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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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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.

1985

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 |
| 85-01 | Nov 21 | Dec 5 | Dec 19, 1984 | Jan 2, 1985 | Jan 22 |
| 85-02 | Dec 5 | Dec 19, 1984 | Jan 2, 1985 | Jan 16 | Feb 5 |
| 85-03 | Dec 26, 1984 | Jan 9, 1985 | Jan 23 | Feb 6 | Feb 26 |
| 85-04 | Jan 9 | Jan 23 | Feb 6 | Feb 20 | Mar 12 |
| 85-05 | Jan 23 | Feb 6 | Feb 20 | Mar 6 | Mar 26 |
| 85-06 | Feb 6 | Feb 20 | Mar 6 | Mar 20 | Apr 9 |
| 85-07 | Feb 20 | Mar 6 | Mar 20 | Apr 3 | Apr 23 |
| 85-08 | Mar 6 | Mar 20 | Apr 3 | Apr 17 | May 7 |
| 85-09 | Mar 20 | Apr 3 | Apr 17 | May 1 | May 21 |
| 85-10 | Apr 3 | Apr 17 | May 1 | May 15 | Jun 4 |
| 85-11 | Apr 24 | May 8 | May 22 | Jun 5 | Jun 25 |
| 85-12 | May 8 | May 22 | Jun 5 | Jun 19 | Jul 9 |
| 85-13 | May 22 | Jun 5 | Jun 19 | Jul 3 | Jul 23 |
| 85-14 | Jun 5 | Jun 19 | Jul 3 | Jul 17 | Aug 6 |
| 85-15 | Jun 26 | Jul 10 | Jul 24 | Aug 7 | Aug 27 |
| 85-16 | Jul 10 | Jul 24 | Aug 7 | Aug 21 | Sep 10 |
| 85-17 | Jul 24 | Aug 7 | Aug 21 | Sep 4 | Sep 24 |
| 85-18 | Aug 7 | Aug 21 | Sep 4 | Sep 18 | Oct 8 |
| 85-19 | Aug 21 | Sep 4 | Sep 18 | Oct 2 | Oct 22 |
| 85-20 | Sep 4 | Sep 18 | Oct 2 | Oct 16 | Nov 5 |
| 85-21 | Sep 25 | Oct 9 | Oct 23 | Nov 6 | Nov 26 |
| 85-22 | Oct 9 | Oct 23 | Nov 6 | Nov 20 | Dec 10 |
| 85-23 | Oct 23 | Nov 6 | Nov 20 | Dec 4 | Dec 24 |
| 85-24 | Nov 6 | Nov 20 | Dec 4 | Dec 18 | Jan 7, 1986 |

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

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

³"No 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 85-12-001
JUVENILE DISPOSITION STANDARDS
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed May 23, 1985]

STATE OF WASHINGTON

JUVENILE DISPOSITION SENTENCING STANDARDS

Effective July 1, 1985*

For further information contact:

Division of Juvenile Rehabilitation
Department of Social and Health Services
Mailstop OB-32
Olympia, Washington 98504

Phone: (206) 753-7402

* Use these standards for all offenses committed on or after July 1, 1985.

7/1/85

JUVENILE SENTENCING STANDARDS

INTRODUCTION

It is the responsibility of the Juvenile Disposition Standards Commission to propose sentencing standards which establish determinant ranges of sanctions based on the offender's age, current offense seriousness, and prior criminal history.

The court's options in sentencing offenders vary by type of offender.

For serious offenders the court has two options: (A) Ordering the standard range, or (B) Declaring a manifest injustice and imposing a disposition outside the standard range.

For middle offenders the court has three options: (A) Sentencing to the standard range, (B) Sentencing to community supervision (maximum of \$100 fine, 150 hours community service, one year of community supervision and after stating aggravating/mitigating circumstances, up to 30 days confinement), or (C) Declaring a manifest injustice and sentencing to a maximum term of confinement.

For minor/first offenders the court has three options: (A) Sentencing to the standard range, (B) Sentencing to a term of community supervision (maximum of \$100 fine, one year supervision, and/or 150 hours of community service), or (C) Declaring a manifest injustice and sentencing to a maximum term of confinement.

INSTRUCTIONS

After completing the points for each current offense using Sentencing Schedules A, B and C, use the following steps to determine the offender's disposition:

1. Using the most serious current offense, determine whether the offender is a serious, middle, or minor/first offender.
2. Select the schedule (D-1, D-2, or D-3) appropriate to the offender category (minor/first, middle, or serious).
3. Select one of the sentencing options from the appropriate schedule.

7/1/85

JUVENILE COURT SENTENCING REPORT
 SCHEDULE A
 DJR CODE, DESCRIPTION AND OFFENSE CATEGORY

| JUVENILE DISPOSITION OFFENSE CATEGORY | DJR CODE | DESCRIPTION (RCW CITATION) | JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY OR SOLICITATION |
|------------------------------------------------|----------|------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| | | <u>Arson and Malicious Mischief</u> | |
| A | 9A48020 | Arson 1 (9A.48.020) | B+ |
| B | 9A48030 | Arson 2 (9A.48.030) | C |
| C | 9A48040 | Reckless Burning 1 (9A.48.040) | D |
| D | 9A48050 | Reckless Burning 2 (9A.48.050) | E |
| B | 9A48070 | Malicious Mischief 1 (9A.48.070) | C |
| C | 9A48080 | Malicious Mischief 2 (9A.48.080) | D |
| D | 9A48090 | Malicious Mischief 3 (<\$50 is E class) (9A.48.090) | E |
| E | 0940100 | Tampering with Fire Alarm Apparatus (9.40.100) | E |
| A | 0940120 | Possession of Incendiary Device (9.40.120) | B+ |
| | | <u>Assault and Other Crimes Involving Physical Harm</u> | |
| A | 9A36010 | Assault 1 (9A.36.010) | B+ |
| B+ | 9A36020 | Assault 2 (9A.36.020) | C+ |
| C+ | 9A36030 | Assault 3 (9A.36.030) | D+ |
| D+ | 9A36040 | Assault (Simple) (9A.36.040) | E |
| D+ | 9A36050 | Reckless Endangerment (9A.36.050) | E |
| C+ | 9A36060 | Promoting Suicide Attempt (9A.36.060) | D+ |
| D+ | 9A36070 | Coercion (9A.36.070) | E |
| | | <u>Burglary and Trespass</u> | |
| B+ | 9A52020 | Burglary 1 (9A.52.020) | C+ |
| B | 9A52030 | Burglary 2 (9A.52.030) | C |
| D | 9A52060 | Burglary Tools (Possession of) (9A.52.060) | E |
| D | 9A52070 | Criminal Trespass 1 (9A.52.070) | E |
| E | 9A52080 | Criminal Trespass 2 (9A.52.080) | E |
| D | 9A52100 | Vehicle Prowling (9A.52.100) | E |
| | | <u>Drugs</u> | |
| E | 6644270 | Possession/Consumption of Alcohol (66.44.270) | E |
| B | 6941020 | Illegally Obtaining Legend Drug (69.41.020) | C |
| B | 694103A | Sale, Del., Poss. of Legend Drug w/Intent to Sell (69.41.030) | C |
| E | 694103B | Possession of Legend Drug (69.41.030) | E |
| B | 695040A | Violation of Uniform Controlled Substances Act - Narcotic (69.50.401) | B |
| C | 695040B | Violation of Uniform Controlled Substances Act - Non-Narcotic (69.50.401) | C |
| E | 695040J | Possession of Pot < 40 grams (69.50.401) | E |
| C | 6950403 | Fraudulently Obtaining Controlled Substance (69.50.403) | C |
| C | 6950410 | Sale of Controlled Substance for Profit (69.50.410) | C |
| E | 947A050 | Glue Sniffing (9.47A.050) | E |

7/1/85

JUVENILE COURT SENTENCING REPORT
SCHEDULE A
DJR CODE, DESCRIPTION AND OFFENSE CATEGORY

| JUVENILE DISPOSITION OFFENSE CATEGORY | DJR CODE | DESCRIPTION (RCW CITATION) | JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY OR SOLICITATION |
|------------------------------------------------|----------|---------------------------------------------------------|---------------------------------------------------------------------------------------------|
| | | <u>Firearms and Weapons</u> | |
| A | 0940120 | Possession of Incendiary Device (9.40.120) | B+ |
| C+ | 0941025 | Committing Crime When Armed (9.41.025) | D+ |
| E | 0941050 | Carrying Loaded Pistol Without Permit (9.41.050) | E |
| E | 0941240 | Use of Firearms by Minor (<14) (9.41.240) | E |
| D | 0941250 | Possession of Dangerous Weapon (9.41.250) | E |
| D | 0941270 | Intimidating Another Person By Use of Weapon (9.41.270) | E |
| | | <u>Homicide</u> | |
| A+ | 9A32030 | Murder 1 (9A.32.030) | A |
| A+ | 9A32050 | Murder 2 (9A.32.050) | B+ |
| B+ | 9A32060 | Manslaughter 1 (9A.32.060) | C+ |
| C+ | 9A32070 | Manslaughter 2 (9A.32.070) | D+ |
| B+ | 4661520 | Vehicular Homicide (46.61.520) | C+ |
| | | <u>Kidnapping</u> | |
| A | 9A40020 | Kidnap 1 (9A.40.020) | B+ |
| B+ | 9A40030 | Kidnap 2 (9A.40.030) | C+ |
| C+ | 9A40040 | Unlawful Imprisonment (9A.40.040) | D+ |
| D | 9A40050 | Custodial Interference (9A.40.050) | E |
| | | <u>Obstructing Governmental Operation</u> | |
| E | 9A76020 | Obstructing a Public Servant (9A.76.020) | E |
| C | 9A76110 | Escape 1* (9A.76.110) | D |
| C | 9A76120 | Escape 2* (9A.76.120) | D |
| D | 9A76130 | Escape 3 (9A.76.130) | E |
| E | 9A76040 | Resisting Arrest (9A.76.040) | E |
| B | 9A76140 | Introducing Contraband 1 (9A.76.140) | C |
| C | 9A76150 | Introducing Contraband 2 (9A.76.150) | D |
| E | 9A76160 | Introducing Contraband 3 (9A.76.160) | E |
| B+ | 9A76180 | Intimidating a Public Servant (9A.76.180) | C+ |
| B+ | 9A72110 | Intimidating a Witness (9A.72.110) | C+ |
| E | 0923010 | Criminal Contempt (9.23.010) | E |

*Escape 1 and 2 are classed as C offenses in the following manner:

1st escape during 12 month period - 4 weeks confinement
2nd escape during 12 month period - 8 weeks confinement
3rd and subsequent escape during 12 month period - 12 weeks confinement

7/1/85

JUVENILE COURT SENTENCING REPORT
SCHEDULE A
 DJR CODE, DESCRIPTION AND OFFENSE CATEGORY

| JUVENILE DISPOSITION OFFENSE CATEGORY | DJR CODE | DESCRIPTION (RCW CITATION) | JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY OR SOLICITATION |
|------------------------------------------------|----------|---------------------------------------------------------|---------------------------------------------------------------------------------------------|
| | | <u>Public Disturbance</u> | |
| C+ | 9A8401W | Riot with Weapon (9A.84.010) | D+ |
| D+ | 9A8401U | Riot without Weapon (9A.84.010) | E |
| E | 9A84020 | Failure to Disperse (9A.84.020) | E |
| E | 9A84030 | Disorderly Conduct (9A.84.030) | E |
| E | 0923010 | Criminal Contempt (9.23.010) | E |
| | | <u>Sex Crimes</u> | |
| A | 9A44040 | Rape 1 (9A.44.040) | B+ |
| B+ | 9A44050 | Rape 2 (9A.44.050) | C+ |
| C+ | 9A44060 | Rape 3 (9A.44.060) | D+ |
| B+ | 9A44070 | Statutory Rape 1 (9A.44.070) | C+ |
| C+ | 9A44080 | Statutory Rape 2 (9A.44.080) | D+ |
| B | 9A64021 | Incest 1 (9A.64.020(1)) | C |
| C | 9A64022 | Incest 2 (9A.64.020(2)) | D |
| D+ | 9A8801C | Public Indecency (Victim < 14) (9A.88.010) | E |
| E | 9A8801A | Public Indecency (Victim 14 or over) (9A.88.010) | E |
| B+ | 9A88070 | Promoting Prostitution 1 (9A.88.070) | C+ |
| C+ | 9A88080 | Promoting Prostitution 2 (9A.88.080) | D+ |
| E | 9A88030 | O & A (Prostitution) (9A.88.030) | E |
| B+ | 9A44100 | Indecent Liberties (9A.44.100) | C+ |
| | | <u>Theft, Robbery, Extortion and Forgery</u> | |
| B | 9A56030 | Theft 1 (9A.56.030) | C |
| C | 9A56040 | Theft 2 (9A.56.040) | D |
| D | 9A56050 | Theft 3 (9A.56.050) | E |
| B | 9A56080 | Theft of Livestock (9A.56.080) | C |
| C | 9A56020 | Forgery (9A.56.020) | D |
| A | 9A56200 | Robbery 1 (9A.56.200) | B+ |
| B+ | 9A56210 | Robbery 2 (9A.56.210) | C+ |
| B+ | 9A56120 | Extortion 1 (9A.56.120) | C+ |
| C+ | 9A56130 | Extortion 2 (9A.56.130) | D+ |
| B | 9A56150 | Possession of Stolen Property 1 (9A.56.150) | C |
| C | 9A56160 | Possession of Stolen Property 2 (9A.56.160) | D |
| D | 9A56170 | Possession of Stolen Property 3 (9A.56.170) | E |
| C | 9A56070 | Taking Motor Vehicle w/o Owner's Permission (9A.56.070) | D |

7/1/85

JUVENILE COURT SENTENCING REPORT
 SCHEDULE A
 DJR CODE, DESCRIPTION AND OFFENSE CATEGORY

| JUVENILE DISPOSITION OFFENSE CATEGORY | DJR CODE | DESCRIPTION (RCW CITATION) | JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY OR SOLICITATION |
|------------------------------------------------|----------|-----------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| | | <u>Motor Vehicle Related Crimes</u> | |
| E | 4620021 | Driving w/o a License (46.20.021) | E |
| C | 4652021 | Hit and Run-Attended (46.20.021(4)) | D |
| D | 4652022 | Hit and Run-Unattended (46.20.021(5)) | E |
| C | 4661522 | Vehicular Assault (46.61.522) | D |
| C | 4661024 | Attempting to Elude Pursuing Police Vehicle (46.61.024) | D |
| E | 4661500 | Reckless Driving (46.61.500) | E |
| D | 4661515 | Driving While Under the Influence (46.61.515) | E |
| B+ | 4661520 | Negligent Homicide by Motor Vehicle (46.61.520) | C+ |
| D | 9A52100 | Vehicle Prowling (9A.52.100) | E |
| C | 9A56070 | Taking Motor Vehicle w/o Owner's Permission (9A.56.070) | D |
| | | <u>Other</u> | |
| B | 0961160 | Bomb Threat (9.61.160) | C |
| C | 9A76110 | Escape 1* (9A.76.110) | D |
| C | 9A76120 | Escape 2* (9A.76.120) | D |
| D | 9A76130 | Escape 3 (9A.76.130) | E |
| C | 1019130 | Failure to Appear in Court (10.19.130) | D |
| E | 0940100 | Tampering with Fire Alarm Apparatus (9.40.100) | E |
| E | 0961230 | Obscene, Harrassing, Etc., Phone Calls (9.61.230) | E |
| A | 0009988 | Other Offense equivalent to an Adult Class A Felony | B+ |
| B | 0009986 | Other Offense equivalent to an Adult Class B Felony | C |
| C | 0009984 | Other Offense equivalent to an Adult Class C Felony | D |
| D | 0009982 | Other Offense equivalent to an Adult Gross Misdemeanor | E |
| E | 0009981 | Other Offense equivalent to an Adult Misdemeanor | E |
| V | 0009980 | Violation of Order of Restitution, Community Supervision, or Confinement (RCW 13.40.200)** | V |

*Escape 1 and 2 are classed as C offenses in the following manner:

1st escape during 12 month period - 4 weeks confinement
 2nd escape during 12 month period - 8 weeks confinement
 3rd and subsequent escape during 12 month period - 12 weeks confinement

**If the court finds that a respondent has violated terms of an order,
 it may impose a penalty of up to 30 days confinement.

7/1/85

JUVENILE COURT SENTENCING REPORT
 SCHEDULE B
 PRIOR OFFENSE INCREASE FACTOR

For use when all CURRENT OFFENSES occurred on or after July 1, 1985, i.e., amended standards apply.

| TIME SPAN | | | |
|---------------------|----------------|-----------------|----------------------|
| OFFENSE CATEGORY | 0-12 Months | 13-24 Months | 25 Months or More |
| A+ | .9 | .9 | .9 |
| A | .9 | .8 | .6 |
| B+ | .9 | .7 | .4 |
| B | .9 | .6 | .3 |
| C+ | .6 | .3 | .2 |
| C | .5 | .2 | .2 |
| D+ | .3 | .2 | .1 |
| D | .2 | .1 | .1 |
| E | .1 | .1 | .1 |

Prior history - Any offense in which a diversion agreement or counsel and release form was signed, or any offense which has been adjudicated by court to be correct prior to the commission of the current offense(s).

7/1/85

JUVENILE COURT SENTENCING REPORT
 SCHEDULE C
 CURRENT OFFENSE POINTS

For use when all CURRENT OFFENSES occurred on or after July 1, 1985, i.e., amended standards apply.

| AGE | | | | | | |
|------------------|-----------------------------------------------|-----|-----|-----|-----|-----|
| OFFENSE CATEGORY | 12 & Under | 13 | 14 | 15 | 16 | 17 |
| A+ | S T A N D A R D R A N G E 180 - 224 W E E K S | | | | | |
| A | 250 | 300 | 350 | 375 | 375 | 375 |
| B+ | 110 | 110 | 120 | 130 | 140 | 150 |
| B | 45 | 45 | 50 | 50 | 57 | 57 |
| C+ | 44 | 44 | 49 | 49 | 55 | 55 |
| C | 40 | 40 | 45 | 45 | 50 | 50 |
| D+ | 16 | 18 | 20 | 22 | 24 | 26 |
| D | 14 | 16 | 18 | 20 | 22 | 24 |
| E | 4 | 4 | 4 | 6 | 8 | 10 |

7/1/85

JUVENILE SENTENCING STANDARDS
SCHEDULE D-1

This schedule may only be used for Minor/First Offenders. After the determination is made that a youth is a minor/first offender, the court has the discretion to select sentencing option A, B or C.

MINOR/FIRST OFFENDER

OPTION A

| Points | <u>STANDARD RANGE</u> | | |
|--------|------------------------------|--------------------------------|-------------|
| | <u>Community Supervision</u> | <u>Community Service Hours</u> | <u>Fine</u> |
| 1-9 | 0-3 months | &/or 0-8 | &/or 0-\$10 |
| 10-19 | 0-3 months | &/or 0-8 | &/or 0-\$10 |
| 20-29 | 0-3 months | &/or 0-16 | &/or 0-\$10 |
| 30-39 | 0-3 months | &/or 8-24 | &/or 0-\$25 |
| 40-49 | 3-6 months | &/or 16-32 | &/or 0-\$25 |
| 50-59 | 3-6 months | &/or 24-40 | &/or 0-\$25 |
| 60-69 | 6-9 months | &/or 32-48 | &/or 0-\$50 |
| 70-79 | 6-9 months | &/or 40-56 | &/or 0-\$50 |
| 80-89 | 9-12 months | &/or 48-64 | &/or 0-\$50 |
| 90-109 | 9-12 months | &/or 56-72 | &/or 0-\$50 |

OPTION B

| <u>STATUTORY OPTION</u> |
|---------------------------------------------------------------------------------------------------------------------------------|
| 0-12 Mo. Community Supervision 0-150 Hrs. Community Service 0-100 Fine |
| OR |
| A term of community supervision with a maximum of 150 hours, \$100.00 fine and 12 months supervision and <u>no</u> confinement. |

OPTION C

| <u>MANIFEST INJUSTICE</u> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| When a term of community supervision would effectuate a Manifest Injustice, another disposition may be imposed. When a judge imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(5), as now hereafter amended, shall be used to determine the range. |

7/1/85

JUVENILE SENTENCING STANDARDS
SCHEDULE D-2

This schedule may only be used for Middle Offenders. After the determination is made that a youth is a middle offender, the court has the discretion to select sentencing option A, B or C.

MIDDLE OFFENDER

OPTION A

OPTION B

OPTION C

| <u>STANDARD RANGE</u> | | | | |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-------------|-------------------------------|
| <u>Points</u> | <u>Community Supervision</u> | <u>Community Service Hours</u> | <u>Fine</u> | <u>Confinement Days Weeks</u> |
| 1-9 | 0-3 months | &/or 0-8 | &/or 0-\$10 | &/or 0 |
| 10-19 | 0-3 months | &/or 0-8 | &/or 0-\$10 | &/or 0 |
| 20-29 | 0-3 months | &/or 0-16 | &/or 0-\$10 | &/or 0 |
| 30-39 | 0-3 months | &/or 8-24 | &/or 0-\$25 | &/or 2-4 |
| 40-49 | 3-6 months | &/or 16-32 | &/or 0-\$25 | &/or 2-4 |
| 50-59 | 3-6 months | &/or 24-40 | &/or 0-\$25 | &/or 5-10 |
| 60-69 | 6-9 months | &/or 32-48 | &/or 0-\$50 | &/or 5-10 |
| 70-79 | 6-9 months | &/or 40-56 | &/or 0-\$50 | &/or 10-20 |
| 80-89 | 9-12 months | &/or 48-64 | &/or 0-\$50 | &/or 10-20 |
| 90-109 | 9-12 months | &/or 56-72 | &/or 0-\$50 | &/or 15-30 |
| 110-129 | Middle offenders with more than 110 points do not have to be committed. They may be assigned community supervision under Option B. | | | 8-12 |
| 130-149 | | | | 13-16 |
| 150-199 | | | | 21-28 |
| 200-249 | | | | 30-40 |
| 250-299 | | | | 52-65 |
| 300-374 | | | | 80-100 |
| 375+ | | | | 103-129 |

OR

| <u>COMMUNITY SUPERVISION AND/OR DETENTION</u> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 0-12 Mo. Community Supervision 0-150 Hrs. Community Service 0-100 Fine |
| The court may impose a determinate disposition of community supervision and/or up to 30 days confinement; in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 130.40.150, as now or hereafter amended. |

OR

| <u>MANIFEST INJUSTICE</u> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| If the court determines that a disposition under A or B would effectuate a Manifest Injustice, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(5), as now or hereafter amended, shall be used to determine range. |

[12]

All A+ offenses 180-224 weeks

7/1/85

JUVENILE SENTENCING STANDARDS
SCHEDULE D-3

This schedule may only be used for Serious Offenders. After the determination is made that a youth is a serious offender, the court has the discretion to select sentencing option A or B.

SERIOUS OFFENDER

OPTION A

| <u>STANDARD RANGE</u> | |
|-----------------------|-------------------------|
| <u>Points</u> | <u>Institution Time</u> |
| 0-129 | 8-12 Weeks |
| 130-149 | 13-16 Weeks |
| 150-199 | 21-28 Weeks |
| 200-249 | 30-40 Weeks |
| 250-299 | 52-65 Weeks |
| 300-374 | 80-100 Weeks |
| 375+ | 103-129 Weeks |
| <hr/> | |
| All A+ Offenses | 180-224 Weeks |

OR

OPTION B

MANIFEST INJUSTICE

A disposition outside the standard range shall be determined and shall be comprised of confinement or community supervision or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13,40,030(5), as now hereafter amended, shall be used to determine the range.

7/1/85

DIVISION OF JUVENILE REHABILITATIONSentencing WorksheetInstructions

This instruction describes the use of the Division of Juvenile Rehabilitation (DJR) Sentencing Worksheet DSHS 20-198 (3-84).

Purpose: The DJR Sentencing Worksheet may be used to report information pertinent to the sentencing of each juvenile offender committed to a facility operated by or under contract to DSHS. The form is designed to function as a worksheet for determining the minimum and maximum length of the Standard Range of confinement for each offense. As a worksheet, the form may also be used by the juvenile courts for cases which do not result in commitment to DSHS. The structure of the form conforms to and facilitates the application of the sentencing standards developed by the Juvenile Disposition Standards Commission, as required by RCW 13.40.030.

The sentencing standards utilize a point system. A youth's age and current offense establish a base point number which is multiplied by an "increase factor" determined by the extent of criminal history; the resulting points establish what the standard disposition will be for that particular current offense.

If a sentencing alternative to the Standard Range is imposed (e.g., a Manifest Injustice commitment) the length of the alternative sentence should be entered on the worksheet in lieu of the Standard Range (see Item 28 on the worksheet).

Data from the DJR Sentencing Worksheet will be used by DSHS juvenile facilities for setting minimum and maximum release dates and review board dates for each juvenile received from a juvenile court. Data from the reports also will be processed and stored in DJR computer files in Olympia. Data extracted from the system will be used by DSHS to study the impact of the implementation of the Juvenile Justice Act.

General Instructions: A DJR Sentencing Worksheet may be completed for each juvenile committed to an institution operated by the DSHS Division of Juvenile Rehabilitation for offenses occurring after June 30, 1978.

AMENDED SENTENCING STANDARDS - PLEASE NOTE:

The Juvenile Disposition Sentencing Standards are reviewed by the Legislature in even numbered years. It is the responsibility of the sentencing court to ensure that the appropriate standards are being used for a specific offender.

Any questions as to the appropriateness of specific standards may be referred to:

Research and Information Systems Manager
 Division of Juvenile Rehabilitation
 Program Services Unit
 OB-32
 Olympia, Washington 98504
 (206) 753-2732
 SCAN - 234-2732

Personnel designated by the administrator of each juvenile court are responsible for the accuracy of the information provided to DJR on committed offenders. Please read the detailed instructions on the following pages before completing the report. If you have any questions regarding the report or these instructions, please contact the DJR Research and Information Systems Manager.

The court may retain the white original and send a copy of the worksheet to the DSHS institution or diagnostic facility where the juvenile will be received. The worksheet should be sent, along with any other commitment documents, in time to precede or coincide with the juvenile's arrival. In some counties the worksheet will be completed by the diagnostic facility staff.

This worksheet may be used to determine the standard range sentence for each current offense. Compute the increase factor separately for each current offense.

Up to four current offenses can be put on a worksheet. If there are more than four offenses, attach a second sheet. Indicate the sequence number of each current offense and the total number of current offenses in the space provided above the seven column current offense code (e.g., 1-of-3).

If there are more than eight prior offenses compute the increase factors for each offense after the eighth and enter the sum of these values in the space marked "Additional Increase Factor."

Supply of Forms: Requests for blank forms should be directed to the DJR regional offices.

Instructions for Completing Each Item: The following definitions and procedures are to be used for completing the individual items. (The numbers correspond to the numbers written on the attached sample worksheet.)

SECTION I - IDENTIFICATION INFORMATION

1. Serious Offender
 - If the youth is classified as a serious offender check the box marked "yes". If not, check the box marked "no".

- 2. Detention Credit - If the youth has pre-commitment detention credit enter the days to be taken off the minimum & the maximum sentence. Pre-commitment detention credit is time in detention prior to the court hearing at which a disposition to DSHS custody is entered. Any additional "pre-admission" detention credit will be determined separately by the DSHS admitting agency.
- 3. Name - Enter the youth's Last Name, First Name and Middle Initial as they appear on the court order.
- 4. DJR Admission Date - Enter the official DJR admission date (juvenile courts leave blank.)
- 5. County of Admission - Enter the name of the county of the committing court and the three digit code from Appendix A.
- 6. Birthdate - Enter the year, month and day of the youth's birth.
- 7. JUVIS Number - Enter the youth's 6 digit JUVIS number.
- 8. DJR Number - Enter the youth's 6 digit DJR number, if available.
- 9. Agency Code - Leave blank. To be completed by receiving institution or diagnostic facility.
- 10. County of Residence - Enter the name of the county and the county code for the county where the youth normally resides. This is used to distinguish the county where the youth lives from county of commitment. Use the three digit code in Appendix A.

SENTENCING II - CURRENT OFFENSE DATA

Directions: Complete the following for each current offense.

- 11. Current Offense Code - Enter the seven digit Offense Code (Schedule A Sentencing Standards) of the youth's current offense. If the youth has multiple current offenses, enter the most serious offense in the first column, the next most serious offense in the second column and so on up to four current offenses. Use a second sheet for more than four current offenses.

12. Current Offense Category - Enter the offense category from Schedule A, Sentencing Standards. Seriousness is indicated by the offense category, an A+ offense being the most serious, and E offense being the least serious.
13. Age at Current Offense - Enter the youth's age at the time the offense occurred. Round down to a whole number (e.g., if youth was 14 years and 11 months enter 14).
14. Current Offense Date - Enter the year, month, and day of the youth's current offense.
15. SR - Circle if standard range sentence used.
16. MI - Circle if Manifest Injustice was invoked.
17. 150% or 300% - Circle if 150% or 300% rule is invoked. (See RCW 13.40.180 for an explanation).

SECTION III - PRIOR OFFENSE DATA

18. Prior Offense Code - Space is provided for up to eight offenses committed by the youth prior to his/her current offense(s). In order to count as prior history, an offense must have been committed prior to the adjudication of the current offense. Enter the seven digit Offense Code (Schedule A) for each prior offense.
19. Prior Offense Category - Enter the offense category of the prior offense from Schedule A, Sentencing Standards.
20. Prior Offense Date - Enter the year, month and day of the youth's prior offense.
- For each prior offense compute:
21. Time Span - Compute the elapsed time from the date of the prior offense to the date of the CURRENT OFFENSE. Enter a "1" if within 1 year, a "2" if within 2 years, or a "3" if greater than 2 years.
22. Increase Factor - For each prior offense, find the correct increase factor from Schedule B, Sentencing Standards, using offense category and time span

- 23. Additional Increase Factor - If there are more than eight prior offenses, compute the increase factor for each additional offense, sum, and enter here.
- 24. Constant - This value is 1.0 for all prior offenses and has been pre-coded.
- 25. Total Increase Factor - Enter the sum of the Increase Factor column including the additional increase factor and the constant.
- 26. Current Offense Points - Consult Schedule A, Sentencing Standards, and determine the number of points resulting from the youth's age and the current offense class. Enter offense points.
- 27. Total Current Offense Points - For each offense, multiply the Total Increase Factor by the Current Offense Points and enter the result. Round down to nearest whole number.
- 28. Minimum Sentence
Maximum Sentence - If sentenced using the Standard Range, enter the minimum and maximum sentences from the appropriate Schedule D, Sentencing Standards (if the youth is a middle offender (RCW 13.40.020) use Schedule D-2; if a serious offender (RCW 13.40.020) use Schedule D-3). If the sentence was ordered as Manifest Injustice, Detention, 150% Rule, or 300% Rule, enter actual sentence. If sentence is in days, circle DAYS.

APPENDIX ACounty Codes

| | | |
|------------------|------------------|-----------------|
| 001 Adams | 015 Island | 029 Skagit |
| 002 Asotin | 016 Jefferson | 030 Skamania |
| 003 Benton | 017 King | 031 Snohomish |
| 004 Chelan | 018 Kitsap | 032 Spokane |
| 005 Clallam | 019 Kittitas | 033 Stevens |
| 006 Clark | 020 Klickitat | 034 Thurston |
| 007 Columbia | 021 Lewis | 035 Wahkiakum |
| 008 Cowlitz | 022 Lincoln | 036 Walla Walla |
| 009 Douglas | 023 Mason | 037 Whatcom |
| 010 Ferry | 024 Okanogan | 038 Whitman |
| 011 Franklin | 025 Pacific | 039 Yakima |
| 012 Garfield | 026 Pend Orielle | |
| 013 Grant | 027 Pierce | |
| 014 Grays Harbor | 028 San Juan | |



DIVISION OF
JUVENILE REHABILITATION

SENTENCING WORKSHEET

① SERIOUS OFFENDER YES NO

② DETENTION CREDIT (DAYS) OFF MIN (DAYS) OFF MAX

NAME: ③ COUNTY OF ADMISSION: ⑤

④ DJR ADMISSION DATE: Y M M D D

⑥ BIRTH DATE: Y M M D D

⑦ JUVIS NUMBER

⑧ DJR NUMBER

⑨ AGENCY CODE

⑩ COUNTY OF RESIDENCE

| | CURRENT OFFENSE -OF- | CIRCLE IF YES | CURRENT OFFENSE -OF- | CIRCLE IF YES | CURRENT OFFENSE -OF- | CIRCLE IF YES | CURRENT OFFENSE -OF- | CIRCLE IF YES |
|---------------------------------------|----------------------|---------------|----------------------|---------------|----------------------|---------------|----------------------|---------------|
| CURRENT OFFENSE CODE (Schedule A) | ⑪ | SR? ⑮ | | SR? | | SR? | | SR? |
| CURRENT OFFENSE CATEGORY (Schedule A) | ⑫ | MI? ⑯ | | MI? | | MI? | | MI? |
| AGE AT CURRENT OFFENSE | ⑬ | 150%? ⑰ | | 150%? | | 150%? | | 150%? |
| CURRENT OFFENSE DATE | ⑭ | 300%? | | 300%? | | 300%? | | 300%? |

| PRIOR OFFENSE CODE | PRIOR OFFENSE CATEGORY | PRIOR OFFENSE DATE | TIME SPAN YRS. | INC. FACTOR | TIME SPAN YRS. | INC. FACTOR | TIME SPAN YRS. | INC. FACTOR | TIME SPAN YRS. | INC. FACTOR |
|------------------------------------------------|------------------------|--------------------|----------------|-------------|----------------|-------------|----------------|-------------|----------------|-------------|
| ⑱ | ⑲ | ⑳ | ㉑ | ㉒ | | | | | | |
| 2 | | | | | | | | | | |
| 3 | | | | | | | | | | |
| 4 | | | | | | | | | | |
| 5 | | | | | | | | | | |
| 6 | | | | | | | | | | |
| 7 | | | | | | | | | | |
| 8 | | | | | | | | | | |
| ADDITIONAL INCREASE FACTOR | | | ㉓ | | | | | | | |
| CONSTANT | | | ㉔ | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| TOTAL INCREASE FACTOR (sum inc. factor column) | | | ㉕ | | | | | | | |

| | | | | | | | | |
|---------------------------------------------------------------|---|----------------|--|----------------|--|----------------|--|----------------|
| CURRENT OFFENSE POINTS (from Schedule C) | ⑳ | CIRCLE IF DAYS | | CIRCLE IF DAYS | | CIRCLE IF DAYS | | CIRCLE IF DAYS |
| TOTAL CURRENT OFFENSE POINTS (total increase factor X points) | ㉖ | | | | | | | |
| MINIMUM SENTENCE (weeks or days) (Schedule D) | ㉗ | DAYS? | | DAYS? | | DAYS? | | DAYS? |
| MAXIMUM SENTENCE (weeks or days) (Schedule D) | ㉘ | | | | | | | |

[20]





DIVISION OF JUVENILE REHABILITATION

SENTENCING WORKSHEET

**** SAMPLE ONLY ****

| | | |
|------------------|------------------------------|----------------------------------------|
| SERIOUS OFFENDER | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO |
| DETENTION CREDIT | (DAYS) OFF MIN 10, 1, 3 | (DAYS) OFF MAX 10, 1, 5 |

| | | | | | | | | |
|----------------------|--|--|-----------------------------|--|--|---------------------------|--|--|
| NAME: Doe, JOHN C. | | | DJR ADMISSION DATE: 8/5/07 | | | COUNTY OF ADMISSION: KING | | |
| BIRTH DATE: 6/7/08 | | | JUVIS NUMBER: 22222222 | | | DJR NUMBER: 69999999 | | |
| AGENCY CODE: 2, 7, 3 | | | COUNTY OF RESIDENCE: Pierce | | | CODE: 10, 1, 7 | | |
| | | | | | | CODE: 10, 2, 7 | | |

| | CURRENT OFFENSE -OF- 3 | CIRCLE IF YES | CURRENT OFFENSE -OF- 3 | CIRCLE IF YES | CURRENT OFFENSE -OF- 3 | CIRCLE IF YES | CURRENT OFFENSE -OF- | CIRCLE IF YES |
|---------------------------------------|------------------------|-----------------------------------------|------------------------|-----------------------------------------|------------------------|-----------------------------------------|----------------------|---------------|
| CURRENT OFFENSE CODE (Schedule A) | 9A.56.040 | <input checked="" type="checkbox"/> SR? | 9A.52.030 | <input checked="" type="checkbox"/> SR? | 9A.52.030 | <input checked="" type="checkbox"/> SR? | | SR? |
| CURRENT OFFENSE CATEGORY (Schedule A) | C | MI? | C | MI? | C | MI? | | MI? |
| AGE AT CURRENT OFFENSE | 16 | 150%? | 16 | 150%? | 16 | 150%? | | 150%? |
| CURRENT OFFENSE DATE | 8/3/09 | 300%? | 8/3/09 | 300%? | 8/3/09 | 300%? | | 300%? |

| PRIOR OFFENSE CODE | PRIOR OFFENSE CATEGORY | PRIOR OFFENSE DATE | TIME SPAN YRS. | INC. FACTOR | TIME SPAN YRS. | INC. FACTOR | TIME SPAN YRS. | INC. FACTOR | TIME SPAN YRS. | INC. FACTOR | | |
|------------------------------------------------|------------------------|--------------------|----------------|-------------|----------------|-------------|----------------|-------------|----------------|-------------|--|--|
| 1 9A.56.050 | D | 8/10/2002 | 3 | 1 | 3 | 1 | 3 | 1 | | | | |
| 2 9A.56.040 | C | 8/10/2005 | 3 | 2 | 3 | 2 | 3 | 2 | | | | |
| 3 9A.40.080 | C | 8/10/2005 | 3 | 2 | 3 | 2 | 3 | 2 | | | | |
| 4 9A.56.050 | D | 8/10/2007 | 3 | 1 | 3 | 1 | 3 | 1 | | | | |
| 5 9A.48.090 | D | 8/10/2008 | 3 | 1 | 3 | 1 | 2 | 1 | | | | |
| 6 9A.52.030 | B | 8/20/2009 | 1 | 9 | 1 | 9 | 1 | 9 | | | | |
| 7 9A.36.040 | D + | 8/30/2007 | 1 | 3 | 1 | 3 | 1 | 3 | | | | |
| 8 | | | | | | | | | | | | |
| ADDITIONAL INCREASE FACTOR | | | | 1 | 1 | | | | 1 | | | |
| CONSTANT | | | | 1.0 | 1.0 | | | | 1.0 | | | |
| TOTAL INCREASE FACTOR (sum inc. factor column) | | | | 2.9 | 2.9 | | | | 2.9 | | | |

| | | | | | | | | |
|---------------------------------------------------------------|-----|----------------|-----|----------------|-----|----------------|--|----------------|
| CURRENT OFFENSE POINTS (from Schedule C) | 50 | CIRCLE IF DAYS | 50 | CIRCLE IF DAYS | 50 | CIRCLE IF DAYS | | CIRCLE IF DAYS |
| TOTAL CURRENT OFFENSE POINTS (total increase factor X points) | 145 | | 145 | | 145 | | | |
| MINIMUM SENTENCE (weeks or days) (Schedule D) | 13 | DAYS? | 13 | DAYS? | 13 | DAYS? | | DAYS? |
| MAXIMUM SENTENCE (weeks or days) (Schedule D) | 16 | | 16 | | 16 | | | |

WSR 85-12-002
NOTICE OF PUBLIC MEETINGS
GREEN RIVER
COMMUNITY COLLEGE
 [Memorandum—May 20, 1985]

Green River Community College, District No. 10, pursuant to RCW 42.30.075, will be changing the date of its regular meeting from Thursday, June 20, 1985, to Wednesday, June 26, 1985.

