

Washington State Register

FEBRUARY 1, 1984

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CITATION

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

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CERTIFICATE

Pursuant to RCW 34.08.040, the publication of rules or other information in this issue of the Washington State Register is hereby certified to be a true and correct copy of such rules or other information, except that headings of public meeting notices have been edited for uniformity of style.

DENNIS W. COOPER
Code Reviser

WASHINGTON STATE REGISTER

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

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

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

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

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

3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATTER

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

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

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

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

5. EFFECTIVE DATE OF RULES

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

6. EDITORIAL CORRECTIONS

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

7. INDEX AND TABLES

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

1983 - 1984

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Action Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing/adoption on or after
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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
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*Dates adjusted to accommodate July 4th holiday on normal distribution and closing date. See WAC 1-12-030(5)(c) and 1-13-030(5)(c).

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.

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

WSR 84-03-001**ADOPTED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Order 84-1—Filed January 5, 1984]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Transportation—Specifications for school buses, chapter 392-143 WAC.

This action is taken pursuant to Notice No. WSR 83-23-059 filed with the code reviser on November 16, 1983. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 46.61.380 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 5, 1984.

By Frank B. Brouillet
Superintendent of Public Instruction

AMENDATORY SECTION (Amending Order 83-13, filed 10/10/83)

WAC 392-143-030 INITIAL INSPECTION OF SCHOOL BUSES—PERMIT AND LICENSE. All school buses, as a condition for its use to transport students shall have a school bus operation permit issued in accordance with WAC ((~~392-142-060~~ {~~392-142-065~~}) 392-142-065). If the school bus is approved in compliance with WAC ((~~392-145-060~~ {~~392-142-060~~}) 392-142-060), the superintendent shall send three copies of the school bus operation permit to the appropriate school district. The original and such other information as is requested by the superintendent shall be retained by the school district; one copy shall be placed in the permit holder in the school bus; and one copy shall be presented to the county auditor, along with the operator's application for an exempt state license for the bus if applicable. County auditors shall not issue an exempt license for the bus unless a school bus operation permit accompanies the application for a license. All inspections of new school buses shall be made prior to the delivery to the purchaser.

AMENDATORY SECTION (Amending Order 83-13, filed 10/10/83)

WAC 392-143-070 OTHER VEHICLES USED TO TRANSPORT STUDENTS. All vehicles with a seating capacity including the driver of ten persons or less, shall not be required to meet school bus specifications. Such vehicles regularly used to transport students to and from school or in connection with school activities, must carry the approved school bus first aid kit, fire

extinguisher and highway warning kit. These vehicles also must pass a safety inspection routinely conducted at the intervals outlined in WAC ((~~392-142-035~~ {~~392-143-035~~}) 392-143-035).

Students, while being transported in any vehicle used in to and from school transportation and school activities, shall share the same compartment and be provided the same general safety and comfort as the driver.

WSR 84-03-002**PROPOSED RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES**

[Filed January 5, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Office of Minority and Women's Business Enterprises intends to adopt, amend, or repeal rules concerning the procedures state agencies and educational institutions will use to evaluate bids and award contracts in a more timely and cost effective manner.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on January 16, 1984.

The authority under which these rules are proposed is chapter 120, Laws of 1983.

The specific statute these rules are intended to implement is chapter 120, Laws of 1983.

This notice is connected to and continues the matter in Notice No. WSR 83-23-068 filed with the code reviser's office on November 18, 1983.

Dated: January 5, 1984

By: Carolyn V. Patton, Director

WSR 84-03-003**EMERGENCY RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**
[Order 83-39—Filed January 5, 1984]

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 WAC 296-200-300, procedures for notice of infraction, 296-200-310 service on employee of a contractor and 296-200-320 mailing copy of notice of infraction to contractor. These three rules are new rules that are required by the changes to the contractor registration law, chapter 18.27 RCW, enacted in 1983. They set out the procedures the department will follow in issuing notices of infraction and notifying the contractor that it has received a notice of infraction. The rules also clarify, for the benefit of the district courts and contractors, which of the justice court traffic infraction rules (JTIR) apply to contractor notices of violation.

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 the department will begin issuing notices of violation on January 23, 1984. The department by law must use the traffic infraction form for its notices of infraction. The rules are necessary to clarify for the district courts and contractors, which of the justice court traffic infraction rules apply. The rules are also necessary to provide concrete procedures for issuing and serving the notice on contractors.

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

This rule is promulgated pursuant to RCW 18.27.040 and 18.27.200 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 5, 1984.

By Sam Kinville
Director

NEW SECTION

WAC 296-200-300 PROCEDURES FOR NOTICE OF INFRACTION. (1) *The department may issue a notice of infraction to a contractor that violates RCW 18.27.200. The notice of infraction by law must be on the same basic form as that prescribed for traffic infractions. The Supreme Court has adopted the Justice Court Traffic Infraction Rules (JTIR) as the rules of procedure for traffic infractions. To ensure that court procedures are the same for contractor notices of infraction as for traffic notices of infraction, the department shall comply with all JTIR rules except for rules 1.1, 1.2, 2.1, and 2.4(a). Rules 1.1, 1.2, and 2.1 do not directly apply to notices of violation for contractors. Rule 2.4(a) does not apply because RCW 18.27.270 provides that a defendant must respond to a notice of violation within 14 days, not within 7 days as for a traffic infraction.*

(2) *In reading the JTIR rules, the following terms, as they appear in the rules, shall be construed to mean:*

- (a) *"Department" means the Department of Labor and Industries, not the Department of Licensing.*
- (b) *"Notice of traffic infraction" means notice of infraction.*
- (c) *"Traffic case" means a contractor infraction case.*
- (d) *"Law enforcement officer" means a representative of the department.*

NEW SECTION

WAC 296-200-310 SERVICE ON EMPLOYEE OF A CONTRACTOR. *If a contractor is a corporation or partnership, the department need not serve the contractor personally. In such a case, if no owner, officer, or*

partner of a violating contractor is on a job site, the department may issue a notice of infraction to any employee on the site. For purposes of serving the notice of infraction, the Legislature intended that all employees of a contractor, at whatever level, are authorized to act as, and are, agents to accept service of the notice of infraction on behalf of the contractor. A promise to appear signed by an employee on behalf of the contractor is binding on the contractor.

To lessen possible problems, however, the department shall have the employee complete the promise to appear on the notice of infraction in the following fashion: The employee shall sign the "Name of the contractor, by name of the employee". It will appear thus:

*Jane Doe Construction Co.
by Richard Roe, Employee.*

NEW SECTION

WAC 296-200-320 MAILING COPY OF NOTICE OF INFRACTION TO CONTRACTOR. *If the department serves a notice of infraction on an employee of a contractor, and not on the owner, officer, or partner of the contractor, the law requires the department to mail by certified mail a copy of the notice of infraction to the contractor if the department can determine the contractor's name and address. If the department cannot determine the contractor's name and address, it need not mail a copy of the notice of infraction; in such a case, the notice of infraction shall remain valid. To ensure further that the contractor receives a copy, the department shall, as well as mail a copy by certified mail, mail a second copy by ordinary mail. To prove that the letters were mailed the department's representative shall sign an affidavit of mailing in substantially the following form:*

AFFIDAVIT OF MAILING

STATE OF WASHINGTON

)

ss.

COUNTY OF

)

*I, _____, being first duly sworn, on oath depone and say:
That on _____, 19__, pursuant to RCW 18.27.230, I caused a copy of the notice of infraction, with serial number _____, dated _____, to be mailed by certified mail, return receipt requested, via the United States Postal Service, postage prepaid; and a second copy of the notice of infraction to be mailed by ordinary mail, via the United States Postal Service, postage prepaid, at _____, Washington, to:*

*(Name of Contractor
Address of Contractor)*

(Signature of representative)

(Name of representative)

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 19__.

NOTARY PUBLIC for the State of Washington, residing at _____

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 84-03-004
PROPOSED RULES
BOARD FOR
COMMUNITY COLLEGE EDUCATION

[Filed January 5, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board for Community College Education intends to adopt, amend, or repeal rules concerning certification of vocational instructors;

that the agency will at 10:00 a.m., Thursday, February 23, 1984, in the Olympia Technical Community College, 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.50.090.

The specific statute these rules are intended to implement is RCW 28B.50.090(7)(a).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 23, 1984.

Dated: January 3, 1984

By: Gilbert J. Carbone
 Assistant Director

STATEMENT OF PURPOSE

Title: A rule relating to the certification of community college vocational instructors setting forth the requirements for receipt of such certificates. This rule is adopted pursuant to authority contained in RCW 28B.50.090.

Summary: The proposed amendment corrects a typographical error that occurred as a result of a previous amendment. That error significantly changed the meaning of the rule, making it contrary to the intent upon which it was initially adopted. The proposed amendment merely restores the original language and makes the rule language consistent with the intent of the adopting agency.

Agency Personnel Responsible for Drafting: Gilbert J. Carbone, Assistant Director; Implementation and Enforcement: John N. Terrey, Executive Director. The office address and telephone number of the above individuals is 319 7th Avenue, FF-11, Olympia, WA 98504, (206) 753-2000.

This rule is proposed by the State Board for Community College Education.

Agency Comments: None.

This rule amendment is not necessitated by any federal law or federal or state court action.

AMENDATORY SECTION (Amending Order 82, Resolution 80-14, filed 9/8/80)

WAC 131-16-093 TYPES OF VOCATIONAL EDUCATION CERTIFICATES. For the purposes of this section, equivalency shall mean in each case that the employee shall successfully complete the objectives outlined in the improvement plan. In issuing certificates for vocational education personnel, the college district shall utilize the following nomenclature and shall meet the standards set forth:

(1) Temporary certificate.

(a) Vocational instructors shall be issued a temporary certificate provided that such individuals shall be required to complete a minimum of fifteen (~~contract~~) contact hours of teaching orientation or the equivalent to begin no later than the first day of employment. A temporary certificate is renewable only for part-time instructors who have not accumulated forty-five quarter credit hours, or equivalency, of teaching.

(b) Vocational counselors shall be issued a temporary certificate provided that such individuals have met the requirements set forth in WAC 131-16-091(5).

(2) One-year certificate.

(a) Instructional personnel who have completed the minimum requirements for a temporary certificate and who, in addition, provide documentation of teaching competency as demonstrated by having satisfactorily completed a minimum of three credits in courses concentrated upon the elements of teaching, or the equivalent, shall be issued a one-year certificate. A one-year certificate may be renewed no more than once after initial issuance for each year of full-time equivalent instruction, except that in the case of part-time instructors, a one-year certificate may be continued until the equivalent of one year of teaching (45 quarter credits) has been completed.

(b) Counselors may be issued a one-year certificate upon completion of the minimum requirements for a temporary certificate and who, in addition, have completed a minimum of three professional improvement units in accordance with the individual improvement plan. A one-year certificate may be renewed no more than once after initial issuance for each year of full-time equivalent counseling.

(3) Three-year certificate. (Optional with the local district.)

(4) Five-year certificate (initial).

(a) Instructional personnel shall be issued a five-year certificate upon completion of two years of teaching service, who have, in addition to the one-year certificate requirements, documentation of competency as demonstrated by having satisfactorily completed a minimum of three credits in courses dealing with the techniques of occupational analysis, or equivalent, a minimum of three credits in courses concentrated upon the principles of vocational course organization or equivalent, and who have completed a minimum of three additional professional improvement units in accordance with the individual's improvement plan.

(b) Counseling personnel shall be issued a five-year certificate upon completion of two years of counseling service, who provide in addition to the one-year certificate requirements, documentation of competency as demonstrated by having satisfactorily completed a minimum of three credits in courses dealing with the techniques of occupational analysis, or equivalent, and who have completed a minimum of six additional professional improvement units in accordance with the individual's improvement plan.

(5) Five-year certificate (renewal). A five-year renewable certificate shall be issued to professional personnel who have completed a minimum of fifteen professional improvement units during the previous five-year period in accordance with the individual's improvement plan. Professional improvement plans initiated after July 1, 1980, shall, if deemed appropriate, include work experience as defined in WAC 131-16-094(1), and no more than ten professional units in any one category as defined in WAC 131-16-094 shall apply.

(6) The vocational director shall be responsible for the designation of approved course equivalents.

WSR 84-03-005
ADOPTED RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES
 [Order 83-7—Filed January 5, 1984]

I, Carolyn V. Patton, director of the Office of Minority and Women's Business Enterprises, do promulgate and adopt at 221 Fifth Avenue West, Olympia, WA 98504, the annexed rules relating to goal setting rules, chapter 326-30 WAC.

This action is taken pursuant to Notice No. WSR 83-23-022 filed with the code reviser on November 7, 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 120, Laws of 1983, 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 5, 1984.

By Carolyn V. Patton
 Director

NEW SECTION

WAC 326-30-010 **PURPOSE**. The purpose of chapter 120, Laws of 1983 and of this chapter is to provide the maximum practicable opportunity for increased participation by minority and women-owned businesses in public works contracts and in contracts for the procurement of goods and services from the private sector for state agencies and educational institutions. These rules set forth the procedures by which the overall annual goals for participation by minority and women-owned business enterprises are set and reviewed; the procedures each state agency and educational institution is to follow in attempting to achieve the goals and to report their performance; and the procedures to be used by the Office of Minority and Women's Business Enterprises in monitoring compliance.

NEW SECTION

WAC 326-30-020 **SCOPE**. This chapter applies to all public works, personal service contracts, and procurement from the private sector of goods and services by state agencies and educational institutions. These rules do not pertain to agency/educational institution expenditures other than contracts for public works, personal service contracts, and for the procurement of goods and services for the agency/educational institution such as: amortization; debt service; depreciation; employee benefits including but not limited to mileage, per diem, relocation expenses, and salaries; per diem for prospective state employees, members of institutions' boards and agencies' commissions; postage; relocation expenses for prospective employees; and transfers of charges.

NEW SECTION

WAC 326-30-030 **PROCEDURE FOR SETTING OVERALL ANNUAL GOALS**. The director of the Office of Minority and Women's Business Enterprises will establish overall annual goals for participation in state contracts by qualified MBEs and WBEs for all state agencies and educational institutions. The annual period shall be the state fiscal year. The goals will be a percentage of the reporting base, all contracts awarded each year for public works, personal services, and for procurement of goods and services by state agencies and educational institutions that are not specifically excluded or generally excluded from the reporting base.

(1) Time for establishment of goals. The overall annual goals will be adopted each year by June 15.

(2) Distribution. The overall annual goals will be distributed to the head of each agency and educational institution on or before June 30 each year.

(3) Process used to establish goals. The director will review the overall annual goals each year and establish goals for the upcoming year. Factors to be considered in establishing the new goals shall include: The number of certified minority and women's businesses, the success in attaining goals over the last year, the population of women and minorities in the state, and such other relevant information as may be available.

NEW SECTION

WAC 326-30-035 **GOALS FOR 1983-84**. The annual overall goals of each state agency and educational institution for the period from September 1, 1983, through June 30, 1984, shall be 9.1 percent MBE and 3.0 percent WBE participation, based on the agency's or educational institution's total contracts subject to this chapter, less excluded contracts.

NEW SECTION

WAC 326-30-040 **AGENCY/EDUCATIONAL INSTITUTION RESPONSIBILITIES**. Each agency and educational institution shall be required to perform certain tasks each year.

(1) Formulate a plan for achieving annual overall goals. Each agency and educational institution shall formulate a plan for achieving the overall annual goals. The plan must be filed with OMWBE by July 30 each year.

(2) The agency's/educational institution's plans are forecasting devices designed to identify areas of opportunity for MWBE participation.

(3) Report contracting activity. Each agency shall file reports on a quarterly basis detailing the monetary value of contracts awarded and the amount of money disbursed and the percentage awarded and paid MBEs and WBEs. The reports shall be in the form prescribed and as described in this chapter.

NEW SECTION

WAC 326-30-050 **CONTENTS OF AGENCY/EDUCATIONAL INSTITUTION PLAN**. The annual implementation plan prepared by each agency/educational institution shall include:

(1) An affirmation that the agency/educational institution is committed to use MWBEs to the maximum extent possible;

(2) The method the agency/educational institution will use to encourage MWBE participation in the public works, personal service contracts, and procurement contracting process;

(3) The method the agency/educational institution will use to achieve the overall annual goals. The agency/educational institution should:

(a) Identify the exclusions from the contracting base (described in this chapter) the agency/educational institution intends to use;

(b) Forecast the contracts to be awarded by the agency/educational institution including estimates of the probable monetary value involved; the number and type of contracts to be awarded; and the expected solicitation dates;

(c) Identify possible requests for extraordinary exclusion from the contracting base of contracts or classes of contracts;

(d) Identify the source and amount of funds to be received for transfer to other governmental entities;

(e) Identify expenditures to be made on multi-year contracts awarded in previous years;

(f) State the anticipated participation requirements of MBEs and WBEs in each contract or class of contract;

(g) State the method by which records of MBE and WBE participation in the contracting records will be kept; and

(h) Describe the method the agency/educational institution will use to require compliance by bidders for its contracts with the applicable MWBE participation requirements.

NEW SECTION

WAC 326-30-060 GENERAL EXCLUSIONS FROM THE CONTRACTING BASE. Certain exclusions from the reporting base against which achievement of the annual overall goals is computed will be allowed without requesting permission from OMWBE.

(1) Exclusions will be reviewed by OMWBE on an annual basis.

(2) Contracts solely for the purchase of the following items are allowable exclusions:

(a) Convention fees,

(b) Emergency purchases, those made in response to unforeseen circumstances beyond the control of an agency/educational institution which presents a real, immediate and extreme threat to the proper performance of essential functions and/or which may be reasonably expected to result in excessive loss or damage to property, bodily injury, or loss of life,

(c) Copyrighted materials,

(d) Personal service contracts for consultant services in preparation for litigation and expert witness fees,

(e) Funds received for transfer to other governmental entities,

(f) Purchases from other governmental agencies, including from cities and counties,

(g) Honorariums,

(h) Interagency purchases,

(i) Interagency reimbursements,

(j) Membership dues,

(k) Purchases from nonprofit and not-for-profit firms,

(l) Purchases for resale,

(m) Purchases from quasi-governmental agencies, e.g., utilities,

(n) Purchases from sheltered workshops,

(o) Purchases from sole source suppliers, those which can be obtained from only one vendor and can be documented as such,

(p) Subscriptions,

(q) Training films, and testing materials,

(r) Contracts which are not competitively awarded and which are awarded to all qualified applicants, e.g., physicians and day care providers, and

(s) Payments for travel made directly to a common carrier, not through a travel agency, whether by an agency/educational institution, or the employee.

NEW SECTION

WAC 326-30-070 EXTRAORDINARY EXCLUSIONS FROM THE CONTRACTING BASE.

(1) Additional areas may warrant consideration by the office as exclusions from the contracting base. In those cases, the agency/educational institution may contact the director of OMWBE in writing and request an exclusion. The request must include justification for the exclusion.

(2) The decision of the director will be in writing. The director may, in his or her sole discretion, grant or deny the exclusion.

(3) A written decision will be made by the director within thirty days of receipt of the request by OMWBE.

(4) Exclusions granted pursuant to this section apply only to the contract or class of contracts specified in the request.

NEW SECTION

WAC 326-30-080 SUBSTITUTIONS IN CONTRACTS REQUIRING MWBE PARTICIPATION.

(1) MWBE prime contractor substitution.

(a) Prior to award of the contract:

Where an MBE or WBE that is the apparent low bidder is decertified or indicates it is unable or unwilling to perform the contract prior to the award of the contract, the state agency or educational institution may follow its usual procedures for awarding to the next apparent low bidder, or rebid.

(b) After award of the contract to MWBE prime contractor but prior to the start of the work:

Where an MBE or WBE is decertified or indicates that it is unable or unwilling to perform the work after award of the contract, the agency or educational institution may follow its usual procedures for awarding to the next apparent low bidder, require the contractor to meet goals by obtaining certified subcontractors, or rebid. The agency or educational institution, may, in its discretion, determine whether an increase in the amount of the contract will be allowed based on the substitution.

(c) After start of work by MWBE prime contractor but prior to completion:

Where an MBE or WBE is decertified after commencing the work and the agency or educational institution determines that substitution is impractical, the decertified contractor may continue to perform the work, but only that percentage of the work performed by the MBE or WBE before the decertification may be counted towards the annual, overall goal attainment of the agency or educational institution.

Where an MBE or WBE prime contractor is unable or unwilling to complete the work, the agency or educational institution shall follow its usual procedures to seek performance of the contract, including the imposition of penalties or sanctions authorized by the contract and may pursue all other remedies allowed by law. Only the percentage of the work performed by the MBE or WBE before termination may be counted towards the annual, overall goal attainment of the agency or educational institution.

(2) MWBE subcontractor substitution.

(a) Prior to award of the contract:

Where an MBE or WBE selected as a subcontractor to meet the bid specifications is decertified or indicates it is unable or unwilling to perform the work, the agency or educational institution may require the contractor to substitute another certified MBE or WBE, respectively, to meet the contract specifications. The substituted firm may perform the same or a different part of the work as the original MBE or WBE.

(b) After award of the contract but prior to start of work by the general contractor:

After award of the contract but before commencement of the work, where an MBE or WBE selected as a subcontractor to meet the bid specifications is decertified or indicates it is unable or unwilling to perform the work, the agency or educational institution may require the contractor to substitute another certified MBE or WBE to meet the contract specifications as stated in the original bid. The substituted firm may perform the same or a different part of the work as the original MBE or WBE. The agency or educational institution, may, in its discretion, determine whether an increase in the amount of the contract will be allowed based on the substitution.

(c) After start of the work by the general contractor but prior to completion:

Where an MBE or WBE selected as a subcontractor to meet the bid specifications is decertified or indicates it is unable or unwilling to complete the work after the work has been started by the general contractor, and the agency or educational institution determines it to be impractical to substitute another MBE or WBE to perform that work or any other portion of the work at that point, then the contractor shall not be required to substitute. The percentage of work performed by the MBE or WBE before decertification or termination of the contract may be counted towards the annual, overall goal attainment of the agency or educational institution.

(3) Notice of substitution in quarterly report.

The agency or educational institution shall include in its quarterly report a section that identifies each substitution made during the quarter.

(4) Remedies.

In the event of default by a bidder or contractor, the educational institutions and agencies retain the right to pursue appropriate legal remedies. Nothing herein shall be construed to give any business the right to unilaterally withdraw its bid or terminate the contract.

NEW SECTION

WAC 326-30-090 TIMELY CERTIFICATION. Only businesses certified at the time of the submission of bids or proposals, or at the time the contract is awarded if competitive bidding is not utilized, may be counted toward the agency's or educational institution's attainment of the overall annual goals and as meeting the MBE or WBE participation requirement for a particular contract or class of contracts. Until September 1, 1984, a business will be considered certified if (1) the business is certified by OMWBE; (2) the business was certified by the Washington state department of transportation prior to July 1, 1983; (3) the business was certified by the Washington state department of transportation after July 1, 1983, but the certification application was received by the department before July 1, 1983; (4) the business was certified by the city of Seattle before July 1, 1983; or (5) the business was certified by the city of Seattle after July 1, 1983, but the certification application was received by the city prior to July 1, 1983. However, OMWBE may refuse to include in the directory of certified businesses or may remove from the directory those businesses certified by the city of Seattle or the Washington state department of transportation which the office has reason to believe may not be in fact owned and controlled by minorities or women, until the office has had time to investigate or to certify those businesses.

NEW SECTION

WAC 326-30-100 AGENCY/EDUCATIONAL INSTITUTION REPORTING OF MWBE PARTICIPATION. (1) Form. Each state agency and educational institution shall report the participation of MBEs and WBEs in the public works, personal service, and procurement contracts executed by the agency or educational institution. The reports shall be made on a quarterly basis and an annual basis. The reports should designate contracts individually or by class according to the agency's designation in its annual plan. The reports shall also describe the agency's or educational institution's monitoring activity pursuant to sections 8 and 9, chapter 120, Laws of 1983.

(2) When participation should be reported. Participation by MBEs and WBEs should be reported both when the contract is awarded and when the money is disbursed. For contracts for procurement of goods and services, and personal services, the disbursement should be reported in the quarter in which it is made. For public works contracts, disbursement of funds under all contracts completed in the quarter should be reported, and the reports shall be accompanied by the affidavits of payment executed by the prime contractors for those contracts. Where the performance under a contract extends beyond the fiscal year in which it is awarded, all

payments made on the contract will be counted toward the agency's or educational institution's annual overall goal attainment for the year in which it is awarded.

(3) Counting MWBE participation toward meeting goals.

(a) Award to MBE or WBE. When a contract is awarded, in its entirety, to an MBE or WBE, one hundred percent of the payments on the contract can be counted toward annual, overall goal attainment in the category in which the prime belongs.

(b) Award to MBE or WBE prime contractor with non-MWBE subcontractor. When a contract is awarded to an MBE or WBE prime contractor with a non-MWBE subcontractor, one hundred percent of the total contract value can be counted toward annual, overall goal attainment.

(c) Award to non-MWBE prime contractor with MWBE subcontractor. When only a part of the contract is performed by an MBE or WBE, subcontractor, the dollar value of only that percentage of the total contract performed by the MBE or WBE can be counted toward annual, overall goal attainment.

(d) Award to MBE prime contractor with WBE subcontractor. When a contract is awarded to an MBE prime contractor with a WBE subcontractor, the dollar value of the percentage of the total contract performed by the WBE can be counted toward the agency's/educational institution's WBE goal attainment. The dollar value of the remainder of the contract can be counted toward attainment of the MBE goal.

(e) Award to WBE prime contractor with MBE subcontractor. When a contract is awarded to a WBE prime contractor with an MBE subcontractor, the dollar value of the percentage of the total contract performed by the MBE can be counted toward the agency's/educational institution's MBE goal attainment. The dollar value of the remainder of the contract can be counted toward attainment of the WBE goal.

(f) Joint venture. Where a contract is awarded to a joint venture that includes an MWBE that is responsible for performance of a clearly defined portion of the work, the dollar value, on a percentage basis, of the MWBE's portion of the work may be counted toward annual, overall goal attainment.

(g) Combination MWBE. Contracts performed totally by a combination MWBE, or partially by a combination MWBE shall be counted by dividing the total dollar value of the contract or portion of contract performed by the combination MWBE by two. One-half of the dollar value will be counted toward the agency's/educational institution's attainment of the MBE goal and one-half will be counted toward the agency's/educational institution's attainment of the WBE goal when the contract contains both MBE and WBE requirements. When the contract contains only an MBE requirement or a WBE requirement, only one-half of the dollar value of the combination MWBE's participation shall be counted toward the agency's/educational institution's attainment of the goal.

(h) Counting participation by a minority WBE. The agency/institution must count participation by a minority female in only the category she designated in her bid.

Her participation cannot be counted toward attainment of both overall annual goals.

(i) Substitution of MWBEs. When an MBE or WBE which has been awarded a contract is decertified after award or indicates after award that it is unable or unwilling to perform the contract, the agency/institution may not count the MWBE participation toward its overall annual goal attainment.

Where an MBE or WBE is decertified after it has begun to perform the work and the agency/institution determines substitution is impractical, only the percentage of the work performed by the MBE or WBE before the decertification can be counted toward the annual, overall goal attainment of the agency/institution.

Where a certified MBE or WBE is substituted for a decertified business or a business that indicates it is unwilling or unable to perform the work, the dollar value of the work performed by the certified business can be counted toward the agency/educational institution's goal attainment in that category.

NEW SECTION

WAC 326-30-110 OMWBE MONITORING OF COMPLIANCE. OMWBE will independently monitor the participation of MWBEs in the contracts let by each state agency and educational institution.

The office will issue a report annually on the MWBE participation achieved by each agency and educational institution. The report will include the percentage of the dollar value of the contracts awarded in the reporting year that was paid to MBEs and WBEs. The report will be provided to the governor and the legislature as a part of the annual progress and economic impact report.

WSR 84-03-006

PROCLAMATION

OFFICE OF THE GOVERNOR

Beginning January 3, 1984, unseasonably high temperatures and heavy rains have caused extreme snow melt. The rain and runoff in addition to ice jams, frozen ground and other problems from the severe, recent freezing spell are threatening lives and causing damage and destruction to property in Washington.

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

NOW, THEREFORE, I, JOHN SPELLMAN, Governor of the state of Washington, as a result of the aforementioned flooding and under the provisions of Chapters 43.06, 38.08.040, and 38.52.050 RCW, do hereby proclaim that a State of Emergency exists in Washington State and that the Washington State Disaster Preparedness Plan be executed. The resources of the state of Washington are authorized to be employed to

assist local governments in a concerted effort to cope with the emergency. Additionally, the Department of Emergency Services is instructed to coordinate all state assistance, including services of the Washington National Guard in support of local government. The state Department of Emergency Services is also instructed to determine if Federal assistance is required.

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 fourth day of January, Nineteen Hundred and Eighty-four.

John Spellman

Governor of Washington

BY THE GOVERNOR:

Ralph Munro

Secretary of State

WSR 84-03-007
RULES OF COURT
STATE SUPREME COURT
[January 4, 1984]

IN THE MATTER OF THE ADOPTION NO. 25700-A-350
OF AMENDMENTS OF TO SAR 4. ORDER

The Court having considered proposed amendments to SAR 4 and having determined that the proposed amendments will aid in the prompt and orderly administration of justice; Now, therefore, it is hereby

ORDERED:

(a) That the amendments as attached hereto are adopted.

(b) That pursuant to the emergency provisions of GR 9(g) the amendments are to be published expeditiously in the Washington Reports and shall become effective on January 20, 1984.

DATED at Olympia, Washington this 4th day of January, 1984.

William H. Williams

Hugh J. Rosellini

James M. Dolliver

Fred H. Dore

Robert F. Utter

Carolyn R. Dimmick

Robert F. Brachtenbach

Vernon R. Pearson

SAR 4

SESSIONS OF THE SUPREME COURT

The regular sessions of the supreme court shall be held in the supreme court, the Temple of Justice, at the

capital, beginning on the second Monday of January, the second Monday of May, and the second Monday of September each year. The court will not sit for the regular hearing of cases in July and August.

Sessions of the court shall commence at 9:00 a.m. or at such other time as the court may order.

At the direction of the Chief Justice, sessions of the supreme court may be held outside Olympia at other locations in the state of Washington. The times and places of such sessions will be designated by the court.

Hearings en banc, rehearings, and special hearings may be set by the court in its discretion at such other times as the court may order.

WSR 84-03-008
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed January 6, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning WAC 296-81-007 national elevator code adopted, 296-81-340 handrails, 296-81-360 hall lantern and 296-81-991 civil penalties. WAC 296-81-007 is amended to adopt the American National Standards Institute (ANSI) A17.1a-1982 supplement to the ANSI A17.1 code. The supplement will cover all elevators, dumbwaiters, escalators, and moving walks installed on or after March 1, 1984. WAC 296-81-340 is amended to specify when the ends of handrails in an elevator car must be turned toward the wall of the car. WAC 296-81-360 is amended to delete the requirement of using the colors white and red to indicate whether an elevator will be proceeding up or down. New WAC 296-81-991 is added to set penalties for violations of the conveyance law, chapter 70.87 RCW, or of any rule adopted under that law. Chapter 70.87 RCW was amended in the 1983 legislative session by SSB 3052 (chapter 123, Laws of 1983). The amendment authorizes the department to assess administrative penalties of up to \$500.00 for violations of the law; the penalties must be set by rule.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on February 6, 1984.

The authority under which these rules are proposed is RCW 70.87.185 and 70.87.034.

The specific statute these rules are intended to implement is RCW 70.87.185 and 70.87.034.

This notice is connected to and continues the matter in Notice No. WSR 83-22-003 filed with the code reviser's office on October 20, 1983.

Dated: January 6, 1984
By: Sam Kinville
Director

WSR 84-03-009
PROPOSED RULES
DEPARTMENT OF
GENERAL ADMINISTRATION
(Division of Banking)
 [Filed January 6, 1984]

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 industrial loan companies, amending WAC 50-20-050;

that the agency will at 10:00 a.m., Thursday, February 23, 1984, in the Office of the Supervisor of Banking, Room 219, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 31.04.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 23, 1984.

Dated: January 6, 1984

By: L. O. Malmberg, CFE
 Acting Supervisory of Banking

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

RCW 31.04.150 requires the supervisor of banking to make such general rules and regulations as may be necessary for the proper conduct of industrial loan businesses. This regulation enunciates restrictions as to charges an industrial loan company may require.

This regulation drafted and proposed by L. O. Malmberg, Acting Supervisor, Division of Banking, 219 General Administration Building, Olympia, Washington 98504, Telephone (206) 753-6520.

The supervisor and his staff will be responsible for enforcement of this regulation.

Small Business Economic Impact Statement: This statement is filed pursuant to RCW 19.85.040.

RCW 31.04.150 requires the supervisor of banking to make such general rules and regulations as may be necessary for the proper conduct of industrial loan businesses. This regulation enunciates restrictions as to charges an industrial loan company may require so that compliance requirements for this regulation will not be disproportionate nor create an adverse economic impact for small business under this regulation. Large business will not be given an economic advantage under this regulation.

AMENDATORY SECTION (Amending Order 43, filed 9/9/80)

WAC 50-20-050 RESTRICTIONS AS TO CHARGES. (1) No company shall charge the borrower for notarial fees.

(2) No industrial loan company shall require the purchasing of property insurance from the company or any employee, affiliate ((†)) or associate of the company or from any agent, broker, or insurance company designated by the company as a condition precedent to the making of a loan nor shall any company decline existing insurance which meets or exceeds the standards set forth in this section.

A company may insure the life of one borrower, or the borrower and the spouse of the borrower if both are obligors, for the unpaid principal balance scheduled to be outstanding ((†)) .

If the loan contract is prepaid in full by cash, a new loan, renewal, refinancing, or otherwise, a portion of the credit life and/or accident and health insurance charge shall be rebated according to the method established under paragraph (5) of this section.

(3) No company shall make any charge for the filing, recording or releasing of mortgages or other instruments or for transferring title certificates to automobiles unless such charges are or are in fact to be paid out by the company to the proper officials for such filing, recording, transferring or releasing thereof.

(4) In the event a company makes a new loan where any part of the proceeds are used to pay the amount due it on an existing loan within four months from date of the existing loan, no charge for investigation fee shall be permitted((-)), unless the investigation fee on the existing loan is refunded.

(5) Any note which is prepaid in full by cash, a new loan, refinancing, or otherwise before the final due date, the unearned portion of the interest shall be refunded using the sum of the digits method commonly known as the "Rule of 78's". In computing any required rebate, any prepayment made on or before the fifteenth day following the scheduled payment date on the investment certificate shall be deemed to have been made on the payment date preceding such prepayment. In the case of prepayment prior to the first installment date, the company may retain an amount not to exceed 1/30 of the first month's interest charge for each date between the origination date of the loan and the actual date of prepayment.

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

WSR 84-03-010
NOTICE OF PUBLIC MEETINGS
COMMUNITY COLLEGE
DISTRICT TWELVE
 [Memorandum—January 4, 1984]

Board of Trustees
Community College District Twelve
Regular Meeting Schedule
 1984

<u>DATE</u>	<u>LOCATION and TIME</u>
January 12	Centralia College 7:30 p.m.
February 9	Centralia College 7:30 p.m.
March 8	Olympia Tech 7:30 p.m.
April 12	Olympia Tech 7:30 p.m.
May 10	Centralia College 7:30 p.m.
June 14	Centralia College 7:30 p.m.
July 12	Olympia Tech 7:30 p.m.
August 16	Olympia Tech 7:30 p.m.
September 13	Centralia College 7:30 p.m.
October 11	Centralia College 7:30 p.m.
November 8	Olympia Tech

December 13 7:30 p.m.
Olympia Tech
7:30 p.m.

Special meetings are at call of the chairman of the board.

Board subcommittees are assigned on an ad hoc basis at the direction of the chairman of the board in consultation with the district president.

WSR 84-03-011
NOTICE OF PUBLIC MEETINGS
EVERETT COMMUNITY COLLEGE
[Memorandum—January 4, 1984]

This notice substitutes the notice dated December 20, 1983.

As per chapter 42.30 RCW, Open Public Meetings Act, the time and place of regular meetings for the Everett Community College board of trustees for 1984 will be as follows: Third Monday of each month, 4:30 p.m., (except for February 1984. Due to a holiday on February 20, the regular meeting will be on February 13, 1984), at the Everett Community College campus.

WSR 84-03-012
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 6, 1984]

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 workfare, amending WAC 388-54-676; that the agency will at 10:00 a.m., Thursday, February 23, 1984, in the Third Floor Conference Room, H-19, Office Building #2, 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 February 29, 1984.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is RCW 74.04.510.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 23, 1984.

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

David A. Hogan, Director
Division of Administration and Personnel
Department of Social and Health Services
Mailstop OB 14
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 February 9, 1984. The meeting site is in a location which is barrier free.

Dated: January 4, 1984
By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.
Re: Amending WAC 388-54-676, Workfare.

The Purpose of the Rule: To amend previous workfare provisions in the food stamp program. The rule change is made at the request of the food and nutrition service.

Statutory Authority: RCW 74.04.510.

Summary of the Rule Change: The change is made in compliance with federal regulation. The department has revised the workfare referral process to include as eligible for program participation registrants in the work incentive program (WIN) involved in WIN less than 20 hours per week.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule Change: Dana Beck, Program Manager, Division of Income Assistance, Mailstop: OB 31C, Phone: 753-4912.

This change is required by a letter from the food and nutrition service.

AMENDATORY SECTION (Amending Order 2040, filed 10/19/83)

WAC 388-54-676 WORKFARE. (1) All individuals required to register for work under WAC (~~388-54-677~~) 388-54-675 shall be required to register for workfare if residing in a designated workfare project area. Workfare registration referrals shall be extended to include:

- (a) Households exempt from work registration because they are receiving unemployment compensation;
- (b) Caretaker of a child over six; and
- (c) (~~A person working~~) Household members subject to and participating in the WIN program less than twenty hours per week.

(2) The hours of mandatory workfare participation shall be determined by dividing the food stamp allotment by the federal or state minimum wage, whichever is higher.

(a) The participant shall not be required to work more than thirty hours a week; however, the participant may elect to work in excess of thirty hours per week provided the weekly average for the month does not exceed thirty hours.

(b) Participants working part time shall not be required to participate in workfare and employment more than a combined total of thirty hours per week.

(c) Participants shall not be required to work more than eight hours per day. The participant may voluntarily work more than eight hours a day.

(3) The workfare site shall be considered suitable unless the household can demonstrate or the department becomes aware that:

(a) The participant is required to join, resign from, or refrain from joining any legitimate labor organization;

(b) The work offered is at a site subject to a strike or lockout;

(c) The degree of risk to health and safety is unreasonable;

(d) The participant is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources;

(e) The distance from the participant's home to the place of employment is more than a two-hour round trip commute not including transporting a child to and from a child care facility; or

(f) The working hours or nature of the work interferes with the participant's religious observances, conviction, or beliefs.

(4) In determining if a household has good cause for refusal or failure to cooperate, the following criteria shall apply:

(a) Circumstances beyond a household member's control, such as, but not limited to:

- (i) Illness;
- (ii) The illness or incapacitation of another household member requiring the presence of the workfare participant;
- (iii) A household emergency; or
- (iv) The lack of transportation when transportation is not provided by the department.

(b) Necessity for a parent or other responsible household member to care for a child between the age of six and twelve because adequate child care is not otherwise available;

(c) Becoming exempt from the workfare eligibility requirements; or

(d) Household moving out of the area of the workfare project.

(5) If the department finds a household member refuses or fails to comply with workfare requirements without good cause, the household shall be ineligible for participation until the member completes the outstanding workfare obligation or serves the sanction period. The sanction period shall be two months for every month of refusal or failure to participate.

(a) When a household is sanctioned for refusal or failure to comply, none of the household shall be eligible to participate in the food stamp program during the sanction.

(b) If a sanctioned household member joins another food stamp household, that household's eligibility and benefit level shall be determined as follows:

(i) The income and resources of the household member or members disqualified for noncompliance with workfare shall count in their entirety, and the entire household's allowable earned income, standard, medical, dependent care, and excess shelter deductions shall apply to the remaining household members.

(ii) An individual disqualified for noncompliance with workfare shall not be included when determining the household's size for the purpose of assigning a benefit level to the household or of comparing the household's monthly income with income eligibility standards. No household's coupon allotment shall be increased as a result of the disqualification of one or more household member or members for workfare noncompliance.

(6) Eligibility may be re-established during a disqualification period if the household reapplies and is determined eligible, and the member failing to comply or any other eligible workfare member satisfies all outstanding workfare obligations. Eligibility for participation will resume the day the outstanding workfare obligation is completed.

(7) Child care, transportation expenses, and other work-related costs may be provided by DSHS.

WSR 84-03-013
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed January 6, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning Special education programs—Education for all handicapped children, chapter 392-171 WAC;

that the agency will at 9:00 a.m., Tuesday, April 10, 1984, in the Old Capitol Building, Washington and Franklin, State Board of Education Conference Room, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 30, 1984.

The authority under which these rules are proposed is RCW 28A.13.070(7).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 10, 1984.

Dated: January 6, 1984

By: Frank B. Brouillet
 Superintendent of Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-171 WAC, Special education programs—Education for all handicapped children.

Rule Section(s): WAC 392-171-295 Authority; 392-171-331 Continuing eligibility; 392-171-351 General assessment safeguards—Personnel, materials and procedures; 392-171-366 Summary analysis of assessment data; 392-171-406 Specific learning disability—Definition; 392-171-411 Specific learning disability—Eligibility criteria; 392-171-413 Primary method for documenting severe discrepancy; 392-171-416 Alternative method for documenting severe discrepancy; 392-171-516 Reassessment; and 392-171-731 Monitoring.

Statutory Authority: RCW 28A.13.070(7).

Purpose of the Rule(s): To implement state and federal law related to the legal entitlement of students with handicapping conditions.

Summary of the New Rule(s) and/or Amendments: WAC 392-171-295, sets forth the authority for chapter 392-171 WAC; WAC 392-171-331, subsequent amendments to this chapter establish new eligibility criteria for specific learning disability. The change in the date within this section is intended to "grandfather" students no longer eligible under new standards. The change is subsection 4 from "may" to "shall" reflects federal law which requires service to such students through age 21 as a condition for the receipt of federal funds; WAC 392-171-335, sets forth a new requirement that the multidisciplinary team include a certified person with experience in teaching the learning disabled. Repeals a provision applicable to preschool handicapped LD students which no longer is applicable because of the provision in WAC 392-171-381 providing for the category of "developmentally handicapped." Expands the single test prohibition to eligibility of handicapped students and increases the requirement of persons administering and interpreting tests from "trained" to "qualified" personnel; WAC 392-171-366, changes in this section are intended to clarify rather than change existing requirements; WAC 392-171-406, specifically prohibits deficiencies in spelling standing alone as a qualifying area for eligibility as learning disabled and remaining amendments to this section clarify rather than change qualifying criteria; WAC 392-171-411, eliminates current requirement that student must demonstrate a visual or auditory deficit. Clarifies existing rules regarding assessment and observation. Indicates examples of proof of academic achievement problems in regular classroom and requires documentation of severe discrepancy as provided in sections below; WAC 392-171-413, establishes new method for documenting severe discrepancy. Changes include use of regressed estimated true score method, establishment of reliability standard for tests, requiring validation of tests on nationally

normed standards and requiring IQ tests to be administered and interpreted by qualified persons rather than qualified psychologists. Also requires use of standard score and sets forth minimum deficiency for eligibility; WAC 392-171-416, allows application of professional judgment for determination of eligibility if professional judgement determines test results are inaccurate due to handicapping condition. Requires documentation of such decision and eliminates requirement that students placed pursuant to this section be reassessed annually; and WAC 392-171-516, emphasizes that SPI will monitor documentation of eligibility for all handicapped students.

Reasons Which Support the Proposed Action(s): The major thrust of the proposed amendments is to tighten standards and redefine the LD population. Other amendments are for housekeeping and clarity purpose.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Enforcement: Judy Schrag, SPI, 4-1842; and Implementation: Gregory Kirsch, SPI, 3-6733.

The Rule(s) is (are) Necessary as the Result of Federal Law, 20 U.S.C. § 1401-1461 and 34 CFR Part 300.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): The agency estimates that adoption of the proposed changes will redefine the LD population and reduce the number of students defined as LD and entitled under state and federal law to an appropriate special education program.

NEW SECTION

WAC 392-171-295 AUTHORITY. The authority for this chapter is RCW 28A.13.070(7) which authorizes the superintendent of public instruction to promulgate rules and regulations to implement chapter 28A.13 RCW. Such authority is supplemented by RCW 28A.02.100 which authorizes the superintendent of public instruction to receive federal funds in accordance with the provisions of federal law.

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-331 CONTINUING ELIGIBILITY. (1) Any student whose eligibility was established pursuant to rules in effect at a time of prior assessment but before September 1, ~~((1980))~~1984, shall continue to remain eligible for special education and related services under the authority and provisions of such prior rules unless:

(a) The student has met high school graduation requirements established by the school district pursuant to the rules of the state board of education; or

(b) The student reaches age twenty-one; or

(c) The student is no longer in need of special education and related services: PROVIDED, That the determination that the student needs to receive special education and related services is based on a reassessment of the student which concludes that, notwithstanding the fact that the student no longer meets the initial eligibility criteria, the student's performance is or will be adversely affected if he or she is terminated from special education. Any such student shall be reassessed pursuant to WAC 392-171-346 through 392-171-366 and the applicable section(s) of WAC 392-171-381 through 392-171-451.

(2) Any student made a focus of concern for the first time and/or assessed for the first time after September 1, 1980, shall be assessed and determined eligible pursuant to WAC 392-171-346 through 392-171-366 and the applicable section(s) of WAC 392-171-381 through 392-171-451.

(3) Effective September 1, ~~((1980))~~ 1984, and thereafter, every handicapped student shall remain eligible for special education and related services only so long as the student has not yet met high school graduation requirements established by the school district pursuant to

rules of the state board of education or the student has not reached age twenty-one, or the student no longer requires special education and related services as judged by the student's multidisciplinary team based on a reassessment of the student.

(4) The student whose twenty-first birthday occurs during the school year ~~((may))~~ shall continue to be eligible for special education and related services for the remainder of the school year.

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-351 GENERAL ASSESSMENT SAFEGUARDS—PERSONNEL, MATERIALS AND PROCEDURES. Every student who is assessed or reassessed shall be assessed according to the procedures established in this chapter.

(1) The assessment of a student (except one with a suspected communication disorder) shall be made by a multidisciplinary team or group of professionals including at least one teacher or other specialist with knowledge in the area of the suspected disability. Each member of the team shall be licensed, registered, credentialed, or certificated according to his or her professional standards in accordance with state statutes and rules: PROVIDED, That in assessing a student suspected of having a specific learning disability, each school district shall include on the multidisciplinary team:

(a) The student's regular teacher~~((;))~~ or, ~~((;))~~ if the student does not have a regular teacher, a regular classroom teacher qualified to teach a student of his or her age; ~~((or))~~

(b) A certificated person having teaching experience with learning disabled students;

~~((c))~~ ~~((For a student of less than school age, an individual trained in early childhood education designated by the school district, and~~

~~((;))~~ At least one person qualified to conduct individual diagnostic examinations of students, such as a school psychologist, communication disorder specialist, special education teacher or remedial reading teacher.

(2) No single test instrument or single procedure shall be the sole criterion for determining a student's eligibility or handicapping condition and/or for determining the appropriate educational program for a student.

