to a minimum, and all disturbed areas shall be protected from erosion and revegetated.

(9) Anchoring systems for floating structures shall be designed and deployed in a manner that will not damage the beds as a result of structure or anchor movement.

#### NEW SECTION

WAC 220-110-070 BRIDGE CONSTRUCTION—STRINGER TYPE. The following technical provisions may apply to bridge construction—Stringer type projects:

(1) Unless construction is separated from state waters by use of a cofferdam or similar mechanism, excavation for and placement of the foundation and superstructure shall be outside the ordinary high water line.

(2) At least one end of the bridge or stringer shall be securely anchored.

(3) The stringers or structure shall be placed by floating equipment or by working from outside the ordinary high water line and in a manner as to not damage the beds or banks.

(4) Alteration or disturbance of bank or bank vegetation shall be held to a minimum and all disturbed areas shall be protected from erosion and revegetated.

(5) Removal of existing or temporary structures shall be accomplished so that the structure and associated material does not enter the watercourse and placed so it will not re-enter the watercourse.

#### NEW SECTION

WAC 220-110-080 CHANNEL CHANGE—TEMPORARY AND PERMANENT. The following technical provisions may apply to channel change—Temporary and permanent projects:

(1) Permanent new channels shall be similar in length, width, depth, gradient, and meander configuration as the old channel.

(2) The new channel shall provide fish habitat similar to that which previously existed in the old channel.

(3) During construction, the new channel shall be isolated from the flowing stream by plugs at the upstream and downstream ends of the new channel.

(4) Diversion of flow into a new channel shall be accomplished by: (a) First removing the downstream plug; (b) removing the upstream plug; and (c) closing the upstream end of the old channel.

(5) Filling of the old channel shall begin from the upstream closure and the fill material compacted. Water discharging from the fill shall not adversely impact fish life.

(6) Before water is diverted into a permanent new channel, the banks shall be armored.

(7) The angle of the structure used to divert the water into the new channel shall allow a smooth transition of water flow.

(8) After completion of the permanent new channel and filling of the old channel, all unprotected banks shall be protected to prevent erosion.

(9) The applicant shall have fish capture and transportation equipment ready and on the job site. Captured fish shall be immediately and safely transferred to free flowing water.

#### NEW SECTION

WAC 220-110-090 CHANNEL REALIGNMENT. The following technical provisions may apply to channel realignment projects:

(1) The realigned channel shall provide fish habitat similar to that which previously existed.

(2) All material removal from the new channel shall take place before any filling operations within the existing channel. Material removal shall proceed from midstream toward the bank and be completed prior to filling.

(3) Excavation and filling may take place simultaneously if excavated materials are to be used in the filling operation.

(4) Prior to filling, an armored dike or other approved mechanism shall be constructed to divert the flowing stream and isolate the fill area.

(5) Filling shall begin at the upstream end and proceed downstream.

(6) Water discharging from the fill area shall not adversely impact fish life.

(7) The applicant shall have fish capture and transportation equipment ready and on the job site. Captured fish shall immediately be transferred safely to free flowing water.

#### NEW SECTION

WAC 220-110-100 CONDUIT CROSSING. The following technical provisions may apply to conduit crossing projects:

(1) Conduit alignment shall be as nearly perpendicular to the watercourse as possible.

(2) The conduit shall be installed at sufficient depth so that subsequent disturbance of the bed of the watercourse is avoided.

(3) Boring or jacking:

(a) Pits shall be isolated from surface water flow.

(b) All drainage water removed from the boring or jacking pit shall not adversely impact fish life.

(4) Trench excavation:

(a) Trenches shall be excavated in the dry or shall be isolated from the flowing watercourse by the installation of a cofferdam, culvert, flume, or other approved method.

(b) Plowing, placement, and covering shall occur in a single pass of the equipment.

(c) Disturbance of the bed as a result of the plowing operation shall be held to a minimum.

(5) Trenches shall be backfilled with approved materials and the bed shall be returned to preproject condition.

(6) Excess spoils shall be disposed of so as not to reenter the watercourse.

(7) The conduit approach trench shall be isolated from the watercourse until laying of the conduit across the watercourse takes place.

(8) Alteration or disturbance of banks or bank vegetation shall be held to a minimum and all denuded areas shall be protected from erosion.

#### NEW SECTION

WAC 220-110-110 CULVERT INSTALLATION. The following technical provisions may apply to culvert installation projects:

(1) Culverts shall be installed so that spawning habitat is maintained.

(2) Culverts shall be designed and constructed so as not to impede fish passage.

(3) The culvert shall be of a sufficient size to pass the fifty-year flood level.

(4) Disturbance of the bed of a watercourse shall be held to a minimum and affected bed areas shall be restored to preproject condition following installation of the culvert.

(5) Fill associated with the culvert installation shall be protected from erosion.

(6) Culverts shall be designed and constructed to avoid inlet and outlet scouring.

(7) When a multiple barrel culvert is utilized the structure shall be designed and constructed to ensure fish passage during low-flow periods.

NEW SECTION

WAC 220-110-120 TEMPORARY BYPASS CULVERT OR FLUME. The following technical provisions may apply to temporary bypass culvert or flume projects:

- (1) The temporary bypass culvert or flume shall be in place prior to initiation of other work in the wetted perimeter.
- (2) A sandbag revetment or similar device shall be installed at the inlet to divert the entire flow through the culvert or flume.
- (3) A sandbag revetment or similar device shall be installed at the downstream end of the culvert or flume to prevent backwater from entering the work area.
- (4) Culvert or flume shall be of sufficient size to pass flows and debris occurring during the project.
- (5) Prior to releasing the water flow to the project area, all bank protection or armoring shall be completed.
- (6) Upon completion of the project, all material used in the temporary bypass shall be removed from the site and the site returned to pre-project conditions.

NEW SECTION

WAC 220-110-130 DREDGING. The following technical provisions may apply to dredging projects:

- (1) Dredging shall not be conducted in fish spawning areas.
- (2) During the dredging of a lake or pond, a boom or similar device shall be installed to contain floatable materials.
- (3) Dredged bed materials shall be disposed of at department of natural resources open water disposal sites or approved upland sites.
- (4) Dredging shall be conducted with dredge types that cause the lowest mortality on fish life.
- (5) Dredging shall stop when distressed or dead fish are observed in the work area. The departments shall be notified immediately.
- (6) If a hydraulic dredge is used, it shall be operated with the intake on or below the surface of the material being removed. Reverse purging of the intake line shall be held to a minimum.
- (7) If a dragline or clamshell is used, it shall be operated to minimize turbidity. During excavation, each pass with the clamshell or dragline bucket shall be complete. Dredged material shall not be stockpiled in the water.
- (8) Upon completion of the dredging the watercourse bed shall not contain pits, potholes, or large depressions.

NEW SECTION

WAC 220-110-140 GRAVEL REMOVAL. The following technical provisions may apply to gravel removal projects:

- (1) Preproject and postproject monitoring of gravel recruitment and other related physical parameters is required for commercial and large scale flood control projects.
- (2) An excavation line shall be established. "Excavation line" means a line on the dry bed, parallel to the water's edge; two feet vertically above the existing water level, and changes with water level fluctuations.
- (3) Bed material shall not be removed from the water side of the excavation line.
- (4) Excavation shall begin at the excavation line and proceed toward the bank, perpendicular to the alignment of the watercourse.
- (5) The maximum distance of excavation toward the bank from the excavation line shall be approximately equal throughout the excavation zone. "Excavation zone" means the area between the excavation line and the bank.
- (6) The excavation zone shall be identified by boundary markers.
- (7) A minimum two percent gradient upward from the excavation line shall be maintained in the excavation zone.
- (8) At the end of each days' operation the excavation zone shall not contain pits or potholes.
- (9) Excavated materials shall not be stockpiled or spoiled within the ordinary high water line.
- (10) Equipment shall not enter the wetted perimeter of the watercourse.
- (11) Debris in the excavation zone shall be disposed of so as not to reenter the watercourse.
- (12) Gravel washing or crushing operations shall not take place below the ordinary high water line.

NEW SECTION

WAC 220-110-150 LOG AND LOG JAM REMOVAL. The following technical provisions may apply to log and log jam projects:

- (1) Logs or log jams shall be removed by yarding from the bank.
- (2) Where logs are to be yarded up a bank, skid logs or similar methods shall be used to prevent bank damage.
- (3) Upon completion of the yarding operation skid logs shall be removed and the bank restored to preproject condition.
- (4) Material associated with the log or debris jam shall be removed and disposed of so as not to reenter the watercourse.
- (5) Logs embedded in a bank or bed shall be cut off at the bank or bed line.
- (6) Log or debris jam removal shall be accomplished in a manner which prevents the release of logs or debris downstream.
- (7) Depressions created in gravel bars shall be filled, smoothed over, and sloped toward the water.

NEW SECTION

WAC 220-110-160 LOGGING. The following technical provisions may apply to logging projects:

- (1) Trees shall not be felled into or across a watercourse.
- (2) Logs transported across a watercourse shall be suspended so no portion of the logs or limbs can enter the watercourse or damage the bed and banks.
- (3) Debris resulting from the project shall be removed from the bed during the operation and before removal of equipment from the site. Debris removal shall be accomplished so the watercourse, bed or banks are not disturbed.

NEW SECTION

WAC 220-110-170 OUTFALL STRUCTURES. The following technical provisions may apply to outfall structure projects:

- (1) The outfall structure shall be designed and constructed to prevent the entry of fish.
- (2) The watercourse bank and bed at the point of discharge shall be armored to prevent scouring.
- (3) Excavation for placement of the structure or armoring materials shall be isolated from the wetted perimeter.
- (4) Alteration or disturbance of banks or bank vegetation shall be held to a minimum, and all disturbed areas shall be protected from erosion.
- (5) Structures containing concrete or wood preservatives shall be cured prior to water encroachment.

NEW SECTION

WAC 220-110-180 POND CONSTRUCTION. The following technical provisions may apply to pond construction projects:

- (1) Ponds shall not be constructed within the watercourse.
- (2) Ponds shall be designed and constructed to prevent the entry of fish.
- (3) Flow from the pond to the watercourse shall be by gravity. Pond return flow shall be located near the inlet.
- (4) Initial filling of the pond shall occur during a high flow period. Fifty percent of the flow shall be maintained within the watercourse during initial filling of the pond.
- (5) The work area shall be isolated from the watercourse during construction of the pond, the diversion system, and the return flow system.
- (6) Prior to the initial filling, all disturbed banks shall be protected to prevent erosion.
- (7) Ponds shall be designed and constructed so the outflow temperature is not harmful to fish life.

NEW SECTION

WAC 220-110-190 WATER DIVERSIONS—GENERAL FISH SCREENING CRITERIA. The following technical provisions apply to water diversions where fish screens are required. General fish screening criteria are applicable to rotary drum screens, traveling screens, belt screens and stationary flat plate screens.

- Screens shall be designed, constructed and located as follows:
- (1) Structure placement—flowing waters (rivers and creeks):
    - (a) Where physically practical, the screen shall be constructed at the diversion entrance parallel to the flow with the screen face continuous

with the adjacent bankline. The bankline shall be altered, if necessary, to prevent eddies and maintain parallel velocities past the screen; or

(b) Where site or hydraulic conditions make installation of fish screens at the diversion entrance physically impractical, screens may be located in the conduit or diversion canal at a more suitable location. Such screens shall be provided with bypass systems to efficiently collect juvenile fish and safely transport them back to the flowing water body. Such screens shall also be constructed at an angle not to exceed 45° (degrees) from the approaching flow with the downstream end of the screen terminating at the bypass system entrance.

(2) Structure placement—nonflowing waters (lakes and reservoirs):

In nonflowing waters, diversion structures and associated fish screens will be constructed offshore to minimize fish contact.

(3) Approach velocity (local velocity component perpendicular to the screen face) shall not exceed:

(a) 0.5 feet/second for chinook and coho salmon fry and all fingerling salmon (fingerling minimum length: 60 mm); or

(b) 0.2 feet/second for pink, chum and sockeye salmon and gamefish fry;

(c) When screens are not readily accessible for cleaning, the screens shall be designed with an approach velocity of 0.05 feet/second.

(4) Wetted screen area, excluding area blocked to flow by structural components, required at ordinary low water shall be calculated by dividing maximum diverted flow by the allowable approach velocity.

(5) In flowing water, the velocity component parallel and adjacent to the screen face shall be at least two times the approach velocity. Screen faces shall be placed flush with adjacent screen bay piers or walls.

(6) Screen openings shall not exceed 1/4 (0.25) inch measured horizontally. Where fish less than 60 mm in length are present the screen openings shall not exceed 1/8 (0.125) inch.

(7) The long axis of slot or rectangular screen openings shall be vertical.

(8) Screens may be constructed of any rigid material, woven or perforated, that physically excludes fish provided that structural integrity and cleaning effectiveness are not impaired.

(9) Screens shall be removed only by written permission of the departments.

(10) Alteration or disturbance of banks or bank vegetation shall be held to a minimum, and all disturbed slopes shall be protected from erosion and revegetated.

#### NEW SECTION

WAC 220-110-200 MINERAL PROSPECTING (PANNING). The following technical provisions may apply to mineral prospecting (panning) projects:

(1) For mineral prospecting as provided in subsection (2) of this section, a copy of the Gold and Fish Pamphlet shall be on the project site at all times, and shall serve as the hydraulic project approval.

(2) The equipment authorized in this section is gold pans, mini-rocker boxes, and nonmotorized sluice boxes not larger than 12" x 36" including attachments. Sluice boxes shall not exceed twenty-five percent of the width of the wetted perimeter.

(3) All work shall be performed by hand or hand-held tools.

(4) Graveled spawning areas shall not be disturbed.

(5) Streambanks shall not be excavated.

(6) Materials too large to be moved by hand shall not be disturbed.

(7) The flowing stream shall not be dammed or diverted.

(8) Pits, furrows, and potholes shall be filled and leveled prior to leaving the project site.

(9) Issuance of an approval does not authorize entry onto private property or removal of minerals from an existing mining claim. It is the applicant's responsibility to determine if a claim has been issued. The department of natural resources should be contacted regarding this.

#### NEW SECTION

WAC 220-110-210 MINERAL PROSPECTING (SLUICING). The following technical provisions may apply to mineral prospecting (sluicing) projects:

(1) The equipment authorized by this section is: (a) One nonmotorized sluice box not larger than 18" x 60" or 7.5 square feet; (b) one nonmotorized sluice box not larger than 24" x 96" or 16 square feet. Neither sluice box shall exceed twenty-five percent of the width of the wetted perimeter.

(2) All excavations shall be performed by hand or hand-held tools.

(3) Graveled spawning areas shall not be disturbed.

(4) Streambanks shall not be excavated.

(5) The flowing stream shall not be dammed or diverted.

(6) Materials too large to be moved by hand shall not be disturbed.

(7) Pits, furrows, and potholes shall be filled and leveled prior to leaving the project site.

(8) Issuance of an approval does not authorize entry onto private property or removal of minerals from an existing mining claim. It is the applicant's responsibility to determine if a claim has been issued. The department of natural resources should be contacted regarding this.

(9) The Gold and Fish Pamphlet shall be on the project site.

#### NEW SECTION

WAC 220-110-220 MINERAL PROSPECTING (MOTORIZED). The following technical provisions may apply to mineral prospecting (motorized) projects:

(1) The equipment authorized by this section is: (a) One suction dredge having a maximum nozzle intake diameter of 2-1/2", 4", 6", or 8"; or (b) one motorized sluice box not larger than 18" x 60" and/or 7.5 square feet; or (c) one motorized sluice box not larger than 24" x 96" or 16 square feet. The total width of the equipment shall not exceed twenty-five percent of the wetted perimeter.

(2) Hydraulic (jet or nozzle) outside of the wetted perimeter is prohibited.

(3) Stream banks shall not be excavated.

(4) Graveled spawning areas shall not be disturbed.

(5) Pits, furrows, and potholes shall be filled and leveled prior to leaving the project site.

(6) The flowing stream shall not be dammed or diverted.

(7) Motorized, tracked, or wheeled vehicles shall not enter the wetted perimeter of the stream.

(8) Motorized tools shall not be used to move materials too large to be moved by hand such as boulders, logs, stumps, etc.

(9) Stable woody debris jams shall not be disturbed.

(10) Petroleum products shall not be allowed to enter the water.

(11) Operations shall meet state water quality standards.

(12) This section shall include lessor activities such as sluicing or panning provided provisions and timing are followed and a copy of the Gold and Fish Pamphlet is on the project site.

(13) Issuance of an approval does not authorize entry onto private property or removal of minerals from an existing mining claim. It is the applicant's responsibility to determine if a claim has been issued. The department of natural resources should be contacted regarding this.

#### NEW SECTION

WAC 220-110-230 SALTWATER TECHNICAL PROVISIONS. WAC 220-110-240 through 220-110-330 set forth technical provisions that typically apply, and additional definitions applicable to saltwater hydraulic projects. Certain technical provisions may be required depending upon the individual proposal and site specific characteristics. Additional special provisions may be included. Those provisions which the departments determine are applicable to an individual project shall be contained in the hydraulic project approval, as necessary to protect fish life.

#### NEW SECTION

WAC 220-110-240 TIDAL REFERENCE AREAS. Tidal reference areas are defined as follows:

(1) Tidal Reference Area 1 (Shelton): All saltwater area in Oakland Bay and Hammersley Inlet westerly of a line projected from Hungerford Point to Arcadia.

(2) Tidal Reference Area 2 (Olympia): All saltwater area between a line projected from Hungerford Point to Arcadia and a line projected from Johnson Point to Devil's Head. This includes Totten, Eld, Budd, Case and Henderson Inlets, and Pickering Passage.

(3) Tidal Reference Area 3 (South Puget Sound): All saltwater area easterly and northerly of a line projected from Johnson Point to Devil's Head and southerly of the Tacoma Narrows Bridge.

(4) Tidal Reference Area 4 (Tacoma): All saltwater area northerly of the Tacoma Narrows Bridge and southerly of a line projected true west and true east across Puget Sound from the northern tip of Vashon Island.



(5) Tidal Reference Area 5 (Seattle): All saltwater area northerly of a line projected true west and true east across Puget Sound from the northern tip of Vashon Island and southerly of a line projected true east from Point Jefferson at 47° 15' N. latitude across Puget Sound. This area includes Port Orchard, Port Madison, and Dyes and Sinclair Inlets.

(6) Tidal Reference Area 6 (Edmonds): All saltwater area northerly of a line projected true east from Point Jefferson at 47° 15' N. latitude across Puget Sound and southerly of a line projected true east from Possession Point to Chenault Beach and from Foulweather Bluff to Double Bluff.

(7) Tidal Reference Area 7 (Everett): All saltwater area northerly of a line projected true east from Possession Point to Chenault Beach, easterly of a line projected 5° true from East Point to Lowell Point, and southerly of the Stanwood to Camano Island Highway. This area includes Port Gardner, Port Susan, and parts of Possession Sound and Saratoga Passage.

(8) Tidal Reference Area 8 (Yokeko Point): All saltwater area westerly and northerly of a line projected 5° true from East Point to Lowell Point, north of the Stanwood to Camano Island Highway, and easterly and southerly of Deception Pass Bridge and the Swinomish Channel Bridge on State Highway 536. This area includes Holmes Harbor, Saratoga Passage, Skagit Bay, Similk Bay, and most of the Swinomish Channel.

(9) Tidal Reference Area 9 (Blaine): All saltwater area in Skagit County and Whatcom County that lies northerly of the Swinomish Channel Bridge on State Highway 536 and westerly and northerly of Deception Pass Bridge.

(10) Tidal Reference Area 10 (Port Townsend): All saltwater area of Puget Sound as defined in WAC 220-16-210 except Hood Canal south of a line projected from Tala Point to Foulweather Bluff, and except all waters defined in Tidal Reference Areas 1 through 9. Area 10 includes waters of the San Juan Islands, Admiralty Inlet, the Strait of Juan de Fuca, and associated bays and inlets.

(11) Tidal Reference Area 11 (Union): All saltwater area of Hood Canal southerly and easterly of a line projected from Lilliwaup Bay to Dewatto Bay.

(12) Tidal Reference Area 12 (Seabeck): All saltwater area of Hood Canal northerly of a line projected from Lilliwaup Bay to Dewatto Bay and southerly of a line projected true east from Hazel Point. This area includes Dabob Bay and Quilcene Bay.

(13) Tidal Reference Area 13 (Bangor): All saltwater area of Hood Canal northerly of a line projected true east from Hazel Point and south of a line projected from Tala Point to Foulweather Bluff. This area includes Port Gamble.

(14) Tidal Reference Area 14 (Ocean Beaches): All saltwater area between Cape Flattery and the Oregon border at the mouth of the Columbia River, excluding Grays Harbor and Willapa Bay.

(15) Tidal Reference Area 15 (Westport): All saltwater area in Grays Harbor easterly of a line projected from the outermost end of the north jetty to the outermost end of the south jetty, and westerly of 123° 59' W. longitude.

(16) Tidal Reference Area 16 (Aberdeen): All saltwater area in Grays Harbor easterly of 123° 59' W. longitude and westerly of the Union Pacific railroad bridge across the Chehalis River.

(17) Tidal Reference Area 17 (Willapa Bay): All saltwater area in Willapa Bay easterly of a line projected from Leadbetter Point to Cape Shoalwater Light.

#### NEW SECTION

WAC 220-110-250 SURF SMELT SPAWNING BEDS. Surf smelt spawning beds are defined as follows:

(1) All beds within Tidal Reference Area 2 between +9.0 feet and +14.0 feet above MLLW in:

(a) Totten Inlet westerly and southerly of a line projected from Windy Point to Gallagher Cove, except Skookum Inlet westerly of a line projected true north from the entrance to Wildcat Cove, and except that part of Oyster Bay westerly of a line projected true south from the Olympia Oyster Company plant;

(b) Eld Inlet from Flapjack Point southerly to Rocky Point, and from Cooper Point south to the line of 47° 3' 36" N. latitude;

(c) Budd Inlet from Cooper Point south to 47° 4' 6" N. latitude, and from Dofflemyer Point south to 47° 3' 48" N. latitude;

(d) Henderson Inlet from Johnson Point southerly to 47° 7' N. latitude; and

(e) Case Inlet (North Bay) from the mouth of Sherwood Creek north to a point 1/4 mile north of the City of Tacoma's Lake Cushman Transmission Line.

(2) All beds within Tidal Reference Area 4 between +7.0 feet and +11.5 feet above MLLW in Quartermaster Harbor north of a line projected true west from the northern tip of Dockton.

(3) All beds within Tidal Reference Area 5 between +7.0 feet and +11.0 feet above MLLW in:

(a) Sinclair Inlet from the west city limits of Port Orchard west to 122° 40' W. longitude;

(b) Liberty Bay northerly of a line projected from Bolin Point westerly to the southern property line of the United States Naval facility; and

(c) Dyes Inlet from Silverdale south to Chico.

(4) All beds within Tidal Reference Area 7 between +7.0 feet and +11.0 feet above MLLW in Port Susan from the entrance to Triangle Cove south to Camano Country Club.

(5) All beds within Tidal Reference Area 8 between +7.0 feet and +11.0 feet above MLLW in:

(a) Saratoga Passage from Onamac Point northerly to Rocky Point, then easterly to Brown Point in Skagit Bay;

(b) Skagit Bay from the mouth of Dugualla Bay southeasterly for about 2 miles to 48° 19' 54" N. latitude;

(c) Saratoga Passage from Muellers Park in Penn Cove easterly and southerly to a point on Whidbey Island determined by projecting a line true west from Onamac Point;

(d) Penn Cove from San de Fuca to Penn Cove Park;

(e) Oak Harbor from the boat ramp to Blowers Bluff; and

(f) Crescent Harbor adjacent to the United States Naval Air Station property.

(6) All beds within Tidal Reference Area 9 between +6.0 feet and +8.5 feet above MLLW in:

(a) Fidalgo Bay along the north side of Weaverling Spit; and

(b) Fidalgo Bay from the tip of Crandall Spit northerly and easterly to the east side of March Point.

(7) All beds within Tidal Reference Area 10 between +5.5 feet and +8.0 feet above MLLW in:

(a) Kilisut Harbor (Scow Bay) south of a line projected true west from the mouth of Mystery Bay;

(b) Dungeness Harbor from "Gun Club Spit" at Old Town westerly to the boundary of the Dungeness Wildlife Refuge at the base of Dungeness Spit;

(c) The Strait of Juan de Fuca from 300 yards east of the mouth of East Twin River westerly to 300 yards west of the mouth of West Twin River; and

(d) The Strait of Juan de Fuca at the mouth of Deep Creek and easterly for 1,400 yards.

(8) All beds within Tidal Reference Area 11 between +7.0 feet and +11.5 feet above MLLW in Hood Canal east of a line projected true south from the west side of the Tahuya River and west of a line projected from Rose Point to the mouth of Little Mission Creek.

(9) All beach area within Tidal Reference Area 14 below +9.0 feet above MLLW from Cape Johnson south to the Quinault Indian Reservation.

#### NEW SECTION

WAC 220-110-260 PACIFIC HERRING SPAWNING BEDS. Pacific herring spawning beds are defined as follows:

(1) All beds within Tidal Reference Area 2 between +3.0 feet (above MLLW) and -15.0 feet (below MLLW):

(a) In and at the mouth of Wildcat Harbor (Skookum Inlet);

(b) In Totten Inlet at the west and east entrances to Gallagher Cove between 47° 8' 45" and 47° 9' 18" N. latitude;

(c) In Squaxin Passage south of a line projected true east from the northern tip of Steamboat Island to Hope Island and northerly and westerly of Hunter Point, and in addition, all beds in this described area between -15 feet and -60 feet; and

(d) Along the west side of Squaxin Island from Unsal Point north to 47° 10' 36" N. latitude.

(2) All beds within Tidal Reference Area 3 between +3.0 feet (above MLLW) and -15.0 feet (below MLLW) in the south part of Mayo Cove between 47° 15' 24" and 47° 15' 48" N. latitude.

(3) All beds within Tidal Reference Area 4 between +3.0 feet (above MLLW) and -25.0 feet (below MLLW) beginning near Tahlequah on Vashon Island at 122° 30' W. longitude and extending continuously throughout Quartermaster Harbor to Piner Point on Maury



Island, then northeasterly along the east side of Maury Island to 47° 22' 36" N. latitude.

(4) All beds within Tidal Reference Area 5 between +3.0 feet (above MLLW) and -30.0 feet (below MLLW):

(a) In Port Orchard from University Point northerly to Keyport;

(b) In Port Orchard from Battle Point northeasterly to Arrow Point;

(c) In Port Orchard from the north entrance to Manzanita Bay northerly to Seabold;

(d) In Port Orchard from Lemolo southeasterly to Point Bolin, then north to 47° 42' 21" N. latitude in Agate Passage;

(e) In Agate Passage and Port Madison from Agate Pass Bridge northerly to Agate Point, then southerly and easterly to the western tip of Point Monroe, and including the southern extension of Port Madison within these boundaries; and

(f) In Agate Passage and Port Madison from Agate Pass Bridge northerly to and including lower Miller Bay, then easterly to Indianola.

(5) All beds within Tidal Reference Area 7 between elevations 0.0 feet (MLLW) and -20 feet (below MLLW):

(a) Throughout Tulalip Bay and north to a point about 2,800 feet northwest of Hermosa Point;

(b) At Spee-Bi-Dah for a distance of about 1,000 feet between latitudes 48° 04' 52" and 48° 05' 35";

(c) Beginning about 1,500 feet south of Tulare Beach northward to a point 2,500 feet northwest of Kayak Point.