WSR 85-12-003
EMERGENCY RULES
DEPARTMENT OF
VETERANS AFFAIRS
 [Order 84-05—Filed May 23, 1985]

I, John Reynolds, assistant director of the Department of Veterans Affairs, do promulgate and adopt at East 11th and Washington Streets, Olympia, Washington, the annexed rules relating to the Washington veterans home and the Washington soldiers home and colony.

I, John Reynolds, 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 existing rules of conduct for members of the Washington veterans home and the Washington soldiers home and colony have been declared invalid and unenforceable by a Pierce County superior court ruling.

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 Veterans Affairs as authorized in RCW 43.60A.070.

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

APPROVED AND ADOPTED May 23, 1985.

By John Reynolds
 Assistant Director

AMENDATORY SECTION (Amending Order 80-01, filed 7/17/80)

WAC 484-20-010 DEFINITIONS. (1) Administrative appeal – The request for reversal or modification of an administrative decision.

(2) Aid and attendance fund – Aid and attendance funds are:

(a) Those received by members from the veterans administration for the benefit of members for aid and attendance(;) and

(b) Funds administered in accordance with WAC 484-20-065 through 484-20-075.

~~((2))~~ (3) Allowable income – That income not less than the amount stipulated by RCW 72.36.120 and 72.36.130 which a member may keep for his or her personal use except as delineated in WAC 484-20-065 and 484-20-075.

~~((3))~~ (4) Department – The department of veterans affairs.

~~((4))~~ (5) Duly constituted body, representative of the members – A body elected by the general membership of the home which shall act for the general membership in those cases where the RCWs or these WACs so specify.

~~((5))~~ (6) Director – The director of the department of veterans affairs or his designee.

~~((6))~~ (7) Gross misconduct – Intentional or negligent conduct evidencing substantial disregard (a) for the interests of other home member(s), staff person(s), or visitor(s), or (b) for the offending member's duties and obligations as a member of the home.

(8) Member – An individual admitted to the Washington soldiers' home, the Washington soldiers' home colony or the Washington veterans' home.

~~((7))~~ (9) Superintendent – The superintendent of the Washington soldiers' home and colony and/or the superintendent of the Washington veterans' home.

~~((8))~~ Supplementary rules – Rules published under the authority of the superintendents and pertaining to the personal conduct of members as provided by WAC 484-20-085.

(9)) (10) Supplementary policies and procedures – Policies and procedures published under authority of the superintendents which significantly affect the members.

~~((10))~~ (11) Veterans and soldiers home revolving funds – The repository for income in excess of allowable income which shall include an aid and attendance account.

~~((11))~~ Administrative appeal – The request for reversal or modification of an administrative decision.)

AMENDATORY SECTION (Amending Order 7659, filed 7/28/77)

WAC 484-20-085 MEMBERS' RIGHTS AND ((RESPONSIBILITIES)) RULES OF CONDUCT—NOTIFICATION. ~~((1))~~ Each new home member and employee shall be ((advised in writing of the following supplementary rules

(a) His rights and responsibilities;

(b) Acts prohibited in the institution;

(c) Disciplinary action which may be taken in the event of misconduct and of the member's right to request a fair hearing pursuant to WAC 484-20-105.

(2) Each member shall be provided with a copy of the rules in this chapter and of any supplementary rules adopted pursuant to WAC 484-20-090. Copies of all rules shall be conspicuously posted in the home)) furnished with the home's policies regarding member rights and with a copy of chapter 484-20 WAC.

AMENDATORY SECTION (Amending Order 80-01, filed 7/17/80)

WAC 484-20-090 ((SUPPLEMENTARY RULES—PROMULGATION.)) RULES OF CONDUCT. ((The superintendent of each home shall promulgate supplementary rules not inconsistent with the substance and intent of the rules in this chapter provided such supplementary rules have been approved in writing by the director or designee before being put into effect. Further, rules relating to the personal conduct of the members shall have approval of a duly constituted body representative of the members.)) Members of the homes are required to comply with the following rules of conduct:

(1) Rules of conduct pertaining to health and safety.

(a) Emergency evacuation. Any time a fire or alarm is sounded, every member must evacuate the building immediately and report to the designated evacuation area. He/she will not be permitted to return to the evacuated building until informed that he/she may do so by an authorized person. Nursing care unit members must follow the instructions of the nursing staff.

(b) Personal cleanliness. Members must maintain their person, belongings, rooms, and jointly-shared toilet areas in such a manner so as not to reasonably offend their neighbors or create fire, health, and/or sanitation problems. Each domiciliary member is responsible for the cleanliness and sanitation of his own person and his own living quarters. When vacated, the room shall be left in a clean condition. Each domiciliary member is responsible for proper disposition of waste and refuse which is accumulated in his room.

(c) Electrical appliances. Only low wattage electrical appliances such as television sets, electric clocks, electric razors, fans of 150 watts or less with acceptable finger guards, radios, audio and/or video recorders, and disc playing machines may be used in members' rooms. Use of any other electric equipment requires the approval of the superintendent.

(d) Repair of rooms. Any alterations or repairs required, including the hanging of pictures, must be done by home staff. Connection of television sets to the home's master antenna system by anyone other than authorized personnel is prohibited. A similar prohibition applies to any tampering with the master antenna system or any of its components. Requests for such repairs and/or installations must be made through a building captain.

(e) Alcohol - drugs. Possession or use of intoxicating beverages (except as authorized below), narcotics, or controlled substances on the grounds of the Washington veterans' homes without a physician's written prescription is prohibited. Drugs which were prescribed by a physician but which are no longer used by the member to whom they were issued, shall be turned in to the home pharmacy. Beer and wine may be served and consumed on the grounds at certain home-sponsored activities within limitations set by the home administration.

(f) Weapons. Members possessing firearms, ammunition, explosive or dangerous weapons must turn them in

to the administration office. Possession of any of these items on the home grounds is prohibited.

(g) Animals. Possession or feeding of animals on home grounds is prohibited unless sanctioned by the superintendent.

(2) General rules of conduct.

(a) Visiting hours. Visiting hours for guests are 8:00 a.m. to 10:00 p.m. These may be extended if other members are not disturbed.

(b) Program listening. Radios, television sets, and tape recording-playing devices may be used in members' rooms, provided that volume levels are kept at a level that does not disturb others. Between the hours of 10:00 p.m. and 7:00 a.m., volume on such equipment must be reduced to match reduced noise levels in the general surroundings so that others will not be disturbed. The use of headphones, while not required, is strongly encouraged for those who wish to use such equipment after 10:00 p.m.

(c) Leave. Members leaving the grounds for any purpose must sign out with the building captain, C.Q., or appropriate nurses' station in such a manner as prescribed by the home administration. Upon returning, the member must sign in again. After returning from pass or furlough, the member must stay in his/her room overnight before permission to go on pass or furlough can be granted, except in the case of emergency. Leaving the grounds without proper authorization, or failure to return from pass or furlough at the prescribed time without obtaining permission for an extension, makes the member absent without official leave. Members being admitted to the home must remain in their rooms overnight before pass or leave privileges may be exercised unless an exception is granted by the administration.

(d) Respect for property. No person may deface or destroy walls, buildings, trees, shrubbery, fences, grounds, or any other property or possessions belonging to the state of Washington or to any other person. Appropriation of the property of another person, corporate entity and the state of Washington without permission is also prohibited.

(e) Vehicle registration. Vehicles must be registered annually with the administration of the home. Members must possess a valid Washington state driver's license and must provide proof of ownership and/or registration. The requirement to register applies to vehicles owned by members, owned by another and registered in the name of the member, and any vehicle regardless of ownership that is regularly in the possession of the member. Vehicles must have current license tags and they must display the home identification sticker. All traffic and parking control signs must be obeyed. Members must comply with the provisions of the Washington state financial responsibility law.

(f) Conduct between members and staff. Members will conduct themselves in an orderly, courteous, and cooperative manner at all times among themselves, with visitors, and with staff members. Obscene and/or threatening language, or any physically assaultive behavior, directed at another person, whether on the

grounds or off the grounds during a home-sponsored activity, will be considered a violation of this rule. Members will obey all valid instructions directed at them by staff acting in an officially authorized capacity. This includes member employees in positions of authority.

(g) Attire of home members. Dress of home members must meet acceptable standards. While in living areas, the following specific guidelines are established:

(i) Between 8:00 a.m. and 10:00 p.m., domiciliary members must be dressed in a manner so as not to reasonably offend the sensitivity of others when outside their rooms;

(ii) Members residing in living areas where both male and female residents are housed must at all times be dressed in a manner so as not to reasonably offend the sensitivity of others when outside their rooms.

AMENDATORY SECTION (Amending Order 80-01, filed 7/17/80)

WAC 484-20-100 VIOLATION—INVESTIGATION. Reports of possible rule violations (~~(of supplementary rules)~~) shall be investigated by the superintendent or designee. The superintendent charging a violation of the rules or other misconduct by a member shall have the burden of establishing the violation by clear, cogent and convincing evidence.

AMENDATORY SECTION (Amending Order 7659, filed 7/28/77)

WAC 484-20-105 PENALTIES. The superintendent may impose penalties for the violation of (~~supplementary rules~~) rules of conduct or for gross misconduct; such penalties may include:

(1) Restricting the member to the home grounds for a maximum of ((thirty)) sixty days((-or));

When determined appropriate by the superintendent, a reasonable requirement for signing in at designated intervals may be imposed during a period of restriction.

(2) An enforced furlough to a maximum of sixty days((-or));

(3) ((Discharge from the home)) A combination of penalty subsections (1) and (2) of this section provided the combined total time does not exceed sixty days;

(4) Transfer to another DVA home or colony;

(5) Discharge from a home pursuant to WAC 484-20-120.

AMENDATORY SECTION (Amending Order 80-01, filed 7/17/80)

WAC 484-20-110 FAIR HEARING. (1) Any member (~~(dissatisfied with the determination of violation by the superintendent, or the penalty imposed, if any, as a result of this chapter,)) upon whom a penalty has been imposed under WAC 484-20-105 may request a fair hearing from the superintendent or the director((-: A member who desires a fair hearing shall request such hearing)) within thirty days after receiving notice from the superintendent as to the determination of violation and penalty, if any. Disciplinary sanctions imposed pursuant to this chapter shall be deferred until the outcome of any such appeal except where, in the judgment of the~~

superintendent or other person acting in his absence, the member's conduct is a threat to the health and safety of others.

(2) A request for fair hearing may be made either verbally or in writing and may be filed in the office of the superintendent or the director. If made verbally, such a request shall promptly be reduced to writing.

(3) All requests for fair hearings shall:

(a) Specify the date of the penalty which is being appealed from;

(b) Specify as precisely as possible the issue to be adjudicated at the fair hearing;

(c) Set forth the address of the member, his/her representative or attorney; and

(d) Be signed by the member, his/her representative or attorney.

(4) ~~((At any time after the filing of the request, the member shall have the right of access to and may examine any files and records of the home regarding the case which contain information which is relevant and material to the grievance. This right of access and examination shall extend to the member's representative or attorney if so authorized in writing by the member. All evidence to be used by the home or colony at the hearing, as well as the case file of the applicant, must be made available upon request at least five days prior to the date of the hearing.~~

(5)) A fair hearing ((in accordance with the provisions of chapter 388-08 WAC)) shall be held, within ((thirty)) sixty days after receipt of the request ((and shall be held either)), in the home or colony in which the client resides((, or in the county in which he has been receiving services)). The fair hearing shall be conducted pursuant to chapter 10-08 WAC by ((a hearing officer appointed by the director for such purposes)) an administrative law judge from the office of administrative hearings who shall issue a proposed decision for consideration by the director. If the parties cannot satisfactorily agree on informal procedures for discovery, the administrative law judge may issue orders specifying the conditions under which discovery shall proceed.

~~((6) The department shall notify a member who has requested a fair hearing of the time and place of said hearing at least ten days prior to the time thereof by registered mail or by personal service upon said member, unless agreed otherwise in writing by the member and the department.~~

~~(7) In the fair hearing any party shall be entitled to be represented by counsel and shall be entitled to introduce evidence and to cross-examine witnesses.~~

~~(8) Rules of evidence:~~

~~(a) All relevant and material evidence is admissible at fair hearings which in the opinion of the hearing officer is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence the officer conducting the hearing shall give consideration to, but shall not be bound to follow, rules of evidence governing civil proceedings.~~

~~(b) When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The hearing officer may, at his/her discretion,~~

~~either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise ground of objection at the time evidence is offered.~~

~~(c) The record of the hearing shall contain all evidence, whether oral or documentary, upon which the final decision is based. The final decision shall not take into consideration any evidence or information not introduced as evidence at the hearing and included in the record of the hearing.~~

~~(d) Documentary evidence may be received in the form of copies and excerpts or through incorporation by reference.~~

~~(9) The department shall not be required to pay fees or mileage to witnesses appearing at fair hearings.~~

~~(10) The department or the hearing officer may take, or cause to be taken, depositions and interrogatories for use as evidence in the fair hearing when such action will expedite any fair hearing.~~

~~(11) Any party who desires a continuance shall immediately upon receipt of a notice of hearing, or as soon thereafter as facts requiring such continuance come to his knowledge, notify the department or its designated hearing officer of said desire, stating in detail the reasons why such continuance is necessary. The department or its hearing officer, in passing upon a request for continuance, shall consider whether such request was promptly and timely made. The department or its hearing officer may grant a continuance for good cause shown, and may at any time order a continuance upon its own motion. If during the hearing it appears that further testimony or argument should be received in the interest of justice, the hearing officer conducting the hearing may, at his discretion, continue the hearing and fix the date for introduction of additional evidence or presentation of argument.~~

~~(12) A member shall have the right to withdraw his appeal at any time prior to the hearing officer's decision by filing a written notice of withdrawal with the department. If, after being duly notified of a hearing a member or his representative fails to appear, the appeal shall be considered abandoned and dismissed for failure to prosecute.~~

~~(13) The fair hearing shall be closed to the public, with only the hearing officer, the member and his representative, the member's witnesses, and the department's representatives and witnesses in attendance, unless the client has made a written request to the department that the hearing be open to the public.~~

~~(14) In any fair hearing proceedings, the hearing officer may at his discretion direct the parties or their representatives to appear at a specified time and place for a conference to consider a simplification of the issues involved, the possibility of obtaining stipulations, admissions of fact, and relevant documents, and such other matters as may aid in efficient disposition of the proceedings.~~

~~(15) In the absence of controverting evidence, the hearing officer may, upon request made during a fair hearing officially notice:~~

~~(a) General customs and practices followed in the transaction of business;~~

~~(b) Facts generally and widely known to all informed persons as are not subject to reasonable dispute;~~

~~(c) The disposition of any proceedings then pending before or previously concluded by the department;~~

~~(d) Matters within the technical knowledge of the department as a body of experts, or pertaining to its duties, responsibilities, or jurisdiction.~~

~~((16)) (5) The ((department)) administrative law judge shall, within thirty days after the date of the fair hearing, issue a proposed decision and notify the member ((in writing of its decision)) and director. Such notification shall include a concise statement of the nature of the proceedings, contain appropriate findings of fact and conclusions of law, and specify in reasonable detail the reasons for the decision.~~

~~((17)) (6) In computing any period of time prescribed or allowed by department rules or by applicable statutes, the date of the act, event or decision after which the designated period of time begins to run is not included. The last day of the period so computed is to be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday.~~

~~(7) Any party adversely affected by a proposal for decision may file written argument and exception with the director. Written argument and exception must be filed within fifteen days from the date the proposal for decision was mailed to the parties. Such fifteen-day period may be extended by the director or his or her designee upon motion of a party when the motion is filed during the fifteen-day period and good cause for the extension is shown. Good cause includes mistake, inadvertence, and excusable neglect on the part of the moving party or unavoidable casualty or misfortune preventing the moving party from timely filing. Upon a showing of good cause either party may file exception and argument within thirty days of the date the proposed decision was mailed to the parties.~~

~~(8) The director, or his or her designee, shall personally consider the whole record or such portions of the record as are cited by a party or parties in exception and argument. The director or designee shall render the final department decision. The director or designee may accept additional evidence to correct omissions in the record upon his or her own motion or the motion of a party. The director or designee may remand the proceedings to the administrative law judge for the taking of additional evidence or argument.~~

AMENDATORY SECTION (Amending Order 7659, filed 7/28/77)

WAC 484-20-120 DISCHARGE. A member may be discharged ((from the home)) by the superintendent with the concurrence of the director or person acting in his/her absence.

(1) When the member so requests;

(2) When the member has sufficient financial ability to support himself or herself outside the home;

(3) When the member no longer needs the care and services of the home, regardless of financial ability;

(4) For conviction of a felony or gross misdemeanor;

(5) For repeated violation of the general rules of conduct, WAC 484-20-090;

(6) For gross misconduct whether or not such conduct also violates the rules of conduct, WAC 484-20-090;

(7) When a member has been absent without leave for a period in excess of fifteen days;

(8) For intentional failure to fulfill the requirement of any disciplinary sanction;

(9) For failure to correct a condition which violates any rule of conduct pertaining to health and safety of members, staff, or visitors to the home within a reasonable time specified in a written notice to the member from a staff member acting in an official capacity, including member employees in positions of authority which notice specifies that discharge may accompany such failure.

The discharge shall be reduced to writing. If the discharge is disciplinary, it shall state the reasons for the action.

REPEALER

The following sections of the Washington Administrative Code are repealed:

(1) WAC 484-20-125 DISCHARGE—HONORABLE.

(2) WAC 484-20-130 DISCHARGE—DISCIPLINARY.

(3) WAC 484-20-155 ADMINISTRATIVE APPEAL.

**WSR 85-12-004
ADOPTED RULES
DEPARTMENT OF GAME
(Game Commission)
[Order 248—Filed May 23, 1985]**

Be it resolved by the State Game Commission, acting at the Thunderbird Motor Inn, 1225 North Wenatchee Avenue, Wenatchee, WA 98801, that it does adopt the annexed rules relating to 1985 fall opening dates, WAC 232-28-209.

This action is taken pursuant to Notice No. WSR 85-05-056 filed with the code reviser on February 20, 1985. 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 April 1, 1985.

By Archie U. Mills
Chairman, Game Commission

NEW SECTION

WAC 232-28-209 1985 FALL OPENING DATES
Deer

- Early Archery
 - Western Washington—September 4 (Wednesday)
 - Eastern Washington
 - Units 100-124—September 21 (Saturday)
 - Units 130-376—October 1 (Tuesday)
- Early Muzzleloader
 - Western Washington—September 28 (Saturday)
 - Eastern Washington
 - Units 119—September 21 (Saturday)
 - Units 242, 301, 304—October 1 (Tuesday)
- Early Buck—September 15 (Sunday)
- General Buck—October 12 (Saturday)
- Late Buck
 - Western Washington—November 23 (Saturday)
 - Northeast Washington
 - Units 105, 107, 109, 112, 115, 118, 119, 121, and 124—November 25 (Monday)

Elk

- Early Archery
 - Western Washington—September 4 (Wednesday)
 - Eastern Washington
 - Units 100-124—September 21 (Saturday)
 - Units 130-376—October 1 (Tuesday)
- Early Muzzleloader
 - Western Washington—October 5 (Saturday)
 - Eastern Washington—October 1 (Tuesday)

General Bull (Modern Firearm)

Blue Mountains—October 30 (Wednesday)
(Permit hunting starting November 2)

Colockum—October 27 (Sunday) (Permit
hunt October 24-26)

Yakima—November 5 (Tuesday) (Permit
hunt November 1-4)

Western Washington—November 6
(Wednesday) (Permit hunt starting
November 30)

Black BearPursuit Only

Units 100-124—August 1 (Thursday)

Open Season

Western Washington—August 1 (Thursday)
(Except unit closures)

Eastern Washington—September 4
(Wednesday) (Except September 15 in Early
Buck Areas and October 12 in Walla
Walla and Columbia Counties outside of
Umatilla National Forest)

CougarPursuit Only

Northeast Washington (Units 100-124) and
Western Washington (Except unit clo-
sures—August 1 (Thursday))

Eastern Washington—September 4
(Wednesday) (Except early buck hunt and
unit closures)

Open Season

December 15 (Sunday) (An open season
during the deer season will be considered by
the Game Commission in May.)

BobcatWestern WashingtonPursuit Only

August 1—Except closed units 669, 678,
681

Open Season

October 12

Eastern Washington

September 1

Early Partridge

To be set at August Game Commission meetings
(See early partridge, fall turkey, dove flyer for
dates)

Chinese Pheasant, Quail, Partridge

General Open Season—October 12

Early Western Washington Pheasant—September
28

Bird Dog Training Season—August 1

Fox

October 12—Except closed within exterior bound-
aries of the Mt. Baker/Snoqualmie, Okanogan,
Wenatchee, and Gifford Pinchot National Forests.

Changed from October 1 to coincide with general
hunting opener.

Rabbits

Cottontail, showshoe, Washington hare, and white-
tailed jack rabbit

October 12—Except closed for white-tailed jacks
in Okanogan, Douglas, and Grant Counties
September 1—In all western Washington except
closed in Unit 522 (St. Helens)

Additional Open Season Snowshoe Rabbits

September 1—Chelan, Ferry, Kittitas,
Klickitat, Okanogan, Pend Oreille, Spokane,
Stevens, and Yakima Counties

Black-Tailed Jack Rabbit

Year Round

Falconry

Rabbits—August 1

Upland Birds—September 1

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

WSR 85-12-005**ADOPTED RULES****DEPARTMENT OF GAME****(Game Commission)**

[Order 252—Filed May 23, 1985]

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

This action is taken pursuant to Notice No. WSR 85-
08-035 filed with the code reviser on April 3, 1985.
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 Meet-
ings Act (chapter 42.30 RCW), the Administrative Pro-
cedure Act (chapter 34.04 RCW), and the State

Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED May 20, 1985.

By Archie U. Mills
Chairman, Game Commission

AMENDATORY SECTION (Amending Order 220, filed 1/11/84)

WAC 232-12-157 STEELHEAD ((~~FISHING PUNCHCARD~~)) PERMIT CARD. (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~~)) permit card.

(2) Upon retaining a steelhead trout over twenty inches in length, the holder of a steelhead ((~~fishing punchcard~~)) permit card must immediately ((~~remove from the card one punch and~~)) enter on the ((~~corresponding space~~)) permit card in ink the date of the catch and the river code number as listed on the ((~~punch~~))card.

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

WSR 85-12-006
ADOPTED RULES
DEPARTMENT OF GAME
(Game Commission)
[Order 257—Filed May 23, 1985]

Be it resolved by the State Game Commission, acting at the Thunderbird Motor Inn, 1225 North Wenatchee Avenue, Wenatchee, WA 98801, that it does adopt the annexed rules relating to:

| | | |
|-----|----------------|------------------------------------------------------|
| New | WAC 232-28-807 | 1985 Mountain goat, sheep and moose hunting seasons. |
| Rep | WAC 232-28-806 | 1984 Mountain goat, sheep and moose hunting seasons. |

This action is taken pursuant to Notice No. WSR 85-05-057 filed with the code reviser on February 20, 1985. 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 April 1, 1985.

By Archie U. Mills
Chairman, Game Commission

NEW SECTION

WAC 232-28-807 1985 MOUNTAIN GOAT, SHEEP AND MOOSE HUNTING SEASONS.

Reviser's note: The text and accompanying pamphlet comprising the 1985 Mountain goat, sheep and moose hunting seasons adopted by the Department of Game have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Game, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-806 1984 Mountain Goat, Sheep, and Moose Hunting Seasons

WSR 85-12-007
ADOPTED RULES
DEPARTMENT OF FISHERIES
[Order 85-51—Filed May 23, 1985]

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

This action is taken pursuant to Notice No. WSR 85-09-032 filed with the code reviser on April 15, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

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

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

APPROVED AND ADOPTED May 21, 1985.

By Gary C. Alexander
for William R. Wilkerson
Director

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-56-360 RAZOR CLAMS—AREAS AND SEASONS. It is unlawful to take, dig for or possess razor clams taken for personal use from any beaches in Razor Clam Areas 1, 2, and 3 ((~~except that from February 15, 1983 through March 15, 1983, it is lawful to dig for and possess razor clams 24 hours per day, and from March 16, 1983 through June 15, 1983 it is lawful to dig for razor clams from 12 midnight to 12 noon daily and it is lawful to possess clams taken during this time period~~)). It is unlawful to dig for razor clams at any time in the Long Beach Razor Clam Sanctuary as defined in WAC 220-56-372.

WSR 85-12-008
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 85-52—Filed May 23, 1985]

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

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is razor clam stocks are rebuilding from levels depressed by parasitic disease, and no harvestable surplus exists.

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

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

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

APPROVED AND ADOPTED May 23, 1985.

By Gary C. Alexander
 for William R. Wilkerson
 Director

NEW SECTION

WAC 220-56-36000I RAZOR CLAMS—AREAS AND SEASONS. *Notwithstanding the provisions of WAC 220-56-360, effective immediately until further notice it is unlawful to dig for or possess razor clams taken for personal use from any beaches in Razor Clam Areas 1, 2, or 3, and it is unlawful to dig for razor clams at any time in the Razor Clam Sanctuary defined in WAC 220-56-372.*

WSR 85-12-009
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 85-53—Filed May 23, 1985]

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

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

danger of handling mortality if captured during bottom fish trawl fishing.

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

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

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

APPROVED AND ADOPTED May 23, 1985.

By Gary C. Alexander
 for William R. Wilkerson
 Director

NEW SECTION

WAC 220-48-01500Q TRAWL CLOSURE. *Notwithstanding the provisions of WAC 220-48-015, effective 12:01 a.m., May 25, 1985, until further notice:*

(1) *It is unlawful for any person to fish for or possess foodfish taken with trawl gear in those waters of Boundary Bay northerly of a line from Point Whitehorn to the southwest point of Point Roberts, unless the fisherman has in possession a permit issued by the Director allowing such fishing, and it is unlawful to fail to comply with all provisions of such permit.*

(2) *It is unlawful for any person to fish for or possess foodfish taken with trawl gear in those waters of Bellingham Bay easterly of a line from Post Point to Eliza Rock thence to William Point.*

WSR 85-12-010
ADOPTED RULES
DEPARTMENT OF LICENSING
(Board of Occupational Therapy Practice)
 [Order PL 529—Filed May 23, 1985]

Be it resolved by the Board of Occupational Therapy Practice, acting at the Vance Airport Inn, Olympia Room, 18220 Pacific Highway South, Seattle, WA 98188, that it does adopt the annexed rules relating to:

| | | |
|-----|-----------------|-------------------------------------------------------------|
| Amd | WAC 308-171-001 | Definitions. |
| New | WAC 308-171-103 | Persons exempt from licensure pursuant to RCW 18.59.040(5). |
| New | WAC 308-171-301 | Code of ethics. |

This action is taken pursuant to Notice No. WSR 85-07-070 filed with the code reviser on March 20, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

WAC 308-171-001 is proposed under authority of RCW 18.59.130(2) and is intended to implement RCW 18.59.020 and 18.59.030; WAC 308-171-103 is proposed under authority of RCW 18.59.130(2) and is intended to implement RCW 18.59.040(5); and WAC 308-171-301 is proposed under authority of RCW 18.59.130(2) and 18.59.100 (1)(b) and is intended to implement RCW 18.59.100 (1)(b).

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 May 4, 1985.

By John Hatcher
Chairperson

AMENDATORY SECTION (Amending Order PL 513, filed 2/11/85)

WAC 308-171-001 DEFINITIONS. (1) The following terms in RCW 18.59.020(2) shall mean:

(a) "Scientifically based use of purposeful activity" is the treatment of individuals using established methodology based upon the behavioral and biological sciences and includes the analysis, application and adaptation of activities for use with individuals having a variety of physical, emotional, cognitive and social disorders. Use of purposeful activity includes a process of continually modifying treatment to meet the changing needs of an individual. Purposeful activity is goal-oriented and cannot be routinely prescribed.

(b) "Teaching daily living skills" is the instruction in daily living skills based upon the evaluation of all the components of the individual's disability and the adaptation or treatment based on the evaluation. Components of a disability are physical, sensory, social, emotional and cognitive functions.

(c) "Developing prevocational skills and play and avocational capabilities" is not only the development of prevocational skills and play and avocational capabilities but involves the scientifically based use of purposeful activity.

(d) "Designing, fabricating, or applying selected orthotic and prosthetic devices or selected adaptive equipment" is not specific occupational therapy services if a person designs, fabricates, or applies selected orthotic and prosthetic devices or selected adaptive equipment for an individual if the device or equipment is prescribed or ordered by a health care professional authorized by the laws of the state of Washington to prescribe the device or equipment or direct the design, fabrication, or application of the device or equipment.

(e) "Adapting environments for the handicapped" is the evaluation of all the components of an individual's disability and the adaptation of the environment of the individual based on the evaluation. Components of a disability are physical, sensory, social, emotional and cognitive functions.

(2) "Supervision" and "regular consultation" in RCW 18.59.020(4) shall mean an on-site visit occurring at intervals as determined by the occupational therapist to meet the individual's needs, but shall occur at least once every two weeks. The on-site visit shall be documented and the documentation maintained in the individual's treatment records.

(3) "Professional supervision" in RCW 18.59.020(5) shall mean continuous on-site supervision by an occupational therapist or an occupational therapy assistant under the direction of an occupational therapist.

(4) Sections (2) and (3) of this rule shall not be effective until July 1, 1985.

(5) "Clients" include patients, students, and those to whom occupational therapy services are delivered.

(6) "Evaluation" is the process of obtaining and interpreting data necessary for treatment, which includes, but is not limited to, planning for and documenting the evaluation process and results. The evaluation data may be gathered through record review, specific observation, interview, and the administration of data collection procedures, which include, but are not limited to, the use of standardized tests, performance checklists, and activities and tasks designed to evaluate specific performance abilities.

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

NEW SECTION

WAC 308-171-103 PERSONS EXEMPT FROM LICENSURE PURSUANT TO RCW 18.59.040(5).

(1) To qualify for the exemption from licensure pursuant to RCW 18.59.040(5), the individual claiming the exemption shall in writing notify the department, at least thirty (30) days before any occupational therapy services are performed in this state, of the following:

(a) in which state(s) the individual is licensed to perform occupational therapy services and the license number(s); or

(b) if the exemption is claimed pursuant to RCW 18.59.040 (5)(b), the individual shall submit a signed notarized statement attesting to having obtained and maintained certification by the American Occupational Therapy Association, Inc.; not having engaged in unprofessional conduct or gross incompetency as established in WAC 308-171-300; and not having been convicted of a crime of moral turpitude or a felony relating to the profession of occupational therapy; and

(c) a signed notarized statement describing when the occupational therapy services will be performed, where the occupational therapy services will be performed, and how long the individual will be performing occupational therapy services in this state.

(2) "Working days" in RCW 18.59.040(5) shall mean days state offices are open to conduct business.

NEW SECTION

WAC 308-171-301 CODE OF ETHICS. (1) It is the professional responsibility of occupational therapists and occupational therapy assistants to provide services for clients without regard to race, creed, national origin, gender, handicap or religious affiliation.

(2) Treatment objectives and the therapeutic process must be formulated to ensure professional accountability.

(3) Services shall be goal-directed in accordance with the overall educational, habilitation or rehabilitation plan and shall include a system to ensure professional accountability.

(4) Occupational therapists and occupational therapy assistants shall recommend termination of services when

established goals have been met or when further services would not produce improved client performance.

(5) Occupational therapists and occupational therapy assistants shall accurately represent their competence, education, training and experience.

(6) Occupational therapists and occupational therapy assistants shall accurately record information and report information as required by facility standards and state and federal laws.

(7) All data recorded in permanent files or records shall be supported by the occupational therapist or the occupational therapy assistant's observations or by objective measures of data collection.

(8) Client's records shall only be divulged as authorized by law or with the client's consent for release of information.

(9) Occupational therapists and occupational therapy assistants shall not delegate to other personnel those client-related services where the clinical skills and expertise of an occupational therapist or occupational therapy assistant are required.

(10) If, after evaluating the client, the case is a medical case, the occupational therapist shall refer the case to a physician for appropriate medical direction if such direction is lacking.

(a) Appropriate medical direction shall be sought on at least an annual basis.

(b) A case is not a medical case if there is an absence of pathology or the pathology has stabilized, the client is not under current medical care, and the occupational therapist is only treating the client's functional deficits.

WSR 85-12-011

NOTICE OF PUBLIC MEETINGS HOSPITAL COMMISSION

[Memorandum—May 23, 1985]

The State Hospital Commission will meet in Seattle at the Vance Airport Inn on Thursday, May 30, 1985, at 9:30 a.m. The purpose of the meeting is to reconsider a budget request and hold a work session on pending issues.

Meetings of the State Hospital Commission are scheduled for June 13, 1985, at the Yakima Holiday Inn, Yakima and June 27 at the Vance Airport Inn, Seattle.

WSR 85-12-012

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 1858—Filed May 24, 1985]

I, C. Alan Pettibone, director, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the use of restricted use desiccants and defoliant in Walla Walla County, WAC 16-230-190.

This action is taken pursuant to Notice Nos. WSR 85-07-062, 85-10-057 and 85-11-052 filed with the code reviser on March 20, 1985, May 1, 1985, and May

17, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapters 15.58 and 17.21 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED May 24, 1985.

By C. Alan Pettibone
Director

AMENDATORY SECTION (Amending Order 1682, filed 4/4/80)

WAC 16-230-190 RESTRICTIONS ON THE USE OF ((DIQUAT AND PARAQUAT)) DESICCANTS AND DEFOLIANTS IN WALLA WALLA COUNTY. (1) Area 1 description - town of Walla Walla and vicinity: This area includes all lands lying within the town of Walla Walla and vicinity beginning at the Washington state line at the common boundary line between Sections 15 and 16, T6N, R34E, north along Hoon Road and continuing north on McDonald Bridge Road; across U.P.R.R. and Highway 12; thence north four miles more or less to the northwest corner of Section 10, T7N, R34E; thence east twenty miles to the northeast corner of Section 11, T7N, R37E; thence south seven miles more or less to the Washington-Oregon state line; thence west to point of beginning.

(2) Area 1 restrictions:

(a) ((The)) Any application of Paraquat or Diquat or any mix containing Paraquat or Diquat is hereby prohibited in Area 1: PROVIDED, That the department, upon written request, may issue a permit for the use of Paraquat for special weed control in the area lying northwest of Dry Creek in Area 1.

(b) The loading and/or mixing of dinitro, Paraquat or Diquat for aerial application is prohibited on any airstrip, airfield or any location within Area 1 of Walla Walla County. Aerial application equipment used for dinitro, Paraquat or Diquat applications ((must)) shall be decontaminated prior to bringing the application equipment back into Area 1 of Walla Walla County: PROVIDED, That the loading and/or mixing of Paraquat shall be allowed at the Walla Walla airport and those aircraft are restricted to exit and enter the airport to the north over Sections 10 and 11, T7N, R36E.

(c) Aerial applications of dinitro are prohibited throughout the year.

(d) During the period of August 25 through October 31 of any year, diesel and other fuel oils shall be prohibited in dinitro tank mixes.

(e) During the period of August 25 through October 31 of any year, the ground application of dinitro or any mixture containing dinitro shall have prior approval by obtaining a written permit from the Washington state department of agriculture.

(3) Area 2 description – southern portion of Walla Walla County: This area includes all lands lying within an area encompassed by a line beginning at the Washington–Oregon border and the west section line of Section 14, T6N, R33E; thence north along the section lines five miles more or less to the Touchet River North Road; thence north on the Touchet River North Road five miles more or less to the Dodd Road; thence east along the Dodd Road to the Touchet River; thence northerly along the Touchet River to north section line of Section 6, T8N, R34E; thence east along section lines twenty–two miles more or less to the northeast corner of Section 2, T8N, R37E; thence south along section lines seven miles more or less to the southeast corner of Section 2, T7N, R37E; thence west along section lines twenty miles more or less to the southwest corner of Section 3, T7N, R34E; thence south along section lines seven miles more or less to the Washington–Oregon border; thence west along the border five miles more or less to the point of beginning.

(4) Area 2 restrictions:

(a) Paraquat restrictions:

(i) During the period of February 15 through November 1 of any year, ~~((the))~~ any application of Paraquat or any mixture containing Paraquat ~~((must))~~ shall have prior approval by obtaining a written permit from the Washington state department of agriculture ~~(; and have a pesticide investigator on site at the time of any aerial application))~~.

(ii) ~~((The))~~ Any application of Paraquat or any mixture containing Paraquat is hereby prohibited from three hours prior to sunset until the temperature ~~((in))~~ the following morning has risen at least 10 degrees above the night low temperature.

(b) Diquat restrictions:

(i) During ~~((a))~~ the period of February 15 through November 1 of any year, ~~((the))~~ any application of Diquat or any mixture containing Diquat is hereby restricted to ground apparatus only upon obtaining a permit from the Washington state department of agriculture.

(ii) ~~((Applications shall be limited to a total of 150 acres per day.~~

~~((iii))~~ Prior to July 16 of each year, growers desiring to use Diquat must report their total number of acres of alfalfa seed to the Washington state department of agriculture on a form furnished by the department. ~~By August 10 of each year, the department will allocate each grower the number of acres that Diquat may be used.~~

~~((iv))~~ Permits will be valid for only 24 hours and will be issued each day for the following day's application. If weather conditions are such to prevent Diquat application, the department may renew the permits.

~~((v))~~ Visco elastic additives ~~((must))~~ shall be added to ~~((all))~~ any Diquat application ~~((s))~~ and applicable label directions for that product ~~((must))~~ shall be followed.

(c) Dinitro restrictions:

(i) During the period of August 25 through October 31 of any year, diesel and fuel oils are prohibited in dinitro tank mixes.