(3) Assessment materials, procedures, and instruments used for the purpose of assessment and placement shall be selected and administered so as not to be racially or culturally discriminatory. All tests and other evaluation materials shall have been validated for the specific purpose for which they are used, shall be administered by ~~((trained))~~ qualified personnel in conformance with the instructions of their producer, and shall accurately reflect whatever factors the tests purport to measure.

(4) Assessment materials, procedures or instruments shall be provided and administered in a student's primary language or mode of communication, unless it is clearly not feasible to do so. Tests shall be selected and administered so as best to ensure that when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors the test purports to measure).

(5) In conducting assessment activities, appropriate assessment team members shall:

(a) Collect and review all available existing school, medical, and other records pertinent to the suspected handicapping condition(s) of the student, including previous assessments, health, and cumulative records; and

(b) Conduct such current assessment activities as are required by this chapter and in accordance with the procedures specified herein; and

(c) Collect such other data as needed to corroborate the validity of standardized measures, including but not limited to parent and/or teacher interviews and current classroom performance data.

(6) Assessment data shall be summarized in writing, dated, and signed by each person conducting an assessment. Information used to support the assessment, but which is not incorporated into the file, (e.g., review of health record), shall be referenced as to date of record, location and source person. The summaries shall specify the procedures and instruments used, the results obtained, and the apparent significance of findings as related to the student's instructional program, including a description of the specific factors which are interfering with the student's educational performance and the special education and

related services needed to assist the student in benefiting from his or her educational placement.

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-366 SUMMARY ANALYSIS OF ASSESSMENT DATA. (1) The leader of a student's assessment team shall review and analyze the summaries of assessment data provided for in WAC 392-171-351(6) and any other available data in each of the areas assessed. The conclusions, recommendations, and the facts and/or reasons resulting in the eligibility decision pursuant to WAC 392-171-376 shall:

- (a) Describe the discrepancy which exists between the student's actual performance and his or her expected performance;
- (b) Identify the ~~((disability))~~ handicapping condition(s), if any, that qualifies the student as a handicapped student;
- (c) Set forth the nature and extent of the special education and related services that the student needs, if any;
- (d) Reconcile any inconsistent or contradictory information and/or opinions evidenced in the assessment data, if any, supporting conclusion(s) with appropriate data;
- (e) Relate the apparent significance, if any, of cultural, environmental, economic, and behavioral factors to the assessment results;
- (f) Make recommendations to the individualized education program committee regarding placement, special education and related services needed, needs for specialized materials or equipment, ~~((instructional))~~ learning modalities (e.g., auditory), and student management strategies (e.g., reinforcement schedules, etc.), as determined by the multidisciplinary team to be significant to the student's program; and
- (g) Provide any necessary professional judgment(s) and the facts or reasons in support of the judgment(s).

(2) The summary analysis shall be signed and dated by both the team leader and the school district's special education director or his or her designee.

(3) Provided that, in the case of a student suspected of having a specific learning disability, the summary analysis shall also include a statement of:

- (a) The relevant behavior noted during the observation of the student, including the relationship of that behavior to the student's academic problem(s) in the regular education program;
- (b) The ((relationship of that behavior to the student's academic functioning)) reasons why the student has an academic achievement problem in the regular education program and a summary, if applicable, of previous intervention attempts and results; and
- (c) The educationally relevant medical findings, if any, including the results of a current vision and hearing screening.

(4) Each multidisciplinary team member shall certify in writing whether the summary analysis reflects his or her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her ~~((conclusion(s)))~~ disagreements and the reasons therefor.

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-406 SPECIFIC LEARNING DISABILITY—DEFINITION. Specific learning disability is a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language ~~((resulting from perceptual-motor handicaps))~~. Such disorder may include problems in visual and auditory perception and integration ~~((which))~~ and may manifest itself in an impaired ability to think, speak, or communicate clearly, read with comprehension, write legibly and with meaning, ~~((spell accurately, and to))~~ fully perform mathematical calculations, including those involving reading, and spell accurately in context. The components of spelling shall be assumed under the other seven areas of functions and shall not stand alone as a qualifying category. The presence of a specific learning disability is indicated by ~~((near average, average, or above average))~~ intellectual functioning above that specified in this chapter for eligibility as mentally retarded and a severe discrepancy between the student's intellectual ability, ((but nonetheless the student demonstrates significant performance deficits)) and academic achievement in one or more of the following ((academic achievement)) areas:

- (1) Oral expression;
- (2) Listening comprehension;
- (3) Written expression;
- (4) Basic reading skill;
- (5) Reading comprehension;
- (6) Mathematics calculations;

(7) Mathematics reasoning:

PROVIDED, That such a performance deficit cannot be explained by visual or hearing problems, motor handicaps, mental retardation, ~~((a))~~ serious behavioral disability, or an environmental, cultural, or economic ((disadvantage)) factor.

A specific learning disability includes conditions described as perceptual handicap, minimal brain dysfunction, dyslexia, and developmental aphasia: PROVIDED, That the student meets the eligibility criteria set forth in WAC 392-171-411, including documentation of severe discrepancy as required by WAC 392-171-413 and 392-171-416.

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-411 SPECIFIC LEARNING DISABILITY—ELIGIBILITY CRITERIA. Assessment procedures and eligibility standards: All students considered for initial placement in special education as specific learning disabled shall be assessed and determined eligible for special education and related services according to the following:

(1) ~~((A current assessment of intellectual functioning shall be obtained from a standardized individual test designed to measure intellectual functioning, individually administered by a qualified psychologist and interpreted by a qualified psychologist and attested to as to validity. The measured level of intellectual functioning must be near normal or above; and~~

~~((2) A current assessment of level of academic achievement shall be measured by standardized test(s) appropriate to age level and administered individually. The student's chronological age/grade (CAG) performance in one or more of the academic achievement areas provided for in the definition shall be adjusted for expectations due to variance in intellectual functioning. The expected performance adjusted for intellectual functioning shall then be compared to the results of the actual achievement measures, the results of which must yield:~~

~~((a) A functioning level of two-thirds or below of expected performance; and~~

~~((b) A functioning level below chronological age/grade. Those students unable to score within test norms on standardized academic achievement measures shall be assessed using individually administered standardized school readiness tests, professionally recognized developmental scales, and~~

~~((3) A current assessment of perceptual, perceptual-motor or language functioning shall be obtained, the results of which show a deficit of greater than or equal to 1 1/2 standard deviations below the mean or a functioning level of 2/3 or below chronological age/grade performance in one or more of the following:~~

- (a) ~~Visual processing:~~
 - (i) ~~Discrimination; or~~
 - (ii) ~~Closure; or~~
 - (iii) ~~Memory; or~~
 - (iv) ~~Sequencing; or~~
 - (v) ~~Association; or~~
 - (vi) ~~Integration:~~
 - (b) ~~Auditory processing:~~
 - (i) ~~Discrimination; or~~
 - (ii) ~~Closure; or~~
 - (iii) ~~Memory; or~~
 - (iv) ~~Sequencing; or~~
 - (v) ~~Association; or~~
 - (vi) ~~Integration:~~
 - (c) ~~Haptic processing:~~
 - (i) ~~Kinesthetic; or~~
 - (ii) ~~Tactile:~~
 - (d) ~~Sensory integration/association:~~
 - (i) ~~Visual-motor; or~~
 - (ii) ~~Visual-auditory (vocal); or~~
 - (iii) ~~Auditory-motor; or~~
 - (iv) ~~Receptive language; or~~
 - (v) ~~Expressive language:~~

For students whose chronological age placement is seventh grade or above, neither the visual nor auditory deficit is required as a condition to the eligibility, and

~~((4))~~ A current assessment which considers and describes the student's social and emotional behaviors and which provides any implications for educational planning shall be obtained. This assessment shall be of sufficient scope to rule out motor handicaps, mental retardation, severe behavioral disability, environmental, cultural ((background)), or

economic (~~(disadvantage)~~) factors as an explanation for (~~(educational delay)~~) the specific academic problem; ~~(and~~

~~(5))~~ (2) A current vision and hearing screening report shall be obtained and shall be of sufficient scope to rule out vision or hearing acuity as an explanation for the specific academic problem; and

~~((6))~~ (3) A written record of observation (~~(and measurement of the student's academic performance and classroom behavior in the regular classroom)~~) of the student's learning behaviors in the regular education program and the relationships of these behaviors to the specific academic problem shall be (~~(made)~~) completed by a member of the assessment team other than the student's regular (~~(classroom)~~) education teacher. (~~(In the case of a student not enrolled in school, a team member shall observe the student in an environment appropriate for a student of that age.~~

(7) The results of the intellectual, achievement and perceptual/language measures along with the assessment of social and emotional behaviors and the vision and hearing screening and classroom observation shall be reviewed by the multidisciplinary team. The multidisciplinary team shall prepare a written report of the results of the assessment pursuant to WAC 392-171-366.)

(4) Written documentation that the student has an academic achievement problem in the regular education program. Such documentation shall include, if applicable, previous intervention attempts and the results obtained. Examples of data used for documentation may include:

(a) Student performance on daily classroom work and/or criterion-referenced tests;

(b) Summary of past student performance;

(c) Group test results;

(d) Teacher observation and judgments; and

(e) Performance on student learning objectives.

(5) Documentation of the existence of a severe discrepancy between the student's intellectual ability and academic achievement in one or more of the seven areas specified in WAC 392-171-406. Such documentation shall conform to the requirements of WAC 392-171-413 and 392-171-416, whichever is applicable.

NEW SECTION

WAC 392-171-413 PRIMARY METHOD FOR DOCUMENTING SEVERE DISCREPANCY. A severe discrepancy shall be determined and documented from tables developed by the superintendent of public instruction using the regressed estimated true score method.

(1) The regressed estimated true score method shall consider the following variables at a criterion level of 1.75:

(a) The reliability coefficient of the intellectual ability test;

(b) The reliability coefficient of the academic achievement test; and

(c) The correlation between the intellectual ability and the academic achievement tests.

(2) Tests used to assess the student's intellectual ability and academic achievement shall be:

(a) Current;

(b) Reliable as demonstrated by a reliability coefficient of .85 or above;

(c) Normed on representative national samples;

(d) Individually administered and interpreted by a qualified person (defined in WAC 392-171-351) in accordance with the standardized procedures described in the test manuals; and

(e) Selected and administered in accordance with the general requirements of WAC 392-171-351.

(3) For the purposes of determining a severe discrepancy:

(a) A total or full scale intelligence quotient (I.Q.) score shall be used as the indicator of intellectual ability; and

(b) An academic achievement test score which can be converted into a standard score with a mean of 100 and a standard deviation of fifteen shall be used to determine the level of academic achievement.

(4) A severe discrepancy between the student's intellectual ability and academic achievement in one or more of the seven areas provided for in WAC 392-171-406 shall be determined by applying the regressed estimated true score method to the obtained I.Q. and achievement test scores using the tables referenced above. To be considered as a severe discrepancy the difference between the intellectual ability and academic achievement test score(s) shall be a minimum of fifteen standard score points.

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-416 (~~(SPECIFIC LEARNING DISABILITY—EXCEPTIONS TO GENERAL ELIGIBILITY CRITERIA))~~ ALTERNATIVE METHOD FOR DOCUMENTING SEVERE DISCREPANCY. (~~(Where the results of the intellectual, academic, or perceptual/language measures provided for in WAC 392-171-411 do not document a specific learning disability, the multidisciplinary team, when it is deemed advisable by the team, may deviate from the criteria set forth in WAC 392-171-411 within the standard error of measurement of the selected assessment instrument(s) and determine the appropriateness of placement in a special education program. PROVIDED, That once the required assessment procedures are concluded, the assessment team shall prepare a written report which identifies the degree to which the assessment findings deviate from the criteria, describes the student's specific learning disability as evidenced by the assessment findings and any implications for educational planning. The written report shall also address all requirements stated in WAC 392-171-366, and be signed by the school district superintendent or his/her designee. Students placed under these conditions shall be reassessed annually to determine their need for special education and related services.)~~) Where the assessment results do not appear to accurately represent the student's intellectual ability because of the effects of the learning disability and where the discrepancy between the student's intellectual ability and academic achievement does not initially appear to be severe upon application of the discrepancy tables, WAC 392-171-413, the multidisciplinary team may apply professional judgment in order to determine the presence of a specific learning disability. In this event, the multidisciplinary team shall document in writing a substantive explanation as to why the student is specific learning disabled. The assessment team must provide supportive evidence, including the procedures used to determine that a severe discrepancy exists between the student's intellectual ability and academic achievement performance.

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-516 REASSESSMENT. Each handicapped student shall be (~~(assessed)~~) reassessed in compliance with assessment procedures as specified in WAC 392-171-341(3) and (4) through 392-171-366 of this chapter at least once every three years, or more frequently if conditions warrant, if otherwise required by this chapter, or if the student's parent(s), teacher, or IEP committee requests a reassessment. The district shall provide written notice to the parent(s) of a student (or to the adult student) prior to conducting the reassessment. The notice shall comply with the notice requirement of WAC 392-171-521 and 392-171-526.

Following the completion of the reassessment and based on the reassessment results, the district superintendent or his or her designee shall record in writing one of the following decisions:

(1) The student continues to meet initial eligibility criteria documenting the presence of a handicapping condition(s) and is in need of continuing special education and related services; or

(2) The student no longer meets initial eligibility criteria but needs to continue to receive special education and related services; or

(3) The student no longer meets initial eligibility criteria and no longer needs to receive special education and related services.

In accordance with WAC 392-171-521, the parent shall be notified of the school district's decision within ten calendar days following the completion of the reassessment. When continued placement is indicated, an IEP meeting shall be convened in accordance with WAC 392-171-456 through 392-171-466. When special education services are to be discontinued, notice shall be given the parent(s) pursuant to WAC 392-171-521.

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-731 MONITORING. (1) The superintendent of public instruction or his or her designee shall annually monitor selected local school district special education programs. The purposes of monitoring shall be:

(a) To determine the school district's compliance with this chapter and the federal regulations implementing 20 U.S.C. Section 1401 et seq. (P.L. 94-142) and federal and state handicapped laws including the adequacy of documentation of eligibility for students placed in special education programs and the validation of information included in school district applications for federal funds;

(b) To provide the school district with technical assistance for improving the quality of its special education program.

(2) The superintendent of public instruction or his or her designee shall develop procedures (including specific timelines) for monitoring school districts. These procedures must include:

- (a) Collection of data and reports;
- (b) Conduct of on-site visits;
- (c) A review of state and federal special education fund utilization; and

(d) Comparison of a sampling of individualized education programs with the programs actually provided.

(3) Following a monitoring visit, a written monitoring report shall be submitted to the school district. The monitoring report shall include, but not be limited to:

- (a) Findings of noncompliance, if any; and
- (b) Required corrective actions for remediation of any such instance(s) of noncompliance.

(4) The school district shall have thirty calendar days after the date of its receipt of the monitoring report to provide the office of superintendent of public instruction with:

(a) Supplemental arguments and/or facts which may serve as a basis for alteration of the monitoring report;

(b) A written action plan which sets forth the measures the district shall take and time period(s) within which the district shall act in order to remediate the instance(s) of noncompliance;

(c) In the event that the district submits supplemental arguments and/or facts which may serve as a basis for alteration of the monitoring report, the office of superintendent of public instruction shall within thirty calendar days provide the district with a determination as to the alteration of the monitoring report. The school district shall, within thirty calendar days of receipt of the determination, provide the office of superintendent of public instruction a written action plan, if any, pursuant to that determination.

(5) The superintendent of public instruction or his or her designee shall either approve the plan as submitted or request the school district to make such modifications as are considered necessary. Once an approvable plan has been submitted, the district shall be provided written notice of:

- (a) Approval;
- (b) The performance expected of the district; and
- (c) The schedule for periodic review or verification of the district's progress toward remediation of the instance(s) of noncompliance.

(6) If the school district fails to submit an approvable corrective action plan pursuant to WAC 392-171-731(4) or fails to comply with a corrective action plan approved pursuant to WAC 392-171-731(5), the superintendent of public instruction or his or her designee shall institute procedures to insure corrective action or prompt response to a monitoring report. Such procedures may include one or more of the following:

- (a) Verification visits by OSPI staff to:
 - (i) Determine whether the school district is taking the required corrective action;
 - (ii) Expedite the school district's response to a monitoring report;
 - (iii) Provide any necessary technical assistance to the school district in its efforts to comply.

(b) Withhold, in whole or part, a specified amount of state and/or federal special education funds, pursuant to WAC 392-171-696 and 392-171-746.

(c) Initiate request for OSPI audit pursuant to WAC 392-171-736 through 392-171-756 which may result in the recovery of unlawfully received or expended of state and/or federal special education funds.

WSR 84-03-014

PROPOSED RULES

DEPARTMENT OF CORRECTIONS

[Filed January 9, 1984]

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 one time impact funds available to qualifying political subdivisions, adopting chapter 137-12A WAC and repealing chapter 137-12 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on February 27, 1984.

The authority under which these rules are proposed is RCW 72.72.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 17, 1984.

All correspondence regarding this WAC should be addressed to:

Robert Sampson, Administrator
Office of Contracts and Regulations
Division of Management and Budget
Mailstop FN-61
Scan 234-5770

Dated: January 9, 1984

By: Robert E. Trimble
Deputy Secretary
for Amos E. Reed
Secretary

STATEMENT OF PURPOSE

Title and Number of Rule: Adopting chapter 137-12A WAC, One time impact funds available to qualifying political subdivisions, and repealing chapter 137-12 WAC.

Statutory Authority: RCW 72.72.040.

Summary and Purpose of Rule Change: This rule is intended to update and clarify the requirements and procedures for applications for funding due to one time impact funds associated with locating additional state correctional facilities.

Agency Personnel Responsible for Drafting and Adoption: Robert Sampson, Administrator, Office of Contracts and Regulations, Division of Management and Budget, Mailstop FN-61, scan 234-5770; Implementation and Enforcement: Robert E. Trimble, Deputy Secretary, Department of Corrections, Mailstop FN-61, scan 234-1508.

No other person or organization other than the Department of Corrections is proposing this rule.

This rule is not necessary to comply with a federal law or a federal or state court decision.

This rule does not have an impact on small businesses.

Chapter 137-12A WAC ONE TIME IMPACT FUNDS AVAILABLE TO QUALIFYING POLITICAL SUBDIVISIONS

NEW SECTION

WAC 137-12A-010 PURPOSE. The legislature has appropriated \$1,480,000 solely for the one-time cost impact to communities associated with locating additional state correctional facilities. This chapter is intended to implement this appropriation by setting forth the procedure for applying for said funds.

NEW SECTION

WAC 137-12A-020 DEFINITIONS. As used in this chapter, the following items shall have the following meanings:

(1) "Secretary" shall mean the secretary of the department of corrections.

(2) "Department" shall mean the department of corrections.

(3) "Inmate" shall mean individuals sentenced to the custody of the department under state law and inmates transferred from other states or the federal government.

(4) "Institution" shall mean all those facilities set forth in RCW 72.01.050(2) and all community residential programs under the department's jurisdiction operated pursuant to chapter 72.65 RCW.

(5) "Political subdivision" shall mean any city, town, county or other unit of local government.

(6) "Additional correctional facility" shall mean (a) new buildings constructed at a new location for use in housing or servicing inmates; (b) new buildings constructed on the grounds of an existing institution for use in housing or servicing inmates; and/or (c) preexisting buildings heretofore not used by the department as a correctional facility which are reopened for use in housing or servicing inmates.

(7) All references to the singular shall include the plural unless noted otherwise.

NEW SECTION

WAC 137-12A-030 **ELIGIBILITY.** Counties, cities, and towns are eligible for funding if an additional correctional facility is located in their jurisdiction.

NEW SECTION

WAC 137-12A-040 **FUNDING PRIORITY.** The impact committee established herein shall establish a priority of funding under this chapter. Funding shall be limited to documented impacts associated with the locating of additional correctional facilities.

NEW SECTION

WAC 137-12A-050 **APPLICATION PROCEDURE.** (1) Counties, cities, or towns must formally request funding under this chapter by submitting a request to:

Department of Corrections
Office of Contracts and Regulations
P.O. Box 9699
Olympia, WA 98504

(2) Requests must include the documented impacts associated with the locating of the correctional facility in their jurisdiction. Impacts may include the following:

- (a) Criminal justice costs or impacts.
- (b) Social service or human service impacts.
- (c) Transportation, roads and utility impacts.
- (d) Other documented impacts.

(3) The burden of demonstrating the impact shall be on the requesting jurisdiction.

NEW SECTION

WAC 137-12A-060 **DEPARTMENT REVIEW COMMITTEE.** (1) All requests shall be reviewed by a department committee composed of the following individuals or their designees:

- (a) The deputy secretary;
- (b) Director, division of management and budget;
- (c) Director, division of prisons;
- (d) Contracts and regulations administrator;
- (e) Capital programs administrator; and the
- (f) Senior assistant attorney general assigned to the department.

(2) The review committee shall approve or disapprove the requests. If a request is disapproved in total or in part, the committee shall send a letter to the requesting political subdivision with the reasons for disapproval.

(3) The committee decision shall be final unless appealed to the secretary within twenty days after a political subdivision receives notice of disapproval.

NEW SECTION

WAC 137-12A-070 **CONTRACTS.** Requests approved for funding under this chapter shall be evidenced in a written grant or contract document processed through the office of contracts and regulations and approved by the secretary and submitting jurisdiction.

NEW SECTION

WAC 137-12A-080 **IMPLIED CONSENT TO AUDIT.** (1) By submitting requests the requesting political subdivision agrees to maintain records which would support the request made for a period five years after the date of such request.

(2) If requested by the secretary, or his/her designee, the political subdivision shall make these records available for review and/or audit by the department.

NEW SECTION

WAC 137-12A-090 **LIMITATION OF FUNDING.** Funding under this chapter shall be available only to the maximum allocated by the legislature.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- | | |
|--------------------|----------------------------------|
| (1) WAC 137-12-010 | DEFINITIONS. |
| (2) WAC 137-12-020 | PURPOSE. |
| (3) WAC 137-12-030 | ELIGIBLE POLITICAL SUBDIVISIONS. |
| (4) WAC 137-12-040 | PERIOD OF FUNDING. |
| (5) WAC 137-12-050 | FUNDING PRIORITY. |
| (6) WAC 137-12-060 | BILLING PROCEDURE. |
| (7) WAC 137-12-070 | CUTOFF DATE. |
| (8) WAC 137-12-080 | REVIEW COMMITTEE. |
| (9) WAC 137-12-090 | SPECIAL AUTHORIZATIONS. |

WSR 84-03-015

ADOPTED RULES

BOARD OF PHARMACY

[Order 180—Filed January 9, 1984]

Be it resolved by the Washington State Pharmacy Board, acting at Kirkland, Washington, that it does adopt the annexed rules relating to the amending of WAC 360-16-230 and 360-12-065.

This action is taken pursuant to Notice No. WSR 83-22-076 filed with the code reviser on November 2, 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 18.64.005 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 December 14, 1983.

By Donald H. Williams
Executive Secretary

AMENDATORY SECTION (Amending Order 131, filed 2/4/77)

WAC 360-16-230 **PHYSICAL STANDARDS FOR PHARMACIES—ADEQUATE EQUIPMENT.**

(1) All pharmacies shall have in their possession the ~~((following equipment in good repair and proper quantities:~~

~~(a) Graduates (assortment, capable of accurately measuring volumes from 1 cc to 500 cc's);~~

~~(b) Mortars and pestles (two required— one wedge wood and one glass);~~

~~(c) Spatulas (at least two, one of which must be stainless steel, rubber bone, or other nonmetallic substances):~~

~~(d) Funnels (at least one glass funnel):~~

~~(e) Filter paper of a size to fit funnel:~~

~~(f) Stirring rod:~~

~~(g) Pill tile, ointment slab or parchment paper:~~

~~(h) Class A balance sensitive to current requirements as found in USP:~~

~~(i) Weights (accurately weighing 1 gram to 50 grams):~~

~~(j) Powder or weighing paper:~~

~~(k) Adequate assortment of prescription containers:~~

~~(l) Towels, clean and available:~~

~~(m) Prescription files (two or three as preferred):~~

~~(n) Controlled substances act schedule V register (if sold at retail):~~

~~(o) Prescription labels:~~

~~(p) Cautionary labels:~~

~~(q) Typewriter:~~

~~(r) Label moistner if self adhesive labels not in use.)~~
equipment and supplies necessary to compound, dis-
perse, label, administer and distribute drugs and devices.
The equipment shall be in good repair and shall be
available in sufficient quantity to meet the needs of the
practice of pharmacy conducted therein.

(2) All pharmacies will have in their possession:

(a) One up-to-date copy of the state of Washington statutes, rules and regulations governing the practice of pharmacy, the sale and dispensing of drugs, poisons, ~~((narcotics))~~ controlled substances, and medicines maintained in a binder.

(b) Five standard, acceptable reference ~~((books))~~ sources relating to the practice of pharmacy, three of which must be current; one file or book or other reference on drug hazards or drug interactions which must also be current.

(3) All pharmacies shall have in their possession distilled or de-ionized water (at least one quart).

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 147, filed 3/27/79)

WAC 360-12-065 FOREIGN-TRAINED APPLICANTS. (1) Applicants whose academic training in pharmacy has been obtained from institutions in foreign countries, wishing to be licensed ((who wish to register)) as pharmacists in the state of Washington shall ~~((complete such additional academic work, if necessary, so as to be qualified to receive a baccalaureate degree in pharmacy or doctor of pharmacy degree from an accredited college or school of pharmacy recognized by the state board of pharmacy.))~~ take and pass the Foreign Pharmacy Graduate Equivalency Examination prepared

by the Foreign Pharmacy Graduate Education Commission and shall have received an educational equivalency certificate from that commission.

2) In addition, ~~((before registration can be extended to them,))~~ prior to licensure they shall pass ((successfuly)) the Washington state board of pharmacy full board examination and meet its internship requirements.

(3) Applicants whose academic training in pharmacy has been obtained from institutions in foreign countries and whose credentials are such that no further education is necessary must earn a total of 1500 intern hours before licensure. The applicant must earn at least 1200 intern hours before taking the full board examination: **PROVIDED**, That the board may, for good cause shown, waive ~~((up to 800 hours of))~~ the required 1500 hours.

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

WSR 84-03-016

ADOPTED RULES

BOARD OF PHARMACY

[Order 181—Filed January 9, 1984]

Be it resolved by the Washington State Board of Pharmacy, acting at Kirkland, Washington, that it does adopt the annexed rules relating to patient medical record systems, new chapter 360-19 WAC.

This action is taken pursuant to Notice No. WSR 83-22-075 filed with the code reviser on November 2, 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 18.64.005 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 December 14, 1983.

By Donald H. Williams
Executive Secretary

Chapter 360-19 WAC

PATIENT MEDICATION RECORD SYSTEMS

WAC

360-19-010

PURPOSE.

360-19-020

DEFINITIONS.

360-19-030

MINIMUM REQUIRED INFORMATION IN AN AUTOMATED PATIENT MEDICATION RECORD SYSTEM.

360-19-040

MINIMUM REQUIRED INFORMATION IN A MANUAL PATIENT MEDICATION RECORD SYSTEM.

- 360-19-050 MINIMUM PROCEDURES FOR UTILIZATION OF A PATIENT MEDICATION RECORD SYSTEM.
- 360-19-060 AUXILIARY RECORD KEEPING PROCEDURE.
- 360-19-070 RETRIEVAL OF INFORMATION FROM AN AUTOMATED SYSTEM.
- 360-19-080 CONFIDENTIALITY AND SECURITY OF DATA.
- 360-19-090 EXTENSION OF TIME FOR COMPLIANCE.
- 360-19-100 EFFECTIVE DATE.

NEW SECTION

WAC 360-19-010 PURPOSE. The purpose of this chapter shall be to insure that a Patient Medical Record System is maintained by all pharmacies and other sites where the dispensing of drugs takes place, in order to insure the health and welfare of the patients served. This system will consist of certain patient and prescription information, and shall provide the pharmacist within the pharmacy means to retrieve all new prescription and refill prescription information relevant to patients of the pharmacy. It shall be designed to provide adequate safeguards against the improper manipulation or alteration of records, and to provide an audit trail. It may be either a manual system or an automated data processing system for the storage and retrieval of prescription and patient information. If an automated data processing system is utilized, an auxiliary record keeping procedure shall be available for documentation of new and refill prescriptions in case the automated system is inoperative for any reason. Establishment of a Patient Medication Record System is intended to insure that the information it contains will be reviewed by the pharmacist in a manner consistent with sound professional practice when each prescription is filled.

NEW SECTION

WAC 360-19-020 DEFINITIONS. Terms used in this chapter shall have the meaning set forth in this section unless the context clearly indicates otherwise:

- (1) "Address" means the place of residence of the patient.
- (2) "Audit trail" means all materials and documents required for the entire process of filling a prescription, which shall be sufficient to document or reconstruct the origin of the prescription order, and authorization of subsequent modifications of that order.
- (3) "Auxiliary record keeping procedure" means a back-up
- (3) "Auxiliary record keeping procedure" means a back-up procedure used to record medication record system data in case of scheduled or unscheduled downtime of an automated data processing system.
- (4) "Hard copy of the original prescription" shall include the prescription as defined in RCW 18.64.011(8) and/or the medical records or chart.

(5) "Therapeutic duplication" means two or more drugs in the same pharmacological or therapeutic category which when used together may have an additive or synergistic effect.

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

NEW SECTION

WAC 360-19-030 MINIMUM REQUIRED INFORMATION IN AN AUTOMATED PATIENT MEDICATION RECORD SYSTEM. An automated patient medication record system is an electronic system that must have the capability of capturing any data removed on a hard copy of microfiche copy. The hard copy of the original prescription and all documents in the audit trail shall be considered a part of this system.

(1) All automated patient medication record systems must maintain the following information with regard to ambulatory patients:

- (a) Patient's full name and address.
- (b) A serial number assigned to each new prescription.
- (c) The date of all instances of dispensing a drug.
- (d) The identification of the dispenser who filled the prescription.
- (e) The name, strength, dosage form and quantity of the drug dispensed.
- (f) Any refill instructions by the prescriber.
- (g) The prescriber's name, address, and DEA number where required.
- (h) The complete directions for use of the drug. The term "as directed" is prohibited pursuant to RCW 18.64.246 and RCW 69.41.050.

(i) Any patient allergies, idiosyncrasies, or chronic condition which may relate to drug utilization. If there is no patient allergy data the pharmacist should indicate none or "NKA" (no known allergy) on the patient medication record.

(j) Authorization for other than child-resistant containers pursuant to WAC 360-16-270, if applicable.

(2) All automated patient medication record systems must maintain the following information with regard to institutional patients:

- (a) Patient's full name.
- (b) Unique patient identifier.
- (c) Any patient allergies, idiosyncrasies, or chronic conditions which may relate to drug utilization. If there is no patient allergy data the pharmacist should indicate none or "NKA" (no known allergy) on the patient medication record.
- (d) Patient Location.
- (e) Patient Status, for example, Active, Discharge, or On-Pass.
- (f) Prescriber's name, address, and DEA number where required.
- (g) Minimum prescription data elements:
 - (i) Drug name, dose, route, form, directions for use, prescriber.
 - (ii) Start date and time when appropriate.
 - (iii) Stop date and time when appropriate.
 - (iv) Amount dispensed when appropriate.

(h) The system shall indicate any special medication status for an individual prescription, for example, on hold, discontinued, self-administration medication, investigational drugs, patient's own medications, special administration times, restrictions, controlled substances.

(i) The system shall indicate on the labeling, and in the system, (for the pharmacist, nursing and/or physician alert) any special cautionary alerts or notations deemed necessary by the dispenser for the patient safety.

NEW SECTION

WAC 360-19-040 MINIMUM REQUIRED INFORMATION IN A MANUAL PATIENT MEDICATION RECORD SYSTEM. A manual patient medication record system consists of the hard copy of the original prescription and a card or filing procedure that contains all data on new and refill prescriptions for a patient. This data must be organized in such a fashion that information relating to all prescription drugs used by a patient will be reviewed each time a prescription is filled.

(1) All manual patient medication record systems must maintain the following information with regard to ambulatory patients:

(a) Patient's full name and address.

(b) A serial number assigned to each new prescription.

(c) The date of all instances of dispensing a drug.

(d) The identification of the dispenser who filled the prescription.

(e) The name, strength, dosage form and quantity of the drug dispensed.

(f) The prescriber's name, address and DEA number where appropriate.

(g) Any patient allergies, idiosyncrasies or chronic conditions which may relate to drug utilization. If there is no patient allergy data the pharmacist should indicate none or "NKA" (no known allergy) on the patient medication record.

(2) All manual patient medication record systems must maintain the following information with regard to institutional patients:

(a) Patient's full name.

(b) Unique patient identifier.

(c) Any patient allergies, idiosyncrasies, or chronic conditions which may relate to drug utilization. If there is no patient allergy data the pharmacist should indicate none or "NKA" (no known allergy) on the patient medication record.

(d) Patient Location.

(e) Patient Status, for example, Active, Discharge, or On-Pass.

(f) Prescriber's name, address and DEA number where required.

(g) Minimum prescription data elements:

(i) Drug name, dose, route, form, directions for use, prescriber.,

(ii) Start date and time when appropriate.

(iii) Stop date and time when appropriate.

(iv) Amount dispensed when appropriate.

(h) The system shall indicate any special medication status for an individual prescription, for example, on

hold, discontinued, self-administration medication, investigational drugs, patient's own medications, special administration times, restrictions, controlled substances.

(i) The system shall indicate on the labeling, and in the system, (for the pharmacist, nursing and/or physician alert) any special cautionary alerts or notations deemed necessary by the dispenser for the patient safety.

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

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

NEW SECTION

WAC 360-19-050 MINIMUM PROCEDURES FOR UTILIZATION OF A PATIENT MEDICATION RECORD SYSTEM. Upon receipt of a prescription or drug order, a dispenser must examine visually or via an automated data processing system, the patient's medication record to determine the possibility of a clinically significant drug interaction, reaction or therapeutic duplication, and to determine improper utilization of the drug and to consult with the prescriber if needed. Any order modified in the system must carry in the audit trail the unique identifier of the person who modified the order. Any change in drug name, dose, route, dose form or directions for use which occurs after an initial dose has been given requires that a new order be entered into the system and the old order be discontinued, or that the changes be accurately documented in the record system, without destroying the original record or its audit trail.

NEW SECTION

WAC 360-19-060 AUXILIARY RECORD KEEPING PROCEDURE. If an automated data processing system is used to maintain a patient's medication record, an auxiliary record keeping procedure must be available for use when the automated data system is temporarily inoperative due to scheduled or unscheduled system interruption. The auxiliary record keeping procedure shall provide for the maintenance of all patient record keeping information as required by this chapter. Upon restoration of operation of the automated system the information placed in the auxiliary record keeping procedure shall be entered in each patient's records within two working days, after which the auxiliary records may be destroyed. This section does not require that a permanent dual record keeping system be maintained.

NEW SECTION

WAC 360-19-070 RETRIEVAL OF INFORMATION FROM AN AUTOMATED SYSTEM. All automated patient medication record systems must provide within 72 hours, via CRT or hard copy printout, the information required by WAC 360-19-030 and by 21 CFR § 1306.22(b) as amended July 1, 1980. Any data purged from an automated patient medication record system must be available within 72 hours.

NEW SECTION

WAC 360-19-080 CONFIDENTIALITY AND SECURITY OF DATA. (1) Information contained in patient medication record systems shall be considered to be a part of prescription records maintained in accordance with RCW 18.64.245 and shall be maintained for a period of at least five years in the same manner as provided for all prescription records (see WAC 360-16-096).

(2) The information in the patient medication record system which identifies the patient shall be deemed confidential and may be released to persons other than the patient or a pharmacist, or a practitioner authorized to prescribe only on written release of the patient. If in the judgment of the dispenser, the prescription presented for dispensing is determined to cause a potentially harmful drug interaction or other problem due to a drug previously prescribed by another practitioner, the dispenser may communicate this information to the prescribers.

(3) Security codes or systems must be established on automated medication record systems to prevent unauthorized modification of data.

NEW SECTION

WAC 360-19-090 EXTENSION OF TIME FOR COMPLIANCE. The rules regarding patient medication record systems contained in chapter 360-19 WAC shall apply to all pharmacists practicing pharmacy in the state of Washington upon the effective date of the chapter unless an extension is granted by the Board pursuant to this rule. In order to seek an extension that will allow compliance with this chapter to be delayed, good cause for granting such extension must be shown. The Board shall consider requests for extensions and if, in the Board's judgment good cause is shown, the Board may grant an extension for a period of time, specifying those portions of the rules with respect to which an extension is being granted.

NEW SECTION

WAC 360-19-100 EFFECTIVE DATE. The effective date of this rule shall be March 1, 1984. All pharmacies must be in compliance after that date unless an extension has been granted by the Board.

REPEALER

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

WAC 360-16-260 PATIENT MEDICATION RECORD SYSTEM.

WSR 84-03-017
EMERGENCY RULES
BOARD OF PHARMACY
 [Order 182—Filed January 9, 1984]

Be it resolved by the Washington State Board of Pharmacy, acting at Olympia, Washington, that it does adopt the annexed rules relating to license fees, amending WAC 360-18-020.

We, the Washington State Board of Pharmacy, 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 recent amendment of WAC 360-18-020 that resulted in the renewal fee for pharmacy licenses being raised to \$50.00 and left the penalty fee at \$35.00 placed this rule out of compliance with RCW 18.64.043(4).

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

This rule is promulgated pursuant to RCW 18.64.005 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 9, 1984.

By Donald H. Williams
 Executive Secretary

AMENDATORY SECTION (Amending Order 177, filed 8/30/83)

WAC 360-18-020 LICENSE FEES. Effective October 1, 1983 the following fees shall be charged by the board of pharmacy:

(a) PHARMACY LOCATION, CSA & PROPHYLACTIC	
Original pharmacy fee	\$125.00
Original CSA fee	35.00
Original prophylactic fee	10.00
Original pharmacy assistant utilization fee	30.00
Renewal pharmacy fee	65.00
Renewal CSA fee	30.00
Renewal prophylactic fee	10.00
Renewal pharmacy assistant utilization fee	30.00
Penalty pharmacy fee	130.00
(b) VENDOR	
Original fee	20.00
Renewal fee	20.00
Penalty fee	20.00

(c) PHARMACIST	
Exam fee (full exam)	100.00
Re-examination fee (jurisprudence portion)	25.00
Original license fee	75.00
Renewal fee	50.00
Penalty fee	(35.00) 50.00
Reciprocity fee	200.00
Certification of license status to other states	10.00
(d) SHOPKEEPER	
Original fee	20.00
Renewal fee	20.00
Penalty fee	20.00
(i) SHOPKEEPER - 6 or fewer drugs	
Original fee	5.00
Renewal fee	5.00
Penalty fee	5.00
(ii) SHOPKEEPER - with differential hours	
Original fee	20.00
Renewal fee	20.00
Penalty fee	20.00
(e) DRUG MANUFACTURER	
Original fee	175.00
Renewal fee	175.00
Penalty fee	175.00
(f) DRUG WHOLESALER - full line	
Original fee	175.00
Renewal fee	175.00
Penalty fee	175.00
(g) DRUG WHOLESALER - OTC only	
Original fee	125.00
Renewal fee	125.00
Penalty fee	125.00
(h) PHARMACY ASSISTANT - Level "A"	
Original fee	20.00
Renewal fee	15.00
(i) PHARMACY INTERN	
Original registration fee	10.00
Renewal registration fee	10.00

WSR 84-03-018
EMERGENCY RULES
DEPARTMENT OF LICENSING
(Council on Hearing Aids)
 [Order PL 456—Filed January 9, 1984]

Be it resolved by the Council on Hearing Aids, acting at Olympia, Washington, that it does adopt the annexed rules relating to the amending of WAC 308-50-010, 308-50-020 and 308-50-090.

We, the Council on Hearing Aids, 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 Council on Hearing Aids is newly appointed pursuant to RCW 18-35.150. Emergency rules are necessary so that the council can carry out statutory duties pending passage of permanent rules.

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

This rule is promulgated pursuant to RCW 18.35.161 (1), (2) and (3) 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 9, 1984.

By Roger K. Stimbart
 Chairman

AMENDATORY SECTION (Amending Order PL 190, filed 5/23/75)

WAC 308-50-010 EXAMINATIONS. (1) The examination required of applicants shall be in two parts: written and practical, each consisting of several sections. (Note: The ((~~examination~~)) home study course prepared by the national hearing aid society will be used as a guideline.)

(2) The minimum passing grade for each section shall be seventy percent with the minimum average grade of seventy-five percent for each part before an applicant shall be considered to have satisfactorily passed the required examination for licensure.

(3) In addition to those subjects listed in RCW 18-35.070, the examination shall test the knowledge of the applicant in the basic act governing hearing aid fitter/dispensers and rules and regulations promulgated pursuant to this act.

(4) Applications for examination shall be received by the department at least sixty days prior to the date of the scheduled examination. If the application is received less than sixty days before the next scheduled examination, the applicant will be scheduled for the second examination following receipt of the application.

AMENDATORY SECTION (Amending Order PL 222, filed 11/5/75)

WAC 308-50-020 RE-EXAMINATIONS. (1) Should an applicant fail any section, he may apply to the department to be re-examined in such section(s).

(2) All re-examinations shall be conducted at the next regularly scheduled examination.

(3) Any person who fails to qualify for licensure after three consecutive regularly scheduled examinations shall be required to take the entire examination.

AMENDATORY SECTION (Amending Order PL 159, filed 2/8/74)

WAC 308-50-090 TRAINEES. (1) A trainee may not fit and dispense a hearing aid or be in physical contact with a client or patient unless the sponsor ((or a person)) licensed under this act to whom the trainee is registered is physically present ((or on the premises)) with and supervising his or her actions at all times during the first ninety days the trainee is testing the hearing or fitting or dispensing hearing aids. The extent of direction and supervision of the trainee after the first ninety days of a trainee licensure shall be at the discretion of his sponsor.

(2) During the first ninety days of his licensure, a trainee shall wear an identification badge readily visible to the public which identifies him or her as a trainee.

(3) A trainee ~~((licensed less than ninety days))~~ may not make housecalls and test the hearing or dispense hearing aids unless ~~((a person licensed))~~ the licensed fitter/dispenser sponsor under whom he is registered ~~((under chapter 18.35 RCW in a capacity other than a trainee))~~ is physically present with and supervising his or her actions at all times.

(4) A trainee who loses his sponsor for any reason may not continue his trainee status with a new sponsor until a new trainee application has been filed and payment of this license fee required by RCW 18.35.060 (1)((~~†~~))(c) has been received by the department ~~((PROVIDED, That, if a trainee obtains a new sponsor and submits the required application within thirty days of the withdrawal of his previous sponsor, the fee shall only be five dollars))~~.

(5) If a sponsor dies or withdraws from business, it shall be the responsibility of the trainee to report the loss of such sponsorship to the department in writing.

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

WSR 84-03-019
WITHDRAWAL OF PROPOSED RULES
LIQUOR CONTROL BOARD
 [Filed January 9, 1984]

This is to notify you that the board's notice of intention to adopt, amend, or repeal rules dated November 23, 1983, and bearing Notice No. WSR 83-23-121, is hereby withdrawn.

Robert D. Hannah
Chairman

WSR 84-03-020
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
(Noxious Weed Control Board)
 [Filed January 10, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Noxious Weed Control Board intends to adopt, amend, or repeal rules concerning WAC 16-750-010, proposed noxious weed list, by adding Austrian fieldcress, Austrian peaweed, Hedge bindweed, Camelthorn, Hairy whitetop and Silverleaf nightshade. Other weeds may be either added to or deleted from the list at the hearing;

that the agency will at 1:30 p.m., Thursday, February 23, 1984, in the General Administration Building, Large Conference Room, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 1, 1984.

The authority under which these rules are proposed is chapter 17.10 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 23, 1984.

Dated: January 10, 1984
 By: Michael V. Schwisow
 Deputy Director

STATEMENT OF PURPOSE

Title: Amending WAC 16-750-010.

Description of Purpose: Amend proposed noxious weed list.

Statutory Authority: RCW 17.10.080.

Summary of Rule: Proposed list may be amended by adding Austrian fieldcress, Austrian peaweed, Hedge bindweed, Camelthorn, Hairy whitetop and Silverleaf nightshade. Other weeds may be either added to or deleted from the list at the hearing.

Reasons Supporting Proposed Action: RCW 17.10.080 states that the state noxious weed control board shall each year or more often, following a hearing, adopt a list comprising the names of those plants which it finds to be injurious to crops, livestock, or other property. At such hearing, any county noxious weed control board may request the inclusion of any plant to the list to be adopted by the state board.

Agency Personnel Responsible for Drafting: Donald G. Alexander, Noxious Weed Control Program Coordinator, Chemical and Plant Division, Washington State Department of Agriculture, 406 General Administration Building, Olympia, WA 98504, (206) 753-0364; Implementation and Enforcement: Each activated county noxious weed control board.

Persons Proposing Rule: State noxious weed control board.

Agency Comments or Recommendations: None.

Rule is not necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: No impact, none required.

AMENDATORY SECTION (Amending Order 14, Resolution No. 14, filed 3/17/83)

WAC 16-750-010 PROPOSED NOXIOUS WEED LIST. In accordance with RCW 17.10.080, a proposed noxious weed list comprising the names of those plants which the noxious weed control board finds to be injurious to crops, livestock, or other property is hereby adopted as follows:

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Perennial Weeds	
<u>Austrian fieldcress</u>	<u>Rorippa austriaca</u>
<u>Austrian pea-weed</u>	<u>Sphaerophysa salsula</u>
Baby's Breath	Gypsophila paniculata
Bindweed, field	Convolvulus arvensis
<u>Bindweed, hedge</u>	<u>Convolvulus sepium</u>
Blue Lettuce	Lactuca pulchella
Blueweed, Texas	Helianthus ciliaris
Bracken, western	Pteridium aquilinum
<u>Camelthorn</u>	<u>Alhagi camelorum</u>
Canada Thistle	Cirsium arvense
Dalmation Toadflax	Linaria dalmatica
Gorse	Ulex europaeus
<u>Hairy whitetop</u>	<u>Cardaria pubescens</u>
Hoary Cress or White Top	Cardaria draba
Johnsongrass	Sorghum halepense
Knapweed, complex	Centaurea spp.
Leafy Spurge	Euphorbia esula
Lupine	Lupinus spp.
Nightshade, bitter	Solanum dulcamara
<u>Nightshade, silverleaf</u>	<u>Solanum elaeagnifolium</u>
Nutsedge, yellow	Cyperus esculentus
Oxeye Daisy	Chrysanthemum leucanthemum
Pepperweed, perennial	Lepidium latifolium
Quackgrass	Agropyron repens
Rush Skeletonweed	Chondrilla juncea
St. Johnswort	Hypericum perforatum
Scotch Broom	Cytisus scoparius
Sowthistle, perennial	Sonchus arvensis
Tansy, common	Tanacetum vulgare
Waterhemlock, western	Cicuta douglasii
Watermilfoil, Eurasian	Myriophyllum spicatum
Wormwood, Absinthie	Artemisia absinthium
Yellow Toadflax	Linaria vulgaris
Biennial Weeds	
Bull Thistle	Cirsium vulgare
Houndstongue	Cynoglossum officinale
Knapweed, spotted	Centaurea maculosa
Musk Thistle	Carduus nutans L.
Plumeless Thistle	Carduus acanthoides
Poison Hemlock	Conium maculatum
Scotch Thistle	Onopordum acanthium
Tansy Ragwort	Senecio jacobaea
Annual Weeds	
Cocklebur	Xanthium spp.
Dodder	Cuscuta spp.
Goatgrass, jointed	Aegilops cylindrica
Hemp (Marijuana)	Cannabis sativa
Kochia	Kochia scoparia
Medusahead	Taeniatherum asperum
Puncturevine	Tribulus terrestris
Rye	Secale cereale L.
Sandbur, longspine	Cenchrus longispinus
Yellow Starthistle	Centaurea solstitialis

WSR 84-03-021
ADOPTED RULES
DEPARTMENT OF GAME
(Game Commission)
 [Order 220—Filed January 11, 1984]

Be it resolved by the Washington State Game Commission, acting at Olympia, that it does adopt the annexed rules relating to steelhead fishing punchcard, WAC 232-12-157.