(6) All beds within Tidal Reference Area 8 between +3.0 (above MLLW) and -15.0 feet (below MLLW):

(a) In Holmes Harbor south of a line projected from Dines Point 125° true across Holmes Harbor;

(b) At the entrance to Holmes Harbor northerly of Rocky Point in the vicinity of Baby Island;

(c) In northern Skagit Bay, from Hunot Point, Fidalgo Island, south to the dredged entrance to Swinomish Channel, and from Ala Spit, Whidbey Island south through Dugualla Bay to 48° 20' 30" N. latitude; and

(d) On the east side of Similk Bay from 48° 26' N. latitude north to 48° 26' 54" N. latitude in Turners Bay.

(7) All beds within Tidal Reference Area 9 between +3.0 (above MLLW) and -15.0 feet (below MLLW):

(a) In Fidalgo Bay and easterly to the east side of March Point;

(b) In Padilla Bay north of a line projected true east through Saddlebag Island, south of William Point, and east of a line projected from Saddlebag Island to William Point;

(c) On the east side of Samish Bay from 48° 35' 30" N. latitude northwesterly to Wildcat Cove;

(d) Along Lummi Island from Village Point northerly to Point Migley, then southeasterly along the west side of Hale Passage to 48° 41' N. latitude;

(e) Surrounding Portage Island and including Portage Bay, and extending northerly up the east side of Hale Passage to Gooseberry Point;

(f) On the east side of the Strait of Georgia beginning southeast of Sandy Point at 48° 46' 15" N. latitude and extending northerly to Point Whitehorn, then northeasterly to 48° 54' 45" N. latitude in Birch Bay;

(g) Beginning at 122° 47' 6" W. longitude on the north side of Birch Bay and extending northerly to Semiahmoo Bay at the United States-Canadian border;

(h) In Drayton Harbor; and

(i) Bordering all of Point Roberts from the Canadian border in the Strait of Georgia to the Canada border in Boundary Bay.

(8) All beds within Tidal Reference Area 10 between +3.0 (above MLLW) and -15.0 feet (below MLLW):

(a) In East Sound (Fishing Bay and Ship Bay) north of a line projected true east from Judd Cove;

(b) In East Sound from Dolphin Bay northwesterly for 0.5 miles;

(c) On the north side of West Sound from Indian Point northerly and easterly around Massacre Bay to the northern entrance to White Beach Bay;

(d) On the west side of West Sound from 48° 37' N. latitude southwesterly to Caldwell Point, then westerly about 1/2 mile along the north side of Pole Pass to the Beacon;

(e) In Blind Bay, Shaw Island;

(f) In Shoal Bay, Lopez Island;

(g) In Hunter Bay and Mud Bay, Lopez Island;

(h) In Westcott Bay, Garrison Bay, and Horseshoe Bay, San Juan Island;

(i) Off the mouth of Mitchell Bay and northerly to Hanbury Point, and Mosquito Pass northerly to and adjacent to White Point, San Juan Island;

(j) On the east side of Sequim Bay from Goose Point northerly to Kiapot Point, and on the west side of Sequim Bay from Schoolhouse Point northerly to 48° 3' 24" N. latitude near Pitship Point, and in addition all beds in this described area between -15.0 feet and -40.0 feet;

(k) On the east side of Discovery Bay from 48° N. latitude near Fairmont northerly to 48° 3' 24" N. latitude, and on the west side of Discovery Bay from 48° N. latitude near Maynard northerly to Carr Point, additionally all beds between -15.0 feet and -40.0 feet in this described area;

(l) On the west side of Port Townsend from Glen Cove southerly to the mouth of Chimacum Creek and on the east side of Port Townsend from Crane Point northerly outside the entrance to Kilisut Harbor to 48° 5' 36" N. latitude; and

(m) In Kilisut Harbor (Scow Bay) south of 48° 5' 9" N. latitude, and in addition all beds in this described area between -15.0 feet and -30.0 feet.

(9) All beds within Tidal Reference Area 11 between +3.0 (above MLLW) and -15.0 feet (below MLLW) east of 122° 59' 36" W. longitude and west of 122° 51' 18" W. longitude.

(10) All beds within Tidal Reference Area 12 between +3.0 (above MLLW) and -15.0 feet (below MLLW):

(a) In Quilcene Bay north of 47° 47' 6" N. latitude;

(b) On the west side of Dabob Bay from Whitney Point south to 47° 43' 42" N. latitude in Right Smart Cove near Wawa Point;

(c) On the west side of Hood Canal from 47° 40' 18" N. latitude south to Quatsap Point (including Pleasant Harbor), then west to a line projected true south from the mouth of the Duckabush River; and

(d) On the east side of Hood Canal in Stavis Bay, Seabeck Bay, and on the north side of Misery Point.

(11) All beds within Tidal Reference Area 13 between +3.0 and -15.0 feet on the east side of Hood Canal from Lofall northeasterly to Sheltered Bay and including Port Gamble Bay.

(12) All beds within Tidal Reference Area 17 between +3.0 and -5.0 feet:

(a) On the west side of Willapa Bay from the Nahcotta Dock north to 46° 38' N. latitude; and

(b) Between the mouths of Cedar River and North River.

#### NEW SECTION

WAC 220-110-270 COMMON TECHNICAL PROVISIONS. Technical provisions that commonly apply to projects in the saltwater area are as follows:

(1) Use of equipment on the beach area shall be held to a minimum and confined to specific access and work corridors.

(2) Beach area material shall not be utilized for project fills.

(3) Fresh concrete shall be cured or covered to prevent leaching, prior to water contact.

(4) Beach area depressions created during project activities shall be reshaped to preproject beach level upon project completion. Hydraulic clam harvesters shall comply with those conditions specified in WAC 220-52-018.

(5) Debris or deleterious material resulting from construction shall be removed from the beach area and prevented from entering state waters.

(6) Project activities shall be conducted to minimize siltation on beach areas.

(7) Materials treated with creosote or other preservatives shall be dry before use in the water.

#### NEW SECTION

WAC 220-110-280 BULKHEADS AND ASSOCIATED FILLS. The following technical provisions commonly apply to bulkhead and associated fill projects.

(1) The construction of sloping or vertical bulkheads and the placement of associated fill is restricted to the tidal elevations and time periods provided for in this section.

(2) The lowest tidal elevations for the toe of sloping or vertical bulkheads is as follows:

Tidal Reference No.	Area Name	Vertical or Sloping	All other beach areas	
		bulkheads adjacent to smelt spawning beds	Vertical bulkhead	Sloping bulkhead
1	Shelton	N/A <sup>1</sup>	+11.5 ft	+8.0 ft
2	Olympia	+14.0 ft	+11.6	+8.3
3	South Puget Sound	N/A	+10.7	+7.7
4	Tacoma	+11.5	+9.4	+6.9
5	Seattle	+11.0	+9.0	+6.6
6	Edmonds	N/A	+8.9	+6.6
7	Everett	+11.0	+8.8	+6.5
8	Yokeko Point	+11.0	+8.7	+6.5
9	Blaine	+8.5	+7.5	+6.1
10	Port Townsend	+8.0	+6.5	+5.1
11	Union	+11.5	+9.4	+6.9
12	Seabeck	N/A	+9.2	+6.8
13	Bangor	N/A	+8.7	+6.5
14	Ocean Beaches	+9.0	+7.8	+7.8
15	Westport	N/A	+8.3	+4.8
16	Aberdeen	N/A	+9.4	+5.4
17	Willapa Bay	N/A	+9.1	+5.2

<sup>1</sup>Not applicable because there are no known surf smelt spawning beds.

(3) The faces of bulkheads shall be constructed of permanent material not readily subject to erosion.

(4) Sloping bulkheads shall have a slope not steeper than 1.5 feet horizontal to 1 foot vertical.

(5) Bulkheads shall be constructed only during periods of low tide.

(6) Bulkhead forms shall be constructed so that leaching of concrete is minimized. Exposed concrete shall be covered or cured prior to water contact.

(7) Bulkhead construction is restricted to the following time periods:

(a) Tidal Reference Area 1: June 16 through March 14.

(b) Tidal Reference Area 2: June 16 through March 14 except June 16 through July 20 only adjacent to smelt spawning beds.

(c) Tidal Reference Area 3: June 16 through March 14.

(d) Tidal Reference Area 4: June 16 through March 14, except March 1 through March 14 and June 16 through September 30 adjacent to smelt spawning beds.

(e) Tidal Reference Area 5: June 16 through March 14, except:

(i) March 1 through March 14 and June 16 through August 30 adjacent to Liberty Bay smelt spawning beds; and

(ii) June 16 through October 15 adjacent to smelt spawning beds within Sinclair Inlet and Dyes Inlet.

(f) Tidal Reference Area 6: June 16 through March 14.

(g) Tidal Reference Area 7: June 16 through March 14, except October 16 through March 14 adjacent to smelt spawning beds.

(h) Tidal Reference Area 8: June 16 through March 14, except October 16 through March 14 adjacent to smelt spawning beds.

(i) Tidal Reference Area 9: June 16 through March 14, except June 16 through September 30 adjacent to smelt spawning beds.

(j) Tidal Reference Area 10: June 16 through March 14, except:

(i) June 16 through September 10 and November 10 through March 14 adjacent to smelt spawning beds within Kilisut Harbor;

(ii) June 16 through October 15 and January 15 through March 14 adjacent to smelt spawning beds within Dungeness Harbor; and

(iii) September 1 through May 1 adjacent to Smelt spawning beds at Twin Rivers and Deep Creek.

(k) Tidal Reference Area 11: June 16 through March 14, except June 16 through September 10 and February 1 through March 15 adjacent to smelt spawning beds in southern Hood Canal.

(l) Tidal Reference Area 12: June 16 through March 14.

(m) Tidal Reference Area 13: June 16 through March 14.

(n) Tidal Reference Area 14 through 17: January 1 through December 31.

**NEW SECTION**

WAC 220-110-290 BOAT LAUNCHES. The following technical provisions commonly apply to boat launch projects.

(1) Railway-type boat launches on smelt and herring spawning beds shall be designed to cause minimal interference with tidal currents and littoral drift.

(2) The construction of concrete boat launch ramps or the placement of other material for solid boat launch ramps is prohibited on smelt and herring spawning beds.

(3) The slope of boat launch sides shall be no steeper than 1.5 feet horizontal to 1 foot vertical.

**NEW SECTION**

WAC 220-110-300 PIERS, PILINGS, DOCKS, AND FLOATS. The following technical provisions commonly apply to pier, piling, dock, and float projects.

(1) Pile driving in or adjacent to surf smelt and herring spawning beds is permitted only as follows:

Tidal Reference Area	Permitted Times	
	Smelt spawning beds	Herring spawning beds
1	January 1-December 31	January 1-December 31
2	April 1-July 20	April 1-December 31
3	January 1-December 31	January 1-December 31
4	March 1-October 1	April 1-January 10
5	March 1-September 1 in Liberty Bay	March 20-January 20 in Port Orchard
	March 15-October 15 in Sinclair-Dyes Inlet	April 10-February 20 in Port Madison
6	January 1-December 31	January 1-December 31
7	October 15-May 15	February 15-April 15
8	October 15-May 15	April 10-February 10
9	March 15-October 1	June 1-January 31 at Point Roberts
		June 15-February 10 Blaine-Birch Bay; Point Whitehorn to Sandy Point; and Hale Passage and Portage Bay
		April 10-February 20 in Samish Bay
		April 10-February 10 in Padilla Bay, Fidalgo Bay
10	January 15-October 15 in Dungeness Harbor	April 15-February 1 West Sound, East Sound, Orcas Island
	November 10-September 10 in Kilisut Harbor	March 15-January 15 Hunter Bay, Lopez Island
	September 1-May 1 at Twin Rivers and Deep Creek	April 10-January 10 Mosquito Pass, San Juan Islands
		April 10-February 1, Discovery Bay
		March 1-January 31 Sequim Bay
		March 20-January 31 Port Townsend, Kilisut Harbor
11	December 1-September 10	March-January 15
12	January 1-December 31	April 15-February 10
13	January 1-December 31	April 1-January 31
14	September 1-April 1	January 1-December 31
15	January 1-December 31	January 1-December 31
16	January 1-December 31	January 1-December 31
17	January 1-December 31	March 15-January 15

(2) In addition to those limitations listed in WAC 220-110-300(1) pile driving may be further restricted to project juvenile salmonids or other species of fish.

(3) Floats and rafts shall be located and anchored to prevent grounding on smelt and herring spawning beds during periods of low tides.

(4) Anchoring systems for floating structures shall be designed and deployed so that beds are not damaged.

#### NEW SECTION

WAC 220-110-310 UTILITY LINES. The following technical provisions commonly apply to utility line projects.

(1) Digging trenches in the beach area for the installation of cables, sewer lines, and other utilities is restricted to the same time periods provided for driving piles (WAC 220-110-300) and dredging (WAC 220-110-320).

(2) Excavation of trenches in beach areas shall be conducted in the dry during low tide periods.

(3) Trenches in the beach area shall be backfilled expeditiously and all disturbed areas restored to preproject conditions.

#### NEW SECTION

WAC 220-110-320 DREDGING. The following technical provisions commonly apply to dredging projects.

(1) Dredging in Tidal Reference Areas 1 through 13 is limited to the period June 16 through March 15.

(2) Dredging in Tidal Reference Area 14 is permitted year-round.

(3) Dredging in Tidal Reference Area 15 in water shallower than the minus fifteen (-15.0) foot contour (MLLW = 0.0) is limited to the period May 1 through February 28.

(4) Dredging in Tidal Reference Area 16 in water shallower than the minus fifteen (-15.0) foot contour (MLLW = 0.0) is limited to the period June 16 through February 15.

(5) Dredging in Tidal Reference Area 17 in water shallower than the minus fifteen (-15.0) foot contour (MLLW = 0.0) is limited to the period May 1 through February 15.

(6) Floatable materials such as debris and piling shall not be disposed in the water.

(7) Dredging shall stop if distressed or dead fish are observed in the work area, and the departments shall be notified immediately.

(8) A hydraulic dredge shall not be operated with the intake above the surface of the material being removed. The intake may be raised not over 3 feet above the bed for brief periods of purging or flushing the intake system. This provision does not apply to hopper dredges.

(9) Dredged bed materials shall be disposed of at department of natural resources deep water disposal sites or approved upland sites.

(10) Dredging shall be conducted to a depth not greater than the channel depth at the seaward end.

(11) Dredging is prohibited on herring spawning beds.

(12) Dredging shall be conducted with dredge types that cause the least adverse impact on fish and shellfish and their habitat.

#### NEW SECTION

WAC 220-110-330 MARINAS. The following policies and technical provisions commonly apply to marina projects.

(1) Open-type construction, utilizing floating breakwaters and open pile work, shall be used whenever practicable.

(2) Physical modeling, numerical models, or other information that demonstrates adequate water exchange and circulation may be required.

(3) All navigation channels and breaches shall be maintained at or below marina depth to provide adequate fish passage.

(4) Isolated breakwaters beyond the line of extreme low tide shall be constructed of permanent material. No slope restrictions apply.

(5) The following provisions apply to marina construction shoreward of the existing ordinary high water line:

(a) A single entrance may be required.

(b) The entire inner shoreline shall be in conformance with bulkheading provisions in WAC 220-110-280. Between the bulkhead toe and the 0-tide level the beach face shall be sloped a minimum of 1.5 feet horizontal to 1 foot vertical.

(6) The following provisions apply to marina construction waterward of the ordinary high water line:

(a) The beach area inside the marina may be protected in accordance with bulkheading provisions in WAC 220-110-280. Between the elevation of the toe of the bulkhead and the 0-tide level the beach face shall not exceed a slope of 1.5 feet horizontal to 1 foot vertical.

(b) For a single entrance or breach marina, the breakwater structure shall not exceed a 1.5 feet horizontal to 1 foot vertical slope inside and outside the marina.

(c) The following provisions apply when a marina includes breaches that form shore breakwaters (jetties) and detached breakwaters:

(i) The toe of the shore breakwaters (jetties) may extend seaward to the 0-foot tide level, but shall not extend seaward more than 250 feet from MHHW.

(ii) The shore breakwaters shall have a minimum slope of 1.5 feet horizontal to 1 foot vertical throughout.

(iii) The breaches between the shore breakwaters and the detached breakwaters shall be not less than 20 feet in width measured at the toe of the slope.

#### NEW SECTION

WAC 220-110-340 INFORMAL APPEAL OF ADVERSE ADMINISTRATIVE DECISIONS. Any person who, upon proper application, is denied a requested hydraulic project approval or contests a condition placed in a granted approval, may contact the field investigator from the departments of game and/or fisheries assigned to the project to discuss the denial or provisions. If the result of this contact with the field investigator does not satisfy the applicant, then that person may contact the field investigator's supervisors up through the chain of command to the directors. If the applicant is not satisfied by the results of this informal appeal process, then that person may make a formal appeal. We encourage the applicant to exhaust this informal appeal process prior to initiating a formal appeal.

#### NEW SECTION

WAC 220-110-350 FORMAL APPEAL OF ADVERSE ADMINISTRATIVE DECISIONS. Any person who, upon proper application, is denied a requested hydraulic project approval or contests a condition placed in a granted approval, is entitled to an opportunity for hearing, pursuant to the Administrative Procedure Act, chapter 34.04 RCW. To obtain a hearing, a written request must be filed with either the Department of Fisheries' Habitat Management Division, Room 115, General Administration Building, Olympia, WA 98504, or the Department of Game's Habitat Management Division, 600 North Capitol Way, Olympia, WA 98504. Requests must be received within thirty days from the date of denial of a hydraulic approval or issuance of an approval with conditions sought to be contested. Hearings are conducted pursuant to the Uniform Procedure Rules, chapter 1-08 WAC, unless modified in writing or by agreement of the parties. Ordinarily, it is expected an aggrieved party seeking administrative review will waive the notice of hearing requirements provided by RCW 34.04.090(1) in order to provide an expeditious decision. An administrative law judge will be used to hear all evidence, with proposed findings of fact, conclusions of law, proposed order, and exceptions and replies thereto, and written argument, if any, prepared and presented to the directors of the departments, together with a tape of the contested case hearing, for final decision. All final decisions are appealable as provided by the Administrative Procedure Act, chapter 34.04 RCW. Administrative law judges will be provided by the office of administrative hearings.

### **WSR 83-06-063**

#### **ADOPTED RULES**

#### **DEPARTMENT OF AGRICULTURE**

[Order 1789—Filed March 2, 1983]

I, M. Keith Ellis, director of agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules regarding Grain, hay, beans and peas—Inspection fees, chapter 16-212 WAC, amending WAC 16-212-010, 16-212-030, 16-212-050, 16-212-060, 16-212-065, 16-212-070, 16-212-080, 16-212-090, 16-212-120, and repealing WAC 16-212-040, 16-212-085, 16-212-140, 16-212-150, 16-212-200 and 16-212-210.

This action is taken pursuant to Notice No. WSR 83-03-047 filed with the code reviser on January 19, 1983.

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 22.09 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 March 2, 1983.

By M. Keith Ellis  
Director

AMENDATORY SECTION (Amending Order 1118, filed 5/29/69, effective 7/1/69)

✓ WAC 16-212-010 DEFINITIONS. (1) "Department" means the Washington state department of agriculture.

(2) "Ton" means 2,000 pounds avoirdupois.

(3) "Overtime" means any time worked on Saturdays, Sundays, or Holidays and all time worked before 8:00 A.M. or after 5:00 P.M. on Monday through Friday. (~~Where industries operate regular, sustain shifts other than specified herein, exceptions may be made at the discretion of the Department.~~) Overtime fees may be waived by the department where industry operates on a regular basis other than specified herein.

(4) "Fees" means any charge made by the department for inspection and handling of any commodity.

AMENDATORY SECTION (Amending Order 1751, filed 12/2/81)

✓ WAC 16-212-030 GENERAL PROVISIONS FOR HOURLY CHARGES.

(1) Straight time, rate per hour .. ~~(\$16.00)~~ \$18.00  
This hourly rate shall be applied on any job where the fee is not sufficient to provide revenue of ~~(\$16.00)~~ \$18.00 per hour per man.

(2) Overtime, and night shift rate per hour: ..... \$8.00

~~((a) For shifts from 3:00 a.m. until 8:00 a.m., a fee of \$12.00 per hour per man shall be charged in addition to the regular inspection and weighing fees.~~

~~((b)) Whenever a service is requested before or after regularly scheduled working hours, Monday through Friday, or anytime on Saturdays, Sundays or holidays, a fee of \$8.00 per hour per man shall be charged in addition to the regular inspection and weighing fees: PROVIDED, That whenever an employee is called from his home after regular working hours, or on Saturdays, Sundays or holidays, a minimum of four hours shall be charged at the rate of \$8.00 per hour.~~

~~((c) Whenever a night shift (6:00 p.m. to 3:00 a.m.) is requested later than 3:00 p.m. the day prior to the start of the requested shift, a fee of \$12.00 per hour per man shall be charged in addition to the regular fees.~~

~~(d) Whenever a night shift (6:00 p.m. to 3:00 a.m.) is requested by 3:00 p.m. the day prior to the start of the requested shift, a fee of \$4.00 per hour per man shall be charged in addition to the regular fees: PROVIDED, That the workload is sufficient in size so that inspection and weighing fees generated that shift will defray the department's cost of \$16.00 per hour per man. If not, an additional overtime fee shall be assessed to equal \$16.00 per hour per man.~~

~~(e) Whenever a night shift (6:00 p.m. to 3:00 a.m.) is requested the day prior to the start of the requested night shift and is not cancelled by 5:00 p.m. the day prior to the start of the requested night shift, and the service cannot be performed for that shift through no fault of the department, a fee of \$20.00 per hour per man shall be charged for a minimum of four hours.)~~

(3) Scheduled night shifts.

~~((f))~~ At all designated inspection points, for night shifts, Monday through Friday (usually from 6:00 p.m. to 3:00 a.m.) that are, or will be, continuous for a period of one month or longer, with only an occasional work stoppage, additional fees per hour will not apply: PROVIDED, That the workload is sufficient in size so that inspection and weighing fees generated that shift will defray the department's cost of ~~(\$16.00)~~ \$18.00 per hour per man. If not, an additional overtime charge shall be assessed to equal ~~(\$16.00)~~ \$18.00 per hour per man.

~~((g))~~ (a) The department shall be given at least ~~((thirty))~~ twenty-one calendar days notice, in writing, of cancellation of any ~~((continuous))~~ scheduled night shift operation.

~~((h))~~ (b) The term "occasional work stoppage" shall mean union stop work meetings usually held once per month.

~~((i))~~ (4) Standby rate per hour ..... \$20.00  
Whenever a service is requested before or after working hours, Monday through Friday or anytime on Saturdays, Sundays or holidays, and service cannot be performed through no fault of the department, a Standby rate of \$20.00 per hour per man shall be charged. Before or after regular working hours, Monday through Friday, a minimum of two hours shall be charged ~~((; and))~~. Anytime on Saturdays, Sundays or holidays a minimum of four hours shall be charged.

AMENDATORY SECTION (Amending Order 1751, filed 12/2/81)

✓ WAC 16-212-050 CERTIFICATES.

(1) Copies of certificates, export, after original issuance, each run ..... ~~(\$2.00)~~ \$2.50  
(The above shall apply to "Divided Original Export Certificate". Each numbered set of certificates shall constitute a "run").

(2) Extra copies of inspection, protein or weight certificates ..... per copy ..... ~~(\$1.00)~~ \$2.50

AMENDATORY SECTION (Amending Order 1751, filed 12/2/81)

WAC 16-212-060 INSPECTION AND/OR WEIGHING FEES.

- (1) Combination inspection and weighing fees. Ships, barges and transfers of bulk grain.
  - (a) From vessel to elevator . . . . . per ton . . . . \$ 0.12
  - (b) Bin transfers . . . . . per ton . . . . . \$ 0.12
  - (c) From elevator to vessel . . . . . per ton . . . . \$ 0.12  
(Inspection - \$0.065 per ton)  
(Weighing - \$0.055 per ton)
- (2) Inspection only. (Sample, Inspect, Grade and Certificate).
  - (a) Railroad boxcars or open hopper-type cars at designated hold tracks or at plants for original and all subsequent original inspections . . . . . per car . . . . \$((~~10.40~~)) 12.00
  - (b) Covered hopper-type cars which are sampled by United States Department of Agriculture approved mechanical belt, spout, or leg-type samplers at plants . . . . . per car . . . . . \$((~~12.60~~)) 12.00
  - (c) Covered hopper-type cars sampled by methods other than by (b) above for original and all subsequent original inspections . . . . . per car . . . . . \$((~~17.60~~)) 19.00
  - (d) Additional factors requested (that do not affect the grade)
    - (i) added to existing certifications . . . . . per factor . . . . . \$ 2.00
    - (ii) factor certification only . . . . . per certificate (maximum two factors) . . . . . \$ 2.45
  - (e) Reinspection of rail boxcars and covered hopper-type cars on the basis of file sample . . . . . per reinspection . . . . . \$ ((~~6.75~~)) 7.00  
(In case of a material error in grade, a corrected certificate will be issued without a fee.)
  - (f) If a new sample is requested . . . . . (refer to (2) above).
- (3) Weigh only.
  - (a) From railroad boxcars, covered hopper-type cars, or vessels to elevator . . . . . per ton (grain only) . . . . . \$ ((~~0.09~~)) 0.10
  - (b) From elevator to railroad boxcars, covered hopper-type cars or vessels . . . . . per ton (grain only) . . . . . \$ ((~~0.09~~)) 0.10
  - (c) Bin transfers . . . . . per ton (grain only) . . . . . \$ ((~~0.09~~)) 0.10
  - (d) Weigh only (other than grain) . . . . . per ton . . . . . \$ 0.11
  - (e) Weigh (grain by-products into maximum 30-ton portable containers, fitness inspection of container, weigh by-product and sample) . . . . . per container . . . . . \$ 8.00
- (4) Submitted samples: inspection; factor information only; and file review . . . . . \$ ((~~5.00~~)) 5.75  
(Example of factor information only—where the submitted sample is less than 1,000 grams

in size, factor information may be provided on request for the above fee.)

(5) ((~~Inspection of ships as to condition~~)) Stowage examinations - ships, barges or vessels.

- (a) Per hold and/or tank . . . . . \$21.00
- (b) Minimum charge . . . . . \$108.00
- (c) ((~~Ships~~)) Holds and/or tank condition inspections will be made on ships or vessels at anchor in midstream when requested.
  - (i) A minimum of two hours of regular time at ((~~\$16.00~~)) \$18.00 per hour (one man) for general cargo vessels and a minimum of four hours of regular time at ((~~\$16.00~~)) \$18.00 per hour (two men) shall be charged for tankers in addition to the established inspection fee.
  - (ii) These inspections can only be made at the convenience of the grain inspection office, during daylight hours, under safe working conditions, when weather conditions permit.
  - (iii) These inspections can only be made within the area of the designated tidewater grain inspection office.
  - (iv) A ship's or vessel's officer or company agent shall accompany the licensed shiphold ((~~inspector/s~~)) inspector(s).
- (6) Trucks.
  - (a) Inspect only . . . . . per truck . . . \$((~~10.00~~)) 11.50
  - (b) Weigh only . . . . . per truck . . . \$ ((~~5.00~~)) 5.75
- (7) Inspection of sacked grains at inspection points . . . . . per cwt . . . . . \$ 0.04

AMENDATORY SECTION (Amending Order 1751, filed 12/2/81)

WAC 16-212-065 MISCELLANEOUS SAMPLING, TESTING, INSPECTION AND CERTIFICATION OF ((~~WHEAT FOR SEDIMENTATION VALUES~~)) GRAINS AND COMMODITIES.