(ii) During the period of August 25 through October 31 of any year, aerial applications of dinitro or any mixes containing dinitro are prohibited: PROVIDED, That the department may issue a written permit for such aerial applications.

(5) Area 3 description – an area lying west of Area 2 in the southern part of Walla Walla County: This area includes all lands lying within an area encompassed by a line beginning at the Washington–Oregon border and the east section line of Section 15, T6N, R33E; thence north along the section lines five miles more or less to the Touchet River North Road; thence north on the Touchet River North Road five miles more or less to the Dodd Road; thence southwest along the Dodd Road and Maxwell Road four miles more or less to its intersection with the western section line of Section 6, T7N, R33E; thence south along the section lines eight miles more or less to the Washington–Oregon border; thence east along the Washington–Oregon border four miles more or less to the point of beginning.

(6) Area 3 restrictions:

(a) Paraquat restrictions:

(i) During the period of February 15 through November 1 of any year, ~~((the))~~ any application of Paraquat or any mixture containing Paraquat ~~((must))~~ shall have prior approval by obtaining a written permit from the Washington state department of agriculture ~~(; and have a pesticide investigator on site at the time of any aerial application))~~.

(ii) ~~((The))~~ Any application of Paraquat or any mixture containing Paraquat is hereby prohibited from three hours prior to sunset until the temperature ~~((in))~~ the following morning has risen at least 10 degrees above the night low temperature.

(b) Diquat restrictions:

(i) During ~~((a))~~ the period of February 15 through November 1 of any year, ~~((all))~~ any application ~~((s))~~ of Diquat or any mixture containing Diquat is hereby restricted to ground apparatus only upon obtaining a written permit from the Washington state department of agriculture.

(ii) Visco elastic additives ~~((must))~~ shall be added to ~~((all))~~ any Diquat application ~~((s))~~ and applicable label directions for that product ~~((must))~~ shall be followed.

(c) Dinitro restrictions:

(i) During the period of August 25 through October 31 of any year, diesel and other fuel oils are prohibited in dinitro tank mixes.

(ii) During the period of August 25 through October 31 of any year, aerial applications of dinitro are prohibited within one-half mile from the center of the town of Touchet, and within one-half mile of commercially grown alfalfa hay: PROVIDED, That the Washington state department of agriculture may issue permits for aerial applications within these areas.

WSR 85-12-013
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 85-54—Filed May 24, 1985]

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

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is restrictions in Areas 5, 6, 6A, 6C, 7 and 7A provide protection for Puget Sound and Canadian origin spring chinook while allowing treaty Indian troll harvest of maturing summer-fall chinook. Restrictions in Area 7D provide protection for Canadian and Puget Sound origin spring chinook while allowing a Lummi dogfish fishery. Restrictions in Areas 6B, 6D, 7B, 7C, 9, 10, 11, 11A, 12, 12A, 12B, 12C, 12D, 13, 13A and the Elwha, Dungeness, Nooksack, Skagit, Stillaguamish, Skokomish, Quilcene, Puyallup and White rivers and Minter Creek provide protection for Puget Sound spring chinook stocks.

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

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

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

APPROVED AND ADOPTED May 24, 1985.

By William R. Wilkerson
 Director

NEW SECTION

WAC 220-28-502 PUGET SOUND COMMERCIAL SALMON FISHERY RESTRICTIONS. *Effective immediately, it is unlawful for treaty Indian fishermen to take, fish for, or possess salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following restrictions:*

Areas 5, 6, 6A, 6C – Closed to all net gear through June 22, and troll gear must release chinook salmon greater than 30 inches in length through June 15.

Areas 6B, 7, 7A, that portion of Area 7B south of a line from Post Point to Point Francis, and 7C – Closed to all net gear, and troll gear must release chinook salmon

greater than 30 inches in length through June 15.

Area 7B in that portion north of a line from Post Point to Point Francis – Closed to all net gear, and troll gear must release chinook salmon greater than 30 inches in length through June 29.

Area 6D – Closed to all net fishing until further notice.

**Area 7D – Closed to all net gear except gill nets with 5-1/2-inch maximum mesh and troll gear must release chinook greater than 30 inches in length through June 15.*

Areas 8, 9 – Closed to all net fishing through June 15.

Areas 10, 11, 11A, 12, 12A, 12B, 12C, 12D, 13 – Closed to all net fishing through June 29.

Area 13A – Closed to all net fishing until further notice.

Elwha, Dungeness Nooksack, Skagit including all tributaries, Stillaguamish, Skokomish, Quilcene, Puyallup, and White rivers and Minter Creek – Closed to all commercial fishing until further notice.

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

REPEALER

The following of the Washington Administrative Code is repealed effective immediately:

WAC 220-28-501 PUGET SOUND COMMERCIAL SALMON FISHERY RESTRICTIONS (85-35)

WSR 85-12-014

**NOTICE OF PUBLIC MEETINGS
 HOSPITAL COMMISSION**

[Memorandum—May 24, 1985]

The State Hospital Commission will meet in Yakima at the Holiday Inn on Thursday, June 13, 1985, at 9:30 a.m. The hospitals scheduled for informal hearing have previously filed with the commission their annual budget and rate requests and their requests for amendments to their previously-approved budget and rates. Staff findings and recommendations will be transmitted to the scheduled hospitals and to members of the Hospital Commission in accordance with WAC 261-20-135. Such information is on file in the commission's office and is available for inspection.

Meetings of the State Hospital Commission are scheduled for June 27, 1985, July 25, 1985, and August 8, 1985, at the Vance Airport Inn, Seattle.

WSR 85-12-015
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—May 24, 1985]

REVISED LIST
1985 REGENTS' MEETINGS

The following dates are scheduled for regular meetings of the board of regents. Meetings will be held on campus, usually at 10:00 a.m. in Room 301, Administration Building.

Dates and times are subject to change, with proper notice.

This revision reflects a change in the July date.

| | |
|----------|---------------|
| Friday | June 14, 1985 |
| Thursday | July 11 |
| Friday | August 16 |
| " | September 20 |
| " | October 18 |
| " | November 22 |
| " | December 13 |

WSR 85-12-016
PROPOSED RULES
SEATTLE COMMUNITY
COLLEGE DISTRICT
 [Filed May 28, 1985]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Seattle Community College District intends to adopt, amend, or repeal rules concerning sexual harassment, chapter 132F-419 WAC:

| | | |
|-----|------------------|----------------------------------|
| New | WAC 132F-419-010 | Sexual harassment policy. |
| New | WAC 132F-419-020 | Procedural guidelines. |
| New | WAC 132F-419-030 | Informal complaint procedures. |
| New | WAC 132F-419-040 | Formal complaint procedures. |
| New | WAC 132F-419-050 | Nondistrict options. |
| New | WAC 132F-419-060 | Appropriate disciplinary action. |
| New | WAC 132F-419-070 | Repeated offenses. |

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 10, 1985.

The authority under which these rules are proposed is chapter 28B.50 RCW.

This notice is connected to and continues the matter in Notice No. WSR 85-07-056 filed with the code reviser's office on March 20, 1985.

Dated: May 22, 1985
 By: Donald G. Phelps
 Chancellor

WSR 85-12-017
ADOPTED RULES
DEPARTMENT OF ECOLOGY
 [Order 84-44—Filed May 29, 1985]

I, Glen H. Fiedler, acting deputy director of the Department of Ecology, do promulgate and adopt at Lacey, Washington, the annexed rules relating to protection of

withdrawal facilities associated with ground water rights, chapter 173-150 WAC.

This action is taken pursuant to Notice No. WSR 85-08-032 filed with the code reviser on April 3, 1985. 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 90.44 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED May 21, 1985.

By Glen H. Fiedler
 Acting Deputy Director

Chapter 173-150 WAC

PROTECTION OF WITHDRAWAL FACILITIES
ASSOCIATED WITH GROUND WATER RIGHTS

NEW SECTION

WAC 173-150-010 **PURPOSE.** The purpose of this chapter is to establish and set forth the policies and procedures of the department of ecology in regard to the protection of the availability of ground water as it pertains to the water withdrawal facilities of holders of ground water rights.

NEW SECTION

WAC 173-150-020 **AUTHORITY.** This chapter is promulgated by the department of ecology pursuant to chapters 43.21A, 90.44, 90.54 and 18.104 RCW.

NEW SECTION

WAC 173-150-030 **DEFINITIONS.** For the purposes of this chapter the following definitions shall apply:

(1) "Department" means the Washington State department of ecology.

(2) "Ground water right" means an authorization to use ground water established pursuant to chapter 90.44 RCW, state common or statutory law existing prior to the enactment of chapter 90.44 RCW, or federal law.

(3) "Withdrawal facilities" means and includes any well, infiltration trench or other excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed, together with the casing, screen, pump, pump column, motor and related equipment, which is used for the withdrawal of ground water.

(4) "Aquifer" means any geologic formation that will yield water to a well or other withdrawal works in sufficient quantity for beneficial use.

(5) "Ground water" means all waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

(6) "Contamination" means an impairment of the beneficial use of ground water arising from the modification of the quality thereof by the introduction of organisms, chemical, organic or radioactive material or of heated or cooled water.

(7) "Significant modification" means the deepening or reaming of a well, lowering the pump bowls by adding lengths of pump column, adding water quality treatment devices, or other similar modifications, where the total cost or value of such modifications exceeds (1) \$500.00 for domestic, stock or other water withdrawal facilities withdrawing less than 5,000 gallons per day, or (2) \$2500.00 for all other facilities.

(8) "Qualifying withdrawal facilities" means those withdrawal facilities which in the opinion of the department constitute a reasonable development of the aquifer. A reasonable development must satisfy the following requirements:

(a) The withdrawal facilities must be constructed in accordance with chapter 18.104 RCW (Water Well Construction Act) and chapter 173-160 WAC (Minimum Standards for Construction and Maintenance of Water Wells) and the water right permit provisions, if any, or the applicable state laws and the regulations of the department which were in effect at the time of construction of the facilities.

(b) The withdrawal facilities must have a depth of aquifer penetration which will allow the withdrawal of water from a reasonable or feasible pumping lift;

(c) The withdrawal facilities must be able to accommodate a reasonable variation in seasonal pumping water levels;

(d) The withdrawal facilities, including the pumping facilities, must be properly sized to the ability of the aquifer to produce water.

NEW SECTION

WAC 173-150-040 REASONABLE OR FEASIBLE PUMPING LIFT. For the purposes of this chapter, reasonable or feasible pumping lift shall be determined by the department taking into account the following factors, among others:

(1) The geohydraulic characteristics of the aquifer;

(2) The state of construction technology of water withdrawal facilities;

(3) Historic considerations in regards to the construction, maintenance and use of water withdrawal facilities within the vicinity;

(4) The ground water area or subarea management program for the vicinity, if one exists.

NEW SECTION

WAC 173-150-050 ESTABLISHMENT OF NEW RIGHTS-INTERFERENCE CONSIDERATIONS. If the department determines that a proposed appropriation of ground water would cause a lowering of the water levels below a reasonable or feasible pumping lift in any withdrawal facilities of an existing ground water right holder or that approval of the proposed appropriation would impair any existing water rights or would otherwise be detrimental to the public welfare, the

application shall be rejected. If, however, the application is to be rejected because of conflict with existing rights, and the applicant thereafter indicates that such existing rights will be acquired by the applicant by purchase, gift or condemnation under RCW 90.03.040, the department may issue an interim conditional ruling and defer final decision on the application for a reasonable period of time to be specified by the department in the interim ruling.

NEW SECTION

WAC 173-150-060 IMPAIRMENT OF WATER RIGHT. For the purposes of this chapter, a ground water right which pertains to qualifying withdrawal facilities, shall be deemed to be impaired whenever:

(1) There is an interruption or an interference in the availability of water to said facilities, or a contamination of such water, caused by the withdrawal of ground water by a junior water right holder or holders; and

(2) Significant modification is required to be made to said facilities in order to allow the senior ground water right to be exercised.

NEW SECTION

WAC 173-150-070 NOTIFICATION OF IMPAIRMENT OF RIGHT. Any senior ground water right holder who believes that his water right has been impaired may notify the department of such impairment and request the assistance of the department to protect the availability of water to his qualifying withdrawal facilities. Such notification and request for assistance must be in writing and must contain the following information:

(1) Name, address and signature of the senior water right holder;

(2) Description of the water right, including the water right number if one exists; the quantities of water permitted and the quantities of water historically withdrawn; the priority date of the water right; the location of the withdrawal facilities; a description of the withdrawal facilities including well depth, casing, pump size and depth and historic water levels, and any recent changes made to the withdrawal facilities or the use of such facilities, especially in relation to WAC 173-150-030(8); the name of the water well contractor and a copy of the water well report of the construction of the withdrawal facilities, if available;

(3) Description of the alleged impairment of the senior water right, the date of the beginning of impairment, the degree of impairment and any steps taken by the senior water right holder to alleviate the impairment;

(4) Location and description of the junior water withdrawal facilities together with the name of the user thereof, if known, which in the opinion of the senior water right holder are the cause of the impairment;

(5) Any other pertinent information which may reasonably be required by the department.

NEW SECTION

WAC 173-150-080 PROCEDURES FOR CORRECTION OF IMPAIRMENT. Upon notification to

the department of the impairment of a ground water right as provided in WAC 173-150-070 or on the department's own motion, the department may, when appropriate, notify the water right holders of the alleged impairment and of its intention to make investigations concerning the matter. The department may conduct aquifer or pump tests and make investigations of the withdrawal works, geology, hydrology, water quality, historic water use or other factors which may influence the local aquifers, and may make a written report of its findings. If it is determined that ground water withdrawals by a junior water right holder or holders have caused the impairment, the department may, through regulatory orders, take one or more of the following actions:

(1) Bar or regulate the withdrawals of the junior appropriator(s) in a fashion which will preclude future impairment of the senior right;

(2) Bar or regulate the ground water withdrawals of the most junior water right holders in order of priority of right if the aggregate withdrawals exceed the maximum amount set by the department for the area, subarea or zone pursuant to the procedures of RCW 90.44.180;

(3) Require the well owner(s), including the senior water right holder, to rehabilitate or abandon the well(s) in accordance with chapter 173-160 WAC in the case of impairment caused by the failure of wells to meet the well construction standards or the requirements of water right permit or certificate provisions, if any;

(4) Rescind authorizations for additional junior withdrawal facilities and/or reduce the authorized withdrawal rates, as appropriate, where the department finds that an appropriation by a junior right holder is the cause of the impairment and where the said junior ground water right holder has not yet completed construction of the authorized withdrawal facilities. The department shall include a provision concerning the possibility of such rescissions as a condition on ground water permits with multiple points of withdrawal.

NEW SECTION

WAC 173-150-090 VOLUNTARY AGREEMENTS. (1) Notwithstanding the provisions of WAC 173-150-080, should the senior and junior water right holders reach a voluntary agreement which satisfies the concerns stated in the notification of impairment, the department, if it determines that the public interest is fully protected thereby, shall not regulate the withdrawals by the junior water right holder under this regulation.

(2) If such an agreement includes provisions for the delivery of water from another water withdrawal facility to the holder of the senior water right, said agreement shall not take effect until all requirements of RCW 90.44.100 are satisfied or, if a new right to withdraw water is required to be established, a permit is issued pursuant to RCW 90.44.050.

NEW SECTION

WAC 173-150-100 WATER QUALITY. As a general rule, an element of a ground water right is the

right to use waters of quality appropriate to the beneficial use. In addition to the protection of the availability of ground water to the water withdrawal facilities of ground water right holders, it shall be the policy of the department to protect the quality of the ground waters of the state and in relation thereto to discourage any withdrawal facilities construction methods, water use or disposal practices which would contaminate or otherwise reduce the quality of the ground waters or impair the beneficial uses of ground waters of the state.

NEW SECTION

WAC 173-150-110 SALTWATER INTRUSION AND GROUND WATER CONTAMINATION. In addition to the procedures outlined in WAC 173-150-080, the department may regulate or control saltwater intrusion conditions caused by withdrawals from a freshwater aquifer or ground water contamination caused by improper well construction techniques or other causes, through other means, including artificial recharge projects, the importation of additional water from other sources, or any other means deemed by the department to be reasonable, feasible and appropriate.

NEW SECTION

WAC 173-150-120 APPLICABILITY. The provisions of this chapter shall apply to all ground water rights and ground water users under state jurisdiction, except that WAC 173-150-080 shall apply only to permits issued or other ground water rights established subsequent to the effective date of this chapter, or to withdrawal facilities which are the subject of an application for change of water right filed pursuant to RCW 90.44.100 subsequent to the effective date of this chapter. Cases of impairment caused by facilities or ground water rights which are not subject to this chapter shall be subject to existing state laws and regulations.

NEW SECTION

WAC 173-150-130 APPEALS. (1) Regulatory orders issued by the department pursuant to this chapter shall be issued in accordance with RCW 43.27A.190.

(2) All final written decisions of the department pertaining to permits, regulatory orders, and related decisions pursuant to this chapter shall be subject to review by the pollution control hearings board under chapter 43.21B RCW.

NEW SECTION

WAC 173-150-140 EXISTING LAWS AND REGULATIONS NOT AFFECTED. Nothing in this chapter shall be construed to in any manner limit the authority of the department to administer and enforce the existing water resources laws of the state, including but not limited to chapters 18.104, 90.03, 90.36, 90.44, 90.48 and 90.54 RCW, and regulations promulgated thereunder.

WSR 85-12-018
ADOPTED RULES
DEPARTMENT OF ECOLOGY
 [Order 84-45—Filed May 29, 1985]

I, Glen H. Fiedler, acting deputy director of the Department of Ecology, do promulgate and adopt at Lacey, Washington, the annexed rules relating to protection of upper aquifer zones, chapter 173-154 WAC.

This action is taken pursuant to Notice No. WSR 85-08-033 filed with the code reviser on April 3, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapters 90.44 and 90.54 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED May 21, 1985.

By Glen H. Fiedler
 Acting Deputy Director

Chapter 173-154 WAC

PROTECTION OF UPPER AQUIFER ZONES

NEW SECTION

WAC 173-154-010 **BACKGROUND.** In many parts of the state ground water aquifers exist at various depths below land surface. Such aquifers or groups of such aquifers may demonstrate a natural hydraulic separation to a significant degree over local or regional areas as evidenced, in part, by differing hydraulic heads and variable responses to pumping stress. The upper aquifer or upper aquifer zone often will not yield water in sufficient or sustainable quantities for uses which require a large volume of water. Therefore, they have often been traditionally used for domestic water supplies, stockwatering and other uses that require only minimal water supplies and for which it is not cost effective to tap deeper aquifers. Further, the uppermost aquifers also commonly contribute to spring and stream flows. In some cases, the withdrawal of water from the lower aquifers causes the depletion of the upper aquifers through cascading waters or simultaneous withdrawals from both upper and lower aquifers, and in such cases, poor quality waters from one zone can also contaminate a different aquifer zone.

NEW SECTION

WAC 173-154-020 **PURPOSE.** The purpose of this chapter is to establish and set forth the policies and procedures of the department of ecology in regard to the protection of the occurrence and availability of ground water within the upper aquifers or upper aquifer zones where there are multiple aquifer systems. Consistent therewith, the department shall manage the state's ground water resources in a manner that protects, to the

extent practicable, the upper aquifers of multiple aquifer systems from depletions, excessive water level declines or reductions in water quality, and which recognizes that the highest and best use of the waters of limited capacity aquifers may be for domestic, stockwater and other similar uses and for the preservation of spring and stream flows.

NEW SECTION

WAC 173-154-030 **AUTHORITY.** This chapter is promulgated by the department of ecology pursuant to chapters 18.104, 43.21A, 90.44 and 90.54 RCW.

NEW SECTION

WAC 173-154-040 **DEFINITIONS.** For the purposes of this chapter the following definitions shall apply:

(1) "Department" means the Washington State department of ecology.

(2) "Ground water right" means an authorization to use ground water established pursuant to chapter 90.44 RCW, state common or statutory law existing prior to the enactment of chapter 90.44 RCW, or federal law.

(3) "Withdrawal facilities" means and includes any well, infiltration trench or other excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed, together with the casing, screen, pump, pump column, motor and related equipment which is used for the withdrawal of ground water.

(4) "Aquifer" means any geologic formation that will yield water to a well or other withdrawal facilities in sufficient quantity for beneficial use.

(5) "Ground water" means all waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

(6) "Multiple aquifer system" means any geologic formation(s) which contains distinct aquifers at different depths that exhibit a significant degree of local or regional hydraulic separation.

(7) "Upper aquifer zone" means all aquifers within a multiple aquifer system lying between the land surface and a depth or geologic formation, as determined by the department consistent with the purposes of this chapter, or as set forth in the ground water subarea management program for the area, if one exists.

(8) "Lower aquifer zone" means any aquifers occurring at a depth below the upper aquifer zone, as determined by the department, or as set forth in the ground water subarea management program for the area, if one exists.

(9) "Cascading waters" means any ground waters which fall or flow through a well or other withdrawal facilities, from one ground water aquifer to another.

(10) "Rehabilitation of withdrawal facilities" means the work necessary to reconstruct or modify existing withdrawal facilities in order to bring them into conformance with applicable laws, regulations, permit or certificate provisions and orders of the department.

NEW SECTION

WAC 173-154-050 PROTECTION OF UPPER AQUIFER ZONES. In any multiple aquifer system, where the department determines that the uppermost aquifers or upper aquifer zone will not sustain large volume ground water withdrawals without exceeding the safe sustaining yield or causing (1) adverse effects to existing water rights, (2) an unreasonable drop in the water table, (3) permanent damage to the aquifer through depletion of the aquifer or zone, (4) an impairment of the beneficial use of the ground waters arising from a modification of the water quality, or (5) depletions of spring or stream flows, the department shall require new or additional large volume withdrawals to be restricted to a lower aquifer zone. Permits for withdrawals of water from such lower aquifer zones may specify an approved manner of construction of the withdrawal facilities, including but not limited to, a minimum and maximum well depth, specific casing and sealing requirements, and the construction of monitoring wells for the purpose of periodic measurements in areas where the aquifers cannot be readily monitored through the use of existing wells.

NEW SECTION

WAC 173-154-060 INSPECTIONS AND TESTS. The department may require inspections and/or tests of withdrawal facilities prior to their use in order to ensure compliance with any construction requirements imposed by the department pursuant to this chapter. Such inspections and tests shall be performed at the expense of the holder of the permit, except that there shall be no charge for any portions of such tests or inspections which are performed by department employees. If it is the determination of the department that the facilities are not properly constructed or that the facilities may adversely affect the upper aquifers or upper aquifer zone, the department may (1) require further construction and/or testing of the facilities, or (2) require abandonment of the facilities in accordance with chapter 173-160 WAC, or (3) revoke the permit.

NEW SECTION

WAC 173-154-070 REHABILITATION OF WITHDRAWAL FACILITIES. The department may require the rehabilitation of existing withdrawal facilities if it finds that the facilities were not constructed or are presently not in accordance with the permit provisions, if any, or the applicable laws and regulations of the department which were in effect at the time of construction of the facilities, and that the withdrawal of waters from such facilities will adversely affect the upper aquifers or upper aquifer zone. The department shall allow a reasonable period for completion of such rehabilitation.

NEW SECTION

WAC 173-154-080 DEEPENING OF WITHDRAWAL FACILITIES. At any time that the holder of a valid ground water right proposes to deepen a withdrawal facility, the modification of the facility shall be

made in such a manner as to preclude the occurrence of cascading waters. Such a facility shall not be deepened to tap a different body of public ground water, or a different aquifer zone where such zones have been determined by the department, without further appropriate authorization from the department.

NEW SECTION

WAC 173-154-090 APPLICABILITY. The provisions of this chapter shall apply to all ground water rights under state jurisdiction, except that WAC 173-154-050 and WAC 173-154-060 shall apply only to permits issued or other ground water rights established subsequent to the effective date of this chapter and to withdrawal facilities which are the subject of an application for change of water right filed pursuant to RCW 90.44.100 subsequent to the effective date of this chapter.

NEW SECTION

WAC 173-154-100 APPEALS. (1) Regulatory orders issued by the department pursuant to this chapter shall be issued in accordance with RCW 43.27A.190.

(2) All final written decisions of the department pertaining to permits, regulatory orders, and related decisions pursuant to this chapter shall be subject to review by the pollution control hearings board under chapter 43.21B RCW.

NEW SECTION

WAC 173-154-110 EXISTING LAWS AND REGULATIONS NOT AFFECTED. Nothing in this chapter shall be construed to limit in any manner the authority of the department to administer and enforce the existing water resources laws of the state, including but not limited to chapters 18.104, 90.03, 90.36, 90.44, 90.48 and 90.54 RCW, and regulations promulgated thereunder.

WSR 85-12-019
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed May 29, 1985]

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 AFDC and GAU—Grant or vendor payment, amending chapter 388-33 WAC;

that the agency will at 10:00 a.m., Wednesday, July 10, 1985, in the Auditorium, 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 July 17, 1985.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.08 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 10, 1985.

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 Administrative Regulations Section, at State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by June 26, 1985. The meeting site is in a location which is barrier free.

Dated: May 24, 1985

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

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending chapter 388-33 WAC.

Purpose of the Rule Change: Amend effective dates; clarify prospective budgeting rules; and editorial changes.

Reason These Rule Changes are Necessary: To bring the WAC into compliance with the CFR.

Statutory Authority: RCW 74.08.090.

Summary of the Rule Change: WAC 388-33-125 is being amended to bring the rule into compliance with the CFR. Currently, if a recipient received income causing ineligibility, the effective date of termination is the end of the month following the month of receipt. The amended rule will show ineligibility as of the month of receipt and assistance paid will have to be recovered; WAC 388-33-080 and 388-33-085 form numbers have been changed to the titles of the forms.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Mary Rose Trepanier, Program Manager, AFDC/Refugee Assistance Section, Division of Income Assistance, mailstop OB 31C, phone 753-3177.

These rules are necessary as a result of federal law, 45 CFR 233.

Economic Impact on Small Businesses: None.

AMENDATORY SECTION (Amending Order 1637, filed 4/15/81)

WAC 388-33-080 GRANT AUTHORIZATION, REAUTHORIZATION, AND COMPUTATION—AUTHORIZING DOCUMENTS. Payments and changes in continuing public assistance grants are reported and authorized by the financial services technician by signature on:

(1) ((Forms 5822-M)) Certification and computation of grant form to authorize;

(a) Initial, adjusting, and regular payment of a prepaid continuing assistance grant and subsequent changes in the amount of grant;

(b) Postpayment to a vendor for nursing home care in a licensed, classified, private nursing home, or for care in an intermediate care facility.

(2) ((Form 5822-G)) One-time payment authorization for one-time grant, child care payments, and vendor payments.

AMENDATORY SECTION (Amending Order 1637, filed 4/15/81)

WAC 388-33-085 GRANT AUTHORIZATION, REAUTHORIZATION, AND COMPUTATION—LOCAL OFFICE FUNCTION. (1) The terms "financial services technician," "community service office," "local office," or "CSO administrator or his or her designee" are used interchangeably in chapter 388-33 WAC.

(2) All grants to new, reopened, and reinstated cases shall be authorized for payment by the local office. The ((authorization)) certification and computation of grant form shall be signed and dated by the financial services technician ((who prepares it)) preparing the grant form, as indicated in WAC 388-33-080. In signing the form, the financial services technician attests in behalf of the state of Washington and the department ((that)) the eligibility of the ((individual(s))) individual or individuals listed on the form has been established and ((that)) a decision has been made as of the effective date to grant assistance in an amount determined by the recipient's circumstances according to department standards.

(3) All changes in grants shall be certified by the worker specifying the ((change(s))) change or changes in circumstances except as provided in WAC 388-33-095. The state office authorizes payment of the changed grant as determined by the certified circumstances of the recipient.

(4) The term "regular grant" includes "initial grant" and "adjusting grant." The regular grant authorization includes the initial or adjusting grant and does not require separate authorization. See definitions in WAC 388-22-030.

(5) The effective date of eligibility is determined and specified by the worker when authorizing new, reopened, reinstated, and one-time grants as provided in WAC 388-33-115 and 388-33-120. When grant recomputation is certified, the effective date is determined according to the rules in WAC 388-33-135 through 388-33-190.

(6) Payment of a grant shall continue in the amount authorized unless and until a change in amount, suspension, or termination is certified.

(7) When eligibility factors indicate ((that)) an applicant will be eligible for not to exceed approximately a thirty-day period, the local office shall authorize on the certification and computation of grant form an opening and closing date and determine the amount of assistance for which the applicant is eligible according to the department's monthly continuing assistance standards prorated for the period for which eligibility is authorized. The local office shall issue the applicant an award letter, including the date of opening, the amount of assistance, and the date of termination. See WAC 388-33-380 regarding additional content of this notice relative to termination.

AMENDATORY SECTION (Amending Order 2049, filed 11/16/83)

WAC 388-33-135 EFFECTIVE DATE OF CHANGE IN ELIGIBILITY. (1) A change in circumstances is any change affecting eligibility and/or continued payment of the grant previously authorized.

(2) When a change in income including the receipt of a lump-sum payment causes ineligibility ((during the first two months of initial eligibility, prospective budgeting rules shall be followed. Ineligibility shall be)), the recipient is ineligible effective the first of the month ((following the month of change)) of receipt. All assistance received shall be an overpayment and subject to recovery as in chapter 388-44 WAC.

(3) ((When a change in income causes ineligibility after the first two months of initial eligibility, retrospective budgeting rules shall be followed. Ineligibility shall be effective for the corresponding payment month (the first of the second month following the month of change).))

(4) When a change of circumstances other than increased income renders the assistance unit or any member of the assistance unit ineligible, the effective date of ineligibility is the first of the month following the month in which the change occurred. For ineligibility of strikers, see WAC 388-24-042.

AMENDATORY SECTION (Amending Order 2049, filed 11/16/83)

WAC 388-33-140 EFFECTIVE DATE OF INCREASE OR DECREASE IN GRANT. (1) Increase or reduction in grant:

(a) When a person is added to the grant, the effective date of the change shall be the date the person entered the household or the date the person is determined eligible, whichever is later.

(b) When a person's needs are added to a grant because he or she is being removed from a sanction status, the effective date of the change shall be the date the sanction is removed.

(c) When a person moves from a supplied shelter to a renting or owning situation, the effective date of the grant increase shall be the date of the change.

(d) When any ~~((other))~~ change in circumstances other than income results in an increase or reduction of the assistance grant, the effective date of the change is the first of the second month following the month in which the change occurred. See WAC 388-28-483.

(2) The effective date shall never precede the date the circumstances actually changed.

(3) Change in grant involving a canceled warrant:

When a warrant is canceled and assistance is to be reissued by an adjusting payment, the effective date of the grant as recomputed by the state office is the first of the month covered by the canceled warrant. If, according to the rule in subsection (1) of this section, any assistance is due the recipient for a month prior to that covered by the canceled warrant, the local office shall authorize a one-time grant.

(4) See WAC 388-28-483 for effective dates when budgeting income.

AMENDATORY SECTION (Amending Order 1728, filed 12/4/81)

WAC 388-33-195 EFFECTIVE DATE OF GRANT—UN-
DERPAYMENT. (1) A current recipient ~~((who received))~~ receiving
less than the correct amount of an assistance grant or service payment
due to departmental error or client error in estimating income for pro-
spective budgeting, shall be paid the amount due.

(2) The effective date of the corrective payment is the date the pay-
ment is authorized.

(3) For purposes of determining continued eligibility and amount of
assistance, corrective payments shall not be considered as income or as
a resource in the month paid nor in the next following month.

WSR 85-12-020

ADOPTED RULES

DEPARTMENT OF CORRECTIONS

[Order 85-08—Filed May 29, 1985—Eff. July 1, 1985]

I, Amos E. Reed, director of the Department of Cor-
rections, do promulgate and adopt at Olympia,
Washington, the annexed rules relating to Reimbursable
impact rates—Criminal justice costs, amending WAC
137-70-040.

This action is taken pursuant to Notice No. WSR 85-
09-056 filed with the code reviser on April 17, 1985.
These rules shall take effect at a later date, such date
being July 1, 1985.

This rule is promulgated pursuant to chapter 72.72
RCW and is intended to administratively implement
that statute.

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

APPROVED AND ADOPTED May 28, 1985.

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

AMENDATORY SECTION (Amending Order 84-06, filed 5/14/84)

WAC 137-70-040 REIMBURSABLE
IMPACTS/RATES—CRIMINAL JUSTICE COSTS.
~~((+))~~ Reimbursement shall be restricted to fully docu-
mented law enforcement, prosecutorial, judicial and jail

facility costs, as defined herein, at the actual costs of the
submitting jurisdiction, not to exceed the following rates:

~~((a))~~ (1) Law enforcement costs are costs incurred
by any political subdivision in apprehending escapees, in
investigating crimes committed by state institutional in-
mates including pretrial investigations within or outside
the institution, or in providing security for inmates out-
side the jail facility. These costs are reimbursable at the
following rates:

~~((i))~~ ~~(\$17.48)~~ (a) \$19.03 per hour for the period July
1, ~~((1983))~~ 1985, through June 30, ~~((1984))~~ 1986.

~~((ii))~~ ~~(\$18.39)~~ (b) \$19.81 per hour for the period July
1, ~~((1984))~~ 1986, through June 30, ~~((1985))~~ 1987.

~~((b))~~ (2) If an escape or investigation results in the
filing of a criminal complaint, the impacted political
subdivision shall be entitled to attorney costs associated
with the prosecution and/or defense of the filed action.
These costs are reimbursable at the following maximum
rates:

~~((i))~~ ~~(\$41.79)~~ (a) \$45.50 per hour from July 1,
~~((1983))~~ 1985, through June 30, ~~((1984))~~ 1986.

~~((ii))~~ ~~(\$43.96)~~ (b) \$47.37 per hour from July 1,
~~((1984))~~ 1986, through June 30, ~~((1985))~~ 1987.

~~((c))~~ (3) Reimbursement for judicial costs incurred
as a result of the filing of a criminal complaint shall be
limited to judges, court reporters, transcript typing or
preparation, witness fees and jury fees. These costs are
reimbursable at the following maximum rates:

~~((i))~~ (a) Judges - ~~(\$38.95)~~ \$42.41 per hour from
July 1, ~~((1983))~~ 1985, through June 30, ~~((1984))~~ 1986,
and ~~(\$40.98)~~ \$44.15 per hour for the period July 1,
~~((1984))~~ 1986, through June 30, ~~((1985))~~ 1987. These
costs shall include the services of court clerks and
bailiffs.

~~((ii))~~ (b) Court reporters - ~~(\$17.52)~~ \$19.08 per
hour from July 1, ~~((1983))~~ 1985, through June 30,
~~((1984))~~ 1986, and ~~(\$18.43)~~ \$19.86 per hour for the
period July 1, ~~((1984))~~ 1986, through June 30, ~~((1985))~~
1987.

~~((iii))~~ (c) Transcript typing services - ~~(\$3.49)~~
\$3.80 per page from July 1, ~~((1983))~~ 1985, through
June 30, ~~((1984))~~ 1986, and ~~(\$3.67)~~ \$3.96 per page
for the period July 1, ~~((1984))~~ 1986, through June 30,
~~((1985))~~ 1987.

~~((iv))~~ (d) Expert witnesses - ~~(\$58.65)~~ \$63.86 per
hour from July 1, ~~((1983))~~ 1985, through June 30,
~~((1984))~~ 1986, and ~~(\$61.70)~~ \$66.48 per hour for the
period July 1, ~~((1984))~~ 1986, through June 30, ~~((1985))~~
1987.

~~((v))~~ (e) Witness fees/nonexpert - jury fees - reim-
bursable at the rate established by the local governmen-
tal legislative authority up to a maximum of ~~(\$26.33)~~
\$28.67 per day for the period July 1, ~~((1983))~~ 1985,
through June 30, ~~((1984))~~ 1986, and ~~(\$27.70)~~ \$29.85
for the period July 1, ~~((1984))~~ 1986, through June 30,
~~((1985))~~ 1987.

~~((d))~~ (4) Jail facility costs resulting from the escape
or criminal complaint shall be reimbursed at the follow-
ing maximum rate: ~~(\$7.37)~~ \$8.02 per inmate day from
July 1, ~~((1983))~~ 1985, through June 30, ~~((1984))~~ 1986
and ~~(\$7.75)~~ \$8.35 for the period July 1, ~~((1984))~~
1986, through June 30, ~~((1985))~~ 1987.

~~((f))~~ (5) Coroner – Where an inmate dies as a result of criminal activity of another inmate, coroner costs incurred by a local jurisdiction may be reimbursed up to a maximum amount established by the committee as reasonable.

~~((f))~~ (6) Medical costs – Where an inmate is in the custody of a local jurisdiction as a result of a crime committed while incarcerated in a state institution, extraordinary medical costs, beyond the routine medical services of the jail, may be reimbursed at the discretion of the committee. Counties, cities, and towns shall notify the department prior to incurring expenses for extraordinary medical expenses, where practicable, to allow the department an opportunity to provide the necessary medical care directly.

WSR 85-12-021
ADOPTED RULES
DEPARTMENT OF LICENSING
(Securities Division)
 [Order RE 131—Filed May 29, 1985]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt at the Department of Licensing, Olympia, Washington, the annexed rules relating to:

| | | |
|-----|-----------------|------------------------------------------------------------------------------------------|
| New | WAC 460-90A-005 | Organization. |
| New | WAC 460-90A-015 | Definitions. |
| New | WAC 460-90A-018 | Material events requiring notice and a filing fee. |
| New | WAC 460-90A-022 | Exemptions from registration. |
| New | WAC 460-90A-025 | Statement of record. |
| New | WAC 460-90A-027 | The public offering statement—Form, content and preparation. |
| Amd | WAC 460-90A-030 | Signing of application. |
| New | WAC 460-90A-032 | Public offering statement—Delivery to prospective purchasers. |
| New | WAC 460-90A-115 | Renewals. |
| New | WAC 460-90A-122 | Salesperson registrations. |
| New | WAC 460-90A-125 | Salesperson registrations for persons in the business of offering resale contracts. |
| Amd | WAC 460-90A-140 | Advertisements. |
| Rep | WAC 460-90A-010 | Camping club contract registration application. |
| Rep | WAC 460-90A-020 | Camping club contract registration exhibits. |
| Rep | WAC 460-90A-040 | Financial statements. |
| Rep | WAC 460-90A-110 | Renewals. |
| Rep | WAC 460-90A-120 | Salesperson registration. |
| Rep | WAC 460-90A-150 | Resale by salesperson for commission of camping club contracts exempt from registration. |

This action is taken pursuant to Notice No. WSR 85-04-056 filed with the code reviser on February 5, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

Statutory authority for adopting rules and specific statutes that the rules are intended to implement: WAC 460-90A-005 is proposed under the authority of RCW 19.105.530 and is intended to implement RCW 19.105.530; WAC 460-90A-015 is proposed under the authority of RCW 19.105.530 and is intended to implement

RCW 19.105.300; WAC 460-90A-018 is proposed under the authority of RCW 19.105.530 and is intended to implement RCW 19.105.420; WAC 460-90A-022 is proposed under the authority of RCW 19.105.530 and is intended to implement RCW 19.105.320(3); WAC 460-90A-025 is proposed under the authority of RCW 19.105.530, 19.105.320 and 19.105.380 and is intended to implement RCW 19.105.320 and 19.105.380; WAC 460-90A-027 is proposed under the authority of RCW 19.105.530 and 19.105.320 (1)(b) and is intended to implement RCW 19.105.320 (1)(b); WAC 460-90A-030 is proposed under the authority of RCW 19.105.530 and is intended to implement RCW 19.105.320(1); WAC 460-90A-032 is proposed under the authority of RCW 19.105.530 and 19.105.370 and is intended to implement RCW 19.105.370; WAC 460-90A-115 is proposed under the authority of RCW 19.105.530 and is intended to implement RCW 19.105.420; WAC 460-90A-122 is proposed under the authority of RCW 19.105.530 and 19.105.440(3) and is intended to implement RCW 19.105.430 and 19.105.440; WAC 460-90A-125 is proposed under the authority of RCW 19.105.530 and 19.105.440(3) and is intended to implement RCW 19.105.430 and 19.105.440; and WAC 460-90A-140 is proposed under the authority of RCW 19.105.530 and 19.105.360 and is intended to implement RCW 19.105.320(1), 19.105.360 and 19.105.480.