This action is taken pursuant to Notice No. WSR 83-23-091 filed with the code reviser on November 22, 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 77.12.040 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 10, 1984.

By Vern E. Ziegler
 Chairman, Game Commission

AMENDATORY SECTION (Amending Order 218, filed 10/6/83)

WAC 232-12-157 STEELHEAD FISHING PUNCHCARD. (1) It is unlawful for a person, except a treaty Indian possessing a valid federal or treaty fishing identification card, to fish for steelhead trout without having in their immediate possession a valid steelhead fishing punchcard.

(2) Upon retaining a steelhead trout over twenty inches in length, the holder of a steelhead fishing punchcard must immediately remove from the card one punch and enter on the corresponding space the date of the catch and the river code number as listed on the punchcard (~~{, except in waters designated as "selected fishery," "catch and release" or "fly fishing only barbless hooks" by the commission, it is not necessary to remove a punch from the steelhead punchcard, if the fish is released}}~~).

(3) Every person possessing a steelhead fishing punchcard must, by June 1, following the period for which it was issued, return that punchcard to an authorized license dealer or the department.

WSR 84-03-022
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)
 [Order 224—Filed January 11, 1984]

Be it resolved by the Washington State Game Commission, acting at Olympia, that it does adopt the annexed rules relating to closure of Marine Area 7B and Nooksack River system to gill nets, WAC 232-32-160.

We, the Game Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is based on days fished in Marine Area 7B and the Nooksack River system from November 1, 1983, through January 8, 1984, and based

on the proposed tribal fisheries for the week of January 9 to 14, 1984, it is anticipated that the 5% maximum allowable incidental catch of wild Nooksack River steelhead will have been taken or exceeded by 2:00 p.m., January 11, 1984. Therefore, all nonselective fishing gear and methods, such as gill nets, will be prohibited after that time.

Acceptable selective fishing methods (hook and line, beach seines, round nets fish appropriately) must allow the unharmed release of all wild steelhead (no fin marks, dorsal fin 2 1/4 inches and greater from base to tip of longest fin ray).

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 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, 1984.

By Vern E. Ziegler
Chairman, Game Commission

NEW SECTION

WAC 232-32-160 CLOSURE OF MARINE AREA 7B AND NOOKSACK RIVER SYSTEM TO GILL NETS. Effective January 11, 1984, 2:00 p.m., it is unlawful for treaty Indians to fish for, take or possess steelhead trout with gill net gear in Marine Area 7B and the Nooksack River system. It is unlawful for any treaty Indian to possess or retain any wild steelhead trout caught in Marine Area 7B and the Nooksack River system. Wild steelhead trout are defined as steelhead trout with no clipped fins and a dorsal fin equal to or greater than 2 1/4 inches in height (measured when fully extended). It is unlawful to possess a steelhead with a dorsal fin measuring equal to or greater than 2 1/4 inches in height or to possess a steelhead with a freshly cut or mutilated fin.

WSR 84-03-023
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)
[Order 222—Filed January 11, 1984]

Be it resolved by the Game Commission, acting at Olympia, that it does adopt the annexed rules relating to emergency closure of Marine Area 8 and the Skagit River system to the taking of steelhead trout by treaty Indians, WAC 232-32-158.

We, the Game Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and

that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is based on the number of hatchery steelhead caught in Marine Area 8 and the Skagit River from November 1, 1983, through January 10, 1984, and based on the projected catch by the upper Skagit, Swinomish and Sauk-Suiattle tribal fisheries for January 11, 1984, the allocation of hatchery steelhead by the tribes will be met or exceeded.

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 is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 11, 1984.

By Vern E. Ziegler
Chairman, Game Commission

NEW SECTION

WAC 232-32-158 EMERGENCY CLOSURE OF MARINE AREA 8 AND THE SKAGIT RIVER SYSTEM TO THE TAKING OF STEELHEAD TROUT BY TREATY INDIANS. Effective immediately, it is unlawful for treaty Indians to take, fish for, or possess steelhead trout from or in Marine Area 8 and the Skagit River system.

WSR 84-03-024
EMERGENCY RULES
COMMISSION FOR
VOCATIONAL EDUCATION

[Order 84-1, Resolution No. 83-61-7—Filed January 11, 1984]

Be it resolved by the Washington State Commission for Vocational Education, acting at the Seattle Opportunities Industrialization Center, Seattle, Washington, that it does adopt the annexed rules relating to chapter 21, Laws of 1983 1st ex. sess., Washington state job skills program.

We, the Washington State Commission for Vocational Education, 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 for the granting of funds for training programs pursuant to chapter 21, Laws of 1983 1st ex. sess., Washington state job skills program.

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

This rule is promulgated pursuant to RCW 28C.04.420 which directs that the Commission for Vocational Education has authority to implement the provisions of the Washington state job skills program.

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

APPROVED AND ADOPTED January 11, 1984.

By W. P. Mohler
Executive Director

Chapter 490-300 WAC
JOB SKILLS PROGRAM

NEW SECTION

WAC 490-300-010 *AUTHORITY.* These rules are promulgated pursuant to the Job Skills Program Act, chapter 21, Laws of 1983 1st ex. sess.

NEW SECTION

WAC 490-300-020 *PURPOSES.* The purposes of the Washington state job skills program (JSP) are to:

- (1) Promote a productive and expanding economy in the state of Washington;
- (2) Meet specific, identified employment needs of new and expanding business and industry;
- (3) Increase employment opportunities for residents of the state; and
- (4) Encourage the flow of business and industry support to educational institutions.

Financial support in the form of grants will be awarded eligible educational institutions which enter partnerships with private business and industry to develop or expand specific job skills training.

NEW SECTION

WAC 490-300-030 *DEFINITIONS.* The definitions set forth in this section include and supplement the definitions contained in the act and apply throughout these rules, unless the context clearly indicates to the contrary.

- (1) "Applicant" means an educational institution which has made application for a job skills grant under the provisions of this act.
- (2) "Business and industry" means a private corporation, institution, firm, person, group, or association concerned with commerce, trades, manufacturing, or the provision of services within the state or a public or non-profit hospital licensed by the department of social and health services.

(3) "Educational institution" means a public secondary or postsecondary institution or an independent institution within the state authorized by law to provide a program of skills training or education beyond the secondary school level. Any educational institution receiving a job skills grant under the provisions of this act shall be free of sectarian control or influence as set forth in Article IX, section 4 of the state Constitution.

(4) "Equipment" means tangible personal property which will further the objectives of the supported program and for which a definite value and evidence in support of the value have been provided by the donor.

(5) "Financial support" means any thing of value which is contributed by business and industry to an educational institution which is reasonably calculated to support directly the development and expansion of a particular program and which represents an addition to any financial support previously provided by the donor to such educational institutions. "Financial support" includes, but is not limited to, funds, equipment, facilities, faculty, and scholarships for matriculating students and trainees.

(6) "Job skills grant" means funding that is provided to an educational institution by the commission for the development or significant expansion of a program under provisions of this act.

(7) "Job skills program" means a program of skills training or education separate from and in addition to existing vocational education programs and which:

- (a) Provides short-term training which has been designated for specific industries;
- (b) Provides training for prospective employees before a new plant opens or when existing industry expands; and
- (c) Includes training or retraining for workers already employed by an existing industry or business where necessary to avoid dislocation or where upgrading of existing employees would create new vacancies for unemployed persons.

(8) "Technical assistance" means professional and any other assistance provided by business and industry to an educational institution, which is reasonably calculated to support directly the development and expansion of a particular program and which represents an addition to any technical assistance previously or customarily provided to the educational institutions by the donor.

(9) "Commission" or "commission for vocational education" means the commission for vocational education or any successor agency or organization.

NEW SECTION

WAC 490-300-040 *PRIORITY FOR FUNDING.* Priority for funding will be given programs which:

- (1) Serve areas with high concentrations of economically disadvantaged persons and high unemployment;
- (2) Serve areas with new and growing industries;
- (3) Serve areas where there is a shortage of skilled labor to meet job demands; or
- (4) Promote the location of new industry in areas affected by economic dislocation.

NEW SECTION

WAC 490-300-050 *ELIGIBLE EDUCATIONAL INSTITUTIONS.* The following are recognized as educational institutions eligible to receive grants under the job skills program:

- (1) Public four-year colleges or universities with degree-granting authority;
- (2) Community colleges;

- (3) Vocational-technical institutes;
- (4) Secondary vocational programs, including those in general and comprehensive high schools and in area vocational skills centers;
- (5) Apprenticeship trusts; and
- (6) Nonsectarian, private for profit or not-for-profit educational institutions offering programs beyond the secondary level, provided that such institutions are registered with the commission for vocational education or the council for postsecondary education under the Educational Services Registration Act (chapter 28B.05 RCW) or meet legal requirements for exemption from the act.

NEW SECTION

WAC 490-300-060 PRIVATE SECTOR PARTICIPATION. (1) Financial participation

Every dollar of job skills grant money must be matched by at least one dollar value of private sector contribution. In addition to cash, matching dollar values can be, but are not limited to, the current fair market value of donated or loaned equipment, donated instructional time by company personnel, use of company facilities, and supplies and materials.

The private sector will be required to provide substantiating documentation regarding the value of such support and contributions.

(2) General participation

In addition to the required financial contribution, private sector participation is encouraged in all aspects of the training program, including but not limited to, the following activities:

- (a) Recruitment and selection of trainees;
- (b) Development of the training curriculum;
- (c) Implementation of the training program, through donation of instructors, equipment, materials and supplies, on-site training opportunities, internships, scholarships, etc.;
- (d) Monitoring and evaluation of the training program; and
- (e) Planning and participation in job development activities, job counseling, and actual job placement and hiring commitments.

NEW SECTION

WAC 490-300-070 RECRUITMENT AND SELECTION OF TRAINEES. Procedures for trainee recruitment and selection are as follows:

- (1) Recruitment of trainees will be conducted by the employment security department (ESD) in cooperation with the cooperating educational institution and the participating business(es) or industry(ies).
- (2) Final responsibility for selecting employees will rest with the participating business(es) or industry(ies).
- (3) The business(es) or industry(ies) will determine the number of individuals to be trained for the available entry-level positions identified, allowing for reasonable attrition during the training period.
- (4) The cooperating business(es) or industry(ies) and educational institution will establish criteria for trainees,

including the acceptable level of basic education completed and the amount of previous work experience.

(5) Selection of current employees for retraining or advancement may be made by the business(es) or industry(ies) from among their current work force. In making such selections, the business(es) or industry(ies) must assure that:

- (a) The training will create new vacancies for unemployed persons; or
- (b) Training is necessary to avoid dislocation.

NEW SECTION

WAC 490-300-080 GRANT APPLICATION PROCEDURES—PROPOSED CONTENT. Grants will be made to eligible educational institutions based on proposals submitted to the commission for vocational education. Proposals must be submitted on an application form available from the commission for vocational education and shall contain the following information:

(1) Project need: Business(es) or industry(ies) to be served, why JSP funds are required, type of training (entry-level, advanced retraining, or upgrading), evidence that supports employment needs, job titles and descriptions of needed staff, number of people to be trained, compensation levels for trainees upon successful completion of program;

(2) Objectives: Specific objectives for project, including whether training is for business(es) or industry(ies) seeking to relocate or to expand, for employee retraining as a result of industry dislocation, or upgrading where new entry-level jobs will result;

(3) Training plan: Location and length of program (not to exceed twelve months) instructional objective, qualifications of instructors, equipment and materials needed, and program timeliness;

(4) Trainee profile: Proposed training population by age, race, sex, previous employment and/or educational status, public assistance recipient, etc.; skills required for entry into program;

(5) Private sector program involvement: To what extent business(es) or industry(ies) are involved in the following: Recruitment and selection of trainees, development of training curriculum, conduct of program, instruction, monitoring, evaluation, job placement, hiring, financial support;

(6) Linkages: Cooperative efforts with other agencies that will make the program more successful and limit duplication of effort (employment security department, department of social and health services, service delivery areas, private industry councils, etc.), including support services available to trainees;

(7) Budget: Breakdown of estimated costs associated with project, including those for salaries, employee benefits, consumable supplies, contracted services, communications, travel, instructional materials and supplies, equipment rental and services, equipment purchases, facilities, indirect costs, and any other costs. The budget estimate should include the estimated total cost of the project, the amount of state funds requested, the amount of financial contribution expected from participating business and industry, and the amount of any other funds that may be made available for the project;

(8) Previous experience with similar training projects;

(9) Assurances:

(a) No trainee will be excluded from enrollment in the project due to race, color, national origin, sex, or handicap;

(b) The program is in accordance with legal requirements and regulations of state and local laws and in accordance with collective bargaining agreements, if applicable;

(c) Training facilities and equipment will meet Washington state health and safety standards;

(d) Licensed occupational programs are in compliance with licensure regulations; all instructors are qualified to provide the proposed training;

(e) The JSP grant will be used only to cover the costs associated with the program;

(f) Binding commitment for adequate reporting of information and data regarding the program to the commission, particularly information concerning recruitment and employment of trainees; agreement for periodic audit of the books of the educational institution directly related to the program and right of access to financial and other records of the educational institution directly related to the program;

(g) Letter of commitment from the business(es) or industry(ies) regarding funding match, participation and cooperation, and employment of trainees; and

(h) Binding commitment to comply with monitoring and evaluation rules of the commission.

NEW SECTION

WAC 490-300-085 GRANT APPLICATION PROCEDURE—PROPOSAL REVIEW. (1) Proposals will be sent to the office of the state superintendent of public instruction and the state board for community college education for review and comment at the time of proposal submission. Comments shall be forwarded within two weeks to the proposal review committee for consideration.

(2) Proposals shall be reviewed based on the following criteria.

(a) Needs: Identified need addresses economic development goals. The project is separate from, in addition to, and not unnecessarily duplicative of existing programs. Provision has been made to use any available alternative funding from local, state, and federal sources;

(b) Other revenue sources: Provision has been made for use of existing federal and state resources for student financial assistance;

(c) Objectives: Objectives address identified need. Attainment of objectives will produce the desired outcomes;

(d) Training plan, activities: Activities can be accomplished within stated time frame, maximize uses of available resources, relate to stated objectives;

(e) Trainee profile: Provision has been made to work with the employment security department to identify and screen potential trainees to assure that wherever possible victims of economic dislocation and persons from minority and economically disadvantaged groups will be selected as program participants;

(f) Staffing: Staff members are clearly identified; duties described; supervision/administration is identified for both education and industry;

(g) Facilities: Adequate for achievement of objectives;

(h) Equipment: Each item is justified and necessary; equipment expenditures are necessary for program success;

(i) Private sector participation: Financial contribution at least equal to JSP funds requested; involved in all aspects of program;

(j) Linkages, consultation: Each agency's role is identified; interagency cooperation is described; resources are identified;

(k) Budget: Costs are adequately itemized and reasonable for proposed activities;

(l) Experience: Applicant has had previous related experience with similar training programs;

(m) Assurances: All required assurances are provided and documented where necessary; and

(n) Cost effectiveness.

NEW SECTION

WAC 490-300-090 JSP PROPOSAL REVIEW COMMITTEE. The JSP review committee shall review proposals and make recommendations for funding to the commission. The review committee will be comprised of one representative from each of the following:

(1) Commission for vocational education (CVE);

(2) Employment security department (ESD);

(3) Department of commerce and economic development (CED);

(4) Apprenticeship division, department of labor and industries;

(5) Business and industry, to be appointed by the executive director of the commission; and

(6) Labor, to be appointed by the executive director of the commission.

If appointees (1) through (6) do not include a woman and a minority person, the executive director of the commission is authorized to make additional appointment(s) to ensure such representation.

NEW SECTION

WAC 490-300-100 NOTIFICATION OF PROJECT APPROVAL. Whenever a job skills program grant is approved, the commission shall notify the employment security department (ESD). The notification to the ESD shall indicate the following:

(1) The trade, occupation, or profession for which participants will be trained;

(2) Description of the curriculum;

(3) Requirements for participation and procedures for making application;

(4) Duration of the program;

(5) Description of the support services available to participants; and

(6) Any other information relevant to encouraging and facilitating the participation in the program of those in economic need.

NEW SECTION

WAC 490-300-110 RESPONSIBILITIES OF THE EMPLOYMENT SECURITY DEPARTMENT. *The employment security department shall for the purposes of the job skills program:*

- (1) *Work cooperatively with educational institutions providing job skills training programs to identify and screen potential trainees and students;*
- (2) *Perform labor market analyses designed to assure the availability of suitable trainees and students; and*
- (3) *Identify areas with high concentrations of economically disadvantaged persons and high unemployment.*

NEW SECTION

WAC 490-300-120 RESPONSIBILITIES OF THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT. *The department of commerce and economic development shall for the purposes of the job skills program:*

- (1) *Work cooperatively with the commission for vocational education to market the job skills program to business and industry and to economic development agencies and other firms;*
- (2) *Recruit business and industry from outside the state to participate in the job skills program; and*
- (3) *Refer business and industry interested in developing a job skills training program to the commission for vocational education.*

**WSR 84-03-025
EMERGENCY RULES
COMMISSION FOR
VOCATIONAL EDUCATION**

[Order 84-2, Resolution No. 83-61-3—Filed January 11, 1984]

Be it resolved by the Washington State Commission for Vocational Education, acting at the Seattle Opportunities Industrialization Center, Seattle, Washington, that it does adopt the annexed rules relating to chapter 266, Laws of 1983 educational services registration.

We, the Washington State Commission for Vocational Education, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these rules are necessary to implement chapter 266, Laws of 1983, exempting certain educational institutions from the Educational Services Registration Act.

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

This rule is promulgated pursuant to chapter 28B.05 RCW and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 28B.05.050(3) which directs that the Commission for Vocational Education has authority to implement the provisions of the Educational Services Registration Act.

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

APPROVED AND ADOPTED January 11, 1984.

By W. P. Mohler
Executive Director

AMENDATORY SECTION (Amending Order 80-3, Resolution 80-42-2, filed 10/9/80)

WAC 490-600-045 EXEMPTIONS. *Organizations and institutions claiming exemption under the provisions of ((section 4, chapter 188, Laws of 1979 1st ex. sess. ((RCW 28B.05.040), as now or hereafter amended,))) RCW 28B.05.040, as now or hereafter amended, shall meet the following additional provisions:*

(1) *To be considered exempt under the act, charitable organizations must be recognized by the United States Internal Revenue Service as being exempt under Section 501(c)(3) of the Internal Revenue Code as charitable organizations.*

(2) *Educational institutions that are candidates for accreditation or are on probation concerning their accreditation status are not considered eligible for exemption under the provision of ((section 4(5), chapter 188, Laws of 1979 1st ex. sess. ((RCW 28B.05.040(5)))) RCW 28B.05.040.*

(3) *Educational institutions exempted as accredited shall, not later than January 31 of each calendar year, notify the commission of its operating in the state of Washington and shall furnish the commission with one copy of its current catalog.*

(4) *Educational institutions requesting exemption under the hardship provision of ((section 13, chapter 188, Laws of 1979 1st ex. sess. ((RCW 28B.05.130)))) RCW 28B.05.130 shall make a request in writing which shall include:*

(a) *Name, address and telephone number of the institution,*

(b) *Name, title, address and telephone number of the chief administrative officer,*

(c) *Reference to the specific section or subsection for which the exemption is requested, and*

(d) *Statements and related probative documents which clearly identify the nature of the hardship and the institution's inability to meet the requirements of the section or subsection of the act or of this rule and for which the exemption is requested, together with substantiation that such exemption will not unnecessarily frustrate the purposes of the act or of this rule.*

(5) *Institutions offering instruction on federal installations solely to personnel employed by the Federal government, and their dependents, shall not be required to have separate institutional accreditation in order to qualify for exemption.*

(6) *Institutions not otherwise exempt that are of a religious character, but only as to those educational programs exclusively devoted to religious or theological objectives, and that are represented in an accurate manner in institutional catalogs or other official publications.*

(a) The executive director shall ask the chief administrative officer of any institution that may qualify for an exemption on religious grounds to forward to the Commission office a copy of the institution's catalog and/or any other official publications that describes the nature of the institution and its programs. This information shall be used to verify the exempt status of the institution.

(b) For purposes of this subsection, "education programs exclusively devoted to religious or theological objectives" shall mean a program that has as its sole stated objective training in the religious beliefs of the controlling religious organization and/or preparation of students for occupations that are primarily church related.

(c) In the case of an institution that offers both religious and secular programs of instruction, the requirements of ((RCW)) chapter 28B.05 RCW and ((WAC)) chapter 490-600 WAC shall pertain only to the secular programs of the institution.

(d) If the executive director has reasonable cause to believe that the religious or theological programs offered by a religious institution are not represented in a materially accurate manner in the institution's catalog and/or other official publications the executive director shall proceed in accordance with the provisions of WAC 490-600-075.

(7) Educational institutions that are certified by the Federal Aviation Administration under 14 CFR 141 and those educational institutions certified under CFR 61 which offer instruction solely for avocational or recreational purposes.

(a) The executive director shall ask the chief administrative officer of any institution that is certified by the Federal Aviation Administration under 14 CFR 141 to provide evidence of current certification in order to verify the exempt status of the institution.

(b) Flight schools certified by the Federal Aviation Administration under 14 CFR 141 that collect payment(s) in advance for any flight training shall prepare and execute with each student paying in advance a contract containing at least:

(i) A description of the services to be rendered;

(ii) The terms under which the payments are to be made, and,

(iii) The terms of an equitable policy governing the refund of unused tuition charges that will occur in the event the student withdraws or is discontinued from training prior to completion of the contracted service.

To be considered exempt under the act, such schools shall submit to the commission for its approval a copy of such contract form together with notification to the commission of its operating in the state of Washington. Initial notification shall be made in the instance of existing schools by no later than July 1, 1980 or in the instance of new schools in no less than 15 days prior to the commencement of its operation. In any instance, such notification and submission of document(s) shall occur annually not later than January 31 of each calendar year.

(c) Flight schools certified by the Federal Aviation Administration under 14 CFR 61 to be considered for exemption on the basis of offering instruction solely for

avocational or recreational purposes must submit documentation supporting such a sole intent.

(8) Workshops or seminars lasting no longer than three calendar days for which academic credit is not awarded.

(9) Continuing education courses approved under chapters 18.04 (board of accountancy), 18.78 (department of licensing, practical nursing), 18.88 (department of licensing, registered nursing), or 48.17 (office of the insurance commissioner) RCW for licensure.

AMENDATORY SECTION (Amending Order 81-3, Resolution 81-47-3, filed 10/8/81)

WAC 490-600-071 MINIMUM CANCELLATION AND REFUND POLICY. The intent of the minimum cancellation and refund policy is to see that each applicant/student is assured minimum conditions of refund, and that the school will be assured of its integrity if it meets these minima. Many schools, however, have more liberal practices and the commission encourages such practices.

The school must state its policy and schedule of refunds in clear language that can be easily understood. The policy must apply to all terminations, for any reason, by either party.

(1) General application of cancellation and refund policies.

(a) Termination date.

(i) Residential schools. The termination date for residential schools for refund computation purposes is the last date of actual attendance by the student. The school may require notice of cancellation or withdrawal to be given by certified mail provided this requirement is stated in the enrollment agreement. The school may require that notice be made by parent or guardian if the student is below legal age.

If a student fails, without written explanation to proper institutional authorities, to attend classes for a period of thirty days during which resident classes are in session, the institution shall officially terminate the student from the program or course of instruction, notify the student in writing that enrollment has been terminated effective the thirtieth calendar day, and shall refund tuition and fees according to its published refund policy.

(ii) Correspondence schools. The termination date for correspondence schools shall be based upon the last lesson completed by the student providing that the student notifies the institution of the desire to cancel within sixty days after submitting the last lesson. The school may require notice of cancellation or withdrawal to be given by certified mail, provided this requirement is stated in the enrollment agreement.

(iii) Seminars and workshops not exempted under WAC 490-600-045(8). The termination date for seminars or workshops shall be based upon written notification from the student and received by the institution prior to the opening hour of the seminar or workshop. The seminar or workshop may require notice of cancellation or withdrawal to be given by certified mail provided this requirement is stated in the enrollment agreement.

(b) *Extra expenses.* Items of extra expense to the student, such as housing, board, instructional supplies or equipment, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other extra charges for which the student has contracted or paid in advance need not be considered in tuition refund computations provided they are separately shown in the enrollment agreement, catalog, or in other published data furnished to the student before enrollment, and provided further that the student received the complete materials or services during the period the student was actually enrolled. When items of major extra expense are separately shown for this purpose the school must also state its policy for reasonable settlement of such charges in the event of early termination of the student and in no event shall the charges be more than the actual value of the materials or services used by the student.

(c) Subject to subsection (d) below, if promissory notes or contracts for tuition are sold or discounted to third parties, students or their financial sponsors must sign a statement authorizing such sales, and the school must comply with its cancellation and refund policy. Schools must notify all third parties of the cancellation and refund policy of the school.

(d) Institutions shall modify a student's contract and provide a pro rata refund to the student for any action that reduces contracted training time, which reduces course content, or other actions which adversely affect the training time or course content. The burden of proof that such changes did not adversely affect the student rests with the school if any dispute arises over a failure to apply such pro rata refund.

(e) A school year for residential schools is defined by the period of time that the required learning experiences are fully available to the student. The definition of a "school year" must be established by residential schools for refund computation purposes and be published in the school's catalog.

(i) For courses longer than one school year in length, the cancellation and refund policy shall apply to the stated course price attributable to each school year.

(ii) All of the stated course price attributable to the period beyond the first year will be refunded when the student terminates during the first year.

(iii) Percentage of course completion shall be computed on the basis of the amount of time in the course as expressed in clock, quarter, or semester hours or other academic periods as listed in the catalog.

(f) Upon cancellation or termination, all money due the student shall be refunded within thirty days.

(2) *Refund policy: Resident schools.* Details of the educational institution's own definite and established refund policy for cancellations and terminations must, as a minimum, comply with the following requirements:

(a) *Rejection.* An applicant rejected by the school shall be entitled to a refund of all moneys paid, less any standard application fee, not to exceed twenty-five dollars.

(b) *Three-day cancellation.* All moneys paid by an applicant will be refunded if requested within three business days after signing an enrollment agreement and making an initial payment.

(c) *Other cancellation.* Any applicant subsequently requesting cancellation, but before entering school and starting the course, shall be entitled to a refund of all moneys paid minus a fee of ten percent of the contract price of the course, but in no event may the school retain more than one hundred dollars.

(d) *Initial participation.* For a student terminating training after entering school and starting the course of training but within the first week, or first ten percent of the program, whichever is less, the tuition charges made by the school shall not exceed ten percent of the contract price of the course plus the registration fee not to exceed one hundred dollars, but in no event more than three hundred dollars.

(e) *After first week or ten percent of the program.* For a student terminating training after completing one week, or ten percent of the program, whichever is less, but within the first twenty-five percent of the course, the tuition charges made by the school shall not exceed twenty-five percent of the contract price of the course plus a registration fee not to exceed one hundred dollars.

(f) *After twenty-five percent.* For a student terminating training after completing twenty-five percent but less than fifty percent of the course, the tuition charges made by the school shall not exceed fifty percent of the contract price of the course plus the registration fee of not more than one hundred dollars, and thereafter,

(g) The institution may retain one hundred percent of the stated tuition plus the registration fee which may not exceed one hundred dollars.

(h) *Special cases.* In case of student prolonged illness or accident, death in the family, or other circumstances that make it impractical to complete the course, the school shall make a settlement which is reasonable and fair to both.

(3) *Refund policy: Correspondence and/or home study schools.* Details of the educational institution's own definite and established refund policy for cancellations and terminations must, as a minimum, comply with the following requirements.

(a) An enrollment may be canceled by an applicant student within three days from the day on which the enrollment agreement is signed. An applicant student requesting cancellation within this time shall be given a refund of all money paid to the school or its representatives.

(b) From three days after the day on which the enrollment agreement is signed and until the time the school receives the first completed lesson assignment from the student, upon cancellation, the school is entitled to the registration fee of either twenty-five dollars or fifteen percent of the tuition whichever is less.

(c) After receipt of the first completed lesson assignment, if the student requests cancellation, the school shall be entitled to a tuition charge which shall not exceed the following:

(i) Up to and including the first ten percent of the course, the registration fee plus ten percent of the tuition.

(ii) After completing ten percent of the course and up to and including the completion of twenty-five percent

of the course, the registration fee plus twenty-five percent of the tuition.

(iii) After completing twenty-five percent of the course and up to and including completion of fifty percent of the course, the registration fee plus fifty percent of the tuition.

(iv) If the student completes more than half of the course, the full tuition.

(d) The amount of the course completed shall be the number of completed lesson assignments received by the institution as a percentage of the total lesson assignments in the course.

(e) The refund policy shall pertain to all charges with the exception of charges for materials that are not returned to the institution in their original condition within fifteen days of withdrawal or termination.

(4) Refund policy: Seminars and workshops not exempted under WAC 490-600-045(8). Details of the educational institution's own definite and established refund policy for cancellations and terminations must, as a minimum, comply with the following requirements:

(a) Rejection. An applicant rejected by the institution prior to the initial class shall be entitled to a refund of all moneys paid.

(b) Three-day cancellation. All moneys paid by an applicant in advance shall be refunded if written notification is received by the institution within three calendar days of initial payment and providing the notification is received at least five calendar days prior to the scheduled seminar or workshop.

(c) Other cancellation. An applicant requesting cancellation within five calendar days of the scheduled seminar or workshop but before the initial session shall be entitled to a refund of all moneys paid minus a fee of ten percent of the contract price plus any pre-identified charges for parking and/or meals, but in no event may the school retain more than one hundred dollars.

(d) The applicant shall not be entitled to any refund after the scheduled seminar or workshop has opened its initial session.

WSR 84-03-036
EMERGENCY RULES
LOTTERY COMMISSION
 [Order 50—Filed January 11, 1984]

Be it resolved by the State Lottery Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to criteria for Instant Game Number 8, amending WAC 315-11-101.

We, the State Lottery Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this amendment deletes the envelope size limitations for entry into the Grand Prize Drawing process for Instant Game Number 8. It is necessary to make the rule consistent with other

information readily available to players which does not include the envelope size limitations. Without this amendment, the lottery would have to reject envelopes not conforming to the size requirements. Delaying implementation of this rule would be contrary to the public interest.

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

This rule is promulgated pursuant to RCW 67.70.040 and 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, 1984.

By Kevin M. Ryan
 Assistant Attorney General
 for Lawrence G. Waldt
 Chairman

AMENDATORY SECTION (Amending Order 43, filed 12/8/83)

WAC 315-11-101 CRITERIA FOR INSTANT GAME NUMBER 8. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets – An instant prize winning ticket is determined in Instant Game Number 8 in the following manner: add the five Play Numbers on the ticket. If the total exceeds 100 (\$1.00), the ticket is a winner of the prize determined by the "Prize Symbol" in the Prize Box. The "Prize Symbols" have the following instant prize values:

<u>Prize Symbol</u>	<u>Prize Value</u>
ENTRY	Entry in the preliminary drawing for the Grand Prize Drawing
TICKET	One free ticket
\$2.00	\$2.00 (two dollars)
\$5.00	\$5.00 (five dollars)
50.00	\$50.00 (fifty dollars)
\$100.00	\$100.00 (one hundred dollars)
\$1,000	\$1,000 (one thousand dollars)
25,000	\$25,000 (twenty-five thousand dollars)

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements, to the particular ticket validation requirements for Instant Game Number 8, and to the requirements set out on the back of each ticket.

(5) Instant prize winning tickets shall be redeemed in the manner set out on the back of the ticket and in the player's brochure.

(6) Grand Prize Drawing for Instant Game Number 8 – Participants in the preliminary drawing for the Grand Prize Drawing shall be determined as follows:

(a) The legible name and address of one and only one eligible player must be present on the back of each ticket

which is a winning "Entry" ticket or on a separate sheet of paper.

(b) The ticket constituting the entry into the preliminary drawing for the Grand Prize Drawing must have been mailed (~~in an envelope no larger than 4-1/2" x 10-3/8"~~) to the correct address as advertised by the lottery and received within 14 days of the announced end of Instant Game Number 8 in the manner prescribed on the back of the instant ticket. The lottery is not responsible for any entries that are not received by the lottery prior to the deadline.

(c) Each ticket must be a valid Instant Game Number 8 "Loose Change" ticket.

One Grand Prize Drawing will be held for Instant Game Number 8 after that game's conclusion at a time and place and pursuant to methods to be announced by the director. The prizes awarded in the Grand Prize Drawing will be: first prize, \$1,000 a week for life, with the weekly prize payment starting at age 18 or older, with a minimum payment of \$1,000,000 being guaranteed; second prize, \$500,000 paid as \$50,000 per year for 10 years, third prize, \$200,000 paid as \$20,000 a year for 10 years, fourth prize, \$75,000 cash; fifth and sixth prizes, \$50,000 cash each; seventh and eighth prizes: \$25,000 cash each; and, ninth and tenth prizes, \$10,000 cash each. The director reserves the right, as provided by WAC 315-10-030 (7)(a), to place any ticket bearer who is entitled to entry in the Grand Prize Drawing whose entry was not entered into the preliminary drawing for such Grand Prize Drawing and who is subsequently determined to have been entitled to such entry, into a preliminary drawing of a subsequent instant game Grand Prize Drawing having equal (or greater) Grand Prizes available.

(7) Notwithstanding any other provisions of these rules, the director may: (a) vary the length of Instant Game Number 8, and/or (b) vary the number of tickets sold in Instant Game Number 8 and the number of Grand Prize Drawing winners in a manner that will maintain the estimated average odds of winning a Grand Prize Drawing.

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

WSR 84-03-027
PROPOSED RULES
DEPARTMENT OF LICENSING
(Securities Division)
 [Filed January 11, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Licensing intends to adopt, amend, or repeal rules concerning the registration and exemption of securities,

hi-tech exemption from the cheap stock rule, WAC 460-16A-109;

that the agency will at 10:00 a.m., Tuesday, March 6, 1984, in the Fourth Floor Conference Room, Highways-Licenses Building, 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 21.20.450.

The specific statute these rules are intended to implement is RCW 21.20.280(8).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 5, 1984.

Dated: January 11, 1984

By: John Gonzalez
 Director

STATEMENT OF PURPOSE

Name of Agency: Department of Licensing, Securities Division.

General Purpose of Rule: To create an exemption from the cheap stock rule of WAC 460-16A-106 and 460-16A-107 for hi-tech companies.

Statutory Authority: RCW 21.20.450.

Specific Statute Rule is Intended to Implement: RCW 21.20.280(8).

Summary of the Rules: Adopting WAC 460-16A-109, Hi-tech exemption from cheap stock rule, creating an exemption from the cheap stock rule of WAC 460-16A-106 and 460-16A-107 for companies primarily engaged in the development or production of a new product or products that involve new technology, and that have developed their principal products to the stage of having working prototypes.

Reason Proposed: This rule is proposed to implement the recommendations of the Emergency Commission on Economic Development.

Responsible Department Personnel: In addition to the director of the Department of Licensing, the following agency personnel have responsibility for drafting, implementing and enforcing these rules: Joan Baird, Assistant Director, Professional Licensing, 3rd Floor, Highways-Licenses Building, 234-1369 scan, 753-1369; and Jack Beyers, Assistant Administrator, Securities, 6th Floor, Highways-Licenses Building, 234-6928 scan, 753-6928.

NEW SECTION

WAC 460-16A-109 HI-TECH EXEMPTION FROM CHEAP STOCK RULE. (1) "Hi-Tech companies" do not have to comply with the provisions of WAC 460-16A-106, WAC 460-16A-107, and WAC 460-46A-050.

(2) For the purposes of this section "Hi-Tech company" means a company that is primarily engaged in the development or production, for commercial marketing, of a new product or products that involve new technology. The principal product or products must be developed at least to the stage of having a working prototype or example and shall include computer software and products of genetic engineering.

WSR 84-03-028

ADOPTED RULES

SEATTLE COMMUNITY COLLEGE

[Order 42, Resolution No. 1984-1—Filed January 12, 1984]

Be it resolved by the board of trustees of Seattle Community College District VI, acting at the Board Room, North Seattle Community College, that it does adopt the annexed rules relating to Seattle Community College district student policies and procedures, chapter 132F-120 WAC.

This action is taken pursuant to Notice No. WSR 83-22-082 filed with the code reviser on November 2, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 28B.19.050(2).

This rule is promulgated pursuant to chapter 28B.50 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the institution has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 9, 1984.

By Philip L. Burton
Chairman, Board of Trustees

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-020 STUDENTS' RIGHT TO PRIVACY. The Seattle Community College District shall respect the students' right to privacy. Accordingly, it will not inquire into the activities of its students away from the campus (~~where their behavior is subject to regulation and control by public authorities~~).

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-030 STUDENT PROGRAMS. Seattle Community College District recognizes the need to provide ((its)) students with the opportunity for personal growth ((and development beyond the curricular offering of instruction. It is the purpose of student programs to meet needs in the areas of social and personal growth through opportunities for cultural, leadership, recreational and athletic experiences. In addition, student programs provide student support services within the scope of the campus, designed to enhance the students' abilities to achieve educational goals. It is by means of student programs that the college offers students the maximum opportunity to realize fully the potential of their collegiate experience within the constraints of its mission and legal authority)). Student programs enhance social and personal growth through cultural, recreational, athletic, and leadership experiences. These programs also provide student support services within the scope of the campus. Thus, such programs enable students to more fully realize the potential of their college experience.

The operations of student programs and activities within the Seattle Community College District should facilitate an appropriate sharing of responsibilities and decision-making opportunities among the officially recognized student governmental organization and the campus administration who are accountable for effective administration of college functions. Final authority resides with the board of trustees.

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-040 STUDENT PROGRAM DEVELOPMENT. The Seattle Community College District recognizes the special role that students play in the development and maintenance of student programs. On each campus the students shall be represented by the ~~((designated student governing body))~~ recognized student governmental organization. The ((designated administrative officer)) student government, in cooperation with the professional staff having direct responsibility for the conduct of student programs, will assure a broad selection of student programs open to ((the)) all students and ((and)) other interested members of the college community.

NEW SECTION

WAC 132F-120-041 DEFINITION. "Student Programs and Activities" means functions recognized by the student governmental organization; or recommended by the services and activities fees committee or campus administration and formally authorized by the board of trustees.

NEW SECTION

WAC 132F-120-042 OPERATION OF STUDENT PROGRAMS. Student programs and activities shall be operated under regulations and policies officially adopted by the board of trustees, including the constitution of the recognized student government and campus regulations pursuant to chapter 28B.15 RCW. Day-to-day operational responsibilities on each campus are normally delegated to the dean of students and the professional staff with direct responsibility for the conduct of student activities.

NEW SECTION

WAC 132F-120-043 PROGRAM EXPENDITURES. Services and activities fee expenditures for programs devoted to political or economic philosophies shall result in the presentation of a spectrum of ideas.

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-050 STUDENT ORGANIZATIONS. (1) Organizations may be established within the ~~((college))~~ campuses for any legal purpose, whether their aims are religious, political, educational, economic, or social. Affiliation with an external organization shall not disqualify the ~~((college))~~ campus-based branch or chapter from ~~((college))~~ district privileges: Membership

in all ~~((college))~~ campus-related organizations shall be open to any member of the college community who is willing to subscribe to the stated aims of the organization.

(2) The ~~((college))~~ campuses shall not require membership lists of any organization, but ~~((it))~~ may require as a condition of access to college funds and facilities ~~((; the names and addresses of officers or four representatives and at least one shall be responsible to the college))~~ demonstration or proof of involvement of students or members of the campus community in the organization, which may include the names and addresses of its officers. Organizations may select to submit a membership list as one means of providing proof of involvement.

(3) It is not necessary to have a ~~((college))~~ campus staff member as an advisor in order to function as an organization; however, it is a requirement for the use of ~~((college))~~ services and activities funds.

(4) Where funds are allocated to a student organization, financial accountability will be required, including a statement of income and expenses on a regular basis. Organizations receiving funds allocated by the ~~((designated student governing body shall submit to the designated administrative officer a statement of their income and expenditures which will be recorded as an integral part of the college's budget and accounting system by the designated representative of the organization))~~ board of trustees shall abide by the policies and procedures outlined in the approved student government constitution on that campus, campus regulations, and district policies and procedures. Further, such organizations shall keep records of their income and expenditures for the purpose of reconciling such records with the campus budget and accounting system. Financial information is to be made mutually available by such organizations and the designated administrative officer.

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-070 USE OF THE COLLEGE NAME. (1) No individual, group, or organization may use the Seattle Community College District or campus name without written authorization from the designated administrative officer.

(2) ~~((College))~~ District and/or campus approval or disapproval of any external policy or position may not be stated or implied by an individual, group or organization.

(3) Use of all seals and/or symbols of the ~~((college))~~ district and/or campus except where further restricted by board policy shall be regulated as is use of the college name.

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-080 STUDENT EXPRESSION AND EVALUATION. (1) The Seattle Community College District recognizes the rights of students to freedom of discussion and expression of views. It is the responsibility of the instructor to insure and encourage

the realization, not only of the fact, but of the spirit of free inquiry.

(2) In particular, students must be guaranteed fair and consistent course evaluation from the instructor. Instructors have the responsibility to maintain order, but this authority must not be used to inhibit the expression of views contrary to their own.

(3) It is the responsibility of the student to support the instructor's efforts to assure freedom of expression and to maintain order. It is consistent with the concept of freedom in the classroom for the instructor to require participation in classroom discussion or submission of written materials relevant to the course. Evaluation of skills or intellectual capacity should not threaten the right to privacy. Fair and professional course evaluation is a legitimate classroom experience.

(4) Information about student views, beliefs and political associations which is acquired by instructors in the course of their work is confidential and shall not be disclosed to others.

(5) As constituents of ~~((the))~~ a college community, students must be free, individually and collectively, to express their views on issues of institutional policy and on matters of general interest to the student body. Individuals affected by a policy shall have ample opportunity to express their viewpoint.

(6) On-campus recruitment of students for lawful employment is an appropriate adjunct to the educational process. ~~((College))~~ Campus participation in the placement process is a service function assumed by the ~~((college))~~ campus. So long as any recruitment is permitted on campus, ~~((every))~~ students enrolled in the ~~((college has))~~ campus have the right to be interviewed. Similarly, any student or group of students has the right ~~((to dissent from the appearance on campus of any organization, provided that the dissent does not interfere with other students' opportunity to participate in such an interview))~~ not to participate in programs and services of organizations, associations, firms, etc., approved by the administration.

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-090 STUDENT COMPLAINTS. Seattle Community College District shall establish a process whereby students may file a complaint against any member of the college community. Students who feel they have a complaint relating to an action by a member of the college community have the following procedure available:

(1) ~~((If the complaint relates to an instructor or course))~~ When a student has a complaint, ((the student)) he/she is encouraged first to consult with ((an instructor)) the person involved before initiating ((the)) a complaint.

(2) ~~((If))~~ When the student determines the complaint may be handled more appropriately without the ((instructor)) person's involvement, ((the)) a student may ((contact the head of the appropriate division/department or the designated administrative officer)) consult with a counselor to assist in determining

the appropriate course of action or the student may contact the head of the appropriate division/department or its designated complaints officer.

(3) ~~((f))~~ When complaints filed with the head of the appropriate division/department have not been resolved, the student may bring the ((format)) complaint to the ((administrative)) complaints officer designated by the president for further action.

(4) The designated ~~((administrative))~~ complaints officer shall discuss the concerns outlined by the student and the options available for resolution. Should the student elect to proceed with a formal complaint, the concerns must be outlined in writing, specifying the complaint and identifying dates and persons involved as accurately as possible.

(a) When the written complaint is filed with the designated ~~((administrative))~~ complaints officer, it shall be forwarded within ten instructional days to the appropriate division/department head and other persons named in the complaint for response, within ten instructional days.

(b) Should the written response~~((s))~~ not resolve the complaint, then a conference shall be convened by the designated ~~((administrative))~~ complaints officer among all parties involved, within ten instructional days, for the purpose of achieving a resolution of the complaint.

(c) The designated ~~((administrative))~~ complaints officer shall keep all written statements, transcripts, and minutes associated with the complaint as part of the confidential files of the ((college)) campus.

(d) If the conference resolutions do not satisfy the complainant, the designated ~~((administrative))~~ complaints officer shall notify the appropriate dean and forward the complaint for resolution.

(5) The appropriate dean shall review the minutes, transcripts, and other pertinent statements and discuss the complaint with the parties involved. If complaints filed with the dean have not been resolved, the dean shall then issue a recommendation ((for resolution of)) to the president which offers a resolution to the complaint.

(6) The recommendations of the dean shall be reviewed by the ~~((campus))~~ president who may amend, modify, reverse or accept the recommendations, and who shall then implement the resolution of the complaint.

(7) ~~((The decision of the campus president shall be final.))~~ Appeals or formal hearings to the board of trustees shall not be provided. The decision of the president shall be final.

(8) ~~((If the complaint relates to a faculty member and is endorsed by the campus president, a grievance shall then be filed in accordance with the provisions of the current SCAFT agreement.~~

(9) ~~((No complaints requesting a grade review will be considered after two consecutive quarters, not to include summer quarter, from the date of issue for that grade. Student complaints related to grades shall be reviewed as follows:~~

(a) Students are encouraged to consult with ~~((an))~~ the instructor before initiating a grade review process as outlined in this procedure.

(b) The student shall indicate the grade received in the course together with the reason for the complaint,

specifying as accurately as possible all pertinent performance scores and attendance data. This information shall be filed in writing with the designated ~~((administrative))~~ complaints officer.

(c) When the complaint has been received by the designated ~~((administrative))~~ complaints officer, it shall be forwarded to the division/department administrator and the course instructor who reported the grade for the instructor's review and possible adjustment.

(d) The course instructor shall reply in writing, ~~((listing))~~ indicating the basis on which the decision was made and include the grade reported for the student, the evaluation criteria for the course, and the performance scores and attendance data achieved by the student in that course. The decision is transmitted to the student through the complaints officer with whom the complaint was initially filed.

(e) Ordinarily, the above process of review should be sufficient, but if the student feels there were extenuating circumstances, a conference may be requested with the division/department administrator, the course instructor and the ~~((administrative))~~ complaints officer ((with whom the complaint was originally filed)). The conference shall ((review)) investigate the circumstances of performance in the course and determine appropriate adjustments if warranted.

(f) Since the evaluation of ~~((course content))~~ the extent of course mastery is exclusively within the province of the instructor for a particular course, any adjustments or grade changes may be initiated only by that instructor((;)) or, under proven extenuating circumstances, by the appropriate dean of instruction, upon approval by the ((campus)) president.

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-100 STUDENT CONDUCT. Pursuant to the authority granted by RCW 28B.50.140, the board of trustees of Seattle Community College District VI hereby establishes regulations on student conduct and student discipline.

The Seattle Community College District is a public institution having special responsibility for providing instruction in higher education. As a postsecondary learning institution, the ~~((college))~~ district has an obligation to maintain conditions which are conducive to freedom of inquiry and expression in the degree compatible with the orderly conduct of its functions. For this purpose all of the campuses operated ~~((by))~~ within District VI are governed by regulations and procedures promulgated under this policy.