- (1) ((~~Sampling and certification of identifiable lots~~)) . . . . . per sample . . . . . \$ 5.00
- ((~~2~~)) Reinspection per file sample, lot of miscellaneous commodities . . . . . \$ ((~~5.00~~)) 7.00
- ((~~3~~)) (2) Submitted sample certification . . . . . per sample . . . . . \$ ((~~5.00~~)) 5.75
- ((~~4~~ For)) (3) Sampling service only, to provide a ((~~sedimentation~~)) supplemental service sample (minimum charge one hour) per hour . . . . . ((~~\$16.00~~)) \$18.00
- ((~~5~~)) (4) Protein analysis or reinspection (per certificate) . . . . . \$ ((~~4.00~~)) 4.60
- ((~~6~~)) (5) Falling number test (per certificate) . . . . . \$10.00

AMENDATORY SECTION (Amending Order 1751, filed 12/2/81)

WAC 16-212-070 INSPECTION OF ((~~MISCELLANEOUS~~)) COMMODITIES.

- (1) Hay inspection.
  - (a) Complete inspection (minimum charge \$30.00) . . . . . per ton . . . . . \$ 1.00
  - (b) Factor inspection (minimum charge \$20.00) . . . . . per ton . . . . . \$ 1.00
  - (c) Submitted sample inspection . . . . . per sample . . . . . \$ 5.00
- (2) Inspection or reinspection of beans, peas, lentils, and similar commodities (minimum charge) . . . . . \$ ~~((15.00))~~ 18.00
  - (a) Inspection or reinspection of bags at inspection points . . . . . per cwt. . . . . \$ ~~((0.04))~~ 0.045
  - (b) Bulk commodity inspection (~~(point, bulk)~~) or reinspection at inspection points, per ton . . . . . \$ ~~((0.20))~~ 0.21
  - (c) Submitted sample inspection or reinspection . . . . . per sample . . . . . \$ ~~((10.00))~~ 11.00
- (3) Sampling only, bulk commodities.
  - (a) Minimum charge . . . . . \$10.00
  - (b) Covered hopper-type cars, per car . . . . . \$12.00
- (4) Whenever the lot size or workload is not of sufficient size so that inspection and/or weighing fees generated will defray the department's cost of ~~((16.00))~~ \$18.00 per hour per man, an additional fee shall be assessed to equal ~~((16.00))~~ \$18.00 per hour per man.
- ~~((4))~~ (5) Whenever service is required at points other than at the designated inspection point, car mileage fees as per WAC 16-212-080~~((5))~~ (3) shall be charged and added to inspection and weighing charges.

AMENDATORY SECTION (Amending Order 1751, filed 12/2/81)

- ✓ WAC 16-212-080 MISCELLANEOUS FEES.
  - (1) ~~((Weighing, checking and/or sampling commodities if not covered by WAC 16-212-060(3)(a), (b) and (c) minimum charge per hour . . . . . \$16.00~~)
    - ~~((2))~~ Mailing samples, minimum charge . . . . . \$ 1.00 (actual cost if greater than minimum)
    - ~~((3))~~ Sampling only, bulk commodities
      - (a) Minimum charge . . . . . \$ 4.00
      - (b) Covered hopper-type cars . . . . . \$11.00
    - ~~((4))~~ (2) Fee for pickup samples on routes established by the department . . . . . per sample . . . . . \$ 0.50
    - ~~((5))~~ (3) Car mileage . . . . . per mile . . . . . \$ ~~((0.15))~~ 0.185
    - ~~((6))~~ (4) In all cases where no fee has been established for services, the charge for such service shall be as provided in WAC 16-212-030, hourly charges.
    - ~~((7))~~ (5) Any charges made in addition to the basic fees provided for in WAC ~~((16-212-040))~~ 16-212-030 through 16-212-070 shall be classified as additional charges.

AMENDATORY SECTION (Amending Order 1118, filed 5/29/69, effective 7/1/69)

- ✓ WAC 16-212-090 SERVICES RENDERED AWAY FROM INSPECTION POINTS. (1) The provisions of this regulation shall apply to the grading, weighing, sampling, and inspection of grain, hay, beans, peas, ~~((and))~~ lentils, and other commodities at places other than inspection points. In addition to the applicable fees for such services, the applicant shall pay the following costs:
  - (a) Time per hour, per man, including overtime, if any, from office and return.
  - (b) Mileage from office and return except where transportation is furnished by applicant.
  - (c) Subsistence allowance if employee is away from station, as defined, first day and all subsequent days.
  - (d) Incidental costs for postage, telephone, etc.

AMENDATORY SECTION (Amending Order 1751, filed 12/2/81)

- ✓ WAC 16-212-120 GRADES AND STANDARDS. The grades and standards established by the United States Department of Agriculture as of ~~((January 1, 1982))~~ April 1, 1983, for all grains and commodities included within the provisions of this chapter are hereby adopted as the grades and standards for such grains and commodities in this state.

REPEALER

- ✓ The following sections of the Washington Administrative Code are repealed:
  - ✓ (1) WAC 16-212-040 PHYSICAL ANALYSES.
  - ✓ (2) WAC 16-212-085 INSPECTION OF CORN OR SORGHUM.
  - ✓ (3) WAC 16-212-140 TESTING REQUIREMENTS.
  - ✓ (4) WAC 16-212-150 FEES.
  - ✓ (5) WAC 16-212-200 PROMULGATION.
  - ✓ (6) WAC 16-212-210 ESTABLISHMENT OF GRAIN INSPECTION OFFICE AT COLFAX, WASHINGTON.

WSR 83-06-064  
PROPOSED RULES  
DEPARTMENT OF AGRICULTURE  
[Filed March 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning import regulations, amending WAC 16-54-040 and 16-54-082; that the agency will at 1:00, Tuesday, April 5, 1983, in the Washington Cattleman's Association Office, 1720 Canyon Road, Ellensburg, WA 98926, conduct a public hearing on the proposed rules. The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 8, 1983.

The authority under which these rules are proposed is chapter 16.36 RCW.

Dated: March 2, 1983  
By: Mike Willis  
Assistant Director

### STATEMENT OF PURPOSE

Title: Importation of animals.

Description of Purpose: To amend importation requirements for livestock moving into Washington in order to prevent the spread of infectious disease into the state.

Statutory Authority: Chapters 16.36 and 16.44 RCW.

Summary of Rule: Proposal will require a permit issued by the state veterinarian for all domestic bovine animals moving into Washington, amend the requirements pursuant to brucellosis to provide for the same vaccination requirements on imported animals as has been established for Washington cattle, establish requirements to prevent the spread of scabies and vesicular stomatitis, and to allow the director's appointed officers and other peace officers to stop vehicles transporting livestock to determine if the livestock have been identified for immediate slaughter.

Agency Personnel to Contact: Dr. Dean Smith, State Veterinarian, Department of Agriculture, Livestock Services, Union Avenue Building, EK 22, Olympia, WA 98504, (206) 753-5040.

These rules are proposed by the Department of Agriculture.

Agency Comments: The proposed amendments are essential in order to prevent the spread of diseases into Washington which could cause a severe economic impact to the state's livestock industry if allowed to go unchecked.

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

Small Business Economic Impact: No negative impact.

### AMENDATORY SECTION (Amending Order 1172, filed 12/15/70)

WAC 16-54-040 IMMEDIATE SLAUGHTER CATTLE AND HORSES. ((Cattle may be shipped into the State of Washington for immediate slaughter without inspection or health certificate. PRO-VIDED:

(1) The waybills or certificates state that the animals are for immediate slaughter, and

(2) The animals will be slaughtered within fourteen (14) days after arrival at destination, and

(3) The animals are consigned to a slaughter plant operating under the Federal Meat Inspection Act, or a slaughter plant specifically approved under Chapter 78.16, Title 9, Code of Federal Regulations, or a federally inspected stockyard or a salesyard specifically approved under Chapter 78.16, Title 9, Code of Federal Regulations, for sale to such a slaughter establishment;

(4) Provided further that international shipments are subject to further regulations under Title 9, C.F.R.)) The director, his appointed officers, any other peace officers or member of the state patrol may stop vehicles carrying cattle or horses to determine if the cattle or horses are identified or branded as immediate slaughter cattle or horses and, if so, that the cattle or horses are not being diverted for other purposes to points other than the specified point of slaughter.

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 1782, filed January 27, 1983)

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)) entering Washington shall be moved on a permit issued by the office of the state Veterinarian 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)) accompanied by 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 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 calthood 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) After January 1, 1984, all female beef breed cattle must be identified as official brucellosis vaccinates before entry, except the following classes of cattle are exempt from this requirement:

(i) Calves under four months of age.

(ii) Female beef breed cattle, after January 1, 1984, over twelve months of age; after January 1, 1985, over two years of age; after January 1, 1986, over three years of age; after January 1, 1987, over four years of age; after January 1, 1988, over five years of age; after January 1, 1989, over six years of age.

(iii) Cattle sold or consigned to a quarantined registered feed lot.

(iv) Cattle sold or consigned to a federally inspected slaughter plant.

(v) Cattle sold or consigned to a public livestock market for immediate slaughter only.

(vi) 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 of entry and, except those consigned to a federally inspected slaughter establishment for immediate slaughter within fourteen days, be accompanied by an official interstate health certificate.

(4) Vesicular stomatitis. The office of the state veterinarian may require that:

(a) Any cattle be accompanied by an official interstate health certificate except those consigned to a federally inspected slaughter establishment for immediate slaughter within fourteen days;

(b) Dairy breed cattle be held separate and apart from all other cattle for a period of seven days at the point of destination and rechecked by an accredited veterinarian at the end of that period; except that dairy breed cattle from known infected areas shall not be allowed entry into the state; and

(c) Beef breed cattle from known infected areas be held separate and apart from all other cattle for a period of thirty days either prior to entry or at the point of destination or both.

(5) Temporary grazing. Herd owners desiring to move cattle into Washington for temporary grazing purposes must obtain a prior permit from the ~~((office of the state veterinarian))~~ office of the state veterinarian: 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.

**WSR 83-06-065  
PROPOSED RULES  
DEPARTMENT OF  
GENERAL ADMINISTRATION  
(Division of Banking)  
[Filed March 2, 1983]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Division of Banking, Department of General Administration, intends to adopt, amend, or repeal rules concerning special assessment for working capital, repealing WAC 50-44-040;

that the agency will at 10:00 a.m., Thursday, April 7, 1983, in the General Administration Building, Room 219, 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 30.04.030.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1983.

Dated: March 2, 1983  
By: L. O. Malmberg  
Acting Supervisor

**REPEALER**

The following section of the Washington Administrative Code is repealed.

WAC 50-44-040 SPECIAL ASSESSMENT FOR WORKING CAPITAL.

**WSR 83-06-066  
ADOPTED RULES  
PLANNING AND  
COMMUNITY AFFAIRS AGENCY  
[Order 83-02—Filed March 2, 1983]**

I, Chuck Clarke, assistant director of the Planning and Community Affairs Agency, do promulgate and adopt at Ninth and Columbia Building, Olympia,

Washington, the annexed rules relating to chapter 365-55 WAC, the Washington State Weatherization Assistance Program for low-income persons, WAC 365-55-010 definitions, WAC 365-55-020 program description, WAC 365-55-030 program purpose, WAC 365-55-040 application procedures, WAC 365-55-050 contract awards, WAC 365-55-060 reports and records, WAC 365-55-070 policy advisory council and WAC 365-55-080 termination.

This action is taken pursuant to Notice No. WSR 82-22-076 filed with the code reviser on November 3, 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 Planning and Community Affairs Agency as authorized in RCW 43.63A.060.

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 March 2, 1983.  
By Chuck Clarke  
Assistant Director

**REPEALER**

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

- ✓ (1) WAC 365-55-010 DEFINITIONS
- ✓ (2) WAC 365-55-020 PROGRAM DESCRIPTION
- ✓ (3) WAC 365-55-030 PROGRAM PURPOSE
- ✓ (4) WAC 365-55-040 APPLICATION PROCEDURES
- ✓ (5) WAC 365-55-050 CONTRACT AWARDS
- ✓ (6) WAC 365-55-060 REPORTS AND RECORDS
- ✓ (7) WAC 365-55-070 POLICY ADVISORY COUNCIL
- ✓ (8) WAC 365-55-080 TERMINATION

**WSR 83-06-067  
PROPOSED RULES  
COMMISSION  
FOR THE BLIND  
[Filed March 2, 1983]**

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

- New WAC 67-40-022 Prevention—Financial eligibility.
- New WAC 67-40-026 Prevention—Medical eligibility.
- New WAC 67-40-051 Prevention—Services provided.
- New WAC 67-40-061 Services not provided.
- Amd WAC 67-40-090 Prevention—Appeal and fair hearing;

that the agency will at 9:00 a.m., Saturday, April 23, 1983, 3411 South Alaska, Seattle, WA 98118, 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 74.16.170.

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

Dated: March 2, 1983

By: Paul Dzedzic  
Director

### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Adopting WAC 67-40-022, 67-40-026, 67-40-051, 67-40-061 and 67-40-090.

Purpose of the rules is to establish the criteria which regulates the prevention of blindness program.

Statutory authority for this action is found in RCW 74.16.170.

The Commission for the Blind and the Department of Social and Health Services jointly operate the prevention of blindness program. These changes advise clients of financial and medical eligibility standards, services provided, specific services not provided, and appeal and fair hearing procedures.

### NEW SECTION

WAC 67-40-022 PREVENTION—FINANCIAL ELIGIBILITY. Application for the prevention of blindness program is made at department of social and health services community services offices.

Financial eligibility must be established by the department of social and health services.

### NEW SECTION

WAC 67-40-026 PREVENTION—MEDICAL ELIGIBILITY.

(1) The eye physicians advisory committee recommends the policies and criteria for the determination of medical services to be provided by the prevention of blindness program.

(2) The commission's ophthalmological consultant reviews the medical necessity of conditions diagnosed by the individual's ophthalmologist and makes a decision regarding medical services to be provided based on the criteria recommended by the eye physicians advisory committee.

### NEW SECTION

WAC 67-40-051 PREVENTION—SERVICES PROVIDED. Subject to the limitations in WAC 67-40-060, the commission will approve services which are determined to be medically necessary as defined:

(1) Medical necessity applies to a service for the treatment of eye(s) that can be determined to prevent, diagnose, correct, cure, alleviate, or prevent the worsening of conditions that endanger life, cause suffering or pain, or result in blindness or loss of vision, or threaten to cause a visual loss, or cause physical malfunction, and there is no other equally effective, more conservative or substantially less costly course of treatment available or suitable. For purposes of this section, "course of treatment" may include mere observation or, where appropriate, no treatment at all.

(2) A medical social work consultant coordinates the provisions of services by ophthalmologists throughout the state and works in cooperation with staff of the DSHS community services offices and division of medical assistance, as well as vocational rehabilitation counselors to implement plans for eye care.

### NEW SECTION

WAC 67-40-061 SERVICES NOT PROVIDED. A request for medical services may be denied if the requested service is generally regarded by the medical profession as experimental in nature or as unacceptable treatment unless the requested service can be demonstrated to be otherwise medically necessary.

Certain eye conditions which are degenerative and unlikely to respond to treatment and certain conditions pertaining to tear ducts or eyelids rather than the eye itself shall be excluded, specifically:

(1) Routine eye examinations for clients not specifically referred for diagnosis of a suspected vision problem;

(2) Glasses and contact lenses, except following cataract surgery or when medically necessary for treatment of an eye condition such as strabismus or keratoconus;

(3) Blepharitis;

(4) Chalazion;

(5) Conjunctivitis;

(6) Macular degeneration, except subretinal neovascularization;

(7) Orthoptics (muscle training);

(8) Cosmetic plastic surgery;

(9) Tumors outside the eye unless suspected malignancy threatens eye function;

(10) Strabismus surgery for adults unless diplopia is present;

(11) Cataract surgery when vision is better than 20/70 in the better eye with correction (or better than jaeger 5 with a 3.5 add), except when the cataract is hypermature and complications are present or imminent or when documented social factors establish the need to drive or read to maintain independence.

### AMENDATORY SECTION (Amending Order 82-06, filed 8/4/82)

WAC 67-40-090 PREVENTION—APPEAL AND FAIR HEARING. (1) Any individual denied service may request a hearing by writing within ((thirty)) ninety days of receipt of notification to the commission for the blind at 921 Lakeridge Drive, Olympia, WA ((98502)) 98504, which will forward the request to the Office of Administrative Hearings.

(2) The hearing shall be held in the county in which the appellant resides. The individual may be represented by legal counsel or by another person of his/her choosing.

(3) ~~((The director shall upon recommendation from the administrative law judge issue a))~~ An administrative law judge from the office of administrative hearings shall issue an initial decision.

(4) The director shall issue a final decision within fifteen days of receipt of the proposed decision.

(5) An appellant who feels aggrieved by the decision of the director has the right to a judicial review as provided by law.

WSR 83-06-068

PROPOSED RULES

COMMISSION

FOR THE BLIND

[Filed March 2, 1983]

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

- Amd WAC 67-20-388 Vocational rehabilitation services—Vocational and other training.
- Amd WAC 67-20-395 Vocational rehabilitation services—Training—College and trade school.
- Amd WAC 67-20-190 Economic need—Standards for determining;

that the agency will at 9:00 a.m., Saturday, April 23, 1983, 3411 South Alaska, Seattle, WA 98118, 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 74.16.181.

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

Dated: March 2, 1983

By: Paul Dziedzic  
Director

### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Adopting WAC 67-20-190, 67-20-388 and 67-20-395.

Purpose of these rules is to amend criteria for determining economic need, and to change the reimbursement rate for books, tools and other training materials provided by the commission to eligible vocational rehabilitation clients.

Statutory Authority: RCW 74.16.181.

Summary of the Rule or Rule Changes: WAC 67-20-190 prohibits clients from transferring non-exempt property within six months of application for vocational rehabilitation benefits in order to meet economic need standards; WAC 67-20-388 and 67-20-395 changes the specific dollar amount the commission can reimburse clients for books, tools and other training materials to an amount determined by the director.

Person or Persons Responsible for the Drafting, Implementation and Enforcement of the Rules: Paul Dziedzic, Director, Commission for the Blind, Mailstop FW-21, Olympia, phone: 4-1244 scan.

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

#### AMENDATORY SECTION (Amending Order 82-05, filed 8/4/82)

WAC 67-20-388 VOCATIONAL REHABILITATION SERVICES—VOCATIONAL AND OTHER TRAINING. (1) The commission may provide, within budget constraints, any organized form of instruction which provides the knowledges and skills that are essential for performing the tasks involved in an occupation. Such knowledges and skills may be acquired through training in an institution, on the job, by correspondence, by tutors or through a combination of these methods. Training may be given for any occupation, except as provided in paragraph (5) below.

(2) The commission will operate and maintain an orientation and training center for pre-vocational training for those clients for whom such training in the training center is determined to be appropriate.

(3) Training or training services in institutions of higher education (universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing) shall not be paid for with rehabilitation funds unless maximum efforts have been made by the commission on the client's behalf to secure grant assistance in whole or in part from other sources to pay for such training or training services. A client must demonstrate application for, and denial of, other grants and scholarships.

(4) The commission may provide, assist in providing, or cause to be provided books, tools and other training materials agreed upon in joint planning of the individualized written rehabilitation program between the counselor and the client. ~~((Assistance will be limited to seventy-five dollars per quarter or one hundred ten dollars per semester for full academic load.))~~ The amount of assistance provided on a quarterly or semester basis for students carrying a full academic load, will be established by the director of the Commission. Students attending less than full time will have amount reduced proportionately.

(5) The Washington state constitution forbids the use of public funds to assist an individual in the pursuit of a career or degree in theology or related areas.

(6) Clients may attend private institutions or out-of-state institutions of higher learning in pursuit of a vocational goal; however, the financial assistance available to any such individual is limited by that amount charged at the University of Washington or the actual cost, whichever is less.

(7) The commission may provide, assist in providing, or cause to be provided financial assistance to clients in pursuit of post-graduate degrees when such degree is clearly necessary to achieve employment in a given field. However, financial assistance will not be provided to clients pursuing graduate programs only to enhance their employability or to achieve upward mobility.

(8) Training will be provided to the extent that it meets the criteria established by the client and the agency in the client's individualized written rehabilitation program and meets the standards of the occupation the client intends to enter.

#### AMENDATORY SECTION (Amending Order 82-05, filed 8/4/82)

WAC 67-20-395 VOCATIONAL REHABILITATION SERVICES—TRAINING—COLLEGE AND TRADE SCHOOL (1) No training or training services in institutions of higher education (universities, colleges, community/junior colleges) or trade or business schools shall be paid for with vocational rehabilitation funds unless the client has demonstrated application for, and denial of, other grants and scholarships.

(2) Tuition at institutions of higher education will be limited to the amount charged at the University of Washington or the actual cost, whichever is less.

(3) ~~((Books and academic supplies will be limited to seventy-five dollars per quarter or one hundred ten dollars per semester for a full academic load.))~~ The amount of assistance for books and academic supplies provided on a quarterly or semester basis for students carrying a full academic load will be established by the director of the Commission. Students attending less than full time will have the amount authorized for books and supplies reduced proportionately.

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 82-05, filed 8/4/82)

WAC 67-20-190 ECONOMIC NEED—STANDARDS FOR DETERMINING. (1) A client shall be eligible on the basis of economic need to receive vocational rehabilitation services or extended evaluation services from the commission when the total of his/her obligations, debts, and expenses is equal to or exceeds the total of his/her income and nonexempt assets or resources. When the value of his/her income and nonexempt assets is greater than the value of his/her obligations, debts, and expenses, the excess of the former over the latter shall be made available by the client for the payment of the cost of those services which are conditioned upon economic need.

(2) Determination of a client's economic need involves an evaluation of the income, assets, debts, obligations, and expenses of his/her entire family unit, including his/her dependents or, if the client is an unemancipated minor, his/her parents.

(3) The following shall be considered income for the purpose of determining the economic need of a client:

(a) Wages paid to the client and to any dependent family members living in the home. For purposes of this section wages shall be equal to gross wages less deductions for income taxes, social security, taxes, retirement deductions, and other involuntary deductions;

(b) Contributions from relatives or others, in cash or in kind, on a regular and predictable basis;

(c) Net profit from roomers or boarders;

(d) Net profit from property rentals;

(e) Net profit from farm products;

(f) Net profit from business enterprises;

(g) Scholarship or fellowship funds;

(h) Income from public or private welfare agencies;

(i) Any other income received on a regular and predictable basis, including but not limited to alimony, dividends from stocks, annuity payment, unemployment compensation, insurance, pensions, etc.

(4) The following types of property shall be considered exempt assets and may not be considered in determining the client's economic need:

(a) The home occupied by the client or his/her family, including any contiguous real property. A house trailer is an exempt asset when it is being regularly occupied by the client or his/her family as the principle place of residence or when it will be so occupied in the predictable future;

(b) Household furniture, clothing, life insurance, and other personal effects;

(c) An automobile when one or more of the following conditions is met:

(i) The client and his/her family have only one automobile, or  
(ii) All automobiles used by the family are for the purpose of transportation to work or school, or

(iii) The automobile has been furnished in whole or in part to the client or to one of his/her dependents by the veteran's administration, or

(iv) The automobile is essential to the client's vocational rehabilitation objective;

(d) Vocational equipment and machinery owned by the client is an exempt asset if it is being used to provide part or all of the living expenses of the client and his/her dependents or if it may be so used after completion of the vocational rehabilitation plan;

(e) Livestock is an exempt asset to the extent that it produces income or otherwise helps the client to meet normal living requirements.

(5) All types of tangible and intangible property, including but not limited to real property, personal property, stocks, bonds, savings accounts, and checking accounts, which are not exempt under subsection (4) of this section shall constitute the client's nonexempt assets and shall be considered in determining the client's economic need. The value of a nonexempt asset shall be equal to its fair market value less any unpaid encumbrances of record. Any transfer of nonexempt property within six months of application for benefits under this chapter shall be presumed to have been made for the purpose of affecting eligibility of the client, and the value thereof shall nonetheless be included in determining such eligibility.

(6) The following obligations, debts, and expenses shall be deducted from the client's income and nonexempt assets in determining the client's economic need:

(a) The client's actual shelter and living expenses;

(b) Shelter and living expenses for the client's dependents;

(c) Payments which the client is required to make under court order;

(d) Outstanding taxes on earnings or personal or real property;

(e) Insurance premium payments;

(f) Contractual payments on real or personal property if such obligations were incurred prior to the client's application for vocational rehabilitation services.

### WSR 83-06-069

#### PROPOSED RULES

### DEPARTMENT OF TRANSPORTATION

[Filed March 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 chapter 468-50 WAC, auto stage speed restrictions, which would eliminate maximum speed limits for auto stages that differ from the maximum speed limits for automobiles and trucks;

that the agency will at 10:00 a.m., Monday, April 18, 1983, in the Board Room, 1D 9, Transportation Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 46.61.405, 46.61.410 and 34.04.010.

Dated: March 1, 1983

By: V. W. Korf  
Deputy Secretary

### STATEMENT OF PURPOSE

Title: Chapter 468-50 WAC, Auto stage speed restrictions.

Description of Purpose: To delete chapter 468-50 WAC, auto stage speed restrictions.

Statutory Authority: RCW 46.61.405, 46.61.410 and 34.04.010.

Summary of Rule: Deletes the auto stage speed restrictions from WAC.

Reason for Rule: Since the establishment of the national 55 MPH speed limit, there is no need for a speed limit differential between automobiles and auto stages. With the revision to RCW 34.04.010, it is no longer necessary to include auto stage speed restrictions in WAC.

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, Transportation Building, Olympia, WA 98504, phone (206) 753-6014.

Agency Comments or Recommendations: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: No impact, none required.

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 468-50-010 SPEED LIMITS FOR AUTO STAGES ON STATE HIGHWAYS.

### WSR 83-06-070

#### PROPOSED RULES

### DEPARTMENT OF TRANSPORTATION

[Filed March 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Transportation intends to repeal rules concerning chapter 468-42 WAC, vehicle parking restrictions. With the revision to RCW 34.04.010, it is no longer necessary to include parking restrictions in WAC. The Department of Transportation maintains an inventory of all parking restrictions on state highways;

that the agency will at 10:00 a.m., Monday, April 18, 1983, in the Board Room, 1D 9, Transportation Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 46.61.575 and 34.04.010.

Dated: March 1, 1983

By: V. W. Korf  
Deputy Secretary

## STATEMENT OF PURPOSE

Title: Chapter 468-42 WAC, Vehicle parking restrictions.

Description of Purpose: To delete chapter 468-42 WAC, vehicle parking restrictions.

Statutory Authority: RCW 46.61.575 and 34.04.010.

Summary of Rule: Deletes the listing of parking restrictions from WAC.

Reason for Rule: The Department of Transportation maintains an inventory of all parking restrictions on state highways. With the revision to RCW 34.04.010, it is no longer necessary to include parking restrictions in WAC.