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 May 9, 1985.

By T. A. Aragon
 Director

NEW SECTION

WAC 460-90A-005 ORGANIZATION. The administrator, Real Estate Division, Business and Professions Administration, Department of Licensing, administers the Camping Club Act for the director of licensing. Information regarding the regulation of camp resort offerings and salespersons may be obtained by writing to: Administrator, Real Estate Division, Department of Licensing, P.O. Box 247, Olympia, Washington 98504. Persons desiring to visit the real estate division on matters relating to camp resort offerings or camp resort salespersons may do so at the real estate division offices located on the Third Floor, Eastside Plaza Building, 1300 Quince Street, Olympia, Washington.

NEW SECTION

WAC 460-90A-015 DEFINITIONS. (1) Words and terms used in these rules shall have the same meaning as each has in the Camping Club Act, (chapter 19.105 RCW).

(2) "Agency" means the department of licensing in the state of Washington.

(3) "Camp resort" shall be synonymous with "camping club", whether or not structured as or involved with

a common-interest entity, provided the method of structuring the project meets the definition of a "camping club" in RCW 19.105.300(1), having as its primary purpose camping or outdoor recreation and includes or will include camping sites.

(4) "Camp resort program" means the rights and obligations of a purchaser and the methods and procedures for occupying or using camp resort facilities and properties, as established by the purchase contract and other written instruments, such as covenants, declarations, by-laws or rules.

(5) "Camp resort project" shall mean a camp resort and all of its parks, sites, properties and facilities, that are part of the program in which a purchaser receives use, occupancy, membership, or ownership rights.

(6) "Public offering statement" shall mean the written disclosures referred to in RCW 19.105.320 (1)(b) and 19.105.370.

(7) "Statement of record" shall mean all materials, not exclusive of others, including application forms, documents, exhibits, statements, the public offering statement, correspondence, and affidavits, filed with the agency, for registration purposes.

(8) "Resale camp resort contract" shall mean a camp resort contract offered or sold which is not the original offer, transfer or sale of such contract, and not a forfeited contract being reoffered by an operator.

(9) "Start-up camp resort contract" means a camp resort contract that is being offered or sold for the first time or a forfeited contract being resold by a camp resort operator.

(10) "Advance fees" shall mean fees, funds, or consideration of any description, collected for any purpose from buyers or sellers of resale camp resort contracts, prior to the time of settlement of a purchase transaction.

(11) "Prospective purchaser" shall mean any person attending a sales presentation or touring a camp resort, when such attendance results from an operator's solicitation or advertising and any person, whether or not solicited, who requests of the operator or its agents, a public offering statement.

NEW SECTION

WAC 460-90A-018 MATERIAL EVENTS THAT ARE AMENDMENTS REQUIRING NOTICE AND A FILING FEE. (1) "An event that might have a material effect in the conduct of the operation of a camp resort" as referred to in RCW 19.105.420, shall mean any event that affects the health, safety, or economic or physical welfare of a contract purchaser or any event that could be significant in a person's determination whether or not to purchase a camp resort contract.

(2) The following shall be material events and shall require both notice to the agency, pursuant to the provisions of RCW 19.105.340 and the submission of a one hundred dollar filing fee, pursuant to the provisions of RCW 19.105.410.

(a) Any proposed sale or transfer, of an interest in the project or shares of stock of the registrant which results in a change of voting, management or ownership control.

(b) Any removing, substituting, leasing, optioning, selling or withdrawing of existing properties, resorts, or facilities from the camp resort program.

(c) Any adding, deleting, or rearranging of camping sites within an existing camp resort in a manner that would reduce the size or change the number or quality of sites.

(d) Any new encumbrances, liens, or loans that affect the camp resort properties.

(e) A change in the status, provisions, or conditions of an escrow, trust, impound, reserve account or other security device being utilized to protect the interests of purchasers, whether or not impound or reserve accounts are required as a condition to registration under chapter 19.105 RCW.

(f) The filing by any person of any bankruptcy, receivership, or trustee action that involves any of the camp resort properties, the registrant, a common-interest association or an affiliate, as a party to the action.

(g) The operator makes an initial offering of stock to the public.

(h) The refinancing of all or any part of the operator's debts affecting the project.

(3) Amendment and reporting events that might have a material affect shall be accomplished by providing the agency with:

(a) The one hundred dollar amendment filing fee as required by RCW 19.105.410.

(b) Copies or prototypes of documents or other materials pertinent to the event.

(c) A cover letter explaining the event and any proposed amendment.

(d) A redraft of the public offering statement by submitting the amended pages which show the proposed corrections, deletions, or additions to the existing information.

NEW SECTION

WAC 460-90A-022 EXEMPTIONS FROM REGISTRATION — NONCOMMERCIAL RESALE CONTRACT OFFERINGS. As provided in RCW 19.105.320(3), the director exempts from the registration requirements of chapter 19.105 RCW the offering and selling of resale camp resort contracts by an owner for that owner's own account, provided that any such offering or selling is noncommercial in nature and that registration is not necessary for the protection of purchasers. Noncommercial shall mean that the owner of the resale contracts is not in the business of offering or selling camp resort contracts and such offering or selling is only incidental to any profession, occupation, or business of the owner.

NEW SECTION

WAC 460-90A-025 STATEMENT OF RECORD — FILINGS AND INFORMATION REQUIRED UPON APPLICATION FOR REGISTRATION OF START-UP CAMP RESORT PROJECTS AND CONTRACT OFFERINGS. (1) An application for registration of a start-up contract offering shall be made

by completing forms prepared for such purpose by the agency.

(2) The application, documents and information filed for registration purposes shall be referred to as the statement of record.

(3) The statement of record for a registration of a start-up contract offering shall include the following:

- (a) The prescribed filing fee.
- (b) The completed application forms.
- (c) The draft of the proposed public offering statement.
- (d) A sample or prototype of any documents to be signed or initialed by and that commits purchasers. Such documents shall contain the cancellation notice required in RCW 19.105.390.

(e) Copies of all recorded or unrecorded encumbrances, mortgages, liens, deeds, leases, contracts, and any amendments thereto, that affect camp resort projects.

(f) A preliminary title report, dated within ten days of application, covering all of the acreages, park sites, and areas on which facilities are located.

(g) Financial statements and information as required by WAC 460-90A-045.

(h) If the registrant is other than a natural person, copies of relevant articles of incorporation, bylaws, partnership, or joint venture documentation.

(i) Promotional materials, including advertising and contract forms covering travel programs, discount programs, programs for the use or occupancy of in-park trailers or mobiles and those providing memberships in other recreational programs, if such materials or programs are to be utilized to promote sales of camp resort contracts or are to be offered to contract owners as part of the camp resort programs.

(j) Rules and regulations governing the use and occupancy of project parks and facilities.

(k) A statement as required pursuant to RCW 19.105.320 (1)(d).

(l) Applications for and contracts of affiliation with any outside exchange or reciprocal-use entity.

(m) Information covering purchaser costs, rules, contract forms, and any fees required for purchaser use of operator-owned trailers, mobiles, tents, or other overnight accommodations, available for purchasers as an alternative to using the purchaser's own mobile units.

(n) A statement describing the operator's, or an affiliate's or successor's right to substitute, change, or withdraw from use all or a portion of the camp resort properties and the extent to which the camping club operator, affiliates, or successors are obligated to replace the camp resort properties substituted or withdrawn within a reasonable period of time after such action, with substituted properties in the same general area, that are at least as desirable for the purpose of camping and outdoor recreation.

(i) If a nonaffiliate or any other person has the ability through existing agreements to exercise a right of withdrawal of camp resort properties in the program from use by the camp resort members, provide copies of any and all documentation evidencing the ability to exercise such right of withdrawal.

(ii) If a withdrawal becomes effective on a specific date, provide a description of the means and method of withdrawal and state the date.

(o) Whenever applicable to the structuring of the project, provide a copy or prototype of the following:

(i) Plats, maps, site plans, or surveys.

(ii) Water, sewerage, or land use authorizations or permits, or denial of permits of local jurisdictions.

(iii) A copy of any administrative, civil, or criminal proceeding involving theft, fraud, or dishonesty, or violations of any act designed to protect consumers or involving dishonest practices in any industry involving sales to consumers in which the applicant is or has within the past five years been a party.

(iv) Performance bonds, letters of credit, surety or guaranty agreements affecting the project or the program.

(v) Trust or escrow arrangements affecting the project.

(vi) Market surveys or feasibility studies, if presently available.

(vii) Appraisals of market value of the project, if presently available.

(viii) Engineering studies or surveys of physical hazards such as earthquakes, floods, beach erosions, landslides, or volcanoes, if presently available.

(ix) Covenants or declarations affecting camp resort properties.

(x) Agreements for the usage of amenities or facilities owned by persons other than operator.

(p) If the project involves a common-interest owners' association or entity of similar purposes, copies or prototypes of the following:

(i) Declaration and bylaws.

(ii) Rules and regulations.

(iii) Membership certificate and proxy forms.

(iv) Evidences of title to any personal property owned or to be owned by the association or purchasers collectively.

(v) Agreements for managing the properties.

(vi) Agreements for payment or subsidizing the payment of project operational expenses during the term of registrant marketing.

(4) The agency may waive the submission of documents or information provided by subsection (3) of this section, which it deems inappropriate for a specific project or not necessary for registration purposes, unless information or documents are required by RCW 19.105.320.

(5) The agency may require additional information if relevant to the structuring of the project and deemed necessary for protection of purchasers.

NEW SECTION

WAC 460-90A-027 THE PUBLIC OFFERING STATEMENT — FORM, CONTENT, AND PREPARATION. (1) The written disclosures provided for in RCW 19.105.320 (1)(b) and 19.105.370 shall be in a document to be known as the public offering statement.

(2) The public offering statement shall be prepared and promulgated in a form prescribed by the agency.

(3) The public offering statement shall consist of two parts:

(a) Part I, written disclosures, to be prepared by the applicant.

(b) Part II, attachments of exhibits provided by applicant in the statement of record, when required by the agency for the protection of purchasers, and a copy or prototype of the purchaser contract form(s) as required in RCW 19.105.320 (1)(b)(xiii).

(4) The applicant's disclosures for Part I of the public offering statement for a start-up camp resort contract offering shall be prepared in sections, captioned in bold print as follows:

(a) **THE CAMP RESORT OPERATOR:** Information in this section is to include the name, address, and business telephone number of the operator, the common-interest association and affiliates and a brief summary of the operator's experience in camp resort business.

(b) **THE PROJECT. GENERAL INFORMATION:** Information in this section shall specify the location and provide a brief description of the park sites and significant facilities and recreation services already available for use by purchasers in each park site and the program.

(c) **FACILITIES, AMENITIES, PARK SITES, AND PROGRAMS THAT ARE PLANNED OR PROMISED:** Information in this section is to cover that required in RCW 19.105.320 (1)(b)(iv) and (vi).

(d) **NATURE OF THE INTEREST WHICH YOU ARE PURCHASING:** Information in this section is to cover that required in RCW 19.105.320 (1)(b)(iii). If the purchase contract, membership certificate, or project rules and regulations, refer to or make use of the term(s) "club", "member", or "membership", describe whether or not any of the following are available to the purchasers:

(i) A membership in any common-interest association, nonprofit corporation or other form of common-interest community.

(ii) Shares of stock that allow participation in any profits earned by the operator or its affiliates.

(iii) The right to vote for officers and directors.

(iv) The right to make decisions on how the project or program is managed.

(v) The right to vote for or against any proposed rule changes.

(vi) Attendance at membership meetings.

(e) **OWNERSHIP OF PROJECT PROPERTIES AND ENCUMBRANCES, LIENS, AND OTHER CONDITIONS AFFECTING OWNERSHIP:** Information provided in this section is to cover that required in RCW 19.105.320 (1)(b)(v).

(f) **PURCHASER PROTECTIONS — ASSURANCES OF FUTURE AVAILABILITY OF THE PROMISED CAMP RESORT SITES, FACILITIES, AND PROGRAM.** The information in this section is to be provided in bold print and include that information required by RCW 19.105.320 (1)(b)(xi) and a statement describing the operator's, or an affiliate's or successor's right to substitute, change, or withdraw from use all or a portion of the camp resort properties and the extent to

which the camping club operator, affiliates, or successors are obligated to replace the camp resort properties substituted or withdrawn within a reasonable period of time after such action, with substituted properties in the same general area, that are at least as desirable for the purpose of camping and outdoor recreation.

(g) **SUMMARY OF PURCHASERS RIGHTS TO AND RESTRICTIONS FOR USE OF PROJECT SITES AND FACILITIES:** The information in this section is to include that information required pursuant to RCW 19.105.320 (1)(b)(v), (vii), and (x).

(h) **RESTRICTIONS ON SALE, TRANSFER, OR ASSIGNMENT OF CAMP RESORT CONTRACTS, MEMBERSHIPS, LICENSES, OR DEEDS:** The information in this section is to be provided in bold print, underlined, and to include in summary form, that information required pursuant to RCW 19.105.320 (1)(b)(ix) and (xii).

(i) **PURCHASER COSTS:** The information in this section is to include that required pursuant to RCW 19.105.320 (1)(b)(viii).

(5) For applicants whose projects are structured as common-interest associations, or that otherwise are involved with memberships in common-interest associations which are to be responsible for management or ownership of camp resort properties, additional information is to be included in the public offering statement, pursuant to the requirements of RCW 19.105.320(vii), in a section headed "GOVERNING DOCUMENTATION — THE ' _____ ' COMMON INTEREST ASSOCIATION."

(6) Prior to approval of a registration or promulgation of the proposed public offering statement by the applicant, the applicant's draft for the public offering statement shall be reviewed by the agency to determine its completeness and accuracy.

(7) If the agency deems that sections or areas of the proposed public offering statement are incomplete, inaccurate, deceptive, or not presented in the proper format, the agency shall reject the proposed public offering statement and return it to the applicant for correction of noted deficiencies.

(8) Guidelines, instructions, and preprinted materials for preparing the public offering statement may be obtained from the agency.

AMENDATORY SECTION (Amending Order SDO-40-83, filed 3/2/83)

WAC 460-90A-030 **SIGNING OF APPLICATION.** An application for registration of ((camping club)) camp resort contracts shall be signed by the ((camping club)) camp resort operator or an officer or general partner of the ((camping club)) camp resort operator. However, it may be signed by another person holding a power of attorney for such purposes from the applicant and, if signed on behalf of the applicant pursuant to such power of attorney, ((should)) shall include as an additional exhibit a copy of said power of attorney or a copy of the corporate resolution authorizing the person signing to act on behalf of the applicant.

NEW SECTION

WAC 460-90A-032 THE PUBLIC OFFERING STATEMENT — DELIVERY TO PROSPECTIVE PURCHASERS. (1) The operator or its agents shall provide each prospective purchaser with the agency-registered public offering statement prior to a sales presentation or a camp resort tour whether or not such persons purchase a camp resort contract.

(2) Any person who requests of an operator or its agents, a public offering statement, shall be provided a public offering statement, whether or not, such person has received a solicitation.

NEW SECTION

WAC 460-90A-115 RENEWALS. (1) Pursuant to RCW 19.105.420 an application for renewal shall be made not less than sixty days prior to the expiration date of a registration, on a form to be provided by the agency.

(2) It shall be the applicant's responsibility to procure forms and file them with the agency.

(3) The renewal application shall include the following:

(a) Affidavits by the operator stating whether or not there have been any changes in the information and documentation previously submitted for purposes of registration.

(b) Copies or prototypes of all amended, altered, or new documentation evidencing changes with the changes being underlined or referred to by footnotes.

(c) Affidavits by the operator stating whether or not there have been any changes in the information required in the public offering statement.

(d) A draft of a proposed amended public offering statement evidencing changes, with the changes being underlined or referred to by a cover letter calling the agency's attention to the proposed changes, additions to or deletions from the public offering statement previously accepted by the agency.

(e) A copy of all camp resort contract forms marked and underscored to reflect changes, additions or deletions.

(f) Financial statements and information as provided for in WAC 460-90A-045.

(g) Payment of fees provided for in RCW 19.105.410.

(4) Failure of the renewal applicant to renew in a timely manner on or before the date of permit expiration, shall mean that the registration and permit has expired. Upon expiration of registration the camping club contracts are deemed not registered and the operator must register as a new applicant pursuant to the provisions of RCW 19.105.320 and WAC 460-90A-025 and 460-90A-027.

NEW SECTION

WAC 460-90A-122 SALESPERSON REGISTRATIONS. (1) Each applicant for registration as a camp resort salesperson shall register on a form prescribed by the agency and pay a filing fee of thirty dollars.

(2) Registration as a camp resort salesperson shall be renewed annually or at the time the salesperson obtains employment by a camp resort operator subsequent to a termination of a former employment by a camp resort operator, whichever event occurs first, by the filing of a form prescribed by the agency and payment of a fee of thirty dollars.

(3) The following information shall be provided on the original application or renewal of a camp resort salesperson's registration:

(a) The applicant's date and place of birth.

(b) Proof of identity.

(c) Information covering employment for the prior five years.

(d) Information concerning any administrative action taken against permits, licenses or registrations in other professions, businesses or occupations.

(e) An affidavit concerning knowledge of the Camping Club Act (chapter 19.105 RCW) and agency rules (chapter 460-90A WAC).

(f) Completion of an affidavit by applicants that they have read the public offering statement covering any registered project whose camp resort contracts they are offering or selling.

(4) Persons applying for a salesperson registration for the first time shall submit fingerprint identification on a form provided by the agency. Persons applying for a renewal of a salesperson registration shall submit fingerprint cards if there has been no prior submission.

(5) Upon the occurrence of any material change in the information contained in the registrant's file, each salesperson registrant shall promptly file with the agency an amendment to the salesperson registration file stating the change(s). The following shall be material changes requiring notice to the agency:

(a) Any termination of employment with a camp resort operator.

(b) Upon being named a defendant or a party in any administrative, civil or criminal proceeding involving theft, fraud or dishonesty or violation of any act designed to protect consumers, or involving unethical or dishonest practices in any industry involving sales to consumers or violations of chapter 19.105 RCW, the salesperson applicant shall promptly provide to the agency a notice of the proceeding and a copy of the complaint.

(c) A change of name.

(d) A change of residence or mailing address.

(6) Each operator of a camp resort whose camp resort contracts are registered with the agency, shall notify the agency on a form prepared by the agency, of the employment or termination of employment of any camp resort contract salesperson at the time of such employment or termination of employment.

(7) As a condition of continued registration the salesperson registrant shall comply with the following:

(a) During the entire term of the registration the registrant is to be employed or engaged by an operator that is registered with the agency as an offeror of camp resort contracts, and the salesperson shall be offering contracts on behalf of or in the employment of such operator-registrant.

(b) Upon termination of employment with a registered camp resort operator, the camp resort salesperson registration is deemed to have expired. At such time it shall be the salesperson's responsibility to provide the agency with notice of termination and to return to the agency the salesperson registration.

(c) It shall be the salesperson's responsibility to cause the posting of the salesperson registration form in a conspicuous location on the premises where employed and where contact with the public for purposes of making sales most often occurs.

(d) The salesperson shall clearly identify himself or herself by full name, by means of a business card, lapel pin or by other means, upon contact with any prospective purchaser.

(e) The salesperson shall cooperate fully with the agency in any investigation of alleged violations by the registrant, salesperson, or others, of the Camping Club Act or these rules.

(8) Applications for registration or renewal that are for any reason defective or that are not legible shall be returned and the application shall be deemed not filed until the form is received by the agency with the deficiencies corrected.

(9) An application for renewal of a salesperson registration not filed in a timely manner or not received or acted upon by the agency prior to the expiration date shall be deemed by the agency as having expired. The salesperson must thereafter register as a new applicant for registration. Salespersons who have failed to make timely renewal applications shall not engage in camp resort salesperson activities. It is the salesperson's responsibility to secure the necessary forms and renew a registration in a timely manner. Applications for renewal should be forwarded to the agency by registered mail at least thirty days prior to expiration of the current registration. The agency shall not be responsible for applications lost in the mail or not timely received for other reasons.

NEW SECTION

WAC 460-90A-125 SALESPERSON REGISTRATION — FOR PERSONS IN THE BUSINESS OF OFFERING RESALE CONTRACTS (1) In addition to those applying in WAC 460-90A-122, the following additional conditions or requirements for a camp resort salesperson registration shall apply to those persons offering resale camp resort contracts, unless exempted by WAC 460-90A-022.

(a) All funds collected whether as advance fees or as payments for purchase transactions, shall be placed in an escrow account segregated and separate from those of the registrant, in a recognized Washington state depository.

(i) Funds collected for purchase transactions shall remain in escrow until such time as the purchase transaction is completed in accordance with the escrow instructions.

(ii) Funds collected as advance fees or for other purposes shall be utilized only for the purposes for which they are collected.

(iii) Funds collected are to remain in the escrow until such time as they are utilized for their designated purpose.

(iv) Any advance fees collected shall be utilized solely for the purposes stated and the salesperson registrant shall upon request, provide evidence to the agency that fees collected are being utilized for such purposes. Applicants shall agree to and thereafter provide the agency with access to audit of such funds and the escrow records at any time during normal business hours.

(v) Funds may be placed in interest bearing accounts provided the agreements are in writing and the parties agree to whom interest earned shall be paid and funds are payable upon demand.

(b) Provide evidence of permits to do business, when required by any local, state, or federal jurisdiction.

(c) Maintain a business office or location where business records of the applicant will be kept and such records shall be available for audit purposes

(d) Submit proposed advertising for agency review pursuant to RCW 19.105.360 and WAC 460-90A-140.

(e) Submit for agency review copies or prototypes of agreements to be used for offering or soliciting camp resort contracts.

(f) If available as an ordinary course of business, provide the agency with copies of lists or print-outs of the camp resort contracts available for sale.

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

AMENDATORY SECTION (Amending Order SDO-40-83, filed 3/2/83)

WAC 460-90A-140 ADVERTISEMENTS. (1) No ~~((camping club))~~ camp resort operator or salesperson shall use advertising or sales promotion literature that are deceptive, false or misleading.

(2) Advertisements or sales promotion literature that offer any ~~((item (for the purposes of this WAC 460-90A-140 section "item" is defined as any)))~~ gift, prize or item of value~~((...))~~ as an inducement to the recipient to buy a ~~((camping club))~~ camp resort membership, visit a ~~((camping club))~~ camp resort property, complete a tour of a ~~((camping club))~~ camp resort property, receive a sales presentation, or contact salespersons shall be subject to the following provisions:

(a) The name of the ~~((camping club))~~ camp resort operator offering such item shall be clearly disclosed;

(b) No item may be labeled "free" or a "gift" if the recipient is required to purchase a ~~((camping club))~~ camp resort contract or to give or promise to give in exchange for the item any sum of money or its equivalent;

(c) The advertisement or sales promotion literature shall identify each item and its retail fair market value. To determine the retail fair market value, the following methods may be used:

(i) ~~((Manufacturer's suggested retail price, if the camping club operator has a reasonable basis for belief that the manufacturer's suggested retail price approximates the retail value of the item;~~

(ii) The approximate retail sales price of the item in the trade area in which the offer is made; or

~~((iii) manufacturer's suggested retail price or)~~ (ii) The approximate retail sales price in the trade area of similar items of comparable quality if the item is not available in the trade area in which the offer is made;

(iii) appraisals;

(iv) the operator's actual cost of the item.

(d) If the item is one or more of a larger group, and if offered or given on a random basis, the advertisement or sales promotion literature must disclose the actual odds of receiving each item based upon the initial odds and must be revised to reflect actual current odds at the beginning of each month of use of the free promotion if the odds change; if not offered or given on a random basis, the method of selection used must be disclosed. No promotion shall be used which is in violation of Washington state or federal laws,

(e) If receipt of the advertised item is contingent upon certain restrictions or qualifications which the recipient must meet, then a clear and complete disclosure of those restrictions and whether they apply to receipt of the gift or acceptability to buy into the program, must be made in the offer. Restrictions that must be disclosed include, but are not limited to the following:

(i) The deadline by which the recipient must buy a ~~((camping club))~~ camp resort membership, visit a ~~((camping club))~~ camp resort property, complete a tour of a ~~((camping club))~~ camp resort property, receive a sales presentation, or contact a salesperson in order to receive an item, if any such deadline exists;

(ii) The days and hours during which visits may be made, tours may be taken, or sales presentations received and the approximate length in hours of such visits, tours or sales presentations if any visit, tour, or sales presentation is necessary in order for the recipient to receive the item; and

(iii) Any requirement such as age, marital status, financial qualifications, or that both husband and wife must be present.

(f) Any person who responds to an advertisement or sales promotion in the manner specified, who performs all stated requirements and who meets the qualifications disclosed shall be entitled to receive promptly the item offered. If the ~~((camping club))~~ camp resort operator cannot provide the item because of supply or quality problems not reasonably foreseen or controllable by the operator, the operator shall provide, at the operator's option, a raincheck for the item offered or its cash equivalent, or shall provide a substitute item of ~~((equivalent or))~~ greater retail value or a raincheck for such substitute item. In case a raincheck is provided, the ~~((camping club))~~ camp resort operator shall, within a reasonable time, deliver the item or its cash equivalent to the recipient's address without additional cost or requirement to the recipient. No ~~((camping club))~~ camp resort operator or salesperson shall make any offer of an item when the operator or salesperson knows or has reason to know that the item is not readily available;

(g) Any restriction or requirement that time, money or effort must be expended by the recipient of an item in order for the recipient to use the item must be disclosed in the advertisement or sales promotion literature. Examples of such restrictions or requirements include any

items that require assembly by the recipient, travel or other entertainment gifts or prizes for which there are limitations on the dates or times when the recipient may use the item, or which require nonrefundable reservation deposits or additional travel costs in order for the recipient to use the travel or other entertainment gift or prize.

(h) Provisions explaining any conditions to qualify for a gift, prize, or award, must be in type at least as large and prominent as found in the original offer or notice of the award, gift, or prize.

(3) Nothing in ~~((subsection (2) of))~~ this ~~((WAC 460-90A-140))~~ section shall affect the remedies of the administrator or any person responding to advertisements or sales promotions if such advertisements or promotions are deceptive, false or misleading or otherwise in violation of chapter 19.105 RCW.

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

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

REPEALER

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

WAC 460-90A-010 CAMPING CLUB CONTRACT REGISTRATION APPLICATION.

WAC 460-90A-020 CAMPING CLUB CONTRACT REGISTRATION EXHIBITS.

WAC 460-90A-040 FINANCIAL STATEMENTS.

WAC 460-90A-110 RENEWALS.

WAC 460-90A-120 SALESPERSON REGISTRATION.

WAC 460-90A-150 RESALE BY SALESPERSON FOR COMMISSION OF CAMPING CLUB CONTRACTS EXEMPT FROM REGISTRATION.

WSR 85-12-022

PROPOSED RULES

DEPARTMENT OF LICENSING

(Securities Division)

[Filed May 29, 1985]

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 regulation of camp resort contracts and camp resort salespersons consisting of the following new or amended rules in chapter 460-90A WAC:

| | | |
|-----|-----------------|-----------------------------------------------------------------------------------------|
| Amd | WAC 460-90A-015 | Definitions. |
| New | WAC 460-90A-017 | Reporting events that shall require that the operator keep written disclosures current. |
| Amd | WAC 460-90A-018 | Material events that are amendments requiring notice and a filing fee. |
| Amd | WAC 460-90A-030 | Signing of application and permit. |
| Amd | WAC 460-90A-032 | The public offering statement—Delivery to prospective purchasers. |
| New | WAC 460-90A-035 | Purchaser cancellations of contracts— |

| | | |
|-----|-----------------|-------------------------------------------|
| | | Prompt refund of funds and consideration. |
| New | WAC 460-90A-045 | Financial statements and information. |
| New | WAC 460-90A-055 | Registration not endorsement by agency. |
| Amd | WAC 460-90A-070 | Receipt of written disclosures. |
| Amd | WAC 460-90A-090 | Operation of impound condition. |
| Amd | WAC 460-90A-100 | Release of impounds. |
| Amd | WAC 460-90A-115 | Renewals. |
| Rep | WAC 460-90A-050 | Registration not endorsement; |

Correspondence relating to this notice and the proposed rules should be addressed to:

Robert A. Salerno
 Department of Licensing
 Real Estate Division
 P.O. Box 247
 Olympia, WA 98504
 753-6681

Dated: May 24, 1985
 By: T. A. Aragon
 Director

that the agency will at 1:30 p.m., Monday, July 29, 1985, in the 1st Floor Conference Room, Eastside Plaza Building, 1300 Quince Street, Olympia, WA, conduct a public hearing on the proposed rules.

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

WAC 460-90A-015 is proposed under the authority of RCW 19.105.530 and is intended to implement RCW 19.105.530. WAC 460-90A-017 is proposed under the authority of RCW 19.105.530 and is intended to implement RCW 19.105.420. WAC 460-90A-018 is proposed under the authority of RCW 19.105.530 and is intended to implement RCW 19.105.420. WAC 460-90A-030 is proposed under the authority of RCW 19.105.530 and is intended to implement RCW 19.105.320(1). WAC 460-90A-032 is proposed under the authority of RCW 19.105.530 and is intended to implement RCW 19.105.370. WAC 460-90A-035 is proposed under the authority of RCW 19.105.530 and is intended to implement RCW 19.105.390. WAC 460-90A-045 is proposed under the authority of RCW 19.105.530 and 19.105.320(1)(a) and is intended to implement RCW 19.105.320(1)(a) and 19.105.380. WAC 460-90A-055 is proposed under the authority of RCW 19.105.530 and 19.105.320(1) and is intended to implement RCW 19.105.520. WAC 460-90A-070 is proposed under the authority of RCW 19.105.530 and is intended to implement RCW 19.105.370. WAC 460-90A-090 is proposed under the authority of RCW 19.105.530 and is intended to implement RCW 19.105.340. WAC 460-90A-100 is proposed under the authority of RCW 19.105.530 and is intended to implement RCW 19.105.340. WAC 460-90A-115 is proposed under the authority of RCW 19.105.530 and is intended to implement RCW 19.105.420.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 29, 1985.

Written or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

STATEMENT OF PURPOSE

Title and Numbers of Rule Section(s) or Chapter(s):
 See above.

Statutory Authority for Adopting Rules and Specific Statutes that the Rules are Intended to Implement: See above.

Summary of Rules: WAC 460-90A-015 is for the purpose of conforming the definition with the wording in other rules in chapter 460-90A WAC; 460-90A-017 would provide guidelines for determining the circumstances that are events requiring the filing of information with the agency for the purpose of keeping the public offering statement reasonably current, as required in RCW 19.105.420 and 19.105.360(3); 460-90A-018 would help assure reporting of events that have a material effect on operations, particularly the adding or purchasing of additional resorts or properties; 460-90A-030 would assure that operators review and sign the agency-issued permit as well as the application for registration; 460-90A-032 establishes that only Part I of the public offering statement need be provided prospective purchasers. The amendment further defines other circumstances under which persons are to be provided with Part I or Part II of the public offering statement or a prototype or copy of the purchase contract; 460-90A-035 would establish a time schedule for return of purchaser funds and other consideration for purchasers who request cancellations. The rule assists registrants and the agency in determining what constitutes a "prompt" return, as required in RCW 19.105.390; 460-90A-045 replaces a former rule covering required financial information. The new rule better defines and broadens the types and areas of financial information that may be required for registration purposes. It would also allow the agency greater flexibility in determining what financial information should be required under different circumstances; 460-90A-055 requires that an agency disclaimer and notice of nonendorsement be placed on each advertisement utilized by an operator and in the public offering statement; 460-90A-070 is for the purpose of making the language and requirements in this rule conform with the provisions of WAC 460-90A-015(1) and 460-90A-032. It clarifies under what circumstances signatures evidencing receipt of the public offering statement are required; 460-90A-090 would remove an inconsistency in this rule as it now stands with certain provisions of WAC 460-90A-035; 460-90A-100 would remove the present language which could be construed to limit the nature of and purposes for impounds. It also corrects minor deficiencies in the grammatical

construction of the present rule; and 460-90A-115 requires that those operators previously registered, who have not already provided the information or documentation required in WAC 460-90A-025, shall be required at the time of their renewal application to provide the agency with any of the documentation required in WAC 460-90A-025; operators who have previously filed, may be required to refile or update information at the time of their renewal application where deemed necessary by the agency for the protection of purchasers.

Reasons Supporting the Proposed Rules: WAC 460-90A-015 will assist purchasers and operators, generally, in understanding and interpreting chapter 460-90A WAC; 460-90A-017 will further assure that disclosures in the public offering statement are kept current and assist the agency in taking appropriate administrative action in order to keep the registration and public offering statement current; 460-90A-018 defines what constitutes an "event that will have a material effect on the operation of a camp resort" and requires that registrants must report to the agency the acquisition of new parks, properties and facilities, so that the agency can review the registration under the changed conditions to determine whether the financial condition of the operator has changed, whether impounds are to be required and that the written disclosures are current; 460-90A-030 will require that operators review and sign the permit. This procedure will assure that registrants are fully aware of conditions on the permit; 460-90A-032 will assist operators in that they need not provide prospective purchasers, only actual purchasers, with the documentation and information materials required as Part II of the public offering statement. The proposed requirement that persons making a request, be provided with a copy of the purchase contract will assist the persons in being better informed about what they are purchasing before they sign a purchase commitment; 460-90A-035 will define "promptly" as found in the statute and serve to assure that purchasers who make timely requests for cancellations, will receive prompt return of consideration and acknowledgements of cancellation; 460-90A-045 will assist the agency in obtaining more complete and reliable financial information covering the operators, affiliates, owners associations and project operations. It gives the agency greater flexibility in determining financial information requirement; 460-90A-055 will further assure that prospective purchasers and operators are aware of the provisions of RCW 19.105.520, that administrative acceptance of a registration public offering statement or granting of a registration by the department or review of advertising materials, does not infer that the department passes on the merits of the registration, the truthfulness of the operator's written disclosures or the merit or value of gifts or prizes or statements made in operator advertising; 460-90A-090 will allow operators or their agents the necessary time, before processing the purchaser consideration and documentation into an impound, to return consideration and cancel commitments in cancellation situations; 460-90A-100 will remove any inference that impounds are required only under those circumstances specified in the present rule, which had restricted the director's authority to require impounds pursuant to

RCW 19.105.340. This proposed amendment is more consistent with RCW 19.105.340; and 460-90A-115 will assure that the department obtains all required information and documentation needed for the protection of purchasers under WAC 460-90A-025. Renewal applicants as well as those operators filing original applications must submit that information and documentation required under WAC 460-90A-025, where deemed necessary by the department.

Agency Personnel Responsible for the Drafting, Implementation and Enforcement of the Rule: Theresa Anna Aragon, Director, Department of Licensing, 4th Floor, Highways-Licenses Building, Olympia, WA 98504, 234-5029 scan, 753-5029 comm; Ms. Joan Baird, Assistant Director, Business and Professions, 1st Floor, Eastside Plaza Building, 1300 Quince Street, Olympia, WA 98502, 234-2241 scan, 753-2241 comm; and Mr. Robert A. Salerno, Administrator, Real Estate Division, 3rd Floor, Eastside Plaza Building, 1300 Quince Street, Olympia, WA 98502, 234-6681 scan, 753-6681 comm.

Name of Person or Organization that is Proposing These Rules: Department of Licensing.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to These Rules: Most of these rules are necessary in order to specify sufficient details for implementing basic administrative operations under the Camping Club Act; and several of these rules are necessary because the statute specifically requires that the statutory section may be implemented by a rule.

These rules are not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rules or Their Purposes: None.

A small business impact statement is not required for these rules. The department has reviewed the impact that the adoption of these new rules under chapter 460-90A WAC would have on camp resort operators and salespersons. We find that a small business impact statement is not required. Camp resort operators and salespersons are most appropriately classed in SIC Code 7997. As such they account for less than 10 percent of the firms and individuals in this area. Also, they are less than 20 percent of all firms and individuals in all industries. Finally any impact that these proposed rules may have is intended to fall equally on all camp resort operators or salespersons.

AMENDATORY SECTION (Amending Order RE 131, filed 5/29/85)

WAC 460-90A-015 DEFINITIONS. (1) Words and terms used in these rules shall have the same meaning as each has in the Camping Club Act, (chapter 19.105 RCW).

(2) "Agency" means the department of licensing in the state of Washington.

(3) "Camp resort" shall be synonymous with "camping club", whether or not structured as or involved with a common-interest entity, provided the method of structuring the project meets the definition of a "camping club" in RCW 19.105.300(1), having as its primary purpose camping or outdoor recreation and includes or will include camping sites.

(4) "Camp resort program" means the rights and obligations of a purchaser and the methods and procedures for occupying or using

camp resort facilities and properties, as established by the purchase contract and other written instruments, such as covenants, declarations, bylaws or rules.

(5) "Camp resort project" shall mean a camp resort and all of its parks, sites, properties and facilities, that are part of the program in which a purchaser receives use, occupancy, membership, or ownership rights.

(6) "Public offering statement" shall mean the written disclosures referred to in RCW 19.105.320 (1)(b) and 19.105.370.

(7) "Statement of record" shall mean all materials, not exclusive of others, including application forms, documents, exhibits, statements, the public offering statement, correspondence, and affidavits, filed with the agency, for registration purposes.