(1) Admission to the Seattle Community College District carries with it the presumption that students will conduct themselves as responsible members of ~~((the college))~~ a district and campus community. When students enroll in any of the campuses operated by District VI, they assume the obligation to observe standards of conduct which are appropriate to the pursuit of academic/vocational goals.

(2) Students have the obligation to:

(a) Maintain high standards of academic and personal honesty and integrity;

(b) Respect the rights of others and cooperate with all parts of the college community to insure that such rights are guaranteed, whether or not the views of those exercising such rights are consistent with their own;

(c) Refrain from those actions which would interfere with the ((college)) campus functions or endanger the health, safety, welfare or property of others;

(d) Comply with and support Seattle Community College District rules and regulations;

(e) Comply with and support duly constituted civil authority.

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-110 MISCONDUCT. The Seattle Community College District defines misconduct as that which adversely affects the institution's pursuit of its educational objectives.

Irresponsible behavior for which the ((college)) campuses may impose sanctions is defined as follows:

(1) Academic dishonesty, to include cheating, plagiarism, or knowingly furnishing false information to the ((college)) campuses.

(2) The intentional making of false statements and/or filing of false charges against the ((college)) campuses and members of the ((college)) district community.

(3) Forgery, alteration or misuse of ((college)) campus or district documents, records, funds or instruments of identification with the intent to defraud.

(4) The intentional obstruction or disruption of teaching research, administration, disciplinary proceedings or other ((college)) campus activities, including public service functions and other authorized activities on ((college)) campus premises.

(5) Physical and/or verbal abuse of any person on ((college)) campus premises or at any ((college)) campus-sponsored or ((college)) campus-supervised function; or conduct which threatens or endangers the health and safety of any such person.

(6) Theft from or damage to college premises and/or property or theft of or damage to property of a member of the ((college)) district community or ((college)) campus premises.

(7) Possession, use or furnishing on ((college)) campus premises of intoxicating beverages and controlled substances or unlawful drugs where prohibited by law or ((college)) district and campus regulations (~~and controlled substances or unlawful drugs~~).

(8) Failure to comply with the direction of ((college)) campus officials acting in the legitimate performance of their duties.

(9) Violation of published ((college)) district and/or campus regulations which may from time-to-time be properly enacted.

(10) Possession of firearms, even if licensed to do so except commissioned police officers as prescribed by law.

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-120 DISCIPLINARY ACTIONS. Ordinarily, disciplinary proceedings will be

conducted informally between the student and the dean of students in matters alleging misconduct as outlined in this procedure. More formal procedures are provided, including an appeal to the committee on conduct and standards. In all situations involving allegations of misconduct in hearings before the dean of students or on appeal to the committee on conduct and standards, basic standards of fairness will be observed.

(1) In handling allegations of misconduct, a record of all hearings shall be kept. These records shall be set down in writing and shall contain the following:

(a) The determination of fact — a statement of the charges against a student.

(b) Conclusions — the truth or falsity of the charges against a student; whether the allegation is, in fact, a violation of college standards of conduct.

(c) Recommendations of sanctions which should be imposed.

(2) If questions of mental or physical health are raised relating to conduct cases, the dean of students may request the student to appear for examination before a physician-consultant mutually agreed upon by the dean of students and the student. The physician-consultant, after examining the student, shall make a recommendation to the dean of students as to whether the case should be handled as a case for medical or other treatment. Decisions based upon these recommendations by the dean of students may be appealed in accordance with the provisions for appeals.

(3) ((College)) Campus authority and civil law:

(a) If a student is charged with an off-campus violation of law, the matter shall be of no disciplinary concern to the ((college)) campus unless the student is incarcerated and unable to comply with academic requirements.

(b) If the violation of law occurs on campus and is also a violation of a published ((college)) campus regulation, the ((college)) campus may institute its own proceedings against the offender if the ((college)) campus interest involved is clearly distinct from that of the outside community.

(c) The ((college)) campus shall in no case proceed with a sanction that, in fact or appearance, duplicates punishment for the same offense unless the interests of the ((college)) campus are implicated in some separate way by the violation of law.

(4) A student who has been judged to violate ((college)) campus standards of conduct will be subject to disciplinary sanctions up to and including dismissal from the ((college)) campus for the most serious offenses.

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-130 JURISDICTION. (1) The dean of students at each campus is responsible for initiating disciplinary proceedings for infractions of the rules and regulations of the ((college)) campus or for misconduct as defined in this procedure.

(2) Misconduct in course work by a student enrolled in a program under the jurisdiction of a division shall be reported to the chairman of that division in which the student is enrolled. The division chairman is responsible

for taking or initiating appropriate disciplinary action in matters related to misconduct in course work and referring in writing such cases for review to the dean of students of each campus.

(3) The provisions of these procedures do not apply to the evaluation of the student's course performance including the assignment of grades by instructors. District policy ~~((315))~~ 370, student complaints, provides a process for the review of grades if such review is requested by the student. An instructor need not give credit for work which is the product of cheating, plagiarism or other ~~((course))~~ student misconduct. However, the lowering of a course grade is not appropriate as a disciplinary sanction. If disciplinary action is warranted by course misconduct, it will be initiated by the provisions of these procedures.

(4) An instructor has the authority to exclude a student from any class session in which the student is disorderly or disruptive. The instructor should report the incident of disruptive or disorderly behavior to the division chairman who shall refer the matter in writing to the dean of students of the campus in which the student is enrolled. The dean may initiate disciplinary action as provided in this procedure.

(5) Reports of misconduct as defined in this procedure by a student enrolled ~~((in the college))~~ at the campus and engaged in activities in other areas of the campus or in student programs shall be reported to the dean of students. The dean may initiate disciplinary action as provided in these procedures.

(6) Library borrowing and use regulations (consisting of fines for late return of library materials and repair and replacement for ~~((damage))~~ damaged or lost materials) are under the jurisdiction of each campus instructional resource center. The director of the instructional resource center has authority to decide cases involving alleged violations of rules. Appeals of the decisions of the director of the instructional resource center may be made according to the provisions of the appeal procedure.

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-150 APPEALS/REFERRALS. Any disciplinary action taken by the campus deans of students ~~((of District VI))~~ or their representatives or duly designated committees may be appealed by the student to the committee on conduct and standards with the following conditions:

(1) If a student chooses to make an appeal, the committee on conduct and standards will base its decision on the record of the proceedings in the initial hearing, or if it chooses, may receive additional evidence or rehear the case entirely. The committee may sustain, reduce or vacate the penalty initially imposed.

(2) The committee may elect to designate a hearing officer to hear cases on appeal and make recommendations for disposition to the committee on conduct and standards. In instances where the committee designates a hearing officer, such hearings shall be held under the procedures outlined herein and a full record shall be kept of such proceedings.

(3) A student wishing to appeal to the committee on conduct and standards shall indicate that intention in writing within five instructional days of the original decision to the ~~((chairperson))~~ chair of the committee on conduct and standards.

(4) Sanctions imposed by the committee on conduct and standards shall be reviewed by the ~~((campus))~~ president of the campus in which the student is enrolled. The president may sustain or amend the sanction recommended by the committee on conduct and standards. There shall be no appeal beyond the campus president in which the student is enrolled except as outlined in RCW 28B.19.150.

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-160 CAMPUS COMMITTEE ON CONDUCT AND STANDARDS. (1) A standing campus committee on conduct and standards, composed of administrative, faculty, and student representatives, will provide a hearing and make decisions on all disciplinary cases referred to it by the deans of students or appealed to it by students who have been disciplined by the deans of students, their representatives or duly designated committees.

(2) The members of the committee and their terms of office shall be:

(a) A full-time administrator appointed by the campus president who shall serve as ~~((chairman))~~ chair for a period of four consecutive quarters. The ~~((campus))~~ president may reappoint the ~~((chairman))~~ chair if desired.

(b) Four members of the campus staff holding faculty or administrative appointments provided that not more than two members at any one time shall hold administrative appointment. The designated staff members should hold their appointments for at least one year. ~~((The))~~ These committee members shall serve terms of three consecutive quarters or until such time as their successors are appointed.

(c) Four ~~((full-fee-paying))~~ enrolled students in good standing who shall serve for three consecutive quarters. The student members who interrupt their enrollment at the ~~((college))~~ or fail to attend meetings of the committee shall be considered resigned.

(d) The committee will be impaneled at the beginning of each fall quarter.

(3) Selection of committee members:

(a) Each of the four staff positions on the committee on conduct and standards shall be ~~((identified from a panel selected by a))~~ recommended by the dean of instruction and the campus representative of the recognized faculty negotiating unit and appointed by the president.

(b) Each of the four student positions on the committee on conduct and standards shall be ~~((identified from a panel not to exceed twenty-five, randomly selected from the entire full-time student body. Should students so identified decline to serve or fail to respond, a new panel shall be drawn until such time as all student positions have been filled))~~ recommended by the ASB president in

consultation with the dean of students, and appointed by the president.

~~((c))~~ ~~((Panels of staff and students shall be maintained in advance but the names included shall not be disclosed.~~

~~((d))~~ Staff or student members may be relieved from service for a particular case or for a particular period of time by advising the ~~((chairman))~~ chair of their desire not to serve.

~~((e))~~ ~~((d))~~ No members of the committee on conduct and standards shall participate in a case in which they are a witness or have acted in an advisory capacity. A committee member's eligibility to participate in a case may be challenged for cause by either the dean of students or a designated representative initiating the case, or the student appealing the case by notifying the ~~((chairman))~~ chair five days prior to the date set for the hearing. The ~~((chairman))~~ chair shall review the challenges and if sustained, shall temporarily replace the member of the committee for the duration of the case in question.

~~((f))~~ ~~((e))~~ The ~~((chairman))~~ chair of the committee may be challenged for cause by either the dean of students, the representative initiating the case or the student appealing by submitting such challenge in writing to the campus president at least five days prior to the date set for the hearing. The president shall review the challenge and if sustained shall appoint a temporary ~~((chairman))~~ chair for the purposes of the case in question.

(4) Responsibility:

(a) It is the responsibility of the ~~((chairman))~~ chair of the committee on conduct and standards to insure that all procedural guidelines are followed, that basic standards of fairness are observed, to decide all questions of procedure that arise during or in connection with the hearing, to take whatever steps are necessary to insure that the hearing is conducted in a safe and orderly manner, and to inform the student in writing of the action taken by the committee at the conclusion of the hearing. The ~~((chairman))~~ chair shall be responsible for implementing and maintaining required panels as outlined above. The ~~((chairman))~~ chair is also responsible for notifying the appropriate offices and ~~((college))~~ campus officials of committee decisions.

(b) Committee decisions shall ordinarily be made on the basis of consensus after discussion of the evidence. For both hearing and deciding (terms of resolution), a quorum of the committee shall be five committee members with representation from each constituency.

(5) Decision of the committee:

(a) At the conclusion of a hearing, the committee shall formulate a statement outlining the facts of the case based on the evidence presented to it, the conclusions reached by the committee based on these findings, in fact, and its recommendation for action. This statement shall be made in writing and forwarded by the ~~((chairman))~~ chair to the dean of students, the student involved in the case, and the ~~((campus))~~ president.

(b) A review period of five instructional days will occur during which the ~~((campus))~~ president may accept appeals in writing from any of the parties involved in the

case. At the end of this period, the ~~((campus))~~ president will finalize action.

(c) The ~~((chairman))~~ chair and members of the committee shall continue in their offices beyond the expiration of their terms until such time as those cases initiated and convened during their term shall be concluded. In no instance shall a new case be presented to a ~~((chairman))~~ chair whose term has expired.

(d) Records of cases referred to the committee on conduct and standards shall be maintained by the ~~((chairman))~~ chair of the committee until the expiration of term. At that time all records shall be filed in the office of the dean of students and shall be maintained there in accordance with ~~((college))~~ district and/or campus and state procedures.

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-170 HEARING GUIDELINES.

(1) The student shall be accorded a fair and impartial hearing by the committee on conduct and standards on any charge of misconduct referred to the committee for initial hearing or appeal. However, the failure or refusal to appear or participate in the hearing procedure shall not preclude the committee from making its findings of fact, conclusions and decisions as provided. A notice of hearing:

(a) The ~~((chairman))~~ chair of the committee on conduct and standards shall give the student notice of the time and place for the hearing.

(b) The notice shall contain an outline of the charges, a list of witnesses who will appear, a description of any documentary, or any other evidence that will be presented at the hearing.

(c) The notice shall be given to the student in writing and shall be given ten instructional days prior to the date set for hearing.

(d) The notice may be amended at any time prior to the hearing but if such amendment is prejudicial to the student's case, the hearing date shall be rescheduled do another date.

(e) A notice for hearing shall be mailed to the student's address of record with the ~~((college))~~ campus, or it may be presented to the student in person by an appropriate campus official, or by any other reasonable means of communication. In no case shall efforts to avoid receipt of notice be allowed to interrupt the process of consideration.

(2) Students shall be entitled to hear and examine the evidence and be informed of the identity of its sources. They shall be entitled to present evidence on their own behalf and to ask questions of those appearing (as to factual matters), and present evidence and witnesses on their own behalf.

(3) The evidence and witnesses alleging that the student engaged in misconduct shall be presented by the official who initiated the charges. Only those matters presented at the hearing will be considered in the decision of the committee, but the student's past record of conduct may be taken into account in formulating the committee's recommendations for disciplinary action.

(4) The student may choose to be represented or accompanied by legal counsel and/or accompanied by an advisor. Should the student elect representation by legal counsel, the ((college)) campus official initiating the charges may also be represented by legal counsel.

(5) No one will be required to give self-incriminating evidence.

(6) Hearings conducted by the committee will be held in closed session, except when the student requests that persons other than those directly involved be invited to attend. Such requests shall be made to the ((chairman)) chair at least three days in advance of the hearing. When a hearing has been opened to other than those directly involved, the committee shall conduct the hearing in a room which will accommodate a reasonable number of invited observers. The ((chairman)) chair may exclude from the hearing room any persons that are disruptive of the proceedings and may limit the number who may attend the hearing in order to afford safety and orderliness to the participants ((of)) in the proceedings.

(7) All proceedings of the committee will be conducted with reasonable dispatch and terminated as soon as fairness to all parties permits.

(8) An adequate summary of the proceedings will be kept. Such a summary may include a recording of the testimony.

(9) The committee proceeding records shall be considered privileged information.

(10) The student will be provided with a copy of the findings-of-fact, the conclusions and sanctions if any so imposed. The student will also be advised of the right to appeal the committee's decision within five instructional days in a written statement to the ((campus)) president.

(11) If there is no appeal to the ((campus)) president, the sanction shall be in effect at the end of the five instructional day appeal period or at such other time as may be indicated by the committee.

(12) A hearing examiner may be appointed who shall be a member of the staff holding a faculty or administrative appointment or a member of the bar to conduct the hearing in accordance with these procedures and any rules adopted by the committee. The hearing examiner will provide the committee with the findings in fact, conclusions and recommendations. However, such recommendations shall not be binding on the committee which shall make its findings, conclusions and decisions based on record of the hearing. The hearing examiner shall rule on all objectives but any such ruling may be appealed to the committee for final decision.

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-180 SANCTIONS. (1) Warning: Formal action censuring the student for violation of the procedures. Warnings are made in writing to the student by the committee on conduct and standards. A warning indicates to the student that continuation of the specific conduct could result in further action by the ((college)) campus.

(2) Probation: Formal action placing conditions upon the student's continued attendance. The committee on conduct and standards will specify in writing the period

of probation and the conditions. Probation will be for a specific term or for an indefinite period which may extend to graduation or other termination of the student's enrollment ((in the college)) at the campus.

(3) Suspension: Formal action by the committee on conduct and standards dismissing a student temporarily from ((the college)) a campus for violation of procedures. Suspension may be for a stated time or for an indefinite period. The student under suspension may return to the ((college)) campus under the conditions specified by the ((college)) president or ((his)) president's designee.

(4) Expulsion: The student may be expelled from the ((college)) campus only on approval of the campus president and upon the recommendation of the dean of students and the committee on conduct and standards. There will be no refund of fees for the quarter in which the action is taken, but fees paid in advance for subsequent quarters are to be refunded.

(5) Registration denied: Formal action refusing to allow a student to register for subsequent quarters for violation of procedures. Student may be denied registration only on the approval of the campus president and upon recommendation of the dean of students. Registration will not be allowed until the initiating authority is satisfied that the conditions have been met.

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-190 REVIEW FOR READMISSION. (1) Students who have been expelled from ((the college)) a campus or denied enrollment or suspended for a particular time may apply for readmission by filing requests in writing with the dean of students of the campus in which they were enrolled at the time of disciplinary action.

(2) The dean of students shall:

(a) Review the disciplinary case resulting in termination of enrollment and determine if the subsequent actions of the student have been sufficient to warrant consideration for readmission.

(b) Should the dean of students be of the opinion that the student's behavior has been modified sufficiently to be reconsidered for enrollment, a committee shall be convened which shall review the behavior and activity of the student during the interim period and recommend appropriate action to the dean, together with any conditions for readmission.

(c) The dean of students shall submit a report to the campus president for final decision on application for readmission. The report shall include the dean's evaluation and the recommendation of the committee.

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

WAC 132F-120-200 EMERGENCY AUTHORITY OF THE CAMPUS PRESIDENT. Ordinarily, disciplinary actions will be imposed only after the appropriate informal or formal hearing procedures have been invoked. However, the campus president or his

authorized representative, by virtue of the authority delegated to him by the board of trustees (WAC 132F-136-050) under conditions which the president or authorized representative deems to be an emergency situation, may suspend the student((s)) from participation in any or all ((college)) campus privileges, pending the application of the ((college)) campus conduct procedures outlined herein, in order to protect the safety and property of members of the ((college)) campus community or to assure the ((college's)) campus' ability to function. In any case in which this provision is invoked, the student or students in question are entitled to an early hearing before the deans of students or their representatives, or duly designated committees and to appeal before the committee on conduct and standards as outlined in the provisions of these procedures.

NEW SECTION

WAC 132F-120-210 INTERCOLLEGIATE ATHLETIC PROGRAMS. (1) It is the general policy of the Seattle Community College District that if intercollegiate athletic programs exist on any of its campuses the purposes shall be to:

- (a) Enhance individual student development.
- (b) Build a sense of identity with the college.
- (c) Strengthen the bond between the college and the community.
- (d) Foster cooperation and competition as important components of adult life.

(2) In the event that an intercollegiate athletic program exists the campus administration shall adopt regulations to assure that the program affords opportunities for participation to as wide a segment of the campus population as possible.

(3) Intercollegiate athletics will be conducted according to guidelines and policy established by the designated community college athletic association.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132F-120-510 DEFINITIONS.

WSR 84-03-029
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)

[Order 226—Filed January 12, 1984]

Be it resolved by the State Game Commission, acting at Olympia, that it does adopt the annexed rules relating to closure of Marine Areas 8A and 9 and the Stillaguamish River system to the taking of steelhead trout by treaty Indians, WAC 232-32-159.

We, the Game Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would

be contrary to public interest. A statement of the facts constituting the emergency is data gathered by the Department of Game from the Stillaguamish and Tulalip tribes and fish buyers reporting sales of steelhead harvested by treaty Indian fishermen from Marine Areas 8A and 9 and the Stillaguamish River system (pursuant to the reporting system approved by the United States District Court in *U.S. 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 Marine Areas 8A and 9 and the Stillaguamish River system 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 is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 11, 1984.

By Vern E. Ziegler
Chairman, Game Commission

NEW SECTION

WAC 232-32-159 EMERGENCY CLOSURE OF MARINE AREA 8A AND 9 AND STILLAGUAMISH RIVER SYSTEM TO THE TAKING OF STEELHEAD TROUT BY TREATY INDIANS. *Effective January 12, 1984, 2:00 p.m., it is unlawful for treaty Indians to take, fish for, or possess steelhead trout from or in Marine Areas 8A and 9 and the Stillaguamish River system.*

WSR 84-03-030
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)

[Order 227—Filed January 13, 1984]

Be it resolved by the State Game Commission, acting at Olympia, by conference call, that it does adopt the annexed rules relating to closure of the Chehalis tribal on-reservation fishery on the Chehalis River system to the taking of steelhead trout by Chehalis tribal members, WAC 232-32-161.

We, the Game Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is data gathered by the Department of Game from fish buyers reporting sales of steelhead harvested on reservation by Chehalis tribal

fishermen on the Chehalis River (pursuant to the reporting system approved by the United States District Court in *U.S. vs. Washington*) indicates that the Chehalis tribal on-reservation allocation of steelhead trout has been reached or exceeded. Therefore, it is necessary to close the Chehalis tribal on-reservation fishery.

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 is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 13, 1984.

By Vern E. Ziegler
Chairman, Game Commission

NEW SECTION

WAC 232-32-161 CLOSURE OF THE CHEHALIS TRIBAL ON-RESERVATION FISHERY ON THE CHEHALIS RIVER SYSTEM TO THE TAKING OF STEELHEAD TROUT BY CHEHALIS TRIBAL MEMBERS. Effective 5:00 p.m., January 14, 1984, it is unlawful for Chehalis tribal members to take, fish for or possess steelhead trout in or from the Chehalis River system.

WSR 84-03-031
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)
[Order 228—Filed January 13, 1984]

Be it resolved by the State Game Commission, acting at Olympia, by conference call, that it does adopt the annexed rules relating to closure of the Quinault River system to gill nets, WAC 232-32-162.

We, the Game Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the 1983-84 wild run of steelhead trout to the upper Quinault River is estimated to be less than the number needed for spawning escapement. Therefore, the maximum allowable catch of wild fish destined for the upper river incidental to fisheries for hatchery-reared steelhead is 10%.

Data gathered by the Department of Game for the Quinault Tribe regarding sales of steelhead harvested by treaty Indian fishermen from the Quinault River system indicates that the treaty Indian share of wild steelhead destined for the upper Quinault River has been reached or exceeded on the effective date of this order.

Nonselective gear (such as gill nets) and fishing methods that prevent the unharmed release of wild steelhead trout must be prohibited so that further harvest of upper river wild fish by treaty Indians does not occur this season.

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

This rule is promulgated pursuant to RCW 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 13, 1984.

By Vern E. Ziegler
Chairman, Game Commission

NEW SECTION

WAC 232-32-162 CLOSURE OF THE QUINAULT RIVER SYSTEM TO GILL NETS. Effective 5:00 p.m., January 18, 1984, it is unlawful for treaty Indians to fish for, take or possess steelhead trout with gillnet gear or in from the Quinault River system. It is unlawful for any treaty Indian to possess or retain any wild steelhead trout destined for the Quinault River above Quinault Lake. Wild steelhead trout are defined as steelhead trout with no clipped fins and a dorsal fin equal to or greater than 2 1/4 inches in height (measured when fully extended). It is unlawful to possess a steelhead with a dorsal fin measuring equal to or greater than 2 1/4 inches in height or to possess a steelhead with a freshly cut or mutilated fin.

WSR 84-03-032
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION
[Filed January 13, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Transportation intends to repeal rules concerning WAC 468-58-110, State Route 5, Seattle Freeway. This rule prohibits right turns from the southbound off ramp of SR 5 to westbound on Dearborn Street. With the revision to RCW 34.04.010 and the right turn prohibition no longer required, this rule should be deleted from WAC;

that the agency will at 10:00 a.m., Tuesday, February 21, 1984, in the Board Room, Transportation Building, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 34.04.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 17, 1984.

Dated: January 13, 1984
 By: V. W. Korf
 Deputy Secretary

STATEMENT OF PURPOSE

Title: WAC 468-58-110, State Route 5, Seattle Freeway.

Description of Purpose: To delete WAC 468-58-110, State Route 5, Seattle Freeway, right turn prohibition.

Statutory Authority: RCW 34.04.010.

Summary of Rule: Deletes the rule prohibiting right turns from the southbound off ramp of SR 5 to westbound on Dearborn Street from WAC.

Reason for Rule: This rule was initiated in expectation of traffic problems arising during major events at the Kingdome. The anticipated situation never developed. Therefore, with the revision to RCW 34.04.010 and the right turn prohibition no longer required, this rule should be deleted from 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 1C9, 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 section of the Washington Administrative Code is repealed:

WAC 468-58-110 STATE ROUTE 5.

WSR 84-03-033

PROPOSED RULES

DEPARTMENT OF TRANSPORTATION

[Filed January 13, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Transportation intends to adopt rules concerning WAC 468-38-135, "transportation of radioactive or hazardous materials," which sets forth procedures for giving notice to transporters of placarded radioactive or hazardous cargo of times when transportation of such cargo is prohibited; that the agency will at 10:00 a.m., Tuesday, February 21, 1984, in the Board Room, Transportation Building, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 47.01.270, 47.48.010 and 47.48.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 17, 1984.

Dated: January 13, 1984
 By: V. W. Korf
 Deputy Secretary

STATEMENT OF PURPOSE

Title: WAC 468-38-135.

Description of Purpose: The adoption of WAC 468-38-135, Transportation of radioactive or hazardous materials, as prescribed in Substitute Senate Bill No. 3026.

Statutory Authority: RCW 47.01.270, 47.48.010 and 47.48.050.

Summary of Rule: The Department of Transportation and Washington State Patrol shall exchange notices of conditions requiring closure of the highway and termination of the closure. The Washington State Patrol or Department of Transportation shall manually control traffic until the Department of Transportation installs traffic control devices or until the closure is terminated. The Washington State Patrol shall provide notices of both the imposition and lifting of the closure through the news media, affected law enforcement agencies, and other appropriate organizations.

Reason for Rule: RCW 47.01.270 requires the Department of Transportation to adopt procedures for giving notice to transporters of placarded radioactive or hazardous cargo of times when transportation of such cargo is prohibited.

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 1C9, 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.

NEW SECTION

WAC 468-38-135 TRANSPORTATION OF RADIOACTIVE OR HAZARDOUS MATERIALS. Under provision of chapter 47.48 RCW, the chief of the Washington state patrol or the secretary of transportation or their designees may close a section (or sections) of highways of the state to transporters of placarded radioactive or hazardous cargo because of weather or other conditions that create a substantial risk to public safety. The department of transportation and Washington state patrol shall exchange notices of conditions requiring the closure of the highway and when conditions enable the closure to be terminated. The Washington state patrol or department of transportation shall manually control traffic until the closure is terminated or, if appropriate, until the time the department of transportation installs traffic control devices related to the closure. The Washington state patrol shall provide notice of both the imposition and lifting of the closure to placarded transporters through notices to news media, affected local law enforcement agencies, and other appropriate organizations, both public and private.

WSR 84-03-034
EMERGENCY RULES
DEPARTMENT OF TRANSPORTATION
 [Order 87—Filed January 13, 1984]

I, Duane Berentson, Secretary of Transportation, do promulgate and adopt at Room 1D9, Transportation Building, Olympia, Washington 98504, the annexed rules relating to the adoption of WAC 468-38-135, "transportation of radioactive or hazardous materials," which sets forth procedures for giving notice to transporters of placarded radioactive or hazardous cargo of times when transportation of such cargo is prohibited.

I, Duane Berentson, Secretary of Transportation, 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 transportation of radioactive or hazardous cargo during periods of severe weather conditions may create a substantial risk to public safety which could require application of this rule.

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 Transportation as authorized in RCW 47.01.270, 47.48.010 and 47.48.050.

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

APPROVED AND ADOPTED January 13, 1984.

By V. W. Korf
Deputy Secretary

NEW SECTION

WAC 468-38-135 TRANSPORTATION OF RADIOACTIVE OR HAZARDOUS MATERIALS. *Under provision of chapter 47.48 RCW, the chief of the Washington state patrol or the secretary of transportation or their designees may close a section (or sections) of highways of the state to transporters of placarded radioactive or hazardous cargo because of weather or other conditions that create a substantial risk to public safety. The department of transportation and Washington state patrol shall exchange notices of conditions requiring the closure of the highway and when conditions enable the closure to be terminated. The Washington state patrol or department of transportation shall manually control traffic until the closure is terminated or, if appropriate, until the time the department of transportation installs traffic control devices related to the closure. The Washington state patrol shall provide notice of both the imposition and lifting of the closure to placarded transporters through notices to news media, affected local law enforcement agencies, and other appropriate organizations, both public and private.*

WSR 84-03-035
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 2065—Filed January 13, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Voluntary admission—Involuntary commitment, treatment and/or evaluation of mentally ill persons, amending chapter 275-55 WAC.

This action is taken pursuant to Notice No. WSR 83-22-009 filed with the code reviser on October 21, 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 71.05.560 which directs that the Department of Social and Health Services has authority to implement the provisions of chapter 71.05 RCW.

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

APPROVED AND ADOPTED January 4, 1984.

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

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

WAC 275-55-020 DEFINITIONS. (1) "Department" means the department of social and health services of the state of Washington.

(2) "Secretary" means the secretary of the department of social and health services or his or her designee.

(3) "Director" means the director of the mental health division of the department of social and health services or his or her designee.

(4) "Superintendent" means the superintendent of a state hospital or his or her designee.

(5) "Chapter" means chapter 275-55 WAC.

(6) "County-designated mental health professional" means a person appointed by the county to perform the duties specified in chapters 71.05(;) and 72.23 RCW, and

(a) Who meets the educational and/or experience requirements as specified in WAC 275-55-020(33)(a), (b), (c), or

(b) Where exception has been granted by the director pursuant to WAC 275-55-020(33)(d).

(7) "Professional person in charge" as used in chapters 71.05(;) and 72.23 RCW, and these rules, unless otherwise defined, means the mental health professional having chief clinical responsibility for the mental health evaluation and treatment unit within the agency, or his or her designee who must also be a mental health professional.

(8) "Available physician or other professional person" as used in RCW 71.05.090 means either a licensed physician or a mental health professional as defined in subsection (33) of this section.

(9) "Agency" means a public or private agency as specified in RCW 71.05.020(6) and (7), respectively.

(10) "Rule" means a rule within these rules and regulations.

(11) "Facility" means an evaluation and treatment facility.

(12) "Component" means any one of the three evaluation and treatment services required to be provided within an evaluation and treatment program as specified by RCW 71.05.020(16) and WAC 275-55-020(14)(a) and (b), and required to be certified as specified by WAC 275-55-020(13)(b).

(13) "Evaluation and treatment facility" means a public or private agency providing one or more components in compliance with the following:

(a) The agency shall be under contract or written agreement with an evaluation and treatment program pursuant to WAC 275-55-261. Exceptions to this rule are specified in WAC 275-55-020(13)(c).

(b) Each component of the agency shall be certified by the department pursuant to WAC 275-55-261(3) and (6), and 275-55-263. Exceptions to this rule are specified in WAC 275-55-020(13)(c). Certification is required for any component serving involuntary patients. Certification of a component shall not preclude such component from also serving voluntary patients. A certified component shall comply with all rules and regulations of this chapter and with chapter 71.05 RCW as applicable to both involuntary and voluntary patients.

(c) Exceptions:

(i) Any agency operating a component serving voluntary patients exclusively will not require certification of such component nor require being under contract to an evaluation and treatment program.

(ii) A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility.

(iii) A facility which is part of, or operated by, the department or any federal agency will not require certification of the facility's component or components nor require being under contract to an evaluation and treatment program.

(14) "Evaluation and treatment program" means a coordinated system of evaluation and treatment services administered by an agency or a county pursuant to RCW 71.05.020(16) and WAC 275-55-261, and is provided to involuntary patients and to persons voluntarily seeking treatment for a mental disorder.

(a) Such evaluation and treatment services shall include at least all three of, but are not limited to, the following components:

(i) Outpatient.

(ii) Emergency.

(iii) Short-term inpatient.

(b) Such evaluation and treatment services shall be provided by an evaluation and treatment facility or facilities.

(15) "Medical evaluation" means an evaluation performed by a licensed physician including both a mental status and physical examination.

(16) "Patient" means a person admitted to an agency, facility, or component, voluntarily or involuntarily, for observation, evaluation, care, and/or treatment for a mental disorder.

(17) "Mental disorder" means any organic, mental, or emotional impairment having substantial adverse effects on an individual's cognitive or volitional functions, classified in accordance with the current diagnostic and statistical manual of the American psychiatric association.

(18) "Involuntary patient" means a person who, as a result of a mental disorder, presents a likelihood of serious harm (RCW 71.05.020(3)) or is gravely disabled (RCW 71.05.020(1)), and is initially detained and/or court-committed for evaluation and treatment.

(19) "Detention" means a person being held in a facility involuntarily pursuant to applicable sections of chapter 71.05 RCW, and the person not being permitted willful physical movement beyond the facility without express prior permission.

(20) "Initial detention" means the first seventy-two hour period, or part thereof, or involuntary evaluation and treatment required by a petition for initial detention, emergency detention, or supplementary petition for initial detention.

(21) "Seventy-two hour period" shall be computed to:

(a) Start on the time and date the inpatient or outpatient component of the evaluation and treatment facility provisionally accepts the person to be detained as specified in RCW 71.05.170, and

(b) Exclude Saturdays, Sundays, and holidays.

(22) Deleted.

(23) "Admission" means acceptance of a person as an inpatient or outpatient by the facility.

(24) "Discharge" means release of a patient from a component or from a facility.

(25) "Transfer," unless otherwise defined, means a move of the patient by a facility between treatment services or components of the facility, or between facilities, and may or may not include a discharge from the transferring service, component, or facility.

(26) "Release from commitment" means legal termination of the order of commitment.

(27) "Early release" means release of the involuntary patient from the order of commitment prior to the original expiration date of the commitment order.

(28) "Conditional release" means a transfer of the involuntary patient from inpatient to outpatient treatment pursuant to conditions specified for the patient by the transferring facility or component. The involuntary patient remains under order of commitment.

(29) "Shock treatment" means electroconvulsive therapy.

(30) Whenever used in this chapter, the masculine shall include the feminine and the singular shall include the plural.

(31) "County" means a county, or a combination((s)) of counties jointly agreeing to provide or cause to be provided the services required by this section.

(32) "Coordinator" means county mental health coordinator, and is the person appointed by the county to supervise and/or otherwise coordinate the community mental health program services of a county.

(33) "Mental health professional" means a person regularly involved in mental health evaluation and treatment, and qualifying as one of the following:

(a) A psychiatrist, psychologist, psychiatric nurse, or social worker.

(b) A person with a masters degree or further advanced degree in counseling or one of the social sciences from an accredited college or university. Such person shall have, in addition, at least two years of experience in direct treatment of mentally ill or emotionally disturbed persons, such experience gained under the supervision of a mental health professional.

(c) A licensed physician permitted to practice medicine or osteopathy in the state of Washington.

(d) A person otherwise qualified to perform the duties of a mental health professional but does not meet the requirements listed in subsection (33)(a), (b), or (c) of this section, where an exception to such requirements has been granted by the director upon submission of a written request by the county involved, such request to document the following:

(i) The extent to which the county has made an effort to provide and has the capability of providing a mental health professional;

(ii) The amount and type of employment experience the applicant possesses. Such an applicant shall have had at least three years' experience in the direct treatment of mentally ill or emotionally disturbed persons, such experience gained under the supervision of a mental health professional, as defined under subsection (33)(a), (b), or (c) of this section;

(iii) The overall needs of the mental health program in the particular county involved; and

(iv) Such factors as shall be brought to the attention of the director by the county involved.

(34) "Psychiatrist" means a physician licensed to practice medicine in the state of Washington having, in addition, completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association.

(35) "Psychologist" means persons defined as such in RCW 71.05.020(14).

(36) "Social worker" means persons defined as such in RCW 71.05.020(15).

(37) "Psychiatric nurse" means a registered nurse having had, in addition, at least two years' experience in the direct treatment of mentally ill or emotionally disturbed persons, such experience gained under the supervision of a mental health professional as defined in subsection (33)(a), (b), or (c) of this section.

~~((38) "Psychiatric nurse clinician" means a registered nurse.))~~ (38) "Psychiatric nurse clinician" means a registered nurse having ~~((a))~~ a masters ~~((degree or further advanced degree from an accredited college or university and whose graduate specialization was in psychiatric nursing.))~~ degree or further advanced degree

from an accredited college or university and whose graduate specialization was in psychiatric nursing.

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

WAC 275-55-161 TREATMENT PRIOR TO HEARINGS—INVOLUNTARY PATIENT. Any involuntary patient may refuse all but emergency lifesaving treatment beginning twenty-four hours prior to any hearing. On admission to the facility such patient shall be informed of his or her right to refuse all treatment except lifesaving treatment during such twenty-four hour period and shall again be so informed (~~((within one hour))~~) prior to the twenty-four hour period before court hearing. The patient shall be asked if he or she wishes to decline treatment during such twenty-four hour period, and the answer shall be in writing and signed where possible. Compliance with this procedure shall be documented in the patient's clinical record. This section does not preclude use of physical restraints and/or seclusion to protect against injury to the patient or others. (Reference RCW 71.05.200)

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

WAC 275-55-263 CERTIFICATION STANDARDS FOR EVALUATION AND TREATMENT ~~((COMPONENTS))~~ PROGRAM. (1) The following general requirements shall apply to any agency desiring certification ~~((of))~~ as a component or components ~~((in order to become an))~~ of the evaluation and treatment ~~((facility))~~ program:

(a) The spectrum of evaluation and treatment services provided by the agency shall include at least one of the following ~~((components))~~:

(i) Outpatient.

(ii) Emergency.

(iii) Short-term inpatient.

(b) The agency may directly provide one or more of the components specified in subsection (1)(a) of this section, or may indirectly provide one or more through contractual arrangement or agreements with other agencies. Such arrangements shall be set forth in WAC 275-55-261(1).

(c) One or more of the components specified in subsection (1)(a) of this section may be provided to persons under the age of eighteen only when the providing agency is in compliance with the provisions of WAC 275-55-331.

(d) The agency shall maintain a written statement describing the organizational structure, objectives, and the philosophy of the therapeutic program, such statement to include contractual affiliates (if any).

(e) The agency shall document and otherwise ensure that:

(i) Care for patients is provided in a therapeutic environment.

(ii) Patient rights as described in WAC 275-55-211 and 275-55-241 are incorporated into this environment.

(iii) The use of the least restrictive treatment alternative is considered for each patient and such consideration is documented in each patient's clinical record.

(iv) Continuity of care, coordination, and integration of services is provided.

(v) Immediate transfer from the outpatient component to the inpatient or emergency component of the agency or of the evaluation and treatment program is provided for a patient when a change in the patient's condition necessitates such transfer. In the case of the involuntary patient, such transfer shall be made pursuant to RCW 71.05.340(3). Patients within any component can and will be transferred without unreasonable delay to any other component, and the patient's necessary clinical information will be made available to persons responsible for the patient's treatment within any other component. (Reference RCW 71.05.390) In the event of a referral, the original agency will maintain responsibility for follow-up of the patient until such time as the receiving agency may assume primary service responsibility.

(vi) Referral services and assistance in obtaining supportive services appropriate to treatment including, but not limited to, ~~((casework))~~ community support services, vocational rehabilitation, and legal services, are provided to each patient.

(f) The agency desiring certification of the agency's component or components shall make application for such certification pursuant to WAC 275-55-261(3).

(2) In addition to the requirements specified for each in WAC 275-55-271, 275-55-281, and 275-55-291, the following general requirements shall apply to all facilities:

(a) Admissions. Admission to the inpatient component shall not be denied except under the following circumstances:

(i) There is a determination the person does not present a likelihood of serious harm, or an imminent likelihood of serious harm, or the person is not gravely disabled, and does not require inpatient care. Reference RCW 71.05.190 for necessary action in this case.

(ii) The person requires specialized medical care and support services of a type not provided by the facility.

(iii) A greater degree of control is required than can be provided by the facility.

(iv) No treatment space is available and is so documented.

(v) A less restrictive alternative provided by another facility is more appropriate and available.

(vi) For situations arising pursuant to subsection (2)(a)(ii) through (iv) of this section, the county-designated mental health professional shall make arrangements for the most appropriate placement ~~((elsewhere))~~ available.

(b) Admission evaluations. Within twenty-four hours of ~~((first admission for persons under))~~ initial detention, ~~((twenty-four hours))~~ to include Saturday, Sunday, and holidays, evaluations shall be conducted to determine the nature of the disorder, the treatment necessary, and whether or not detention is required. Such evaluations shall include at least a:

(i) Medical evaluation by a licensed physician.

(ii) Psychosocial evaluation by a mental health professional.

(c) Treatment plan and clinical record. All components shall:

(i) Maintain, for each patient, a plan of treatment, and a plan for discharge including a plan for follow-up where appropriate. Such treatment and discharge plans shall be entered in the patient's clinical record and shall be revised periodically as appropriate.

(ii) Maintain, for each patient, a clinical record containing sufficient information to justify the diagnosis, delineate the individual treatment plan, and document the course of treatment. The responsibility of the agency is to safeguard the record against loss, defacement, tampering, or use by unauthorized persons.

(d) Treatment. ~~((All components))~~ The evaluation and treatment program shall:

(i) Have ~~((immediately))~~ available ~~((at all times))~~, as needed, professional personnel including, but not limited to, a licensed physician and a mental health professional skilled in crisis intervention.

(ii) Ensure each patient has access to necessary medical treatment and support services, and access to emergency life-sustaining treatment and medication.

(iii) Have psychiatric consultation available to other physicians or mental health professionals when treatment is not provided by or under the supervision of a psychiatrist.

(e) Use of restraints and seclusion. The use of medication, physical restraints, or locked seclusion rooms in response to assaultive, self-destructive, or unruly patient behavior shall occur only to the extent necessary to ensure the safety of patients and staff, and subject to the following conditions:

(i) In the event of an emergency use of restraints or seclusion, a licensed physician must be immediately notified and shall authorize the restraints or seclusion.

(ii) No patient may be restrained or secluded for a period in excess of four hours without having been examined by a mental health professional. Such patient must be directly observed every thirty minutes, and the observation recorded in the patient's clinical record.

(iii) If restraint or seclusion exceeds twenty-four hours, patient shall be examined by a licensed physician. The facts determined by his or her examination and any resultant decision to continue restraint or seclusion over twenty-four hours shall be recorded in the patient's clinical record over the signature of the authorizing physician. This procedure must be repeated for each subsequent twenty-four hour period of restraint or seclusion.

(f) Periodic evaluation. Each involuntary patient shall be evaluated periodically for release from commitment, and such evaluation will be documented in each involuntary patient's clinical record.

(g) Training. All components shall develop an inservice training plan, and provide regular training to all personnel having responsibility for any aspect of patient care. Documentation of the type and amount of training received by staff members shall be maintained. Such training shall include information about:

(i) The availability and utilization of less restrictive alternatives.

(ii) Approved methods of patient care.

(iii) Managing assaultive and/or self-destructive behavior.

(iv) Related services, including, but not limited to, transportation, law enforcement, courts, prosecutors, caseworkers, family support systems, advocacy, pharmacotherapy, and hospitals.

(v) The provisions and requirements of this chapter and chapter 71.05 RCW, and standards and guidelines promulgated by the department.

(vi) Other appropriate subject matter.

(h) Administration. All components shall:

(i) Maintain ~~((and prominently post))~~ written procedures for managing assaultive and/or self-destructive patient behavior, and assure staff has access to and are familiar with these procedures.

(ii) Maintain adequate fiscal accounting records.

(iii) Prepare and submit such reports as are required by the secretary.

(iv) Maintain a procedure for collection of fees and third-party payments.

(3) Whenever a component is also subject to licensure under other federal or state statutes or regulations, the more limiting or more specific standard shall apply.

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

WAC 275-55-271 **OUTPATIENT COMPONENT.** (1) The outpatient component is defined as a setting where ~~((an array of))~~ evaluation and treatment services ((is) are provided on a regular basis to patients not in residence in the component. These services are intended to stabilize, sustain, and facilitate recovery of the individual within his or her ((environment, and may include such)) living setting. Services ((as) may include, but are not limited to, day treatment ((or)) and community support services provided directly by a licensed physician licensed pursuant to chapter 18.57 or 18.71 RCW, a psychologist licensed pursuant to chapter 18.83, a psychiatric nurse licensed pursuant to chapter 18.88 RCW, or by an agency ((certified as a component of the program)) licensed pursuant to chapter 71.24 RCW and chapter 275-56 WAC.

(2) In addition to the general requirements stated in WAC 275-55-263(2), the following requirements shall apply to all outpatient components:

(a) ~~((Outpatient services shall be available at least eight hours per day, five days per week.~~

~~(b))~~ Such component shall provide a therapeutic program including, but not limited to, generally accepted treatment modalities such as:

(i) Individual.

(ii) Group.

(iii) Family/marital.

(iv) Pharmacotherapy.

~~((c))~~ (b) Such component shall provide treatment to each patient under the supervision of a mental health professional.

~~((d))~~ (c) Each patient must be seen at least weekly by assigned staff during the period of involuntary treatment. A mental health professional must review each outpatient case at least weekly to ensure updating of the treatment plan and such review must be recorded in the patient's clinical record. The frequency of patient contact and case review may be modified if in the opinion of a mental health professional such is warranted and the reasons for so doing are recorded in the patient's clinical record.

~~((e))~~ (d) Such component must have access to consultation by a psychiatrist or a physician with at least one year's experience in the direct treatment of mentally ill or emotionally disturbed persons, such access to be a minimum of one hour per week for each forty hours of direct client services provided by nonmedical staff.

~~((f))~~ (e) Such component shall include medical consultation with the involuntary patient to assess and prescribe psychotropic medication to meet the needs of the patient. Such consultation shall occur at least weekly during the fourteen-day period, and monthly during the ninety-day period and the one hundred ~~((and))~~ eighty-day period of involuntary treatment unless determined otherwise by the attending physician and the reasons for so doing are recorded in the patient's clinical record.

~~((g))~~ (f) Whenever possible, medication should be made available to the patient at a reduced rate through a state medication purchase contract, or through the state hospital pharmacy.

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

WAC 275-55-281 **EMERGENCY COMPONENT.** (1) The emergency component is defined as a hospital emergency room or ~~((equivalent))~~ another setting where ((immediate)) prompt therapeutic intervention occurs. The term "emergency" refers to a set of circumstances (physiological, psychological, and/or social) posing an imminent threat to the safety and/or well-being of the patient or others.

(2) In addition to the general requirements stated in WAC 275-55-263(2), the following requirements shall apply to all emergency components:

(a) Such component shall have the ability to respond ~~((immediately))~~ promptly to individual crisis situations, and to ~~((admit patients on a twenty-four hour per day, seven days per week basis, or to))~~ arrange for ((such)) admission to an inpatient component on a twenty-four-hour-per-day, seven-day-per-week basis.

(b) Such component shall have the capability to detain persons dangerous to self, dangerous to others, or gravely disabled~~((, and shall provide or have access to at least one seclusion room meeting the requirements of WAC 248-18-530(5)(a) now or as hereafter amended)).~~

(c) Such component shall have immediate access to life support systems and ~~((personnel))~~ emergency medical services. A mental health professional and/or licensed physician shall be available for consultation and communication with the patient and the component staff on a twenty-four-hour-per-day, seven-day~~((s))~~-per-week basis.

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 1775, filed 3/11/82)

WAC 275-55-291 SHORT-TERM INPATIENT COMPONENT. (1) The inpatient component is a hospital or residential setting where an array of treatment services is provided on a twenty-four-hour-per-day basis for patients on seventy-two hour detentions or fourteen-day commitments.

(2) In addition to the general requirements stated in WAC 275-55-263(2), the following requirements shall apply to all inpatient components:

(a) The inpatient component shall meet the ~~((structural))~~ standards required for state licensing as a psychiatric hospital, general medical hospital, ~~((community mental health center including an inpatient program;))~~ skilled nursing facility, intermediate care facility, or ~~((boarding home))~~ residential treatment facility.