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, Transportation Building, Olympia, WA 98504, phone (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.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- (1) WAC 468-42-002 STATE ROUTE 2.
- (2) WAC 468-42-003 STATE ROUTE 3.
- (3) WAC 468-42-004 STATE ROUTE 4.
- (4) WAC 468-42-005 STATE ROUTE 5.
- (5) WAC 468-42-006 STATE ROUTE 6.
- (6) WAC 468-42-007 STATE ROUTE 7.
- (7) WAC 468-42-009 STATE ROUTE 9.
- (8) WAC 468-42-011 STATE ROUTE 11.
- (9) WAC 468-42-012 STATE ROUTE 12.
- (10) WAC 468-42-014 STATE ROUTE 14.
- (11) WAC 468-42-020 STATE ROUTE 20.
- (12) WAC 468-42-022 STATE ROUTE 22.
- (13) WAC 468-42-023 STATE ROUTE 23.
- (14) WAC 468-42-024 STATE ROUTE 24.
- (15) WAC 468-42-027 STATE ROUTE 27.
- (16) WAC 468-42-028 STATE ROUTE 28.
- (17) WAC 468-42-031 STATE ROUTE 31.
- (18) WAC 468-42-090 STATE ROUTE 90.
- (19) WAC 468-42-097 STATE ROUTE 97.
- (20) WAC 468-42-099 STATE ROUTE 99.
- (21) WAC 468-42-101 STATE ROUTE 101.
- (22) WAC 468-42-104 STATE ROUTE 104.
- (23) WAC 468-42-106 STATE ROUTE 106.
- (24) WAC 468-42-125 STATE ROUTE 125.
- (25) WAC 468-42-129 STATE ROUTE 129.
- (26) WAC 468-42-151 STATE ROUTE 151.
- (27) WAC 468-42-153 STATE ROUTE 153.
- (28) WAC 468-42-161 STATE ROUTE 161.
- (29) WAC 468-42-164 STATE ROUTE 164.
- (30) WAC 468-42-167 STATE ROUTE 167.
- (31) WAC 468-42-169 STATE ROUTE 169.
- (32) WAC 468-42-202 STATE ROUTE 202.
- (33) WAC 468-42-224 STATE ROUTE 224.
- (34) WAC 468-42-270 STATE ROUTE 270.
- (35) WAC 468-42-272 STATE ROUTE 272.
- (36) WAC 468-42-290 STATE ROUTE 290.
- (37) WAC 468-42-291 STATE ROUTE 291.
- (38) WAC 468-42-302 STATE ROUTE 302.
- (39) WAC 468-42-308 STATE ROUTE 308.
- (40) WAC 468-42-395 STATE ROUTE 395.

- (41) WAC 468-42-401 STATE ROUTE 401.
- (42) WAC 468-42-410 STATE ROUTE 410.
- (43) WAC 468-42-501 STATE ROUTE 501.
- (44) WAC 468-42-504 STATE ROUTE 504.
- (45) WAC 468-42-507 STATE ROUTE 507.
- (46) WAC 468-42-509 STATE ROUTE 509.
- (47) WAC 468-42-512 STATE ROUTE 512.
- (48) WAC 468-42-514 STATE ROUTE 514.
- (49) WAC 468-42-515 STATE ROUTE 515.
- (50) WAC 468-42-516 STATE ROUTE 516.
- (51) WAC 468-42-520 STATE ROUTE 520.
- (52) WAC 468-42-522 STATE ROUTE 522.
- (53) WAC 468-42-525 STATE ROUTE 525.
- (54) WAC 468-42-526 STATE ROUTE 526.
- (55) WAC 468-42-527 STATE ROUTE 527.
- (56) WAC 468-42-539 STATE ROUTE 539.
- (57) WAC 468-42-542 STATE ROUTE 542.
- (58) WAC 468-42-543 STATE ROUTE 543.
- (59) WAC 468-42-901 STATE ROUTE 901.
- (60) WAC 468-42-906 STATE ROUTE 906.
- (61) WAC 468-42-908 STATE ROUTE 908.

**WSR 83-06-071**

**NOTICE OF PUBLIC MEETINGS  
COMMUNITY COLLEGE  
DISTRICT 17**

[Memorandum—March 2, 1983]

The meeting of Washington Community College District 17, community colleges of Spokane, board of trustees which was scheduled for Tuesday, April 12, 1983, has been rescheduled for Tuesday, April 19, 1983, at 2:00 p.m. in the board room of the District Administration Building, North 2000 Greene Street, Spokane, WA 99207.

**WSR 83-06-072**

**PROPOSED RULES  
GAMBLING COMMISSION**

[Filed March 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 new sections WAC 230-08-025, 230-20-015 and repealing WAC 230-08-020 and 230-08-030;

that the agency will at 10:00 a.m., Thursday, April 14, 1983, in The Quay, Foot of Columbia Street, Vancouver, 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(8) and (11).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 14, 1983.

Dated: February 22, 1983

By: Elwin Hart  
Deputy Director

## STATEMENT OF PURPOSE

Title: New section WAC 230-08-025 Accounting records to be maintained by distributors and manufacturers; new section WAC 230-20-015 Prize limits for raffles; repeal of WAC 230-08-020 Distributor's records; and repeal of WAC 230-08-030 Manufacturer's records.

Description of Purpose: Adopt, amend and repeal rules regarding control of gambling activities to include clarifying instructions for maintaining accounting records by distributors and manufacturers and establishing prize limits for raffles conducted by nonprofit organizations.

Statutory Authority: RCW 9.46.070(8) and (11).

Summary of Proposed Rules and Reasons Supporting Action: New section WAC 230-08-025, new rule consolidates and clarifies instructions for maintaining accounting records. Replaces WAC 230-08-020 and 230-08-030; new section WAC 230-20-015, adopts rule on permanent basis to replace emergency rule passed to establish controls on size of raffle prizes. Limits are necessary to prevent offering of very large prizes. Such raffles have been unsuccessful, causing problems for licensee and public; repeal of WAC 230-08-020, instructions clarified and merged into new WAC 230-08-025; and repeal of WAC 230-08-030, instructions clarified and merged into new WAC 230-08-025.

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.

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 230-20-015 PRIZE LIMITS FOR RAFFLES. (1) No single raffle prize may exceed \$40,000. No group of raffle prizes given during any twelve month period may exceed \$80,000.

(2) The commission may permit a licensee to exceed these limits on specific occasions for good cause shown. Requests to exceed the limits shall be submitted to the commission in writing along with the application for licensing.

NEW SECTION

WAC 230-08-025 ACCOUNTING RECORDS TO BE MAINTAINED BY DISTRIBUTORS AND MANUFACTURERS. Every licensed distributor and manufacturer shall keep and maintain a complete set of records which include all details of all activities of the licensee related to the conduct of the licensed activity. These records shall be recorded using the double entry accounting system prepared in accordance with Generally Accepted Accounting Principles on the same basis as the licensee's federal income tax return, and shall include but not necessarily be limited to the following records by month:

1. Sales Invoices - every licensee shall use, for the purpose of recording sales of any and all types of goods and services, a general sales

invoice which meets the following criteria and sets out the following information:

a. Prenumbered consecutively using a number not less than four digits;

b. The date of sale. For distributors only, if the date of delivery is different, then also the delivery date;

c. The customer name and business address;

d. A full description of each item sold including any state identification stamp number;

e. The quantity and sales price of each individual item including individual items of merchandise to be used as prizes on punchboards and pull tabs;

f. The gross amount of each sale to each customer;

g. The sales invoice shall be prepared in at least three parts and distributed and maintained as follows:

(1) One shall be issued to the customer.

(2) One shall be retained in an invoice file by customer name.

(3) One shall be retained in an invoice file by invoice number or in an alternative manner that accounts for each invoice numerically.

h. Credit memos for returned items shall be prepared in the same detail as items a through g above.

2. Sales Journal - the sales journal shall contain at least, but not limited to, the following by month:

a. The date of the sale;

b. The invoice number of the sale;

c. The customer name or person remitting a payment;

d. Sales shall be categorized at least by the following:

(1) Punchboards that pay out cash prizes;

(2) Punchboards that pay out merchandise prizes;

(3) Pull tabs that pay out cash prizes;

(4) Pull tabs that pay out merchandise prizes;

(5) Pull tab dispensing devices;

(6) Merchandise: only that which is used as a prize on a punchboard or series of pull tabs.

(7) Other types of sales including but not limited to, equipment leases, equipment sales, and bingo supplies.

e. Total amount of the invoice;

3. Cash Disbursements Book (Check Register) - this record shall include a recording of all checks issued by the licensee, cash payments made by the licensee or payment made by any other means and shall contain at least, but not limited to, the following information by month:

a. The date the check was issued or payment made;

b. The number of the check issued;

c. The name of the payee;

d. Expenses shall be categorized by type.

All expenses by the licensee, both respecting its expenditures relating to gambling and nongambling activities, shall be documented by invoices or other appropriate supporting documents.

4. Cash Receipts - all cash receipts shall be recorded in an original book of entry whether it be a sales journal, a check register, or a separate cash receipts journal, and at a minimum shall include a recording of not only cash sales, but also cash received from all sources, and shall contain at least, but not limited to, the following by month:

a. The date the payment was received;

b. The name of the person remitting the payment;

c. The amount of payment received;

5. General Ledger - each licensee whose gambling related sales exceed \$500,000 per year, shall have a general ledger which shall contain, in addition to all other accounts by month, a separate sales account for each type of sale.

6. Bank Reconciliation - a bank reconciliation shall be performed each month. In addition, all undeposited funds at year end shall be reconciled in an account titled cash on hand.

7. Copies of all financial data which support tax reports to any and all governmental agencies.

Each of these records shall be maintained for a period of not less than three years from the end of the licensee's fiscal year.

REPEALER

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

(1) WAC 230-08-020 DISTRIBUTOR'S RECORDS.

(2) WAC 230-08-030 MANUFACTURER'S RECORDS.

**WSR 83-06-073**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
**(Optometry Board)**  
[Filed March 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Optometry Board intends to adopt, amend, or repeal rules concerning WAC 308-53-080 examination subjects, and WAC 308-53-085 grading examinations.

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., Monday, April 11, 1983, in the Parrington Room, University Tower Hotel, 4507 Brooklyn Avenue N.E., Seattle, 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 18.54.070(5).

The specific statute these rules are intended to implement is RCW 18.54.070(5).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 11, 1983.

Dated: February 28, 1983

By: Stanley R. Haskins  
Executive Secretary

**STATEMENT OF PURPOSE**

Name of Agency: Washington State Optometry Board.

Purpose of Proposed Amendments: To eliminate the use of the National Board of Examiners in optometry examination as a waiver of a portion of the written examination and to amend the grades required for passing the examination to reflect this elimination.

Statutory Authority: RCW 18.54.070(5).

Summary of Rules: WAC 308-53-080 Examination subjects, and WAC 308-53-085 Grading examinations.

Reason for Proposed Amendments: These amendments are intended to state the content of the examination and the scores required for passing.

Responsible Personnel: The Washington State Optometry Board and its executive secretary have the responsibility for drafting, implementing and enforcing these rules. The executive secretary is Stanley Haskins, P.O. Box 9649, Olympia, WA 98504, telephone (206) 753-0774 comm, (206) 234-0774 scan.

Proponents of the Proposed Amendment and Rules: These rules and amendments were proposed by the Washington State Optometry Board.

Agency Comments: These rules were proposed pursuant to RCW 18.54.070(5).

Federal Law or Federal or State Court Requirements: The proposed rules and amendment are not necessitated as the result of federal law or federal or state court action.

AMENDATORY SECTION (Amending Order PL 399, filed 6/2/82)

WAC 308-53-080 EXAMINATION SUBJECTS. Every qualified applicant for a license as an optometrist shall successfully pass an examination. The Board may choose to include, but need not be limited to, the following subjects: contact lenses; Washington State law/social, legal, economic and ethics of optometry; perimetry; pathology; visual training/optometric theory and methods; ocular anatomy and physiology; (~~optometric theory and methods, social, legal, economic and ethics of optometry; ocular pharmacology; lensometry; retinoscopy; biomicroscopy slit lamp; tonometry; radiuscope; and oral interview and case history.~~)

Every applicant will take a written examination section on contact lenses, Washington State law/social, legal, economics and ethics of optometry; perimetry and pathology slides. (~~Applicants not having satisfactorily passed the National Board of Examiners in Optometry examination will also take a written examination section on~~) visual training/theory and methods of optometry, ocular anatomy and physiology (~~theory and methods of optometry, social, legal, economics and ethics of optometry~~), ocular pathology and ocular pharmacology.

Every applicant will take a practical examination section on: lensometry, retinoscopy, biomicroscopy slit lamp, tonometry and radiuscope. Every applicant will take a practical oral interview and case history section.

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

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

AMENDATORY SECTION (Amending Order PL 399, filed 6/2/82)

WAC 308-53-085 GRADING EXAMINATIONS. To successfully pass the examination(;) an applicant (~~whom has satisfactorily passed the National Board of Examiners in Optometry examination~~) must obtain the following:

~~((1) Pass at least two (2) of the following subjects on the written section with a score of at least sixty percent (60%); contact lenses; perimetry, pathology slides. Washington State law does not require a minimum passing score but that score will be included in calculating a total average score; and))~~

~~((2)) (1) Pass the practical examination section with at least a seventy-five percent (75%) average score; and~~

~~((3)) (2) Pass the practical oral interview and case history section with at least a seventy-five percent (75%) score; and~~

~~((4)) (3) Obtain a total average score of at least seventy-five percent (75%).~~

~~((An applicant who has not satisfactorily passed the National Board of Examiners in Optometry examination must obtain the following:~~

~~(1) Pass at least six (6) of the following subjects on the written sections with a score of at least sixty percent (60%): contact lenses; perimetry, pathology slides, visual training, ocular anatomy and physiology, theory and methods of optometry, ocular pathology and ocular pharmacology. Washington State law and social, legal, economic and ethics of optometry do not require a minimum passing score but these scores will be included in calculating a total average score; and~~

~~(2) Pass the practical examination section with at least a seventy-five percent (75%) average score; and~~

~~(3) Pass the practical oral interview and case history section with at least a seventy-five percent (75%) score; and~~

~~(4) Obtain a total average score of at least seventy percent (70%:))~~

**WSR 83-06-074**  
**PROPOSED RULES**  
**BOARD OF PHARMACY**  
[Filed March 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Board of Pharmacy

intends to adopt, amend, or repeal rules concerning adding new sections WAC 360-12-150, 360-13-100, adding new chapter 360-33 WAC and repealing WAC 360-23-040;

that the agency will at 9:00 a.m., Wednesday, April 20, 1983, in the Burien Police Department, 14905 Sixth S.W., Burien, 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 18.64.005 and 69.41.240.

The specific statute these rules are intended to implement is RCW 18.64.005 and 69.41.240.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 20, 1983.

Dated: March 2, 1983

By: Donald H. Williams  
Executive Secretary

### STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Pharmacy.

Purpose: The purpose of new section WAC 360-12-150 is to clarify what the term "monitoring of drug therapy" as used in the definition of the practice of pharmacy means; the purpose of new section WAC 360-13-100 is to establish the requirements for the provision of continuing drug therapy for residents of extended care facilities who take unscheduled leaves; the purpose of new section WAC 360-16-300 is to outline the procedure for closing a licensed pharmacy; the purpose of new chapter 360-33 WAC is to implement the "drug imprint" law requiring identification of all legend drugs manufactured or commercially distributed in the state of Washington; and WAC 360-23-040 is being repealed so that individuals licensed by the state of Washington may advertise the mail order sale of prescription drugs.

Statutory Authority: RCW 18.64.005 and 69.41.240.

Summary of the Rules: WAC 360-12-150 Monitoring of drug therapy by pharmacists, this section defines the term "monitoring of drug therapy" as used in the definition of the practice of pharmacy in RCW 18.64.011(11); WAC 360-13-100 Provision for continuity of drug therapy for residents, this section establishes the requirement for the provision of drugs to residents of extended care facilities who take unscheduled leave from the facility. The rule establishes the requirement for protocols and outlines what these protocols must consist of; and WAC 360-16-300 Closing of pharmacy, this section contains the procedure and requirements for closure of a licensed pharmacy.

Reason Proposed: These rules are proposed to clarify current questions regarding the practice of pharmacy and to establish procedures for implementation of the statutes administered by the state Board of Pharmacy.

Responsible Personnel: In addition to the members of the board, the following Board of Pharmacy personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Donald H. Williams, Executive Secretary, 319 East 7th Avenue,

W.E.A. Building, Olympia, WA 98504, 234-6834 scan, 753-6834 comm.

Proponents: These rules are proposed by the Washington State Board of Pharmacy.

Agency Comments: These rules are promulgated pursuant to the authority granted to the board in RCW 18.64.005 and 69.41.240.

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 businesses as that term is defined by RCW 43.31.920.

### NEW SECTION

WAC 360-12-150 MONITORING OF DRUG THERAPY BY PHARMACISTS. The term "monitoring of drug therapy" used in RCW 18.64.011(11) shall mean a review of the drug therapy regimen of patients by a pharmacist for the purpose of evaluating or rendering advice regarding adjustment of the regimen. Monitoring of drug therapy shall include, but not be limited to:

- (1) collecting and reviewing patient drug use histories;
- (2) measuring and reviewing routine patient vital signs including, but not limited to: pulse, temperature, blood pressure and respiration; and
- (3) ordering and evaluating the results of laboratory tests relating to drug therapy including, but not limited to: blood chemistries and cell counts, drug levels in blood, urine, tissue or other body fluids, and culture and sensitivity tests.

### NEW SECTION

WAC 360-13-100 PROVISION FOR CONTINUITY OF DRUG THERAPY FOR RESIDENTS. When a resident of an extended care facility has the opportunity for an unscheduled therapeutic leave that would be precluded by the lack of an immediately available pharmacist to dispense drugs prescribed by an authorized practitioner, a registered nurse designated by the facility and its consultant or staff pharmacist and who agrees to such designation, may provide the resident or a responsible person with up to a 48-hour supply of a prescribed drug or drugs for use during that leave from the resident's previously dispensed package of such drugs. The drugs shall only be provided in accordance with protocols developed by the pharmacist and filed with and approved by the board. These protocols shall include the following:

- (1) criteria as to what constitutes an unscheduled therapeutic leave requiring the provision of drugs by the registered nurse;
- (2) procedures for repackaging and labeling the limited supply of previously dispensed drugs that comply with state and federal laws concerning packaging and labeling;
- (3) procedures for assuring compliance by the designated registered nurse with all state and federal laws concerning the packaging and labeling of drugs;
- (4) a record-keeping mechanism that will provide for the maintenance of a permanent log that includes the following information:
  - (a) the name of the person to whom the drug was provided;
  - (b) the drug and quantity provided;
  - (c) the date and time that the request for the drug was made;
  - (d) the date and time that the drug was provided;
  - (e) the name of the registered nurse that provided the drug;
  - (f) the conditions or circumstances that precluded a pharmacist from providing the drug.

### NEW SECTION

WAC 360-16-300 CLOSING A PHARMACY. (1) Whenever a pharmacy ceases to operate, the owner shall notify the pharmacy board of the pharmacy's closing not later than fifteen (15) days prior to the anticipated date of closing. This notice shall be submitted in writing and shall contain all of the following information:

- (a) The date the pharmacy will close;
- (b) The names and addresses of the persons who shall have custody of the prescription files, the bulk compounding records, the repackaging records, and the controlled substances inventory records of the pharmacy to be closed;

(c) The names and addresses of any persons who will acquire any of the legend drugs from the pharmacy to be closed, if known at the time the notification is filed;

(2) Not later than 15 days after the pharmacy has closed, the owner shall submit to the pharmacy board the following documents:

- (a) the license of the pharmacy that closed; and
- (b) a written statement containing the following information:
  - (i) Confirmation that all legend drugs have been transferred to an authorized person (or persons) or destroyed. If the legend drugs were transferred, the names and addresses of the person(s) to whom they were transferred;
  - (ii) If controlled substances were transferred, a list of the names and addresses to whom the substances were transferred, the substances transferred, the amount of each substance transferred, and the date on which the transfer took place;
  - (iii) Confirmation that the Drug Enforcement Administration (DEA) registration and all unused DEA 222 forms (order forms) were returned to the DEA;
  - (iv) Confirmation that all pharmacy labels and blank prescriptions which were in the possession of the pharmacy were destroyed;
  - (v) Confirmation that all signs and symbols indicating the presence of the pharmacy have been removed.

NEW CHAPTER  
Chapter 360-33 WAC  
IDENTIFICATION OF LEGEND DRUGS - IMPRINTS,  
MARKINGS - AND LABELING

WAC  
360-33-050 DRUG IMPRINT INFORMATION PROVIDED  
BY MANUFACTURERS AND  
DISTRIBUTORS.

NEW SECTION

WAC 360-33-050 DRUG IMPRINT INFORMATION PROVIDED BY MANUFACTURERS AND DISTRIBUTORS. Each manufacturer and distributor who manufactures or commercially distributes any legend drug in the State of Washington shall provide written information to the board identifying all current imprints used. This information shall be submitted on a form provided by the board and shall be updated annually, or as changes in imprints occur.

REPEALER

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

WAC 360-23-040 ADVERTISING OR MAIL ORDER SOLICITATION OF SALE OR DISTRIBUTION OF PRESCRIPTION DRUGS PROHIBITED.

**WSR 83-06-075**  
**PROPOSED RULES**  
**UTILITIES AND**  
**TRANSPORTATION COMMISSION**  
[Filed March 2, 1983]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules concerning Cause No. TR-1696, in the matter of the amending of WAC 480-62-100 relating to railroad bridge safety. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the rule changes on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17);

that the agency will at 8:00 a.m., Wednesday, April 6, 1983, in the Commission's Conference Room, 7th Floor, Highways-Licenses 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 80.01.040, 81.01.010 and 81.44.065.

The specific statute these rules are intended to implement is RCW 80.01.040, 81.01.010 and 81.44.065.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Friday, April 1, 1983.

Dated: March 2, 1983  
By: Barry M. Mar  
Secretary

**STATEMENT OF PURPOSE**

In the matter of amending WAC 480-60-100 relating to railroad bridge safety.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040, as adopted in RCW 81.01-.010, and RCW 81.44.065 which direct that the commission has authority to implement the provisions of chapter 81.44 RCW.

The rule amendment proposed by the Washington Utilities and Transportation Commission is designed to create an exemption to established railroad bridge safety rules for work on bridges that have solid bottom ballast decks with walkways and railways on both sides, provided that the work involved does not involve or necessitate removal of the walkways, railings, or any portion of the deck.

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

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

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040, 81.01-.010 and 81.44.065.

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

The rule change proposed will affect no economic values. The rule change proposed does not fall within the purview of the Small Business Regulatory Fairness Act (chapter 6, Laws of 1982) inasmuch as the railroad companies do not fall within the definition of a small business.

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



## APPENDIX "A"

**AMENDATORY SECTION** (Amending Order R-163, Cause No. TR-1457, filed 4/27/81)

**WAC 480-62-100 BRIDGE SAFETY RULES.** Whenever any railroad is involved in bridge construction, bridge structure repairs, track structure repairs or replacement on bridges, the railroad shall comply with the provisions of this rule, except that track structure repairs which are of a minor nature and short duration and can be completed working between the rails such as spot welding, spiking, and joint bolt replacement, are not subject to the safety belt, lifeline, lanyard, safety nets and life preserver requirements of this rule.

**(1) Safety belts, lifelines, lanyards.**

(a) Where workers are employed on railroad bridges twenty-five feet or more above the ground or water surface, and it is impractical to provide staging, ladders, scaffolds, or safety nets, safety belts and lifelines shall be provided and used.

(b) Lifelines, safety belts, and lanyards shall be used only for employee safeguarding. Any lifeline, safety belt, or lanyard actually subject to inservice loading, as distinguished from static load testing, shall not be used again for employee safeguarding.

(c) Lifelines shall be secured to an anchorage or structural member capable of supporting a minimum dead weight of 5,400 pounds, and lifelines shall be of a sufficient length from the point of their attachment so that a falling man will not swing into the substructure immediately below the floor of the bridge.

(d) Safety belt lanyard shall be a minimum of one-half inch nylon, or equivalent, with a maximum length to provide for a fall of no greater than six feet. The rope shall have a nominal breaking strength of 5,400 pounds.

(e) All safety belt and lanyard hardware shall be drop forged or pressed steel, cadmium plated in accordance with type 1, class B plating specified in Federal Specification QQ-P-416. Surface shall be smooth and free of sharp edges.

(f) All safety belts and lanyard hardware assemblies shall be capable of withstanding a tensile loading of 4,000 pounds without cracking, breaking, or taking a permanent deformation.

**(2) Safety nets.**

(a) Where workers are employed on railroad bridges twenty-five feet or more above the ground or water surface, and it is impractical to provide staging, ladders, scaffolds, safety belts and lifelines, safety nets shall be provided and used.

(b) Where safety net protection is required by this rule, operations shall not be undertaken until the net is in place and has been tested. The manufacturer's current certification of testing shall satisfy the requirements of this subsection.

(c)(i) Nets shall extend eight feet beyond the edge or the work surface where employees are exposed and shall be installed as close under the work surface as practical but in no case more than twenty-five feet below such work surface. Nets shall be hung with sufficient clearance to prevent user's contact with the surface or structures below. Such clearances shall be determined by impact load testing.

(ii) It is intended that only one level of nets be required for bridges.

(d) The mesh size of nets shall not exceed six inches by six inches. All new nets shall meet accepted performance standards of 17,500 foot-pounds minimum impact resistance as determined and certified by the manufacturers, and shall bear a label of proof test. Edge ropes shall provide a minimum breaking strength of 5,000 pounds.

(e) Forged steel safety hooks or shackles shall be used to fasten the net to its supports.

(f) Connections between net panels shall develop the full strength of the net.

**(3) Life preservers.**

(a) Where workers are employed on railroad bridges less than twenty-five feet above the water surface and are working under conditions which expose them to a risk of drowning, they shall wear a United States Coast Guard approved life saving device, unless it can be shown that conditions, such as shallow water, are such that flotation would not be achieved.

(b) Prior to and after each use, the buoyant life saving device shall be inspected for defects which would alter their strength or buoyancy. Defective units shall not be used.

(c) Ring buoys with at least ninety feet of line shall be provided and readily available for emergency rescue operations. Distance between ring buoys shall not exceed two hundred feet.

**(4) Boats.**

(a) Where workers are employed on railroad bridges less than twenty-five feet above the water surface and are working under conditions which expose them to a risk of drowning, one life saving boat shall be immediately available.

(b) The boat requirement of this subsection shall not apply when the water surface is of such a nature due to swift currents, insufficient depth, or other conditions, that a boat may not be safely moored and used in effecting a rescue.

(c) Whenever boats cannot be used, well marked lifelines close to the water surface shall be provided, and wherever practical, the line shall be stretched across the water.

**(5) Exemptions.**

Bridges which have solid bottom ballast decks with walkways and railways on both sides are exempt from the provisions of this rule, provided that the work being performed on the bridge does not involve or necessitate the removal of the walkways, railings, or any portion of the deck.

**WSR 83-06-076****ADOPTED RULES****DEPARTMENT OF LICENSING****(Securities Division)**

[Order SDO-40-83—Filed March 2, 1983]

I, John Gonzalez, director of the Department of Licensing, do promulgate and adopt at the Department of Licensing, Olympia, Washington, the annexed rules relating to:

New	WAC 460-90A-010	Camping club contract registration application.
New	WAC 460-90A-020	Camping club contract registration exhibits.
New	WAC 460-90A-030	Signing of application.
New	WAC 460-90A-040	Financial statements.
New	WAC 460-90A-050	Registration not endorsement.
New	WAC 460-90A-060	Notice of termination of sales.
New	WAC 460-90A-070	Receipt of written disclosures.
New	WAC 460-90A-080	Depository.
New	WAC 460-90A-090	Operation of impound condition.
New	WAC 460-90A-100	Release of impound.
New	WAC 460-90A-105	Fee for impound.
New	WAC 460-90A-110	Renewals.
New	WAC 460-90A-120	Salesperson registration.
New	WAC 460-90A-130	Request for withdrawal of camping club property.
New	WAC 460-90A-140	Advertisements.
New	WAC 460-90A-150	Resale by salesperson for commission of camping club contracts exempt from registration.
Rep	WAC 460-90-100	through 460-90-900.

This action is taken pursuant to Notice Nos. WSR 82-24-090 and 83-03-056 filed with the code reviser on December 1, 1982, and January 19, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

WAC 460-90A-010, 460-90A-020, 460-90A-030, 460-90A-040, 460-90A-050, 460-90A-060, 460-90A-070, 460-90A-080, 460-90A-090, 460-90A-100, 460-90A-105, 460-90A-110 and 460-90A-140 are promulgated pursuant to RCW 19.105.320(1) and are intended to administratively implement that statute and RCW 19.105.530 which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 19.105 RCW. WAC 460-90A-120 and 460-90A-150 are promulgated pursuant to RCW 19.105.440(3) and are intended to administratively implement that statute and RCW 19.105.530 which directs

that the director of the Department of Licensing has authority to implement the provisions of chapter 19.105 RCW. WAC 460-90A-130 is promulgated pursuant to RCW 19.105.530 which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 19.105 RCW. WAC 460-90-100 through 460-90-900 are repealed pursuant to RCW 19.105.530 which directs that the director of the Department of Licensing has authority to repeal rules and forms when necessary to carry out the provisions of chapter 19.105 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 March 2, 1983.