(8) "Resale camp resort contract" shall mean a camp resort contract offered or sold which is not the original offer, transfer or sale of such contract, and not a forfeited contract being reoffered by an operator.

(9) "Start-up camp resort contract" means a camp resort contract that is being offered or sold for the first time or a forfeited contract being resold by a camp resort operator.

(10) "Advance fees" shall mean fees, funds, or consideration of any description, collected for any purpose from buyers or sellers of resale camp resort contracts, prior to the time of settlement of a purchase transaction.

(11) "Prospective purchaser" shall mean any person attending a sales presentation or touring a camp resort. ~~((and any person, whether or not solicited, who requests of the operator or its agents, a public offering statement.))~~

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

NEW SECTION

WAC 460-90A-017 REPORTING EVENTS THAT SHALL REQUIRE THAT THE OPERATOR KEEP WRITTEN DISCLOSURES CURRENT. (1) Not exclusive of others, the following are events that shall require that the operator provide the agency with notice and amendment to the public offering statement, pursuant to the provisions of RCW 19.105.420 for the purpose of keeping the public offering statement current:

(a) Any change or event causing information then in the public offering statement to be out-dated, incorrect, incomplete or deceptive.

(b) Any damage to the property or facilities of a camp resort which limits the use of the properties or facilities by the contract purchasers.

(c) Any hazard threatening the properties or facilities which presents a danger to the contract purchasers of injury or limitation on their use of properties or facilities.

(d) Any order or action by a local, state or federal regulatory agency in the granting, denial, revocation, or suspension of a permit or authorization affecting the camp resort properties or facilities which limits the use of the camp resort properties or facilities by the contract purchasers.

(e) The completion of promised facilities or the failure to complete promised facilities on a date or at the occurrence of an event, as promised.

(f) A bulk sale of the project or a significant portion of the project to another person.

(g) Changes in the provisions of instruments or documentation utilized to establish the camp resort program or a common-interest association involved in the camp resort operations.

(h) Any change in the provisions or content of a purchase contract, deed, membership certificate or members handbook.

(i) Lawsuits filed or served, which name the operator, its affiliates or the project's common-interest association and which are concerned with the provisions of the Camping Club Act (chapter 19.105 RCW) and rules or the financial condition of the operator or its affiliates, the project or a common-interest association.

(j) Changes in management, if the project or its amenities are managed by a common-interest association.

(k) Any new contract, change in a contract or termination of a contract with an outside reciprocal-use or exchange entity.

(l) Any proposed change in the ratio of contracts to be sold relative to the number of camp sites available.

(2) It shall be a violation of chapter 19.105 RCW and these rules for a registrant to have knowledge or cause the occurrence of an event

specified in subsection (1) of this section, without providing timely notice of the event to the agency as required in RCW 19.105.420 and RCW 14.105.360(3).

(3) Notice for the purpose of keeping the public offering statement current shall be accomplished by providing the agency with:

(a) Copies or prototypes of documents or other materials pertinent to the event.

(b) A cover letter explaining the event.

(c) A redraft of the public offering statement by submitting the amended pages which show the proposed corrections, deletions, or additions to the existing information.

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

AMENDATORY SECTION (Amending Order RE 131, filed 5/29/85)

WAC 460-90A-018 MATERIAL EVENTS THAT ARE AMENDMENTS REQUIRING NOTICE AND A FILING FEE. ~~((†) "An event that might have a material effect in the conduct of the operation of a camp resort" as referred to in RCW 19.105.420, shall mean any event that affects the health, safety, or economic or physical welfare of a contract purchaser or any event that could be significant in a person's determination whether or not to purchase a camp resort contract.~~

~~((2) The following shall be material events and shall require both notice to the agency, pursuant to the provisions of RCW 19.105.340 and the submission of a one hundred dollar filing fee, pursuant to the provisions of RCW 19.105.410.))~~

(1) Not exclusive of others, the following shall be events that will have a material effect on the conduct of the operation of a camp resort, pursuant to RCW 19.105.420 and require both notice to the agency and the submission of a \$100.00 filing fee.

(a) Any proposed sale or transfer, of an interest in the project or shares of stock of the registrant which results in a change of voting, management or ownership control.

(b) Any removing, substituting, leasing, optioning, selling or withdrawing of existing properties, resorts, or facilities from the camp resort program.

(c) Any adding, deleting, or rearranging of camping sites or facilities within an existing camp resort in a manner that would reduce the size or change the number or quality of sites.

(d) Any adding of camp resorts, facilities or properties to any existing camp resort program and any purchase or acquisition of other camp resorts, facilities or properties by an operator or its affiliates.

~~((†))~~ Any new encumbrances, liens or loans that affect the camp resort properties.

~~((†))~~ A change in the status, provisions, or conditions of an escrow, trust, impound, reserve account or other security device being utilized to protect the interests of purchasers, whether or not impound or reserve accounts are required as a condition to registration under chapter 19.105 RCW.

~~((†))~~ The filing by any person of any bankruptcy, receivership, or trustee action that involves any of the camp resort properties, the registrant, a common-interest association or an affiliate, as a party to the action.

~~((†))~~ The operator makes an initial offering of stock to the public.

~~((†))~~ The refinancing of all or any part of the operator's debts affecting the project.

(j) Any change in the financial condition of the registrant, an affiliate, or a common-interest association, if such change could result in an inability to provide promised sites, facilities, or services.

(2) ~~((†))~~ Amendment and reporting events that might have a material affect shall be accomplished by providing the agency with:

(a) The one hundred dollar amendment filing fee as required by RCW 19.105.410.

(b) Copies or prototypes of documents or other materials pertinent to the event.

(c) A cover letter explaining the event and any proposed amendment.

(d) A redraft of the public offering statement by submitting the amended pages which show the proposed corrections, deletions, or additions to the existing information.

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

AMENDATORY SECTION (Amending Order RE 131, filed 5/29/85)

WAC 460-90A-030 SIGNING OF APPLICATION AND THE PERMIT. Both the ~~((Am))~~ application for registration of camp resort contracts and the agency permit shall be signed by the camp resort operator or the appropriate ~~((am))~~ officer or general partner of the camp resort operator. However, ~~((it))~~ these documents may be signed by another person holding a power of attorney for such purposes from the applicant and, if signed on behalf of the applicant pursuant to such power of attorney, shall include as an additional exhibit a copy of said power of attorney or a copy of the corporate resolution authorizing the person signing to act on behalf of the applicant.

AMENDATORY SECTION (Amending Order RE 131, filed 5/29/85)

WAC 460-90A-032 THE PUBLIC OFFERING STATEMENT — DELIVERY TO PROSPECTIVE PURCHASERS. (1) The operator or its agents shall provide ~~((each))~~ all prospective purchasers with the agency-registered Part I of the public offering statement prior to the completion of a sales presentation or a camp resort tour whether or not such persons purchase a camp resort contract.

(2) Part II of the public offering statement shall be provided actual purchasers.

(3) ~~((2))~~ Any person who requests of any operator or its agents, a public offering statement, shall be provided ~~((a))~~ Part I of the public offering statement, whether or not such person has received a solicitation.

(4) Any prospective purchaser who attends a sales presentation or tour of a camp resort, upon request of the prospective purchaser, shall be given permanently a copy or prototype of the operator's camp resort contract, which the prospective purchaser may retain, whether or not there has been an actual purchase made. No fee shall be charged for this document.

(5) No fee may be charged for the initial copy of the Part I of the public offering statement provided persons. A fee covering the operator's actual costs for production of the document may be charged for additional copies.

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

NEW SECTION

WAC 460-90A-035 PURCHASER CANCELLATIONS OF CONTRACTS — PROMPT REFUND OF FUNDS AND CONSIDERATION. (1) "Promptly" with reference to the refund and return of a person's funds and consideration, referred to in RCW 19.105.390 shall be as follows:

(a) For cash, cashiers checks, money orders, credit card slips held and not processed and other similar consideration, the operator or its agents shall make refunds within ten business days of a demand.

(b) For credit card purchases where the operator has processed the credit card slip(s) to the care of the credit card company, the operator shall notify the credit card company of a credit to the account of the purchaser within three business days of a demand.

(c) Promissory notes and similar evidences of debt shall be voided and returned within three business days of demand.

(d) Within ten business days after demand, the operator or its agents shall give the purchaser evidence that the purchase commitment has been voided.

(2) No purchaser camp resort contract, promissory note or other evidences of debt may be sold, transferred, hypothecated or pledged by an operator until at least five business days after the termination of the statutory-prescribed cancellation term.

(3) No fees or charges may be made of a purchaser by an operator for use of written materials or camp resort facilities offered gratuitously prior to the cancellation request; however, nothing in this statement shall preclude an operator from requiring return of materials in the custody of a purchaser not constituting either Part I or Part II of the public offering statement.

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 460-90A-045 FINANCIAL STATEMENTS AND INFORMATION. (1) Financial statements provided by the applicant, reporting on the applicant as a business, shall be audited and prepared in accordance with generally accepted accounting principles by a public accountant independent of the operator or affiliate.

(2) The financial statements shall include a balance sheet, statements of income and changes in financial position for each of the three fiscal years preceding the date of application. For the period between the end of the previous fiscal year and the date of application, interim financial statements, for all calendar quarters covering the period sixty or more days prior to the date of application shall be submitted but need not be audited.

(3) In order to be assured of continued payment of the project operating expenses and the funding of capital improvement accounts for future repairs, replacement or refurbishment of depreciable properties and facilities, and for contingencies, the following financial statements, documentation or information, reporting on the financial operations of the resorts and its facilities, as distinguished from that financial information reporting on the applicant as a business, required in subsections (1) and (2) of this section, are to be provided the agency:

(a) The location of and amounts in all capital improvement, reserve and contingency accounts.

(b) Financial statements including a balance sheet, statements of income and changes in financial position covering the camp resort operating income and expenses and funding of capital improvements, for each of the three fiscal years preceding the date of application, or for the preceding year for a renewal applicant.

(4) All applicants shall provide a statement concerning the liens and encumbrances affecting all camp resort properties and facilities in the camp resort program, and shall include the following information:

(a) The identity of the lien or encumbrance.

(b) The identity of the holder or owner of the lien or encumbrance.

(c) A description of the property encumbered or affected.

(d) The original amount of each loan or encumbrance.

(e) The balance due and whether or not any payments are then in arrears.

(f) A schedule of amounts and dates payable or conditions of any future payments.

(g) If deemed necessary for the protection of purchasers, the agency may require reporting and confirmation of payments made on liens and encumbrances.

(5) For purposes of purchaser protection, the agency may require additional financial information in the event such information appears necessary to determine the requirements of RCW 19.105.340, and 19.105.350 or if grounds exist for administrative action under RCW 19.105.380.

(6) The agency may waive any or all of the financial information requirements of this section in the event such information does not appear necessary for purposes of determining whether an applicant must comply with RCW 19.105.340, 19.105.350 or if grounds exist for administrative action under RCW 19.105.380.

(7) The agency may require that the financial statements and information required in this section be consolidated with that of affiliates or other business endeavors if it appears necessary to do so for the protection of purchasers or to assist in the determination whether the applicant must comply with the requirements of RCW 19.105.340 and 19.105.350, or if grounds exist for administrative action under RCW 19.105.380.

NEW SECTION

WAC 460-90A-055 WRITTEN DISCLAIMER OF ENDORSEMENT. (1) The public offering statement and each advertisement or sales promotional literature required to be filed pursuant to RCW 19.105.360(1) or that is utilized by an operator, its agents or affiliates, shall contain, in a conspicuous location, the following statement in at least 10 point type:

"REGISTRATION OR THE FILING OF THIS DOCUMENT WITH THE DEPARTMENT OF LICENSING, STATE OF WASHINGTON, DOES NOT CONSTITUTE A FINDING BY THE REGULATORY AGENCY THAT THIS, Chapter 19.105

RCW OR ANY OTHER DOCUMENT FILED UNDER THE CAMPING CLUB ACT IS TRUE, COMPLETE AND NOT MISLEADING, NOR DOES THE FILING MEAN THAT THE AGENCY HAS PASSED IN ANY WAY UPON THE MERITS OR QUALIFICATIONS OF, OR RECOMMENDED OR GIVEN APPROVAL OF ANY CAMP RESORT OPERATOR, RESORT, REGISTRATION, ADVERTISING, OR ANY GIFT OR PRIZE OFFERED AS PART OF A PROMOTIONAL PLAN."

AMENDATORY SECTION (Amending Order SDO-40-83, filed 3/2/83)

WAC 460-90A-070 RECEIPT OF WRITTEN DISCLOSURES. The camp(~~ing club~~) resort operator or salesperson shall obtain from each (~~purchaser~~) person (~~of a~~) that tours a camp(~~ing club~~) resort (~~(contract)~~) or attends a sales presentation, a signed statement (~~(that he or she has received)~~) evidencing receipt of the appropriate parts(s) of the public offering statement. The (~~camping club~~) operator (~~or salesperson~~) shall retain each (~~(statement)~~) receipt for a period of at least three years from the date of (~~(state)~~) signature thereon.

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

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

AMENDATORY SECTION (Amending Order SDO-40-83, filed 3/2/83)

WAC 460-90A-090 OPERATION OF IMPOUND CONDITION. When an impound condition is imposed in connection with the registration of camp(~~ing club~~) resort contracts, 100 percent of the proceeds and all other funds paid by any purchaser after the impound condition is imposed shall, (~~(of receipt of such funds)~~) be placed with (~~(a)~~) the depository within 48 hours after the cancellation periods prescribed in WAC 460-90A-035 or the next banking day after the cancellation periods prescribed in WAC 460-90A-035, whichever is later, until the Director takes further action pursuant to WAC 460-90A-100.

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 SDO-40-83, filed 3/2/83)

WAC 460-90A-100 RELEASE OF IMPOUNDS. The Director or Administrator will authorize the depository to release to the (~~camping club~~) operator or others as provided in the terms of the impound, such amount of the impounded funds applicable to a specified purpose (~~(such as selling costs, the purchase of realty or the construction of the improvement)~~), upon a showing that the (~~camping club~~) operator can satisfy his obligations under the camp(~~ing club~~) resort contract and the impound arrangement (~~(to furnish purchasers the services tendered)~~) or that for other reasons the impound is no longer required for the protection of the purchasers. An application for an order of the Director or Administrator authorizing the release of the impound to the (~~camping club~~) operator or other persons shall be (~~(verified)~~) by affidavit and shall contain the following:

(1) A statement of the (~~camping club~~) operator that all required proceeds and documents from the sale of contracts have been placed with the depository in accordance with the terms and condition of the impound agreement.

(2) A statement of the depository signed by an appropriate officer setting forth the (~~aggregate~~) amount of funds placed, already disbursed and presently in the custody of the depository.

(3) The names of each (~~camping club~~) contract purchaser and the amount held in the impound for (~~(of)~~) each of the accounts. (~~(of each purchaser)~~)

(4) Such other information as the Director may request in a particular case.

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

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

AMENDATORY SECTION (Amending Order RE 131, filed 5/29/85)

WAC 460-90A-115 RENEWALS. (1) Pursuant to RCW 19.105.420 an application for renewal shall be made not less than sixty days prior to the expiration date of a registration, on a form to be provided by the agency.

(2) It shall be the applicant's responsibility to procure forms and file them with the agency.

(3) The renewal application shall include the following:

(a) Affidavits by the operator stating whether or not there have been any changes in the information and documentation previously submitted for purposes of registration.

(b) Copies or prototypes of all amended, altered, or new documentation evidencing changes with the changes being underlined or referred to by footnotes.

(c) Affidavits by the operator stating whether or not there have been any changes in the information required in the public offering statement.

(d) A draft of a proposed amended public offering statement evidencing changes, with the changes being underlined or referred to by a cover letter calling the agency's attention to the proposed changes, additions to or deletions from the public offering statement previously accepted by the agency.

(e) A copy of all camp resort contract forms marked and underscored to reflect changes, additions or deletions.

(f) Financial statements and information as provided for in WAC 460-90A-045.

(g) Payment of fees provided for in RCW 19.105.410.

(4) Failure of the renewal applicant to renew in a timely manner on or before the date of permit expiration, shall mean that the registration and permit has expired. Upon expiration of registration the camping club contracts are deemed not registered and the operator must register as a new applicant pursuant to the provisions of RCW 19.105.320 and WAC 460-90A-025 and 460-90A-027.

(5) Registrants applying for renewals shall be required by the agency to submit any of the documents, information or exhibits required in WAC 460-90A-025 if deemed necessary for the protection of purchasers.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 460-90A-050 REGISTRATION NOT ENDORSEMENT

WSR 85-12-023

NOTICE OF PUBLIC MEETINGS HUMAN RIGHTS COMMISSION

[Memorandum—May 30, 1985]

The Washington State Human Rights Commission will conduct a special meeting, executive session only, to discuss personnel matters on June 7, 1985. The meeting will be held at the Madison Hotel, Room 404, 515 Madison Street, Seattle, beginning at 5:00 p.m.

WSR 85-12-024
ADOPTED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Order 85-11—Filed May 31, 1985]

I, Richard A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at the General Administration Building, Olympia, Washington 98504, the annexed rules relating to the amendment of rules, definitions, and risk classification language contained in chapter 296-17 WAC applicable to workers' compensation insurance underwritten by the Department of Labor and Industries including: Repeal of WAC 296-17-375, a rule applicable to work done by contract no longer required as a result of amendments to WAC 296-17-520, a risk classification applicable to building construction, alteration, or repair; amendments to WAC 296-17-643, a risk classification definition applicable to agriculture expanding the scope of the classification to include vegetable growing N.O.C. including harvesting and removing similar language from WAC 296-17-649; and amendments to WAC 296-17-716, a risk classification definition applicable to labor unions to allow the separate reporting of clerical office and outside sales.

This action is taken pursuant to Notice No. WSR 85-09-046 filed with the code reviser on April 16, 1985. 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 51.16.035 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED May 31, 1985.

By Richard A. Davis
 Director

AMENDATORY SECTION (Amending Order 83-36, filed 11/30/83, effective 1/1/84)

WAC 296-17-520 CLASSIFICATION 5-5.

Construction, erection, alteration or repair of private residences

Construction, erection, alteration or repair of buildings, N.O.C.

Gutters - installation, service or repair - on structures

Glass installation away from shop

Wallboard installation, plastering, stuccoing and lathing
 Insulation or soundproofing materials installation,
 N.O.C.

Fixtures - cabinets, counters, drainboards, mantels, etc.
 installation

Weather strip installation

Hardwood floor installation and refinishing

Door, door frame, sash, overhead door, siding installation framing and carpentry, N.O.C.

Elevator door bucks - installation

Mobile home set up including installation of skirting and awnings by contractor. Excludes mobile home set up by mobile home dealer rated under risk classification 34-1 (WAC 296-17-579)

Fire escapes and awnings - installation, erection, repair and removal outside buildings

Decorative metal shutters - installation, erection and removal - no buntings

Scaffolds, hod hoists, concrete and cement distributing towers, sidewalk bridges and construction elevators, installation or removal

Debris cleaning and removal and building clean-up after construction

~~((All building industry operations, which include all field activities in connection with excavating and backfilling, erection, alteration, repair, or demolishing of any building or buildings, or part thereof or appurtenance thereto. This classification will apply to all work performed by the prime building contractor. Work performed by contractors other than the prime contractor is subject to this classification, with the exception of the excavating contractors, electrical contractors, plumbing contractors, heating contractors, painting contractors, steel erection contractors, masonry contractors, and concrete contractors, roofing contractors, building raising, moving, and underpinning contractors, and building wrecking or demolition contractors.))~~

See risk classification 52-6 (WAC 296-17-675) for permanent yard operations.

AMENDATORY SECTION (Amending Order 83-36, filed 11/30/83, effective 1/1/84)

WAC 296-17-716 CLASSIFICATION 65-3.

Labor unions or employee representative associations
 This classification includes all employees including any official representatives (~~(, clerical office and sales personnel)~~).

REPEALER (Amending Order 83-36, filed 11/30/83, effective 1/1/84)

The following section of the Washington Administrative Code is repealed:

WAC 296-17-375 WORK DONE BY CONTRACT.

AMENDATORY SECTION (Amending Order 85-7, filed 2/28/85, effective 4/1/85)

WAC 296-17-643 CLASSIFICATION 48-2.

Berry farms

Bulb raising

Flower seed growing including harvesting of seeds

Picking of forest products, N.O.C.

Truck gardening - farm-to-market fresh produce including harvesting, picking and packing of produce, excluding meats of any kind

Vegetable crops, N.O.C. including harvesting

Vineyards including harvesting of fruit

This classification excludes fresh fruit packing operations rated under risk classification 21-4 (WAC 296-17-564); and fruit cannery or freezer operations rated under risk classification 39-2 (WAC 296-17-615) unless specifically included by manual language.

AMENDATORY SECTION (Amending Order 85-7, filed 2/28/85, effective 4/1/85)

WAC 296-17-649 CLASSIFICATION 48-8.

Alfalfa and clover seed growing
Field crops, N.O.C., including raising of all hay, cereal grains, and sugar beets(~~(, and vegetables)~~)

Potato sorting and storage, N.O.C.
This classification applies to all operations incidental to the enterprises described above

This classification excludes grain milling operations rated under risk classification 21-1 (WAC 296-17-562); fresh vegetable packing operations rated under risk classification 21-4 (WAC 296-17-564); and vegetable cannery or freezer operations rated under risk classification 39-2 (WAC 296-17-615).

**WSR 85-12-025
PROPOSED RULES
DEPARTMENT OF AGRICULTURE**
[Filed May 31, 1985]

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 relating to the use of biological products in animal health care, chapter 16-42 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 17, 1985.

The authority under which these rules are proposed is chapter 16.36 RCW.

This notice is connected to and continues the matter in Notice No. WSR 85-09-061 filed with the code reviser's office on April 17, 1985.

Dated: May 31, 1985
By: Mike Willis
Assistant Director

**WSR 85-12-026
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**
(Public Assistance)
[Filed May 31, 1985]

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 general assistance, amending chapter 388-37 WAC;

that the agency will at 1:30 p.m., Tuesday, July 16, 1985, in the Lunchroom, Capitol Hill Community Services Office, 1700 East Cherry, Seattle, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 23, 1985.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.08 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 16, 1985.

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 Administrative Regulations Section, at State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 2, 1985. The meeting site is in a location which is barrier free.

Dated: May 31, 1985
By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.
Re: General assistance—Unemployable, chapter 388-37 WAC.

Purpose of the Rule Change: To revise procedures for determining incapacity.

Reason These Rules are Necessary: To establish statewide standards for incapacity and to comply with provisions in the 1983 Legislative Appropriations Act.

Statutory Authority: RCW 74.08.090.

Summary of the Rule Change: Revises requirements for medical evidence and sets forth a standardized process for evaluating medical and other relevant information in determining incapacity in response to the legislative mandate.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule Change: Barbara Hargrave, Community Services Program Manager, Division of Income Assistance, mailstop OB 31C, phone 753-3340 (off scan).

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

AMENDATORY SECTION (Amending Order 2152, filed 9/17/84)

WAC 388-37-030 CONTINUING GENERAL ASSISTANCE—ELIGIBLE PERSONS. When other eligibility has been established, continuing general assistance shall be granted to:

- (1) Incapacitated persons. As used in this section, incapacitated person means a person physically, emotionally, or mentally unable to work as a result of a condition expected to continue for at least sixty days from date of application, except as provided in WAC 388-37-038 (1) through (4). Incapacity refers to the individual's capacity to earn

income by employment. It does not refer to the availability or lack of job opportunities.

(a) Eligible individuals are:

(i) An incapacitated single person age eighteen or older.

(ii) A married couple if both persons are incapacitated.

(iii) The incapacitated spouse in the case of a married couple when only one person is employable. The income and resources of the employable spouse shall be considered as described in WAC 388-28-500 (2)(a) and (b).

~~((iv) Persons in approved drug or alcoholism treatment programs may be eligible for less than a sixty-day period in accordance with the terms of their treatment plan, as provided in WAC 388-37-038 (3) and (4).))~~

(b) An incapacitated individual must accept and follow through on required available medical treatment, which can reasonably be expected to render him or her able to work, unless there is good cause for failure to do so.

The department shall make the "good cause" determination based on the criteria in WAC 388-37-037(4).

~~((Individuals found to be incapacitated due to alcoholism or drug abuse must be participating in an approved alcoholism or certified drug treatment program, unless there is good cause for failure to do so.))~~

(c) An incapacitated individual may also receive medical services provided under the state-financed medical care services program as defined in WAC 388-86-120.

(2) Effective August 23, 1983, pregnant women who:

(a) Meet all income and resource eligibility criteria for the federal aid to dependent children program; and

(b) Are in their first or second trimester of pregnancy and categorically eligible for a federal aid medical assistance program; or

(c) Are members of two-parent households during a time when the aid to dependent children-employable program is in effect, but do not meet categorical eligibility for AFDC-E. These women may receive a continuing general assistance grant and medical assistance under the state-financed medical care services program for the duration of their pregnancy.

AMENDATORY SECTION (Amending Order 2152, filed 9/17/84)

WAC 388-37-060 CONGREGATE CARE—ALCOHOLISM TREATMENT. (1) For persons eligible for congregate care, see WAC 388-15-562.

(2) Alcoholism treatment is provided to the detoxified alcoholic in congregate care facilities for which the treatment program has been approved by the state. Treatment may be:

(a) Intensive inpatient treatment services for thirty days or less.

(b) Long-term services in a nonintensive program in an extended care recovery house for one hundred and eighty days. This program may be extended in individual cases.

(c) Residential rehabilitative services in a recovery house setting for up to sixty days.

(3) An individual's need for alcoholism treatment in either a privately or publicly operated facility shall be determined by:

(a) Evaluation and recommendation ~~((of a state-approved community alcoholism center))~~ by a qualified alcoholism counselor employed in a state approved intensive alcoholism treatment facility, halfway house, or outpatient treatment program, or

(b) A court order.

(4) Persons receiving services in an intensive alcoholism treatment program shall not be required to participate in the cost of care. Following the month of admission income of individuals receiving recovery house or extended care recovery house rehabilitative services shall be considered according to the rules applicable to the program under which the benefits are received.

NEW SECTION

WAC 388-37-100 PROGRESSIVE EVALUATION PROCESS.

(1) Unless medical documentation requirements are waived by WAC 388-37-038, the department will determine the existence, severity, and duration of incapacity for the general assistance-unemployable (GAU) program using a step-by-step evaluation process. Each step of the process will be applied sequentially, until a decision to approve or deny has been made. This process will be hereinafter referred to as the progressive evaluation process (PEP).

(2) There are seven steps to the progressive evaluation process. Each individual will be evaluated using the same sequence of steps as set forth in WAC 388-37-110 through 388-37-190 and using as many

steps as necessary to reach a decision as to whether or not incapacity exists.

(a) Step I involves a review of the medical evidence received to ensure the requirements are met in accordance with WAC 388-37-035.

(b) Step II is used to assign an overall mental severity rating.

(c) Step III is used to assign physical severity ratings.

(d) Step IV assigns one overall severity rating for each individual when a combination of impairments exists.

(e) Step V is used to determine the present mental and/or physical functional capacities of the individual.

(f) Step VI reviews the possibility that the individual can still do some type of relevant past work.

(g) Step VII assesses the ability of the individual to perform other work when the individual is not capable of doing any relevant past work and is less than fifty-five years of age.

NEW SECTION

WAC 388-37-110 DETERMINATION OF SEVERITY—GENERAL DEFINITIONS. (1) Severity of a medical impairment is defined as the degree to which an individual is restricted in ability to perform basic work-related activities as measured on a scale from one to five.

(2) Basic work-related activities are: Sitting, standing, walking, lifting, carrying, handling, seeing, hearing, communicating, and understanding and following instructions.

(3) The five severity ratings are defined as follows:

(a) A severity rating of "01" means no impairment has been identified by clear objective medical information. The ability to engage in the basic work-related activities is not restricted.

(b) A severity rating of "02" means a mild impairment exists which would not significantly interfere with the basic work-related activities.

(c) A severity rating of "03" means a moderate impairment exists, resulting in a significant interference with one or more of the basic work-related activities.

(d) A severity rating of "04" means a marked impairment exists, resulting in a very significant restriction of the ability to perform one or more of the basic work-related activities.

(e) A severity rating of "05" means the ability to perform one or more of the basic work-related activities is absent.

(4) One overall severity rating is determined for each individual based on an assessment of the severity of each diagnosed impairment and an assessment of whether the effect of multiple impairments significantly interferes with one or more basic work-related activities.

(a) Individuals with an overall severity rating of "01" or "02" shall be considered capable of gainful employment and shall not be eligible for GAU, subject to the provisions in WAC 388-37-050(2).

(b) Individuals with an overall severity rating of "03" or "04" may or may not be incapacitated from gainful employment, depending on a further assessment of functional capacities and vocational factors.

(c) Individuals with an overall severity rating of "05" shall be considered incapacitated and eligible for GAU.

NEW SECTION

WAC 388-37-115 PROGRESSIVE EVALUATION PROCESS STEP I—REVIEW OF MEDICAL DOCUMENTATION. The department will review medical documentation prior to making a determination of incapacity in order to insure the following requirements have been met:

(1) The medical report must contain sufficient information on which to determine incapacity per WAC 388-37-035(2). If the information received is not sufficient to determine incapacity, the department can require complete information before any incapacity decision is made.

(2) The medical report must be a written report from an authorized medical professional.

(3) The impairment(s) must be expected to last at least sixty days from the date of application.

(4) The medical report must document the existence of a potentially incapacitating condition.

NEW SECTION

WAC 388-37-120 PROGRESSIVE EVALUATION PROCESS STEP II—SEVERITY OF MENTAL IMPAIRMENTS. If a mental impairment is claimed, the severity rating of the mental or emotional disorder shall be determined on the basis of psychosocial and treatment

history, clinical findings, results of special tests, and professionally observed symptomatology which indicate impairment of ability to perform basic work-related activities.

(1) A diagnosis of mental retardation shall be assigned a severity rating as follows:

(a) An IQ of 85 or above will be considered within normal limits and will be rated "01".

(b) An IQ of 70 to 84 will be considered as borderline intellectual functioning and will be rated "03".

(c) An IQ of 69 or below will be rated "05".

(d) When more than one IQ score (e.g., verbal and performance scores) is reported on a standardized IQ test, the severity rating will be based on the lowest of these scores.

(2) Individuals diagnosed as having organic brain damage shall be assigned a rating based on the most severe of the following three areas of impairment:

(a) Marked memory defect for recent events.

(b) Impoverished, slowed, perseverative thinking, with confusion or disorientation.

(c) Labile, shallow, or coarse affect.

(3) The severity of a functional psychotic or nonpsychotic disorder shall be based on a clinical assessment of these twelve symptoms: Depressed mood, suicidal trends, expression of anxiety or fear, expression of anger, social withdrawal, motor agitation, motor retardation, paranoid behavior, hallucinations, thought disorder, hyperactivity/elation, and physical complaints; and an overall assessment of the intensity and pervasiveness of these symptoms and their effect on ability to perform work-related activities.

(a) An individual shall be assigned a minimum rating of "03" when at least one of the above symptoms is present and one or more of the following conditions are met:

(i) A diagnosis of psychotic disorder has been made; or

(ii) The individual has been hospitalized for psychiatric reasons two or more times within the preceding two years; or

(iii) The individual has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months duration within the preceding two years; or

(iv) The individual is considered as at least moderately impaired by three or more of the symptoms listed above; or

(v) The individual is considered as at least moderately impaired in the overall assessment of intensity and pervasiveness of these symptoms.

(b) An individual shall be assigned a minimum rating of "04" when the overall assessment of the intensity and pervasiveness of these symptoms is marked, or when it is moderate and three or more of the above symptoms are present to a marked degree or more.

(c) An individual shall be assigned a rating of "05" when the overall assessment of the intensity and pervasiveness of these symptoms is severe or when it is marked and three or more of the above symptoms are present to a severe degree.

(4) When an individual is diagnosed as being impaired in more than one area (i.e., mental retardation, organic brain damage, or functional disorder), one mental rating shall be assigned based on ratings in each of the three areas according to the following:

(a) An individual with at least two moderate impairments or at least one moderate and one marked impairment is considered to have an overall mental severity rating of "04".

(b) An individual with at least two marked impairments is considered to have an overall mental severity rating of "05".

(5) Based on the overall mental severity rating a determination of incapacity may be made as follows:

(a) An individual with no significant claimed physical impairment and an overall mental severity rating of "01" or "02" is not eligible for GAU, provided the overall functioning level appears consistent with this rating.

(b) An individual with an overall mental severity rating of "05", who meets the time limits in WAC 388-37-030(1), is eligible for GAU regardless of whether there is a significant claimed physical impairment, provided the overall functioning level appears consistent with this rating.

(c) An individual with an overall mental severity rating of "03" or "04" and no significant claimed physical impairment must be evaluated to determine how functional capacity is affected by the mental impairment.

(d) An individual with an overall mental severity rating of "01", "02", "03" or "04", who claims a significant physical impairment,

must have the severity of the physical impairment evaluated, if necessary to determine incapacity.

NEW SECTION

WAC 388-37-130 PROGRESSIVE EVALUATION PROCESS STEP III—SEVERITY OF PHYSICAL IMPAIRMENTS. (1) If a physical impairment is claimed the severity rating of the physical disorder shall be determined on the basis of current medical evidence which provides an objective description of an individual's medical condition.

(2) Each diagnosed impairment shall be assigned a severity rating based on the following method:

(a) The examining physician's estimated severity rating will be used when the following three conditions are met:

(i) The doctor's rating is substantiated by and is consistent with the medical evidence provided; and

(ii) The doctor's assessment of functional capacities is consistent with the given severity rating as defined in WAC 388-37-110; and

(iii) No evidence to the contrary exists either within the same evaluation or another current evaluation on the same individual.

(b) When the doctor has not assigned a severity rating or that rating does not meet the conditions in (a) of this subsection, the department shall assign a rating based on the medical assessment of functional capacities in conjunction with the severity ratings as defined in WAC 388-37-110.

(3) Based on the severity rating of each physical impairment, a determination of incapacity will be made as follows:

(a) An individual with no physical impairment rated higher than "02" and whose overall functioning level appears consistent with the rating, shall not be eligible for GAU.

(b) An individual with a severity rating of "05" for any impairment, who meets the time limits in WAC 388-37-030(1), is eligible for GAU, provided the overall functioning level appears consistent with this rating.

(c) An individual with only one physical impairment with a severity of "03" or "04" and no significant mental impairment must be evaluated to determine how functional capacity is affected by the physical impairment.

(d) The effect of multiple significant physical impairments or a combination of significant mental and physical impairments will be determined according to WAC 388-37-140.

NEW SECTION

WAC 388-37-135 ALCOHOLISM/DRUG ADDICTION. (1) Unless otherwise exempted by WAC 388-37-038 (3) or (4), individuals claiming incapacity due to alcoholism or drug addiction will be required to provide medical evidence in accordance with WAC 388-37-035 which substantiates impaired ability to perform basic work-related activities. Supplemental evidence from a professional alcohol or drug counselor may be requested as needed to further assess the condition(s) and/or to recommend appropriate treatment.

(2) Severity of physical impairments associated with alcoholism or drug addiction shall be assessed according to WAC 388-37-130.

(3) Severity of organic brain syndrome associated with alcoholism or drug addiction shall be assessed according to WAC 388-37-120(2).

(4) Severity of functional nonpsychotic mental and emotional disorders associated with alcoholism or drug addiction shall be assessed according to WAC 388-37-120(3).

(5) Individuals found to be incapacitated due to alcoholism or drug addiction must participate in an approved alcoholism or certified drug treatment program, unless there is good cause for failure to do so.

NEW SECTION

WAC 388-37-140 PROGRESSIVE EVALUATION PROCESS STEP IV—MULTIPLE IMPAIRMENTS. (1) When an applicant has more than one diagnosed impairment rated "03" or "04," but none rated "05," one overall rating shall be determined as follows:

(a) Each diagnosis shall be classified according to body system based upon International Classification of Diseases (ICD), 9th Revision.

(b) If all the diagnosed impairments are classified within the same body system, the overall severity rating will be equal to the highest rated impairment within that system.

(2) If more than one body system is involved (including mental disorders), the overall severity will be determined by the following, using the highest rating from each body system:

(a) An individual with at least two moderate impairments or at least one marked and one moderate impairment is considered to have an overall severity rating of "04".

(b) An individual with at least two marked impairments is considered to have an overall severity rating of "05".

(3) Based on the overall severity rating, a determination of incapacity is made as follows:

(a) An individual with an overall severity rating of "05," who meets the time limits in WAC 388-37-030(1) is eligible for GAU.

(b) Individuals with a severity rating of "03" or "04" must be evaluated to determine how their multiple physical and/or mental impairments affect their functional capacity.

NEW SECTION

WAC 388-37-150 PROGRESSIVE EVALUATION PROCESS STEP V—FUNCTIONAL CAPACITIES—MENTAL IMPAIRMENTS. (1) Functional capacities of persons with mental impairments with an overall severity rating of "03" or "04" are evaluated in terms of two factors:

(a) Cognitive factors include the ability to understand, remember, and follow instructions; learn new tasks; exercise judgment and make decisions; and perform routine tasks without undue supervision.

(b) Social factors include ability to relate appropriately to coworkers and supervisors, interact appropriately in public contacts, tolerate the pressures of a work setting, care for self and maintain appropriate behavior in a work setting.

(2) If an individual is at least moderately impaired in his/her ability to understand, remember and follow simple instructions and is at least moderately limited in his/her ability to learn new tasks, exercise judgment, and make decisions, and perform routine tasks without undue supervision, the individual is considered eligible for GAU. If no moderate impairment exists in these areas, social factors will be assessed.

(3) If the individual can understand, remember, and follow simple one or two step instructions, but is at least moderately impaired in his/her ability to understand, remember, and follow complex three or more step instructions, and is markedly limited in his/her ability to learn new tasks, exercise judgment and make decisions, and perform routine tasks without undue supervision, the individual is considered eligible for GAU. If no marked limitation exists in these areas, social factors will be assessed.

(4) If there is no impairment or a mild impairment in the ability of the individual to understand, remember and follow both simple and complex instructions, social factors will be assessed.

(5) Responses given by the psychiatrist or mental health professional concerning the applicant's social functional limitations are assessed by the department. If a combination of significant limitations exists in the area of social functioning which preclude gainful employment, the individual is considered eligible for GAU.

(6) Individuals who are not eligible for GAU on the basis of significant impairment of functional capacities, shall have their ability to perform relevant past work evaluated according to WAC 388-37-180.