(b) Such component shall have the capability to admit the patient on a twenty-four-hour-per-day, seven-day~~((s))~~-per-week basis.

(c) Such component shall have the capability to detain persons dangerous to self, others, or gravely disabled, and shall provide or have access to at least one seclusion room meeting the requirements of WAC ~~((248-18-530(5)(a)))~~ 248-18-001(65) now or as hereafter amended.

(d) Such component shall provide a therapeutic program including, but not limited to, generally accepted treatment modalities such as:

- (i) Individual.
- (ii) Group.
- (iii) Family/marital.
- (iv) Pharmacotherapy.
- (v) Therapeutic community.

(e) Such component shall provide treatment to each patient under the supervision of the professional person in charge.

(f) A mental health professional must have contact with each involuntary patient daily for the purpose of observation, evaluation, and the provision of continuity of treatment.

(g) Such component shall have access to a mental health professional and a licensed physician for consultation and communication with the patient and the component staff on a twenty-four-hour-per-day, seven-day~~((s))~~-per-week basis.

(h) Such component shall periodically evaluate each involuntary patient for conditional release, and such evaluation shall be documented in each involuntary patient's clinical record.

~~((3) The director may exempt a nonhospital residential facility providing inpatient involuntary treatment from any of the requirements of this section, inappropriate to that type of facility, as well as from selected requirements in WAC 275-55-263(2).))~~

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

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

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

(b) Conduct a site visit of the component or components including an inspection and examination of any records, procedures, materials, areas, programs, staff, and patients necessary to determine compliance with WAC 275-55-263, and the appropriate sections of WAC 275-55-271 through ~~((275-55-291))~~ 275-55-331.

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

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

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

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

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

WAC 275-55-297 APPEAL PROCEDURE. (1) Any agency whose component or components have been denied certification, or have been decertified by the department may appeal such a decision. ~~((Reference WAC 275-55-371))~~

(2) Such appeal shall:

- (a) Be made in writing ~~((to the secretary));~~
- (b) Specify the date of the decision being appealed;
- (c) Specify clearly the issue to be reviewed;

(d) Be signed by, and include the address of the agency;

(e) Be made within thirty days of notification of the decision being appealed.

(3) ~~((An administrative review and redetermination shall be provided by the department within thirty days of the submission of the appeal, with written confirmation of the findings and the reasons for the findings to be forwarded to the affected agency as soon as possible))~~ An appeal on decisions should be made in accordance with the Administrative Procedure Act, chapter 34.04 RCW.

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

WAC 275-55-301 ALTERNATIVES TO INPATIENT TREATMENT. In considering all petitions for involuntary commitments to inpatient treatment as to whether the patient's presenting problem is appropriate for care and treatment, the professional person in charge of the inpatient component shall explore less restrictive alternatives, including possible outpatient or residential treatment, and shall consider possible better, or equal treatment elsewhere, preferably within the patient's home community.

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

WAC 275-55-331 REQUIREMENTS FOR EVALUATION AND TREATMENT FACILITIES SERVING MINORS. (1) The requirements for certification of components of evaluation and treatment facilities admitting minors shall be as specified in WAC 275-55-263 and in other applicable sections of this chapter, and shall include, but are not limited to, the following:

(a) The admission evaluation specified in WAC 275-55-263(2)(b) shall include assessment of factors possibly contributing to the emotional dysfunctioning of the minor, such as family dynamics, environmental influences, or interactions with other significant persons.

(b) Family therapy shall be available, and shall be provided as needed.

(c) Treatment plans for minors shall include attention to the educational, developmental, legal, and other social service needs of minors, as appropriate.

(2) In general, adults and minors shall be provided services separate from one another, wherever possible. Joint use by adults and minors of a facility's inpatient services is permitted only if the minor's clinical record contains documentation that:

(a) The anticipated effects of such joint use on the minor have been considered by the professional staff, and

(b) A professional judgment has been made that such joint use will not be deleterious to the minor.

(3) No minor shall be placed on an adult inpatient unit unless ~~((documented))~~ no other alternative is available, or an emergency exists, and documentation has been made pursuant to subsection (2) of this section.

(4) Evaluation and treatment services provided to minors shall be provided by:

(a) A child mental health specialist (as defined by WAC 275-25-710(3)), or

(b) A mental health specialist (as defined by WAC 275-25-710(1)) directly supervised by a child mental health specialist, or

(c) A mental health specialist receiving at least one hour per week of clinical consultation from a child mental health specialist for each involuntarily detained minor provided direct client services during the week.

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

WAC 275-55-371 EXCEPTIONS TO RULES—WAIVERS. Any person or agency subject to the provisions of this chapter may seek a waiver of any requirement of this chapter, as set forth in this section.

(1) The applicant shall file an application for a waiver with the director.

(2) Any application for a waiver from any person or agency shall state, in writing, the following:

(a) The name and address of the person or agency seeking the waiver;

(b) The specific section or subsection of this chapter sought to be waived, and the specific practice or procedure required by such section or subsection;

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

(d) The ~~((alternative practice or procedure))~~ variance the applicant proposes to follow in lieu of that required by the section or subsection;

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

(f) Signed documentation from the ~~((local mental health coordinator))~~ county-designated administrator of the evaluation and treatment program indicating the proposed waiver has been reviewed and what degree of support has been extended.

(3) ~~((Upon receipt of an application for a waiver, the director shall appoint a review board comprised of three members professionally acquainted with this chapter. Membership distribution shall be as follows:~~

~~(a) One member shall be employed by the state;~~

~~(b) One member shall be employed by a county; and~~

~~(c) One member shall be a practitioner in the field of voluntary or involuntary treatment, or a lay person active in one such field.~~

~~(4) The review board shall meet and consider the strength of the application, taking into account the following:~~

~~(a) The number of practices, procedures or other requirements sought to be waived by the applicant;~~

~~(b) The degree of noncompliance being sought;~~

~~(c) Whether a waiver would run counter to the intent of chapter 71.05 RCW;~~

~~(d) Whether a waiver would violate any law; and~~

~~(e) Whether any similar applications have been granted or denied.~~

~~(5) At the conclusion of the review, the review board shall file a majority recommendation with the director, stating:~~

~~(a) Whether a waiver should be granted;~~

~~(b) If granted, why the waiver is necessary;~~

~~(c) If granted, whether the waiver should be subject to compliance with conditions set forth by the review board; and~~

~~(d) If granted, the suggested duration of the waiver. In no case shall the duration exceed one year.~~

~~(6) The review board may accompany the recommendation with an additional recommendation the section or subsection in question be modified through the ordinary procedures for modifying WAC.~~

~~(7) Upon receipt of the review board's recommendation;~~) The director shall grant or deny the waiver in writing, and shall so notify the applicant. This notice shall be given the applicant within ~~((thirty))~~ sixty days of receipt of the original application by the director.

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

(i) The section or subsection waived;

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

(iii) The duration of the waiver, in no case to exceed one year from the date the waiver is granted;

(iv) The reason why the waiver is considered necessary.

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

~~((8))~~ (4) Appeal of the denial of a waiver request ~~((may))~~ shall be made ~~((to the secretary, whose decision shall be final))~~ in accordance with the Administrative Procedure Act, chapter 34.04 RCW.

~~((9))~~ (5) Requirements prescribed by chapter ~~((3-06))~~ 71.05 RCW and other legislation are not subject to waiver by the director ~~((or the secretary))~~.

~~((10))~~ (6) A waiver granted by the director shall be attached to and become part of the county plan ~~((for that year))~~.

a bank may make the following loans to any of its officers:

(1) A loan, ~~((not exceeding \$60,000.00))~~ to any of its officers if, at the time the loan is made:

(a) It is secured by a first lien on a dwelling which is expected, after the making of the loan, to be owned by the officer and used by him as his residence; and

(b) No other loan made by the bank to the officer under authority of this subparagraph is outstanding;

(2) In addition to (1) above, a bank may make extensions of credit to any officer of a bank ~~((, not exceeding the aggregate amount of \$20,000.00 outstanding at any one time;))~~ to finance the education of the children of the officer; and

(3) A bank, in addition to loans made pursuant to subparagraphs (1) and (2) above, may make extensions of credit to its officers not exceeding the ~~((aggregate amount))~~ greater of ~~(((\$10,000.00 outstanding at any one time. Provided, That total liability to the bank of such officer does not exceed the limit prescribed in RCW 30-04.110.))~~ \$25,000.00 or three percent of the bank's capital, surplus, and undivided profits. In no case shall the extension of credit to an officer under this paragraph exceed the aggregate amount of \$100,000.00, or the total liability to the bank by the officer exceed the limit prescribed by RCW 30.04.110, whichever is less.

WSR 84-03-036
ADOPTED RULES
DEPARTMENT OF
GENERAL ADMINISTRATION
(Division of Banking)
 [Order 58—Filed January 13, 1984]

I, L. O. Malmberg, Acting Supervisor of the Division of Banking, do promulgate and adopt at Olympia, Washington, the annexed rules relating to banks and trust companies, amending WAC 50-12-050.

This action is taken pursuant to Notice No. WSR 83-24-050 filed with the code reviser on December 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 30.12.060 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 13, 1984.

By L. O. Malmberg
 Acting Supervisor of Banking

AMENDATORY SECTION (Amending Order 40, filed 3/23/79)

WAC 50-12-050 **LIMITING LOANS TO OFFICERS.** ~~((If approved))~~ With the specific prior approval by resolution of its board of directors as required by law,

WSR 84-03-037
ADOPTED RULES
PUBLIC DEPOSIT
PROTECTION COMMISSION
 [Order 84-01—Filed January 13, 1984]

I, Robert S. O'Brien, State Treasurer and Chairman of the Public Deposit Protection Commission, do promulgate and adopt at the Office of the State Treasurer, 2nd Floor, Legislative Building, Olympia, Washington, the annexed rules relating to Practice and procedures—Public depositaries, chapter 389-12 WAC.

This action is taken pursuant to Notice Nos. WSR 83-24-063 and 84-01-070 filed with the code reviser on December 7, 1983, and December 21, 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 Public Deposit Protection Commission as authorized in RCW 39.58.040.

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

APPROVED AND ADOPTED January 12, 1984.

By Robert S. O'Brien
 Chairman, Public Deposit Protection Commission

AMENDATORY SECTION (Amending Order 77-XIII, filed 9/27/77)

WAC 389-12-010 **PROMULGATION.** The public deposit protection commission, hereinafter referred to as

the "commission", after due and proper notice, and pursuant to the provisions of chapter 193, Laws of 1969 1st ex. sess., as last amended by chapter ((95)) 66, Laws of ((1977 1st ex. sess.)) 1983, hereinafter referred to as the "act", hereby adopts and promulgates the following rules and regulations, effective ((....., 1977)) January 12, 1984.

AMENDATORY SECTION (Amending Order 78-XIV, Resolution 78-XIV, filed 12/5/78)

WAC 389-12-020 DEFINITIONS. Unless the context requires otherwise:

(1) ~~((Bank. "Bank" means any state bank or trust company, national banking association, or any branch of a bank engaged in the banking business in this state in accordance with RCW 30.04.300, which is located in the state of Washington and authorized to do a general banking business therein.))~~ Qualified public depository. "Qualified public depository" means a financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the commission to hold public deposits.

(2) Financial institution. A financial institution means any of the following which are located in this state and are lawfully engaged in business:

(a) Bank depositories—Any branch of a bank engaged in the banking business in this state in accordance with RCW 30.04.300, and any state bank or trust company or national banking association.

(b) Thrift depositories—Any state chartered mutual savings bank or stock savings bank, any state or federally chartered savings and loan association (including federally chartered savings bank).

(3) Investment deposits. The term "investment deposit" shall mean ((bank)) time deposits and savings deposits of public funds available for investment. ((Bank)) Savings deposit shall mean an interest bearing deposit of public funds that is subject to withdrawal and that is not payable on a specified date or at the expiration of a specified time after the date of deposit. Time deposit shall mean a single maturity or multiple maturity interest bearing investment deposit of public funds, which is either evidenced by a certificate of deposit issued by a ((bank)) qualified public depository, or reflected in a book-entry system of ((a bank)) such depository approved by ((the)) federal ((banking)) regulatory authorities ((and/or the Washington)), state supervisor of banking and/or state supervisor of savings and loan, and which is payable to a treasurer on a date certain. Such certificate shall not be negotiable, nor an interest in an investment deposit transferable, except between treasurers and/or ((banks)) qualified public depositories.

~~((3))~~ Call report date. "Call report date" shall mean the date designated by the comptroller of currency for reports of the statement of condition of a bank.))

(4) Call report. "Call report" shall mean the formal accounting rendered by commercial banks to the comptroller of the currency or state supervisor of banking.

The "call report due date" is the last day for timely filing of a call report.

(5) Commission report. The "commission report" shall mean a formal accounting rendered by savings banks and savings and loan associations to the commission, which details pertinent information of each depository as of the close of the last business day of each calendar quarter; the commission report is due in the office of the commission not later than thirty days after the end of the calendar quarter.

(6) Date of loss. The term "date of loss" shall mean the date on which a loss shall be deemed to have occurred within the meaning of the act, and shall be the first to happen of the following:

(a) The date of the taking of possession of the ((bank)) financial institution by a supervisory agency; or

(b) The date of the appointment of the receiver or conservator for a ((bank)) financial institution; or

(c) The date of the commencement of a voluntary liquidation proceeding for a ((bank)) financial institution; or

(d) The date of an order issued by a regulatory authority or a court of competent jurisdiction restraining a financial institution from making payments on deposit liabilities; or

(e) The date on which the commission declares that a ((bank)) financial institution no longer has the ability to repay public deposits in full.

~~((5))~~ (7) Depository Pledge Agreement. "Depository Pledge Agreement" means a written tri-party agreement, on a form supplied by the commission, wherein a ((bank)) financial institution, in compliance with the act and as a condition precedent to becoming or continuing to be a qualified public depository, transfers and delivers securities which are eligible collateral to a corporate fiduciary under the exercise of its trust powers, ((or)) to a federal reserve bank or any branch thereof or federal home loan bank or any branch thereof, which agrees to safekeep such securities for the primary benefit of the commission under the terms and conditions of the agreement and for the purposes set forth by the act and the regulations of the commission. Such agreement shall be executed on behalf of the commission by the chairman, who shall be the state treasurer.

~~((6))~~ (8) Segregation of collateral. "Segregation of collateral" means the transfer and delivery of eligible securities by a ((bank)) financial institution pursuant to a depository pledge agreement (RCW 39.58.050). Eligible securities shall not include coupon securities from which have been detached any coupon which is not matured at the time of transfer and delivery of such securities as segregated collateral.

~~((7))~~ Subordinated notes and debentures. Capital, surplus and undivided profits of a bank or trust company shall include all capital notes and debentures that are subordinate to the interest of depositors.))

(9) Net worth. Net worth of a qualified public depository means:

(a) For a bank depository, the aggregate of capital, surplus, undivided profits and all capital notes and debentures which are subordinate to the interest of depositors;

(b) For a thrift depository, the aggregate of such capital stock, guaranty fund, general reserves, surplus, undivided profits, and capital notes and debentures which are subordinate to the interest of depositors, as are eligible for inclusion in otherwise determining the net worth of a mutual savings bank, stock savings bank, or savings and loan association.

(10) Corporate fiduciary. Corporate fiduciary for the purposes of these rules means a financial institution as defined herein which is possessed of statutorily granted trust authority provided that for the purposes of this definition such financial institution need not be located or doing business in the state of Washington.

AMENDATORY SECTION (Amending Order 77-XIII, filed 9/27/77)

WAC 389-12-030 NEW ~~((BANKS))~~ FINANCIAL INSTITUTIONS. Any ~~((newly chartered bank))~~ financial institution in the state of Washington, in order to become a qualified public depository, must be approved by the commission and segregate collateral in the manner as set forth in these rules prior to the receipt of public deposits. Until such time as new depositories have submitted four consecutive reports to the commission as required by RCW 39.58.100, they shall at all times be required to pledge and segregate eligible securities, valued at market value, in an amount equal to not less than 10% of all public funds on deposit in said depository. During the interim period in which a ~~((newly chartered bank))~~ financial institution is required to file four consecutive reports, each such ~~((bank))~~ institution shall report to the commission on each ~~((call))~~ report date on forms supplied by the commission.

AMENDATORY SECTION (Amending Order 77-XIII, filed 9/27/77)

WAC 389-12-040 COMPUTATION AND REPORT OF MAXIMUM LIABILITY. On each call report or commission report date each public depository shall recompute its maximum liability on a form to be supplied by the commission. Such report shall, in addition to other information, show the current amount of "deposits of states and political subdivisions" for the most recent call or commission report date, the "deposits of states and political subdivisions" as shown on the four most recent reports ~~((of condition))~~ (i.e., current ~~((call))~~ report and three immediately preceding ~~((call))~~ reports), the average of the four report periods, and the depository's maximum liability as defined in RCW 39.58.010(6).

The report to the commission for commercial banks shall be received in the office of the commission not later than the due date for filing of reports of condition with the comptroller of the currency of the United States or the Washington state supervisor of banking, and shall have attached a completed copy of the balance sheet portion of the depository's most recent consolidated report of condition (domestic subsidiaries).

The report to the commission for thrift depositories shall be received in the office of the commission not later

than thirty days after the end of each calendar quarter, and shall have attached a completed copy of the most recent financial report as submitted to appropriate regulatory authority.

Upon request from a ~~((bank))~~ depository the commission may, for good cause shown, extend the due date for qualified public depository liability reports for a period not to exceed ten days.

If the maximum liability ~~((indicates a necessity))~~ has increased from the previous report, the depository shall immediately increase its collateral and the commission shall be so notified.

Each public depository shall provide to the commission a copy of any changes, amendments, or alterations to the depository's financial report ~~((of condition))~~ as submitted to appropriate regulatory authority which relate to (a) deposits of states and political subdivision, and/or (b) ~~((subordinated notes and debentures, (c) capital, (d) surplus, (e) undivided profits and/or (f) reserve for contingencies and other capital reserves))~~ net worth.

AMENDATORY SECTION (Amending Order 77-XIII, filed 9/27/77)

WAC 389-12-050 VALUATION. Securities pledged as collateral by a qualified public depository may be reported at par value or market value at the option of the reporting depository. This valuation option may be utilized only by those ~~((banks))~~ financial institutions who have been qualified public depositories for one full year and who have previously submitted four consecutive reports to the commission.

(1) Market value. Securities pledged as collateral shall be valued at market value computed on the date of segregation or the last preceding call or commission report date, whichever is ~~((last in point of time))~~ later. When the public depository liability report is submitted, any depository choosing to evaluate their securities pledged as collateral based on market value shall provide on a form supplied by the commission a current listing of those securities pledged and their then current market value. Securities pledged as collateral at market value must at least be equal to the maximum liability of the public depository (RCW 39.58.010(6)).

(2) Par value. A ~~((bank))~~ financial institution may value its securities pledged as collateral at par if it maintains a segregation of collateral equal to at least 120% of its maximum liability.

AMENDATORY SECTION (Amending Order 77-XIII, filed 9/27/77)

WAC 389-12-080 MAXIMUM DEPOSIT LIMITATION. In determining the maximum deposit limitation ~~((by any bank))~~ of any financial institution, a treasurer, unless advised to the contrary by the commission, may assume that each ~~((bank's capital, surplus, undivided profits and subordinated notes and debentures have))~~ depository's net worth has remained unchanged from that stated in the most recently rendered call or commission report.

AMENDATORY SECTION (Amending Order I, filed 2/9/70)

WAC 389-12-100 VIOLATIONS—PENALTY. Violations of any of these rules or of any of the provisions of the act shall be grounds for cancellation, suspension, or revocation of a ~~((bank's))~~ financial institution's authority to act as a public depository.

AMENDATORY SECTION (Amending Order II, filed 6/13/73)

WAC 389-12-130 ~~((BANK))~~ FINANCIAL INSTITUTION MERGERS. The liability of a public depository under chapter 39.58 RCW shall not be altered by any merger, take-over or acquisition except to the extent that such liability is assumed by the successor entity and no assets subject to a depository pledge agreement shall be released by the commission or the trustee until such assumed liability is evidenced by the deposit of assets pursuant to the depository pledge agreement of the successor entity.

AMENDATORY SECTION (Amending Order 77-XIII, filed 9/27/77)

WAC 389-12-230 OPERATIONS AND PROCEDURES. The Washington public deposit protection commission is charged with the duty of protecting public deposits for public treasurers in the event of a ~~((bank))~~ default of a qualified public depository, and such other duties as set forth in RCW 39.58.010 through 39.58.040.

AMENDATORY SECTION (Amending Order XII, filed 11/28/73)

WAC 389-12-270 REQUESTS FOR PUBLIC RECORDS. In accordance with requirements of chapter 1, Laws of 1973, 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 Washington public deposit protection commission which 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 ~~((office))~~ 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 the current index maintained by the records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to the 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, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

WSR 84-03-038
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
 [Filed January 16, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning appeals to the Superintendent of Public Instruction, WAC 392-171-566;

that the agency will at 9:00 a.m., Wednesday, May 9, 1984, in the Old Capitol Building, Washington and Franklin, State Board of Education Conference Room, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 15, 1984.

The authority under which these rules are proposed is RCW 28A.13.070(7).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 9, 1984.

Dated: January 16, 1984

By: Frank B. Brouillet
 Superintendent of Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-171 WAC, Special education programs—Education for all handicapped children.

Rule Section(s): WAC 392-171-566, appeals to the Superintendent of Public Instruction.

Statutory Authority: RCW 28A.13.070(7).

Purpose of the Rule(s): To establish policies and procedures for special education appeals to SPI from local hearings.

Summary of the New Rule(s) and/or Amendments: WAC 392-171-566, eliminates requirement that requires specificity regarding errors in notice of appeal and provides procedure for cross appeals by respondent.

Reasons Which Support the Proposed Action(s): Current requirement regarding information to file for a notice of appeal exceeds what is necessary to perfect an appeal. Also, current procedure does not address cross appeals.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule(s): Ralph E. Julnes, SPI, 3-2298.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): The amendments are intended to clarify agency practices.

AMENDATORY SECTION (Amending Order 80-31, filed 8/19/80)

WAC 392-171-566 APPEALS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION. (1) Any party aggrieved by the findings and decision in a hearing initiated pursuant to WAC 392-171-531 may appeal to the superintendent of public instruction: PROVIDED, That written notice of such appeal is received by the superintendent of public instruction no later than the thirtieth day after the date upon which the decision was mailed or provided directly to the appealing party. If the thirtieth day falls on a Saturday, Sunday, or state holiday, the time for receipt of notice shall be extended through the next state working day.

(2) All notices of appeal pursuant to this section shall:

- (a) Be written;
- (b) Specify the party seeking the review;
- (c) Specify the alleged error(s) in the findings of fact, conclusions of law, and judgment; ~~((and))~~

(d) ~~((Specify the reason a finding of fact, or conclusion of law or the judgment is alleged to be in error; e.g., specified facts were not considered or given appropriate weight or a specified statute or rule allegedly requires a different conclusion, etc.;~~

~~((f)))~~ Specify any alleged violations of the party's procedural due process rights during the hearing;

~~((f)))~~ (e) Specify the relief requested; and

~~((g)))~~ (f) Be provided to the other party (as well as to the superintendent of public instruction).

(3) ~~((A party shall be deemed to have waived any objection to any finding of fact, conclusion of law, or judgment or portion of a judgment which the party does not specifically allege to be in error pursuant to subsection (2) of this section.))~~ Upon appeal, all findings of fact, all conclusions of law, and all portions of the judgment shall be subject to review even though a particular item is not requested for review. The other party (i.e., respondent), if appellant is provided an opportunity for written argument, need not file a cross appeal and may raise, without prior notice, an issue for review as part of respondent's appellate brief. In addition, the party cross appealing shall be entitled to reply to original appellant's response to the cross appeal.

(4) The school district shall certify and provide the superintendent of public instruction with the entire original hearing record, including a verbatim written transcript of the oral hearing proceedings within fifteen days after the date of receipt of notification that an appeal has been made to the superintendent of public instruction.

(5) If an appeal is made in accordance with this section, the superintendent of public instruction and/or his or her designee shall conduct an impartial review of the hearing.

(6) The superintendent of public instruction and/or his or her designee shall:

- (a) Examine the entire hearing record;
- (b) Determine whether or not the procedures at the hearing were consistent with the requirements of due process;
- (c) Seek additional evidence if necessary by remanding the matter to the school district or by other means (Note: If a hearing is held to receive additional evidence, the rights set forth in WAC 392-171-551 shall apply.);

(d) Afford the parties an opportunity for written and/or oral argument if deemed advisable and subject to request(s) for an extension of time as set forth in WAC 392-171-571(2) (Note: Briefs should conform to the requirements for appellate briefs set forth in RAP 10.3, to the extent it is reasonably within the ability of the party, and shall avoid the use of the surnames of students and their parents.);

(e) Make an independent decision based upon the preponderance of the evidence; and

(f) Notify the parties of the findings and the decision in writing.

(7) The decision made by the superintendent of public instruction and/or his or her designee is final, unless a party brings a civil action pursuant to 20 United States Code (USC) section 1415.

WSR 84-03-039
ATTORNEY GENERAL OPINION
Cite as: AGO 1984 No. 1
 [January 12, 1984]

DISTRICTS—WEED—TAXATION—ASSESSMENTS—COUNTIES—CITIES AND TOWNS—APPLICABILITY OF WEED DISTRICT ASSESSMENTS TO CERTAIN CITY-OWNED LAND

Lands which are owned by an incorporated city or town (including but not limited to those situated outside the corporate limits of that municipality) are not subject to weed district assessments imposed pursuant to RCW 17.04.240.

Requested by:

Honorable Paul Klasen
 Prosecuting Attorney
 Grant County
 P.O. Box 37
 Ephrata, WA 98823

WSR 84-03-040
NOTICE OF PUBLIC MEETINGS
FOREST PRACTICES BOARD
 [Memorandum—January 17, 1984]

This notice is given in conformance with provisions of RCW 42.30.075. The Forest Practices Board has rescheduled the regular meeting of February 8, 1984, for March 21, 1984, 1:30 p.m. to 4:00 p.m., Inn at the Quay, Vancouver, Washington.

The field trip of February 9, 1984, is rescheduled for March 22, 1984, 8:30 a.m. to 5:00 p.m., Columbia River Gorge and Southwestern Washington.

WSR 84-03-041
PROPOSED RULES
MUNICIPALITY OF
METROPOLITAN SEATTLE
 [Filed January 17, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Municipality of Metropolitan Seattle intends to adopt, amend, or repeal rules concerning rule of the Municipality of Metropolitan Seattle to give the public an opportunity for public hearings on the location and design of mass rapid transit systems pursuant to RCW 35.58.273;

that the agency will at 3:00, Thursday, March 1, 1984, in Room 854, King County Administration Building, 500 Fourth Avenue, Seattle, WA, conduct a public hearing on the proposed rules.

At the same location and immediately prior to this public hearing the transit committee of the Council of the Municipality of Metropolitan Seattle will hear public comment on the rule.

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 35.58.273.

The specific statute these rules are intended to implement is RCW 35.58.273.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 1, 1984.

Comments should be directed to:

Mr. Rodney Proctor, Manager
Environmental Planning Division
Municipality of Metropolitan Seattle
Exchange Building
821 Second Avenue
Seattle, Washington 98104
(206) 447-6619

Dated: January 17, 1984

By: Maureen Varni
Clerk of the Council

STATEMENT OF PURPOSE

Title/Description of Purpose: Rule of the Municipality of Metropolitan Seattle to give the public an opportunity for public hearings on the location and design of mass rapid transit systems pursuant to RCW 35.58.273.

Statutory Authority for Adopting Rule: This rule is promulgated pursuant to RCW 35.58.273 and is intended to administratively implement that statutory provision.

Summary of Rule: The rule provides detailed procedures that establish an opportunity for two public hearings: (1) A "corridor public hearing," before the municipality commits to a mass rapid transit system route location; and (2) a "design public hearing," before the municipality adopts a specific mass rapid transit system design. The rule provides that other public hearings on a proposed mass rapid transit system, including those under the State Environmental Policy Act (SEPA), may be held concurrently with these hearings.

Reasons Supporting this Rule: State law (RCW 35.58.273) requires the municipality to provide an opportunity for corridor and design public hearings if the municipality utilizes special excise tax revenues to acquire right-of-way or to build a facility on a separate right-of-way for a proposed mass rapid transit system. RCW 35.58.273 also requires the municipality, a local agency established under chapter 35.58 RCW, to promulgate the procedures for these public hearings pursuant to the Washington State Administrative Procedure Act, chapter 34.04 RCW.

The proposed action is necessary to comply with this provision of state law, to provide for timely and useful public participation and comment to the municipality, and to avoid unnecessary duplication, delay, and taxpayer expense.

RCW 35.58.273 was enacted prior to the State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA). With SEPA, NEPA, and other laws, and the municipality's public participation program, the public's opportunity to comment on proposals by the municipality for mass rapid transit system location and design has greatly increased. This rule allows the municipality to coordinate various public

hearings it holds on such proposals, as is federal practice.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of this Rule: Mr. Rodney Proctor, Manager, Environmental Planning Division, Municipality of Metropolitan Seattle, Exchange Building, 821 Second Avenue, Seattle, Washington 98104, (206) 447-6619.

Proposing Organization: Municipality of Metropolitan Seattle, a public governmental agency.

Agency Comments Regarding Statutory Language: One of the difficulties with RCW 35.58.273 is that it is usually not possible to know whether special excise tax monies will be utilized for certain right-of-way acquisition at an early point in the planning process. For example, the precise method of financing a project is usually not known at the planning stage when engineering and environmental studies and impact statements are being prepared. It is therefore possible that corridor and design public hearings will be held although they are not required.

The rule is not expected to have substantial fiscal impacts because of the extensive public participation process which already accompanies proposals for mass rapid transit systems.

Federal Law or Federal or State Court Action: This rule is not required as a result of federal law or federal or state court action.

Chapter 330-01

PROCEDURES FOR CORRIDOR AND DESIGN PUBLIC HEARINGS UNDER RCW 35.58.273

WAC

330-01-010	Authority.
330-01-020	Purpose of this chapter.
330-01-030	Purpose of this rule.
330-01-040	When this rule applies.
330-01-050	Definitions for this chapter.
330-01-060	Opportunity for and timing of public hearings.
330-01-070	Combination with other public participation.
330-01-080	Public hearings when there is an EIS.
330-01-090	Public hearings when there is no EIS.

NEW SECTION

WAC 330-01-010 **AUTHORITY.** This chapter is promulgated pursuant to RCW 35.58.273 and is intended to administratively implement that statutory provision.

NEW SECTION

WAC 330-01-020 **PURPOSE OF THIS CHAPTER.** The Municipality of Metropolitan Seattle is a municipal corporation as authorized by Chapter 35.58 RCW and defined in RCW 35.58.020(1). The Municipality is not a state agency. The Municipality of Metropolitan Seattle has established procedures for adopting its own resolutions, rules, and regulations, in accordance with RCW 35.58.130. RCW 35.58.273, however, requires the Municipality to "adhere to the provisions of the Administrative Procedure Act", chapter 34.04 RCW, in adopting one particular rule. This chapter was created to fulfill that legal requirement.

NEW SECTION

WAC 330-01-030 **PURPOSE OF THIS RULE.** (1) The purpose of this rule is to provide detailed procedures for public participation and hearings in certain situations involving the location and design of a mass rapid transit system. A hearing on the location of the route of the proposed system is called a "corridor public hearing". A hearing on the major design features of the proposed system is called a "design public hearing".

(2) Another purpose of this rule is to coordinate public hearings under RCW 35.58.273 with other hearings that the Municipality may hold during its planning process. RCW 35.58.273 was enacted prior to SEPA and NEPA. The Municipality's public hearings under these laws, for example, can fulfill the requirements of RCW 35.58.273.

NEW SECTION

WAC 330-01-040 WHEN THIS RULE APPLIES. (1) This rule applies in a specific situation involving the planning and design of mass rapid transit systems.

(2) This rule applies only when the Municipality:

(a) proposes to approve and construct a specific mass rapid transit system; and

(b) will acquire right of way or construct a mass transit facility on a separate right of way for the system; and

(c) will utilize certain special excise tax monies for such acquisition or construction.

(3) If all three items in the preceding subsection occur, the Municipality must provide an opportunity for corridor and design public hearings. However, if an overall mass rapid transit system plan is adopted by a vote of the electorate of the Municipality, prior corridor public hearings are not required under RCW 35.58.273.

NEW SECTION

WAC 330-01-050 DEFINITIONS FOR THIS CHAPTER. (1) "Corridor" means a pathway for mass rapid transit. It is synonymous with words such as "route", "route location", "route proposal", "location of the system", and "alignment". In this chapter, a corridor refers to a route used by a substantial portion of vehicles in the overall system and not simply to one or several bus routes. A corridor need not be used exclusively for mass rapid transit.

(2) "Corridor public hearing" means a public hearing that:

(a) the Municipality holds before it is committed to or establishes a specific mass rapid transit system corridor; and

(b) affords an opportunity for public comment on the need for and location of the system and on the social, economic, and environmental effects on that location and alternate locations.

The statutory phrases "committed to or establishes" and "adoption of location plans" shall refer to a Resolution of the Council of the Municipality that authorizes a specific mass rapid transit system project and describes its location. The consideration of various proposals, including preferred alternatives, preliminary engineering work, or other planning during the environmental review process, do not constitute the establishment of or commitment to a specific mass transit route proposal.

(3) "Design public hearing" means a public hearing that:

(a) the Municipality holds after it establishes a system route location, but before it adopts a design; and

(b) affords an opportunity for public comment on the system's design and on the social, economic, and environmental effects of that design and alternate designs.

The phrase "adopts a design" shall refer to a Resolution of the Council of the Municipality that approves a final design for the system's major design features. Authorization or approval of preliminary design (sometimes referred to as pre-design) does not constitute adopting a design.

(4) "EIS" means an environmental impact statement prepared under SEPA or NEPA.

(5) "Environmental document" means any written public document prepared under SEPA or NEPA.

(6) "Executive Director" means the Executive Director of the Municipality or the Executive Director's designee.

(7) "Final design" means plans and specifications in sufficient detail to authorize construction activities or, if applicable, to receive final approvals from other government agencies under Section 4(f) of the Department of Transportation Act or Section 106 of the National Historic Preservation Act of 1966.

(8) "Lead agency" means the local, state, or federal agency or agencies responsible for the preparation of environmental documents under SEPA or NEPA.

(9) "Major design features" means the physical size, shape, and appearance of the principal components of a mass rapid transit system, and the relationship of these components to each other and to their surroundings.

(10) "Mass rapid transit system" (or "system") means a new network of routes and facilities to be used by mass transit vehicles serving

the Municipality's functions. A system is not simply a particular facility or group of facilities serving transit purposes, but must involve the establishment of a new corridor for transit vehicles. A system refers both to the location and to the major design features of the corridor and associated facilities.

(11) "Mass transit facility" means a facility constructed on a separate right of way as part of a mass rapid transit system.

(12) "Mass transit route proposal" means a proposed corridor for a mass rapid transit system.

(13) "Municipality" means the Municipality of Metropolitan Seattle, a unit of local government established under Chapter 35.58 RCW.

(14) "NEPA" means the National Environmental Policy Act of 1969, 40 U.S.C. 4321 et seq.

(15) "Route". See "Corridor".

(16) "SEPA" means the State Environmental Policy Act of 1971, Chapter 43.21C RCW.

(17) "Separate right of way" means a right of way proposed to be used for public transportation that is not in, along, on, under, over, or through public streets, bridges, viaducts, and other public rights of way.

(18) "Social, economic, and environmental effect" means a direct or indirect consequence of a system's location or design. The term "environmental effect" means the impact on the elements of the environment, as specified by RCW 43.21C.110(1)(f), and is not synonymous with "social" or "economic" effects.

(19) "System" means "mass transit system" (WAC 330-01-050(10)).

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

NEW SECTION

WAC 330-01-060 OPPORTUNITY FOR AND TIMING OF PUBLIC HEARINGS. (1) Generally speaking, the Municipality will provide an opportunity for public hearings before locating, designing, and building a system that has substantial impacts (see subsection (2) of this section for a technical explanation). If the Municipality already has a system operating on a separate right of way, Metro will provide an opportunity for public hearings before substantially changing that system.

(2) When this rule applies (WAC 330-01-040), the Municipality shall afford opportunity for corridor and design public hearings:

(a) before the Municipality adopts location and design plans having a substantial social, economic, or environmental effect upon the locality where the plans are to be constructed; or

(b) whenever a substantial change, having a substantial social, economic, or environmental effect, is proposed relating to the location or design in the adopted plan (if any) for a mass rapid transit system operating on a separate right of way.

(3) Corridor public hearings shall be held before the Municipality is committed to a specific mass transit route proposal and before a route location is established. If an EIS analyzes alternative corridors, corridor public hearings are encouraged to be held no earlier than the scoping process nor later than the public hearings on the draft EIS.

(4) Design public hearings shall be held after the Municipality establishes the corridor location, but before it adopts the design. If there is a formal preliminary design document, such as an environmental, engineering, or pre-design document, design public hearings are encouraged to be held after such a document has been prepared for consideration by the Municipality.

(5) Recognizing that the planning and design of mass rapid transit systems is a long and complex process, the Executive Director shall have discretion to determine the most appropriate time in the planning and decisionmaking process to hold any corridor and design public hearings.

(6) Nothing in this chapter shall restrict the Council of the Municipality or any of its committees or members from considering the location or design of a system, or documents related thereto, prior to any corridor or design public hearings.

(7) Nothing in this chapter shall restrict the Municipality from preparing or considering a single document that covers both system location and design. Design public hearings, however, cannot be held until after the Municipality holds corridor public hearings and establishes a corridor location.

(8) Nothing in this chapter shall require the Municipality to hold both a corridor and a design public hearing on a system if there is only sufficient public interest in one of these types of hearings. Because this chapter is required to provide the opportunity for public hearings, it is possible that the public will be interested in either a corridor or a design public hearing, but not in both.

NEW SECTION

WAC 330-01-070 COMBINATION WITH OTHER PUBLIC PARTICIPATION. (1) The Municipality may hold corridor and design public hearings concurrently with any other public hearings on a proposed mass rapid transit system. Corridor or design public hearings may be combined with a public comment period at a meeting of the Council or Transit Committee of the Municipality. The Executive Director may make the decision to combine such public hearings. Corridor or design public hearings that are combined with other public participation shall meet the requirements of this section.

(2) If corridor or design public hearings are held concurrently with public hearings on an EIS, WAC 330-01-080 shall govern. If corridor or design public hearings are held concurrently with any other hearings, the procedures for such other hearings shall apply, except that:

(a) notice shall at a minimum contain the information and be published as specified in WAC 330-01-090(4); and

(b) the hearing shall provide a forum for commenting on the subjects specified in WAC 330-01-090(5)(d) and (e).

(3) Except for the notice referred to in the preceding subsection, holding corridor and design public hearings with any other hearings does not change or expand the requirements for any documents prepared for the hearings, including but not limited to environmental impact statements.

NEW SECTION

WAC 330-01-080 PUBLIC HEARINGS WHEN THERE IS AN EIS. (1) The Municipality shall conduct corridor and design public hearings whenever the Municipality is a lead agency for an EIS on a proposed system which meets the criteria of WAC 330-01-040.

(2) If the Municipality holds corridor or design public hearings concurrently with public hearings on an EIS under SEPA, the Municipality shall follow the procedures for hearings on EISs, as specified by chapter 43.21C RCW, chapter 197-11 WAC, and the Municipality's Resolution setting forth its SEPA procedures.

(3) If the Municipality holds corridor or design public hearings concurrently with public hearings on an EIS under NEPA, the Municipality shall follow the procedures for hearings specified by its own procedures and by the federal joint lead agency and that agency's NEPA implementing procedures.

(4) Compliance with SEPA procedures (and/or NEPA procedures if applicable) fully satisfies the requirements of this chapter if:

(a) the information required by WAC 330-01-090(4)(b) is included in the published notice for the hearings; and

(b) the public hearing provides a forum for commenting on the subjects specified in WAC 330-01-090(5)(d) and (e).

NEW SECTION

WAC 330-01-090 PUBLIC HEARINGS WHEN THERE IS NO EIS. (1) **No EIS.** When this chapter applies to a proposal, but an EIS is not being prepared, the Municipality shall nonetheless provide an opportunity for public hearings by following the procedures in this section.

(2) **Notice of opportunity for hearings.** The Municipality shall publish a notice in a newspaper of general circulation in the area where proposed system would be located. The notice shall contain:

(a) A statement that members of the public may request the Municipality to hold a corridor or design public hearing (as applicable).

(b) A brief description of the system's route location or major design features (as applicable).

(c) The availability of an environment document, if any, on the proposal.

(d) The method and date by which members of the public can request a public hearing.

(3) **When a hearing must be held.** The Municipality shall hold a corridor or design public hearing (as applicable) under this section when written requests are submitted by:

(a) fifty (50) or more persons residing within the Municipality, or who would be affected by the proposal; or

(b) two or more agencies with the authority to approve or disapprove the proposal. The written requests must be received within thirty (30) days of the publication of the notice required by subsection (2) above.

(4) **Notice of corridor/design public hearings.**

(a) **Publication.** The Municipality shall publish a notice of public hearings in a newspaper of general circulation in the area where the proposed system would be located. The hearing shall be held no earlier than fifteen (15) days nor later than fifty (50) days from the date of first newspaper publication.

(b) **Content.** The notice shall contain:

(i) A brief description of the location or design (as applicable) of the proposed system.

(ii) A statement that members of the public may comment on:

(A) the need for and location of the system, for corridor public hearings;

(B) the major design features of the system, for design public hearings; and

(C) the social, economic, and environmental effects of the location (or design) of the proposal and alternate locations (or designs).

(iii) The name and availability of environmental or other documents pertaining to the hearing.

(iv) The time and place of the hearing.

(5) **Conduct of public hearings.**

(a) **Availability of documents before hearings.** The Municipality shall make any environmental document on the proposed system available to the public at least fifteen (15) days before the public hearings. The Municipality shall also make these documents available for public inspection at the hearings.

(b) **Chair and rules.** The public hearings shall be chaired by a member of the Council of the Municipality or a person designated by the Chair of the Transit Committee. The hearing shall be conducted in conformance with the Municipality's adopted rules or procedures for public hearings and with applicable state or federal regulations.

(c) **Recordings.** Recording may be made of any proceedings of these public hearings, and such recordings shall be appropriately indexed and made available at the Municipality's library or its SEPA public information center.

(d) **Corridor public hearings.** At corridor public hearings, the Municipality shall allow the public to present views on the need for the system, the location of the system, and the social, economic, and environmental effects of the system's location and alternate locations.

(e) **Design public hearings.** At design public hearings, the Municipality shall allow the public to present views on the major design features of the system, and on the social, economic, and environmental effects of the system's design and alternate designs.

(6) **Combined hearings.** The Municipality may combine corridor or design public hearings with other public participation, in which case alternative procedures may be used (see WAC 330-01-070 and 080).

WSR 84-03-042

EMERGENCY RULES

MUNICIPALITY OF

METROPOLITAN SEATTLE

[Resolution No. 4295—Filed January 17, 1984]

Be it resolved by the Council of the Municipality of Metropolitan Seattle, acting at Seattle, Washington, that it does adopt the annexed rules relating to the establishment of procedures for corridor and design public hearings under RCW 35.58.273.

We, the Council of the Municipality of Metropolitan Seattle, 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 Municipality is currently planning a downtown Seattle transit project, which could result in the need for

corridor and design public hearings pursuant to RCW 35.58.273, depending on the final project proposal and financing. In order to enable the corridor public hearings to be held together with public hearings on the draft environmental impact statement for the downtown Seattle transit project, which are planned for March 1984, it is necessary to adopt this emergency rule. The municipality therefore made the following findings in Resolution 4295 (January 5, 1984): That the immediate adoption of the rule is necessary for the preservation of public health, safety, and welfare; that observance of the requirements in chapter 34.04 RCW for proposed rule-making would be contrary to the public interest; and that the adoption of an emergency rule in accordance with RCW 34.04-.030 is necessary for the following reasons:

To provide for timely and effective public participation as required by statute;

To obtain public comment on the downtown Seattle transit project's need, location, alternatives, and social, economic, and environmental effects by enabling a corridor public hearing to be held together with the public hearing on the downtown Seattle transit project draft environmental impact statement.

To allow the downtown Seattle transit project planning to proceed in a useful and timely manner in order to implement the Municipality's comprehensive plan for public transportation service and to address the immediate transit problem downtown and the provision of necessary transit service to the region; and

To avoid public and agency confusion and cost with duplicative public hearings.

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

This rule is promulgated pursuant to RCW 35.58.273 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 5, 1984.

By Maureen Varni
Clerk of the Council

Chapter 330-01

**PROCEDURES FOR CORRIDOR AND DESIGN
PUBLIC HEARINGS UNDER RCW 35.58.273**

WAC

- 330-01-010 Authority.
- 330-01-020 Purpose of this chapter.
- 330-01-030 Purpose of this rule.
- 330-01-040 When this rule applies.
- 330-01-050 Definitions for this chapter.
- 330-01-060 Opportunity for and timing of public hearings.
- 330-01-070 Combination with other public participation.
- 330-01-080 Public hearings when there is an EIS.
- 330-01-090 Public hearings when there is no EIS.

NEW SECTION

WAC 330-01-010 AUTHORITY. *This chapter is promulgated pursuant to RCW 35.58.273 and is intended to administratively implement that statutory provision.*

NEW SECTION

WAC 330-01-020 PURPOSE OF THIS CHAPTER. *The Municipality of Metropolitan Seattle is a municipal corporation as authorized by Chapter 35.58 RCW and defined in RCW 35.58.020(1). The Municipality is not a state agency. The Municipality of Metropolitan Seattle has established procedures for adopting its own resolutions, rules, and regulations, in accordance with RCW 35.58.130. RCW 35.58.273, however, requires the Municipality to "adhere to the provisions of the Administrative Procedure Act", chapter 34.04 RCW, in adopting one particular rule. This chapter was created to fulfill that legal requirement.*

NEW SECTION

WAC 330-01-030 PURPOSE OF THIS RULE.
(1) *The purpose of this rule is to provide detailed procedures for public participation and hearings in certain situations involving the location and design of a mass rapid transit system. A hearing on the location of the route of the proposed system is called a "corridor public hearing". A hearing on the major design features of the proposed system is called a "design public hearing".*

(2) *Another purpose of this rule is to coordinate public hearings under RCW 35.58.273 with other hearings that the Municipality may hold during its planning process. RCW 35.58.273 was enacted prior to SEPA and NEPA. The Municipality's public hearings under these laws, for example, can fulfill the requirements of RCW 35.58.273.*

NEW SECTION

WAC 330-01-040 WHEN THIS RULE APPLIES. (1) *This rule applies in a specific situation involving the planning and design of mass rapid transit systems.*

(2) *This rule applies only when the Municipality:*

(a) *proposes to approve and construct a specific mass rapid transit system; and*

(b) *will acquire right of way or construct a mass transit facility on a separate right of way for the system; and*

(c) *will utilize certain special excise tax monies for such acquisition or construction.*

(3) *If all three items in the preceding subsection occur, the Municipality must provide an opportunity for corridor and design public hearings. However, if an overall mass rapid transit system plan is adopted by a vote of the electorate of the Municipality, prior corridor public hearings are not required under RCW 35.58.273.*

NEW SECTION

WAC 330-01-050 DEFINITIONS FOR THIS CHAPTER. (1) *"Corridor" means a pathway for mass*

rapid transit, It is synonymous with words such a "route", "route location", "route proposal", "location of the system", and "alignment". In this chapter, a corridor refers to a route used by a substantial portion of vehicles in the overall system and not simply to one or several bus routes. A corridor need not be used exclusively for mass rapid transit.