By John Gonzalez  
Director

#### NEW SECTION

✓ WAC 460-90A-010 **CAMPING CLUB CONTRACT REGISTRATION APPLICATION.** Application for the registration to offer or sell camping club contracts shall be submitted with a facing page in the form prescribed by the Administrator of Securities and contain the information specified therein. The application for registration must be accompanied by the filing fee made payable by check to the Treasurer of the State of Washington.

#### NEW SECTION

✓ WAC 460-90A-020 **CAMPING CLUB CONTRACT REGISTRATION EXHIBITS.** An application for the registration to offer or sell camping club contracts must include the following information, which shall be filed as exhibits numbered and captioned as follows (any item which is inapplicable shall be listed by number and followed by the indication that it is inapplicable):

##### EXHIBIT NO. 1

Name and address of the camping club operator and any other material affiliate of the camping club operator.

##### EXHIBIT NO. 2

Provide a copy of the articles of incorporation, partnership agreement, or joint venture agreement, and the camping club association by-laws as contemplated or currently in effect.

##### EXHIBIT NO. 3

Provide a list of all officers and directors or persons occupying a similar status of the camping club operator including their names, addresses, and occupations during the last five years, and provide a list of material affiliates including the names and addresses of officers and directors.

##### EXHIBIT NO. 4

Has the camping club operator or any officer, director or person occupying a similar status or other affiliate of the camping club operator been within the last five years:

(a) convicted of any misdemeanor or felony involving theft, fraud, or dishonesty: / Yes / No

(b) enjoined from or had any civil penalty assessed for or been found to have engaged in any violation of any act designed to protect consumers: / Yes / No

With respect to each affirmative answer, state the court or issuer of the order, date of conviction or judgment, any penalty imposed or damages assessed.

##### EXHIBIT NO. 5

Attach the financial statements of the camping club operator as audited by an independent certified public accountant as set forth in WAC 460-90A-040.

If a camping club association is in effect attach the financial statements of the camping club association as audited by an independent certified public accountant as set forth in WAC 460-90A-040.

##### EXHIBIT NO. 6

Attach a copy of the written disclosures to be provided prospective purchasers of camping club contracts. The written disclosures shall accurately and clearly communicate the following required information:

(i) The name and address of the camping club operator and any material affiliate;

(ii) A brief description of the camping club operator's experience in the camping club business;

(iii) A brief description of the nature of the purchaser's title to, interest in, or right or license to use the camping club property or facilities and, if the purchaser will obtain title to specified real property, the legal description of the property;

(iv) The location and a brief description of the significant facilities and recreation services then available for use by purchasers and those which are represented to purchasers as being planned, together with a brief description of any significant facilities or recreation services that are or will be available to nonpurchasers and the price to nonpurchasers therefor;

(v) A brief description of the camping club's ownership of or other right to use the camping club properties or facilities represented to be available for use by purchasers, together with a brief description of any material encumbrance, the duration of any lease, real estate contract, license, franchise, reciprocal agreement, or other agreement entitling the camping club operator to use the property, and any material provisions of the agreements which restrict a purchaser's use of the property;

(vi) A brief statement or summary of what required material land use permits have not been obtained for each camping club property or facility represented to purchasers as planned;

(vii) A summary or copy of the articles, by-laws, rules, restrictions, or covenants regulating the purchaser's use of each property, the facilities located on each property, and any recreation services provided, including a statement of whether and how the articles, by-laws, rules, restrictions, or covenants may be changed;

(viii) A brief description of all payments of a purchaser under a camping club contract, including initial fees and any further fees, charges, or assessments, together with any provisions for changing the payments;

(ix) A description of any restraints on the transfer of camping club contracts;

(x) A brief description of the policies relating to the availability of camping sites and whether reservations are required;

(xi) A brief description of the camping club operator's right to change or withdraw from use all or a portion of the camping club properties or facilities and the extent to which the operator is obligated to replace camping club facilities or properties withdrawn;

(xii) A brief description of any grounds for forfeiture of a purchaser's camping club contract; and

(xiii) A copy of the camping club contract form.

If the written disclosures do not follow the format above, the applicant shall submit as a part of Exhibit No. 6 a cross reference sheet indicating where each of the disclosures are found.

#### EXHIBIT NO. 7

(a) A statement of the total number of camping club contracts in effect on the date of application, including those that are sold outside the State of Washington;

(b) A statement of the total number of camping club contracts in effect on the date of application in the State of Washington.

(c) A statement of the total number of camping club contracts intended to be sold outside the State of Washington.

(d) A statement of the total number of camping club contracts intended to be sold in the State of Washington.

(e) A statement of commitment that the total number in (d) will not be exceeded unless disclosed by post-effective amendment to the registration.

(f) If camping club contracts are offered or sold with different privileges or durations, a statement setting forth each type of camping club contract and the approximate number of each type to be sold.

#### EXHIBIT NO.8

Include copies of forms of all advertisements currently intended to be used in connection with the offer or sale of camping club contracts within the State of Washington.

#### EXHIBIT NO.9

A statement setting forth each type of camping club contract offered and the purchase price of each type and if the price varies, the reason for the variance.

#### EXHIBIT NO. 10

If purchasers will obtain title to real property, a statement that the camping club operator has contacted the Department of Housing and Urban Development for the purpose of registering its offering or obtaining an exemption from registration. A copy of the letter of effectiveness or a letter of exemption from registration from the Department of Housing and Urban Development must be received by the Securities Division prior to effectiveness of registration.

#### NEW SECTION

WAC 460-90A-030 SIGNING OF APPLICATION. An application for registration of camping club contracts shall be signed by the camping club operator or an officer or general partner of the camping club operator. However, it may be signed by another person holding a power of attorney for such purposes from the

applicant and, if signed on behalf of the applicant pursuant to such power of attorney, should include as an additional exhibit a copy of said power of attorney or a copy of the corporate resolution authorizing the person signing to act on behalf of the applicant.

#### NEW SECTION

WAC 460-90A-040 FINANCIAL STATEMENTS: (1) The camping club operator shall file the following financial statements as set forth in this WAC 460-90A-040(2). If there is a camping club association in effect, audited financial statements for the association as set forth in this WAC 460-90A-040(2) shall also be filed. Financial statements required to be filed in connection with an application for registration or renewal of camping club contracts shall be prepared in accordance with generally accepted accounting principles. Such financial statements shall be audited by an independent certified public accountant.

(2) The audited financial statements required to be filed by a camping club operator or camping club association shall include a balance sheet as of a date within 120 days prior to the date of the application, and profit and loss statements and statements of changes in financial position for each of the three fiscal years preceding the date of the balance sheet (or from inception, if the camping club operator has conducted business for less than three years) and for the period, if any, between the close of the last of such fiscal years and the date of the balance sheet. The balance sheet as of a date within 120 days prior to the date of the application need not be audited. However, if this balance sheet is not audited, there shall be filed in addition an audited balance sheet as of the end of the camping club operator's last fiscal year unless such last fiscal year ended within 120 days of the date of the application in which case there shall be filed an audited balance sheet as of the end of the camping club operator's next preceding fiscal year.

(3) In extraordinary cases, the Director may waive the requirement for audited statements if the statements have been prepared by an independent certified public accountant and the Director is otherwise satisfied as to the reliability of such statements and as to the ability of the camping club operator or camping club association to perform future commitments. Such waiver will ordinarily be granted only upon a showing that the camping club operator has not had prior audited statements; that the close of the most recent or current fiscal year is so near the time of filing of the application that it would be unreasonably costly or impractical to provide audited statements with the application; or that audited statements will be furnished within a reasonable time after the end of the most recent or current fiscal year. In such cases the Director may impose an impound condition and such other conditions and restrictions as in his discretion may be appropriate.

(4) The director may waive the requirement for audited financial statements if the camping club was established before 1980 and the requirement of audited financial statements would work on undue hardship on the camping club operator or association.

(5) In connection with the financial statements, the camping club operator shall file with the director a statement of each property owned, or leased. If payment is in default on any property, the camping club operator shall set forth the details and reasons therefor. This statement shall be supplemented during the period of any registration upon the purchase, sale, lease, or any material encumbrance of any property or any material default related thereto.

#### NEW SECTION

✓ WAC 460-90A-050 REGISTRATION NOT ENDORSEMENT. The camping club contract or the written disclosures shall contain a statement that registration does not constitute a finding by the Director that any document filed under this act is true, complete and not misleading, nor does any such fact mean that the Director has passed in any way upon the merits or qualifications of, or recommended or given approval to any camping club operator for such camping club.

#### NEW SECTION

✓ WAC 460-90A-060 NOTICE OF TERMINATION OF SALES. The camping club operator shall file with the Director a statement setting forth that he or she has terminated offers and sales of camping club contracts in the State of Washington.

#### NEW SECTION

✓ WAC 460-90A-070 RECEIPT OF WRITTEN DISCLOSURES. The camping club operator or salesperson shall obtain from each purchaser of a camping club contract a signed statement that he or she has received the written disclosures. The camping club operator or salesperson shall retain each statement for a period of three years from the date of sale.

#### NEW SECTION

✓ WAC 460-90A-080 DEPOSITORY. Funds subject to an impound condition shall be placed in a separate trust account with a bank or depository institution approved by the Director. A written consent of the depository to act in such capacity shall be filed with the Director.

#### NEW SECTION

✓ WAC 460-90A-090 OPERATION OF IMPOUND CONDITION. When an impound condition is imposed in connection with the registration of camping club contracts, 100% of the proceeds and all other funds paid by any purchaser after the impound condition is imposed shall, within 48 hours or the next banking day, whichever is later, of receipt of such funds be placed with a depository until the Director takes further action pursuant to WAC 460-90A-100.

#### NEW SECTION

✓ WAC 460-90A-100 RELEASE OF IMPOUNDS. The Director or Administrator will authorize the depository to release to the camping club operator such

amounts of the impounded funds applicable to a specified purpose such as selling costs, the purchase of realty or the construction of the improvement upon a showing that the camping club operator can satisfy his obligations under the camping club contract to furnish purchasers the services tendered or that for other reasons the impound is no longer required for the protection of the purchasers. An application for an order of the Director or Administrator authorizing the release of the impound to the camping club operator shall be verified and shall contain the following:

(1) A statement of the camping club operator that all required proceeds from the sale of camping club contracts have been placed with the depository in accordance with the terms and conditions of the impound agreement.

(2) A statement of the depository signed by an appropriate officer setting forth the aggregate amount of funds placed with the depository.

(3) The names of each camping club contract purchaser and the amount held in the impound for the account of each purchaser.

(4) Such other information as the Director may request in a particular case.

#### NEW SECTION

✓ WAC 460-90A-105 FEE FOR IMPOUND. The Director shall impose an additional fee of \$100.00 for each impound or reserve required to be set up pursuant to RCW 19.105.340 and 19.105.350.

#### NEW SECTION

✓ WAC 460-90A-110 RENEWALS. (1) Pursuant to RCW 19.105.330, application for annual renewal shall be made no later than 15 full business days prior to the expiration date of the camping club contract registration, unless the camping club operator is otherwise notified.

(2) Renewals should be made on the application form set forth in WAC 460-90A-010 and -020 and shall be accompanied by the following:

(a) A copy of an updated written disclosure which should reflect any and all changes appropriate to make full disclosure to prospective purchasers. The written disclosures shall be appropriately marked and underscored to reflect all changes, additions and deletions.

(b) A copy of the camping club contract appropriately marked and underscored to reflect all changes, conditions and deletions.

(c) Financial statements prepared in accordance with WAC 460-90A-040.

(d) An update of any and all exhibits required by the application for registration last filed with the Director pursuant to WAC 460-90A-020. If no changes have occurred in any particular exhibit, include a signed statement that no change has occurred in that particular exhibit.

(e) Payment of a fee pursuant to RCW 19.105.410.

NEW SECTION

**WAC 460-90A-120 SALESPERSON REGISTRATION.** (1) Each applicant for registration as a camping club contract salesperson shall register on a form prescribed by the Administrator of Securities and pay a filing fee.

(2) Each applicant or registrant shall, upon any material change in the information contained in the applicant's or registrant's application, promptly file an amendment to such application setting forth the information which has changed.

(3) Each camping club operator shall notify the Administrator of Securities on a prescribed form of the employment or termination of any camping club contract salesperson in the state within ten days of employment or termination.

(4) Registration as a camping club salesperson shall be renewed annually by the filing of a form prescribed by the Director and payment of a fee pursuant to RCW 19.105.410.

NEW SECTION

**WAC 460-90A-130 REQUEST FOR WITHDRAWAL OF CAMPING CLUB PROPERTY.** A camping club operator may request an order from the Director for authority to withdraw any substantial camping or recreation portion of any camping club property devoted to camping or recreational activities pursuant to RCW 19.105.380(9)(e) by filing with the Director a request 90 days before the intended withdrawal date or such lesser time as the Director may allow identifying the portion of the property to be withdrawn and stating the reasons for such withdrawal accompanied by copies of any materials or data supporting such reasons or the necessity for such withdrawal. The Director may issue an order approving the request to withdraw properties if the Director finds that withdrawal is not inconsistent with the protection of purchasers or owners of camping club contracts.

NEW SECTION

**WAC 460-90A-140 ADVERTISEMENTS.** (1) No camping club operator or salesperson shall use advertisements or sales promotion literature that are deceptive, false or misleading.

(2) Advertisements or sales promotion literature that offer any item (for the purposes of this WAC 460-90A-140 "item" is defined as any gift, prize or item of value.) as an inducement to the recipient to buy a camping club membership, visit a camping club property, complete a tour of a camping club property, receive a sales presentation, or contact salespersons shall be subject to the following provisions:

(a) The name of the camping club operator offering such item shall be clearly disclosed;

(b) No item may be labeled "free" or a "gift" if the recipient is required to purchase a camping club contract or to give or promise to give in exchange for the item any sum of money or its equivalent;

(c) The advertisement or sales promotion literature shall identify each item and its retail fair market value.

To determine the retail fair market value, the following methods may be used: (i) manufacturer's suggested retail price, if the camping club operator has a reasonable basis for belief that the manufacturer's suggested retail price approximates the retail value of the item; (ii) the approximate retail sales price of the item in the trade area in which the offer is made; or (iii) manufacturer's suggested retail price or approximate retail sales price in the trade area of similar items of comparable quality if the item is not available in the trade area in which the offer is made;

(d) If the item is one or more of a larger group, and if offered or given on a random basis, the advertisement or sales promotion literature must disclose the actual odds of receiving each item based upon the initial odds and must be revised to reflect actual current odds at the beginning of each month of use of the free promotion if the odds change; if not offered or given on a random basis, the method of selection used must be disclosed. No promotion shall be used which is in violation of Washington state or federal laws;

(e) If receipt of the advertised item is contingent upon certain restrictions or qualifications which the recipient must meet, then a clear and complete disclosure of those restrictions must be made in the offer. Restrictions that must be disclosed include, but are not limited to the following:

(i) The deadline by which the recipient must buy a camping club membership, visit a camping club property, complete a tour of a camping club property, receive a sales presentation, or contact a salesperson in order to receive an item, if any such deadline exists;

(ii) The days and hours during which visits may be made, tours may be taken, or sales presentations received and the approximate length in hours of such visits, tours or sales presentations if any visit, tour, or sales presentation is necessary in order for the recipient to receive the item; and

(iii) Any requirement such as age, marital status, financial qualifications, or that both husband and wife must be present.

(f) Any person who responds to an advertisement or sales promotion in the manner specified, who performs all stated requirements and who meets the qualifications disclosed shall be entitled to receive promptly the item offered. If the camping club operator cannot provide the item because of supply or quality problems not reasonably foreseen or controllable by the operator, the operator shall provide, at the operator's option, a raincheck for the item offered or its cash equivalent, or shall provide a substitute item of equivalent or greater retail value or a raincheck for such substitute item. In case a raincheck is provided, the camping club operator shall, within a reasonable time, deliver the item or its cash equivalent to the recipient's address without additional cost or requirement to the recipient. No camping club operator or salesperson shall make any offer of an item when the operator or salesperson knows or has reason to know that the item is not readily available;

(g) Any restriction or requirement that time, money or effort must be expended by the recipient of an item in order for the recipient to use the item must be disclosed

in the advertisement or sales promotion literature. Examples of such restrictions or requirements include any items that require assembly by the recipient, travel or other entertainment gifts or prizes for which there are limitations on the dates or times when the recipient may use the item, or which require nonrefundable reservation deposits or additional travel costs in order for the recipient to use the travel or other entertainment gift or prize.

(3) Nothing in subsection (2) of this WAC 460-90A-140 shall affect the remedies of the Administrator or any person responding to advertisements or sales promotions if such advertisements or promotions are deceptive, false or misleading or otherwise in violation of chapter 19.105 RCW.

### NEW SECTION

#### WAC 460-90A-150 RESALE BY SALESPERSON FOR COMMISSION OF CAMPING CLUB CONTRACTS EXEMPT FROM REGISTRATION.

(1) Every camping club salesperson who offers or sells more than three camping club contracts in any consecutive twelve-month period for a sales commission or similar payment pursuant to RCW 19.105.320(2)(a) shall provide to the prospective purchaser the following:

(a) Written disclosures regarding the camping club, camping club operator and camping club contract involved, including:

(i) The name and address of the camping club operator;

(ii) A brief description of the camping club operator's experience in the camping club business;

(iii) A brief description of the nature of the purchaser's title to, interest in, or right or license to use the camping club property or facilities under the camping club contract being transferred and, if the purchaser will obtain title to specified real property, the legal description of the property;

(iv) The location and a brief description of the significant facilities and recreation services then available for use by purchasers, together with a brief description of any significant facilities or recreation services that are or will be available to nonpurchasers and the price to nonpurchasers therefor;

(v) A brief description of the camping club operator's ownership of or other right to use the camping club properties or facilities available for use by purchasers.

(vi) A copy of the original camping club contract to be sold or transferred;

(vii) A brief description of all payments to be made or assumed by the purchaser under the camping club contract, including transfer fees and any further fees, charges, or assessments, together with any provisions for changing the payments;

(viii) A summary or copy of the articles, by-laws, rules, restrictions, or covenants regulating the purchaser's use of each property, the facilities located on each property, and any recreational services provided, including a statement of whether and how the articles, by-laws, rules, restrictions, or covenants may be changed;

(ix) A description of any restraints on the transferability of the camping club contract;

(x) A brief description of the policies relating to the availability of camping sites and whether reservations are required;

(xi) A brief description of the camping club operator's right to change or withdraw from use all or a portion of the camping club properties or facilities and the extent to which the operator is obligated to replace camping club facilities or properties withdrawn;

(xii) A brief description of any grounds for forfeiture of a purchaser's camping club contract.

(b) For offers or sales by a salesperson other than a camping club operator or salesperson employed by a camping club operator, a written explanation of the special risks associated with purchasing a camping club contract from someone other than the camping club operator, including, if applicable:

(i) The risk of changes in the articles, by-laws, rules, restrictions or covenants;

(ii) The risk that the camping club operator will not cooperate in the transfer of the camping club contract;

(iii) The risk that the seller may not transfer clear title to the camping club contract;

(iv) The risk that the seller's rights in the camping club contract are in default or have been forfeited;

(v) The risk associated with purchasing a camping club contract without viewing the camping club properties and facilities;

(vi) The risk that fees, charges or assessments required of the purchaser have increased;

(vii) The risk that camping club properties or facilities may have been withdrawn since the original purchase; and

(viii) Any other material risk known to the seller or salesperson that may be involved in the sale or transfer of the camping club contract.

(c) The following statement as a condition of the transfer of the camping club contract:

"Purchaser's right to cancel: You may cancel this contract of transfer without any cancellation fee or other penalty by sending notice of cancellation by certified mail, return receipt requested to \_\_\_\_\_ (insert the name and address of the camping club salesperson). The notices must be post-marked by midnight of the third business day following the day on which the contracts of transfer is signed. In computing the three business days, the day on which the contract of transfer is signed shall not be included as a "business day", nor shall Saturday, Sunday, or legal holidays be included."

(2) A camping club salesperson who receives notice of cancellation from a purchaser under WAC 460-90A-150(1)(c) shall within 72 hours of receipt of said notice notify the camping club operator of the cancellation.

(3) Every camping club salesperson who offers or sells more than three camping club contracts in any consecutive twelve-month period pursuant to RCW 19.105.320(2)(a) shall file notice of each such sale with the director ten days prior to any offer (or sale) on a form prescribed by the director which shall include the information required in this WAC 460-90A-150(1).

(4) Every camping club operator or salesperson who offers or sells more than three camping club contracts in any consecutive twelve-month period pursuant to RCW 19.105.320(2)(a) shall be subject to all the provisions of WAC 460-90A-140. Every such camping club operator or salesperson shall file with the director all advertisements at least five business days prior to the first use thereof in the State of Washington.

**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 each repealed:

- (1) 460-90-100 CAMPING CLUB REGISTRATION APPLICATIONS.
- (2) 460-90-110 CAMPING CLUB REGISTRATION EXHIBITS.
- (3) 460-90-120 SIGNING OF APPLICATION.
- (4) 460-90-122 CONSENT TO SERVICE PROCESS.
- (5) 460-90-125 AVAILABILITY OF CAMPSITES.
- (6) 460-90-130 MEMBERSHIP CONTRACT.
- (7) 460-90-140 FINANCIAL STATEMENTS.
- (8) 460-90-150 MANAGEMENT FEES.
- (9) 460-90-160 CERTIFICATES OF LOCAL AUTHORITIES.
- (10) 460-90-170 CHANGE OF DEVELOPMENT PLANS.
- (11) 460-90-180 AMENDMENTS.
- (12) 460-90-190 APPROVAL NOT ENDORSEMENT.
- (13) 460-90-200 NOTICE OF TERMINATION OF SALE.
- (14) 460-90-300 RECEIPT OF OFFERING CIRCULAR.
- (15) 460-90-310 OFFERING CIRCULAR.
- (16) 460-90-320 REQUIRED INFORMATION IN OFFERING CIRCULAR.
- (17) 460-90-330 SEQUENCE OF PRESENTATION.
- (18) 460-90-400 IMPOSITION OF IMPOUND.
- (19) 460-90-410 SPECIAL IMPOUND.
- (20) 460-90-420 PRESUMPTION OF IMPOUND.
- (21) 460-90-430 DEPOSITARY.
- (22) 460-90-440 PURCHASE RECEIPTS.
- (23) 460-90-450 OPERATION OF IMPOUND CONDITION.
- (24) 460-90-460 RELEASE OF A PORTION OF THE IMPOUND.
- (25) 460-90-470 COST OF SELLING.
- (26) 460-90-480 RELEASE OF IMPOUNDS.
- (27) 460-90-490 FEE FOR IMPOUND.
- (28) 460-90-500 ADVERTISING.
- (29) 460-90-510 RENEWALS.
- (30) 460-90-900 APPLICATION FORM.

**WSR 83-06-077**  
**ADOPTED RULES**  
**GAMBLING COMMISSION**  
 [Order 127—Filed March 2, 1983]

Be it resolved by the Washington State Gambling Commission, acting at Seattle, Washington, that it does adopt the annexed rules relating to the amending of WAC 230-04-065, 230-08-015, 230-08-120, 230-08-160, 230-20-605, adding new sections WAC 230-08-125, 230-40-450 and repealing WAC 230-04-452.

This action is taken pursuant to Notice No. WSR 83-01-107 filed with the code reviser on December 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 9.46.070(4), 9.46.070(7), 9.46.070(8) and 9.46.070(11) 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 10, 1983.

By Elwin Hart  
Deputy Director

### AMENDATORY SECTION (Amending Order 124, filed 7/9/82)

WAC 230-04-065 LESSER REQUIREMENTS FOR APPLICANTS FOR CERTAIN CLASSES OF LICENSES TO OPERATE BINGO, RAFFLES ((OR)), AMUSEMENT GAMES AND FUND RAISING EVENTS. Notwithstanding the provisions of WAC 230-04-060, the following provisions shall apply to:

- (1) Fund Raising Events. (All classes)
- (2) Bingo.
  - (a) Class A - \$500 or less annual net receipts.
  - (b) Class B - over \$500 through \$5000 annual net receipts.
- (3) Raffles.
  - (a) Class C - \$500 or less annual net receipts.
  - (b) Class D - over \$500 but not over \$5000 annual net receipts.

(4) Amusement games. Those amusement games which are conducted under a class A, B or C license on the premises of property owned by a corporation sole or property owned by a public school (kindergarten through grade 12), college or university where the annual net receipts of the licensee from the licensed activity do not exceed \$5000 and where the licensed activity is conducted by a bona fide charitable or nonprofit organization.

(5) As to the above categories only, the director may prepare a simplified form which all applicants for license for the above categories shall submit to the office of the commission in Olympia. The information requested on the simplified application form shall be submitted to the commission by the applicant's highest ranking executive



officer. At the minimum, each applicant shall provide the following information on or attached to the application:

(a) Copy of a corporate applicant's articles of incorporation and by-laws; a partnership applicant's articles and partnership agreement; copies of any by-laws and other documents which set out the organizational structure and purposes for which a noncorporate organization applicant was formed and operates; or, if the above are not available, an affidavit of the chief officer or responsible person with the organization setting out the purpose for which the organization exists and operates;

(b) Information as to whether or not a tax exemption letter from the United States internal revenue service has been obtained or denied;

(c) The name, address and date of birth of each employee who will participate in the operation of, and of each person who will participate in the management of, the activity for which the license is sought;

(d) The name, address and date of birth of each person who has any interest in the gambling activity for which the license is sought, the building within or premises upon which the activity will occur or the equipment to be used for such gambling activity;

(e) When information filed with the commission becomes inaccurate in any way, the applicant or licensee shall submit full details of any such change and correct any inaccuracy, together with copies of any new required documents with the commission within 30 days following the change.

(6) Refer to WAC 230-20-400 for certain other exemptions subsequent to issuance of license(s). These exemptions and those referred to in WAC 230-08-015, do not apply to fund raising events.

AMENDATORY SECTION (Amending Order 70, filed 5/24/77)

WAC 230-08-015 CERTAIN LOWER VOLUME LICENSEES MAY MEET REDUCED RECORD KEEPING REQUIREMENTS. Notwithstanding the provisions of WAC 230-08-010, persons holding licenses issued under the classes and circumstances set out in WAC 230-04-065 and persons operating without a license under RCW 9.46.030(2) or (3) need only keep a set of permanent records of all of the activities of the licensee related to conducting the licensed activity which includes the following, by month:

(1) The gross receipts from the conduct of each licensed activity;

(2) The total amount of cash prizes actually paid out and the total of the cost to the licensee of all merchandise prizes actually paid out for each licensed activity;

(3) A summary of all expenses related to each of the activities licensed; and

(4) The net income received by the licensee from the licensed activity with a designation of the purposes for which the net income was raised and the amount paid each recipient of any part of the net income.

~~((An annual summary of these records shall be signed and submitted by each licensee for each separate licensed activity on a form supplied by the commission.~~

~~The report shall be received in the office of the commission or postmarked no later than 30 days following the expiration of such organization's license year.))~~

These records shall be maintained by the licensee for a period of not less than three years from the end of the license year for which the record is kept unless released by the commission from this requirement as to any particular record. Persons operating under RCW 9.46.030(2) or (3) without a license shall maintain the above records for a period of one year.