NEW SECTION

WAC 388-37-160 PROGRESSIVE EVALUATION PROCESS STEP V—FUNCTIONAL CAPACITIES—PHYSICAL IMPAIRMENTS. For individuals with a physical impairment with an overall severity rating of "03" or "04," the department shall consider the effect of the physical impairment(s) on the ability to perform work-related activities. Functional capacities will be assessed on the basis of the individual's exertional, exertionally-related and nonexertional physical limitations. For any limitation to be considered, it must be substantiated by the medical evidence and directly related to the diagnosed impairment(s).

(1) Physical impairments which limit exertion are those which result in the restriction of activities such as standing, walking, lifting, and carrying. As defined in this section, occasional lifting means less than one-third of the time and frequent lifting means one-third to two-thirds of the time. Levels of exertion are divided into the following four categories:

(a) Sedentary: A person is in this category when capable of lifting ten pounds maximum or severely restricted in ability to stand and/or walk for a total of six hours in an eight-hour work day.

(b) Light: A person is in this category when capable of occasionally lifting twenty pounds maximum with frequent lifting and/or carrying

of objects weighing up to ten pounds, or moderately restricted in ability to stand and/or walk for a total of six hours in an eight-hour work day.

(c) Medium: A person is in this category when capable of occasionally lifting fifty pounds maximum with frequent lifting and/or carrying of objects weighing up to twenty-five pounds and is unrestricted or mildly restricted in ability to stand and/or walk for a total of six hours in an eight-hour day.

(d) Heavy: A person is in this category when capable of occasionally lifting one hundred pounds or more, with frequent lifting and/or carrying of objects weighing up to fifty pounds, and is unrestricted in ability to stand and/or walk a total of six hours in an eight-hour work day.

(2) Physical impairments which may limit exertionally-related abilities are those which cause restrictions in mobility, agility or flexion, including balancing, handling, stooping, pulling, pushing, reaching, and sitting.

(3) Nonexertional physical limitations include any limitation not listed in subsections (1) and (2) of this section. These include, but are not limited to, sensory impairments, allergies, seizure disorders, etc., such as seeing, hearing, environmental restrictions, or ability to operate dangerous machinery.

(4) Based on an individual's physical exertional, exertionally-related and nonexertional limitations, an evaluation will be made of the individual's ability to perform relevant past work according to WAC 388-37-180.

NEW SECTION

WAC 388-37-170 EVALUATION OF VOCATIONAL FACTORS FOR STEPS VI AND VII. (1) The vocational factors used in evaluating incapacity are age, education, and work experience.

(2) Vocational factors are considered only when an overall severity rating of an "03" or "04" has been determined.

(3) Educational factors refer primarily to formal schooling or other training which contributes to the individual's ability to meet vocational requirements. The following classifications are used when evaluating the educational level of an individual:

(a) Illiteracy refers to the inability to read or write. An individual who is able to sign his or her name, but cannot read or write a simple communication (e.g., instructions, inventory lists) is considered illiterate. Generally, an illiterate person has little or no formal schooling (six years or less).

(b) Limited education. Absent evidence to the contrary, a seventh grade through the eleventh grade of formal education is considered a limited education.

(c) High school education and above. Absent evidence to the contrary, these educational capacities qualify an individual for work at a semi-skilled through skilled level of job complexity. A General Education Equivalency Degree (GED) falls into this category.

(4) Work experience.

(a) Work experience is evaluated to see if it constitutes relevant past work. Relevant past work is any work normally done for pay or profit in the past five years. To be "relevant," a job must have been done for a period long enough to show that the worker had the ability to do that type of work on an ongoing basis (i.e., at least thirty days for unskilled work; at least three months for semi-skilled work; at least six months for skilled work).

(b) Jobs held for very brief periods of time (less than thirty days), work done in a sheltered workshop or with other special considerations, and the duties of a student or housewife are not counted as relevant work experience.

(c) A job history which includes many jobs held for short periods of time, even though long enough to meet the time criteria for the skill level of the job, may or may not constitute relevant past work. Consideration must be given to the reasons for frequent job changes and the nature of the work or skill involved.

NEW SECTION

WAC 388-37-180 PROGRESSIVE EVALUATION PROCESS STEP VI—EVALUATION OF CAPACITY TO PERFORM PAST WORK. (1) Prior to considering age and educational factors, the ability of an individual to perform relevant past work will be assessed in relation to current functional capacities.

(2) All of the individual's relevant past work shall be evaluated to determine exertional and skill requirements for each job.

(a) If the individual is currently able to perform at the exertional and skill levels of one or more of his/her relevant past jobs, other cognitive, social, and/or nonexertional requirements of the job will be considered.

(b) Subject to the provisions in WAC 388-37-050(2), an individual will be ineligible for GAU if he or she is still capable of performing the necessary physical and/or mental activities required of a relevant past job or other work for which he or she has recently acquired specific skills through successful completion of vocational training.

(c) An individual at least moderately impaired and age fifty-five or older who is unable to meet the physical and/or mental demands of any relevant past work, or has no relevant past work, shall be considered incapacitated and eligible for GAU.

(d) If the individual is currently unable to meet the mental and/or physical demands of any of his/her past jobs and is under age fifty-five, he/she is evaluated for capacity to do other work.

NEW SECTION

WAC 388-37-190 PROGRESSIVE EVALUATION PROCESS STEP VII—ASSESSMENT OF CAPACITY TO PERFORM OTHER WORK. (1) Individuals with a severity rating of "03" or "04" whose incapacity has not yet been determined by Step VI, shall be assessed for possible referral for an administrative review.

(2) The department shall approve GAU for individuals who have a significant physical exertional limitation (this may also include a significant exertionally-related impairment), and:

(a) Are limited to sedentary work; or

(b) Are limited to light work, and are:

(i) Over fifty; or

(ii) Over thirty-five and cannot speak, read, or write English; or

(iii) Over eighteen, with less than a twelfth grade education and no relevant past work; or

(c) Can do at least medium work, and are over fifty, with less than a twelfth grade education and no relevant past work; or

(d) Can do heavy work and are over fifty-five.

(3) The department shall approve GAU for individuals who have a significant mental impairment, and:

(a) Are over fifty and have at least a "moderate" limitation in the ability to relate appropriately with coworkers and supervisors in public contacts, and a "marked" limitation in the ability to tolerate the pressures of a normal work setting; or

(b) Are eighteen to fifty-four and have a "marked" limitation in the ability to tolerate the pressures of a normal work setting; or

(c) Are eighteen to forty-nine and have a severity rating of "04" and at least one of the twelve symptoms identified in WAC 388-37-120(3) listed as "severe" and have a "moderate" limitation in the ability to relate appropriately with coworkers and supervisors in public contacts and a "marked" limitation in the ability to tolerate the pressures of a normal work setting.

(4) The department shall approve GAU for the individual who has both a significant mental and a significant physical limitation when either of those impairments meet the criteria in subsections (2) and (3) of this section, except that:

(a) The age requirement in subsection (3)(a) of this section does not apply; and

(b) The individual may have relevant past work.

(5) All individuals who do not meet the criteria under subsection (2), (3), or (4) of this section and who have either a significant mental or significant nonexertional physical impairment shall have their incapacity determined by administrative review.

(a) This review will be performed by at least two departmental designees.

(b) Criteria for this review includes, but is not limited to, an assessment of all available medical information along with any vocational factors which may pose a barrier to employment.

(6) All individuals who do not meet the criteria under subsection (2), (3), (4), or (5) of this section are not considered incapacitated for GAU.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-37-036 INCAPACITY—FUNCTIONAL, MENTAL, AND EMOTIONAL DISORDERS.

WSR 85-12-027
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2234—Filed May 31, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Food stamps—Income—Definitions, amending WAC 388-54-725.

I, David A. Hogan, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these rules are necessary to comply with 7 CFR 273.9.

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

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

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

APPROVED AND ADOPTED May 31, 1985.

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

AMENDATORY SECTION (Amending Order 1905, filed 11/18/82)

WAC 388-54-725 INCOME—DEFINITIONS.

(1) *Earned income shall include:*

(a) *All wages and salaries of an employee.*

(b) *Total gross income from a self-employment enterprise including the total gain from the sale of any capital goods or equipment related to the business, excluding the cost of doing business.*

(i) *Payments from a roomer or boarder.*

(ii) *Returns on rental property, only if the household member is engaged in management of said property at least an average of twenty hours a week.*

(c) *Training allowances from vocational and rehabilitative programs recognized by federal, state, or local governments, such as WIN or CETA, to the extent ((they)) training allowances are not a reimbursement.*

(d) *Payments under Title I (Vista, University Year for Action, etc.) of the Domestic Volunteer Service Act of 1973 (((Public Law))) P.L. 93-113 Statute, as amended).*

(e) *Payments of earned income tax credit (EIC).*

(2) *Unearned income shall include but not be limited to:*

(a) *Payments received from federally-aided public assistance programs, general assistance, or other assistance programs based on need.*

(b) Moneys withheld from public assistance for purposes of recouping an overpayment resulting from the household's intentional failure to comply with the public assistance program's requirement.

(c) An annuity, pension, retirement, veteran's, or disability benefit; workmen's or unemployment compensation; and old-age or survivor's benefits; or strike benefits.

((f)) (d) The total payment to a household on behalf of a legally-assigned foster child or adult.

((f)) (e) Support and alimony payments from non-household members made directly to the household.

((f)) (f) Scholarships, educational grants (including loans on which repayment is deferred), fellowships, and veteran's education benefits in excess of amounts excluded. Such income shall be averaged over the period ((which)) it is intended to cover.

((f)) (g) Payments received from government-sponsored programs.

((f)) (h) Dividends, interest, royalties, and all other direct money payments which are gain or benefit.

((f)) (i) Gross income minus cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least twenty hours a week.

(3) The following items shall be disregarded as income:

(a) Moneys withheld voluntarily or involuntarily from an assistance payment except for a mandatory deduction resulting from the household's failure to comply, earned income, or other source to repay a prior overpayment.

(b) Child support payments received by AFDC recipients which must be transferred to support enforcement.

WSR 85-12-028
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 85-55—Filed May 31, 1985]

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

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is harvestable numbers of shad are present, and this order is adopted pursuant to the Columbia River compact.

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

This rule is promulgated pursuant to RCW 75.08.070 and 75.08.080 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED May 31, 1985.

By Russell W. Cahill
for William R. Wilkerson
Director

NEW SECTION

WAC 220-32-04100H SEASONS AND AREAS - SHAD Notwithstanding the provisions of WAC 220-32-041, (1) it is unlawful to take, fish for or possess shad for commercial purposes with gill nets except from the following areas during the specified times with each area as follows:

(a) A line commencing at the white six-second equal-interval light approximately 3/4 mile east of the Washougal Woolen Mill pipeline and projected westerly to the Washougal blinker light; thence continuing westerly to the white four-second blinker light on the east end of Lady Island, thence easterly and northerly along the shoreline of Lady Island to the State Highway 14 Bridge; thence easterly across State Highway 14 Bridge to the mainland to point of origin, and excluding the waters of Camas Slough upstream from a line projected true north from the most western tip of Lady Island to the mainland, from 4:00 a.m. to 10:00 p.m. on the following days:

June 3 through June 7, 1985

June 10 through June 14, 1985

June 17 through June 21, 1985

June 24 through June 28, 1985

Lawful gear is defined in WAC 220-32-023, except that breaking strength of a 30-pound pull is lawful regardless of mesh twine denier size and monofilament gill nets are allowed.

(b) Those waters of the Columbia River upstream and easterly of a line projected from the flashing red light No. 52 on the Oregon shore near the downstream end of Gary Island, diagonally north to a white equal-interval light on the Washington shore, and including those waters of the Columbia River downstream and westerly of a line projected across the Columbia River at a point 5 miles below Bonneville Dam from 4:00 a.m. to 10:00 p.m. on the following days:

June 3 through June 7, 1985

June 10 through June 14, 1985

June 17 through June 21, 1985

Lawful gear is defined in WAC 220-32-023 and monofilament gill nets are allowed.

(c) It is unlawful to retain any fish except shad.

(2) It is lawful for individuals possessing treaty fishing rights pursuant to the Yakima, Warm Springs, Umatilla and Nez Perce treaties to take, fish for or possess shad for commercial purposes with dip nets at any time in Columbia River Management and Catch Reporting Areas 1F, 1G and 1H.

WSR 85-12-029
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(General Provisions)

[Order 2236—Filed May 31, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to fees, amending chapter 440-44 WAC.

This action is taken pursuant to Notice No. WSR 85-09-054 filed with the code reviser on April 17, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 43.20A-.055 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 May 31, 1985.

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

AMENDATORY SECTION (Amending Order 1965, filed 6/1/83)

WAC 440-44-035 HEALTH FACILITY CONSTRUCTION REVIEW FEES. An application for project review shall be accompanied by payment of a fee as follows:

| Estimated Cost Range of Construction Project | Standard Project Review Fee |
|-------------------------------------------------|--------------------------------|
| \$ 0 to \$ 499 | \$ ((50))60 |
| 500 to 999 | ((100))120 |
| 1,000 to 1,999 | ((150))180 |
| 2,000 to 2,999 | ((200))240 |
| 3,000 to 4,999 | ((250))300 |
| 5,000 to 9,999 | ((300))360 |
| 10,000 to 19,999 | ((400))480 |
| 20,000 to 29,999 | ((500))600 |
| 30,000 to 39,999 | ((600))720 |
| 40,000 to 49,999 | ((700))840 |
| 50,000 to 64,999 | ((800))960 |
| 65,000 to 79,999 | ((900))1,080 |
| 80,000 to 99,999 | ((1,000))1,200 |
| 100,000 to 124,999 | ((1,250))1,500 |
| 125,000 to 149,999 | ((1,500))1,800 |
| 150,000 to 199,999 | ((1,750))2,100 |
| 200,000 to 249,999 | ((2,000))2,400 |
| 250,000 to 324,999 | ((2,250))2,700 |
| 325,000 to 449,999 | ((2,500))3,000 |
| 450,000 to 574,999 | ((2,750))3,300 |
| 575,000 to 699,999 | ((3,000))3,600 |
| 700,000 to 849,999 | ((3,500))4,200 |
| 850,000 to 999,999 | ((4,000))4,800 |
| 1,000,000 to 1,249,999 | ((4,500))5,400 |
| 1,250,000 to 2,499,999 | ((5,000))6,000 |
| 2,500,000 to 2,999,999 | ((5,500))6,600 |
| 3,000,000 to 3,499,999 | ((6,000))7,200 |
| 3,500,000 to 4,999,999 | ((6,500))7,800 |
| 5,000,000 to 6,999,999 | ((7,500))9,000 |
| 7,000,000 to 9,999,999 | ((8,500))10,200 |
| 10,000,000 to 14,999,999 | ((9,500))11,400 |
| 15,000,000 to 19,999,999 | ((11,000))13,200 |
| 20,000,000 to 29,999,999 | ((12,500))15,000 |
| 30,000,000 to 39,999,999 | ((14,000))16,800 |
| 40,000,000 and over | ((16,000))19,200 |

(1) "Project" means a construction endeavor including new construction, replacement, alterations, additions, expansions, conversions, improvements, remodeling, renovating, and upgrading of the following types of facilities:

(a) Chapter 18.20 RCW and chapter 248-16 WAC, Boarding homes.

(b) Chapter 18.46 RCW, Maternity homes, and chapter 248-29 WAC, Childbirth centers.

(c) Chapter 18.51 RCW and chapter 248-14 WAC, Nursing homes.

(d) Chapter 71.12 RCW, Private establishments, and chapter 248-22 WAC, Licensing regulations for private psychiatric and alcoholism hospitals and minimum licensing standards for alcoholism treatment facilities.

(e) Chapter 71.12 RCW, Private establishments, and chapter 248-23 WAC, Residential treatment facilities for psychiatrically impaired children and youth.

(f) Chapter 70.41 RCW, Hospital licensing and regulation, and chapter 248-18 WAC, Hospitals.

(g) Chapter 70.41 RCW, Hospital licensing and regulation, and chapter 248-21 WAC, Hospice care center.

(2) "Project sponsor" means the person, persons or organization planning and contracting for the design and construction of facilities, generally the owner or his or her representative.

(3) "Project cost" means all costs, except taxes, directly associated with the project. Project costs are estimated initially and corrected by certification to the date of completion of the project. Project costs include:

(a) All architectural-engineering designs, plans, drawings, and specifications.

(b) All fixed and/or installed equipment in the project.

(c) Contractor supervision, inspection, and overhead.

AMENDATORY SECTION (Amending Order 2109, filed 6/7/84)

WAC 440-44-040 MEDICAL FACILITIES AND BOARDING HOMES LICENSING FEES. (1) Hospitals: The annual fee shall be sixteen dollars and fifty cents for each bed space within the licensed bed capacity of the hospital. The licensed bed capacity of a hospital shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-18 WAC for twenty-four hour assigned patient rooms including neonatal intensive care bassinet spaces. Bed spaces not used for twenty-four hour assigned patient use, in compliance with the physical plant requirements of chapter 248-18 WAC but not containing the required movable equipment, will be included in the licensed bed capacity: PROVIDED, That the hospital certifies to the department the hospital currently possesses the required movable equipment. The licensed bed capacity shall exclude all normal infant bassinets. The number of licensed bed spaces shall be limited in accordance with decisions made under chapter 70.38 RCW, and bed additions subsequent to the establishment of each hospital's licensed bed capacity by the department shall be subject to review under chapter 70.38 RCW. The number of twenty-four hour assigned patient

beds set up in a hospital shall not exceed the hospital's licensed bed capacity.

(2) Private psychiatric hospitals: The annual fee shall be twenty-seven dollars for each bed space within the licensed bed capacity of the private psychiatric hospital. The licensed bed capacity of a private psychiatric hospital shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four hour assigned patient rooms. Bed spaces not used for twenty-four hour assigned patient use, in compliance with the physical plant requirement of chapter 248-22 WAC but not containing the required movable equipment, will be included in the licensed bed capacity: PROVIDED, That the private psychiatric hospital certifies to the department the private psychiatric hospital currently possesses the required movable equipment.

The number of licensed bed spaces shall be limited in accordance with decisions made under chapter 70.38 RCW, and bed additions subsequent to the establishment of each private psychiatric hospital's licensed bed capacity by the department shall be subject to review under chapter 70.38 RCW. The number of twenty-four hour assigned patient beds set up in a private psychiatric hospital shall not exceed the private psychiatric hospital's licensed bed capacity.

(3) Alcoholism hospitals: The annual fee shall be ~~((sixteen))~~ fifteen dollars for each bed space within the licensed bed capacity of the alcoholism hospital. The licensed bed capacity of an alcoholism hospital shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four hour assigned patient rooms. The number of twenty-four hour assigned patient beds set up in an alcoholism hospital shall not exceed the alcoholism hospital's licensed bed capacity.

(4) Alcoholism treatment facilities: The annual fee shall be eleven dollars and fifty cents for each bed space within the licensed bed capacity of the alcoholism treatment facility. The licensed bed capacity of an alcoholism treatment facility shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four hour assigned patient rooms. The number of twenty-four hour assigned patient beds set up in an alcoholism treatment facility shall not exceed the alcoholism treatment facility's licensed bed capacity.

(5) Boarding homes: The annual fee shall be ~~((eight))~~ twelve dollars times the licensed resident capacity of the boarding home. The licensed resident capacity is the capacity determined by the boarding home and approved by the department. The licensed resident capacity shall be consistent with the physical plant and movable equipment requirements of chapter 248-16 WAC for resident sleeping rooms. The number of residents in a boarding home shall not exceed the licensed resident capacity of the boarding home. The term "resident" as used herein is defined in WAC 248-16-001.

(6) Residential treatment facilities for psychiatrically impaired children and youth: The annual fee shall be ~~((forty-seven))~~ fifty dollars for each bed space within

the licensed bed capacity of the residential treatment facility for psychiatrically impaired children and youth. The licensed bed capacity of a residential treatment facility for psychiatrically impaired children and youth shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-23 WAC for client sleeping rooms. The number of beds set up in a residential treatment facility for psychiatrically impaired children and youth shall not exceed the residential treatment facility for psychiatrically impaired children and youth licensed bed capacity.

(7) Pregnancy termination facilities: The annual fee for licensing and certification of facilities for induction ~~((of))~~ or termination of pregnancy in the second trimester shall be ~~((five))~~ two hundred fifty dollars.

(8) Child birth centers: The annual fee shall be ~~((three))~~ four hundred ~~((ninety))~~ dollars: PROVIDED, That no fee shall be required of charitable, nonprofit or government-operated institutions (as required by RCW 18.46.030).

(9) Residential treatment and rehabilitation facilities for psychiatrically impaired adults: The annual fee shall be thirty-five dollars for each bed space within the licensed bed capacity of the residential treatment and rehabilitation facility for psychiatrically impaired adults. The licensed bed capacity of a residential treatment and rehabilitation facility for psychiatrically impaired adults shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-25 WAC for client sleeping rooms. The number of beds set up in a residential treatment and rehabilitation facility for psychiatrically impaired adults shall not exceed the residential treatment and rehabilitation facility for psychiatrically impaired adults licensed bed capacity.

(10) Hospice care centers: Each application for a license shall be accompanied by a license fee of fifteen dollars and fifty cents for each bed space within the licensed bed capacity of the hospice care center. The licensed bed capacity shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-21 WAC for twenty-four hour assigned patient rooms. The number of twenty-four hour assigned patient beds set up in a hospice care center shall not exceed the hospice care center's licensed bed capacity.

(11) Hospice agencies: The annual fee for each facility certified under chapter 70.126 RCW shall be two hundred fifty dollars.

(12) Home health agencies: The annual fee for each facility certified under chapter 70.126 RCW shall be two hundred fifty dollars.

AMENDATORY SECTION (Amending Order 2109, filed 6/7/84)

WAC 440-44-065 SHELLFISH PROGRAM CERTIFICATION FEES. (1) Annual certificate fees shall be:

| Type of Operation | Annual Fee |
|-------------------|--------------------------|
| Reshipper | \$ ((80)) 110 |
| Repacker | \$ ((25)) 290 |

| Type of Operation | Annual Fee |
|-----------------------|--------------|
| Shellstock Shipper | |
| 0 - 10 Acres | \$ ((#0))110 |
| 11 - 49 Acres | \$((+0))150 |
| 50 - 99 Acres | \$((+35))180 |
| 100 + Acres | \$((+90))255 |
| Shucker-Packer | |
| 1 - 5 Shuckers | \$((+35))180 |
| 6 - 10 Shuckers | \$((+65))225 |
| 11 - 15 Shuckers | \$((+90))255 |
| 16 ((+))- 30 Shuckers | \$((+25))290 |
| 30 - 50 Shuckers | \$300 |
| 50 + Shuckers | \$325 |

(2) Type of operations are defined as follows:

(a) "Reshipper" shall mean shippers transshipping shucked stock in original containers, or shellstock from certified shellfish shippers to other dealers or to final consumers. (Reshippers are not authorized to shuck or repack shellfish.)

(b) "Repacker" shall mean shippers, other than the original shucker, packing shucked shellfish into containers for delivery to the consumer. A repacker may shuck shellfish or act as a shellstock shipper if the repacker has the necessary facilities.

(c) "Shellstock shipper" shall mean shippers growing, harvesting, buying, or selling shellstock. Shellstock shippers are not authorized to shuck shellfish or to repack shucked shellfish.

(d) "Shucker-packer" shall mean shippers shucking and packing shellfish. A shucker-packer may act as a shellstock dealer.

AMENDATORY SECTION (Amending Order 1825, filed 6/4/82)

WAC 440-44-075 TRANSIENT ACCOMMODATIONS LICENSING AND INSPECTION FEES. ((Through December 31, 1982, the inspection fees shall be:

| Size of Facility (No. of Rooms) | Inspection Fee |
|------------------------------------|----------------|
| 3-24 | \$ 15 |
| 25-49 | \$ 25 |
| 50-74 | \$ 35 |
| 75-99 | \$ 50 |
| 100-199 | \$ 75 |
| 200 or more | \$100)) |

For licensing periods starting on or after ((January)) July 1, ((+1983)) 1985, the annual license fee including the cost of inspections shall be:

| Size of Facility (No. of Rooms) | License Fee |
|------------------------------------|--------------|
| 3-24 | \$ ((70)) 80 |
| 25-49 | \$((+10))130 |
| 50-74 | \$((+50))180 |
| 75-99 | \$((200))240 |
| 100 or more | \$((250))305 |

WSR 85-12-030
NOTICE OF PUBLIC MEETINGS
BOARD FOR
COMMUNITY COLLEGE EDUCATION
 [Memorandum—May 30, 1985]

The 1985 meeting notice memorandum of October 23, 1984, and WSR 84-21-126 is amended as follows:

| | |
|-----------------|-------------------------------------|
| January 23-24 | Everett Community College |
| February 27-28 | South Puget Sound Community College |
| April 3-4 | Walla Walla Community College |
| May 15-16 | Bellevue Community College |
| June ((+9-20)) | |
| June 27-28 | Skagit Valley College |
| September 11-12 | Peninsula College |
| October 16-17 | Spokane Community College |
| December 4-5 | South Puget Sound Community College |

WSR 85-12-031
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 85-56—Filed June 3, 1985]

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

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this rule conforms Washington state regulations with those of the Pacific Fisheries Management Council for protection of groundfish stocks.

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

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

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

APPROVED AND ADOPTED May 31, 1985.

By Gary C. Alexander
 for William R. Wilkerson
 Director

NEW SECTION

WAC 220-44-05000P COASTAL BOTTOMFISH CATCH LIMITS. Notwithstanding the provisions of WAC 220-44-050, effective immediately it is unlawful to possess, transport through the waters of the state, or land in any Washington state port bottomfish taken for commercial purposes from Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less

than the minimum sizes shown below for the species indicated:

(1) Widow rockfish (*Sebastes entomelas*) – 30,000 pounds per calendar week defined as Sunday through the following Saturday. It is unlawful for any vessel to make more than one landing in excess of 3,000 pounds of widow rockfish in any calendar week.

(2) Shortbelly rockfish (*Sebastes jordani*) and Idiot Rockfish (*Sebastes spp.*) – no maximum poundage per vessel trip; no minimum size.

(3) Pacific ocean perch (*Sebastes alutus*) – no restriction on landing up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if Pacific ocean perch represent 20 percent or less of total weight of fish on board. Under no circumstances may a vessel land more than 5,000 pounds of Pacific ocean perch in any one vessel trip.

(4) All other species of rockfish (*Sebastes spp.*) – 15,000 pounds of all other species combined per vessel trip per calendar week, defined as Sunday through the following Saturday, of which no more than 5,000 pounds may be yellowtail rockfish (*Sebastes flavidus*) except that a fisherman having made a declaration of intent, may make either one landing of no more than 30,000 pounds of all other species combined per vessel trip bi-weekly, defined as Sunday through the second Saturday following of which no more than 10,000 pounds may be yellowtail rockfish or two landings of not more than 7,500 pounds of all other species in any one calendar week of which not more than 3,000 pounds in any one landing may be yellowtail rockfish. The declaration of intent to fish other than once weekly must be mailed or delivered to the Department of Fisheries, 115 General Administration Building, Olympia, WA 98504, and must be postmarked at least seven days prior to the beginning of such fishing. The declaration of intent must contain the name and address of the fisherman, the name and registration number of the vessel, the date on which such fishing for other species of rockfish will commence, and must be signed and dated by the fisherman. The fisherman may return to the one vessel trip per calendar week fishing at the beginning of any month by filing a declaration of intent to stop fishing other than once weekly on other species of rockfish with the department in the above manner.

The declaration to stop such fishing for other species of rockfish and begin one vessel trip per calendar week fishing must be made at least seven days prior to the beginning of the month in which the one vessel trip per calendar week fishing will resume. It is unlawful for any vessel to make more than one landing in excess of 3,000 pounds of other rockfish species in any calendar week, if no declaration to land other species of rockfish twice weekly has been made.

(5) Sable fish – minimum size 22 inches in length, unless dressed in which case minimum size 16 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail, except that an incidental catch less than the minimum size of 5,000 pounds is allowed; no vessel trip restrictions.

(6) It is unlawful during unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species a species or category of bottomfish having a vessel trip limit.

(7) For purposes of this section, a vessel trip is defined as having occurred upon the initiation of transfer of catch from the fishing vessel, and all fish aboard the vessel are considered part of the vessel trip limit at the initiation of transfer of catch.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-44-05000N COASTAL BOTTOM-FISH CATCH LIMITS. (85-29)

WSR 85-12-032

NOTICE OF PUBLIC MEETINGS SEATTLE COMMUNITY COLLEGE DISTRICT

[Memorandum—May 30, 1985]

The schedule change of meetings for Seattle Community College District VI board of trustees for the balance of 1985 is as follows:

SPECIAL MEETINGS

| | | |
|--------------------|-----------|------------------------------------|
| June 10, 1985 | 6:00 p.m. | Seattle Central Community College |
| August 20, 1985 | 6:00 p.m. | Seattle Community College District |
| September 17, 1985 | 6:00 p.m. | South Seattle Community College |
| October 15, 1985 | 6:00 p.m. | North Seattle Community College |
| November 19, 1985 | 6:00 p.m. | Seattle Central Community College |
| December 17, 1985 | 6:00 p.m. | Seattle Community College District |

Street addresses for the meetings are:

Seattle Community College District
300 Elliott Avenue West
Seattle, WA 98119

North Seattle Community College
9600 College Way North
Seattle, WA 98103

Seattle Central Community College
1701 Broadway
Seattle, WA 98122

South Seattle Community College
6000 16th Avenue S.W.
Seattle, WA 98106

WSR 85-12-033

PROPOSED RULES DEPARTMENT OF GAME (Game Commission)

[Filed June 3, 1985]

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

| | | | | | |
|-----|----------------|---------|--------------|---------|-----|
| New | WAC 232-28-508 | 1985-86 | Trapping | seasons | and |
| | | | regulations. | | |
| Rep | WAC 232-28-507 | 1984-85 | Trapping | seasons | and |
| | | | regulations; | | |

that the agency will at 9:00 a.m., Wednesday, July 10, 1985, in the Holiday Inn, 714 Lakeway Drive, Bellingham, WA 98226, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 10, 1985.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 5, 1985.

Dated: June 3, 1985

By: Richard J. Poelker, Administrator
Wildlife Management Division

STATEMENT OF PURPOSE

Title and Number of Rule Section: New section WAC 232-28-508 1985-86 Trapping seasons and regulations.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule: Trapping seasons and regulations will be established in the manner outlined in the 1984-85 pamphlet.

Reasons Supporting the Proposed Rule: Resource management.

Agency Personnel Responsible for Drafting and Implementation: Richard J. Poelker, Division Administrator, Wildlife Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5728; and Enforcement: Dave Schultz, Chief, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5740.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

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

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

NEW SECTION

WAC 232-28-508 1985-86 TRAPPING SEASONS AND RULES.

Reviser's note: The text and accompanying pamphlet comprising the 1985-86 Trapping seasons and rules proposed by the Department of Game have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Game, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

REPEALER

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

WAC 232-28-507 1984-85 TRAPPING SEASONS AND REGULATIONS

WSR 85-12-034
PROPOSED RULES
DEPARTMENT OF GAME
(Game Commission)
[Filed June 3, 1985]

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

| | | |
|-----|----------------|------------------------------------------|
| New | WAC 232-28-108 | 1985 Upland migratory game bird seasons. |
| Rep | WAC 232-28-107 | 1984 Upland migratory game bird seasons; |

that the agency will at 9:00 a.m., Wednesday, July 10, 1985, in the Holiday Inn, 714 Lakeway Drive, Bellingham, WA 98226, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 10, 1985.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 5, 1985.

Dated: June 3, 1985

By: Richard J. Poelker, Administrator
Wildlife Management Division

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-28-108 1985 Upland migratory game bird seasons.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule: Seasons will be established in the manner outlined in the 1985 seasons handout.

Reasons Supporting the Proposed Rule: Resource management.

Agency Personnel Responsible for Drafting and Implementation: Richard J. Poelker, Division Administrator, Wildlife Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5728; and Enforcement: Dave Schultz, Chief, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5740.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

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

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

NEW SECTION

WAC 232-28-108 1985 UPLAND MIGRATORY GAME BIRD SEASONS.

STATEWIDE

MOURNING DOVE:

September 1 — September 15, Inclusive
 Daily Bag Limit: 10
 Possession Limit: 20

BAND-TAILED PIGEON:

September 1 — September 30, Inclusive
 Daily Bag Limit: 5
 Possession Limit: 5

SHOOTING HOURS: (Daylight Saving Time)

| Dates Inclusive | | | | Western Washington from A.M. to P.M. | Eastern Washington from A.M. to P.M. |
|-----------------|-----------------|----------|-------|-----------------------------------------------|-----------------------------------------------|
| Sat. | Sept. 1 - Sun. | Sept. 2 | | 6:00 7:50 | 5:45 7:40 |
| Mon. | Sept. 3 - Sun. | Sept. 9 | | 6:05 7:40 | 5:50 7:30 |
| Mon. | Sept. 10 - Sun. | Sept. 16 | | 6:15 7:25 | 6:00 7:15 |
| Mon. | Sept. 17 - Sun. | Sept. 23 | | 6:20 7:10 | 6:10 7:00 |
| Mon. | Sept. 24 - Sun. | Sept. 30 | | 6:30 6:55 | 6:20 6:45 |

FOR SAFETY, HUNTERS ARE ENCOURAGED TO WEAR HUNTER ORANGE WHILE HUNTING UPLAND BIRDS AS WELL AS OTHER SPECIES

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TOLL-FREE POACHING HOTLINE
 1-800-562-5626

REPEALER

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

WAC 232-28-107 1984 UPLAND MIGRATORY GAME BIRD SEASONS

WSR 85-12-035
PROPOSED RULES
DEPARTMENT OF GAME
(Game Commission)
 [Filed June 3, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Game Commission intends to adopt, amend, or repeal rules concerning hunter education training program requirements, amending WAC 232-12-227;

that the agency will at 9:00 a.m., Wednesday, July 10, 1985, in the Holiday Inn, 714 Lakeway Drive, Bellingham, WA 98225, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 10, 1985.

The authority under which these rules are proposed is RCW 77.32.155.

The specific statute these rules are intended to implement is RCW 77.32.155.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 10, 1985.

Dated: May 28, 1985

By: Mike O'Malley, Divisional Administrator
 Information and Education

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-12-227 Hunter education training program requirements.

Statutory Authority: RCW 77.32.155.

Specific Statute that Rule(s) is Intended to Implement: RCW 77.32.155.

Summary of the Rule: WAC 232-12-227 changes the word "eight" to "ten" hours of instruction.

Reasons Supporting the Proposed Rule(s): WAC 232-12-227 will allow Washington to remain in compliance with minimum federal training standards required by the U.S. Fish and Wildlife Service, which provides federal funds to administer the state training program.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule(s): Mik Mikitik, Hunter Education Coordinator, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-4476.

Name of the Person or Organization Whether Private, Public, or Governmental that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

These rules are not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rules or Their Purpose: These rules allow us to comply with standards required by U.S. Fish and Wildlife Service.

A small business economic impact statement is not required.

AMENDATORY SECTION (Amending Order 165, filed 6/1/81)

WAC 232-12-227 HUNTER EDUCATION TRAINING PROGRAM REQUIREMENTS. (1) The director may designate a state coordinator for the purpose of administering the hunter education program. The state coordinator shall be responsible for the certification of volunteer instructors and the development of instructional materials, training aids, operating policies and procedures necessary to comply with the provision of this section and RCW 77.32.155.

(2) It is unlawful for any person under the age of eighteen to purchase a hunting license in the state of Washington without having completed a course involving at least ~~((eight))~~ ten hours of instruction in conservation, safety and sportsmanship.

(3) Upon satisfactory completion of these requirements, each student shall be issued a certificate of accreditation signed by an authorized instructor or the state coordinator.

(4) It is unlawful for a license dealer to sell a hunting license to a person under eighteen years of age unless a hunter education certificate issued to said person is presented at the time of purchase.

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 85-12-036
EMERGENCY RULES
STATE BOARD OF EDUCATION
 [Order 11-85—Filed June 3, 1985]

Be it resolved by the State Board of Education, acting at Saint Martin's College, Lacey, Washington, that it does adopt the annexed rules relating to fee for certification, WAC 180-75-065.

We, the State Board of 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 amendments of December 1984 to this section were omitted to provide for a fee structure for certain certificates. The immediate adoption of the collective language is necessary to continue the issuance of these certificates.

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

This rule is promulgated pursuant to RCW 28A.04-.120 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 May 31, 1985.

By Monica Schmidt
 Secretary

AMENDATORY SECTION (Amending Order 16-84, filed 12/10/84)

WAC 180-75-065 FEE FOR CERTIFICATION.

(1) In accordance with provisions of RCW 28A.70.110 and 28A.71.100, the fee for certificates which are valid for more than one year, issued by authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be as follows:

(a) ~~((The initial certificate, valid for four years is twenty dollars;~~

(b) ~~A renewal, reinstatement, or additional endorsement on the initial certificate, valid for three years, is fifteen dollars;~~

(c) ~~The provisional certificate, valid for three years is fifteen dollars;~~

(d) ~~A renewal or reinstatement of the provisional certificate, valid for three years, is fifteen dollars;~~

(e) ~~A substitute certificate, valid for three years, is fifteen dollars;~~

(f)) The continuing certificate is seventy dollars;

~~((g)) (b) The reinstatement ((or)), additional endorsement on the ((continuing)) certificate, duplicate certificates, and certificates issued for the purpose of showing a name change is fifteen dollars; and~~

~~((h) Emergency and consultant special certificates, valid for one year, are five dollars)) (c) Any other certificate or credential or any renewal thereof shall be five dollars for each year of validity;~~

~~((i)) (d) PROVIDED, That the fee for all vocational certificates shall be one dollar.~~

(2) The fee for any other certificate/credential, or for any renewal thereof, issued by the authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be ~~((one))~~ five dollars.

(3) Officials authorized to collect certification fees are educational service district superintendents, local school district superintendents, deans and directors of education at colleges and universities, and designees of program units. The fee must accompany the application for a certificate and shall be transmitted by the receiving district, college or university, or program unit designee at least quarterly to the educational service district within which the application is filed for disposition in accordance with provisions of RCW 28A.70.110. The fee shall not be refunded unless the application is withdrawn before it is finally considered (i.e., the issuance of a certificate or a written communication denying such issuance) by the superintendent of public instruction or his or her designee. Moneys accrued from certification fees within the boundaries of an educational service district shall be divided in the following manner:

(a) Local school districts employing more than one hundred teachers and other professional staff and collecting certification fees may retain one dollar of each fee in order to hold a professional training institute. If such district does not hold an institute all such moneys shall be placed to the credit of the educational service district.

(b) No less than fifty percent of the funds accruing within the boundaries of an educational service district

shall be used to support program activities related to state-wide precertification professional preparation and evaluation.