(2) "Corridor public hearing" means a public hearing that:

(a) the Municipality holds before it is committed to or establishes a specific mass rapid transit system corridor, and

(b) affords an opportunity for public comment on the need for and location of the system and on the social, economic, and environmental efforts on that location and alternate locations.

The statutory phrases "committed to or establishes" and "adoption of location plans" shall refer to a Resolution of the Council of the Municipality that authorizes a specific mass rapid transit system project and describes its location. The consideration of various proposals, including preferred alternatives, preliminary engineering work, or other planning during the environmental review process, do not constitute the establishment of or commitment to a specific mass transit route proposal.

(3) "Design public hearing" means a public hearing that:

(a) the Municipality holds after it establishes a system route location, but before it adopts a design; and

(b) affords an opportunity for public comment on the system's design and on the social, economic, and environmental effects of that design and alternate designs.

The phrase "adopts a design" shall refer to a Resolution of the Council of the Municipality that approves a final design for the system's major design features. Authorization or approval of preliminary design (sometimes referred to as predesign) does not constitute adopting a design.

(4) "EIS" means an environmental impact statement prepared under SEPA or NEPA.

(5) "Environmental document" means any written public document prepared under SEPA or NEPA.

(6) "Executive Director" means the Executive Director of the Municipality or the Executive Director's designee.

(7) "Final design" means plans and specifications in sufficient detail to authorize construction activities or, if applicable, to receive final approvals from other government agencies under Section 4(f) of the Department of Transportation Act or Section 106 of the National Historic Preservation Act of 1966.

(8) "Lead agency" means the local, state, or federal agency or agencies responsible for the preparation of environmental documents under SEPA or NEPA.

(9) "Major design features" means the physical size, shape, and appearance of the principal components of a mass rapid transit system, and the relationship of these components to each other and to their surroundings.

(10) "Mass rapid transit system" (or "system") means a new network of routes and facilities to be used by mass transit vehicles serving the Municipality's functions. A

system is not simply a particular facility or group of facilities serving transit purposes, but must involve the establishment of a new corridor for transit vehicles. A system refers both to the location and to the major design features of the corridor and associated facilities.

(11) "Mass transit facility" means a facility constructed on a separate right of way as part of a mass rapid transit system.

(12) "Mass transit route proposal" means a proposed corridor for a mass rapid transit system.

(13) "Municipality" means the Municipality of Metropolitan Seattle, a unit of local government established under Chapter 35.58 RCW.

(14) "NEPA" means the National Environmental Policy Act of 1969, 40 U.S.C. 4321 *et seq.*

(15) "Route". See "Corridor".

(16) "SEPA" means the State Environmental Policy Act of 1971, Chapter 43.21C RCW.

(17) "Separate right of way" means a right of way proposed to be used for public transportation that is not in, along, on, under, over, or through public streets, bridges, viaducts, and other public rights of way.

(18) "Social, economic, and environmental effect" means a direct or indirect consequence of a system's location or design. The term "environmental effect" means the impact on the elements of the environment, as specified by RCW 43.21C.110(1)(f), and is not synonymous with "social" or "economic" effects.

(19) "System" means "mass transit system" (WAC 330-01-050(10)).

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

NEW SECTION

WAC 330-01-060 OPPORTUNITY FOR AND TIMING OF PUBLIC HEARINGS. (1) Generally speaking, the Municipality will provide an opportunity for public hearings before locating, designing, and building a system that has substantial impacts (see subsection (2) of this section for a technical explanation). If the Municipality already has a system operating on a separate right of way, Metro will provide an opportunity for public hearings before substantially changing that system.

(2) When this rules applies (WAC 330-01-040), the Municipality shall afford opportunity for corridor and design public hearings:

(a) before the Municipality adopts location and design plans having a substantial social, economic, or environmental effect upon the locality where the plans are to be constructed; or

(b) whenever a substantial change, having a substantial social, economic, or environmental effect, is proposed relating to the location or design in the adopted plan (if any) for a mass rapid transit system operating on a separate right of way.

(3) Corridor public hearings shall be held before the Municipality is committed to a specific mass transmit route proposal and before a route location is established. If an EIS analyzes alternative corridors, corridor public hearings are encouraged to be held no earlier than the

scoping process nor later than the public hearings on the draft EIS.

(4) Design public hearings shall be held after the Municipality establishes the corridor location, but before it adopts the design. If there is a formal preliminary design document, such as an environmental, engineering, or predesign document, design public hearings are encouraged to be held after such a document has been prepared for consideration by the Municipality.

(5) Recognizing that the planning and design of mass rapid transit systems is a long and complex process, the Executive Director shall have discretion to determine the most appropriate time in the planning and decisionmaking process to hold any corridor and design public hearings.

(6) Nothing in this chapter shall restrict the Council of the Municipality or any of its committees or members from considering the location or design of a system, or documents related thereto, prior to any corridor or design public hearings.

(7) Nothing in this chapter shall restrict the Municipality from preparing or considering a single document that covers both system location and design. Design public hearings, however, cannot be held until after the Municipality holds corridor public hearings and establishes a corridor location.

(8) Nothing in this chapter shall require the Municipality to hold both a corridor and a design public hearing on a system if there is only sufficient public interest in one of these types of hearings. Because this chapter is required to provide the opportunity for public hearings, it is possible that the public will be interested in either a corridor or a design public hearing, but not in both.

NEW SECTION

WAC 330-01-070 COMBINATION WITH OTHER PUBLIC PARTICIPATION. (1) The Municipality may hold corridor and design public hearings concurrently with any other public hearings on a proposed mass rapid transit system. Corridor or design public hearings may be combined with a public comment period at a meeting of the Council or Transit Committee of the Municipality. The Executive Director may make the decision to combine such public hearings. Corridor or design public hearings that are combined with other public participation shall meet the requirements of this section.

(2) If corridor or design public hearings are held concurrently with public hearings on an EIS, WAC 330-01-080 shall govern. If corridor or design public hearings are held concurrently with any other hearings, the procedures for such other hearings shall apply, except that:

(a) notice shall at a minimum contain the information and be published as specified in WAC 330-01-090(4); and

(b) the hearing shall provide a forum for commenting on the subjects specified in WAC 330-01-090(5)(d) and (e).

(3) Except for the notice referred to in the preceding subsection, holding corridor and design public hearings with any other hearings does not change or expand the

requirements for any documents prepared for the hearings, including but not limited to environmental impact statements.

NEW SECTION

WAC 330-01-080 PUBLIC HEARINGS WHEN THERE IN AN EIS. (1) The Municipality shall conduct corridor and design public hearings whenever the Municipality is a lead agency for an EIS on a proposed system which meets the criteria of WAC 330-01-040.

(2) If the Municipality holds corridor or design public hearings concurrently with public hearings on an EIS under SEPA, the Municipality shall follow the procedures for hearings on EISs, as specified by chapter 43-.21C RCW, chapter 197-11 WAC, and the Municipality's Resolution setting forth its SEPA procedures.

(3) If the Municipality holds corridor or design public hearings concurrently with public hearings on an EIS under NEPA, the Municipality shall follow the procedures for hearings specified by its own procedures and by the federal joint lead agency and that agency's NEPA implementing procedures.

(4) Compliance with SEPA procedures (and/or NEPA procedures if applicable) fully satisfies the requirements of this chapter if:

(a) the information required by WAC 330-01-090(4)(b) is included in the published notice for the hearings; and

(b) the public hearing provides a forum for commenting on the subjects specified in WAC 330-01-090(5)(d) and (e).

NEW SECTION

WAC 330-01-090 PUBLIC HEARINGS WHEN THERE IS NO EIS. (1) No EIS. When this chapter applies to a proposal, but an EIS is not being prepared, the Municipality shall nonetheless provide an opportunity for public hearings by following the procedures in this section.

(2) Notice of opportunity for hearings. The Municipality shall publish a notice in a newspaper of general circulation in the area where proposed system would be located. The notice shall contain:

(a) A statement that members of the public may request the Municipality to hold a corridor or design public hearing (as applicable).

(b) A brief description of the system's route location or major design features (as applicable).

(c) The availability of an environment document, if any, on the proposal.

(d) The method and date by which members of the public can request a public hearing.

(3) When a hearing must be held. The Municipality shall hold a corridor or design public hearing (as applicable) under this section when written requests are submitted by:

(a) fifty (50) or more persons residing within the Municipality, or who would be affected by the proposal; or

(b) two or more agencies with the authority to approve or disapprove the proposal. The written requests

must be received within thirty (30) days of the publication of the notice required by subsection (2) above.

(4) Notice of corridor/design public hearings.

(a) Publication. The Municipality shall publish a notice of public hearings in a newspaper of general circulation in the area where the proposed system would be located. The hearing shall be held no earlier than fifteen (15) days nor later than fifty (50) days from the date of first newspaper publication.

(b) Content. The notice shall contain:

(i) A brief description of the location or design (as applicable) of the proposed system.

(ii) A statement that members of the public may comment on:

(A) the need for and location of the system, for corridor public hearings;

(B) the major design features of the system, for design public hearings; and

(C) the social, economic, and environmental effects of the location (or design) of the proposal and alternate locations (or designs).

(iii) The name and availability of environmental or other documents pertaining to the hearing.

(iv) The time and place of the hearing.

(5) Conduct of public hearings.

(a) Availability of documents before hearings. The Municipality shall make any environmental document on the proposed system available to the public at least fifteen (15) days before the public hearings. The Municipality shall also make these documents available for public inspection at the hearings.

(b) Chair and rules. The public hearings shall be chaired by a member of the Council of the Municipality or a person designated by the Chair of the Transit Committee. The hearing shall be conducted in conformance with the Municipality's adopted rules or procedures for public hearings and with applicable state or federal regulations.

(c) Recordings. Recording may be made of any proceedings of these public hearings, and such recordings shall be appropriately indexed and made available at the Municipality's library or its SEPA public information center.

(d) Corridor public hearings. At corridor public hearings, the Municipality shall allow the public to present views on the need for the system, the location of the system, and the social, economic, and environmental effects of the system's location and alternate locations.

(e) Design public hearings. At design public hearings, the Municipality shall allow the public to present views on the major design features of the system, and on the social, economic, and environmental effects of the system's design and alternate designs.

(6) Combined hearings. The Municipality may combine corridor or design public hearings with other public participation, in which case alternative procedures may be used (see WAC 330-01-070 and 080).

WSR 84-03-043

PROPOSED RULES

DEPARTMENT OF

GENERAL ADMINISTRATION

(Division of Savings and Loan Associations)

[Filed January 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of General Administration, Division of Savings and Loans, intends to adopt, amend, or repeal rules concerning loans made by state-chartered savings and loan associations;

that the agency will at 1:30 p.m., Thursday, February 23, 1984, in the Supervisor's Office, 217-C General Administration 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 33.12.060(2)(f) as to WAC 419-40-070, and RCW 33.24.010 as to WAC 419-40-085.

Dated: January 16, 1984

By: R. H. "Bob" Lewis
Supervisor

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

RCW 33.24.010 limits Washington state chartered associations to invest no more than 2 1/2% of assets in any loan or obligation to any one person except with written permission of the supervisor.

The supervisor has determined there is a need for state chartered associations to apply the privileges and limitations granted to affiliated persons as defined in rules and regulations for the Federal Savings and Loan Corporation.

The purpose of the proposed amendment to WAC 419-14-070 is to foster equitable treatment of affiliated persons of state chartered associations with those of federally chartered associations.

WAC 419-14-085 as proposed will maintain fairness of competition and parity between state chartered savings and loan associations and federally chartered savings and loan associations as provided in RCW 33.12.014 by bringing the loans to one borrower authority into conformance with federal regulations.

These regulations are drafted and proposed by R. H. "Bob" Lewis, Supervisor, Division of Savings and Loan, 217-C General Administration Building, Olympia, Washington 98504.

The supervisor and his staff will be responsible for enforcement of these rules.

No significant economic impact will result from these rules.

AMENDATORY SECTION (Amending Order 82-4, filed 6/7/82)

WAC 419-14-070 LOANS TO DIRECTORS, OFFICERS, OR EMPLOYEES MAXIMUM AMOUNT. The total value of loans made or obligations acquired under the authority of RCW 33.12.060 (2)(f) for any director, officer, or employee of an association shall not exceed twenty-five thousand dollars, unless all applicable regulations of the Federal Savings and Loan Insurance Corporation have been complied with, in which case loans not in excess of one hundred thousand dollars

total may be made. Loans in amounts larger than one hundred thousand dollars may be made only when the prior written approval of the supervisor has been obtained in accordance with the provisions of this section.

Requests to the supervisor for permission to exceed the maximum loan limit shall be made at least ten days in advance of the date upon which it is anticipated that funds will be disbursed if the loan is approved. Such requests must be accompanied by a certified copy of the authorizing resolution, which shall set forth with specificity the reasons that the board of directors believes that exceeding the loan limitation established in this section is in the best interest of the association in each instance. The authorizing resolution shall also set forth the directors' evaluation of the quality of the security for the loan, and the ability of the debtor to repay the loan in accordance with its terms.

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

Reviser's note: The spelling error in the above caption occurred in the copy filed by the agency and appears herein pursuant to RCW 34.08.040.

NEW SECTION

WAC 419-14-085 LOANS TO ONE BORROWER. RCW 33.24.010 provides that an association may not invest more than two and one-half percent of its assets in any loan or obligation to any one person, except with the written approval of the supervisor. The supervisor hereby gives written approval for any state chartered association to make a loan to any one borrower in an amount which, taken together with all other outstanding loans and obligation to the same borrower, does not exceed either ten percent of the institution's withdrawable accounts, or the association's net worth, whichever is less.

"One borrower" is defined as (a) any person or entity that is, or that upon the making of a loan will become, obligor on a loan; (b) Nominees of such obligor; (c) all persons trusts, partnerships, syndicates, and corporations of which such obligor is a nominee or a beneficiary, partner, member, or record or beneficial stockholder owning ten percent or more of the capital stock, and (d) if such obligor is a trust partnership, syndicate, or corporation, all trusts, partnerships, syndicates, and corporations of which any beneficiary, partner, member, or record or beneficial stockholder owning ten percent of the capital stock, is also a beneficiary, partner, member, or record or beneficial stockholder owning ten percent or more of the capital stock of such obligor; and the term "total balances of all outstanding loans" means the original amounts loaned by an insured institution plus any additional advances and interest due unpaid, less repayments and participating interests sold and exclusive of any loan on the security of such institution's savings accounts or real estate, the title to which has been conveyed to a bona fide purchaser of such real estate.

WSR 84-03-044
EMERGENCY RULES
DEPARTMENT OF
GENERAL ADMINISTRATION
(Division of Savings and Loan Associations)
[Order 83-7—Filed January 18, 1984]

I, R. H. "Bob" Lewis, Supervisor of Savings and Loan Associations, do promulgate and adopt at Olympia, Washington, the annexed rules relating to loans made by state-chartered savings and loan associations.

I, R. H. "Bob" Lewis, Supervisor of Savings and Loan Associations, 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 419-14-070 meets the requirements of

RCW 33.12.060(2)(f), as amended by section 25, chapter 3, Laws of 1982, that the supervisor establish by rule the maximum amount of loans which may be made by a state chartered savings and loan association to any one director, officer or employee thereof. Failure to adopt this regulation on an emergency basis would prevent state chartered savings and loan associations from making these types of loans on an equal basis with federally chartered institutions. WAC 419-14-085 meets the statutory requirement of RCW 33.24.010 which requires supervisory approval for loans to one borrower in excess of 2 1/2% of an association's assets on the condition that those loans do not exceed 10% of the association's withdrawable accounts or the association's net worth whichever is the less. The proposed conditions are the same conditions imposed on federal associations. Failure to adopt this rule on an emergency basis would prevent state chartered savings and loan associations from making loans on the same basis as federally chartered associations thereby placing them at a competitive disadvantage vis-a-vis other financial institutions.

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

This rule is promulgated pursuant to RCW 33.12.060(2)(f) as to WAC 419-40-070, and RCW 33.24.010 as to WAC 419-40-085, 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 16, 1984.

By R. H. "Bob" Lewis
Supervisor

AMENDATORY SECTION (Amending Order 82-4, filed 6/7/82)

WAC 419-14-070 LOANS TO DIRECTORS, OFFICERS, OR EMPLOYEES MAXIMUM AMOUNT. The total value of loans made or obligations acquired under the authority of RCW 33.12.060 (2)(f) for any director, officer, or employee of an association shall not exceed twenty-five thousand dollars, unless all applicable regulations of the Federal Savings and Loan Insurance Corporation have been complied with, in which case loans not in excess of one hundred thousand dollars total may be made. Loans in amounts larger than one hundred thousand dollars may be made only when the prior written approval of the supervisor has been obtained in accordance with the provisions of this section.

Requests to the supervisor for permission to exceed the maximum loan limit shall be made at least ten days in advance of the date upon which it is anticipated that funds will be disbursed if the loan is approved. Such requests must be accompanied by a certified copy of the authorizing resolution, which shall set forth with specificity the reasons that the board of directors believes that exceeding the loan limitation established in this section is in the best interest of the association in each instance. The authorizing resolution shall also set forth the directors' evaluation of the quality of the security for the

loan, and the ability of the debtor to repay the loan in accordance with its terms.

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

Reviser's note: The spelling error in the above caption occurred in the copy filed by the agency and appears herein pursuant to RCW 34.08.040.

NEW SECTION

WAC 419-14-085 LOANS TO ONE BORROWER. RCW 33.24.010 provides that an association may not invest more than two and one-half percent of its assets in any loan or obligation to any one person, except with the written approval of the supervisor. The supervisor hereby gives written approval for any state chartered association to make a loan to any one borrower in an amount which, taken together with all other outstanding loans and obligation to the same borrower, does not exceed either ten percent of the institution's withdrawable accounts, or the association's net worth, whichever is less.

"One borrower" is defined as (a) any person or entity that is, or that upon the making of a loan will become, obligor on a loan; (b) Nominees of such obligor; (c) all persons trusts, partnerships, syndicates, and corporations of which such obligor is a nominee or a beneficiary, partner, member, or record or beneficial stockholder owning ten percent or more of the capital stock, and (d) if such obligor is a trust partnership, syndicate, or corporation, all trusts, partnerships, syndicates, and corporations of which any beneficiary, partner, member, or record or beneficial stockholder owning ten percent of the capital stock, is also a beneficiary, partner, member, or record or beneficial stockholder owning ten percent or more of the capital stock of such obligor, and the term "total balances of all outstanding loans" means the original amounts loaned by an insured institution plus any additional advances and interest due unpaid, less repayments and participating interests sold and exclusive of any loan on the security of such institution's savings accounts or real estate, the title to which has been conveyed to a bona fide purchaser of such real estate.

WSR 84-03-045

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed January 18, 1984]

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 regarding miscellaneous commodities, including buckwheat, chapter 16-213 WAC;

that the agency will at 1:00 p.m., Thursday, February 23, 1984, in the Conference Room, 2728 Westmoor Court, Suite B, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 1, 1984.

The authority under which these rules are proposed is chapter 22.09 RCW.

The specific statute these rules are intended to implement is RCW 22.09.720 and 22.09.730.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 23, 1984.

Dated: January 18, 1984

Norval G. Johanson

Assistant Director

Commodity Inspection Division

STATEMENT OF PURPOSE

Title: Chapter 16-213 WAC, regarding miscellaneous commodities including buckwheat.

Description of Purpose: The purpose of the amendment is to specify standards for grading and certifying cultivated buckwheat and for inspecting and certifying stowage areas for cultivated buckwheat and other miscellaneous commodities.

Statutory Authority: Chapter 22.09 RCW.

Summary of Rule: The proposed rules define grades and tolerances for inspection of cultivated buckwheat in this state; provide criteria for domestic and export certification; and provide procedures for conducting and certifying the sanitary condition of stowage spaces for buckwheat and other miscellaneous commodities.

Reasons Supporting Proposed Activities: The proposed rules are in response to requests by the industry for certification of cultivated buckwheat and for examination of stowage spaces for commodities not covered by the United States Grain Standards Act or the Agricultural Marketing Act of 1946.

Agency Personnel Responsible: J. Allen Stine, Grain Inspection Program Supervisor, Washington State Department of Agriculture, 406 General Administration Building, AX-41, Olympia, Washington 98504, (206) 753-5066.

Person or Organization Proposing Rule Whether Public, Private, or Governmental: Washington State Department of Agriculture.

Agency Comments: None.

These rules are not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined that there would be no economic impact upon small business in the state of Washington by adoption of these amendments or new rules.

NEW SECTION

WAC 16-213-200 DEFINITIONS. (1) "Buckwheat" means grain which before the removal of dockage consists of fifty percent or more of whole kernels of buckwheat (domestic varieties). The term "buckwheat" in these standards shall not include wild buckwheat.

(2) "Dockage" means all matter other than buckwheat which can be readily removed from a test portion of the original sample by use of the approved device in accordance with the procedures as set down in these standards.

(3) "Foreign material" means all matter other than buckwheat which remains in the sample after the removal of dockage.

(4) "Moisture" means a percentage ascertained by the air oven or by any device and method which gives equivalent results.

(5) "Percentages" means percentages ascertained by weight except in the case of moisture.

(6) "Sample grade buckwheat" means buckwheat which has a commercially objectionable foreign odor; or is musty, sour, heating, or hot; or contains eight or more stones per one thousand grams; or fails to meet the grade requirements of Washington numerical grades, or is otherwise distinctly low quality.

(7) "Stones" means concreted, earthy, or mineral matter or other substances of similar hardness that do not disintegrate readily in water.

(8) "Test weight per bushel" means the weight as determined per Winchester Bushel (35.24 liters) or as determined by any device and method which gives equivalent results.

(9) "Type" of buckwheat (large or small) means the result determined by sizing a portion using an 8/64 x 3/4 slotted sieve, and shall be added to and made a part of the grade designation.

(a) The designation shall be "Large" when twenty percent or less of the buckwheat passes through an 8/64 x 3/4 slotted sieve.

(b) The designation shall be "Small" when more than twenty percent of the buckwheat passes through an 8/64 x 3/4 slotted sieve.

(10) "Weevily" buckwheat shall be buckwheat that is infested with live weevils or other insects injurious to stored buckwheat.

NEW SECTION

WAC 16-213-210 PROCEDURES. (1) The determination of dockage shall be on approximately nine hundred seventy-five to one thousand twenty-five grams cut from the representative sample.

(a) The Carter dockage tester shall be set up as follows:

- (i) Set the air control at number six;
- (ii) Set the feed control at number six;
- (iii) Use the number two riddle in the riddle carriage;
- (iv) Use no sieve in the top sieve carriage;
- (v) Use the number eight sieve in the middle sieve carriage;
- (vi) Use the number eight sieve in the bottom sieve carriage.

(b) Dockage will then consist of:

- (i) The material removed from the air collecting pan;
- (ii) Material over the number two riddle. If any buckwheat is in this pan, remove and return to dockage free buckwheat;
- (iii) Material through the number eight sieve. If by weight, it is fifty percent or more of material other than buckwheat, return all of it to the dockage. If by weight, it is more than fifty percent buckwheat, return all of it to the dockage free buckwheat;
- (iv) Material through the number six bottom sieve.

(c) Record the percentage of dockage on the pan ticket. When applicable, the percentage of dockage shall be shown on the inspection certificate. The percentage of dockage when equal to 0.5 percent or more shall be stated in terms of half percent, whole percent, or whole and half percent, whichever is applicable, with other fractions disregarded as shown in the following examples:

- 0.50 to 0.99 percent is expressed as 0.5 percent;
- 1.00 to 1.49 percent is expressed as 1.0 percent;
- 1.50 to 1.99 percent is expressed as 1.5 percent, etc.

(2) The determination of foreign material shall be made on a representative portion of approximately sixty grams cut from the work sample after the removal of dockage. The percentage of foreign material shall be shown on the pan ticket and the inspection certificate to the nearest tenth of a percent.

(3) The determination for moisture shall be made on a representative portion of exactly two hundred fifty grams obtained from the representative sample before the removal of dockage. The percentage of moisture shall be shown on the pan ticket and the inspection certificate in whole and tenths of a percent to the nearest tenth percent.

(4) The determination for distinctly low quality and Washington sample grade factors shall be made on the basis of the lot as a whole and/or a representative portion of approximately one thousand grams cut from the representative sample before the removal of dockage. Distinctly low quality factors shall include:

(a) Animal filth. Buckwheat containing two or more rodent pellets, bird droppings, or an equivalent quantity of other animal filth shall be graded Washington sample grade.

(b) Broken glass. Buckwheat containing two or more pieces of broken glass shall be graded Washington sample grade.

(c) Caster beans. These multi-colored bean-like seeds of the castor-oil plant have been found to be highly toxic to animal life. Buckwheat containing three or more caster beans shall be graded Washington sample grade.

(d) *Crotalaria*. The seeds of *crotalaria* (*CROTALARIA* spp.) are highly toxic to animal life. These seeds can be various colors and are generally "kidney" or "boxing glove" shaped. Buckwheat containing three or more *crotalaria* seeds shall be graded Washington sample grade.

(e) Unknown foreign substance. Buckwheat containing four or more pieces of an unknown foreign substance shall be graded Washington sample grade. Pelletized material other than feed pellets shall be considered an unknown foreign substance. Feed pellets in buckwheat are considered dockage or foreign material, depending on where they are found during grading.

When buckwheat is found to be Washington sample grade on one or more of these factors, this fact and the reasons therefore shall be shown on the pan ticket and the inspection certificate even though the buckwheat may be Washington sample grade on another factor.

(5) The determination of stones shall be made on a representative portion of approximately one thousand grams of buckwheat after the removal of dockage.

(6) The determination for test weight per bushel shall be made on a representative portion of buckwheat ranging in size from one and one-eighth to one and one-quarter quarts after the removal of dockage. The test weight per bushel of buckwheat, whether or not this factor determines the grade, shall be shown on the pan ticket and the inspection certificate in whole and half pounds. A fraction of a half pound shall be disregarded.

(7) The determination of type shall be made on a representative portion of approximately two hundred fifty grams cut from the work sample after the removal of dockage. One of the following methods may be used:

(a) The mechanical sieving method.

(i) Mount an 8/64 x 3/4 slotted sieve and the bottom pan on the mechanical sieve shaker with the sieve perforations parallel to the direction of the movement. The sample is placed on the sieve and shaken lengthwise of the slots for twenty strokes.

(ii) All the material passing through the sieve shall be weighed and the percentage determined to the nearest tenth of a percent. This percentage shall be shown on the pan ticket and the inspection certificate.

(b) Hand sieving method.

(i) Mount an 8/64 x 3/4 slotted sieve on a bottom pan.

(ii) Place the two hundred fifty gram portion in the center of the pan.

(iii) Hold the sieve level in both hands with elbows close to the body and the sieve perforations parallel to the direction of the movement.

(iv) In a steady motion move the sieve left to right approximately ten inches and then return from right to left.

(v) Repeat the operation twenty times.

(vi) All the material passing through the sieve shall be weighed and the percentage determined to the nearest tenth of a percent. This percentage shall be shown on the pan ticket and the inspection certificate.

(8) The determination for the special grade "weevily" shall be made on the basis of the lot as a whole and/or the representative sample before the removal of dockage. Buckwheat is considered infested and shall be graded weevily when:

(a) The work sample contains one live weevil and any other live insect injurious to stored grain.

(b) The work sample contains one live weevil and the balance of the representative sample contains one live weevil or any other live insect injurious to stored grain.

(c) The work sample, or the work sample and the balance of the representative sample combined, contains no live weevils but does contain five or more other live insects injurious to stored grain.

(d) Two or more live weevils are found in, on or about the lot. When buckwheat is found to be weevily, this fact shall be shown on the pan ticket and on the inspection certificate in accordance with grade designation procedures.

(9) To provide uniform certification the following procedure shall be observed when writing grade designations on pan tickets and inspection certificates:

(a) The word "Washington" preceded by the abbreviation "No." and the numerical grade, or preceded by the words "Sample Grade", as the case may be, shall be shown first;

(b) The word "Large" or "Small" shall be shown next;

(c) The word "Buckwheat" shall be shown next;

(d) When applicable, the special grade "Weevily" shall be shown next;

(e) When applicable, the word "Dockage" together with the percentage thereof.

(10) The following certification requirements are applicable to buckwheat under these standards:

GRADE	MINIMUM TEST WEIGHT PER BUSHEL (POUNDS)		MAXIMUM LIMIT OF FOREIGN MATERIAL
	LARGE	SMALL	
	Pounds	Pounds	Percent
No. 1 Washington	45	48	1.0
No. 2 Washington	43	46	2.0
No. 3 Washington	40	42	4.0

Sample grade - Buckwheat which has a commercially objectionable foreign odor, or is musty, sour, heating, hot, contains eight or more stones per one thousand grams, or is otherwise distinctly low quality shall be graded Washington sample grade buckwheat with the inspector's notation as to quality and condition.

NEW SECTION

WAC 16-213-220 INSPECTION AND CERTIFICATION OF SHIPLOTS AND COMBINED LOTS OF WASHINGTON BUCKWHEAT. (1) For the loading of shiplots and combined lots, procedures from Chapter 2 - "Inspection of Shiplots and Combined Lots" and Chapter 3 - "Certification of Shiplots and Combined Lots" shall be utilized from the Federal Grain Inspection Manual.

(2) The following table shall be used for Uniform Inspection and determination of breakpoints.

(3) For purposes of the table below, GL means grade limit and BP means breakpoint.

GRADE	MINIMUM TEST WEIGHT PER BUSHEL (POUNDS)				MAXIMUM LIMIT OF FOREIGN MATERIAL	
	LARGE		SMALL		FOREIGN MATERIAL	
	GL	BP	GL	BP	GL	BP
No. 1 Washington	45.0 -	0.5	48.0 -	0.5	1.0	0.5
No. 2 Washington	43.0 -	0.5	46.0 -	0.5	2.0	0.5
No. 3 Washington	40.0 -	0.5	42.0 -	0.5	4.0	0.8

OTHER FACTORS	GRADE LIMIT	BREAKPOINT
Moisture	As specified by contract or load order	
Dockage	0.49%	0.27%
	0.99%	0.27%
	1.49% and above	0.39%
Large	20% or Less	5.0%
Small	More than 20%	-5.0%
Weevily	See WAC 16-213-210(8)	0 count

NEW SECTION

WAC 16-213-230 WASHINGTON STOWAGE EXAMINATIONS. (1) Upon request, original inspection or reinspection stowage examinations to determine suitability for loading of carriers transporting cultivated buckwheat, beet pulp pellets and other commodities not specifically covered by the United States Grain Standards Act, as amended (7 U.S.C. 71 et seq.) or the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 et seq.) will be performed by inspectors of the grain inspection branch, commodity inspection division of the Washington state department of agriculture who are licensed

under one of the above acts to perform official export stowage examinations.

(2) Procedures and guidelines for cleanliness shall be those of the United States Grain Standards Act, as amended. If the stowage area is acceptable, results shall be certificated on a Washington state certificate as:

"Hold no(s) was (were) examined on the above date by an inspector of the Washington state department of agriculture and was (were) found to be substantially clean, dry, free of insect infestation and suitable to maintain the quality of the (type of commodity) ."

If the stowage area is unacceptable, results will be certificated on a Washington state certificate as:

Hold no(s) was (were) examined on the above date by an inspector of the Washington state department of agriculture and was (were) found to be not suitable to maintain the quality of the (type of commodity) because of (condition) ."

The terms "official" or "official stowage examination" shall not be used.

**WSR 84-03-046
PROPOSED RULES
ENERGY FACILITY SITE
EVALUATION COUNCIL
[Filed January 18, 1984]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Energy Facility Site Evaluation Council intends to adopt, amend, or repeal rules concerning bimonthly meetings, WAC 463-06-040;

that the agency will at 1:30 p.m., Monday, March 12, 1984, in the EFSEC Hearing Room, 4224 6th Avenue S.E., Lacey, WA 98503, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 80.50.040(1).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 5, 1984.

Dated: January 13, 1984
By: Bill Fitch
Executive Secretary

STATEMENT OF PURPOSE

Rule Title and Purpose: WAC 463-06-040 Bimonthly meetings.

Statutory Authority: RCW 80.50.040(1).

Rule Summary and Supporting Statement on Proposed Action: A recommendation of the Phase II review of the council's budget was to reduce the number of council meetings where the cancellation would not affect council business. This recommendation has been reviewed and endorsed by the executive committee and approved by the council for publication in the Washington State Register.

Agency Responsibility for Drafting: Executive Committee, Nicholas D. Lewis, Chairman, Energy Facility Site Evaluation Council, Mailstop PY-11, Olympia, WA 98504, 459-6490; Implementing: William L. Fitch,

Executive Secretary, Energy Facility Site Evaluation Council, Mailstop PY-11, Olympia, WA 98504, 459-6490; and Enforcing: Nicholas D. Lewis, Chairman, Energy Facility Site Evaluation Council, Mailstop PY-11, Olympia, WA 98504, 459-6490.

Person or Organization Proposing Rule: Washington State Energy Facility Site Evaluation Council.

Agency Comments, if any: None.

AMENDATORY SECTION (Amending Order 103, filed 11/4/76)

WAC 463-06-040 ((~~BIMONTHLY~~)) SEMIMONTHLY MEETINGS. Regular meetings of the council are held on the second and fourth Mondays of each month. Regular meetings may be cancelled or rescheduled by approved council motion either by oral notice given at the preceding meeting or by the noticing procedure provided for special meetings pursuant to WAC 463-18-050.

WSR 84-03-047

ADOPTED RULES

**DEPARTMENT OF
RETIREMENT SYSTEMS**

[Order V—Filed January 18, 1984]

I, Robert L. Hollister, Jr., director of the Department of Retirement Systems, do promulgate and adopt at Olympia, Washington, the annexed rules relating to this order changes part of WAC 415-104-510(1)(e), Minimum standards for membership—Physical examination. It changes the thirty-five year age condition for membership in LEOFF Plan I to forty-five years of age.

This action is taken pursuant to Notice No. WSR 83-23-118 filed with the code reviser on November 23, 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 Department of Retirement Systems as authorized in RCW 41.50.050(5), 41.50.090 and 41.26.051.

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

APPROVED AND ADOPTED January 13, 1984.

By Robert L. Hollister, Jr.
Director

AMENDATORY SECTION (Amending Order 78-03-023, filed 2/15/78)

WAC 415-104-510 MINIMUM STANDARDS FOR MEMBERSHIP—PHYSICAL EXAMINATION. (1) Requirements: (a) Medical examination administered by a licensed physician or surgeon as set forth under provisions of chapter 18.71 RCW. Physician or surgeon to be appointed by the appropriate city or county disability board. Causes for rejection will be consistent with recommendations outlined in these standards.

(b) A medical history will be supplied by each applicant to the examining physician. The medical history

will include information on past and present diseases, injuries, and operations.

(c) The applicant must possess normal vision. He must demonstrate normal visual functions and visual acuity not less than 20/100 vision in each eye without correction and corrected to 20/20 in the better eye and 20/30 in the lesser eye. He must possess normal color vision.

(d) Applicant must possess normal hearing. Hearing acuity level to be determined by audiometric hearing test.

(e) Applicant must be at least eighteen years of age, and shall not have reached ((~~thirty-five~~)) forty-five years of age at the time of appointment.

(f) Retention on a permanent basis by the employer of the results of the physical examination on all applicants employed under these standards is required.

(2) Procedure: (a) Completion of the report of medical history by the applicant.

(b) The physical examination will be conducted by a licensed physician or surgeon after a review of the report of medical history completed by the applicant.

(c) The physician shall record his findings on the report of medical history and shall note thereon, for evaluation by the hiring authority, any past or present physical defects, diseases, injuries, operations, or conditions of an abnormal or unusual nature and whether applicant is or is not qualified. Reports of medical history shall be typewritten or printed, and the summary of defects and diagnosis shall refer to the applicable section of these standards as cause for rejection.

(d) Physical examination reports shall be placed in permanent files by the employer and must be available for examination at any reasonable time by representatives of the retirement system board.

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

WSR 84-03-048

PROPOSED RULES

**OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES**

[Filed January 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Office of Minority and Women's Business Enterprises intends to adopt, amend, or repeal rules concerning counting contract awards, WAC 326-30-100(4). This rule identifies the procedures state agencies and educational institutions will use to count contract awards with MWBE participation;

that the agency will at 1:00 p.m., Tuesday, February 21, 1984, in the Office Building 2 Auditorium, 12th and Franklin Streets, 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 February 27, 1984.

The authority under which these rules are proposed is chapter 120, Laws of 1983.

The specific statute these rules are intended to implement is chapter 120, Laws of 1983.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 10, 1984.

Dated: January 18, 1984

By Carolyn V. Patton
Director

STATEMENT OF PURPOSE

Title: Reporting MWBE participation, WAC 326-30-100(4), Counting contract awards.

Description of Purpose: To identify the procedures state agencies and educational institutions will use to count contract awards.

Statutory Authority: Chapter 120, Laws of 1983.

Specific Statute Rule is Intended to Implement: Chapter 120, Laws of 1983.

Summary of Rule: This rule identifies the procedures state agencies and educational institutions will use to count contract awards with MWBE participation.

Agency Personnel Responsible for Drafting: Carolyn V. Patton, Director, Office of Minority and Women's Business Enterprises; Implementation: State agencies and educational institutions; and Enforcement: Carolyn V. Patton, Office of Minority and Women's Business Enterprises and staff.

Person or Organization Proposing Rule: The Washington State Office of Minority and Women's Business Enterprises.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Small Business Economic Impact Statement: The counting contract awards rule will not have an economic impact on the business community.

Counting by agents will transfer most of the counting responsibility from individual agencies/educational institutions to purchasing agents (e.g., Department of General Administration, Data Processing Authority, State Printer and Office of Financial Management). This will facilitate more efficient and effective counting of MWBE goal attainment since agencies acting as agents for other agencies have automated facilities for tracking and recording contracts. This is complemented by the fact that agents generally have more computer capabilities for tracking and recording contract activities.

AMENDATORY SECTION (Amending Order 83-7, filed January 5, 1984)

WAC 326-30-100 AGENCY/EDUCATIONAL INSTITUTION REPORTING OF MWBE PARTICIPATION. (1) Form. Each state agency and educational institution shall report the participation of MBEs and WBEs in the public works, personal service, and procurement contracts executed by the agency or educational institution. The reports shall be made on a quarterly basis and an annual basis. The reports should designate contracts individually or by class according to the agency's designation in its annual plan. The reports shall also describe the agency's or educational institution's monitoring activity pursuant to sections 8 and 9, Chapter 120, laws of 1983.

(2) When participation should be reported. Participation by MBEs and WBEs should be reported both when the contract is awarded and when the money is disbursed. For contracts for procurement of goods and services, and personal services, the disbursement should be reported in the quarter in which it is made. For public works contracts, disbursement of funds under all contracts completed in the quarter should be reported, and the reports shall be accompanied by the affidavits of payment executed by the prime contractors for those contracts. Where the performance under a contract extends beyond the fiscal year in which it is awarded, all payments made on the contract will be counted toward the agency's or educational institution's annual overall goal attainment for the year in which it is awarded.

(3) Counting MWBE participation toward meeting goals.

(a) Award to MBE or WBE. When a contract is awarded, in its entirety, to an MBE or WBE, one hundred percent of the payments on the contract can be counted toward annual, overall goal attainment in the category in which the prime belongs.

(b) Award to MBE or WBE prime contractor with non-MWBE subcontractor. When a contract is awarded to an MBE or WBE prime contractor with a non-MWBE subcontractor, one hundred percent of the total contract value can be counted toward annual, overall goal attainment.

(c) Award to non-MWBE prime contractor with MWBE subcontractor. When only a part of the contract is performed by an MBE or WBE, subcontractor, the dollar value of only that percentage of the total contract performed by the MBE or WBE can be counted toward annual, overall goal attainment.

(d) Award to MBE prime contractor with WBE subcontractor. When a contract is awarded to an MBE prime contractor with a WBE subcontractor, the dollar value of the percentage of the total contract performed by the WBE can be counted toward the agency's/educational institution's WBE goal attainment. The dollar value of the remainder of the contract can be counted toward attainment of the MBE goal.

(e) Award to WBE prime contractor with MBE subcontractor. When a contract is awarded to a WBE prime contractor with a MBE subcontractor, the dollar value of the percentage of the total contract performed by the MBE can be counted toward the agency's/educational institution's MBE goal attainment. The dollar value of the remainder of the contract can be counted toward attainment of the WBE goal.

(f) Joint venture. Where a contract is awarded to a joint venture that includes an MWBE that is responsible for performance of a clearly defined portion of the work, the dollar value, on a percentage basis, of the MWBE's portion of the work may be counted toward annual, overall goal attainment.

(g) Combination MWBE. Contracts performed totally by a combination MWBE, or partially by a combination MWBE shall be counted by dividing the total dollar value of the contract or portion of contract performed by the combination MWBE by two. One-half of the dollar value will be counted toward the agency's/educational institution's attainment of the MBE goal and one-half will be counted toward the agency's/educational institution's attainment of the WBE goal when the contract contains both MBE and WBE requirements. When the contract contains only an MBE requirement or a WBE requirement, only one-half of the dollar value of the combination MWBE's participation shall be counted toward the agency's/educational institution's attainment of the goal.

(h) Counting participation by a minority WBE. The agency/institution must count participation by a minority female in only the category she designated in her bid. Her participation cannot be counted toward attainment of both overall annual goals.

(i) Substitution of MWBEs. When an MBE or WBE which has been awarded a contract is decertified after award or indicates after award that it is unable or unwilling to perform the contract, the agency/institution may not count the MWBE participation toward its overall annual goal attainment.

Where an MBE or WBE is decertified after it has begun to perform the work and the agency/institution determines substitution is impractical, only the percentage of the work performed by an MBE or WBE before the decertification can be counted toward the annual, overall goal attainment of the agency/institution.

Where a certified MBE or WBE is substituted for a decertified business or a business that indicates it is unwilling or unable to perform the work, the dollar value of the work performed by the certified business can be counted toward the agency/educational institution's goal attainment in that category.

(4) Counting Contract Awards. MWBE participation shall be counted toward meeting goals in accordance with the following criteria:

(a) Where only one state agency/educational institution is involved in setting goals and in the award of the contract, the total dollar value of the contract awarded to or that portion of the work performed by minority and women's business enterprises is counted toward the agency's/educational institution's applicable MBE/WBE goals.

(b) Where a contract is awarded by a state agency/educational institution acting as an agent for another state agency/educational institution, the goals set by the agent and the total dollar value of the contract awarded to or that portion of the contract work performed by minority and women's business enterprises is counted toward the agent's applicable MBE/WBE goals. This includes contracts awarded by agents in areas usually included under the agency's/educational institution's delegated authorities. Where agents set and count goals, the total dollar value of the contract is excluded from the requesting agency's/educational institution's contracting base.

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 84-03-049
EMERGENCY RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES
[Order 84-1—Filed January 18, 1984]

I, Carolyn V. Patton, director of the Office of Minority and Women's Business Enterprises, do promulgate and adopt at Olympia, the annexed rules relating to counting contract awards, WAC 326-30-100(4). This rule identifies the procedures state agencies and educational institutions will use to count contract awards with MWBE participation.

I, Carolyn V. Patton, 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 statute these rules are intended to implement was effective September 1, 1984. This is the first time state agencies and educational institutions are being required to report MWBE activities. This rule identifies the procedures to be used in counting MWBE participation on contract awards.

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

This rule is promulgated pursuant to chapter 120, Laws of 1983 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 18, 1984.

By Carolyn V. Patton
Director

AMENDATORY SECTION (Amending Order 83-7, filed January 5, 1984)

WAC 326-30-100 AGENCY/EDUCATIONAL INSTITUTION REPORTING OF MWBE PARTICIPATION. (1) *Form.* Each state agency and educational institution shall report the participation of MBEs and WBEs in the public works, personal service, and procurement contracts executed by the agency or educational institution. The reports shall be made on a quarterly basis and an annual basis. The reports should designate contracts individually or by class according to the agency's designation in its annual plan. The reports shall also describe the agency's or educational institution's monitoring activity pursuant to sections 8 and 9, Chapter 120, laws of 1983.

(2) *When participation should be reported.* Participation by MBEs and WBEs should be reported both when the contract is awarded and when the money is disbursed. For contracts for procurement of goods and services, and personal services, the disbursement should be reported in the quarter in which it is made. For public works contracts, disbursement of funds under all contracts completed in the quarter should be reported, and the reports shall be accompanied by the affidavits of payment executed by the prime contractors for those contracts. Where the performance under a contract extends beyond the fiscal year in which it is awarded, all payments made on the contract will be counted toward the agency's or educational institution's annual overall goal attainment for the year in which it is awarded.

(3) *Counting MWBE participation toward meeting goals.*

(a) *Award to MBE or WBE.* When a contract is awarded, in its entirety, to an MBE or WBE, one hundred percent of the payments on the contract can be counted toward annual, overall goal attainment in the category in which the prime belongs.

(b) *Award to MBE or WBE prime contractor with non-MWBE subcontractor.* When a contract is awarded to an MBE or WBE prime contractor with a non-MWBE subcontractor, one hundred percent of the total contract value can be counted toward annual, overall goal attainment.

(c) *Award to non-MWBE prime contractor with MWBE subcontractor.* When only a part of the contract is performed by an MBE or WBE, subcontractor, the dollar value of only that percentage of the total contract performed by the MBE or WBE can be counted toward annual, overall goal attainment.

(d) *Award to MBE prime contractor with WBE subcontractor.* When a contract is awarded to an MBE prime contractor with a WBE subcontractor, the dollar value of the percentage of the total contract performed by the WBE can be counted toward the agency's/educational institution's WBE goal attainment. The dollar value of the remainder of the contract can be counted toward attainment of the MBE goal.

(e) *Award to WBE prime contractor with MBE subcontractor.* When a contract is awarded to a WBE prime contractor with a MBE subcontractor, the dollar value of the percentage of the total contract performed by the

MBE can be counted toward the agency's/educational institution's MBE goal attainment. The dollar value of the remainder of the contract can be counted toward attainment of the WBE goal.

(f) Joint venture. Where a contract is awarded to a joint venture that includes an MWBE that is responsible for performance of a clearly defined portion of the work, the dollar value, on a percentage basis, of the MWBE's portion of the work may be counted toward annual, overall goal attainment.

(g) Combination MWBE. Contracts performed totally by a combination MWBE, or partially by a combination MWBE shall be counted by dividing the total dollar value of the contract or portion of contract performed by the combination MWBE by two. One-half of the dollar value will be counted toward the agency's/educational institution's attainment of the MBE goal and one-half will be counted toward the agency's/educational institution's attainment of the WBE goal when the contract contains both MBE and WBE requirements. When the contract contains only an MBE requirement or a WBE requirement, only one-half of the dollar value of the combination MWBE's participation shall be counted toward the agency's/educational institution's attainment of the goal.

(h) Counting participation by a minority WBE. The agency/institution must count participation by a minority female in only the category she designated in her bid. Her participation cannot be counted toward attainment of both overall annual goals.

(i) Substitution of MWBEs. When an MBE or WBE which has been awarded a contract is decertified after award or indicates after award that it is unable or unwilling to perform the contract, the agency/institution may not count the MWBE participation toward its overall annual goal attainment.

Where an MBE or WBE is decertified after it has begun to perform the work and the agency/institution determines substitution is impractical, only the percentage of the work performed by an MBE or WBE before the decertification can be counted toward the annual, overall goal attainment of the agency/institution.