AMENDATORY SECTION (Amending Order 70, filed 5/24/77)

WAC 230-08-120 QUARTERLY ACTIVITY REPORT BY OPERATORS OF BINGO (~~(, RAFFLES, AND AMUSEMENT)~~) GAMES (LICENSE CLASS C AND ABOVE). Each licensee for the operation of bingo (~~(, raffles, or amusement)~~) games (license class C and above) conducted by bona fide charitable or nonprofit organizations, shall submit ~~((a separate))~~ an activity report to the commission concerning the licensed activity and other matters set forth below during each of the following periods of the year:

January 1st through March 31st

April 1st through June 30th

July 1st through September 30th

October 1st through December 31st

If the licensee does not renew his license, then he shall file a report for the period between the previous report filed and the expiration date of his license.

Each report shall be received in the office of the commission or postmarked no later than 30 days following the end of the period for which it is made.

The report shall be signed by the president, or equivalent officer and shall be submitted upon a form to be obtained from the commission. If the report is prepared by someone other than the licensee or his employee, then the preparer shall also sign the report. The report shall include, among other items, the following:

(1) The gross receipts from ~~((each activity: PROVIDED, That bingo operators' quarterly reports shall reflect gross receipts))~~ bingo by month.

(2) The total amount of cash prizes actually paid out and the total of the cost to the licensee of all merchandise prizes actually paid out ~~((: PROVIDED, That bingo operators report payouts))~~ by month.

(3) The net receipts ~~((: PROVIDED, That bingo operators' quarterly reports shall reflect net receipts))~~ by month.

(4) Full details on all expenses directly related to ~~((each activity))~~ bingo, including all compensation paid by the licensee to each person for any work connected with the management, promotion, conduct or operation of ~~((each of the licensed activities,))~~ bingo including a description of the work performed by that person.

(5) The net income.

AMENDATORY SECTION (Amending Order 80, filed 12/28/77)

WAC 230-08-160 QUARTERLY ACTIVITY REPORTS BY OPERATORS OF SOCIAL AND



**PUBLIC CARD ROOMS.** Each licensee for the operation of social or public card rooms shall submit an activity report to the commission concerning the operation of the licensed activity and other matters set forth below during each of the following periods of the year:

- January 1st through March 31st
- April 1st through June 30th
- July 1st through September 30th
- October 1st through December 31st.

If the licensee does not renew his license, then he shall file a report for the period between the previous report filed and the expiration date of his license.

Each report shall be received in the office of the commission or postmarked no later than 30 days following the end of the period for which it is made.

The report shall be signed by the owner, president, or equivalent officer and shall be submitted upon a form to be obtained from the commission. If the report is prepared by someone other than the licensee or his employee, then the preparer shall also sign the report. The report shall include, among other items, the following:

(1) The gross receipts of the licensee from all sources other than licensed gambling activities during the report period.

(2) The portion of the receipts set out in response to (1) above related solely to the sale of food and drink for consumption on the premises.

(3) Gross receipts from the collection of fees charged for allowing persons to play.

(4) Full details on all expenses directly related to the operation of the card room, including all compensation paid by the licensee to each person for any work connected with the management, promotion, conduct or operation of the ((the)) card room, including a description of the work performed by that person.

(5) The net income or loss from the operation of the card room for the reporting period.

PROVIDED, That persons licensed under Class D – general, no fee charged, ~~((need only to report their expenses annually, within 30 days following the expiration of their license year))~~ are exempt from all portions of this rule.

AMENDATORY SECTION (Amending Order 121, filed 6/14/82)

✓ **WAC 230-20-605 TYPES OF AMUSEMENT GAMES AUTHORIZED.** The commission hereby authorizes the following amusement games to be operated by persons possessing a special location amusement games license, or bonafide charitable or nonprofit organizations possessing a license issued by the gambling commission or when conducted as authorized by RCW 9.46.030(3) at an authorized location:

(1) Fish pond (duck pond). The player "catches" a fish or other object floating in a pond of water by using a pole, hand, net or string. All fish or objects are marked on the bottom indicating the size of prize the player wins. The player is awarded a prize every time and the player must be allowed to continue playing until a prize is won.

When played at school carnivals, the game may be played without the pond of water and the operator of the

game may assist the player by attaching a prize to the pole, hand, net or string.

(2) Hoop or ring toss. The player must toss a hoop(s) or ring(s) over a target which may consist of bottles, pegs, blocks, or prizes. The operator must specifically advise the player as to the degree that the hoop(s) or ring(s) must go over the target. All hoops of the same color used at an individual stand must be the same size. All targets used at an individual booth must be the same size or the operator must advise the player by posting signs or using color codes denoting the different sizes.

(3) Dart games. The target area for all dart games must be of a material capable of being penetrated and retaining a metal tip dart. The target area will be in the rear of the stand and will be at least three feet but not more than fifteen feet from the foul line. Target must be stationary at all times.

(a) Balloon (poparoo) (balloon smash). The targets are inflated balloons. The player throws one or more darts to burst a predetermined number of balloons. If the predetermined number of balloons are burst by the dart(s), the player receives the prize indicated.

(b) Dart throw. The targets are various sizes and shapes located on the target area. The player must throw dart(s) individually at the target. The player must hit and the dart must stick in a predetermined target to win the prize as designated.

(c) Tic tac toe dart. The target is a tic tac toe board located in the target area. The player throws darts at the target and wins a designated prize when the thrown darts line up in a row in the target. The darts may line up vertically, horizontally or diagonally to win.

(d) Add um up darts. The target consists of numbered squares located in the target area. Prizes are awarded based on the total score obtained by the player by throwing and sticking the darts in the numbered squares. All darts stuck on lines will receive a rethrow. The player has the right to add up the score of the darts thrown.

(4) Ball tosses. In all ball toss games, the balls used at a specific stand must be of the same weight and size. Targets must be of the same weight and size or the operator must color code the targets and advise the player of the difference in targets by posting a sign or providing a duplicate of the target showing the limitations or restrictions readily visible to the player.

(a) Milk bottle toss. The player tosses or throws ball(s) at simulated milk bottles. The player wins by either tipping over or knocking bottles off the raised platform as designated by the operator. The bottles may be constructed of wood, metal or plastic or a combination of the above three. Operators may vary the number of bottles and balls used in each game. No floating or loose weights in bottles shall be allowed. The weight of individual bottles shall not exceed seven and one-half (7 1/2) pounds.

(b) Milk can (Mexican hat, cone). The player tosses a ball(s) into the opening of a milk can or a fiber glassed Mexican Hat turned upside down or through a cone to win.

(c) Football toss (tire toss). The player tosses or throws a football(s) through a stationary tire or hoop to win.

(d) Basketball toss/throw. The player tosses or throws a basketball(s) through a basketball type hoop to win.

(e) Bushel baskets. The player tosses a ball(s) into a bushel type basket mounted on a stationary backdrop at a fixed angle. The ball(s) must stay in the basket to win. All rim shots will be allowed except the operator may designate the top 6 inches of the basket rim by color and disallow ball(s) striking this area as winning tosses.

(f) Cat-ball-toss (star/diamond toss). The player tosses a ball(s) into a simulated cat's mouth or a round, diamond or star shaped hole to win.

(g) Ping pong toss. The player tosses ping pong balls into dishes, saucers, cups or ashtrays floating in water. A predetermined number of balls must remain in the dishes, saucers, cups or ashtrays for the player to win. The dishes, saucers, cups or ashtrays must have water covering the bottom of the surface which is facing up.

(h) Fish bowl game. The player tosses ping pong balls into a water-filled fish bowl to win.

(i) Volley ball toss (soccer ball). The player tosses a volley or soccer ball(s) into a keg type container mounted on a stationary backdrop at a fixed angle. The ball(s) must stay in the keg to win a prize. Rim shots are authorized as stated in paragraph (e) above for bushel baskets.

(j) Goblet ball (whiffle ball). The player tosses a whiffle ball(s) into a target area of glass or plastic goblets. Located in the target area are colored goblets which determine the type of prize the player wins. At least 33 percent of the goblets in the target area must be winners. The ball(s) must stay in the goblet to win a prize.

(k) Break the plate/bottle. The player tosses or throws a ball(s) at a plate, phonograph record or bottle. The type of prize won is determined by the number of targets broken by the player.

(l) Punk rack. The targets for this game are rows of dolls or cats on a ledge at the rear of the stand. The dolls or cats must be filled with sawdust, styrofoam, cotton or other like material which provides a firm base for the ball to strike. The hair protruding from the side of the dolls or cats shall not exceed three inches. The prize is determined by how many dolls or cats the player knocks over or off the ledge as posted by the operator.

(m) Teeth game. The target consists of a large face with wooden teeth. The prize is determined by how many teeth the player knocks down by throwing a ball(s).

(n) Toilet game (doniker). The player tosses or throws a ball or other object thru a toilet seat, which is located at the rear of the stand, to win.

(o) (Coke roll). The player rolls a ball(s) down an alley with the object of knocking over two coke bottles standing at the end of the alley. The player must tip over both bottles to win. Bottles shall be placed on predetermined spots painted on the surface of the alley.

(p) Rolldown. The player rolls ball(s) down an alley with the object of putting the ball(s) in numbered slots at the end of the alley. The scores represented by the

balls in each numbered slot are added up at the conclusion of the game. Scores above or below a predetermined score win. The alley surface shall at all times be smooth and free from defects.

(q) Fascination (I got it). A group game which involves competition among the players. The target area consists of twenty-five holes and the player tosses or rolls a ball into one of the holes. The object of the game is to get five balls in a row either vertically, horizontally or diagonally. The first player to accomplish this is the winner. Prize size is determined by the number of players participating in each game.

(r) Pokereno. The target area consists of twenty five squares with each square given the value of a poker card. The player rolls or tosses five balls to land in the squares. The operator has predetermined winning poker hands and the player wins when balls land in the squares that duplicate the operators selection.

(5) Shooting games. These games are conducted by the player using a weapon of some type to shoot at a target in the rear of the stand. The safety requirement of the local city or county ordinances must be observed by the operator and player. The target may be stationary or mobile.

(a) Short range (shooting gallery).

(i) The player is given four (4) rounds to shoot at a spot target 1/4 inches or less in diameter. The player wins when the spot target is completely shot out.

(ii) The player is given five (5) rounds to shoot one round each at five triangular, round or square targets, 1/2 square inch. The prize is determined by the number of targets struck by the player.

(iii) The player is given five (5) rounds to shoot one round each at five triangular, round or square targets, 1/2 square inch. Within each target is a bull's eye and the player must hit the bull's eye without touching outer surface of the target. The prize won is determined by the number of bull's eyes correctly hit.

(b) Shoot-out-the-star (machine gun). The player, using an automatic air pellet gun, is given 100 pellets to shoot at a star shaped target. The player must shoot out all of the target to win. The star cannot be more than one and one quarter inch from point to point.

(c) Water racer. This group game involves competition with the player winning a prize based on the number of players competing. The player, using a water pistol, shoots the water into a target. The water striking the target causes a balloon to inflate or advances an object to ring a bell. The player bursting the balloon or ringing the bell first is the winner.

(d) Rapid fire. This group game involves competition among players similar to the Water Racer described in (c) above. The player uses an electronic pistol to shoot at a target. Hits on the target give the player a score and the first player to reach a predetermined score is the winner.

(e) Cork gallery. The player uses a cork gun to shoot at targets located on a shelf. The player must knock the target over or off the shelf to win a prize. The prize is determined by the target knocked over or off the shelf or by the number of targets knocked over or off the shelf. The base of each target shall be uniform front and rear.

(6) Coin pitchers. (a) Spot pitch (lucky strike). The player pitches a coin at colored spots located on a table in the center of the stand. The coin must touch or stay inside of a spot to win a prize.

(b) Plate pitch. The player pitches a coin onto a glass plate to win a prize as designated.

(c) Glass pitch (bowl). The player pitches a coin into or onto dishes, glasses, etc. If the coin remains in one of the top "Target" glass items then the player wins that item.

(7) Coin operated games. (a) Skill chute (bulldozer) (penny fall). The player inserts a coin or token into a chute aiming the coin or token so that it will fall in front of a continuous sweeper, (bulldozer). If the coin or token is aimed correctly, the sweeper (bulldozer) will push additional tokens or prizes into a hole or chute which sends them to the player. Tokens are exchanged for prizes. If there is a hidden ledge, tip or similar obstruction which inhibits the passage of tokens or prizes into the hole or chute which sends them to the player, then the operator must post a sign to advise the players.

(b) Skee ball. The player rolls a ball(s) up the mechanical bowling alley into targets. A computer adds up the scores and predetermined scores win.

(c) Diggers. The player turns a crank on a mechanical crane to pick up a prize. If the player picks up a prize then the player wins that prize. There can be no stops on the digger or, if there are stops, all prizes must be the same. All prizes must be capable of being picked up by the crane.

(8) Miscellaneous games. (a) Tip-em-up bottle. The player is provided with a pole and a string which has a hoop or ring attached at the end. The player, using the pole with ring, must raise a bottle lying on its side to an upright position to win.

(b) Hi-striker. The player, using a wooden maul, must strike a lever target which causes a metal weight to rise on a guide line or track and ring a bell. The player must ring the bell a predetermined number of times to win a prize.

(c) Rope ladder. Player must climb up a rope ladder, which is anchored at both ends by a swivel and ring a bell or buzzer to win a prize.

(d) Whac-a-mole. A group game which has a target surface with 5 holes - animated "moles" pop up and down at random. Whac (hit) as many moles as possible with a mallet. First player to hit a predetermined number of moles wins.

(e) Dip bowling game. Player rolls a bowling type ball over hump in track. If ball stays on the back side of hump, the player wins.

(f) Speedball radar game. Player gets four balls. Player throws three balls through radar to establish speeds and to estimate at what speed fourth ball will pass through radar. Player wins prize if he accurately estimates speed of the fourth ball. Radar must be mounted and stationary.

(g) Horse race derby. A group game. Players advance their horse by shooting or rolling a ball in target area. The faster and more skillful one shoots or rolls his ball, the faster his horse will run. First horse to finish line wins.

(h) Shuffleboard. Player pushes a puck(s) down a shuffleboard alley to knock over poly pins at end of alley. Player wins by knocking down all the pins.

(i) Bean bag. The player tosses or throws a bean bag or a simulated bean bag at cans, bottles or other objects on a raised platform. The player wins a prize when he either knocks the object(s) off the raised platform or tips the targets over.

(j) Soccer Kick. The player kicks a soccer ball(s) through a hole(s) in the target area to win.

(9) Any additional games or modification of the games authorized above, must be submitted to the Commission in writing. The Director may ~~((temporarily))~~ temporarily approve any additional games or modification of the games subject to final approval by the Commission.

(10) No other games or variations of games may be played.

**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.

## NEW SECTION

✓ WAC 230-08-125 ANNUAL ACTIVITY REPORTS BY OPERATORS OF CLASS A OR B BINGO, ALL CLASSES OR RAFFLES, AND BONA FIDE CHARITABLE OR NONPROFIT AMUSEMENT GAMES. Each licensee for the operation of all classes of raffles and bona fide charitable or nonprofit amusement games, and Class A or B bingo shall submit to the Commission an annual summary of each separate licensed activity on a form supplied by the Commission. This section shall become effective for license years beginning after March 31, 1983.

Each report shall be received in the office of the Commission or postmarked no later than 30 days following the expiration of such organization's license year. The report shall be signed by the highest ranking executive officer. If the report is prepared by someone other than this officer, then the preparer shall also sign the report. The report shall include, among other items, the following:

(1) The gross receipts from the conduct of each licensed activity;

(2) The total amount of cash prizes actually paid out, and the total of the cost to the licensee of all merchandise prizes actually paid out for each licensed activity;

(3) The net receipts for each activity;

(4) Full details on all expenses directly related to each activity, including all compensation paid by the licensee to each person for any work connected with the management, promotion, conduct or operation of each of the licensed activities, including a description of the work performed by that person. Provided that RCW 9.46.020(19) and WAC 230-20-070 are observed in relation to the restriction against employing persons to conduct or otherwise take part in the operation of a raffle.

(5) The net income from each activity.

**NEW SECTION**

✓ WAC 230-40-450 PICTURES TO BE POSTED WITH EMPLOYEE LICENSES. The operator of a licensed public card room shall post together with each of the licenses of employees for which licenses are required a picture of that employee. Such picture shall be of a passport type not less than 2" X 3" and clearly showing a full front facial view of that employee.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

✓ WAC 230-04-452 PICTURES TO BE POSTED WITH EMPLOYEE LICENSES.

**WSR 83-06-078  
EMERGENCY RULES  
GAMBLING COMMISSION  
[Order 128—Filed March 2, 1983]**

Be it resolved by the Washington State Gambling Commission, acting at Seattle, Washington, that it does adopt the annexed rules relating to adding new section WAC 230-20-015.

We, the Washington State Gambling Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is WAC 230-20-015 is proposed because raffles offering very large prizes have been tried and are proposed. In all cases, the raffles are unsuccessful, causing problems for the licensee and public. This rule is proposed to prevent at least one very large raffle currently proposed which would deceive or mislead the public.

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

This rule is promulgated pursuant to RCW 9.46.070(11) 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 10, 1983.

By Elwin Hart  
Deputy Director

**NEW SECTION**

WAC 230-20-015 TEMPORARY PRIZE LIMITS FOR RAFFLES. (1) No single raffle prize may exceed \$40,000. No group of raffle prizes given during any twelve month period may exceed \$80,000.

(2) The commission may permit a licensee to exceed these limits on specific occasions for good cause shown. Requests to exceed the limits shall be submitted to the commission in writing along with the application for licensing.

(3) This emergency rule is considered necessary to preserve the general welfare of the public and to prevent possible misleading advertising and prize structures that may not reflect the intent of RCW 9.46. This action is taken pending the recommendations of a study committee of licensees and agency staff.

**WSR 83-06-079  
PROPOSED RULES  
HIGHER EDUCATION  
PERSONNEL BOARD  
[Filed March 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 251-10-120 Dismissal—Grounds for—Notice, to identify grounds and procedure for separating an employee from employment.
- Amd WAC 251-12-100 Hearings before the board, to conform to existing statutory language by limiting instances when a hearing before the board may be closed to the public.
- Rep WAC 251-12-285 Superior court appeals—Statement of facts—Preparation, to conform to state supreme court ruling by deleting rule requirement that a party appealing the board's order to the courts must pay for transcripts.
- New WAC 251-18-381 Appointment—Cyclic year position, to generalize concept of an "instructional year" to include any known, recurring period in an annual cycle when a position is not needed.

The proposal shown below replaces language contained in Notice No. WSR 83-04-065 which was proposed for board consideration in March 1983.

- Amd WAC 251-04-020 Definitions (cyclic year position, instructional year position, 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.

The above modifications are housekeeping in nature and are proposed in conjunction with the proposal contained in WAC 251-18-381. The text of the proposals was contained in WSR 83-04-065;

that such agency will at 10:00 a.m., Friday, April 22, 1983, in the Board Room, Olympia Technical Community College, Olympia, Washington, conduct a hearing relative thereto.

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

The authority under which these rules are proposed is RCW 28B.16.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this

agency prior to April 22, 1983, and/or orally at 10:00 a.m., Friday, April 22, 1983, Olympia Technical Community College, Olympia, Washington.

This notice is connected to and continues the matter in Notice No. WSR 83-04-065 filed with the code reviser's office on February 2, 1983.

Dated: March 2, 1983

By: John A. Spitz  
Director

#### STATEMENT OF PURPOSE

This statement is related to the notice filed with the code reviser on March 2, 1983, and is filed pursuant to RCW 34.04.025.

Rule Affected: WAC 251-10-120 Dismissal—Grounds for—Notice.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: Establishes the grounds for and procedures to be followed for terminating an employee from employment with an institution of higher education.

Summary of Proposed Change: Effective June 1982 the board modified WAC 251-10-110 by adding "separation" of an employee as a non-disciplinary action which may be taken by an institution. The proposed change will identify the ground and procedure for such actions.

Agency Person Responsible for Rule: Dennis Carlson, Assistant Director, HEPB, FT-11, Olympia, 98504, scan 234-3850.

Organization Proposing Change: Higher Education Personnel Board staff.

The agency makes no additional comments/recommendations regarding this proposal.

The change is not the result of federal law or state court action.

Rule Affected: WAC 251-12-100 Hearings before the board.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: Establishes procedures for hearings before the board.

Summary of Proposed Change: The existing law provides that hearings may be closed only when the board determines that substantial reason exists for closing the hearing or the employee so requests. This proposal brings the rule into conformity with the law.

Agency Person Responsible for Rule: Dennis Carlson, Assistant Director, HEPB, FT-11, Olympia, 98504, scan 234-3850.

Organization Proposing Change: Higher Education Personnel Board staff.

The agency makes no additional comments/recommendations regarding this proposal.

The change is not the result of federal law or state court action.

Rule Affected: WAC 251-12-285 Superior court appeals—Statement of facts—Preparation.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: Provides procedure for obtaining a transcript of HEPB proceedings for use by superior court.

Summary of Proposed Change: The existing rule requires that the party who appeals a board order to superior court must pay the cost of preparing the transcript. In December 1981, the state supreme court held in Zoutendyk v. Washington State Patrol, 95 Wn.2d 693, 628 P.2d 1308 (1981), that the state Personnel Law (chapter 41.06 RCW) does not permit the state Personnel Board to require an employee to pay the costs of transcript preparation. The Higher Education Personnel Board subsequently received an attorney general opinion which stated that the Zoutendyk rationale applied to the Higher Education Personnel Law (chapter 28B.16 RCW) and that the board could not require initial payment for the transcript from the appealing party. The proposed modification repeals the board's existing administrative procedure which requires such payment.

Agency Person Responsible for Rule: Dennis Carlson, Assistant Director, HEPB, FT-11, Olympia, 98504, scan 234-3850.

Organization Proposing Change: Higher Education Personnel Board staff.

The agency makes no additional comments/recommendations regarding this proposal.

The change is a result of state court action (see above).

Rule Affected: WAC 251-18-381 Appointment—Cyclic year position.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: 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 Change: 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. NOTE: Different language had been proposed for board consideration in March 1983 but has been withdrawn from that agenda. This language reflects the current proposal.

Agency Person Responsible for Rule: Dennis Carlson, Assistant Director, HEPB, FT-11, Olympia, 98504, scan 234-3850.

Organization Proposing Change: Higher Education Personnel Board staff.

The agency makes no additional comments/recommendations regarding this proposal.

The change is not the result of federal law or state court action.

Rule Affected: WAC 251-04-020 Definitions—"Cyclic year position," "instructional year," "layoff seniority;" WAC 251-08-100 Periodic increment date; WAC

251-18-380 Appointment—Instructional year; WAC 251-22-040 Holidays; WAC 251-22-060 Annual leave—Accrual; and WAC 251-22-200 Leave of absence without pay.

The above sections were proposed for the March 1983 meeting, but have been continued to the April 1983 meeting. The proposals are housekeeping in nature to conform to the proposal under WAC 251-18-381 (see above).

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-10-120 DISMISSAL—GROUNDS FOR—NOTICE. Appointing authorities may dismiss or separate a permanent employee for just cause as specified in WAC 251-10-110. The employee shall be provided written notice of the specified cause(s), specific charges, and the right to appeal the dismissal action to the board. The notice shall be furnished at least fifteen calendar days prior to the effective date of the action (unless the dismissal is to be effective immediately as provided in WAC 251-10-140) and shall be furnished directly to the employee during working hours, or if this is not possible because of the absence of the employee on his/her regularly scheduled working day, mailed by certified letter to the employee's last known address. If the notification is furnished directly to the employee, the day it is furnished shall be counted as a day of notice. If the notification is mailed, the notice shall be considered received the same day as it is post-marked and the notice period shall be computed as provided in WAC 251-04-100. A copy of the notice to the employee shall be transmitted to the director.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-12-100 HEARINGS BEFORE THE BOARD. (1) Hearings shall be open to the public, except for cases in which the board determines there is substantial reason for not having an open hearing, or in cases where ((either party)) the employee so requests. Hearings shall be informal with technical rules of evidence not applying to the proceedings except the rules of privilege recognized by law.

(2) Both parties shall be notified reasonably in advance of the hearing and may select representatives of their choosing, present and cross-examine witnesses and give evidence before the board. Members of the board may, and shall at the request of either party, issue subpoenas and subpoenas duces tecum. All testimony shall be on oath administered by a member of the board. The board shall certify to the superior court the facts of any refusals to obey a subpoena, take the oath, or testify. The court shall summarily hear the evidence on such refusal and if the evidence warrants punish such refusal in the same manner and to the same extent as for contempt committed before, or in connection with the proceedings of, the court.

(3) The board shall prepare an official record of the hearing, including all testimony, recorded manually or by mechanical device, and exhibits; but it shall not be required to transcribe such record unless requested by the employee, who shall be furnished with a complete transcript upon payment of a reasonable charge therefor. Payment of the cost of a transcript used on appeal shall await determination of the appeal, and shall be made by the employing institution if the employee prevails.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 251-12-285 SUPERIOR COURT APPEALS—STATEMENT OF FACTS—PREPARATION.

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 which had been scheduled for leave without pay, the work will be offered to the incumbent with a three day option selection period. If the incumbent declines, the temporary work will be handled under the rules in chapter 251-18 WAC.

(4) 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.