(c) The remaining funds shall be used to support professional inservice training programs and evaluations thereof.

WSR 85-12-037

ADOPTED RULES

STATE BOARD OF EDUCATION

[Order 13-85—Filed June 3, 1985]

Be it resolved by the State Board of Education, acting at Saint Martin's College, Lacey, Washington, that it does adopt the annexed rules relating to courses of study and equivalencies, chapter 180-50 WAC.

This action is taken pursuant to Notice No. WSR 85-09-052 filed with the code reviser on April 17, 1985. 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 28A.04-.120 (6) and (8) and 28A.05.060 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 May 31, 1985.

By Monica Schmidt
Secretary

AMENDATORY SECTION (Amending Order 1-85, filed 1/25/85)

WAC 180-50-120 WASHINGTON STATE HISTORY AND GOVERNMENT ~~((=GRADE SCHOOL AND HIGH SCHOOL))~~ REQUIREMENTS. (1) Grades 1-~~((8))~~6. A one semester course—i.e., 90 (50 minute) hours of instruction—or its equivalent in Washington state history and government shall be required in the common schools in ~~((the grade school (grades 1-8) program))~~ grades one through six.

(2) Grades ~~((9))~~7-12. A one semester course—i.e., 90 (50 minute) hours of instruction—or its equivalent in Washington state history and government shall be required in the common schools in ~~((the high school (grades 9-12) program))~~ grades seven through twelve. Such course shall include a study of the Washington state Constitution. Pursuant to RCW 28A.02.080, 28A-.05.050, and 28A.05.060 this course also shall be required for high school graduation unless waived pursuant to WAC 180-51-075.

AMENDATORY SECTION (Amending Order 12-84, filed 10/4/84)

WAC 180-50-315 EQUIVALENCY COURSE OF STUDY—CREDIT FOR WORK EXPERIENCE. School districts may accept work experience training in

lieu of either required or elective high school credits if such experience training meets the following standards:

- (1) The work program shall be supervised by the school;
- (2) The work experience shall be definitely related to the school program of the student;
- (3) Credit given for work experience shall represent growth in the student and the type of work done should have definite educational value;
- (4) The job in which experience is gained shall provide varied experiences;
- (5) A work experience program shall be supplemented by an adequate program of guidance, placement, follow-up and coordination between job and school;
- (6) Work experience as a planned part of a school subject may be included in the credit given for that subject;
- (7) One credit may be granted for not less than ~~((one))~~ four hundred ~~((thirty=))~~ five hours of work experience related to a student's school program;
- (8) A student participating shall be legally employed and must have passed his sixteenth birthday;
- (9) An employer's report of the student's work record, indicating satisfactory progress on the job, shall be filed with the school; and
- (10) The regular state apprenticeship program, in which the training is worked out cooperatively with the school and meets the standards for high school graduation, is acceptable.

WSR 85-12-038
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed: June 4, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Board of Pilotage Commissioners intends to amend rules concerning WAC 296-116-120;

that the agency will at 9:00 a.m., Thursday, July 11, 1985, in the Conference Room, Colman Dock, Seattle, Washington 98104, conduct a public hearing on the proposed rules.

The amendment of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 88.16.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 10, 1985.

Dated: June 3, 1985
 By: Marjorie T. Smitch
 Assistant Attorney General

STATEMENT OF PURPOSE

Rule: WAC 296-116-120.

Statutory Authority: RCW 88.16.090.

Reason for Amendment: To allow the physician, who performs the annual physical examination on the pilot, to maintain the examination form in his/her office rather than automatically submitting it to the board.

This rule has been drafted by Marjorie T. Smitch, Assistant Attorney General, 5th Floor, Highways-Licenses Building, Olympia, Washington 98504, (206) 753-4961.

This rule will be implemented by the Washington State Board of Pilotage Commissioners, Colman Dock, Seattle, Washington 98104, (206) 464-7818.

Proposer: Board of Pilotage Commissioners.

Agency Comments: None.

Federal Law/Court Decision: None.

Small Business Economic Impact Statement: None required.

AMENDATORY SECTION (Amending Resolution No. 79-5, filed 10/23/80)

WAC 296-116-120 PHYSICAL REQUIREMENTS. (1) In order to determine the physical fitness of persons to continue to serve as licensed pilots under the provisions of the pilotage act, all licensed pilots shall be required to pass a general physical examination annually within forty-five days prior to the date their annual state pilot license fee is due. As part of this examination pilots shall have completed on a form provided by the board a detailed report of physical examination. This form shall be prepared by the pilot and the examining physician and shall be ~~((submitted to the board along with a letter from the physician stating whether and under what conditions the pilot is capable of providing pilotage service. The detailed report of physical examination is a confidential record which will be used only by the board))~~ maintained on file by the physician for a period of five years. The physician will submit to the board a letter stating whether and under what conditions the pilot is capable of providing pilotage services. The completion of the form and the letter to the board satisfies the minimum health standards of RCW 88.16.090(6). The detailed report of physical examination is a confidential record which will be made available to the board at the board's request and will not be available for public inspection. Such examination shall be obtained at the expense of the licensed pilots from a physician or physicians designated in advance by the board. The secretary of the board shall give each pilot reasonable written notice of the date when any such physical examination becomes due and shall specify the name of the physicians then approved by the board to conduct such physical examination.

(2) The physical examination required of all pilots shall demonstrate that he is in all respects physically fit to perform his duties as a pilot. The examination shall assure that one's abilities as a pilot will not be impaired by eyesight, hearing or other bodily function and shall include examination of the pilot's eyes (including tests for color blindness, depth perception, night vision, disease, field of vision and reflexes); ears; heart; blood pressure; blood components; pulse; speech capabilities; history of diseases (including diabetes, cancer, arthritis, arrhythmia, asthma, bronchitis, emphysema, ulcers, alcoholism and other illnesses) and any other type of information which the physician feels is relevant.

(3) In the case of renewal of license as pilot, should the pilot be temporarily physically incapacitated at the time his license is due to be renewed, the commission shall not revoke such license until a further physical examination to be given at the expiration of three months. This procedure shall be carried on until it is evident that the pilot is permanently incapacitated; provided further, that no pilot shall be carried on the inactive list for longer than one year if disabled. Any pilot who is physically incapacitated shall not serve as a pilot during such period of incapacitation.

WSR 85-12-039
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS
 [Filed June 4, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Board of Pilotage Commissioners intends to adopt, amend, or repeal rules concerning collection of fees, WAC 296-116-070;

that the agency will at 9:00 a.m., Thursday, July 11, 1985, in the Conference Room, Colman Dock, Seattle, Washington 98104, conduct a public hearing on the proposed rules.

The amendment of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 88.16.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 10, 1985.

Dated: June 3, 1985

By: Marjorie T. Smitch
 Assistant Attorney General

STATEMENT OF PURPOSE

Rule: WAC 296-116-070.

Statutory Authority: RCW 88.16.090.

Reason for Amendment: RCW 88.16.090 requires that pilots pay an annual license fee which is placed in the state treasury and credited to the pilotage account. This amendment will increase that annual fee from \$800 per year to \$1,000 per year.

This rule has been drafted by Marjorie T. Smitch, Assistant Attorney General, 5th Floor, Highways-Licenses Building, Olympia, Washington 98504, (206) 753-4961.

This rule will be implemented by the Washington State Board of Pilotage Commissioners, Colman Dock, Seattle, Washington 98104, (206) 464-7818.

Proposer: Board of Pilotage Commissioners.

Agency Comments: None.

Federal Law/Court Decision: None.

Small Business Economic Impact Statement: None required.

AMENDATORY SECTION (Amending Order 84-4, Resolution No. 84-4, filed 5/18/84)

WAC 296-116-070 COLLECTION OF FEES. All pilots shall pay an annual license fee of (~~eight hundred~~) one thousand dollars for every year in which they perform any pilotage services. If a licensed pilot does not perform pilotage services during a license year, his fee for that year shall be reduced to (~~four~~) five hundred dollars upon application to the board. The board of pilotage commissioners shall receive all fees for licenses or for other purposes and make proper accounting of same and transmit all such funds to the pilotage account.

WSR 85-12-040
ADOPTED RULES
STATE BOARD OF EDUCATION
 [Order 10-85—Filed June 5, 1985]

Be it resolved by the State Board of Education, acting at Saint Martin's College, Lacey, Washington, that it does adopt the annexed rules relating to interim application of priority system during transition period, WAC 180-27-990.

This action is taken pursuant to Notice No. WSR 85-09-062 filed with the code reviser on April 17, 1985. 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 28A.47-.830 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 May 31, 1985.

By Monica Schmidt
 Secretary

NEW SECTION

WAC 180-27-990 INTERIM APPLICATION OF PRIORITY SYSTEM DURING TRANSITIONAL PERIOD. (1) It is the intent of the state board of education that one-A and one-B building projects, and certain exemplary special education projects, will be granted a preference to available state assistance in future state fiscal years as provided in this rule and notwithstanding the terms of WAC 180-27-058 (the priority system rule), or any other rule set forth in chapters 180-25 through 180-33 WAC, to the contrary.

(2) The following definitions apply for the purposes of this rule: (a) "One-A building projects" means and includes all building projects for which staff of the superintendent of public instruction determined were eligible for issuance of Form C-6 approval pursuant to WAC 180-29-107 during the period of April 2 through April 10, 1985, and, which have not been granted Form C-8 approval prior to April 15, 1985, pursuant to WAC 180-29-115 (notwithstanding such Form C-6 approval, no Form C-8 approval shall hereafter be granted for such projects pursuant to WAC 180-29-115 until on or after July 1, 1985, in accordance with this rule); and (b) "one-B building projects" means and includes any building project for which a Form C-2 had been issued pursuant to WAC 180-25-040 and 180-29-025 and, in addition, for which a complete and approvable application for Form C-6 approval pursuant to WAC 180-29-107 was delivered to the office of the superintendent of public instruction prior to noon of April 11, 1985, which, but for the unavailability of state assistance, would have been granted Form C-6 approval.

(3) Fiscal Year 1985-86. As of July, 1985, all eligible building projects shall be prioritized or ranked in accordance with WAC 180-27-058. State assistance deemed available as of that time shall first be allocated for priority one or WAC 180-27-058(1) building projects (inclusive of such one-A and one-B building projects as may qualify as priority one projects). In the event such available state assistance is more than sufficient for such priority one projects, all remaining one-A building projects alone shall then be prioritized or ranked in accordance with the date and time staff of the superintendent of public instruction determined the projects were eligible for issuance of Form C-6 approval pursuant to WAC 180-29-107, and remaining available state assistance shall be allocated for such projects. If available state assistance remains, all remaining one-B building projects alone shall be prioritized or ranked alone in accordance with the date and time application for Form C-6 approval was received by staff of the superintendent of public instruction, and the remaining available state assistance shall be allocated for such projects.

Notwithstanding provisions of the first paragraph of this subsection to the contrary, the Kent School District Kentridge Senior High School special education project addition shall be issued C-6 approval immediately following the issuance of C-6 approval for the Federal Way School District Wildwood Elementary and Federal Way High School special education project additions: PROVIDED, That the conditions for C-6 approval of the Kentridge project addition have been met by the Kent School District prior to June 30, 1985.

If available state assistance still remains for fiscal year 1985-86 allocation purposes, the priority system established pursuant to WAC 180-27-058 shall again be utilized for the purpose of allocating such remaining available state assistance. For the purposes of this subsection, all one-A building projects for which available state assistance has been allocated shall be deemed to have been reissued the requisite Form C-6 approval pursuant to WAC 180-29-107.

(4) Fiscal Year 1986-87. As of July, 1986, one-A building projects for which state assistance was deemed unavailable for fiscal year 1985-86 purposes shall have first priority in accordance with the date and time ranking established pursuant to subsection (3) of this section for the purposes of the allocation of state assistance then deemed to be available for fiscal year 1986-87 allocation purposes, as well as state assistance deemed available during fiscal year 1987-88, until such time as the state assistance for which such one-A building projects are eligible has been allocated in full: PROVIDED, That pilot or exemplary projects approved by the state board of education pursuant to WAC 180-30-400 shall be approved for fiscal year 1986-87 notwithstanding any prioritization of projects pursuant to this subsection if such projects have met the conditions for a Form C-6 approval between July 1, 1985, and June 30, 1986.

In the event available state assistance is more than sufficient for such remaining one-A building projects, all other eligible projects shall then be prioritized or ranked in accordance with WAC 180-27-058 and the remaining available state assistance shall then be allocated for eligible priority one projects. If available state assistance remains, all remaining one-B, building projects alone shall be prioritized or ranked alone in accordance with the date and time application for Form C-6 approval was received by staff of the superintendent of public instruction, and the remaining available state assistance shall be allocated for such projects.

If available state assistance still remains for fiscal year 1986-87 allocation purposes, the priority system established pursuant to WAC 180-27-058 shall again be utilized for the purpose of allocating such remaining available state assistance. For the purposes of this subsection, all one-A building projects for which available state assistance has been allocated shall be deemed to have been reissued the requisite Form C-6 approval pursuant to WAC 180-29-107.

(5) Fiscal Year 1987-88. As of July, 1987, one-A building projects for which state assistance was deemed unavailable for fiscal year 1986-87 purposes shall have first priority in accordance with the date and time ranking established pursuant to subsection (3) of this section for the purposes of the allocation of state assistance then deemed to be available for fiscal year 1987-88 allocation purposes.

In the event available state assistance is more than sufficient for such remaining one-A building projects, all other eligible projects shall then be prioritized or ranked in accordance with WAC 180-27-058 and the remaining available state assistance shall then be allocated for eligible priority one projects. If available state assistance remains, all remaining one-B building projects alone shall be prioritized or ranked alone in accordance with the date and time ranking established pursuant to subsection (4) of this section, and the remaining available state assistance shall be allocated for such projects.

If available state assistance still remains for fiscal year 1987-88 allocation purposes, the priority system established pursuant to WAC 180-27-058 shall again be utilized for the purpose of allocating such remaining available state assistance. For the purposes of this subsection, all one-A building projects for which available state assistance has been allocated shall be deemed to have been reissued the requisite Form C-6 approval pursuant to WAC 180-29-107.

(6) Fiscal Year 1988-89. As of July, 1988, all one-B building projects for which state assistance has not been allocated for shall have first priority for purposes of the allocation of state assistance then deemed to be available for fiscal year 1988-89 allocation purposes, as well as state assistance deemed available during any subsequent fiscal year, until such time as the state assistance for which such one-B building projects are eligible has been allocated in full.

WSR 85-12-041
ADOPTED RULES
STATE BOARD OF EDUCATION
 [Order 12-85—Filed June 5, 1985]

Be it resolved by the State Board of Education, acting at Saint Martin's College, Lacey, Washington, that it does adopt the annexed rules relating to high school graduation requirements, chapter 180-51 WAC.

This action is taken pursuant to Notice No. WSR 85-09-053 filed with the code reviser on April 17, 1985. 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 28A.05-.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 May 31, 1985.

By Monica Schmidt
 Secretary

AMENDATORY SECTION (Amending Order 7-84, filed 5/17/84)

WAC 180-51-050 HIGH SCHOOL CREDIT—DEFINITION. As used in this chapter the term "high school credit," the equivalency of one year of study, shall mean:

(1) At the high school level, ~~((60))~~ 180 (50 minute) hours of planned in-school instruction or ~~((3,000))~~ 9,000 minutes (i.e., 150 hours equal((s)) one high school credit);

(2) At the adult education level, ~~((60))~~ 180 (50 minute) hours of planned in-school instruction or ~~((3,000))~~ 9,000 minutes or, in lieu thereof, ~~((30))~~ 90 (50 minute) hours or more of planned in-school instruction with three hours of planned individual study (homework) substituted for each 50 minute hour of in-school instruction less than ~~((60))~~ 180 (i.e., equal((s)) one high school credit); and

(3) At the college or university level, ~~((three))~~ five quarter or ~~((two))~~ three semester hour credits (i.e., equal((s)) one high school credit).

AMENDATORY SECTION (Amending Order 7-84, filed 5/17/84)

WAC 180-51-055 MINIMUM CREDITS FOR HIGH SCHOOL GRADUATION. The minimum credits for high school graduation shall be ~~((fifty-four))~~ eighteen credits.

AMENDATORY SECTION (Amending Order 7-84, filed 5/17/84)

WAC 180-51-060 MINIMUM SUBJECT AREAS FOR HIGH SCHOOL GRADUATION. The minimum subject areas and credits therein shall be:

| SUBJECT | CREDIT |
|-----------------------------------------------------|-----------------|
| English | ((9)) 3 |
| Mathematics | ((6)) 2 |
| Science | ((6)) 2 |
| Social Studies | ((7-1/2)) 2 1/2 |
| United States History and Government | ((3)) 1 |
| Washington State History and Government | ((1-1/2*)) 1/2* |
| Contemporary World History, Geography, and Problems | ((3*)) 1* |
| Occupational Education | ((3)) 1 |
| Physical Education | ((6)) 2 |
| *See WAC 180-51-075 for equivalencies. | |
| <u>Electives</u> | <u>5 1/2</u> |
| <u>Total</u> | <u>18</u> |

The ~~((remainder of the fifty-four))~~ minimum elective credits ~~((for high school graduation may be in elective subject areas, additional credits in required subjects or local requirements. As a general rule, three credits equal one year))~~ shall be met by additional courses in the required subject areas, by specific local district requirements, or by any course offered pursuant to WAC 180-50-115.

NEW SECTION

WAC 180-51-062 FINE, VISUAL, OR PERFORMING ARTS REQUIREMENT. Notice is given that section 4, chapter 384, Laws of 1985, has established an additional one credit graduation requirement for students commencing the ninth grade subsequent to July 1, 1987. Students shall fulfill the one credit requirement from fine, visual, or performing arts, any of the subject areas as set forth in RCW 28A.05.060 or any combination thereof. Appropriate amendments to chapter 180-51 WAC will be made prior to July 1, 1987.

AMENDATORY SECTION (Amending Order 7-84, filed 5/17/84)

WAC 180-51-065 SEQUENTIAL REQUIREMENT FOR ENGLISH, MATHEMATICS, AND SCIENCE—EXCEPTION FOR TRANSFER STUDENTS FROM WITHOUT THE STATE, FOR STUDENTS WHO FAIL A REQUIRED COURSE, AND SPECIAL ACCOMMODATIONS. English, mathematics, and science credit shall not be applied toward the subject area requirements in WAC 180-51-060 at a rate exceeding one credit per ~~((trimester or one and one-half credits per semester))~~ year. High schools may make exceptions to this sequential requirement for high school students:

(1) Who transfer from without the state who have already earned ~~((fifteen))~~ five or more credits but who will not be able to make normal progress toward graduation with their class without an exception; ~~((and))~~ or

(2) Who fail a course and jointly enroll in the failed course and another course in the same subject area if such other course does not require the failed course as a prerequisite and the students are not able to make normal progress toward graduation with their class without an exception.

Additional credits in these subjects in excess of the one credit per ((trimester or semester)) year rate of accumulation shall be counted toward the minimum state credit requirement or local requirements if applicable.

Special accommodations may be provided for an individual student, or in lieu thereof, exemption from any requirement in this section, if such requirement impedes the student's progress toward graduation and there is a direct relationship between the failure to meet the requirement and the student's ability.

AMENDATORY SECTION (Amending Order 7-84, filed 5/17/84)

WAC 180-51-070 LABORATORY SCIENCE REQUIREMENT. At least ((three)) one credit((s)) of the ((six)) two science credits shall be in a laboratory science.

AMENDATORY SECTION (Amending Order 7-84, filed 5/17/84)

WAC 180-51-075 SOCIAL STUDIES REQUIREMENT—MANDATORY COURSES—EQUIVALENCIES. The social studies requirement in WAC 180-51-060 shall consist of the following mandatory courses or equivalencies:

(1) Pursuant to the provisions of RCW 28A.02.080 ((and)), 28A.05.050 ((three)), and 28A.05.060, one credit((s)) shall be required in United States history and government which shall include study of the Constitution of the United States. No other course content may be substituted as an equivalency for this requirement;

(2) Pursuant to the provisions of RCW 28A.02.080 ((and)), 28A.05.050, ((one)) and 28A.05.060, one-half credit((s)) shall be required in Washington state history and government which shall include study of the Constitution of the state of Washington. ((Equivalency credit may be given a student who transfers from without the state for credit in northwest history and government:)) The provisions of WAC 180-51-030 notwithstanding, the Washington state history and government course requirement may be fulfilled by students in grades seven or eight or both. Credits earned in grades seven or eight shall not be applied toward the minimum number of credits required for high school graduation. For students who transfer from without the state, northwest history and government may serve as an equivalent course for Washington state history and government in grades seven through twelve if such course included the study of the Constitution of the state of Washington pursuant to RCW 28A.02.080 or if this statutory requirement is fulfilled through an alternative learning experience. The Washington state history and government requirement for twelfth grade students who transfer from without the state who have or will have earned ((six)) two credits in social studies at graduation but who will not be able to make normal progress toward graduation with their class without an exception may have this requirement waived by their principal;

(3) Pursuant to the provision of chapter 28A.05 RCW, ((three)) one credit((s)) shall be required in contemporary world history, geography, and problems.

Courses in economics, sociology, civics, political science, international relations, or related courses with emphasis on current problems may be accepted as equivalencies.

AMENDATORY SECTION (Amending Order 7-84, filed 5/17/84)

WAC 180-51-080 OCCUPATIONAL EDUCATION REQUIREMENT. The ((three)) one credit occupational education requirement may be met by any approved vocational education course or any course which qualifies as a work skill pursuant to RCW 28A-.58.754 (1)(b).

AMENDATORY SECTION (Amending Order 7-84, filed 5/17/84)

WAC 180-51-085 PHYSICAL EDUCATION REQUIREMENT—EXCUSE. The ((six)) two credit physical education requirement shall be met by physical education courses. The content of courses shall be determined locally pursuant to WAC 180-51-025. Students shall be excused from physical education pursuant to RCW 28A.05.040. Such excused students shall be required to substitute equivalency credits in accordance with policies of boards of directors of districts.

AMENDATORY SECTION (Amending Order 7-84, filed 5/17/84)

WAC 180-51-100 TEMPORARY EXEMPTION FROM 1985 ((GRADUATION)) COURSE AND CREDIT REQUIREMENTS ((FOR HIGH SCHOOLS WITH FEWER THAN FOUR HUNDRED STUDENTS)). The board of directors of any school district ((containing a high school with fewer than four hundred students may petition the state board of education for a temporary delay in the implementation of the 1985 graduation requirements as provided in this chapter. A delay shall be granted for one year if such board of directors states within its petition that the high school affected does not currently have within its staff certified persons qualified to teach the additional courses required by the 1985 graduation requirements)) may petition the state board of education for temporary exemption from the course requirements specified in RCW 28A.05.060:

(1) A delay of one year may be granted if such board states within its petition that the high school affected has fewer than four hundred students and does not have within its staff certified persons qualified to teach the additional courses required by the 1985 graduation requirements;

(2) A delay of one year may be granted if such board states within its petition that the implementation of the 1985 requirements would be disruptive to the scheduling of classes and the assignment of teachers due to a reorganization of the district's grade configuration from a grade ten through twelve high school program to a grade nine through twelve program;

(3) The state board of education may grant annual exemptions to the definition of an annualized high school credit upon the request of a public or approved private school which offers evidence that delineates content,

time, or competency assessments which are substantially equivalent to the definition stated in WAC 180-51-050.

AMENDATORY SECTION (Amending Order 7-84, filed 5/17/84)

WAC 180-51-110 EQUIVALENCY CREDIT FOR ALTERNATIVE LEARNING EXPERIENCES, NONHIGH SCHOOL COURSES, WORK EXPERIENCE, AND CHALLENGES. The board of directors of a district offering a high school diploma shall adopt rules providing for the granting of high school graduation credit for alternative learning experiences, nonhigh school courses, work experience, and challenges. High school credits may be given for, but not limited to, the following:

- (1) Planned learning experiences conducted away from the school under the supervision or with the approval of the school;
- (2) Work experience on the basis that ~~((one))~~ four hundred ((thirty-five)) five hours of work experience equals one credit;
- (3) National guard high school career training;
- (4) Postsecondary courses in accredited colleges and universities;
- (5) Courses in accredited or approved vocational-technical institutes;
- (6) Correspondence courses from accredited colleges and universities or schools approved by the National University Extension Association or the National Home Study Council;
- (7) Other courses offered by any school or institution if specifically approved for credit by the district; and
- (8) Credit based on competency testing, in lieu of enrollment or taking specific courses, may be granted by the district.

WSR 85-12-042

ADOPTED RULES

STATE BOARD OF EDUCATION

[Order 14-85—Filed June 5, 1985]

Be it resolved by the State Board of Education, acting at Saint Martin's College, Lacey, Washington, that it does adopt the annexed rules relating to pupils, chapter 180-40 WAC.

This action is taken pursuant to Notice No. WSR 85-09-058 filed with the code reviser on April 17, 1985. 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 28A.04-.132 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 May 31, 1985.

By Monica Schmidt
Secretary

AMENDATORY SECTION (Amending Order 14-79, filed 10/16/79)

WAC 180-40-245 SHORT-TERM SUSPENSION—CONDITIONS AND LIMITATIONS. A short-term suspension may be imposed upon a student for violation of school district rules adopted pursuant to WAC 180-40-225, subject to the following limitations or conditions, the prior informal conference procedures set forth in WAC 180-40-250, and the grievance procedures set forth in WAC 180-40-255:

(1) The nature and circumstances of the violation must be considered and must reasonably warrant a short-term suspension and the length of the suspension imposed. This requirement does not preclude school districts (that is, the boards of directors of school districts) from establishing the nature and extent of the corrective actions and/or punishments which, as a general rule, must be imposed as a consequence of proscribed misconduct. Such advance notice to students is advisable, and the imposition of such preestablished corrective action and/or punishment is permissible as long as (a) disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating and/or exceptional circumstances, and (b) short-term suspension is not established as the corrective action or punishment for a student's first time offense other than for offenses involving exceptional misconduct as defined in subsection (2) of this section.

(2) ~~((No student shall be suspended unless other forms of corrective action or punishment reasonably calculated to modify his or her conduct have failed or unless there is good reason to believe that other forms of corrective action or punishment would fail if employed.))~~ As a general rule, no student shall be suspended for a short term unless another form of corrective action or punishment reasonably calculated to modify his or her conduct has previously been imposed upon the student as a consequence of misconduct of the same nature. A school district may, however, elect to adopt rules providing for the immediate resort to short-term suspension in cases involving exceptional misconduct as long as disciplinarians and hearing officers may grant exceptions in cases involving extenuating and/or exceptional circumstances, notwithstanding the fact prior alternative corrective action or punishment has not been imposed upon the student(s) involved. For the purpose of this rule, "exceptional misconduct" means misconduct other than absenteeism which a school district has judged following consultation with an ad hoc citizens committee to (a) be of such frequent occurrence, notwithstanding past attempts of district personnel to control such misconduct through the use of other forms of corrective action and/or punishment, as to warrant an immediate resort to short-term suspension, and/or (b) be so serious in nature and/or so serious in terms of the disruptive effect upon the operation of the school(s) as to warrant an immediate resort to short-term suspension (for example, misconduct judged by a school district to be the same or

of the same nature as a violation of the state's drug or controlled substances laws). The ad hoc citizens committee required by this section shall be composed of three or more persons chosen by the school district or the administrative designee(s) of the district, and shall be constituted with the intent and purpose of representing various socio economic, minority and majority populations of the school district to the extent deemed practical.

~~(3) ((In addition to the alternative corrective action requirement of subsection (2) of this section;))~~ No student subject to compulsory attendance pursuant to chapter 28A.27 RCW, as now or hereafter amended, shall be suspended by reason, in whole or part, of one or more unexcused absences unless the school district has ((also)) first imposed an alternative corrective action or punishment reasonably calculated to modify his or her conduct and, in addition:

(a) Provided notice to the student's parent(s) or guardian(s) or custodial parent(s) in writing in English or, if different, the primary language of the parent(s), guardian(s) or custodial parent(s) that the student has failed to attend school without valid justification, and by other means reasonably necessary to achieve notice of such fact;

(b) Scheduled a conference or conferences with the parent(s) or guardian(s) or custodial parent(s) and the student at a time and place reasonably convenient to all persons included to analyze the causes for the student's absence, the analysis to determine by appropriate means whether the student should be made a focus of concern for placement in a special education or other special program designed for his/her educational success; and

(c) Taken steps to reduce the student's absence which include, where appropriate in the judgment of local school officials and where possible, discussed with the student, parent(s), guardian(s) or custodial parent(s), adjustments of the student's school program or school or course assignment or assisting the student or parent to obtain supplementary services that might ameliorate the cause(s) for the student's absence from school.

(4) Kindergarten through grade four—No student in grades kindergarten through four shall be subject to short-term suspensions for more than a total of five school days during any single semester or trimester as the case may be, and no loss of academic grades or credit shall be imposed by reason of the suspension of such a student.

(5) Grade five and above program—No student in the grade five and above program shall be subjected to short-term suspensions for more than a total of fifteen school days during any single semester or ten school days during any single trimester, as the case may be.

(6) Any student subject to a short-term suspension shall be provided the opportunity upon his or her return to make up assignments and tests missed by reason of the short-term suspension if:

(a) Such assignments or tests have a substantial effect upon the student's semester or trimester grade or grades, or

(b) Failure to complete such assignments or tests would preclude the student from receiving credit for the course or courses.

(7) Any student who has been suspended shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

AMENDATORY SECTION (Amending Order 14-79, filed 10/16/79)

WAC 180-40-260 LONG-TERM SUSPENSION—CONDITIONS AND LIMITATIONS. A long-term suspension may be imposed upon a student for violation of school district rules adopted pursuant to WAC 180-40-225, subject to the following limitations or conditions and the notice requirements set forth in WAC 180-40-265 and the hearing requirements set forth in WAC 180-40-270:

(1) The nature and circumstances of the violation must be considered and must reasonably warrant a long-term suspension and the length of the suspension imposed. This requirement does not preclude school districts (that is, the boards of directors of school districts) from establishing the nature and extent of the corrective actions and/or punishments which, as a general rule, must be imposed as a consequence of proscribed misconduct. Such advance notice to students is advisable, and the imposition of such preestablished corrective action and/or punishment is permissible as long as (a) disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating and/or exceptional circumstances, and (b) long-term suspension is not established as the corrective action or punishment for a student's first time offense other than for offenses involving exceptional misconduct as defined in subsection (2) of this section.

(2) ((No student shall be suspended unless other forms of corrective action or punishment reasonably calculated to modify his or her conduct have failed or unless there is good reason to believe that other forms of corrective action or punishment would fail if employed;)) As a general rule, no student shall be suspended for a long term unless another form of corrective action or punishment reasonably calculated to modify his or her conduct has previously been imposed upon the student as a consequence of misconduct of the same nature. A school district may, however, elect to adopt rules providing for the immediate resort to long-term suspension in cases involving exceptional misconduct as long as disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating and/or exceptional circumstances, notwithstanding the fact prior alternative corrective action or punishment has not been imposed upon the student(s) involved. For the purpose of this rule, "exceptional misconduct" means misconduct other than absenteeism which a school district has judged following consultation with an ad hoc citizens committee to (a) be of such frequent occurrence, notwithstanding past attempts of district personnel to control such misconduct through the use of other forms of corrective action and/or punishment, as to warrant an

immediate resort to long-term suspension, and/or (b) be so serious in nature and/or so serious in terms of the disruptive effect upon the operation of the school(s) as to warrant an immediate resort to long-term suspension (for example, misconduct judged by a school district to be the same or of the same nature as a violation of the state's drug or controlled substances laws). The ad hoc citizens committee required by this section shall be composed of three or more persons chosen by the school district or the administrative designee(s) of the district, and shall be constituted with the intent and purpose of representing various socio economic, minority and majority populations of the school district to the extent deemed practical.

(3) ~~((In addition to the alternative corrective action requirement of subsection (2) of this section,))~~ No student subject to compulsory attendance pursuant to chapter 28A.27 RCW, as now or hereafter amended, shall be suspended by reason, in whole or part, of one or more unexcused absences unless the school district has ((also)) first imposed an alternative corrective action or punishment reasonably calculated to modify his or her conduct and, in addition:

(a) Provided notice to the student's parent(s) or guardian(s) or custodial parent(s) in writing in English or, if different, the primary language of the parent(s), guardian(s) or custodial parent(s) that the student has failed to attend school without valid justification, and by other means reasonably necessary to achieve notice of such fact;

(b) Scheduled a conference or conferences with the parent(s) or guardian(s) or custodial parent(s) and the student at a time and place reasonably convenient to all persons included to analyze the causes for the student's absence, the analysis to determine by appropriate means whether the student should be made a focus of concern for placement in a special education or other special program designed for his/her educational success; and

(c) Taken steps to reduce the student's absence which include, where appropriate in the judgment of local school officials and, where possible, discussed with the student, parent(s), guardian(s) or custodial parent(s), adjustments of the student's school program or school or course assignment or assisting the student or parent to obtain supplementary services that might ameliorate the cause(s) for the student's absence from school.

(4) Kindergarten through grade four—No student in grades kindergarten through four shall be subject to short-term and long-term suspensions for more than a total of ten school days during any single semester or trimester, as the case may be, and no loss of academic grades or credit shall be imposed by reason of the suspension of such a student.

(5) Grade five and above program—No single long-term suspension shall be imposed upon a student in the grade five and above program in a manner which causes the student to lose academic grades or credit for in excess of one semester or trimester, as the case may be, during the same school year.

(6) Any student who has been suspended shall be allowed to make application for readmission at any time.

Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

(7) All long-term suspensions and the reasons therefor shall be reported in writing to the superintendent of the school district or his or her designee within twenty-four hours after the imposition of the suspension.

WSR 85-12-043
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
[Filed June 5, 1985]

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

| | | |
|-----|----------------|-----------------------------------------------------------------------------------|
| Amd | WAC 356-14-180 | Salary—Reversion—Computation. |
| Amd | WAC 356-18-020 | Holidays. |
| Amd | WAC 356-30-330 | Reduction-in-force—Reasons, regulations—Procedure. |
| New | WAC 356-42-048 | Petitions for certification/decertification of exclusive representative—Contents. |
| Amd | WAC 356-42-082 | Filing unfair labor practice charge. |
| Amd | WAC 356-42-083 | Investigation of and disposition of unfair labor practice charges; |

that the agency will at 10:00 a.m., Thursday, July 11, 1985, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA 98504, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150 and 1.16.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 9, 1985.

Dated: June 5, 1985

By: Leonard Nord
Secretary

STATEMENT OF PURPOSE

Amend WAC 356-14-180.

Title: Salary—Reversion—Computation.

Purpose: Explains the computation of salaries for employees who revert during their trial service period.

Statutory Authority: RCW 41.06.150.

Summary: Add the words "or demoted" to this rule. All other changes to this rule are housekeeping changes.

Reasons: This rule currently applies only to employees who promote and then revert during their trial service period. However, WAC 356-30-320 indicates that employees who have voluntarily demoted and who must serve a trial service period also may be reverted during their trial service period. Therefore, since WAC 356-14-180 applies to employees who promote, it should also apply to employees who voluntarily demote.

Responsibility for Drafting: D. J. Patin, Personnel Analyst, Department of Personnel, 600 South Franklin,

MS: FE-11, Olympia, WA 98504, phone 754-1769; Implementation: All state agencies; and Enforcement: Department of Personnel.

Proposed by: Department of Personnel, governmental agency.

Amend WAC 356-18-020.

Title: Holidays.

Purpose: To list the legal state holidays designated by statute.

Statutory Authority: RCW 41.06.150.

Specific Statute: RCW 1.16.050.

Summary: Add Martin Luther King Jr.'s Birthday (third Monday in January); delete Lincoln's Birthday (February 12th); and revise Washington's Birthday to read President's Day.

Reasons: Revision of RCW 1.16.050.

Responsibility for Drafting: D. J. Patin, Personnel Analyst, Department of Personnel, 600 South Franklin, MS: FE-11, Olympia, WA 98504, phone 754-1769; Implementation: All state agencies; and Enforcement: Department of Personnel.

Proposed by: Department of Personnel, governmental agency.

Amend WAC 356-30-330.

Title: Reduction-in-force—Reasons, regulations—Procedure.

Purpose: To provide guidelines and procedures governing reduction-in-force.

Statutory Authority: RCW 41.06.150.

Summary: The proposed change would clarify that employment projects are separate layoff units.

Reasons: Employment projects have always been treated as separate layoff units, but the merit system rules (Title 356 WAC) do not clearly address this issue. The proposed change would provide this needed clarification.

Responsibility for Drafting: D. J. Patin, Personnel Analyst, Department of Personnel, 600 South Franklin, MS: FE-11, Olympia, WA 98504, phone 754-1769; Implementation: All state agencies; and Enforcement: Department of Personnel.

Proposed by: Department of Personnel and the Department of Social and Health Services, governmental agencies.

New WAC 356-42-048.

Title: Petitions for certification/decertification of exclusive representative—Contents.

Purpose: New rule.

Statutory Authority: RCW 41.06.150.

Summary: To impose a 90-day cut-off on circulation of petitions and to require that such petitions clearly state their purpose.

Reasons: The 90-day cut-off will avoid the problem of "stale" petitions. The requirement for a clear statement of purpose will ensure that individuals fully understand the petition before signing it.

Responsibility for Drafting: Mark Lyon, Washington Public Employees Association, 114 West 10th, Olympia, WA, phone 943-1121; Implementation and Enforcement: Department of Personnel.

Proposed by: Washington Public Employees Association Employee Organization.

Amend WAC 356-42-082.

Title: Filing unfair labor practice charge.

Purpose: Establishes the method and procedure for filing an unfair labor practice charge with the Personnel Board.

Statutory Authority: RCW 41.06.150.

Summary: To establish a time limitation for filing of unfair labor practice charges.

Reasons: The time limitation will provide for timely filing of unfair labor practice charges while witnesses are still available, etc. Additionally, the language will provide consistency with practices of the Public Employment Relations Commission.

Responsibility for Drafting: Mark Lyon, Washington Public Employees Association, 114 West 10th, Olympia, WA, phone 943-1121; Implementation and Enforcement: Department of Personnel.

Proposed by: Washington Public Employees Association Employee Organization.

Amend WAC 356-42-083.

Title: Investigation of and disposition of unfair labor practice charges.

Purpose: Establishes the standard under which investigations of unfair labor practice charges are conducted.

Statutory Authority: RCW 41.06.150.

Summary: Limits the investigation to a determination only as to whether the charge(s), as a matter of law based on the facts as alleged, is not frivolous or substantially without merit.

Reasons: To clarify, streamline and speed the process by which the Department of Personnel staff investigate and evaluate an unfair labor practice charge.