Where a certified MBE or WBE is substituted for a decertified business or a business that indicates it is unwilling or unable to perform the work, the dollar value of the work performed by the certified business can be counted toward the agency/educational institution's goal attainment in that category.

(4) Counting Contract Awards. MWBE participation shall be counted toward meeting goals in accordance with the following criteria:

(a) Where only one state agency/educational institution is involved in setting goals and in the award of the contract, the total dollar value of the contract awarded to or that portion of the work performed by minority and women's business enterprises is counted toward the agency's/educational institution's applicable MBE/WBE goals.

Where a contract is awarded by a state agency/educational institution acting as an agent for another state agency/educational institution, the goals set by the agent and the total dollar value of the contract awarded

to or that portion of the contract work performed by minority and women's business enterprises is counted toward the agent's applicable MBE/WBE goals. This includes contracts awarded by agents in areas usually included under the agency's/educational institution's delegated authorities. Where agents set and count goals, the total dollar value of the contract is excluded from the requesting agency's/educational institution's contracting base.

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 84-03-050

NOTICE OF PUBLIC MEETINGS UTILITIES AND TRANSPORTATION COMMISSION

[Memorandum—January 18, 1984]

Regular meetings of the commission have heretofore been held each Wednesday at 8:00 a.m., in the Commission's Conference Room, Highways-Licenses Building, Olympia, Washington.

Notice is hereby given that commencing February 22, 1984, and continuing for the balance of 1984, the time and place of meetings are as follows:

Regular public meetings of the commission shall be held each Wednesday, commencing at 9:00 a.m. in the Commission's Hearing Room, Sixth Floor, Highways-Licenses Building, Olympia, Washington.

WSR 84-03-051

PROPOSED RULES UTILITIES AND TRANSPORTATION COMMISSION

[Filed January 18, 1984]

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 relating to automatic dialing-announcing devices, WAC 480-120-088. The proposed amendatory section is shown as Appendix A, Cause Nos. U-83-51 and U-83-56. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendment on economic values, pursuant to chapter 43.21H RCW and WAC 480-05-050(17). Comment is also invited on whether the regulation of automatic dialing-announcing devices should be discontinued, or strengthened, or otherwise modified;

that the agency will at 9:00 a.m., Wednesday, February 22, 1984, in the Commission's Hearing Room, Sixth Floor, Highways-Licenses Building, Olympia,

Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 80.01.040 and 80.04.160.

The specific statute these rules are intended to implement is RCW 80.36.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 10, 1984.

This notice is connected to and continues the matter in Notice Nos. WSR 83-23-103 and 84-02-068 filed with the code reviser's office on November 23, 1983, and January 4, 1984.

Dated: January 18, 1984

By: Barry M. Mar
Secretary

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-123, Cause No. U-79-01, filed 2/28/79)

WAC 480-120-088 AUTOMATIC DIALING-ANNOUNCING DEVICES. An automatic dialing-announcing device (ADAD) may not be operated while connected to the telephone network, except under the following conditions:

(1) An ADAD may be used pursuant to a prior agreement from the called party that he or she desires to receive such telephone communication; or

(2) An ADAD may be used if the recorded message is preceded by an announcement made by a human operator who:

(a) States the nature and length in minutes of the recorded message; and

(b) Identifies the caller and the individual, business, group, or organization for whom the call is being made and a telephone number to which a return call can be placed; and

(c) Asks the called party whether he or she is willing to listen to the recorded message; and

(d) Disconnects from the called party's line if the called party is unwilling to listen to the recorded message((-); or

(3) An ADAD may be used if the recorded message:

(a) Identifies the individual, business, group, or organization for whom the call is being made, the nature and length of the call, and a telephone number to which a return call may be placed; and

(b) Automatically disconnects the telephone connection within two seconds after the called party hangs up the receiver.

(c) An emergency ADAD may be connected to the telephone network only under the following conditions:

(i) The ADAD contains sensors that will react only to a steady tone of at least four seconds duration, broadcasts only on frequencies allocated by the FCC for emergency services, and is designed to prevent accidental triggering of emergency calls.

(ii) The ADAD provides some audible tone or message that alerts the user that the device has been activated and will automatically dial the preprogrammed emergency number unless manually deactivated within thirty to forty-five seconds.

(iii) The ADAD provides for disconnection within two seconds when the called party performs a predetermined function.

(iv) The ADAD is approved by the Underwriters Laboratories, and is listed under U.L. Standard No. 217.

(v) The user registers the instrument with and receives written approval for its use from the emergency services to which an automatic call would be directed, and secures from such services an approved telephone number or numbers to be programmed into the instrument.

As to any ADAD, provision ((is)) must be made to preclude the dialing of unlisted telephone numbers and the dialing of designated public service emergency telephone numbers as listed in published telephone directories, and the dialing of numbers of persons who in writing to the telephone utility have requested exclusion from ADAD calls, and to preclude the ADAD from dialing any telephone number before 8:30 a.m. or after 9:00 p.m., except where the ADAD is designed to deliver a message in response to an emergency situation, and

the user obtains approval from any public emergency service agency or telephone subscriber prior to using the ADAD to dial such agency or subscriber.

Before ((an)) any ADAD, other than an ADAD designed to deliver a message in response to an emergency situation, may be operated while connected to the telephone network, the potential user of such device shall notify the telephone utility in writing of the intended use of the ADAD equipment. The written notice shall contain a statement of the calendar days and clock hours during which the ADAD(s) will be used and include an estimate of the expected traffic volume in terms of message attempts per hour and average length of completed message. In addition, each utility shall maintain records of such ADAD equipment connected to their facilities and provide the commission with quarterly reports detailing the individual business, group, or organization operating such ADAD, their address and associated telephone number.

The telephone utility shall review the statement of intended use of ADAD equipment to determine whether there is a reasonable probability that use of the equipment will cause overload of the utility's facilities. If the utility finds that a reasonable probability exists that the ADAD operation will overload its network, the utility may refuse to provide connections for the ADAD(s) or provide them subject to conditions necessary to prevent an overload. If, after service has been established, it is determined that the volume of calling originated by the ADAD is degrading the service furnished to others, the utility may suspend or terminate the service after five days' notice to the subscriber. If use of the ADAD creates overloading in a telephone company switching office, the utility may suspend or terminate the service with no prior notice.

The telephone subscriber who uses ADAD equipment shall notify the utility in writing within thirty days of any changes in the ADAD operation which result in either an increase or decrease in traffic volume.

Except for an ADAD designed to deliver a message in response to an emergency situation, no ADAD shall be connected to the network unless the subscriber furnishes the utility with a written certification that the equipment can effectively preclude calls to unlisted telephone numbers, to designated public service emergency numbers, or to any number or series of telephone numbers on a list of telephone subscribers who may be in the future designated by the utility, by regulation or by statute, as subscribers who are not to receive ADAD calls. Upon notification by an ADAD user of its intent to connect to the telephone network, the telephone utility shall provide to the ADAD user the most current list of numbers of persons who have requested exclusion from ADAD calls.

The telephone utility ((may)) shall suspend or terminate the telephone service of any subscriber who uses an ADAD in violation of the provisions of this rule provided that the subscriber is given ((five)) eight business days' notice or with no prior notice if use of the ADAD creates overloading in a telephone company switching office.

WSR 84-03-052

NOTICE OF PUBLIC MEETINGS
FOREST PRACTICES BOARD

[Memorandum—January 18, 1984]

This amended notice is given in conformance with RCW 42.30.075. The Forest Practices Board will hold regularly scheduled quarterly meetings from 1:30 p.m. to 4:00 p.m. and field trips from 8:30 a.m. to 5:00 p.m. according to the following scheduled dates and locations:

March 21.	Meeting - Inn at the Quay	Vancouver, Washington
March 22	Field Trip	Columbia River Gorge
May 9	Meeting - Holiday Inn	Issaquah, Washington
May 10	Field Trip	Central Puget Sound
August 8	Meeting - National Guard Armory	Colville, Washington
August 9	Field Trip	Northeastern Washington
November 14	Meeting - Forks Public Library	Forks, Washington
November 15	Field Trip	Western Olympic Peninsula

Field trips will leave from the meeting place. This schedule is subject to change in the event of urgent or continuing board business or conflicts in scheduling. Alternate dates and times will be chosen unless the meeting is cancelled.

WSR 84-03-053
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed January 18, 1984]

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 funeral expense, amending chapter 388-42 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 2, 1984.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is RCW 74.08.120.

This notice is connected to and continues the matter in Notice No. WSR 83-24-066 filed with the code reviser's office on December 7, 1983.

Dated: January 18, 1984

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

WSR 84-03-054
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)
 [Order 2066—Filed January 18, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to division of developmental disabilities program option rules, new chapter 275-31 WAC.

This action is taken pursuant to Notice No. WSR 83-24-009 filed with the code reviser on November 29, 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 72.33.125 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 18, 1984.

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

Chapter 275-31 WAC
DIVISION OF DEVELOPMENTAL DISABILITIES
PROGRAM OPTION RULES

NEW SECTION

WAC 275-31-005 PURPOSE. (1) In order for developmentally disabled individuals to live in the most independent settings possible, and in order for these individuals and families to have access to services best suited to their needs, the division of developmental disabilities may approve alternative service plans for individuals.

(2) Measurable outcomes producing a positive result for individuals will be demonstrated as a result of services provided under such alternative plans.

(3) Cost savings will be demonstrated when costs of services under alternative plans are compared with costs of services provided prior to alternative plans.

NEW SECTION

WAC 275-31-010 DEFINITIONS. (1) "Department" means the department of social and health services of the state of Washington.

(2) "Division" means the division of developmental disabilities of the department of social and health services.

(3) "Field services" means the section of the division providing case management services and resource management to division clients living in the community.

(4) "Individual" means the person for whom an alternative plan is being developed.

(5) "Individual habilitation plan" means an individual written plan of care prepared by an interdisciplinary team that sets measurable goals or objectives stated in terms of desirable behavior and that prescribes an integrated program of activities, experiences, or therapies necessary for the individual to reach those goals or objectives. The overall purpose of the plan is to help the individual function at the greatest physical, intellectual, social, or vocational level the individual can presently or potentially achieve.

(6) "Individual program plan" means an individual service plan or individual habilitation plan.

(7) "Individual service plan" means the written plan, specifying goals and objectives, developed by division staff, parent or parents and/or guardian, the individual, and others whose participation is relevant to identifying needs of the individual.

(8) "Less dependent program" means an alternative program which will provide increased numbers and variety of community contacts for the individual or will require fewer hours of staff supervision/support for the individual.

(9) "Provider" means the person or agency contracted by the department to provide training, support, or other services as designated in the alternative plan.

(10) "Secretary" means the secretary of the department of social and health services or such officer of the department as the secretary may designate to carry out administration of the provision of these rules.

NEW SECTION

WAC 275-31-020 DETERMINATION OF ELIGIBILITY. An individual shall be eligible for services under an alternative plan, provided that the division has determined the individual has a disability as defined in WAC 275-27-030 and the individual is receiving current services from the department.

NEW SECTION

WAC 275-31-030 NOTIFICATION TO POTENTIAL APPLICANTS. (1) Field services shall, prior to March 15, 1984, contact by mail all individuals determined to have a disability as defined in WAC 275-27-030, along with the guardians and agencies entitled to custody of such disabled individuals and parents of disabled individuals who are minors. Thereafter, the aforementioned persons shall be advised once in each calendar year.

(2) Potential applicants shall be informed of the process by which they may develop an alternative plan for services.

NEW SECTION

WAC 275-31-040 APPLICATION FOR SERVICES. (1) In the case of a minor individual, an application can be made by the parent or parents, the guardian or limited guardian, or by the person or agency legally entitled to custody.

(2) In the case of an adult, an application can be made by the individual, by the guardian or limited guardian, or by the person or agency legally entitled to custody.

(3) Application will be made on the forms supplied by the department and the applicant will state the following:

- (a) The outline of services proposed;
- (b) Service providers for each service;
- (c) Tasks necessary to the delivery of each service and the person/organization responsible for each task;
- (d) All costs of services currently provided for the individual;
- (e) The cost of each service component proposed in the alternative plan;
- (f) Information explaining why the alternative plan is a less dependent program than the current program; and
- (g) Information explaining why the alternative plan is appropriate under the goals and objectives of the individual program plan.

(4) Applicants must be notified within ninety days after the alternative plan has been received by the department of the secretary's approval or denial of the plan.

(5) The notification of the department's decision is subject to appeal rights pursuant to WAC 275-27-400 and 275-27-500.

NEW SECTION

WAC 275-31-050 INDIVIDUAL SERVICE PLAN. The division shall ensure a current individual service plan is available for each individual prior to approval of application.

NEW SECTION

WAC 275-31-070 IMPLEMENTATION OF NECESSARY SERVICES. (1) Plans meeting all the criteria specified in RCW 72.33.125(5) shall be implemented as soon as reasonable, but not later than one hundred twenty days after the completion of the determination process.

(2) Approval and reasonableness may be reviewed for a new determination if the plan has not been implemented within one hundred twenty days.

NEW SECTION

WAC 275-31-080 CRITERIA FOR DETERMINING COSTS. (1) The term "all costs" includes, but is not limited to: Residential support, habilitation, medical care, income grants to the persons, support to assist their families or other caregivers, and nonrecurring start-up expenses. All residential costs will recognize capital investment, using federal or professional accounting conventions. The department will take the following costs into account:

(a) All costs paid by the department, including costs borne by the federal government. Income grants paid by the federal government directly to the person (or payee) will be considered.

(b) All costs of the current or proposed program.

(2) The department will estimate a monthly average cost based on a two-year prospective cost period.

(3) Where costs are paid or records kept for a group of individuals rather than for one individual in question, the department will primarily use average cost for that group, such as all individuals living at the particular group home or particular residential habilitation center, or all the persons supported by the particular day habilitation program. Exceptions will be considered for persons receiving substantial services above the services received by the typical person in the group.

(4) The analysis of the proposed alternative service plan should show that proposed services can be provided at eighty percent of the current service cost. Exceptions will be considered for persons needing substantial services.

NEW SECTION

WAC 275-31-090 METHOD OF RATE DETERMINATION. Prevailing rates for comparable services will ordinarily be utilized in determining reimbursement for cost components of the alternative plan.

WSR 84-03-055**ADOPTED RULES****DEPARTMENT OF LICENSING
(Board of Physical Therapy)**

[Order PL 455—Filed January 18, 1984]

Be it resolved by the Washington State Board of Physical Therapy, acting at Seattle, Washington, that it does adopt the annexed rules relating to the amending of WAC 308-42-040, 308-42-070, 308-42-120, repealing

WAC 308-42-020, 308-42-030, 308-42-035, 308-42-050 and 308-42-055.

This action is taken pursuant to Notice No. WSR 83-24-072 filed with the code reviser on December 7, 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 18.74.023 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 12, 1984.

By Chester C. Jolly
Chairman

AMENDATORY SECTION (Amending Order PL 426, filed 2/10/83)

WAC 308-42-040 EXAMINATIONS—WHEN HELD. (1) Examinations of applicants for ~~((registration))~~ licensure as physical therapists shall be held twice a year at the time and location prescribed by the ~~((director))~~ board ~~((with the advice and consent of the examining committee)).~~

(2) If for religious or other reasons acceptable to the ~~((examining committee))~~ board, an applicant is unable to be examined on the appointed day, another examination may be given within a reasonable time on a day approved by the ~~((examining committee))~~ board.

(3) Physical therapy students in their last year may apply for licensure by examination prior to graduation under the following circumstances:

(a) Receipt of a letter from an official, of their physical therapy school, verifying the probability of graduation prior to the date of the examination for which they are applying.

(b) Results of the examination ~~((and the probational certificate))~~ will be withheld until a diploma, official transcript or certification letter from the registrar's office certifying completion of all requirements for degree or certificate in physical therapy is received by the department.

Reviser's note: The error in the above caption occurred in the copy filed by the agency and appears herein pursuant to RCW 34.08.040.

AMENDATORY SECTION (Amending Order PL 426, filed 2/10/83)

WAC 308-42-070 REINSTATEMENT. (1) Any physical therapist who fails to renew ~~((his or her))~~ the license ~~((for a period of three years shall not be entitled to automatic renewal of license under RCW 18.74.070))~~ within thirty days of the date set by the director for renewal shall automatically lapse. ~~((In order for such a~~

~~physical therapist to obtain a license to practice physical therapy he or she must file an original application along with the required fees. The examining committee may, in its sole discretion, permit such applicant to be licensed without examination if it is satisfied that such applicant meets all the requirements for licensure in this state and is competent to engage in the practice of physical therapy:))~~ The licensee may, within three years from the date of lapse and upon recommendation of the board, request the license be revived by paying all back fees and a penalty fee determined by the director.

(2) If a license has lapsed more than three years, the license may be revived under the following conditions:

(a) the board may require reexamination of an applicant who has not been continuously engaged in lawful practice in another state or territory, or

(b) waive reexamination in favor of evidence of continuing education satisfactory to the board.

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

AMENDATORY SECTION (Amending Order PL 337, filed 3/24/80)

WAC 308-42-120 RENEWAL OF LICENSE. (1) The annual license renewal date for physical therapists ~~((is hereby changed to))~~ shall coincide with the licensee's birthdate. Individuals making application for initial license and examination, provided they meet all such requirements, will be issued a license to expire on their next birth anniversary date.

~~((2) Current licensees, as of January 1, 1981. Licensed physical therapists desiring to renew their licenses will be required to pay a fee of fifteen dollars, plus one-twelfth of that amount for each month or fraction thereof, in order to extend their license to expire on their birth anniversary date next following January 1, 1981.~~

~~((3) After the initial conversion to a staggered system, licensees may renew their licenses at the annual fee rate, for one year from birth anniversary date to the next birth anniversary date:))~~

REPEALER

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

WAC 308-42-020 REGISTRATION CERTIFICATES—SIGNED BY EXAMINING COMMITTEE.

WAC 308-42-030 EXAMINING COMMITTEE—CHAIRMAN TO BE DESIGNATED.

WAC 308-42-035 EXAMINATION COMMITTEE—MEETINGS.

WAC 308-42-050 PROBATIONARY CERTIFICATES—FOREIGN TRAINED APPLICANTS.

WAC 308-42-055 PROBATIONARY CERTIFICATES—DOMESTIC TRAINED APPLICANTS.

WSR 84-03-056
PROPOSED RULES
DEPARTMENT OF ECOLOGY

[Filed January 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning motor vehicle emission inspection, amending chapter 173-422 WAC;

that the agency will at 6:00 p.m., Wednesday, February 22, 1984, in the Spokane City Council Chambers, West 808 Spokane Falls Boulevard, Spokane, 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 18, 1984.

The authority under which these rules are proposed is RCW 70.120.120.

The specific statute these rules are intended to implement is chapter 70.120 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 21, 1984.

Dated January 18, 1984

By: John F. Spencer
 Deputy Director

STATEMENT OF PURPOSE

Title: Amending chapter 173-422 WAC, Motor vehicle emission inspection.

Description of Purpose: Establishes a start date for Spokane motor vehicle emission inspection program.

Summary of Rule: Establishes motor vehicle emission inspection program in areas where needed to meet air quality standards.

Reasons Supporting Proposed Action: Required by state law RCW 70.120.040(4).

Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Raymond, Department of Ecology, Mailstop PV-11, Olympia, WA 98504, 459-6261.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Small business will not be affected differently than large business. Any automotive repair facility doing tune-ups could have more business.

The Regulatory Fairness Act, chapter 19.85 RCW, requires that rules which have an economic impact on more than 20 percent of all industries or more than 10 percent of the businesses in any one industry be reviewed and altered, if necessary, to minimize their impact on small businesses.

Chapter 173-422 WAC requires that all motor vehicles not specifically exempted which are registered within the boundaries of an emission contributing area be

subject to vehicle emission inspection requirements. The inspections are performed by a state contractor. However, repair work to correct a vehicle which fails to meet the emission standards may be performed by the entity of the vehicle owner's choice.

Businesses which may be impacted by this regulation in its current form, or as proposed to be revised, may be classified into Standard Industrial Classifications (SIC's) 501, 552, 553, 554, or 559. Table 1 displays the total number of employer units and employees, and the number of employer units and employees in businesses employing less than 50 employees (small businesses) throughout the state. Data is not available for areas such as that defined in your regulatory proposal. However, businesses in Spokane County account for approximately 24% of the businesses in the state in SIC 55. Therefore we can assume that this regulation impacts more than 10% of the businesses in any one industry.

As shown by Table 1, most of the businesses in these SIC's are small businesses. Economic impacts on these businesses will vary according to whether the individual concern is involved with the sale of vehicles which might be subject to this regulation, or is involved in providing services and/or supplies required for the repair of motor vehicles. However, nothing in this regulatory proposal provides a basis for distinguishing between impacts on "small" as opposed to large businesses. Such impacts will be determined by the market conditions facing each such firm, rather than by the adoption of this regulation.

Table 1: Employer Units and Employees — Washington State March, 1982

SIC (Description)	All Businesses		Small Businesses ¹	
	Emp. Units	Employees	Emp. Units	Employees
501 (Automobiles and Parts)	575	6,082	552	4,239
551 (New & Used Car Dealers)	455	11,656	394	7,482
552 (Used Car Dealers)	232	683	232	683
553 (Auto & Home Supply Stores)	706	5,643	696	4,690
554/559 (Gasoline Service Stations & Auto Dealers N.E.C.)	1,778	9,190	1,764	8,237

Source: Employment Security Department

¹Less than 50 employees.

AMENDATORY SECTION (Amending Order DE 83-31, filed 11/23/83, effective 1/2/84)

WAC 173-422-050 EMISSION CONTRIBUTING AREAS. Emission contributing areas within which the motor vehicle emission inspection program (~~will apply~~) applies are designated by the following United States Postal Service ZIP codes as of the effective dates ~~(of this regulation:)~~ set forth below:

(1) Puget Sound Region (Effective January 1, 1982)

98004	98037
98005	98039
98006	98040
98007	98041
98008	98043
98009	98046
98011	98052
98012	98053
98020	98055
98021	98056

98027	98057
98028	98062
98033	98063
98034	98072
98036	98073
	98083
	98101 thru 98199,
	inclusive except 98110

(2) Spokane Region(~~The designations below shall apply only if local programs for reducing motor vehicle related air contaminants by means other than inspection and maintenance are not demonstrated to the satisfaction of the United States Environmental Protection Agency to bring the area hereby designated into compliance with applicable air quality standards.~~) (Effective July 1, 1985)

99201	99206
99202	99207
99203	99208
	99212
99204	99216
99205	99218

WSR 84-03-057
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed January 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning:

- Amd WAC 173-19-400 Spokane County.
- Amd WAC 173-19-250 King County.
- Amd WAC 173-19-4501 Bellingham, City of;

that the agency will at 2:00 p.m., Wednesday, February 29, 1984, in the EFSEC Building #1, 4224 6th Avenue S.E., Lacey, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 14, 1984.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 2, 1984.

Dated: January 17, 1984
 By: John F. Spencer
 Deputy Director

STATEMENT OF PURPOSE

Title: Amending WAC 173-19-400 Spokane County; WAC 173-19-250 King County; and WAC 173-19-4501 Bellingham, City of.

Description of Purpose: Adoption of revised shoreline master programs into the state master program, chapter 173-19 WAC.

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendments adopt revisions to the shoreline master programs for Spokane County, King County, and the city of Bellingham.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until

adopted by the department in accordance with the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jeanne Holloman, WDOE, Mailstop PV-11, Olympia, WA 98504, (206) 459-6287.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Not required.

AMENDATORY SECTION (Amending Order DE 82-44, filed 12/23/82)

WAC 173-19-400 SPOKANE COUNTY. Spokane County master program approved January 15, 1975. Revision approved September 6, 1977. Revision approved August 15, 1979. Revision approved February 24, 1981. Revision approved December 15, 1982. Revision approved March 14, 1984.

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-4501 BELLINGHAM, CITY OF. City of Bellingham master program approved September 30, 1974. Revision approved March 14, 1984.

AMENDATORY SECTION (Amending Order DE 81-54, filed 2/9/82)

WAC 173-19-250 KING COUNTY. King County master program approved July 8, 1976. Revision approved November 22, 1976. Revision approved June 30, 1978. Revision approved July 5, 1979. Revision approved September 23, 1981. Revision approved February 9, 1982. Revision approved March 14, 1984.

WSR 84-03-058
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed January 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning Kitsap County, amending WAC 173-19-260;

that the agency will at 7:00 p.m., Thursday, March 8, 1984, in the Bainbridge High School, High School Road, Winslow, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 22, 1984.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 12, 1984.

Dated: January 17, 1984
 By: John F. Spencer
 Deputy Director

STATEMENT OF PURPOSE

Title: Amending WAC 173-19-260 Kitsap County.

Description of Purpose: Adoption of a revised shoreline master program into the state master program, chapter 173-19 WAC.

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendment adopts revisions to the shoreline master program for Kitsap County.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the Department of Ecology for approval. The programs do not become effective until adopted by the department in accordance with the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jeanne Holloman, WDOE, Mailstop PV-11, Olympia, WA 98504, (206) 459-6287.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Not required.

AMENDATORY SECTION (Amending Order DE 83-11, filed 3/24/83)

WAC 173-19-260 KITSAP COUNTY. Kitsap County Master Program approved April 30, 1976. Revision approved October 24, 1977. Revision approved December 22, 1981. Revision approved March 16, 1983. Revision approved March 22, 1984.

WSR 84-03-059
PROPOSED RULES
DEPARTMENT OF FISHERIES
 [Filed January 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Department of Fisheries intends to adopt, amend, or repeal rules concerning commercial fishing rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on February 21, 1984.

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 February 21, 1984.

Dated: January 18, 1984

By: Russel W. Cahill
 for William R. Wilkerson
 Director

STATEMENT OF PURPOSE

Title: WAC 220-32-055, 220-55-120, 220-55-130, 220-74-022, 220-76-010, 220-85-015, 220-85-050, 220-85-070, 220-85-110, 220-95-021 and 220-95-026.

Description of Purpose: Amend rules to show recodified RCW citations.

Statutory Authority: RCW 75.28.080.

Summary of Rule: WAC 220-32-055, change RCW 75.12.300 and 75.12.310 to 75.08.265; WAC 220-55-120, change RCW 75.28.630 to 75.25.110; delete affidavit; WAC 220-55-130, change RCW 75.28.600 to 75.25.100; WAC 220-74-022, delete reference to chapter 75.32 RCW; WAC 220-76-010, change RCW 75.16.100 to 75.28.265; WAC 220-85-015, change RCW citations to chapter 75.30 RCW and include herring moratorium; WAC 220-85-050, change RCW citations to chapter 75.30 RCW; RCW 220-85-070, change RCW citations to chapter 75.30 RCW; WAC 220-85-110, change RCW citations to chapter 75.30 RCW; WAC 220-95-021, change RCW 75.28.510 to 75.44.110; and WAC 220-95-026, change RCW 75.28.530 to 75.44.140.

Reasons Supporting Proposed Action: Recodification of the fisheries code in 1983 caused new citations to be created. These changes reflect the new numbering. In WAC 220-55-120, the affidavit is no longer required by statute. The taxing authority in chapter 75.32 RCW was transferred to the Department of Revenue in 1980, thus the deletion of the reference in WAC 220-74-022. The herring license moratorium is included in WAC 220-85-015 as it is included in chapter 75.30 RCW.

Agency Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, Washington, 754-2429; Implementation: Edward P. Manary and Gary C. Alexander, 115 General Administration Building, Olympia, Washington, 754-6600; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, Washington, 753-6585.

These rules are proposed by the Washington Department of Fisheries.

Comments: No public hearing is scheduled.

These rules are not the result of federal law or any court order.

Small Business Economic Impact Statement: No effect.

AMENDATORY SECTION (Amending Order 82-105, filed 8/13/82)

WAC 220-32-055 OFF-RESERVATION INDIAN SUBSISTENCE FISHING. (1) It is unlawful for any person, including treaty Indian fishermen, to take, fish for, or possess salmon or other food fish for subsistence purposes except in accordance with the provisions of this section.

(2) It is lawful for individuals possessing treaty fishing rights pursuant to the Yakima Treaty, the Warm Springs Treaty, the Umatilla Treaty, and the Nez Perce Treaty to fish for food fish for subsistence family-use purposes subject to the following provisions:

(a) Such fishing is permitted year-round in the following areas: That area of the mainstem Columbia River from a point at Light #7 on Sheridan Point upstream to a point at the four-second flashing light #67 approximately 1/2 mile downstream of the Dalles Bridge; that area of the mainstem Columbia River from a point 200 feet above the Dalles Dam fishway exit upstream to a point 600 feet downstream of the John Day Dam fishway entrance; that area of the mainstem

Columbia River from a point 200 feet above the John Day Dam fishway exit upstream to a point at the downstream end of the wingwall of the McNary Dam boat lock; that area of Columbia River from a point 200 feet above the McNary Dam fishway exit upstream to the Highway 12 bridge; excluding those areas within 1/4 mile radius of the mouth of Wind River, Little White Salmon River (Drano Lake), Klickitat River, and Spring Creek Hatchery fishway entrance.

(b) Lawful fishing gear by treaty Indians in the above-designated area includes dip nets and bag nets of a mesh size not exceeding 5 inches attached to a hoop 24 feet or less in circumference, spear, gaff, club, and foul hook.

(c) It is lawful to use sport angling gear in places and at times allowed under chapter 220-56 WAC series for treaty Indian subsistence purposes.

(d) It is unlawful to use drift gill nets or set gill nets for treaty Indian subsistence fishing in the mainstem of the Columbia River except as authorized by the director of the department of fisheries under the provisions of WAC 220-32-060.

(e) It is unlawful to use gill nets, set nets, hoop nets, dip or bag nets with a mesh size exceeding 5 inches, set lines, or any other type of fishing gear not otherwise specifically authorized except during times and in areas where such gear is authorized for commercial fishing purposes.

(3) In accordance with RCW (~~(75.12.300 and 75.12.310)~~) 75.08.265, it is lawful for the following Wanapum Indians to take, fish for, and possess food fish for subsistence purposes in the vicinity of Priest Rapids Dam in specified areas at specified times using specified gear authorized by the director of the department of fisheries. The individuals designated below may be revised from time to time by agreement between the Wanapum Indians and the director of the department of fisheries:

Frank Buck	Jade Buck
Stanley Buck	Robert S. Tomanawash, Sr.
Willie Buck	Lester Umtuch
Harry Buck	Grant Wyena
Ken Buck	Jerry Wyena
Rex Buck, Jr.	Douglas Wyena
Phillip Buck	Jimmy Wyena
Richard Buck	Patrick Wyena

The following provisions apply to this fishery:

(a) It is unlawful to fish at any time, place, or using gear other than that designated by the director of the department of fisheries and authorized by regulation.

(b) It is unlawful for Wanapum Indian fishermen to fail to report, in writing, their total catch to the department of fisheries within five days of the end of fishing activity under subsection (3)(a) of this section.

(c) Should any Wanapum Indian be convicted of violating the provisions of this section, or sell, barter, or attempt to sell or barter any fish taken in this fishery or any treaty Indian fishery, that fishermen will be ineligible to further participate in the Wanapum Indian subsistence fishery unless otherwise determined by the director of the department of fisheries.

(4) It is unlawful to sell, barter, or offer for sale or barter, buy, or for a commercially licensed buyer or wholesale fish dealer to have in possession food fish taken in an Indian subsistence fishery under the provisions of subsections (2) and (3) of this section.

~~((4))~~ (5) It is unlawful for fishermen participating in an Indian subsistence fishery to fail to submit their catch to department of fisheries employees for the conduct of biological sampling or to fail to allow necessary biological samples to be taken.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-55-120 FREE LICENSE ISSUING PROCEDURE. A free salmon angling license shall be issued by the license supervisor of the Department of Fisheries, Olympia, Washington, to any qualified applicant(~~(; upon receipt of the applicant's affidavit)~~) as provided for in RCW (~~(75.28.630)~~) 75.25.110. A lost or illegible free license will be replaced by the license supervisor upon request and showing of proof.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-55-130 VALID LICENSE REQUIRED. It shall be unlawful for any person required to have a license by RCW (~~(75.28-600)~~) 75.25.100, to take fish for or possess salmon without having in his possession a valid salmon angling license. A license shall be invalid:

- (1) Unless the angler has signed his name in ink across the face of the stamp;
- (2) Unless the validation date is legibly written in ink on the face of the stamp;
- (3) If the signature or the date on the stamp is illegible or altered, or if the stamp has been mutilated.

NOTE: A lost or mutilated license or stamp will not be replaced by the department.

AMENDATORY SECTION (Amending Order 79-75, filed 9/7/79)

WAC 220-74-022 CERTAIN SALES DISALLOWED. (1) Sales of surplus eggs as described in WAC 220-74-020 shall not be allowed where the person or corporation seeking to buy said eggs has not paid all fees and taxes due and owing to the state of Washington(~~(; department of fisheries, including but not limited to, license fees and privilege and tax fees due and owing as provided in chapter 75.32 RCW)~~).

(2) Notwithstanding the provisions of chapter 220-74 WAC, the department reserves the right to refuse to sell surplus salmon eggs to any purchaser for good cause.

AMENDATORY SECTION (Amending Order 980, filed 2/3/72)

WAC 220-76-010 AQUACULTURE—PERMITS. (1) It shall be unlawful for any person, firm, or corporation to engage in cultivation of food fish, shellfish, or other aquatic animals for commercial purposes without first having obtained from the director of fisheries an aquaculture permit, and it shall be unlawful for any person, firm, or corporation to fail to comply with the provisions of said aquaculture permit.

(2) Aquaculture permits are nontransferable. In the event there is a change of ownership of a fish farm established under chapter 220-76 WAC and RCW (~~(75.16.100)~~) 75.28.265, the aquaculture permit issued to the previous owner shall be invalid.

(3) Applications for aquaculture permits shall be submitted on forms supplied by the department setting forth the following:

- (a) Name and address of owner and operator.
- (b) Location of project, including legal description and location map.
- (c) Proposed layout of facilities, equipment, operation plans and procedures including disease control, and such other pertinent data as may be required.

AMENDATORY SECTION (Amending Order 80-194, filed 12/11/80)

WAC 220-85-015 LICENSE MORATORIUM REVIEW BOARDS. The director shall appoint advisory boards of review as necessary to hear appeals pursuant to the commercial salmon license moratorium (~~((RCW 75.28.455 through 75.28.480))~~), the salmon charter boat license moratorium (~~((RCW 75.30.010 through 75.30-060))~~), commercial herring license moratorium and the Puget Sound commercial crab license moratorium (~~((RCW 75.28.274 through 75-28.277))~~) (chapter 75.30 RCW).

AMENDATORY SECTION (Amending Order 80-194, filed 12/11/80)

WAC 220-85-050 MORATORIUM ADVISORY REVIEW BOARDS—WHO MAY APPEAL. Any person aggrieved by a decision of the department pursuant to chapter 75.30 RCW (~~(75.28.274, 75.28.275, 75.28.455 through 75.28.475 or 75.30.020)~~), may voluntarily request that a board of review be impaneled to hear his case.

AMENDATORY SECTION (Amending Order 80-194, filed 12/11/80)

WAC 220-85-070 MORATORIUM ADVISORY REVIEW BOARDS—APPEALS—REQUIREMENTS—FORM FOR APPEAL. (1) Appeals by an aggrieved person pursuant to chapter 75.30 RCW (~~(75.28.274, 75.28.275, 75.28.475, 75.28.480 or 75.30.020)~~),

from determinations of the department shall be in writing and should include:

- (a) a concise statement of why the appeal is made,
 - (b) the basis upon which the aggrieved person believes a different decision should be made,
 - (c) a statement of any other relevant facts.
- (2) Appeals must be postmarked within thirty days of the date of denial, or received in person at the department of fisheries not more than thirty days from the date of denial. The director may waive the thirty day requirement for good cause.
- (3) The appeal may be in any written form; however, the department will furnish or make available upon request a form that can be used for making appeals pursuant to the provisions of these regulations.

AMENDATORY SECTION (Amending Order 80-194, filed 12/11/80)

WAC 220-85-110 MORATORIUM ADVISORY REVIEW BOARDS—APPEALS—INFORMATION PROCEDURES OPTIONAL. Pursuant to the provisions of ~~chapter 75.30 RCW ((75-28-277, 75-28-480 or 75-30-060))~~, an aggrieved person may proceed under chapter 34.04 RCW (Administrative Procedure Act) and the procedural rules for appeal and hearing thereunder applicable to all state agencies as provided for in WAC 1-08-010 through 1-08-590 will govern proceedings initiated thereunder.

AMENDATORY SECTION (Amending Order 82-141, filed 9/21/82)

WAC 220-95-021 PROGRAM OPTIONS. (1) The department may purchase either an applicant's license(s) or an applicant's license(s) and a restriction on the vessel prohibiting the vessel's use as a commercial or charter salmon fishing vessel or salmon delivery vessel.

(2) The department may purchase license(s) or vessel restriction if the applicant's vessel is currently licensed to fish for or deliver salmon within the state and the applicant is qualified pursuant to RCW ((75-28-510)) 75.44.110.

(3) Each vessel use restriction shall be purchased for thirty percent of the fair market value of the vessel. Purchase offers will be made in order of priority ranking established for each category of applicants pursuant to WAC 220-95-016.

(4) The department shall not purchase vessel use restrictions from marginal applicants as defined in WAC 220-95-016.

(5) License and vessel values shall be established as provided in WAC 220-95-026. After the value of the vessel has been established and the applicant has provided paid receipts for the first two surveys, the department may communicate a purchase offer to the applicant. If the applicant accepts the offer, the applicant shall sign and return the offer within ten calendar days of the date of the offer.

(6) The department may not purchase more than one vessel restriction or license from an applicant until all applicants have had an opportunity to sell.

(7) A person who previously sold either a vessel or license to the program may sell only other licenses and restrictions on other vessels owned at the time the person first sold to the program.

AMENDATORY SECTION (Amending Order 82-141, filed 9/21/82)

WAC 220-95-026 SURVEYS—VESSELS—LICENSE—PERMIT VALUES. (1) The department shall conduct a yearly market survey in consultation with the advisory board established pursuant to RCW ((75-28-530)) 75.44.140 in order to determine the fair market value of licenses in each license category.

(2) The department shall establish fair market value for vessels using the following method:

(a) Each vessel shall be surveyed by two marine surveyors chosen by the applicant from a list provided by the department.

(b) A third survey shall be done if the value of the lower survey is less than fifty thousand dollars and the difference between the surveys is more than twenty percent of the lower survey, or the value of the lower survey is more than fifty thousand dollars and the difference between the surveys is more than ten percent of the lower survey value. The department shall randomly select the third surveyor from the same list supplied to the applicant. The department shall not conduct a

third survey until the applicant provides the department with paid receipts for the first two surveys.

(c) The applicant and program manager or their representatives shall be in attendance during each survey.

(d) Each surveyor shall send copies of the survey to the applicant and to the department.

(e) The cost of the first two surveys shall be borne by the applicant. The department shall reimburse this cost if the applicant accepts the purchase offer. The cost of the third survey shall be borne by the department.

(f) The fair market value of the vessel shall be computed by the department averaging the two closest survey values.

(g) The department shall maintain confidentiality of the surveys prior to completion of the purchase by the department.

WSR 84-03-060
PROPOSED RULES
DEPARTMENT OF FISHERIES
[Filed January 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Department of Fisheries intends to adopt, amend, or repeal rules concerning personal use fishing rules;

that the agency will at 10:00 a.m., Saturday, March 3, 1984, in the Large Conference Room, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 12, 1984.

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 March 3, 1984.

Dated: January 18, 1984

By: Russell W. Cahill
for William R. Wilkerson
Director

STATEMENT OF PURPOSE

Title: 220-16-375, 220-16-380, 220-56-105, 220-56-115, 220-56-125, 220-56-132, 220-56-180, 220-56-190, 220-56-196, 220-56-198, 220-56-201, 220-56-235, 220-56-240, 220-56-250, 220-56-295, 220-56-310, 220-56-320, 220-56-325, 220-56-330, 220-56-380, 220-69-237, 220-69-247, and chapters 220-57 and 220-57A WAC.

Description of Purpose: Modify rules affecting recreational fisheries for 1984-1985 season.

Statutory Authority: RCW 75.08.080.

Summary of Rule: WAC 220-16-375 defines Westport Boat Basin; WAC 220-16-380 defines English Camp Tidelands; WAC 220-56-105 redefines the mouth of the Humptulips River; WAC 220-56-115 relaxes gear restriction in portion of Puget Sound; WAC 220-56-125 extends Shilshole Bay closure; WAC 220-56-132 defines Les Davis Artificial Reef Area and limits fishing except from pier; WAC 220-56-180 provides alternative restrictions in punch card areas 10, 11 and 13; liberalizes bag limit in area 12; WAC 220-56-190 limits

special Grays Harbor fishery to Westport Boat Basin; liberalizes Willapa Harbor bag limit seasonally; WAC 220-56-196 rescinds pink salmon closure; WAC 220-56-198 restricts Duwamish Waterway fishery; WAC 220-56-201 requires marking of sport caught fish in punch card areas 5 and 6; WAC 220-56-235 reduces lingcod limit in Puget Sound; WAC 220-56-240 restricts lingcod season in part of punch card area 4 and shortens season in central and southern Puget Sound; WAC 220-56-295 requires immediate release of sturgeon not of legal size; WAC 220-56-310 liberalizes English Camp Tidelands hardshell clam bag limit; WAC 220-56-320 redefines gear requirements for Hood Canal shrimp pots; WAC 220-56-325 sets opening time for Hood Canal shrimp season; WAC 220-56-330 sets new opening date for crab gear closure; WAC 220-56-380 establishes general Puget Sound summer oyster closure and specific closures for selected sites; chapter 220-57 WAC modifies salmon stream regulations; chapter 220-57A WAC modifies salmon lake regulations; WAC 220-69-237 lists additional information on sport salmon catch record; and WAC 220-69-247 makes mandatory completion of information on sport salmon catch record stub and punch card.

Reasons Supporting Proposed Action: WAC 220-16-375 and 220-16-380, these areas are identified in proposals and need definition; WAC 220-56-105, access from the new boat launch facility combined with a characteristic intertidal fishery make redefinition of the river mouth necessary; WAC 220-56-115 an emergency regulation in 1983, this would help balance chinook allocations; WAC 220-56-125, this gear restriction extension will help prevent accidental snagging; WAC 220-56-132, this provides an orderly recreational fishery from the pier; WAC 220-56-180, the alternate subsections (4)(c)(i) and (4)(c)(iii) provide management options to redress chinook imbalances; the liberalized seasonal bag limit in (4)(c)(iv) provides chinook angling opportunity within allocation; WAC 220-56-190, localized return to the Westport Boat Basin provides additional Grays Harbor angling opportunity while protecting other stocks; Willapa Harbor origin stocks in the fall contain a jack salmon surplus that can be taken without affecting maturing brood stocks; WAC 220-56-196, no pink salmon are expected and protection is not warranted; WAC 220-56-198, these changes will prevent snagging; WAC 220-56-201, this will provide baseline data on the commercialization of sport origin fish; WAC 220-56-235 and 220-56-250, lingcod protection needs continue and area and season restrictions will allow recovery of Puget Sound stocks; WAC 220-56-240, recreational harvest of herring with increased possession limits does not constitute a conservation problem; WAC 220-56-295, handling of undersize and oversize sturgeon contributes to mortality and immediate release will prevent loss of immature and breeding fish; WAC 220-56-310, English Camp Tidelands clam stocks need additional harvest; WAC 220-56-320, the redefinition of gear for Hood Canal is needed to standardize gear and allow escapement of immature shrimp; WAC 220-56-325, the traditional opening hour of the Hood Canal shrimp season is incorporated; WAC 220-56-330,

these changes allow harvest of female red rock crab and make sport and commercial closures simultaneous; WAC 220-56-380, general closure during the spawning period will provide greater set for future oysters, while selected stocks are assured recovery by limiting harvest seasonally; chapter 220-57 WAC, changes in stream regulations for salmon angling are necessary to reflect anticipated 1984 run conditions and Columbia River Dam closures reflect game department regulations; chapter 220-57A WAC, changes in opening day for lakes, closing date for Lake Merwin and year around open status for McMurray Lake reflect game department regulations. Closures are in lakes without salmon, while introduced stocks will provide angling opportunity in new lake openings; and WAC 220-69-237 and 220-69-247, identification of required entries on sport salmon catch records and a requirement for completion are corollaries to requirements for possession and use of the catch record.

Agency Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, Washington, 754-2429; Implementation: Edward P. Manary, Gene DeDonato, Ronald E. Westley, 115 General Administration Building, Olympia, Washington, 753-6600; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, Washington, 753-6585.

These rules are proposed by the Washington Department of Fisheries.

Comments: None.

These rules are not the result of federal law or any court order with the exception of proposals affecting Puget Sound salmon angling. Those rules are in response to federal court order, *Order in U.S. v. Washington*, Civ. No. 9213 (W.D. Wash., Apr. 12, 1982).

Small Business Economic Impact Statement: No effect, these proposals regard recreational angling.

NEW SECTION

WAC 220-16-375 WESTPORT BOAT BASIN. "Westport Boat Basin" shall include those waters of Grays Harbor inside the breakwater surrounding the boat basin and inside of lines drawn between lighted day markers 10 and 11 and between lighted day markers 1 and 2 which mark the two entrances to the boat basin.

NEW SECTION

WAC 220-16-380 ENGLISH CAMP TIDELANDS. "English Camp tidelands" includes those waters of Wescott Bay lying inside the boundaries of San Juan Island National Historical Park (English Camp).

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-56-105 RIVER MOUTH DEFINITIONS. When pertaining to food fish angling, unless otherwise defined, any reference to the mouths of rivers or streams shall be construed to include those waters of any river or stream including sloughs and tributaries upstream and inside of a line projected between the outermost uplands at the mouth. The term "outermost upland" shall be construed to mean those lands not covered by water during an ordinary high tide. The following river mouths are hereby otherwise defined:

Abernathy Creek - Highway 4 Bridge.

Bear River - Highway 101 Bridge.

Bone River - Highway 101 Bridge.

Chehalis River - U.P. Railway Bridge in Aberdeen.

Chinook River - The tide gates at the Highway 101 Bridge.

Cowlitz River – A line projected across the river between two fishing boundary markers set on each bank of the river approximately one-half mile downstream from the lowermost railroad bridge crossing the Cowlitz River.

Duwamish River – First Avenue South Bridge.

Elk River – Highway 105 Bridge.

Entiat River – Highway 97 Bridge.

Germany Creek – Highway 4 Bridge.

Hoquiam River – Highway 101 Bridge.

Humtulsips River – ((Highway 109 Bridge)) Mouth of Jessie Slough.

Johns River – Highway 105 Bridge.

Lake Washington Ship Canal – Line 400 feet below the fish ladder at the Chittenden Locks.

Lewis River – A straight line running from a marker on Austin Point south across the Lewis River to a marker on the opposite shore.

Methow River – Highway 97 Bridge.

Mill Creek – Highway 4 Bridge.

Naselle River – Highway 101 Bridge.

North Nemah River – Line from markers approximately one-half mile below the Highway 101 Bridge.

Niawiakum River – Highway 101 Bridge.

North River – Highway 105 Bridge.

Palix River – Highway 101 Bridge.

Puyallup River – 11th Street Bridge.

Samish River – The Samish Island Bridge (Bayview-Edison Road).

Sammamish River – Kenmore Highway Bridge.

Skagit River (North Fork) – A line projected from the white monument on the easterly end of Ika Island to the terminus of the jetty with McGlinn Island.