**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	16-409-001	REP	83-06-049	67-40-022	NEW-E	83-05-014
16-54-040	AMD-E	83-05-016	16-409-010	REP-P	83-03-059	67-40-022	NEW-P	83-06-067
16-54-040	AMD-P	83-06-064	16-409-010	REP	83-06-049	67-40-026	NEW-E	83-05-014
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16-54-082	AMD-P	83-06-064	16-409-020	AMD	83-06-049	67-40-061	NEW-E	83-05-014
16-86-015	AMD-P	83-02-061	16-409-030	AMD-P	83-03-059	67-40-061	NEW-P	83-06-067
16-86-015	AMD	83-06-002	16-409-030	AMD	83-06-049	67-40-090	AMD-E	83-05-014
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16-212-030	AMD-P	83-03-047	16-409-040	REP	83-06-049	98-12-040	NEW	83-02-063
16-212-030	AMD	83-06-063	16-409-050	REP-P	83-03-059	98-14-080	NEW	83-02-063
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16-212-040	REP	83-06-063	16-409-060	AMD-P	83-03-059	132E-160-010	REP-P	83-05-020
16-212-050	AMD-P	83-03-047	16-409-060	AMD	83-06-049	132E-160-020	REP-P	83-05-020
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16-212-065	AMD-P	83-03-047	16-409-070	AMD	83-06-049	132E-160-060	REP-P	83-05-020
16-212-065	AMD	83-06-063	16-409-075	NEW-P	83-03-059	132E-160-070	REP-P	83-05-020
16-212-070	AMD-P	83-03-047	16-409-075	NEW	83-06-049	132E-160-080	REP-P	83-05-020
16-212-070	AMD	83-06-063	16-409-080	REP-P	83-03-059	132E-160-090	REP-P	83-05-020
16-212-080	AMD-P	83-03-047	16-409-080	REP	83-06-049	132E-160-100	REP-P	83-05-020
16-212-080	AMD	83-06-063	16-409-085	NEW-P	83-03-059	132E-160-110	REP-P	83-05-020
16-212-085	REP-P	83-03-047	16-409-085	NEW	83-06-049	132E-160-120	REP-P	83-05-020
16-212-085	REP	83-06-063	16-409-090	REP-P	83-03-059	132E-160-130	REP-P	83-05-020
16-212-090	AMD-P	83-03-047	16-409-090	REP	83-06-049	132E-160-140	REP-P	83-05-020
16-212-090	AMD	83-06-063	16-409-100	REP-P	83-03-059	132E-160-150	REP-P	83-05-020
16-212-120	AMD-P	83-03-047	16-409-100	REP	83-06-049	132E-160-160	REP-P	83-05-020
16-212-120	AMD	83-06-063	16-409-110	REP-P	83-03-059	132E-160-170	REP-P	83-05-020
16-212-140	REP-P	83-03-047	16-409-110	REP	83-06-049	132E-160-180	REP-P	83-05-020
16-212-140	REP	83-06-063	16-409-130	REP-P	83-03-059	132E-160-190	REP-P	83-05-020
16-212-150	REP-P	83-03-047	16-409-130	REP	83-06-049	132E-160-200	REP-P	83-05-020
16-212-150	REP	83-06-063	16-409-140	REP-P	83-03-059	132E-160-210	REP-P	83-05-020
16-212-200	REP-P	83-03-047	16-409-140	REP	83-06-049	132E-160-220	REP-P	83-05-020
16-212-200	REP	83-06-063	16-461-005	REP-P	83-03-060	132E-160-230	REP-P	83-05-020
16-212-210	REP-P	83-03-047	16-461-005	REP	83-06-050	132E-160-240	REP-P	83-05-020
16-212-210	REP	83-06-063	16-461-010	AMD-P	83-03-060	132E-160-250	REP-P	83-05-020
16-400-001	REP-P	83-03-058	16-461-010	AMD	83-06-050	132E-160-260	REP-P	83-05-020
16-400-001	REP	83-06-048	16-657-001	AMD-P	83-05-039	132E-160-270	REP-P	83-05-020
16-400-003	REP-P	83-03-058	16-657-020	REP-P	83-05-039	132E-160-280	REP-P	83-05-020
16-400-003	REP	83-06-048	16-657-025	NEW-P	83-05-039	132E-160-290	REP-P	83-05-020
16-400-004	REP-P	83-03-058	16-750-010	AMD-P	83-04-055	132E-160-300	REP-P	83-05-020
16-400-004	REP	83-06-048	18-60-010	REP-P	83-03-070	132E-160-310	REP-P	83-05-020
16-400-005	REP-P	83-03-058	18-60-020	REP-P	83-03-070	132E-160-320	REP-P	83-05-020
16-400-005	REP	83-06-048	18-60-030	REP-P	83-03-070	132E-160-330	REP-P	83-05-020
16-400-006	REP-P	83-03-058	18-60-040	REP-P	83-03-070	132E-160-340	REP-P	83-05-020
16-400-006	REP	83-06-048	18-60-050	REP-P	83-03-070	132E-160-350	REP-P	83-05-020
16-400-00601	REP-P	83-03-058	50-12-080	AMD	83-03-020	132E-160-360	REP-P	83-05-020
16-400-00601	REP	83-06-048	50-44-040	REP-P	83-06-065	132E-161-010	NEW-P	83-05-037
16-400-150	AMD-P	83-03-058	67-20-190	AMD-P	83-06-068	132F-120	AMD-C	83-06-001
16-400-150	AMD	83-06-048	67-20-388	AMD-P	83-06-068	132H-105-030	AMD	83-05-051
16-409-001	REP-P	83-03-059	67-20-395	AMD-P	83-06-068	132L-112-010	REP-P	83-03-072

**Table of WAC Sections Affected**

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
132L-112-020	REP-P	83-03-072	133-20-100	NEW-P	83-03-061	140-08-100	NEW-P	83-02-053
132L-112-030	REP-P	83-03-072	133-20-110	NEW-P	83-03-061	140-08-100	NEW	83-06-034
132L-112-040	REP-P	83-03-072	133-20-120	NEW-P	83-03-061	140-08-110	NEW-P	83-02-053
132L-112-200	REP-P	83-03-072	133-30-010	NEW-P	83-03-061	140-08-110	NEW	83-06-034
132L-112-205	REP-P	83-03-072	133-30-020	NEW-P	83-03-061	140-12-010	NEW-P	83-02-054
132L-112-210	REP-P	83-03-072	133-30-030	NEW-P	83-03-061	140-12-010	NEW	83-06-035
132L-112-220	REP-P	83-03-072	133-30-040	NEW-P	83-03-061	140-12-020	NEW-P	83-02-054
132L-112-230	REP-P	83-03-072	133-30-050	NEW-P	83-03-061	140-12-020	NEW	83-06-035
132L-112-240	REP-P	83-03-072	133-30-060	NEW-P	83-03-061	140-12-030	NEW-P	83-02-054
132L-112-250	REP-P	83-03-072	133-30-070	NEW-P	83-03-061	140-12-030	NEW	83-06-035
132L-112-270	REP-P	83-03-072	133-30-080	NEW-P	83-03-061	140-12-040	NEW-P	83-02-054
132L-112-280	REP-P	83-03-072	133-40-010	NEW-P	83-03-061	140-12-040	NEW	83-06-035
132L-112-290	REP-P	83-03-072	133-40-020	NEW-P	83-03-061	140-12-050	NEW-P	83-02-054
132L-112-900	REP-P	83-03-072	133-40-030	NEW-P	83-03-061	140-12-050	NEW	83-06-035
132L-112-901	REP-P	83-03-072	133-40-040	NEW-P	83-03-061	140-12-060	NEW-P	83-02-054
132L-112-902	REP-P	83-03-072	133-40-050	NEW-P	83-03-061	140-12-060	NEW	83-06-035
132L-112-903	REP-P	83-03-072	133-40-060	NEW-P	83-03-061	140-12-070	NEW-P	83-02-054
132L-112-904	REP-P	83-03-072	133-50-010	NEW-P	83-03-061	140-12-070	NEW	83-06-035
132L-112-905	REP-P	83-03-072	133-50-020	NEW-P	83-03-061	140-12-080	NEW-P	83-02-054
132L-112-906	REP-P	83-03-072	137-36	NEW-C	83-06-011	140-12-080	NEW	83-06-035
132L-112-907	REP-P	83-03-072	137-36-010	NEW-P	83-02-049	140-12-090	NEW-P	83-02-054
132L-112-908	REP-P	83-03-072	137-36-010	NEW-E	83-02-051	140-12-090	NEW	83-06-035
132L-112-909	REP-P	83-03-072	137-36-020	NEW-P	83-02-049	140-12-100	NEW-P	83-02-054
132L-112-910	REP-P	83-03-072	137-36-020	NEW-E	83-02-051	140-12-100	NEW	83-06-035
132L-112-911	REP-P	83-03-072	137-36-030	NEW-P	83-02-049	140-12-110	NEW-P	83-02-054
132L-112-912	REP-P	83-03-072	137-36-030	NEW-E	83-02-051	140-12-110	NEW	83-06-035
132L-112-913	REP-P	83-03-072	137-36-040	NEW-P	83-02-049	142-30-010	AMD-P	83-04-048
132L-112-914	REP-P	83-03-072	137-36-040	NEW-E	83-02-051	167-04-010	REP	83-06-052
132L-112-915	REP-P	83-03-072	137-36-050	NEW-P	83-02-049	167-04-030	REP	83-06-052
132L-112-916	REP-P	83-03-072	137-36-050	NEW-E	83-02-051	167-04-050	REP	83-06-052
132L-112-917	REP-P	83-03-072	137-36-060	NEW-P	83-02-049	167-06-010	REP	83-06-052
132L-112-918	REP-P	83-03-072	137-36-060	NEW-E	83-02-051	167-06-020	REP	83-06-052
132L-112-919	REP-P	83-03-072	137-36-070	NEW-P	83-02-049	167-08-010	REP	83-06-052
132L-112-920	REP-P	83-03-072	137-36-070	NEW-E	83-02-051	173-19-130	AMD	83-02-066
132L-112-921	REP-P	83-03-072	137-48	NEW-C	83-06-011	173-19-2503	AMD-P	83-02-065
132L-112-922	REP-P	83-03-072	137-48-010	NEW-P	83-02-048	173-19-2505	AMD-P	83-02-064
132L-112-923	REP-P	83-03-072	137-48-010	NEW-E	83-02-050	173-19-2505	AMD-P	83-03-069
132L-116-010	REP-P	83-03-072	137-48-020	NEW-P	83-02-048	173-19-260	AMD-C	83-03-067
132L-116-020	REP-P	83-03-072	137-48-020	NEW-E	83-02-050	173-19-2521	AMD-P	83-02-065
132L-116-030	REP-P	83-03-072	137-48-030	NEW-P	83-02-048	173-19-370	AMD-P	83-02-065
132L-116-040	REP-P	83-03-072	137-48-030	NEW-E	83-02-050	173-19-4005	AMD-P	83-02-065
132L-116-050	REP-P	83-03-072	137-48-040	NEW-P	83-02-048	173-301	AMD-C	83-03-068
132L-128-010	REP-P	83-03-072	137-48-040	NEW-E	83-02-050	173-400-010	AMD-P	83-03-070
132L-128-025	REP-P	83-03-072	137-48-050	NEW-P	83-02-048	173-400-020	AMD-P	83-03-070
132L-128-030	REP-P	83-03-072	137-48-050	NEW-E	83-02-050	173-400-030	AMD-P	83-03-070
132L-128-040	REP-P	83-03-072	137-48-060	NEW-P	83-02-048	173-400-040	AMD-P	83-03-070
132L-128-050	REP-P	83-03-072	137-48-060	NEW-E	83-02-050	173-400-050	AMD-P	83-03-070
132L-128-060	REP-P	83-03-072	137-48-070	NEW-P	83-02-048	173-400-060	AMD-P	83-03-070
132L-128-070	REP-P	83-03-072	137-48-070	NEW-E	83-02-050	173-400-070	AMD-P	83-03-070
132L-128-080	REP-P	83-03-072	137-48-080	NEW-P	83-02-048	173-400-075	AMD-P	83-03-070
132L-128-090	REP-P	83-03-072	137-48-080	NEW-E	83-02-050	173-400-080	REP-P	83-03-070
132Q-276-010	NEW-P	83-06-009	137-50	NEW-C	83-06-011	173-400-090	REP-P	83-03-070
132Q-276-020	NEW-P	83-06-009	137-56-190	AMD	83-05-009	173-400-100	AMD-P	83-03-070
132Q-276-030	NEW-P	83-06-009	139-14-010	AMD-C	83-04-009	173-400-110	AMD-P	83-03-070
132Q-276-040	NEW-P	83-06-009	139-14-010	AMD-E	83-04-014	173-400-115	AMD-P	83-03-070
132Q-276-050	NEW-P	83-06-009	139-20-010	REP-C	83-04-008	173-400-120	AMD-P	83-03-070
132Q-276-060	NEW-P	83-06-009	139-20-010	REP-E	83-04-012	173-400-130	REP-P	83-03-070
132Q-276-070	NEW-P	83-06-009	139-20-020	NEW-C	83-04-007	173-400-135	REP-P	83-03-070
132Q-276-080	NEW-P	83-06-009	139-20-020	NEW-E	83-04-013	173-400-140	REP-P	83-03-070
132Q-276-090	NEW-P	83-06-009	140-08-010	NEW-P	83-02-053	173-400-150	REP-P	83-03-070
132Q-276-100	NEW-P	83-06-009	140-08-010	NEW	83-06-034	173-400-160	REP-P	83-03-070
132Q-276-110	NEW-P	83-06-009	140-08-020	NEW-P	83-02-053	173-400-170	REP-P	83-03-070
132Q-276-120	NEW-P	83-06-009	140-08-020	NEW	83-06-034	173-403-010	NEW-P	83-03-070
132Q-276-130	NEW-P	83-06-009	140-08-030	NEW-P	83-02-053	173-403-020	NEW-P	83-03-070
132Q-276-140	NEW-P	83-06-009	140-08-030	NEW	83-06-034	173-403-030	NEW-P	83-03-070
133-10-010	NEW-P	83-03-061	140-08-040	NEW-P	83-02-053	173-403-050	NEW-P	83-03-070
133-10-020	NEW-P	83-03-061	140-08-040	NEW	83-06-034	173-403-100	NEW-P	83-03-070
133-10-030	NEW-P	83-03-061	140-08-050	NEW-P	83-02-053	173-403-110	NEW-P	83-03-070
133-20-010	NEW-P	83-03-061	140-08-050	NEW	83-06-034	173-403-120	NEW-P	83-03-070
133-20-020	NEW-P	83-03-061	140-08-060	NEW-P	83-02-053	173-403-130	NEW-P	83-03-070
133-20-030	NEW-P	83-03-061	140-08-060	NEW	83-06-034	173-403-140	NEW-P	83-03-070
133-20-040	NEW-P	83-03-061	140-08-070	NEW-P	83-02-053	173-403-150	NEW-P	83-03-070
133-20-050	NEW-P	83-03-061	140-08-070	NEW	83-06-034	173-403-160	NEW-P	83-03-070
133-20-060	NEW-P	83-03-061	140-08-080	NEW-P	83-02-053	173-403-170	NEW-P	83-03-070
133-20-070	NEW-P	83-03-061	140-08-080	NEW	83-06-034	173-403-180	NEW-P	83-03-070
133-20-080	NEW-P	83-03-061	140-08-090	NEW-P	83-02-053	173-403-190	NEW-P	83-03-070
133-20-090	NEW-P	83-03-061	140-08-090	NEW	83-06-034	173-405-021	AMD-P	83-03-070



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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
173-405-033	AMD-P	83-03-070	212-45-005	NEW	83-06-022	220-56-195	AMD-P	83-03-071
173-405-040	AMD-P	83-03-070	212-45-010	NEW-P	83-03-027	220-56-196	NEW-P	83-03-071
173-405-061	AMD-P	83-03-070	212-45-010	NEW	83-06-022	220-56-198	NEW-P	83-03-071
173-405-077	AMD-P	83-03-070	212-45-015	NEW-P	83-03-027	220-56-235	AMD-P	83-03-071
173-405-078	AMD-P	83-03-070	212-45-015	NEW	83-06-022	220-56-250	AMD-P	83-03-071
173-405-086	AMD-P	83-03-070	212-45-020	NEW-P	83-03-027	220-56-261	NEW-P	83-03-071
173-405-090	REP-P	83-03-070	212-45-020	NEW	83-06-022	220-56-285	AMD-P	83-03-071
173-405-101	REP-P	83-03-070	212-45-025	NEW-P	83-03-027	220-56-300	REP-P	83-03-071
173-410-021	AMD-P	83-03-070	212-45-025	NEW	83-06-022	220-56-310	AMD	83-04-027
173-410-040	AMD-P	83-03-070	212-45-030	NEW-P	83-03-027	220-56-350	AMD-P	83-03-071
173-410-067	AMD-P	83-03-070	212-45-030	NEW	83-06-022	220-56-360	AMD-P	83-03-071
173-410-071	AMD-P	83-03-070	212-45-035	NEW-P	83-03-027	220-56-360	AMD	83-04-026
173-410-086	AMD-P	83-03-070	212-45-035	NEW	83-06-022	220-56-36000F	NEW-E	83-05-011
173-410-090	REP-P	83-03-070	212-45-040	NEW-P	83-03-027	220-56-372	AMD-P	83-03-071
173-410-091	REP-P	83-03-070	212-45-040	NEW	83-06-022	220-56-390	AMD-P	83-03-071
173-415-020	AMD-P	83-03-070	212-45-045	NEW-P	83-03-027	220-57-130	AMD-P	83-03-071
173-415-030	AMD-P	83-03-070	212-45-045	NEW	83-06-022	220-57-135	AMD-P	83-03-071
173-415-050	AMD-P	83-03-070	212-45-050	NEW-P	83-03-027	220-57-138	AMD-P	83-03-071
173-415-070	AMD-P	83-03-070	212-45-050	NEW	83-06-022	220-57-140	AMD-P	83-03-071
173-415-080	AMD-P	83-03-070	212-45-055	NEW-P	83-03-027	220-57-155	AMD-P	83-03-071
173-415-090	REP-P	83-03-070	212-45-055	NEW	83-06-022	220-57-160	AMD-P	83-03-071
174-136-015	AMD	83-05-034	212-45-060	NEW-P	83-03-027	220-57-16000Y	NEW-E	83-06-045
174-136-016	AMD	83-05-034	212-45-060	NEW	83-06-022	220-57-175	AMD-P	83-03-071
174-136-018	AMD	83-05-034	212-45-065	NEW-P	83-03-027	220-57-181	NEW-P	83-03-071
174-136-019	AMD	83-05-034	212-45-065	NEW	83-06-022	220-57-215	AMD-P	83-03-071
180-10-003	AMD-P	83-05-038	212-45-070	NEW-P	83-03-027	220-57-220	AMD-P	83-03-071
180-16-166	REP-C	83-05-023	212-45-070	NEW	83-06-022	220-57-230	AMD-P	83-03-071
180-42	NEW-C	83-05-023	212-45-075	NEW-P	83-03-027	220-57-235	AMD-P	83-03-071
187-10-210	REP-P	83-06-054	212-45-075	NEW	83-06-022	220-57-260	AMD-P	83-03-071
187-10-220	REP-P	83-06-054	212-45-080	NEW-P	83-03-027	220-57-270	AMD-P	83-03-071
187-10-230	REP-P	83-06-054	212-45-080	NEW	83-06-022	220-57-280	AMD-P	83-03-071
187-10-240	REP-P	83-06-054	212-45-085	NEW-P	83-03-027	220-57-285	AMD-P	83-03-071
187-10-250	REP-P	83-06-054	212-45-085	NEW	83-06-022	220-57-290	AMD-P	83-03-071
187-10-260	REP-P	83-06-054	212-45-090	NEW-P	83-03-027	220-57-300	AMD-P	83-03-071
187-10-270	REP-P	83-06-054	212-45-090	NEW	83-06-022	220-57-315	AMD-P	83-03-071
187-10-280	REP-P	83-06-054	212-45-095	NEW-P	83-03-027	220-57-319	AMD-P	83-03-071
187-10-290	REP-P	83-06-054	212-45-095	NEW	83-06-022	220-57-320	REP-P	83-03-071
187-10-300	REP-P	83-06-054	212-45-100	NEW-P	83-03-027	220-57-327	NEW-P	83-03-071
187-10-310	REP-P	83-06-054	212-45-100	NEW	83-06-022	220-57-330	AMD-P	83-03-071
187-10-320	REP-P	83-06-054	212-45-105	NEW-P	83-03-027	220-57-340	AMD-P	83-03-071
187-10-500	REP-P	83-06-054	212-45-105	NEW	83-06-022	220-57-350	AMD-P	83-03-071
204-24-030	AMD-E	83-03-014	212-45-110	NEW-P	83-03-027	220-57-390	AMD-P	83-03-071
204-24-040	AMD-E	83-03-014	212-45-110	NEW	83-06-022	220-57-415	AMD-P	83-03-071
204-24-050	AMD-E	83-03-014	212-45-115	NEW-P	83-03-027	220-57-460	AMD-P	83-03-071
204-24-070	AMD-E	83-03-014	212-45-115	NEW	83-06-022	220-57-485	AMD-P	83-03-071
204-90	NEW-C	83-05-001	220-32-02200I	NEW-E	83-04-005	220-57-495	AMD-P	83-03-071
212-43-001	NEW	83-03-028	220-32-03000G	NEW-E	83-05-025	220-57-515	AMD-P	83-03-071
212-43-005	NEW	83-03-028	220-32-04000Q	NEW-E	83-03-030	220-57-520	AMD-P	83-03-071
212-43-010	NEW	83-03-028	220-32-04000Q	REP-E	83-04-053	220-57-525	AMD-P	83-03-071
212-43-015	NEW	83-03-028	220-32-04000R	NEW-E	83-04-053	220-57A-012	AMD-P	83-03-071
212-43-020	NEW	83-03-028	220-32-05100U	NEW-E	83-05-008	220-57A-015	AMD-P	83-03-071
212-43-025	NEW	83-03-028	220-32-05700P	NEW-E	83-03-030	220-57A-040	AMD-P	83-03-071
212-43-030	NEW	83-03-028	220-32-05700P	REP-E	83-04-053	220-57A-070	AMD-P	83-03-071
212-43-035	NEW	83-03-028	220-32-05700Q	NEW-E	83-04-053	220-57A-082	AMD-P	83-03-071
212-43-040	NEW	83-03-028	220-32-05700Q	REP-E	83-06-023	220-57A-085	AMD-P	83-03-071
212-43-045	NEW	83-03-028	220-32-05700R	NEW-E	83-06-023	220-57A-105	AMD-P	83-03-071
212-43-050	NEW	83-03-028	220-44-04000A	REP-E	83-03-007	220-57A-112	AMD-P	83-03-071
212-43-055	NEW	83-03-028	220-44-04000B	REP-E	83-03-007	220-57A-120	AMD-P	83-03-071
212-43-060	NEW	83-03-028	220-44-04000C	NEW-E	83-03-007	220-57A-152	AMD-P	83-03-071
212-43-065	NEW	83-03-028	220-44-04000C	REP-E	83-06-032	220-57A-165	AMD-P	83-03-071
212-43-070	NEW	83-03-028	220-44-04000D	NEW-E	83-06-032	220-57A-180	AMD-P	83-03-071
212-43-075	NEW	83-03-028	220-48-015	AMD	83-04-025	220-57A-190	AMD-P	83-03-071
212-43-080	NEW	83-03-028	220-48-01500A	NEW-E	83-06-024	220-110-010	NEW-P	83-06-062
212-43-085	NEW	83-03-028	220-49-020	AMD	83-04-025	220-110-020	NEW-P	83-06-062
212-43-090	NEW	83-03-028	220-49-02000L	REP-E	83-04-036	220-110-030	NEW-P	83-06-062
212-43-095	NEW	83-03-028	220-49-02000M	NEW-E	83-04-036	220-110-040	NEW-P	83-06-062
212-43-100	NEW	83-03-028	220-49-056	AMD	83-04-025	220-110-050	NEW-P	83-06-062
212-43-105	NEW	83-03-028	220-52-050	AMD	83-04-025	220-110-060	NEW-P	83-06-062
212-43-110	NEW	83-03-028	220-52-053	AMD-P	83-06-044	220-110-070	NEW-P	83-06-062
212-43-115	NEW	83-03-028	220-52-073	AMD	83-04-025	220-110-080	NEW-P	83-06-062
212-43-120	NEW	83-03-028	220-52-074	AMD	83-04-025	220-110-090	NEW-P	83-06-062
212-43-125	NEW	83-03-028	220-52-075	AMD-P	83-06-044	220-110-100	NEW-P	83-06-062
212-43-130	NEW	83-03-028	220-56-116	AMD-P	83-03-071	220-110-110	NEW-P	83-06-062
212-43-135	NEW	83-03-028	220-56-145	AMD-P	83-03-071	220-110-120	NEW-P	83-06-062
212-45-001	NEW-P	83-03-027	220-56-180	AMD-P	83-03-071	220-110-130	NEW-P	83-06-062
212-45-001	NEW	83-06-022	220-56-190	AMD-P	83-03-071	220-110-140	NEW-P	83-06-062
212-45-005	NEW-P	83-03-027	220-56-191	NEW-P	83-03-071	220-110-150	NEW-P	83-06-062

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220-110-170	NEW-P	83-06-062	251-22-040	AMD-P	83-04-065	261-40-300	AMD	83-06-036
220-110-180	NEW-P	83-06-062	251-22-060	AMD-P	83-04-065	261-40-310	AMD	83-06-036
220-110-190	NEW-P	83-06-062	251-22-200	AMD-P	83-04-065	261-40-400	AMD	83-06-036
220-110-200	NEW-P	83-06-062	260-32-360	AMD-P	83-05-027	261-40-405	AMD	83-06-036
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220-110-220	NEW-P	83-06-062	261-02-020	AMD	83-06-036	261-40-420	REP	83-06-036
220-110-230	NEW-P	83-06-062	261-02-040	AMD	83-06-036	261-40-425	REP	83-06-036
220-110-240	NEW-P	83-06-062	261-06-020	AMD	83-06-036	261-40-430	AMD	83-06-036
220-110-250	NEW-P	83-06-062	261-06-030	AMD	83-06-036	261-40-440	REP	83-06-036
220-110-260	NEW-P	83-06-062	261-06-050	AMD	83-06-036	261-40-445	REP	83-06-036
220-110-270	NEW-P	83-06-062	261-06-060	AMD	83-06-036	261-40-450	AMD	83-06-036
220-110-280	NEW-P	83-06-062	261-06-070	AMD	83-06-036	261-40-455	REP	83-06-036
220-110-290	NEW-P	83-06-062	261-06-080	AMD	83-06-036	261-40-460	AMD	83-06-036
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220-110-310	NEW-P	83-06-062	261-06-100	AMD	83-06-036	261-40-475	AMD	83-06-036
220-110-320	NEW-P	83-06-062	261-08-010	REP	83-06-036	261-40-485	AMD	83-06-036
220-110-330	NEW-P	83-06-062	261-10-020	AMD	83-06-036	275-25-010	AMD	83-03-011
220-110-340	NEW-P	83-06-062	261-10-030	AMD	83-06-036	275-25-020	AMD	83-03-011
220-110-350	NEW-P	83-06-062	261-10-040	AMD	83-06-036	275-25-030	AMD	83-03-011
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230-04-452	REP	83-06-077	261-12	AMD	83-06-036	275-25-700	REP	83-03-011
230-08-015	AMD	83-06-077	261-12-030	REP	83-06-036	275-25-710	REP	83-03-011
230-08-020	REP-P	83-06-072	261-12-040	AMD	83-06-036	275-25-720	REP	83-03-011
230-08-025	NEW-P	83-06-072	261-12-050	AMD	83-06-036	275-25-730	REP	83-03-011
230-08-030	REP-P	83-06-072	261-12-055	AMD	83-06-036	275-25-740	REP	83-03-011
230-08-120	AMD	83-06-077	261-20	AMD	83-04-032	275-25-750	REP	83-03-011
230-08-125	NEW	83-06-077	261-20	AMD	83-06-036	275-25-760	REP	83-03-011
230-08-160	AMD	83-06-077	261-20-010	AMD	83-06-036	275-25-770	REP	83-03-011
230-12-020	NEW-P	83-04-067	261-20-020	AMD	83-06-036	275-25-810	AMD	83-03-011
230-20-015	NEW-P	83-06-072	261-20-030	AMD	83-06-036	275-25-820	REP	83-03-011
230-20-015	NEW-E	83-06-078	261-20-040	AMD	83-06-036	275-25-830	REP	83-03-011
230-20-150	REP-P	83-04-067	261-20-045	NEW	83-06-036	275-25-840	AMD	83-03-011
230-20-605	AMD	83-06-077	261-20-050	AMD	83-06-036	275-26-005	NEW	83-05-017
230-40-450	NEW	83-06-077	261-20-060	AMD	83-06-036	275-26-010	NEW	83-05-017
232-12-04501	NEW-E	83-03-017	261-20-065	REP	83-06-036	275-26-012	NEW	83-05-017
232-12-24401	NEW-P	83-06-056	261-20-070	AMD	83-06-036	275-26-015	NEW	83-05-017
232-14	NEW-W	83-04-040	261-20-074	NEW	83-06-036	275-26-020	NEW	83-05-017
232-14-010	NEW-P	83-06-060	261-20-080	AMD	83-06-036	275-26-022	NEW	83-05-017
232-28-20502	NEW-E	83-06-030	261-20-090	NEW	83-06-036	275-26-025	NEW	83-05-017
232-28-206	NEW-P	83-06-058	261-30-010	REP	83-06-036	275-26-030	NEW	83-05-017
232-28-605	AMD-E	83-06-038	261-30-020	REP	83-06-036	275-26-032	NEW	83-05-017
232-28-605	AMD-P	83-06-057	261-30-030	REP	83-06-036	275-26-050	NEW	83-05-017
232-28-60501	NEW-E	83-02-043	261-30-040	REP	83-06-036	275-26-055	NEW	83-05-017
232-28-60503	NEW-E	83-04-039	261-30-042	REP	83-06-036	275-26-060	NEW	83-05-017
232-28-704	REP	83-06-061	261-30-050	REP	83-06-036	275-26-065	NEW	83-05-017
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232-28-804	REP-P	83-06-059	261-30-070	REP	83-06-036	275-26-075	NEW	83-05-017
232-28-805	NEW-P	83-06-059	261-30-072	REP	83-06-036	275-26-080	NEW	83-05-017
232-32-145	NEW-E	83-03-048	261-30-074	REP	83-06-036	275-26-085	NEW	83-05-017
232-32-146	NEW-E	83-03-049	261-30-080	REP	83-06-036	275-26-090	NEW	83-05-017
232-32-147	NEW-E	83-03-057	261-30-090	REP	83-06-036	275-26-095	NEW	83-05-017
232-32-148	NEW-E	83-04-024	261-30-100	REP	83-06-036	275-26-097	NEW	83-05-017
232-32-149	NEW-E	83-05-026	261-30-110	REP	83-06-036	275-26-500	NEW	83-05-017
232-32-150	NEW-E	83-06-003	261-40-015	AMD	83-06-036	275-26-520	NEW	83-05-017
232-32-151	NEW-E	83-06-007	261-40-020	AMD	83-06-036	275-26-530	NEW	83-05-017
232-32-152	NEW-E	83-06-037	261-40-025	REP	83-06-036	275-26-540	NEW	83-05-017
248-18-180	AMD-P	83-04-059	261-40-030	AMD	83-06-036	275-26-550	NEW	83-05-017
248-18-685	AMD-P	83-04-059	261-40-100	AMD	83-06-036	275-26-560	NEW	83-05-017
248-18-718	AMD	83-03-026	261-40-115	AMD	83-06-036	275-26-570	NEW	83-05-017
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248-22-036	AMD-P	83-06-010	261-40-125	AMD	83-06-036	275-36-020	AMD	83-06-013
248-23-050	AMD-P	83-06-010	261-40-130	AMD	83-06-036	275-36-030	AMD	83-06-013
248-29-020	AMD-P	83-03-043	261-40-135	AMD	83-06-036	275-36-040	AMD	83-06-013
248-29-050	AMD-P	83-03-044	261-40-140	AMD	83-06-036	275-36-061	AMD	83-06-013
248-990-990	AMD	83-04-011	261-40-145	AMD	83-06-036	275-36-065	NEW	83-06-013
251-04-020	AMD-E	83-04-016	261-40-150	AMD	83-06-036	275-36-071	AMD	83-06-013
251-04-020	AMD-P	83-04-065	261-40-160	AMD	83-06-036	275-36-081	AMD	83-06-013
251-04-020	AMD-C	83-04-066	261-40-165	REP	83-06-036	275-36-091	AMD	83-06-013
251-08-100	AMD-P	83-04-065	261-40-200	AMD	83-06-036	275-36-101	AMD	83-06-013
251-10-120	AMD-C	83-06-079	261-40-201	NEW	83-06-036	275-36-110	AMD	83-06-013
251-12-100	AMD-C	83-06-079	261-40-202	NEW	83-06-036	275-36-120	AMD	83-06-013
251-12-285	REP-C	83-06-079	261-40-203	NEW	83-06-036	275-36-130	AMD	83-06-013
251-18-380	REP-P	83-04-065	261-40-210	AMD	83-06-036	275-36-140	AMD	83-06-013
251-18-380	REP-C	83-06-079	261-40-220	AMD	83-06-036	275-36-150	AMD	83-06-013
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289-13-235	NEW-C	83-04-003	308-40-102	AMD-P	83-04-049	315-10-020	AMD-E	83-03-041
289-15-225	AMD	83-04-004	308-40-110	AMD-P	83-04-049	315-10-020	AMD	83-05-029
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296-15-045	NEW-P	83-04-057	308-42-030	AMD	83-05-032	315-11-010	NEW	83-03-034
296-15-200	AMD-E	83-04-002	308-42-040	AMD	83-05-032	315-11-010	NEW-E	83-04-019
296-15-200	AMD-P	83-04-058	308-42-045	AMD	83-05-032	315-11-020	NEW	83-03-034
296-17-345	NEW-E	83-04-038	308-42-060	AMD	83-05-032	315-11-020	NEW-E	83-04-019
296-17-411	NEW	83-05-019	308-42-070	NEW	83-05-032	315-11-030	NEW	83-03-034
296-17-470	NEW	83-05-019	308-48-010	AMD	83-04-020	315-11-030	NEW-E	83-04-019
296-17-480	NEW	83-05-019	308-48-020	REP	83-04-021	315-11-040	NEW-E	83-03-040
296-17-612	AMD	83-05-019	308-48-030	AMD	83-04-020	315-11-040	NEW	83-05-030
296-17-911	AMD	83-05-018	308-48-090	REP	83-04-021	315-11-041	NEW-E	83-03-040
296-17-914	AMD	83-05-018	308-48-110	AMD	83-04-020	315-11-041	NEW-P	83-04-069
296-17-915	AMD	83-05-018	308-48-115	REP	83-04-021	315-11-042	NEW-E	83-03-040
296-17-916	AMD	83-05-018	308-48-165	NEW	83-04-020	315-11-042	NEW	83-05-030
296-17-917	AMD	83-05-018	308-48-170	REP	83-04-021	315-11-050	NEW-E	83-05-031
296-17-919	AMD	83-05-018	308-48-175	REP	83-04-021	315-11-050	NEW-P	83-05-052
296-17-91901	AMD	83-05-018	308-48-190	AMD	83-04-020	315-11-051	NEW-E	83-05-031
296-17-91902	AMD	83-05-018	308-48-19001	REP	83-04-021	315-11-051	NEW-P	83-05-052
296-20-03002	AMD-E	83-06-012	308-48-200	AMD	83-04-020	315-11-052	NEW-E	83-05-031
296-20-03004	NEW-E	83-06-012	308-49-100	NEW	83-04-021	315-11-052	NEW-P	83-05-052
296-24-165	AMD-P	83-05-024	308-49-120	NEW	83-04-021	315-11-060	NEW-P	83-05-053
296-24-16503	AMD-P	83-05-024	308-49-130	NEW	83-04-021	315-11-061	NEW-P	83-05-053
296-24-16513	AMD-P	83-05-024	308-49-140	NEW	83-04-021	315-11-062	NEW-P	83-05-053
296-24-16521	AMD-P	83-05-024	308-49-150	NEW	83-04-021	315-12-010	NEW-C	83-05-028
296-24-16527	AMD-P	83-05-024	308-49-160	NEW	83-04-021	315-12-020	NEW-C	83-05-028
296-24-16531	AMD-P	83-05-024	308-49-170	NEW	83-04-021	315-12-030	NEW-C	83-05-028
296-24-16537	AMD-P	83-05-024	308-49-180	NEW	83-04-021	315-12-040	NEW-C	83-05-028
296-24-16539	AMD-P	83-05-024	308-52-135	AMD-P	83-03-045	315-12-050	NEW-C	83-05-028
296-24-23527	AMD-P	83-05-024	308-52-138	AMD	83-03-031	315-12-060	NEW-C	83-05-028
296-24-24015	AMD-P	83-05-024	308-52-140	AMD-P	83-03-045	315-12-070	NEW-C	83-05-028
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296-27-078	NEW-P	83-04-044	308-52-502	NEW-P	83-03-045	315-12-100	NEW-C	83-05-028
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296-54-507	AMD-P	83-05-024	308-52-560	REP-P	83-03-045	315-12-130	NEW-C	83-05-028
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308-12-120	AMD	83-04-071	315-04-200	AMD-P	83-03-046	356-26-070	AMD-P	83-06-043
308-12-130	AMD	83-04-071	315-04-220	NEW-E	83-03-041	356-26-100	AMD-P	83-04-035
308-12-311	REP	83-05-006	315-04-220	NEW	83-05-029	356-30-190	AMD-C	83-05-047
308-12-312	NEW	83-05-006	315-06-020	AMD	83-03-034	356-30-200	AMD-C	83-05-047
308-12-320	AMD	83-04-071	315-06-050	AMD-E	83-03-041	356-30-210	AMD-C	83-05-047
308-25-020	AMD-P	83-04-070	315-06-050	AMD	83-05-029	356-30-230	AMD-C	83-05-047
308-31-010	AMD	83-03-032	315-06-060	NEW	83-03-034	356-30-240	AMD-C	83-05-047A
308-31-030	NEW	83-03-032	315-06-060	NEW-E	83-04-019	356-30-330	AMD-C	83-03-035
308-31-040	NEW	83-03-032	315-06-080	AMD	83-03-033	356-30-330	AMD-C	83-05-047A
308-31-050	NEW	83-03-032	315-06-080	NEW-E	83-04-019	360-12-150	NEW-P	83-06-074
308-31-060	NEW	83-03-032	315-06-120	NEW-E	83-03-041	360-13-100	NEW-P	83-06-074

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360-23-040	REP-P	83-06-074	388-44-020	AMD	83-05-046	388-72-205	REP-P	83-05-003
360-34-050	NEW-P	83-06-074	388-44-025	NEW	83-05-046	388-72-207	REP-P	83-05-003
365-55-010	REP	83-06-066	388-44-035	AMD	83-05-046	388-72-210	REP-P	83-05-003
365-55-020	REP	83-06-066	388-44-110	AMD	83-05-046	388-72-215	REP-P	83-05-003
365-55-030	REP	83-06-066	388-44-115	AMD	83-05-046	388-72-220	REP-P	83-05-003
365-55-040	REP	83-06-066	388-44-125	AMD	83-05-046	388-72-225	REP-P	83-05-003
365-55-050	REP	83-06-066	388-44-127	AMD	83-05-046	388-72-230	REP-P	83-05-003
365-55-060	REP	83-06-066	388-44-130	AMD	83-05-046	388-72-235	REP-P	83-05-003
365-55-070	REP	83-06-066	388-44-145	AMD	83-05-046	388-72-240	REP-P	83-05-003
365-55-080	REP	83-06-066	388-44-150	AMD	83-05-046	388-72-250	REP-P	83-05-003
381	NEW	83-03-036	388-54-615	AMD-E	83-04-042	388-72-255	REP-P	83-05-003
383-06-010	NEW-P	83-06-053	388-54-615	AMD-P	83-04-043	388-72-260	REP-P	83-05-003
383-06-010	NEW-E	83-06-055	388-54-630	AMD-E	83-04-042	388-72-265	REP-P	83-05-003
383-06-020	NEW-P	83-06-053	388-54-630	AMD-P	83-04-043	388-72-270	REP-P	83-05-003
383-06-020	NEW-E	83-06-055	388-54-640	AMD-E	83-04-042	388-72-275	REP-P	83-05-003
383-06-030	NEW-P	83-06-053	388-54-640	AMD-P	83-04-043	388-72-280	REP-P	83-05-003
383-06-030	NEW-E	83-06-055	388-54-645	AMD-E	83-04-042	388-72-285	REP-P	83-05-003
383-06-040	NEW-P	83-06-053	388-54-645	AMD-P	83-04-043	388-72-300	REP-P	83-05-003
383-06-040	NEW-E	83-06-055	388-54-650	AMD-E	83-04-042	388-72-305	REP-P	83-05-003
383-06-050	NEW-P	83-06-053	388-54-650	AMD-P	83-04-043	388-72-310	REP-P	83-05-003
383-06-050	NEW-E	83-06-055	388-54-655	AMD-E	83-04-042	388-72-315	REP-P	83-05-003
383-06-060	NEW-P	83-06-053	388-54-655	AMD-P	83-04-043	388-72-350	REP-P	83-05-003
383-06-060	NEW-E	83-06-055	388-54-665	AMD-E	83-04-042	388-72-355	REP-P	83-05-003
383-06-070	NEW-P	83-06-053	388-54-665	AMD-P	83-04-043	388-72-400	REP-P	83-05-003
383-06-070	NEW-E	83-06-055	388-54-670	AMD	83-03-015	388-72-405	REP-P	83-05-003
383-06-080	NEW-P	83-06-053	388-54-670	AMD-E	83-04-042	388-72-410	REP-P	83-05-003
383-06-080	NEW-E	83-06-055	388-54-670	AMD-P	83-04-043	388-72-415	REP-P	83-05-003
383-06-090	NEW-P	83-06-053	388-54-675	AMD-E	83-04-042	388-72-425	REP-P	83-05-003
383-06-090	NEW-E	83-06-055	388-54-675	AMD-P	83-04-043	388-72-435	REP-P	83-05-003
383-06-100	NEW-P	83-06-053	388-54-687	AMD-E	83-04-042	388-72-445	REP-P	83-05-003
383-06-100	NEW-E	83-06-055	388-54-687	AMD-P	83-04-043	388-72-500	REP-P	83-05-003
383-06-110	NEW-P	83-06-053	388-54-695	AMD-E	83-04-042	388-72-505	REP-P	83-05-003
383-06-110	NEW-E	83-06-055	388-54-695	AMD-P	83-04-043	388-72-510	REP-P	83-05-003
383-06-120	NEW-P	83-06-053	388-54-715	AMD-E	83-04-042	388-72-515	REP-P	83-05-003
383-06-120	NEW-E	83-06-055	388-54-715	AMD-P	83-04-043	388-72-520	REP-P	83-05-003
383-06-130	NEW-P	83-06-053	388-54-730	AMD-E	83-04-042	388-72-550	REP-P	83-05-003
383-06-130	NEW-E	83-06-055	388-54-730	AMD-P	83-04-043	388-72-555	REP-P	83-05-003
383-06-140	NEW-P	83-06-053	388-54-740	AMD	83-03-015	388-72-560	REP-P	83-05-003
383-06-140	NEW-E	83-06-055	388-54-740	AMD-E	83-04-042	388-72-565	REP-P	83-05-003
388-08-435	NEW	83-03-021	388-54-740	AMD-P	83-04-043	388-72-570	REP-P	83-05-003
388-15-600	NEW-P	83-05-042	388-54-750	AMD-E	83-04-042	388-72-575	REP-P	83-05-003
388-15-600	NEW-E	83-05-043	388-54-750	AMD-P	83-04-043	388-72-580	REP-P	83-05-003
388-15-610	NEW-P	83-05-042	388-54-760	AMD-E	83-04-042	388-72-585	REP-P	83-05-003
388-15-610	NEW-E	83-05-043	388-54-760	AMD-P	83-04-043	388-72-590	REP-P	83-05-003
388-15-620	NEW-P	83-05-042	388-54-780	AMD-E	83-04-042	388-72-600	REP-P	83-05-003
388-15-620	NEW-E	83-05-043	388-54-780	AMD-P	83-04-043	388-72-605	REP-P	83-05-003
388-15-630	NEW-P	83-05-042	388-54-785	AMD	83-03-015	388-72-610	REP-P	83-05-003
388-15-630	NEW-E	83-05-043	388-54-785	AMD-E	83-04-042	388-72-615	REP-P	83-05-003
388-28-005	AMD	83-04-033	388-54-785	AMD-P	83-04-043	388-72-620	REP-P	83-05-003
388-28-355	AMD	83-04-033	388-54-810	REP	83-03-015	388-72-625	REP-P	83-05-003
388-28-400	AMD	83-04-033	388-70-068	AMD	83-04-061	388-72-630	REP-P	83-05-003
388-28-415	AMD	83-04-033	388-70-069	AMD	83-04-061	388-72-635	REP-P	83-05-003
388-28-473	AMD	83-04-033	388-72-020	REP-P	83-05-003	388-73-014	AMD	83-02-060
388-28-475	AMD	83-04-033	388-72-025	REP-P	83-05-003	388-73-01950	NEW	83-02-060
388-28-480	AMD	83-04-033	388-72-030	REP-P	83-05-003	388-73-020	AMD	83-02-060
388-28-481	AMD	83-04-033	388-72-035	REP-P	83-05-003	388-73-024	AMD	83-02-060
388-28-482	AMD	83-04-033	388-72-040	REP-P	83-05-003	388-73-042	AMD	83-02-060
388-28-483	NEW	83-04-033	388-72-045	REP-P	83-05-003	388-73-050	AMD	83-02-060
388-28-484	AMD	83-04-033	388-72-050	REP-P	83-05-003	388-73-058	AMD	83-02-060
388-28-500	AMD	83-04-033	388-72-060	REP-P	83-05-003	388-73-060	AMD	83-02-060
388-28-535	AMD	83-04-033	388-72-070	REP-P	83-05-003	388-73-062	AMD	83-02-060
388-28-560	AMD	83-04-033	388-72-080	REP-P	83-05-003	388-73-068	AMD	83-02-060
388-28-590	AMD	83-04-060	388-72-090	REP-P	83-05-003	388-73-076	AMD	83-02-060
388-28-600	AMD	83-04-033	388-72-100	REP-P	83-05-003	388-73-102	AMD	83-02-060
388-29	AMD-C	83-05-015	388-72-105	REP-P	83-05-003	388-73-103	NEW	83-02-060
388-33-135	AMD	83-04-033	388-72-110	REP-P	83-05-003	388-73-108	AMD	83-02-060
388-33-140	AMD	83-04-033	388-72-115	REP-P	83-05-003	388-73-118	AMD	83-02-060
388-37-010	AMD-P	83-05-002	388-72-120	REP-P	83-05-003	388-73-132	AMD	83-02-060
388-37-030	AMD-P	83-05-002	388-72-125	REP-P	83-05-003	388-73-134	AMD	83-02-060
388-37-032	AMD-P	83-05-002	388-72-150	REP-P	83-05-003	388-73-136	AMD	83-02-060
388-37-035	AMD-P	83-05-002	388-72-155	REP-P	83-05-003	388-73-140	AMD	83-02-060
388-37-036	AMD-P	83-05-002	388-72-160	REP-P	83-05-003	388-73-142	AMD	83-02-060
388-37-037	AMD-P	83-05-002	388-72-165	REP-P	83-05-003	388-73-144	AMD	83-02-060
388-37-038	AMD-P	83-05-002	388-72-170	REP-P	83-05-003	388-73-146	AMD	83-02-060
388-37-050	AMD-P	83-05-002	388-72-175	REP-P	83-05-003	388-73-304	AMD	83-02-060
388-37-060	AMD-P	83-05-002	388-72-180	REP-P	83-05-003	388-73-310	AMD	83-02-060

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388-73-708	AMD	83-02-060	392-163-420	NEW-P	83-04-054	458-20-178	AMD-P	83-04-064
388-73-714	AMD	83-02-060	392-163-425	NEW-P	83-04-054	458-20-180	AMD-P	83-04-064
388-83-200	NEW-P	83-05-042	392-163-430	NEW-P	83-04-054	458-20-181	AMD-P	83-04-064
388-83-200	NEW-E	83-05-043	392-163-440	NEW-P	83-04-054	458-20-184	AMD-P	83-04-064
388-86-050	AMD-E	83-02-046	392-163-445	NEW-P	83-04-054	458-20-185	AMD-P	83-04-062
388-86-050	AMD	83-05-050	392-163-450	NEW-P	83-04-054	458-20-186	AMD-P	83-04-062
388-86-075	AMD	83-03-016	392-163-455	NEW-P	83-04-054	458-20-18801	AMD-P	83-04-062
388-87-013	AMD	83-03-016	392-163-460	NEW-P	83-04-054	458-20-189	AMD-P	83-04-064
388-87-070	AMD	83-03-016	392-163-465	NEW-P	83-04-054	458-20-190	AMD-P	83-04-064
388-87-070	AMD-P	83-05-040	392-171-386	AMD-P	83-04-072	458-20-191	AMD-P	83-04-064
388-87-070	AMD-E	83-05-041	392-171-401	AMD-P	83-04-072	458-20-193A	AMD-P	83-04-064
388-96-113	AMD	83-05-007	392-171-631	AMD-P	83-04-072	458-20-193B	AMD-P	83-04-064
388-96-222	AMD	83-05-007	392-171-661	AMD-P	83-04-072	458-20-193C	AMD-P	83-04-064
388-96-225	AMD	83-05-007	392-171-691	AMD-P	83-04-072	458-20-193D	AMD-P	83-04-064
388-96-227	AMD	83-05-007	392-171-761	AMD-P	83-04-072	458-20-194	AMD-P	83-05-048
388-96-539	AMD	83-05-007	392-171-766	AMD-P	83-04-072	458-20-195	AMD-P	83-05-048
388-96-553	AMD	83-05-007	392-171-771	AMD-P	83-04-072	458-20-196	AMD-P	83-04-062
388-96-554	NEW	83-05-007	392-171-776	AMD-P	83-04-072	458-20-198	AMD-P	83-04-062
388-96-573	AMD	83-05-007	392-171-781	AMD-P	83-04-072	458-20-199	AMD-P	83-04-062
388-99-060	AMD	83-03-016	419-28-060	NEW	83-05-022	458-20-201	AMD-P	83-05-048
388-320-220	AMD	83-03-021	419-44-010	NEW	83-05-022	458-20-206	AMD-P	83-05-048
390-13-010	NEW-P	83-06-033	419-44-020	NEW-W	83-05-021	458-20-209	AMD-P	83-05-048
392-138	AMD-C	83-03-004	446-50-080	AMD	83-03-008	458-20-210	AMD-P	83-05-048
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392-163-100	NEW-P	83-04-054	458-20-101	AMD-P	83-04-062	458-20-214	AMD-P	83-05-048
392-163-105	NEW-P	83-04-054	458-20-102	AMD-P	83-04-063	458-20-215	AMD-P	83-05-048
392-163-110	NEW-P	83-04-054	458-20-104	AMD-P	83-04-063	458-20-218	AMD-P	83-05-048
392-163-115	NEW-P	83-04-054	458-20-106	AMD-P	83-04-063	458-20-219	AMD-P	83-05-048
392-163-120	NEW-P	83-04-054	458-20-107	AMD-P	83-04-063	458-20-221	AMD-P	83-05-048
392-163-125	NEW-P	83-04-054	458-20-108	AMD-P	83-04-063	458-20-222	AMD-P	83-05-048
392-163-130	NEW-P	83-04-054	458-20-112	AMD-P	83-04-063	458-20-223	AMD-P	83-05-048
392-163-135	NEW-P	83-04-054	458-20-113	AMD-P	83-04-063	458-20-224	AMD-P	83-04-062
392-163-140	NEW-P	83-04-054	458-20-114	AMD-P	83-04-062	458-20-226	AMD-P	83-05-048
392-163-142	NEW-P	83-04-054	458-20-116	AMD-P	83-04-063	458-20-227	AMD-P	83-05-048
392-163-145	NEW-P	83-04-054	458-20-118	AMD-P	83-04-063	458-20-229	AMD-P	83-05-048
392-163-170	NEW-P	83-04-054	458-20-121	AMD-P	83-04-063	458-20-231	AMD-P	83-05-048
392-163-175	NEW-P	83-04-054	458-20-123	AMD-P	83-04-063	458-20-232	AMD-P	83-05-048
392-163-180	NEW-P	83-04-054	458-20-124	AMD-P	83-04-063	458-20-234	AMD-P	83-05-048
392-163-185	NEW-P	83-04-054	458-20-125	AMD-P	83-04-063	458-20-235	AMD-P	83-04-062
392-163-190	NEW-P	83-04-054	458-20-126	AMD-P	83-04-063	458-20-236	AMD-P	83-05-048
392-163-195	NEW-P	83-04-054	458-20-127	AMD-P	83-04-063	458-20-237	AMD-P	83-06-046
392-163-200	NEW-P	83-04-054	458-20-128	AMD-P	83-04-063	458-20-237	AMD-E	83-06-047
392-163-205	NEW-P	83-04-054	458-20-130	AMD-P	83-04-063	458-20-238	AMD-P	83-05-048
392-163-210	NEW-P	83-04-054	458-20-131	AMD-P	83-04-063	458-20-239	AMD-P	83-05-048
392-163-215	NEW-P	83-04-054	458-20-132	AMD-P	83-04-063	458-20-240	AMD-P	83-05-048
392-163-220	NEW-P	83-04-054	458-20-134	AMD-P	83-04-062	458-20-241	AMD-P	83-05-048
392-163-225	NEW-P	83-04-054	458-20-135	AMD-P	83-04-063	458-20-242A	AMD-P	83-05-048
392-163-230	NEW-P	83-04-054	458-20-136	AMD-P	83-04-062	458-20-243	AMD-P	83-05-048
392-163-235	NEW-P	83-04-054	458-20-137	AMD-P	83-04-063	458-40-19101	AMD-P	83-02-056
392-163-240	NEW-P	83-04-054	458-20-140	AMD-P	83-04-063	458-40-19101	AMD	83-05-013
392-163-245	NEW-P	83-04-054	458-20-141	AMD-P	83-04-063	460-24A-050	AMD	83-03-024
392-163-250	NEW-P	83-04-054	458-20-142	AMD-P	83-04-063	460-33A-010	NEW	83-03-025
392-163-255	NEW-P	83-04-054	458-20-143	AMD-P	83-04-063	460-33A-015	NEW	83-03-025
392-163-260	NEW-P	83-04-054	458-20-145	AMD-P	83-04-062	460-33A-016	NEW	83-03-025
392-163-300	NEW-P	83-04-054	458-20-146	AMD-P	83-04-062	460-33A-017	NEW	83-03-025
392-163-305	NEW-P	83-04-054	458-20-148	AMD-P	83-04-063	460-33A-020	NEW	83-03-025
392-163-310	NEW-P	83-04-054	458-20-150	AMD-P	83-04-063	460-33A-025	NEW	83-03-025
392-163-315	NEW-P	83-04-054	458-20-151	AMD-P	83-04-062	460-33A-030	NEW	83-03-025
392-163-320	NEW-P	83-04-054	458-20-153	AMD-P	83-04-064	460-33A-035	NEW	83-03-025
392-163-322	NEW-P	83-04-054	458-20-156	AMD-P	83-04-064	460-33A-040	NEW	83-03-025
392-163-325	NEW-P	83-04-054	458-20-159	AMD-P	83-04-064	460-33A-050	NEW	83-03-025
392-163-330	NEW-P	83-04-054	458-20-161	AMD-P	83-04-064	460-33A-055	NEW	83-03-025
392-163-335	NEW-P	83-04-054	458-20-162	AMD-P	83-04-064	460-33A-060	NEW	83-03-025
392-163-340	NEW-P	83-04-054	458-20-163	AMD-P	83-04-064	460-33A-065	NEW	83-03-025
392-163-345	NEW-P	83-04-054	458-20-165	AMD-P	83-04-064	460-33A-070	NEW	83-03-025
392-163-350	NEW-P	83-04-054	458-20-166	AMD-P	83-04-064	460-33A-075	NEW	83-03-025
392-163-355	NEW-P	83-04-054	458-20-167	AMD-P	83-04-062	460-33A-080	NEW	83-03-025
392-163-360	NEW-P	83-04-054	458-20-168	AMD-P	83-04-064	460-33A-085	NEW	83-03-025
392-163-365	NEW-P	83-04-054	458-20-169	AMD-P	83-04-064	460-33A-090	NEW	83-03-025
392-163-370	NEW-P	83-04-054	458-20-170	AMD-P	83-04-064	460-33A-100	NEW	83-03-025
392-163-375	NEW-P	83-04-054	458-20-171	AMD-P	83-04-064	460-33A-105	NEW	83-03-025
392-163-385	NEW-P	83-04-054	458-20-172	AMD-P	83-04-064	460-33A-110	NEW	83-03-025
392-163-390	NEW-P	83-04-054	458-20-173	AMD-P	83-04-064	460-65A-010	NEW	83-03-024
392-163-400	NEW-P	83-04-054	458-20-174	AMD-P	83-04-064	460-65A-020	NEW	83-03-024
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Parking and traffic regulations	83-01-007 83-01-010

### WATER ASSOCIATIONS, WATER COMPANIES (See PUBLIC UTILITIES)

### WEATHERIZATION (See PLANNING AND COMMUNITY AFFAIRS AGENCY)

### WESTERN WASHINGTON UNIVERSITY

Meeting schedules	83-01-072 83-04-028 83-06-039
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### WHATCOM COMMUNITY COLLEGE (District 21)

Meetings	83-06-006
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### 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)