Skagit River (South Fork) – A line projected from the flashing red four-second navigational light true north to its intersection with the old jetty shown on U.S.C.G.S. chart No. 6450.

Skamokawa Creek – Highway 4 Bridge.

Snohomish River – Burlington Northern Railway Bridges crossing main river and sloughs.

South Nemah River – Lynn Point 117 degrees true to the opposite shore.

Tucannon River – State Highway 261 Bridge.

Washougal River – A straight line from the Crown Zellerbach pumphouse southeasterly across the Washougal River to the east end of the Highway 14 Bridge near the upper end of Lady Island.

White Salmon River – Highway 14 Bridge.

Little White Salmon River – At boundary markers on river bank downstream from the federal salmon hatchery.

Willapa River – Highway 101 Bridge.

Yakima River – Highway 240 Bridge.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-56-115 ANGLING—LAWFUL AND UNLAWFUL ACTS. (1) It is unlawful for any person to use more than one line with one lure at any one time while angling for food fish for personal use except:

(a) It is lawful to use two natural baits per line while angling in freshwater.

(b) It is lawful to use two lures per line while angling in marine waters for food fish other than salmon.

(c) A second line using baitfish jigger gear is lawful while angling in the Strait of Juan de Fuca east of the mouth of the Sekiu river, Georgia Strait, the San Juan Islands, and Puget Sound.

(d) During the period July 15 through September 15 it is lawful for each angler to use one line with two lures or two lines with one lure per line while fishing for salmon in all of Punch Card Area 12 and that portion of Punch Card Area 8 lying southeasterly of a line between East Point on Whidbey Island and the flashing light north of Lowell Point on Camano Island.

(2) It shall be unlawful for any person to take, fish for or possess food fish for personal use by any means other than angling with a line attached to a pole held in hand while landing the fish or with a hand-operated line without rod or reel not utilizing power to retract the line in either case, except as provided in subsections (3) and (4) of this section.

(3) It shall be lawful, while angling for food fish in saltwater from shore, piers, jetties or docks, for an individual to:

(a) Leave the pole in a pole holder while playing or landing the fish. The pole holder may be affixed to a bench, pier railing, wheelchair or other solid object.

(b) Use a power-operated reel attached to a pole.

All other provisions of this section shall apply.

(4) It shall be unlawful to take, fish for or possess salmon taken for personal use with hand lines (lines not attached to a handheld pole) in those waters west of the mouth of the Sekiu River, Pacific Ocean, Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10, Grays Harbor, and Willapa Bay.

(5) It shall be unlawful for any person while angling for food fish to fail to keep his angling gear under his direct and immediate physical control.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-125 UNLAWFUL PROVISIONS—SHILSHOLE BAY. (1) It shall be unlawful to use artificial lures to take, fish for or possess food fish in that portion of Shilshole Bay upstream ((from the)) of a line parallel to the Burlington Northern Railroad Bridge approximately 175 feet seaward of the bridge through the wooden piling tower structure near the south shore to the Chittenden Locks.

(2) It shall be unlawful to take, or fish for food fish, for personal use, from a boat in that portion of Shilshole Bay upstream of the Burlington Northern Railroad Bridge, to the Chittenden Locks.

NEW SECTION

WAC 220-56-132 LES DAVIS PUBLIC FISHING PIER UNDERWATER ARTIFICIAL REEF AREA. (1) It is unlawful to take, fish for or possess food fish or shellfish taken by any means from within the boundaries of the underwater artificial reef described in subsection (2) of this section except while fishing from the Les Davis public fishing pier.

(2) The Les Davis public fishing pier underwater artificial reef area includes those waters lying inside lines projected from the southeasterly white fishing boundary marker on the shore to the easterly reef marker buoy thence to the westerly reef marker buoy thence to the northwesterly white fishing boundary marker on shore.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-56-180 BAG LIMIT CODES. (1) Code A: In waters having this code designation, the bag limit in any one day is six salmon not less than 10 inches in length, not more than two of these six salmon may be any combination of the following:

Chinook over 24 inches in length

Coho over 20 inches in length

Pink, chum or sockeye over 10 inches in length.

The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.

(2) Code C: In waters having this code designation, the bag limit in any one day is six chinook and coho salmon in the aggregate not less than 10 inches in length or more than the following:

24 inches in length for chinook; 20 inches in length for coho.

The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.

(3) Code F: In waters having this code designation, the bag limit in any one day is two salmon provided that:

(a) Chinook salmon must be not less than 24 inches in length, coho salmon must be not less than 16 inches, but there is no minimum size on other salmon.

(b) During the period April 15 through June 15 in waters of the Strait of Juan de Fuca between the mouth of the Sekiu River and a line from the most westerly point on Cape Flattery to the Tatoosh Island Light then to Bonilla Point on Vancouver Island, it is unlawful to take and retain chinook salmon greater than 30 inches in length.

(c) The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.

(4) Code H: In waters having this code designation, the bag limit in any one day is three salmon provided that:

(a) Chinook salmon must be not less than 22 inches in length, but there is no minimum size for other salmon.

(b) During the period April 15 through June 15 in Punch Card Areas 5, 6, and 7, it is unlawful to retain or possess chinook salmon greater than 30 inches in length.

(c) In contiguous marine waters of Puget Sound east of the mouth of the Sekiu River, no more than two of the three salmon daily bag limit may be chinook, except:

(i) During the period April 1 through June 30, it is unlawful to retain ~~((and))~~ or possess chinook salmon taken ~~((from contiguous marine waters south of a line from Apple Cove Point to Edwards Point-))~~ in Punch Card Areas 10, 11, ~~((and))~~ or 13~~((?))~~.

OR

(i) During the period April 1 through July 31, it is unlawful to retain or possess chinook salmon taken in Punch Card Areas 10, 11, or 13.

OR

(i) During the period April 1 through August 31, it is unlawful to retain or possess chinook salmon taken in Punch Card Areas 10, 11, or 13.

OR

(i) During the period April 1 through September 30, it is unlawful to retain or possess chinook salmon taken in Punch Card Areas 10, 11, or 13.

OR

(i) During the period March 1 through June 30, it is unlawful to retain or possess chinook salmon taken in Punch Card Areas 10, 11, or 13.

OR

(i) During the period February 1 through June 30, it is unlawful to retain or possess chinook salmon taken in Punch Card Areas 10, 11, or 13.

OR

(i) During the period January 1 through June 30, it is unlawful to retain or possess chinook salmon taken in Punch Card Areas 10, 11, or 13.

OR

(i) During the period April 1 through June 30 and December 1 through December 31, it is unlawful to retain or possess chinook salmon taken in Punch Card Areas 10, 11, or 13.

OR

(i) During the period April 1 through June 30 and November 1 through December 31, it is unlawful to retain or possess chinook salmon taken in Punch Card Areas 10, 11, or 13.

OR

(i) During the period April 1 through June 30 and October 1 through December 31, it is unlawful to retain or possess chinook salmon taken in Punch Card Areas 10, 11, or 13.

(ii) During the period April 1 through July 31, it is unlawful to retain and possess chinook salmon taken from waters of Carr Inlet northerly of a line from Allen Point to the southernmost point of land on the eastern shore of Glen Cove.

(iii) No more than one of the three salmon daily bag limit may be chinook salmon in Punch Card Areas 10, 11, or 13.

(iv) During the period July 15 through September 15 the daily bag limit in Punch Card Area 12 is three salmon of any species.

(d) The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.

(5) Code I: In waters having this code designation, the bag limit in any one day is eight salmon, not less than 6 inches in length or an aggregate daily catch of eight salmon and other salmonid fish. The aggregate catch may not contain more than 3 fish over 14 inches nor more than 2 fish over 20 inches. The possession limit is the same as the daily catch limit. Salmon angling catch record card is not required, but a gamefish license is required to take, fish for or possess gamefish.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-56-190 SALTWATER SEASONS AND BAG LIMITS—SALMON. It shall be unlawful to take, fish for or possess salmon taken by angling for personal use except from the following areas, during the seasons, in the quantities, sizes and for the species designated in this section and as defined in the bag limit codes in WAC 220-56-180:

(1) Puget Sound contiguous marine waters east of the mouth of the Sekiu River - bag limit H - open the entire year, except as provided in WAC 220-56-120, 220-56-128, 220-56-130, and 220-56-195.

(2) Strait of Juan de Fuca from the mouth of the Sekiu River to a line projected from the most westerly point on Cape Flattery to the Tatoosh Island Light then to Bonilla Point on Vancouver Island - open entire year, unless the season in the Pacific Ocean closes a week or more before Puget Sound coho salmon management needs prevail (the Sunday nearest September 2); in which case, this area will be closed concurrently with the ocean from the time of the ocean closure until the Puget Sound coho management period (the Sunday nearest September 2). Bag and size limits shall conform with Pacific Ocean regulations during those times when salmon angling is permitted in adjacent coastal ocean waters. During those periods when the ocean salmon angling season is closed and the area described in this subsection is open to salmon angling, the bag limit shall conform with regulations of adjacent waters of the Strait of Juan de Fuca (Area 5—Sekiu), but minimum size limits shall remain unchanged from those which were in effect when the ocean season was last open.

(3) Pacific Ocean coastal waters: All waters west of a line from Tatoosh Island Light to Bonilla Point, Pacific Ocean, and Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10 - bag limit F - open on the Saturday preceding Memorial Day through Labor Day.

(4) Grays Harbor (waters east of a line from the outermost end of the north jetty to the outermost exposed end of the south jetty including the waters of the Westport Boat Basin) - (a) bag limit F - open to salmon angling coincidentally with the season in adjacent waters of the Pacific Ocean, but not to extend beyond August 15, unless otherwise provided, (b) Westport Boat Basin only - special bag limit - six salmon per day not less than 10 inches in length, not more than two of which may be any combination of the following: Pink, sockeye or chum salmon over 10 inches in length or coho salmon over 20 inches in length. All chinook salmon over 24 inches in length must be released. Open to personal use salmon fishing October 1 through November 30. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.

(5) Willapa Harbor (waters east of a line from Leadbetter Point to Cape Shoalwater Light and downstream from river mouths as defined in WAC 220-56-105) - (a) bag limit F - open ~~((entire year))~~ November 1 through August 31, (b) special bag limit - six salmon not less than 10 inches in length not more than two of which may be any combination of the following: Chinook over 24 inches in length; coho over 20 inches in length; pink, chum, or sockeye over 10 inches in length - open September 1 through October 31.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-56-196 CLOSED AREAS—PINK SALMON ANGLING. It is unlawful to take or possess pink salmon taken for personal use from the following waters: None.

~~((1))~~ Those waters of Punch Card Area 7 bounded on the west and south by a line running from Gooseberry Point true south to Lummi Island, along the east shoreline of the island to Carter Point, then to the north tip of Vendovi Island, then to Clark Point on Guemes Island; along the east shoreline to Southeast Point on Guemes Island; then to March Point on Fidalgo Island; and north of the Burlington Northern railroad bridges at the north entrances of Swinomish Channel.

(2) All of Punch Card Areas 8 through 13.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-56-198 DUWAMISH WATERWAY—UNLAWFUL PROVISIONS. During the period September 1 through October 15, ~~((it is unlawful to take, fish for or possess salmon taken for personal use from the))~~ in those waters of the Duwamish Waterway downstream from the First Avenue South Bridge to an east-west line through SW Hanford Street on Harbor Island and parallel to SW Spokane Street where it crosses Harbor Island:

(1) It is unlawful to take, fish for or possess salmon using any gear other than that specified in WAC 220-56-205 (freshwater salmon angling gear) ~~((or at any time other than that specified in WAC 220-56-225 (freshwater salmon angling hours)))~~.

(2) It is unlawful to take, fish for or possess food fish or shellfish from one hour after official sunset to one hour before official sunrise.

(3) It is unlawful to use baitfish jigger gear.

NEW SECTION

WAC 220-56-201 MARKING SPORT-CAUGHT SALMON. It is unlawful to possess salmon taken for personal use from Punch Card Areas 5 and 6 unless the top half of the tail fin has been removed.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-56-235 POSSESSION LIMITS—BOTTOMFISH. It is unlawful, unless otherwise provided, for any one person to take in any one day more than the following quantities of bottomfish for personal use. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh bottomfish. Additional bottomfish may be possessed in a frozen or processed form.

- (1) Coastal (Punch Card Areas 1 through 4):
 - (a) Lingcod:
 - (i) 3 fish in Punch Card Areas 1 through 3 and Area 4 west of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point;
 - (ii) 2 fish in Punch Card Area 4 east of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island Light, thence to Bonilla Point.
 - (b) Rockfish - 15 fish.
 - (c) All other species - no limit.
- (2) Puget Sound:
 - (a) East of the mouth of the Sekiu River and west and north of a line from Point Partridge to Point Wilson(;) and west of the 77 line ((and north of the Trial Island line)) (Punch Card Areas 5 through 7) - 15 fish in the aggregate of all species of bottomfish, no more than 2 of which may be lingcod and no more than 10 of which may be rockfish.
 - (b) All contiguous marine waters east and south of a line from Point Partridge to Point Wilson(;) and east of the 77 line ((and south of the Trial Island line)) (Punch Card Areas 8 through 13) - 15 fish in the aggregate of all species of bottomfish, no more than 1 of which may be lingcod, and no more than 5 of which may be rockfish. ((During the period April 15, 1983, through June 30, 1983, it is lawful to retain up to a maximum of 2 lingcod in the 15 fish aggregated limit, but it is unlawful to retain or possess lingcod taken from these waters at any other time:))

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-240 POSSESSION LIMITS—OTHER FOOD FISH. It shall be lawful, unless otherwise provided, for any one person to take in any one day or possess at any one time in the state of Washington the following quantities and sizes of food fish for personal use:

- (1) Sturgeon: 3 fish not less than 36 inches nor more than 72 inches in length.
- (2) Smelt: 20 pounds.
- (3) Herring: 20 pounds fresh. Additional herring may be possessed in a frozen or processed form.
- (4) All other food fish: No limit.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-56-250 LINGCOD—AREAS AND SEASONS. It is unlawful to take, fish for or possess lingcod for personal use except during the seasons and within the areas herein provided:

- (1) Coastal area ((f)) (a) Salmon Punch Card Areas 1 through 3 ((and that portion of Area 4 west of a line projected from the most westerly point on Cape Flattery to Tatoosh Island Light, thence to Bonilla Point))) - open the entire year, (b) Salmon Punch Card Area 4 - April 15 through November 30.
- (2) Salmon Punch Card Areas 5, 6, and 7 ((and that portion of area 4 east of a line projected from the most westerly point on Cape Flattery to Tatoosh Island Light, thence to Bonilla Point)) - April 15 through November 30.
- (3) Salmon Punch Card Areas 8 through 13 - April 15((-1983)) through ((June 30, 1983)) May 31.

AMENDATORY SECTION (Amending Order 81-13, filed 2/17/81, effective 4/1/81)

WAC 220-56-295 STURGEON—UNLAWFUL ACTS. (1) It is unlawful to possess in the field or transport for personal use any sturgeon from which either the head or tail or both have been removed.

(2) It is unlawful to use a gaff in the restraint, handling or landing of any sturgeon which is not of legal size.

(3) It is unlawful to fail to immediately return to the water any sturgeon that is not of legal size.

AMENDATORY SECTION (Amending Order 83-06, filed 1/27/83)

WAC 220-56-310 SHELLFISH—POSSESSION LIMITS. It is lawful unless otherwise provided for any one person to take in any one day or possess for personal use at any one time the following quantities and sizes of shellfish:

(1) Cockles, borers and clams in the shell, except razor clams, geoduck clams and horse clams:

(a) Hood Canal south of a line projected from Tala Point to Foulweather Bluff - 60 clams or 10 pounds in the shell in the aggregate, whichever occurs first.

(b) Puget Sound south and west of the Tacoma Narrows Bridge. This also includes Carr and Case Inlets and Pickering Passage - 40 clams or 7 pounds in the shell in the aggregate, whichever occurs first.

(c) All portions of Puget Sound except those described in (a) and (b) of this subsection - Bag limit January 1 - May 31: 60 clams or 10 pounds in the shell in the aggregate, whichever occurs first. Bag limit June 1 - December 31: 40 clams or 7 pounds in the shell in the aggregate, whichever occurs first.

(d) In Skagit Bay, east of a line projected from Browns Point to Swinomish Slough entrance, diggers may retain up to 20 pounds of eastern softshell clams in the shell in addition to the limit set in (c) of this subsection.

(e) Willapa Bay - clams and borers five pounds in the shell in the aggregate.

(f) Willapa Bay - twenty-four cockles.

(g) In English Camp tidelands the bag limit shall be as described in (c) of this subsection plus an additional 10 pounds of clams in the shell.

- (2) Razor clams: 15 clams.
- (3) Geoduck clams: 3 clams.
- (4) Horse clams: First 7 clams taken.
- (5) Oysters: 18 oysters.
- (6) Rock scallops: 12 scallops.
- (7) Sea scallops: 12 scallops (over 4 inches).
- (8) Common or pink scallops: 20 pounds or 10 quarts in the shell.
- (9) Shrimp: 10 pounds or 10 quarts in the shell.
- (10) Octopus: 2 octopus.
- (11) Abalone (Kamschatka): 5 abalone, minimum size limit 3-1/2 inches measured in horizontal line across the longest portion of the shell.
- (12) Crawfish: 10 pounds in the shell.
- (13) Squid: 10 pounds or 5 quarts.
- (14) Sea cucumbers: 25 sea cucumbers.
- (15) Red sea urchins: 18 sea urchins.
- (16) Purple sea urchins: 18 sea urchins.
- (17) Green sea urchins: 36 sea urchins.
- (18) Dungeness crabs: 6 male crabs.
- (19) Red crabs: 18 crabs.
- (20) Blue mussels and sea mussels: 10 pounds in the shell.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-56-320 SHELLFISH GEAR—UNLAWFUL ACTS.

(1) It is unlawful for the owner or operator of any personal-use shellfish gear to leave such gear unattended in the waters of the state unless said gear is marked with a buoy to which shall be affixed in a permanent visible and legible manner the first and last name and address of the operator, and in the case of Hood Canal shrimp gear, the name and address must appear exactly as it occurs on the shrimp license. It is unlawful for more than one person's name and address to appear on the same marker buoy. Unattended shellfish gear left in the waters of Puget Sound must have the line attaching the buoy to the pot weighted sufficiently to prevent the line from floating on the water's surface. The following additional requirements apply to buoys attached to unattended shellfish pots in Puget Sound waters:

(a) All buoys must consist of durable material and remain floating ~~((above))~~ on the water's surface when at least 5 pounds of weight are attached. It is unlawful to use bleach, antifreeze or detergent bottles, paint cans or any other container.

(b) ~~((The entire buoy))~~ All buoys attached to shrimp gear must be yellow or fluorescent yellow ~~((if attached to shrimp gear))~~ in color. ~~Flags and staff, if attached, may be any color.~~

(c) ~~((The buoy))~~ All buoys attached to crab gear must be half fluorescent red in color and half white ~~((if attached to crab gear))~~ in color. ~~Flags and staff, if attached, may be any color.~~

(d) The number of pots attached to each buoy must be marked on the buoy in a manner that is visible and legible at all times.

(2) It is unlawful for any person using shellfish traps for personal-use shellfishing to allow said traps to become uncovered by water.

(3) It is unlawful to take, fish for or possess crab taken with shellfish pot gear that are equipped with tunnel triggers or other devices which prevent free exit of crabs under the legal limit unless such gear is equipped with not less than one escape ring not less than 4-1/8 inches inside diameter located in the upper half of the crab pot.

(4) It is unlawful to take, fish for or possess shrimp taken for personal use with shellfish pot gear in the waters of Hood Canal southerly of the site of the Hood Canal Floating Bridge unless such gear meets the following requirements:

(a) ~~The entire top, bottom, and ((at least one-half of the area of the))~~ sides of the shellfish pots must ~~((have the minimum))~~ be constructed of mesh material and except for the entrance tunnels have the minimum mesh opening size defined below.

(b) The minimum mesh opening size for Hood Canal shrimp pots is defined as a square or rectangular mesh such that ~~((the inside distance between any knot or corner and each adjacent knot or corner shall be no less than))~~ a 7/8-inch ~~((PROVIDED, That the shortest inside diagonal of each mesh shall be no less than 1-1/8 inches))~~ square peg will pass through each mesh without changing the shape of the mesh opening.

(c) All entrance tunnels must open into the pot from the side.

(d) The sum of the maximum widths of all entrance tunnels must not exceed 1/2 the perimeter of the bottom of the pot.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-325 SHRIMP—AREAS AND SEASONS. It shall be unlawful to take, fish for or possess shrimp taken for personal use except from May 15 through September 15: ~~((PROVIDED; That))~~ All waters of Hood Canal southerly of the site of the Hood Canal Floating Bridge and Carr Inlet inside and northerly of a line projected from Penrose Point to Green Point shall remain closed except as specifically provided for by emergency regulation; it shall be unlawful to set any Hood Canal shrimp gear prior to 9:00 a.m. on the opening day of the season.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-330 CRAB—AREAS AND SEASONS. It shall be lawful to take, fish for and possess male Dungeness crabs taken for personal use in any area the entire year: PROVIDED, That it shall be unlawful to take, fish for or possess crab taken for personal use with shellfish pot gear or to have in the water, set or fish any shellfish pot gear for crab in Puget Sound from April ~~((+5))~~ 16 through May 25.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-56-380 OYSTERS—AREAS AND SEASONS. (1) It is unlawful to take oysters for any purpose from state oyster reserves without written permission of the director of fisheries.

(2) ~~((+7))~~ It is unlawful to take or possess oysters for personal use from ~~((all Hood Canal beaches south of a line projected from Misery Point to Quatsop (Black) Point through December 31, 1983))~~ public tidelands from July 15 through September 15.

~~((+b))~~ It is lawful to take and possess oysters for personal use from ~~all other Washington state public beaches, except at))~~ (3) It is unlawful to take or possess oysters for personal use from federally-owned tidelands at Seal Rock Forest Service campground ~~((are closed to personal-use harvest of oysters from))~~ except during the period ~~((July))~~ May 16 through ~~((May))~~ July 14.

(4) It is unlawful to take or possess oysters for personal use from tidelands of Kitsap Memorial State Park through May 15, 1986.

(5) It is unlawful to take or possess oysters for personal use from tidelands at Scenic Beach State Park except during the period March 15 through May 15.

(6) It is unlawful to take or possess oysters for personal use from tidelands at Department of Natural Resources Beach Number 43 (north of Hoodspout) except during the period March 15 through May 15.

(7) It is unlawful to take or possess oysters for personal use from department of fisheries tidelands at Hoodspout Salmon Hatchery except during the period May 16 through July 14.

(8) It is unlawful to take or possess oysters for personal use from tidelands at Bywater Bay State Park except during the period May 16 through July 14.

~~((+3))~~ (9) It is unlawful to pick or take oysters for personal use from waters measuring more than two feet in depth at the time of removal.

~~((+4))~~ It shall be lawful for private beach owners to harvest oysters for their own personal use from their own tidelands.)

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-120 BEAR RIVER. Bag limit A - July 1 through ~~((October 31))~~ November 30: Downstream from the lime quarry road to Highway 101 Bridge (a distance of approximately 2 stream miles).

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-130 BOGACHIEL RIVER. (1) Bag limit A - July 1 through October 31: Downstream from the Highway 101 Bridge to the mouth of the Calawah River. All coho salmon greater than 20 inches in length must be immediately released ~~((if taken on or after October 1))~~.

(2) Bag limit A - July 1 through August 31: Downstream from the mouth of the Calawah River. All coho salmon greater than 20 inches in length must be released immediately.

(3) Special bag limit - Six salmon not less than 10 inches in length, not more than four of which may exceed 24 inches in length - September 1 through November 30: Downstream from the mouth of the Calawah River. All coho salmon greater than 20 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-135 CALAWAH RIVER. Bag limit A - July 1 through ~~((October 31))~~ November 30: Downstream from the Highway 101 Bridge. During the period September 1 through November 30, the six salmon bag limit may contain up to four fish over 24 inches in length. At all times, coho salmon greater than 20 inches in length must be ~~((immediately))~~ released ~~((if taken on or after October 1))~~ immediately.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-150 CLALLAM RIVER. Bag limit C - July 1 through November 30: Downstream from the confluence of ~~((Boulder))~~ Blower Creek, located approximately one mile upstream of the uppermost Highway 12 Bridge.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-155 CLEARWATER RIVER (JEFFERSON COUNTY). (1) Bag limit C - July 1 through ~~((October 8))~~ August 31: Downstream from the mouth of the Snahapish River to the Quinault Indian Reservation boundary.

(2) Special bag limit ~~((+))~~ - Six salmon not less than 10 inches in length, not more than four of which may exceed 24 inches in length - ~~((October 9 through October 31))~~ September 1 through November 30: Downstream from the mouth of the Snahapish River to the Quinault Indian Reservation boundary. Coho salmon over 20 inches must be released immediately.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-160 COLUMBIA RIVER. (1) Bag limit C - June 1 through December 31: Downstream from Chief Joseph Dam to the Richland - Pasco Highway 12 Bridge except those waters between the Vernita Bridge and the old Hanford townsite wooden powerline towers are open only during the period July 1 through October 15, and except

for the special season and bag limited provided for in subsection (2) of this section. The following are closed waters:

(a) Chief Joseph Dam – waters between the upstream line of Chief Joseph Dam to a line perpendicular to the thread of the stream from a point 400 feet downstream from the west end of the tailrace deck.

(b) Wells Dam – waters between the upstream line of Wells Dam and a point 400 feet below the spawning channel discharge stream.

(c) Rocky Reach, Rock Island and Wanapum Dams – waters between the upstream lines of these dams and points ~~((+000))~~ 400 feet downstream.

(d) Priest Rapids Dam – waters between the upstream line of Priest Rapids Dam and a point ~~((+500))~~ 400 feet downstream.

(e) Jackson (Moran) Creek – waters within 500 feet of the mouth.

(2) Bag limit A – April 1 through July 31: East bank only in that portion of the Columbia River from WDF boundary marker located approximately 1/2 mile upstream from Spring Creek (Ringold hatchery rearing pond outlet) downstream to a WDF boundary marker located approximately 1/4 mile downstream of Ringold wasteway outlet.

(3) Waters downstream from the Richland-Pasco Highway 12 Bridge to Hood River Bridge: Closed entire year. The following waters are closed to fishing for food fish at all times:

(a) McNary Dam – waters between the upstream line of McNary Dam and a line across the river from the red and white marker on the Oregon shore to the downstream end of the wingwall of the boat lock near the Washington shore.

(b) John Day Dam – waters between the upstream line of John Day Dam and markers approximately 3,000 feet downstream, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(c) The Dalles Dam – waters between the upstream line of the Dalles Dam and the upstream side of the Interstate 197 Bridge, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(4) Bag limit A – September 1 through March 15: That portion downstream from Hood River Bridge to the Interstate 5 Bridge at Vancouver, except waters of Camas Slough are open under this bag limit from August 1 through March 15 between the upper Highway 14 Bridge on Lady Island to a line projected true north from the lower end of Lady Island and hook regulations and shad and sturgeon seasonal restrictions in Camas Slough are identical with regulations and restrictions in adjacent mainstem Columbia River waters. The following are closed waters:

(a) Spring Creek – waters within 1/4 mile of the U.S. Fish and Wildlife Service Hatchery grounds between posted boundary markers located 1/4 mile on either side of the fish ladder entrance.

(b) Bonneville Dam – waters between the upstream line of Bonneville Dam and a point 600 feet below the fish ladder at the new Bonneville Dam powerhouse.

(5) Bag limit C – June 1 through July 25: Waters downstream from the Interstate 5 Bridge to the Megler-Astoria Bridge.

(6) Bag limit A – August 16 through March ~~((+5))~~ 31: Waters downstream from the Interstate 5 bridge to the Megler-Astoria Bridge. During the month of September, it is unlawful to take, fish for, or possess salmon for personal use in that portion of the Columbia River north of a line projected from Abernathy Point to a boundary marker east of the mouth of Abernathy Creek.

(7) Bag limit A – August 16 through March ~~((+5))~~ 31: Waters downstream from the Megler-Astoria Bridge to a line projected true north and south through Buoy 10, except that during the period August 16 through September 30 when size and bag limit regulations shall conform with the most recent ocean fishing regulations for adjacent waters of punch card area 1.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-175 COWLITZ RIVER. (1) Special bag limit – April 1 through July 31: Downstream from ~~((the cross river cable below))~~ a marker 400 feet below the Cowlitz Salmon Hatchery Barrier Dam on the north side of the river and downstream from the base of the barrier dam on the south side of the river to the mouth. Bag limit is six salmon per day not less than 10 inches in length, only three of which may exceed 24 inches in length.

(2) That portion of the Cowlitz River downstream from the mouth of Mill Creek is open to salmon angling 24 hours per day during the period April 1 to July 31.

(3) Bag limit A – August 1 through March 31: Downstream from markers 400 feet below the barrier dam except, during the period October 1 through December 31, chinook salmon over 28 inches in length taken upstream of the Interstate 5 Bridge must be released.

(4) Salmon angling from boats is prohibited the entire year in designated open waters between the barrier dam and the mouth of Mill Creek.

(5) Bag limit ~~((€))~~ A – Open the entire year: From the confluence of the Muddy Fork and Ohanapecosh rivers downstream to Riffe (Davisson) Lake.

AMENDATORY SECTION (Amending Order 79-7, filed 1/30/79, effective 4/1/79)

WAC 220-57-200 DICKEY RIVER. (1) Bag limit C – July 1 through ~~((October 31))~~ September 30: Downstream of the mouth of East Fork of the Dickey River to the National Park boundary. All coho salmon greater than 20 inches in length must be released immediately.

(2) Bag limit A – October 1 through November 30: Downstream of the mouth of East Fork of the Dickey River to the National Park boundary. All coho salmon greater than 20 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-230 ELK RIVER. ~~((+))~~ Special bag limit ~~((€))~~ – Six salmon including not more than two chum. All salmon must be not less than 10 inches in length, chinook salmon may not be greater than 24 inches in length and coho salmon may not be greater than 20 inches in length – July 1 ~~((through September 30: Downstream from the confluence of the West Fork and the Middle Fork to the Highway 105 Bridge:~~

(2) Bag limit A – ~~((October 1))~~ through November 30: Downstream from the confluence of the West Fork and the Middle Fork to the Highway 105 Bridge ~~((, except that all chinook salmon over 24 inches must be released))~~.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-270 HOH RIVER. (1) ~~((Special))~~ Bag limit C – Saturday preceding Memorial Day through October 31: Downstream from the ~~((Highway 101 Bridge the bag limit is six salmon not less than 10 inches in length, only one of which may exceed 24 inches in length except coho salmon greater than 20 inches in length must be released))~~ confluence of the South Fork to the mouth of Willoughby Creek.

(2) Bag limit ~~((€))~~ A – Saturday preceding Memorial Day through ~~((October 31: Upstream from the Highway 101 Bridge to the confluence of the South Fork Hoh))~~ September 30: Downstream from the mouth of Willoughby Creek. All coho salmon greater than 20 inches in length must be released immediately.

(3) Special bag limit – Six salmon not less than 10 inches in length not more than four of which may exceed 24 inches in length – October 1 through November 30: Downstream from the mouth of Willoughby Creek. All coho salmon greater than 20 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-280 HOQUIAM RIVER. ~~((+))~~ Special bag limit ~~((★))~~ – Six salmon including not more than two chum. All salmon must be not less than 10 inches in length, chinook salmon may not be greater than 24 inches in length and coho salmon may not be greater than 20 inches in length – July 1 through November 30 – main Hoquiam River ~~((and)), west fork of Hoquiam River downstream from the bridge on the Dekay Road~~ ~~((Chinook salmon over 24 inches in length must be released:~~

(2) Bag limit A – ~~((October 1 through November 30:))~~ and east fork of Hoquiam River downstream from the game department access area below Berryman Creek ~~((, except that all chinook salmon over 24 inches must be released))~~.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-285 HUMPTULIPS RIVER. (1) Bag limit C – July 1 through ~~((January))~~ August 31: Downstream from confluence of East and West forks.

(2) Bag limit C - September 1 through January 31: Downstream of confluence of East and West forks to Highway 101 Bridge.

~~((2))~~ (3) Bag limit A - ~~((July))~~ September 1 through January 31: Downstream from the Highway 101 Bridge ~~((to Highway 109 Bridge))~~. Chinook salmon over 24 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 77-3, filed 1/28/77, effective 3/1/77)

WAC 220-57-295 JOE CREEK (GRAYS HARBOR COUNTY). Bag limit C - July 1 through ~~((October 31))~~ November 30: Downstream from the Burlington Northern Railroad Bridge located just above the Ocean Beach Road.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-300 JOHNS RIVER. ~~((+))~~ Special bag limit ~~((€))~~ - Six salmon including not more than two chum salmon. All salmon must be not less than 10 inches in length, chinook salmon may not be greater than 24 inches in length and coho salmon may not be greater than 20 inches in length - July 1 through ~~((September))~~ November 30: Downstream from old M&B Logging Camp Bridge at upper boundary of Johns River Habitat Management Area to Highway 105 Bridge.

~~((2))~~ Bag limit A - October 1 through November 30: Downstream from old M&B Logging Camp Bridge at upper boundary of Johns River Habitat Management Area to Highway 105 Bridge, except that all chinook salmon over 24 inches must be released.)

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-319 LEWIS RIVER. (1) Mainstem - bag limit A - open entire year: Downstream from East Fork to mouth.

(2) East Fork:

(a) Bag limit A - open entire year: Downstream from the LaCenter Bridge.

(b) Bag limit A - ~~((July 1))~~ Saturday preceding Memorial Day through December 31: Downstream from Lucia Falls to the LaCenter Bridge. ~~((From October 1 through November 30))~~ All chinook salmon over 28 inches caught after September 30 must be released immediately.

(3) North Fork:

(a) Bag limit A - January 1 through September 30: Downstream from overhead power lines below Ariel Dam except as provided in subsection (3)(b).

(b) Bag limit A - open entire year: Downstream from the mouth of Colvin Creek (approximately 1/4 mile upstream of the salmon hatchery) to the mouth of the East Fork, except that ~~((during the period September 1 through November 30))~~ at all times it is unlawful to take, fish for or possess salmon taken for personal use from waters shoreward of the cable, buoy, and corkline located at the mouth of the Lewis River Salmon Hatchery fishway.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-335 NASELLE RIVER. Bag limit A - July 1 through January 31: Downstream from the Big Hill Bridge to Highway 101 Bridge. All chinook salmon greater than 28 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-340 NEMAH RIVER. (1) Middle Nemah, bag limit C - July 1 through ~~((October 31))~~ November 30: Downstream from the department of natural resources bridge on the Middle Nemah A Line Road.

(2) North Nemah - bag limit A - ~~((July 1 through))~~ November ~~((30))~~ 1 through January 31: Downstream from lower bridge on dead end Lower Nemah Road to the mouth. Chinook salmon over 28 inches must be released immediately.

(3) South Nemah - bag limit ~~((€))~~ A - July 1 through ~~((October 31))~~ November 30: Downstream from the confluence of the Middle Nemah to ~~((its))~~ the mouth.

AMENDATORY SECTION (Amending Order 76-14, filed 3/15/76, effective 5/1/76)

WAC 220-57-365 PALIX RIVER. Bag limit A - July 1 through ~~((January 31))~~ November 30: Downstream from the confluence of the South and Middle Forks to the Highway 101 Bridge.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-385 QUILLAYUTE RIVER. (1) Bag limit ~~((A))~~ C - Saturday preceding Memorial Day through ~~((November))~~ June 30: ~~((Outside the boundary of))~~ Downstream from the confluence of the Soleduck and Bogachiel Rivers to the Olympic National Park boundary. ~~((During the period October 1 through November 30, coho salmon over 20 inches in length must be released.))~~

(2) Bag limit A - July 1 through August 31: Downstream from the confluence of the Soleduck and Bogachiel Rivers to the Olympic National Park boundary.

(3) Special bag limit - Six salmon not less than 10 inches in length, not more than four of which may exceed 24 inches in length - September 1 through November 30: Downstream from the confluence of the Soleduck and Bogachiel Rivers to the Olympic National Park boundary. During the period September 20 through November 30, all coho salmon greater than 20 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-430 SKOKOMISH RIVER. Bag limit A - July ~~((+))~~ 15 through January 31: Downstream from the mouth of Vance Creek.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-440 SMITH CREEK (PACIFIC COUNTY). (1) Bag limit A - July 1 through ~~((October 31))~~ November 30: From mouth to a marker located approximately one mile upstream.

(2) Bag limit C - July 1 through ~~((October 31))~~ November 30: Downstream from Highway 101 Bridge to marker approximately one mile upstream from the mouth.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-460 SOLEDUCK RIVER. (1) Bag limit ~~((A))~~ C - Saturday preceding Memorial Day through ~~((October 31))~~ June 30: Downstream from concrete pump station at Soleduck Hatchery. ~~((During the period October 1 through October 31, coho salmon over 20 inches in length must be released.))~~

(2) Bag limit A - July 1 through August 31: Downstream from concrete pump station at Soleduck Hatchery.

(3) Special bag limit - Six salmon not less than 10 inches in length, not more than four of which may exceed 24 inches in length - September 1 through November 30: Downstream from concrete pump station at Soleduck Hatchery. During the period October 1 through November 30, all coho salmon greater than 20 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-473 TILTON RIVER. (1) Mainstem - Bag limit A - Saturday preceding Memorial Day through ~~((November 30))~~ December 31: Downstream from West Fork Tilton River.

(2) North Fork - Bag limit A - Saturday preceding Memorial Day through November 30: Downstream from markers 400 feet above the 73 Road Bridge to the Tilton River (approximately lower two miles).

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-510 WILLAPA RIVER. (1) Bag limit A - July 1 through January 31: Downstream from Highway 6 Bridge, approximately 2 miles below the mouth of Trap Creek, to the Highway 101 Bridge. Chinook salmon greater than 28 inches in length must be released immediately.

(2) Bag limit A - October 15 through January 31: Downstream from mouth of Forks Creek to the Highway 6 Bridge approximately 2 miles below the mouth of Trap Creek. Chinook salmon ~~((over))~~ greater than 28 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-520 WISHKAH RIVER. ~~((+)) Special bag limit ((€)) - Six salmon including not more than two chum. All salmon must be not less than 10 inches in length, chinook salmon may not be greater than 24 inches in length and coho salmon may not be greater than 20 inches in length - July 1 through ((September)) November 30: Downstream from the mouth of the West Fork.~~

~~((2) Bag limit A - October 1 through November 30: Downstream from the mouth of the west fork, except that all chinook salmon over 24 inches must be released:))~~

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-525 WYNOOCHEE RIVER. Special bag limit ((A)) - Six salmon including not more than two chum. All salmon must be not less than 10 inches in length, chinook salmon may not be greater than 24 inches in length and coho salmon may not be greater than 20 inches in length - ((October)) July 1 through November 30: Downstream from the mouth of Schafer Creek. ((Chinook salmon over 24 inches in length must be released:))

AMENDATORY SECTION (Amending Order 81-13, filed 2/17/81, effective 4/1/81)

WAC 220-57A-010 ARMSTRONG LAKE (SNOHOMISH COUNTY). ~~((Closed to salmon angling the entire year:))~~ Bag limit I - April 15 through September 3.

NEW SECTION

WAC 220-57A-037 CLEAR LAKE (PIERCE COUNTY). Bag limit I - April 15 through July 4 and September 1 through October 31.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57A-040 CUSHMAN LAKE (MASON COUNTY). Bag limit I - April ((+)) 15 through October 31.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57A-065 DUCK LAKE (GRAYS HARBOR COUNTY). ~~((Bag limit I = open))~~ Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 81-13, filed 2/17/81, effective 4/1/81)

WAC 220-57A-080 GOODWIN LAKE (SNOHOMISH COUNTY). ~~((Closed to salmon angling the entire year:))~~ Bag limit I - April 15 through October 31.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57A-082 (UPPER) GOOSE LAKE (GRANT COUNTY). ~~((Bag limit of five))~~ Closed to salmon ((and other salmonid fish and the salmon may not be less than 6 inches in length: Open)) angling the entire year.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57A-112 MCMURRAY LAKE (SKAGIT COUNTY). Bag limit I - April ((+)) 15 through September ((5)) 3.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57A-120 MERWIN LAKE (RESERVOIR). Bag limit I - ~~((April 17 through November 30))~~ Open the entire year.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57A-152 SHANNON RESERVOIR (SKAGIT COUNTY). Bag limit I - April ((+)) 15 through October 31.

AMENDATORY SECTION (Amending Order 81-13, filed 2/17/81, effective 4/1/81)

WAC 220-57A-185 WILDERNESS LAKE (KING COUNTY). ~~((Closed to salmon angling the entire year:))~~ Bag limit I - April 15 through September 3.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57A-190 WYNOOCHEE RESERVOIR (GRAYS HARBOR COUNTY). Bag limit I - April ((+)) 15 through October 31.

AMENDATORY SECTION (Amending Order 83-203, filed 12/2/83)

WAC 220-69-237 DESCRIPTION OF SPORT SALMON CATCH RECORD. (1) There is hereby created a sport salmon catch record form to be prepared, printed, and distributed on request, by the department of fisheries,

(2) The sport salmon catch record stub shall contain space for the following information:

- (a) Name of angler.
- (b) Home address.
- (c) City, state, zip code.

(d) Angler's driver's license number, or, in the case the angler does not have a driver's license, the first five letters of the anglers last name and the initial for the angler's first and middle name. If the last name is less than five letters, enter the entire last name followed by the first and middle initial. If no middle name, leave blank the initial space.

- (e) Home phone.
- (f) Date of issue.

(3) The sport salmon catch record card shall contain space for the following information:

- (a) Name of angler.
- (b) Home address.
- (c) City, state, zip code.

(d) Angler's driver's license number, or, in the case the angler does not have a driver's license, the first five letters of the anglers last name and the initial for the angler's first and middle name. If the last name is less than five letters, enter the entire last name followed by the first and middle initial. If no middle name, leave blank the initial space.

- (e) Date of issue.

(f) Space for the license validation stamp.

~~((€))~~ (g) Month of catch.

~~((+))~~ (h) Day of catch.

~~((g))~~ (i) Marine code or stream: Location of catch.

~~((+))~~ (j) Species: Species code for salmon.

NEW SECTION

WAC 220-69-247 REQUIRED INFORMATION ON SPORT SALMON CATCH RECORD. The following are required on each completed sport salmon catch record:

WAC 220-69-237 (2)(a) through (d); (2)(e) if applicable; (2)(f); and WAC 220-69-237 (3)(a) through (c).

WSR 84-03-061**EXECUTIVE ORDER****OFFICE OF THE GOVERNOR**

[EO 84-01]

ESTABLISHMENT OF A FORECAST COUNCIL

The importance of economic and revenue forecasting has become very evident in recent years. Major budget decisions and policy options are affected by state forecasts of economic activity and revenue collections. Efforts to increase legislative participation in and understanding of the forecasting process can increase the credibility and utility of the forecasts.

NOW, THEREFORE, I, John Spellman, Governor of the state of Washington, do hereby resolve that a forecast council be immediately established to:

- A. Oversee the preparation of and approve, by majority vote, a state economic and General Fund-state revenue forecast for the biennium; and

- B. Make available to the Governor and legislature such forecasts on or before February 20 in even-numbered years, March 20 in odd-numbered years, and on June 20, September 20, and December 20 of each year.

The Forecast Council shall consist of six individuals, two of whom shall be appointed by the Governor and four of whom shall each be appointed by the chairperson of each of the political caucuses of the Senate and House of Representatives.

The Office of Financial Management, the Department of Revenue, and other state agencies responsible for collecting and preparing estimates of biennial revenues are called upon to provide whatever support is necessary to carry out the tasks assigned to the Forecast Council. The Department of Revenue is further called upon to ensure that revenue collection information is available to the Governor and legislature the first business day following the conclusion of each collection period.

IN WITNESS WHERE-
OF, I have hereunto set my
hand and caused the seal of
the state of Washington to
be affixed at Olympia this
17th day of January, A.D.,
nineteen hundred and
eighty-four.

John Spellman

Governor of Washington

BY THE GOVERNOR:

Ralph Munro

Secretary of State

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
- READOPT = Readoption of existing section
- REVIEW = Review of previously adopted rule
- STMT = Statement regarding 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.

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16-213-200	NEW-P	84-03-045	173-216-020	AMD-P	84-02-070	220-57-340	AMD-P	84-03-060
16-213-210	NEW-P	84-03-045	173-218-010	NEW-P	84-02-070	220-57-365	AMD-P	84-03-060
16-213-220	NEW-P	84-03-045	173-218-020	NEW-P	84-02-070	220-57-385	AMD-P	84-03-060
16-213-230	NEW-P	84-03-045	173-218-030	NEW-P	84-02-070	220-57-430	AMD-P	84-03-060
16-750-010	AMD-P	84-03-020	173-218-040	NEW-P	84-02-070	220-57-440	AMD-P	84-03-060
50-12-050	AMD	84-03-036	173-218-050	NEW-P	84-02-070	220-57-460	AMD-P	84-03-060
50-20-050	AMD-P	84-03-009	173-218-060	NEW-P	84-02-070	220-57-473	AMD-P	84-03-060
131-16-093	AMD-P	84-03-004	173-218-070	NEW-P	84-02-070	220-57-510	AMD-P	84-03-060
132F-120-020	AMD	84-03-028	173-218-080	NEW-P	84-02-070	220-57-520	AMD-P	84-03-060
132F-120-030	AMD	84-03-028	173-218-090	NEW-P	84-02-070	220-57-525	AMD-P	84-03-060
132F-120-040	AMD	84-03-028	173-218-100	NEW-P	84-02-070	220-57-570	AMD-P	84-03-060
132F-120-041	NEW	84-03-028	173-218-110	NEW-P	84-02-070	220-57A-010	AMD-P	84-03-060
132F-120-042	NEW	84-03-028	173-218-110	NEW-P	84-02-070	220-57A-037	NEW-P	84-03-060
132F-120-043	NEW	84-03-028	173-422-050	AMD-P	84-03-056	220-57A-040	AMD-P	84-03-060
132F-120-050	AMD	84-03-028	192-12-131	NEW	84-02-061	220-57A-065	AMD-P	84-03-060
132F-120-070	AMD	84-03-028	192-12-132	NEW	84-02-061	220-57A-080	AMD-P	84-03-060
132F-120-080	AMD	84-03-028	192-12-134	NEW	84-02-061	220-57A-082	AMD-P	84-03-060
132F-120-090	AMD	84-03-028	220-16-375	NEW-P	84-03-060	220-57A-112	AMD-P	84-03-060
132F-120-100	AMD	84-03-028	220-16-380	NEW-P	84-03-060	220-57A-120	AMD-P	84-03-060
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132F-120-120	AMD	84-03-028	220-32-055	AMD-P	84-03-059	220-57A-185	AMD-P	84-03-060
132F-120-130	AMD	84-03-028	220-32-05700T	NEW-E	84-02-049	220-57A-190	AMD-P	84-03-060
132F-120-150	AMD	84-03-028	220-55-120	AMD-P	84-03-059	220-69-237	AMD-P	84-03-060
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137-12-070	REP-P	84-03-014	220-56-295	AMD-P	84-03-060	232-32-157	NEW-E	84-02-065
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173-19-260	AMD-P	84-03-058	220-57-230	AMD-P	84-03-060	275-31-010	NEW	84-03-054
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173-19-390	AMD	84-02-074	220-57-280	AMD-P	84-03-060	275-31-030	NEW	84-03-054
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296-81-340	AMD-C	84-03-008	360-19-070	NEW	84-03-016	490-600-071	AMD-E	84-03-025
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