Responsibility for Drafting: Mark Lyon, Washington Public Employees Association, 114 West 10th, Olympia, WA, phone 943-1121; Implementation and Enforcement: Department of Personnel.

Proposed by: Washington Public Employees Association Employee Organization.

AMENDATORY SECTION (Amending Order 120, filed 5/12/78)

WAC 356-14-180 SALARY—REVERSION—COMPUTATION. ((A*)) Reverted employees shall be paid at the step of the salary range which ((he/she)) they normally would have received had ((he/she)) they not been promoted or demoted.

AMENDATORY SECTION (Amending Order 117, filed 3/9/78)

WAC 356-18-020 HOLIDAYS. (1) Legal holidays are designated by statute. The following are legal holidays as established by RCW 1.16.050:

| | |
|-------------------------------|-----------------------------|
| Sunday | |
| New Year's Day | January 1 |
| ((Lincoln's Birthday | February 12)) |
| Martin Luther King | |
| Jr.'s Birthday | Third Monday in January |
| ((Washington's Birthday)) | |
| Presidents' Day | Third Monday in February |
| Memorial Day | Last Monday of May |
| Independence Day | July 4 |
| Labor Day | First Monday in September |
| Veteran's Day | November 11 |
| Thanksgiving Day | Fourth Thursday in November |
| The day immediately following | Thanksgiving Day |
| Christmas Day | December 25 |

(2) Employees, except hourly rated faculty employees and those employees employed on the basis of contracts for a specified number of work days or faculty appointments, may select another day each calendar year on which to take an additional holiday as provided in WAC 356-18-025.

AMENDATORY SECTION (Amending Order 221, filed 4/12/85)

WAC 356-30-330 REDUCTION IN FORCE—REASONS, REGULATIONS—PROCEDURE. (1) The reasons for reduction in force actions and the minimum period of notice are:

(a) Employees may be separated in accordance with the statutes and the agencies' approved reduction in force procedures after at least fifteen calendar days' notice in writing, without prejudice, because of lack of funds or curtailment of work, or good faith reorganization for efficiency purposes, ineligibility to continue in a position which has been reallocated, or when there are fewer positions than there are employees entitled to such positions either by statute or within other provisions of merit system rules.

(b) When employees have statutory and merit system rule rights to return to the classified service and the total number of employees exceeds the number of positions to be filled in the classification, those employees in excess will have the reduction in force rights prescribed in this section.

(2) The agencies shall develop a reduction in force procedure that is consistent with the following:

(a) For purposes of reduction in force (WAC 356-30-330), seniority shall be determined by the definition in WAC 356-05-390, and, if necessary, by measuring the employees' last continuous time within their current classification; and, if still necessary, by measuring the employees' last continuous time in their current agency. When the above seniority determination process results in a tie, the tie will be broken by comparing the employees' last regular annual performance evaluation.

(b) Clearly defined layoff units, either geographically or by administrative units or both, so as to limit the disruption of an agency's total operation; but not to unduly restrict the options available to employees with greater seniority. The definition of layoff units may be a series of progressively larger units within an agency when a valid option in lieu of separation cannot be offered to respective employees within a lesser-sized unit. Employment projects, established under the provisions of WAC 356-30-145, project employment, are distinct layoff units, separate and exclusive of any other defined layoff unit or employment project.

(c) Options in lieu of separation by reduction in force shall be offered by an agency only when such options are in accordance with the agency's reduction in force procedure which has been approved by the director of personnel.

(d) Agency reduction in force procedures shall specify the rights and obligations for employees to accept or reject options offered in lieu of separation due to reduction in force.

(e) "Bumping" by employees with greater seniority will be limited to:

- (i) The same layoff unit; and
 - (ii) Classification in which the "bumping" employee previously held permanent status; and
 - (iii) Position at the current salary range of the employee doing the bumping, or lower; and
 - (iv) Employee with the least seniority within the same category of full-time or part-time employment; and
 - (v) Competition at one progressively lower classification at a time.
- (f) An employee may not exercise a bumping option in lieu of separation due to a reduction in force if there is within the agency a vacant position which satisfies all of the criteria set forth below.

The position is one which:

- (i) The agency intends to fill;
- (ii) Is in the current classification of the employee being offered the option, or in a classification within which the employee being offered the option previously held permanent status;
- (iii) Is at a salary range no lower than the range that would have otherwise been a bumping option;
- (iv) Is located within a reasonable commuting distance of the employee's permanent work location; and
- (v) Is on the same or similar workshift as the one which the employee currently holds.

(g) When an employee has previously held permanent status in more than one classification at the same salary range and is eligible to bump, then the employee shall be offered the option to bump into the position occupied by the employee with the least seniority.

(h) The right to actually "bump" shall be exercised only after the employee to be "bumped" has received at least fifteen calendar days' notice of the scheduled action.

(i) Options of full-time positions will be offered first to full-time employees before part-time positions are offered. For the purpose of these offers, employees who previously accepted part-time positions due to a reduction in force action or to lessen the impact of a reduction in force shall be considered full-time employees.

(j) Seniority for part-time employees will be computed on a basic payroll hour basis within the same provision and restrictions of the general definition of seniority. When part-time employees become full-time employees, their payroll hours will be integrated on a comparable time basis as full-time employees.

(k) Permanent employees who have been scheduled for reduction in force shall have the right to take a transfer or a voluntary demotion to a vacancy that is to be filled in their own layoff unit for which they qualify, as determined by the director of personnel. This right is to be exercised according to the seniority of those desiring the same vacancy.

(l) Options of other than permanent positions as named in subsection (2)(m) of this section are to be made if no permanent position to be filled is available within a reasonable commuting distance.

(m) The reduction in force procedure shall contain the statement that, "No permanent employee shall be separated from state service through reduction in force without being offered within fifteen calendar days prior to what would be the permanent employee's effective separation those positions at the same or lesser salary range within the layoff unit for which he/she qualifies, currently being held by emergency, temporary, provisional, probationary, or intermittent employees."

(n) The salary of an employee who has accepted a lower position will be reduced to the top of the range of the lower class unless the previous salary is within the range of the new class, in which case it will remain unchanged.

(3) The agency shall submit the procedure to the director of personnel for approval.

(4) Vacancies will not be filled either by local list procedures or on a provisional, temporary, intermittent, or seasonal basis without contacting the department of personnel in an effort to fill the positions by qualified employees who have been or are scheduled for separation due to reduction in force.

(5) When a majority of the positions in a layoff unit other than in project employment is to be eliminated because of a lack of funds and/or work, permanent employees in such positions shall be offered, according to their seniority, those positions in classes in which they have held permanent status which are currently being held by emergency, temporary, provisional, or probationary employees; provided they have not rejected offers of vacant positions made by certifications from the registers. Such options shall be offered in accordance with the following requirements:

(a) Positions in the employee's own agency and within a reasonable commuting distance shall be offered first; second, in the classified service within a reasonable commuting distance; third, anywhere within the employee's own agency; and fourth, throughout the classified service.

(b) A permanent employee's right to fill a position may be exercised only within fifteen calendar days prior to the effective date of separation.

(c) Offers will be made in accordance with a procedure established by the director of personnel.

(6) In order to exercise an option to a position which may require selective criteria, the following applies. The option may be exercised only by an employee who possesses the required specialized qualifications when:

(a) The criteria were approved when the position was established, reallocated or last filled; or

(b) The specialized qualifications were previously required for a classification that was later merged with other classifications that did not require them; or

(c) When, at a subsequent time, it was determined that the position requires the performance of specialized duties that would warrant future selective certification.

(d) In the case of (c) above, the selective criteria shall not be applied for the purposes of determining reduction in force options until

six months after the notification of the new duties has been made to the department of personnel.

(e) In the case of (a), (b) and (c) of this subsection, the director of personnel or designee must have determined that the specialized qualifications are still essential for the successful job performance and the qualifications could not be learned within a reasonable length of time.

NEW SECTION

WAC 356-42-048 PETITIONS FOR CERTIFICATION/DE-CERTIFICATION—CONTENTS. (1) Each petition filed pursuant to WAC 356-42-030, 356-42-040, or 356-42-047 shall contain:

(a) The name and address of the employer and, if known, the name, address, and telephone number of the employer's principal representative in matters concerning relationships between the employer and its employees.

(b) A description of the bargaining unit which the petitioner claims to be appropriate, specifying inclusions and exclusions, and, if known, the approximate number of employees in such bargaining unit.

(c) The names and, if known, the addresses and telephone numbers of the principal representatives of any organizations which may claim to represent any of the employees in the bargaining unit which the petitioner claims to be appropriate.

(d) A statement that:

(i) The employees in the bargaining unit wish to be represented by the petitioner and the employer declines, after having been requested to do so, to recognize the petitioner as the exclusive representative of the employees in the bargaining unit which the petitioner claims to be appropriate; or

(ii) The employees in the bargaining unit which the petitioner claims to be appropriate wish to change their exclusive bargaining representative; or

(iii) The employees in the bargaining unit do not wish to be represented by an employee organization; or

(iv) The employees in the bargaining unit wish to decertify an employee organization as union shop representative.

(e) Any other relevant factors.

(f) The name, address, and affiliation, if any, of the petitioner and the name, address, and telephone number of the principal representative, if any, of the petitioner.

(g) The signature and, if any, the title of the petitioner or its representative.

(2) The original petition shall be accompanied by a showing of interest indicating that the petitioner has the support of not less than thirty percent of the employees in the bargaining unit which the petitioner claims to be appropriate. The showing of interest must be timely filed under the same standards applicable to the petition, and must consist of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate during the ninety-day period preceding the filing of such evidence with the personnel board.

AMENDATORY SECTION (Amending Order 177, filed 10/26/82)

WAC 356-42-082 FILING UNFAIR LABOR PRACTICE CHARGE. (1) A charge or charges that any employing agency or employee organization has committed an unfair labor practice, as defined in these rules and RCW 41.56.150, may be filed with the personnel board by any employee, group of employees, employee organization, employing agency, or their authorized agents.

(2) Unfair labor practice charges shall be filed with the director of personnel, as secretary to the personnel board, at the principal office of the department of personnel.

(3) Unfair labor practice charges shall be in writing in the form of a complaint of unfair labor practices, or on a form provided by the personnel board or its designee. The charge shall contain the following:

(a) The name, address and telephone number of the charging party, and the name, address and telephone number of the party's principal representative, if any.

(b) The name, address and telephone number of the party against whom the charge is being filed, and, if known, the principal representative of the charged party.

(c) Clear and concise statements of the facts constituting the alleged unfair labor practice(s), including times, dates, places and participants in occurrences.

(d) A listing of the specific unfair labor practice(s) alleged to have been committed including reference to the applicable subsection(s) of

the statute and regulation defining unfair labor practices. If the charging party is not represented, this subsection may be left blank pending the investigation of the charge.

(e) A statement of the relief sought by the charging party.

(f) The signature and, if any, the title of the person filing the charge.

(4) An unfair labor practice charge shall be filed within six months of:

(a) The occurrence of the illegal action; or

(b) The date on which the charging party could reasonably be expected to have knowledge of the actions giving rise to the unfair labor practice charge.

AMENDATORY SECTION (Amending Order 177, filed 10/26/82)

WAC 356-42-083 INVESTIGATION OF AND DISPOSITION OF UNFAIR LABOR PRACTICE CHARGES. (1) Upon receipt of a properly completed unfair labor practice charge, the director of personnel's designee shall ~~((conduct an investigation to determine whether or not the charge(s) is frivolous or substantially without merit. If it is found that the charge(s) is not frivolous or is not without substantial merit, a complaint shall be issued. If the charge(s) is found to be frivolous or substantially without merit, the charge(s) shall be dismissed))~~ determine whether the facts as alleged constitute an unfair labor practice within the meaning of the merit system rules and applicable statutes. If it is found that the charge(s), as a matter of law based on the facts as alleged, is not frivolous or without substantial merit, the director of personnel shall cause the contents of the charge to be issued and served as a complaint of unfair labor practices and shall assign the matter for hearing and notify the parties of such assignment. If it is found that the charge(s) is frivolous or substantially without merit, the director of personnel shall issue and cause to be served on all parties an order of dismissal containing the reasons therefor. Dismissal of the charge is appealable to the personnel board.

(2) If a charge does not contain all of the information required by WAC 356-42-082(3), the director of personnel or designee shall return the charge to the charging party for inclusion of the required information. If a complaint is issued, it shall be in the same form as the charge.

(3) The director of personnel or designee shall mail, or otherwise cause to be served, the complaint to the charged party.

WSR 85-12-044

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed June 5, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning fee for certification, WAC 180-75-065;

that the agency will at 9:00 a.m., Thursday, July 25, 1985, in the Juan de Fuca Room, Haguewood's Restaurant at Bayshore Inn, 221 North Lincoln, Port Angeles, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, July 26, 1985.

The authority under which these rules are proposed is RCW 28A.04.120.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 25, 1985.

Dated: June 3, 1985

By: Monica Schmidt
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-75 WAC, General certification provisions.

Rule Section(s): WAC 180-75-065 Fee for certification.

Statutory Authority: RCW 28A.04.120.

Purpose of the Rule(s): To establish fees for professional certification.

Summary of the New Rule(s) and/or Amendments: WAC 180-75-065, as a result of December 1984 amendments to this section, certain certificates or changes thereto issued under previous standards were inadvertently not included. The new subsection (c) language includes all certificates currently issued by the State Board of Education which are for limited duration.

Reasons Which Support the Proposed Action(s): To correct drafting error in December 1984 amendments to this section.

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

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Donald Hair, SPI, 3-2751; and Enforcement: Charles R. Marshall, SPI, 3-1880.

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): This rule change is one of several designed to improve preservice and inservice preparation of professional educators.

AMENDATORY SECTION (Amending Order 16-84, filed 12/10/84)

WAC 180-75-065 FEE FOR CERTIFICATION. (1) In accordance with provisions of RCW 28A.70.110 and 28A.71.100, the fee for certificates which are valid for more than one year, issued by authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be as follows:

- (a) ~~((The initial certificate, valid for four years is twenty dollars;~~
 (b) ~~A renewal, reinstatement, or additional endorsement on the initial certificate, valid for three years, is fifteen dollars;~~
 (c) ~~The provisional certificate, valid for three years is fifteen dollars;~~
 (d) ~~A renewal or reinstatement of the provisional certificate, valid for three years, is fifteen dollars;~~
 (e) ~~A substitute certificate, valid for three years, is fifteen dollars;~~
 (f) ~~The continuing certificate is seventy dollars;~~
 ((g)) (b) ~~The reinstatement ((or)), additional endorsement on the ((continuing)) certificate, duplicate certificates, and certificates issued for the purpose of showing a name change is fifteen dollars; and~~
 ((h) ~~Emergency and consultant special certificates, valid for one year, are five dollars)) (c) ~~Any other certificate or credential or any renewal thereof shall be five dollars for each year of validity;~~
 ((f)) (d) ~~PROVIDED, That the fee for all vocational certificates shall be one dollar.~~~~

(2) The fee for any other certificate/credential, or for any renewal thereof, issued by the authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be ~~((one))~~ five dollars.

(3) Officials authorized to collect certification fees are educational service district superintendents, local school district superintendents, deans and directors of education at colleges and universities, and designees of program units. The fee must accompany the application for a certificate and shall be transmitted by the receiving district, college or university, or program unit designee at least quarterly to the educational service district within which the application is filed for disposition in accordance with provisions of RCW 28A.70.110. The fee shall

not be refunded unless the application is withdrawn before it is finally considered (i.e., the issuance of a certificate or a written communication denying such issuance) by the superintendent of public instruction or his or her designee. Moneys accrued from certification fees within the boundaries of an educational service district shall be divided in the following manner:

(a) Local school districts employing more than one hundred teachers and other professional staff and collecting certification fees may retain one dollar of each fee in order to hold a professional training institute. If such district does not hold an institute all such moneys shall be placed to the credit of the educational service district.

(b) No less than fifty percent of the funds accruing within the boundaries of an educational service district shall be used to support program activities related to state-wide precertification professional preparation and evaluation.

(c) The remaining funds shall be used to support professional inservice training programs and evaluations thereof.

WSR 85-12-045

NOTICE OF PUBLIC MEETINGS
STATE BOARD OF EDUCATION

[Memorandum—June 5, 1985]

The State Board of Education schedule of meeting dates and locations for the 1985 calendar year, filed with the state code reviser on December 24, 1984, (WSR 85-02-009) and amended on March 6, 1985, (WSR 85-06-068), has been amended as follows: The date of the July 25-27, 1985, meeting has been changed to the evening of July 24, July 25, and July 26, 1985. The business meeting of the board will convene at 9:00 a.m. on Thursday and Friday, July 25 and July 26. The location is the Juan de Fuca Room of Haguewood's Restaurant at the Bayshore Inn, Port Angeles, Washington.

WSR 85-12-046

ADOPTED RULES
DEPARTMENT OF FISHERIES
[Order 85-57—Filed June 5, 1985]

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

This action is taken pursuant to Notice No. WSR 85-10-061 filed with the code reviser on May 1, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

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

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

APPROVED AND ADOPTED June 4, 1985.

By Gene DiDonato
for William R. Wilkerson
Director

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-56-310 SHELLFISH—POSSESSION LIMITS. It is ~~((lawful unless otherwise provided))~~ unlawful for any one person to take in any one day or possess for personal use at any one time more than 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.

(h) Grays Harbor – 40 clams or 7 pounds in the shell in the aggregate, whichever occurs first.

(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 83-16, filed 3/17/83)

WAC 220-56-350 HARDSHELLS, COCKLES, MUSSELS—AREAS AND SEASONS. (1) It is lawful to take, dig for and possess clams, cockles, borers and mussels taken for personal use on Puget Sound the entire year ~~((PROVIDED,))~~ except that it is unlawful to take, dig for or possess such shellfish taken for personal use:

(a) West of the tip of Dungeness Spit from April 1 through October 31.

(b) Garrison Bay: All state-owned and federally-owned tidelands south of a boundary marker located approximately 1,010 yards southerly of Bell Point are closed to clam digging the entire year. Those tidelands north of the above-described boundary marker are open to harvest the entire year.

(c) Saltwater State Park—All state-owned tidelands at Saltwater State Park shall be closed to the personal use harvest of all species of clams from June 16 through December 31.

(d) Twanoh State Park—All state-owned tidelands at Twanoh State Park shall be closed to the personal use harvest of all species of clams from June 16 through December 31.

(e) Shine Tidelands—A 1.5-acre plot (160'x400') located 1/4 mile north of the west approach to the former Hood Canal Floating Bridge shall be closed to clam digging the entire year.

(f) Fry Cove, Thurston County Parks—A 1-acre gravel plot (290'x140') located 1/4 mile north of Fry Cove on Eld Inlet shall be closed to clam digging the entire year.

(g) Point Whitney—All publicly owned tidelands at Point Whitney lying north of point located at the base of the United States Navy Dock to a point 250 yards west (280°) are closed from July 15 through December 31.

(h) Eagle Creek—All publicly owned tidelands at Eagle Creek lying east of a point located at the mouth of Eagle Creek where it passes beneath Highway 101 to a point 250 yards southwest (228°) are closed from January 1 through June 30.

(i) State oyster reserves are closed to clam digging the entire year.

(2) It ~~((shall be))~~ is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams, taken for personal use in Grays Harbor and Willapa Harbor the entire year ~~((and))~~, except from state oyster reserves, which are closed to clam digging the entire year.

(3) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams taken for personal use from the Pacific Ocean beaches from November 1 through March 31.

WSR 85-12-047
PROPOSED RULES
HIGHER EDUCATION
PERSONNEL BOARD

[Filed June 5, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Personnel Board intends to adopt, amend, or repeal rules concerning:

| | | |
|-----|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Amd | WAC 251-04-020 | Definitions (examinations, essential job elements, job analysis, institutional examination, rating guide, specific position elements, specific position requirements, system examination). |
| Amd | WAC 251-08-100 | Periodic increment date. |
| Amd | WAC 251-10-030 | Layoff. |
| Amd | WAC 251-10-035 | Layoff—Special employment programs. |
| Amd | WAC 251-12-073 | Appeals from exempt status. |
| Amd | WAC 251-18-010 | Examination—Requirement—Responsibilities. |
| New | WAC 251-18-035 | Recruitment notices—Required content. |
| New | WAC 251-18-041 | Application materials—Distribution. |
| New | WAC 251-18-075 | Examination administration. |
| New | WAC 251-18-095 | Examinations—Evaluation of. |
| Amd | WAC 251-18-140 | Examination results—Notification—Institutional review. |
| New | WAC 251-18-165 | Examinations—Records requirements. |
| Amd | WAC 251-18-185 | Eligible lists—Tied scores—Certification. |
| Amd | WAC 251-18-240 | Certification—Method. |
| Amd | WAC 251-18-250 | Certification—Corrective employment. |
| New | WAC 251-18-255 | Certification—Specific position requirements. |
| Amd | WAC 251-18-420 | Appointment—Conversion of exempt position. |
| Amd | WAC 251-22-040 | Holidays. |
| Amd | WAC 251-22-060 | Vacation leave—Accrual. |
| Amd | WAC 251-22-090 | Vacation leave—Cash payment. |
| Amd | WAC 251-22-200 | Leave of absence without pay; |

that the agency will at 9:00 a.m., Friday, July 19, 1985, in the Board Room, Edmonds Community College, Lynnwood, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 28B.16.100.

The specific statute these rules are intended to implement is chapter 28B.16 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 19, 1985.

Dated: June 5, 1985
 By: John A. Spitz
 Director

STATEMENT OF PURPOSE

This statement is related to the notice filed with the code reviser on June 5, 1985, and is filed pursuant to RCW 34.04.025.

Rule Affected: WAC 251-04-020 Definitions.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: Defines terms used in Title 251 WAC.

Summary of Proposed Changes: Modifies definition of "examinations" and adds definitions of "essential job elements," "job analysis," "institutional examination," "rating guide," "specific position elements," "specific position requirements" and "system examination."

Organization Proposing Change: HEPB staff. The proposed modifications result from a review of chapter 251-18 WAC conducted by a system examination team composed of HEPB staff members, higher education institution representatives and employee organization representatives.

Rule Affected: WAC 251-08-100 Periodic increment date.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rules: To establish conditions for establishing or changing an employee's periodic increment date.

Summary of Proposed Changes: Housekeeping change necessary to making accurate references to other rules cited in this section.

Organization Proposing Change: Higher Education Personnel Board staff.

Rule Affected: WAC 251-10-030 Layoff.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: Requires that employees meet selective certification requirements in order to be certified to a position for which such requirements have been identified.

Summary of Proposed Change: Replaces the term "selective certification" with the term "specific position requirements" used in chapter 251-18 WAC.

Organization Proposing Change: HEPB staff. The proposed modifications result from a review of chapter 251-18 WAC following a review conducted by a system examination team composed of HEPB staff members, higher education institution representatives and employee organization representatives.

Rule Affected: WAC 251-10-035.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: Provides that the provisions of WAC 251-10-030 relative to selective certification also apply to special employment layoff options.

Summary of Proposed Change: Replaces the term "selective certification" with the term "specific position requirements" used in chapter 251-18 WAC.

Organization Proposing Change: HEPB staff. The proposed modifications result from changes in chapter 251-18 WAC following a review conducted by a system examination team composed of HEPB staff members, higher education institution representatives and employee organization representatives.

Rule Affected: WAC 251-12-073 Appeals from exempt status.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rules: To establish conditions for appeals from exempt status.

Summary of Proposed Changes: Housekeeping change necessary to making accurate references to other rules cited in this section.

Organization Proposing Change: Higher Education Personnel Board staff.

Rule Affected: WAC 251-18-010 Examination—Requirement—Responsibilities.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: Establishes the requirement for examinations for appointments to positions in the classified service, the approval authority of the director, and provides for the establishment of procedures for the development, modification, approval, administration, scoring and use of examinations.

Summary of Proposed Changes: Removes the requirement for the establishment of procedures, establishes the requirement for documented job analysis to justify examination content, establishes the responsibilities of the director and personnel officers for examination development and use.

Organization Proposing Change: HEPB staff. The proposed modifications result from a review of chapter 251-18 WAC conducted by a system examination team composed of HEPB staff members, higher education institution representatives and employee organization representatives.

Rule Affected: WAC 251-18-035 Recruitment notices—Required content.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: New rule proposal.

Summary of Proposed Changes: Specifies requirements for the content of recruitment notices.

Organization Proposing Change: HEPB staff. The proposed modifications result from a review of chapter 251-18 WAC conducted by a system examination team composed of HEPB staff members, higher education institution representatives and employee organization representatives.

Rule Affected: WAC 251-18-041 Application materials—Distribution to applicants.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: New rule proposal.

Summary of Proposed Changes: Specifies requirements for application materials to be distributed to applicants.

Organization Proposing Change: HEPB staff. The proposed modifications result from a review of chapter 251-18 WAC conducted by a system examination team composed of HEPB staff members, higher education institution representatives and employee organization representatives.

Rule Affected: WAC 251-18-075 Examination administration.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: New rule proposal.

Summary of Proposed Changes: Specifies requirements for administration of examinations by personnel officers.

Organization Proposing Change: HEPB staff. The proposed modifications result from a review of chapter 251-18 WAC conducted by a system examination team composed of HEPB staff members, higher education institution representatives and employee organization representatives.

Rule Affected: WAC 251-18-095 Examinations—Evaluation of.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: New rule proposal.

Summary of Proposed Changes: Specifies the requirements for the evaluation of examinations by personnel officers.

Organization Proposing Change: HEPB staff. The proposed modifications result from a review of chapter 251-18 WAC conducted by a system examination team composed of HEPB staff members, higher education institution representatives and employee organization representatives.

Rule Affected: WAC 251-18-140 Examination results—Notification—Institutional review.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: Specifies the requirements for notifying applicants of their examination results, for the review of applicants' results by the personnel officer and for applicants' rights of appeal.

Summary of Proposed Changes: Adds clarification of applicants' final status in the examination process.

Organization Proposing Change: HEPB staff. The proposed modifications result from a review of chapter 251-18 WAC conducted by a system examination team composed of HEPB staff members, higher education institution representatives and employee organization representatives.

Rule Affected: WAC 251-18-165 Examinations—Records requirements.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: New rule proposal.

Summary of Proposed Changes: Specifies requirements for the maintenance of selection records by the personnel officer.

Organization Proposing Change: HEPB staff. The proposed modifications result from a review of chapter 251-18 WAC conducted by a system examination team composed of HEPB staff members, higher education institution representatives and employee organization representatives.

Rule Affected: WAC 251-18-185 Eligible lists—Tied scores—Certification.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: Specifies the methods to be used to certify eligibles when there are tied scores.

Summary of Proposed Changes: Clarifies requirements and changes terminology to be consistent with the remainder of the chapter.

Organization Proposing Change: HEPB staff. The proposed modifications result from a review of chapter 251-18 WAC conducted by a system examination team composed of HEPB staff members, higher education institution representatives and employee organization representatives.

Rule Affected: WAC 251-18-240 Certification—Method.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: Specifies the method of certifying names for classified vacancies.

Summary of Proposed Changes: Corrects the reference to the combined eligible list in WAC 251-18-180.

Organization Proposing Change: HEPB staff. The proposed modifications result from a review of chapter 251-18 WAC conducted by a system examination team composed of HEPB staff members, higher education institution representatives and employee organization representatives.

Rule Affected: WAC 251-18-250 Certification—Corrective employment.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: Specifies the requirements for selective certification of eligibles for both specialized skills and corrective employment purposes.

Summary of Proposed Changes: Removes the requirements for selective certification for skills and changes the terminology from selective certification to certification—corrective employment.

Organization Proposing Change: HEPB staff. The proposed modifications result from a review of chapter 251-18 WAC conducted by a system examination team composed of HEPB staff members, higher education institution representatives and employee organization representatives.

Rule Affected: WAC 251-18-255 Certification—Specific position requirements.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: New rule proposal.

Summary of Proposed Changes: Specifies the requirements for certifying only qualified eligibles when specific position requirements have been documented.

Organization Proposing Change: HEPB staff. The proposed modifications result from a review of chapter 251-18 WAC conducted by a system examination team composed of HEPB staff members, higher education institution representatives and employee organization representatives.

Rule Affected: WAC 251-18-420 Appointment—Conversion of exempt position.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rules: To establish conditions for converting an exempt position to a classified position.

Summary of Proposed Changes: Housekeeping change necessary to making accurate references to other rules cited in this section.

Organization Proposing Change: Higher Education Personnel Board staff.

Rule Affected: WAC 251-22-040 Holidays.

Statutory Authority: RCW 1.16.050 to implement the provisions of that section.

Purpose of Existing Rules: To specify legal holidays observed by the institutions and related boards in the state of Washington.

Summary of Proposed Changes: To observe the third Monday of January (Martin Luther King's Birthday) in lieu of the twelfth day of January (Lincoln's Birthday); and the third Monday in February (President's Day) in lieu of the third Monday of February (Washington's Birthday).

Organization Proposing Change: Higher Education Personnel Board staff.

Rule Affected: WAC 251-22-060 Vacation leave accrual.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rules: To establish the conditions for and rate of vacation leave accrual.

Summary of Proposed Changes: Housekeeping change necessary to making accurate references to other rules cited in this section.

Organization Proposing Change: Higher Education Personnel Board staff.

Rule Affected: WAC 251-22-090 Vacation leave—Cash payment.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rules: To establish conditions for cash payment of vacation leave.

Summary of Proposed Changes: To permit payment for vacation leave accrued under RCW 43.01.044.

Organization Proposing Change: Higher Education Personnel Board staff.

Rule Affected: WAC 251-22-200 Leave of absence without pay.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rules: To establish conditions for leave without pay.

Summary of Proposed Changes: Housekeeping change necessary to making accurate references to other rules cited in this section.

Organization Proposing Change: Higher Education Personnel Board staff.

Agency Person Responsible for Rules: John Spitz, Director, Higher Education Personnel Board, 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, scan 234-3730 or 753-3730.

The agency makes no additional comments/recommendations regarding the proposals.

The changes are not the result of federal law or state court action.

AMENDATORY SECTION (Amending Order 123, filed 1/30/85)

WAC 251-04-020 DEFINITIONS. Unless the context clearly indicates otherwise, the words used in these rules shall have the meanings given in this section.

"ADMINISTRATIVE ASSISTANT EXEMPTION" – A president or vice president may have individual(s) acting as his/her administrative assistant(s). The employee normally performs supportive work for his/her superior as an individual contributor without subordinates.

"ADMINISTRATIVE EMPLOYEES" – Personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

(1) Primary duty is office or nonmanual work directly related to the management policies or general business operations; and

(2) Must have the authority to make important decisions, customarily and regularly exercise discretion and independent judgment, as distinguished from using skills and following procedures; and

(3) Must regularly assist an executive or administrative employee, or perform work under, only general supervision along specialized or technical lines requiring special training, experience or knowledge; and

(4) Must be paid at a rate of at least \$672 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if the primary duty consists of responsible office or nonmanual work directly related to management policies or general business operations.

"AGRICULTURAL EMPLOYEES" – Employees performing work which includes farming and all its branches, including cultivating the soil, or growing or harvesting crops, or raising livestock, bees, fur-bearing animals, or poultry; or doing any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations.

"ALLOCATION" – The assignment of an individual position to an appropriate class on the basis of the kind, difficulty, and responsibility of the work of the position.

"ANNUAL PERFORMANCE EVALUATION" – The official annual performance rating of an employee recorded on a form approved by the board.

"APPOINTING AUTHORITY" – A person or group of persons lawfully authorized to make appointments.

"AVAILABILITY" – An estimate of the number of women, minorities, and handicapped persons who have the skills and abilities required for employment in a particular job group as determined from an analysis of relevant data.

"BOARD" – The higher education personnel board established under the provisions of the higher education personnel law.

"CERTIFICATION" – The act of providing an employing official or appointing authority with the names of the appropriate eligibles to be considered for appointment to fill a vacancy.

"CHARGES" – A detailed statement of the specific incidents alleging cause for dismissal or disciplinary action.

"CLASS" – One or more positions sufficiently similar with respect to duties and responsibilities that the same descriptive title may be used with propriety to designate each position allocated to the class; that the same general qualification requirements are needed for performance of the duties of the class; that the same tests of fitness may be used to select employees; and that the same schedule of pay can be applied with equity to all positions in the class under the same or substantially the same employment conditions.

"CLASSIFIED SERVICE" – All positions in the higher education institutions which are subject to the provisions of the higher education personnel law.

"COLLECTIVE BARGAINING" – The performance of the mutual obligation of the appointing authority and the certified exclusive bargaining representative to meet at reasonable times, to confer and bargain in good faith, and to execute a written agreement with respect to those personnel matters over which the appointing authority may lawfully exercise discretion.

"COMPETITIVE SERVICE" – All positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

"CORRECTIVE EMPLOYMENT PROGRAM" – A program designed to increase the employment of handicapped persons and of women and minorities who are underutilized in certain job groups because of present or past practices or other conditions which resulted in limited employment opportunities.

"COUNSELING EXEMPTION" – Individuals in counseling-exempt positions are responsible for directing and/or participating in providing academic, athletic, medical, career, financial aid, student activity and/or personal counseling to students. Such activities include, but are

not limited to, providing individual and group guidance services using recognized professional techniques and practices.

"CYCLIC YEAR POSITION" – A position scheduled to work less than twelve full months each year, due to known, recurring periods in the annual cycle when the position is not needed.

"DEMOTION" – The change of an employee from a position in one class to a position in another class which has a lower salary range maximum.

"DEVELOPMENT" – The attainment through work experience and training of proficiency in skills which will enable the employee to perform higher level duties.

"DIRECTOR" – The personnel director of the higher education personnel board.

"DISMISSAL" – The termination of an individual's employment for just cause as specified in these rules.

"ELIGIBLE" – An applicant for a position in the competitive service who has met the minimum qualifications for the class involved, has been admitted to and passed the examinations, and has met all requirements for eligibility as stated on the bulletin board posting; or an applicant for a position in the noncompetitive service who has met all requirements for eligibility as stated on the bulletin board posting.

"ELIGIBLE LIST" – A list established by the personnel officer, composed of names of persons who have made proper application, met the minimum qualifications, and successfully completed the required examination process to be certified for vacancies in a class at the institution.

"EMPLOYEE" – A person working in the classified service at an institution.

"EMPLOYEE ORGANIZATION" – Any lawful association, labor organization, federation, council, or brotherhood, having as one of its purposes the improvement of working conditions among employees, and which has filed a notice of intent to represent employees with the director, and which has been authorized in accordance with WAC 251-14-020.

"EMPLOYING OFFICIAL" – An administrative or supervisory employee designated by the appointing authority to exercise responsibility for requesting certification, interviewing eligibles, and employing classified employees.

"ESSENTIAL JOB ELEMENTS" – Knowledges, skills, and abilities which persons must possess in order to perform the duties of a class or a specific position in a class.

"EXAMINATIONS" – Any measures or assessments used in the process of identifying names for certification to vacancies in accordance with RCW 28B.16.100(2) and WAC 251-18-240. Examinations include examination content, administration, and evaluation.

"EXECUTIVE EMPLOYEES" – Management personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

(1) Primary duty must be management of a recognized department or subdivision; and

(2) Must customarily and regularly direct the work of two or more employees; and

(3) Must have the authority to hire and fire, or to recommend with authority on these and other actions affecting employees; and

(4) Must customarily and regularly exercise discretionary powers; and

(5) Must be paid at a rate of at least \$672 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if he/she regularly directs the work of at least two other employees and the primary duty is management of a recognized department or subdivision.

"EXECUTIVE HEAD EXEMPTION" – Executive heads of major academic or administrative divisions are analogous in the hierarchy to vice presidents, deans and chairmen. Directors may be executive heads as determined by the higher education personnel board. An executive head is in charge of a separate budget unit and directs subordinates.

"EXEMPT POSITION" – A position properly designated as exempt from the application of these rules as provided in WAC 251-04-040. (Also see separate definitions of "administrative assistant exemption," "executive head exemption," "research exemption," "counseling exemption," "extension and/or continuing education exemption," "graphic arts or publication exemption," and "principal assistant exemption.")

"EXTENSION AND/OR CONTINUING EDUCATION EXEMPTION" – Individuals considered exempt in this category are responsible for originating and developing formal education programs for the general public,

usually involving close contact with faculty and staff or training or consulting with specific groups in the community to enable them to provide specialized training and/or services to the community.

"FINAL EXAMINATION SCORE" – An applicant's final passing score on an examination, plus any veterans preference or other applicable credits added in accordance with WAC 251-18-130, 251-18-180 (6) and/or (8)(b).

"FRINGE BENEFITS" – As used in the conduct of salary surveys, the term shall include but not be limited to compensation for leave time, including vacation, civil, and personal leave; employer retirement contributions; health insurance payments, including life, accident, and health insurance, workmen's compensation, and sick leave; and stock options, bonuses, and purchase discounts where appropriate.

"FULL-TIME EMPLOYMENT" – Work consisting of forty hours per week.

"GRAPHIC ARTS OR PUBLICATION EXEMPTION" – Individuals qualifying for exemption under this category will be involved in performing selected graphic arts or publication activities requiring prescribed academic preparation or special training. Positions of this type are those which use special visual techniques, require original design and layout and/or can be distinguished from positions associated with the standard editorial functions.

"GRIEVANCE" – A dispute filed in accordance with a grievance procedure of a signed collective bargaining agreement.

"HANDICAPPED PERSON" – Any person with physical, mental or sensory impairments that would impede that individual in obtaining and maintaining permanent employment and promotional opportunities. The impairments must be material rather than slight, static and permanent in that they are seldom fully corrected by medical replacement, therapy, or surgical means.

"HEARING EXAMINER" – An individual appointed by the board to preside over, conduct and make recommended decisions including findings of fact and conclusions of law in all cases of employee appeals to the board.

"INSTITUTIONAL EXAMINATION" – An examination developed to meet unique requirements of a single institution.

"INSTITUTIONS OF HIGHER EDUCATION" – The University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges. For purposes of application of these rules, the term shall be considered to include the various related boards as defined in this section, unless specifically indicated to the contrary.

"JOB ANALYSIS" – Any systematic procedure for gathering, documenting and analyzing information about the job content and requirements for a class or position in a class.

"JOB CATEGORIES" – Those groupings required in equal employment opportunity reports to federal agencies.

"JOB GROUP" – For affirmative action goal-setting purposes, a group of jobs having similar content, wage rates and opportunities. An EEO job category may consist of one or more job groups.

~~("JOB CATEGORIES" – Those groupings required in equal employment opportunity reports to federal agencies.))~~

"LATERAL MOVEMENT" – Appointment of an employee to a position in another class which has the same salary range maximum as the employee's current class.

"LAYOFF" – Any of the following management initiated actions caused by lack of funds or lack of work:

- (1) Separation from service to an institution;
- (2) Separation from service within a class;
- (3) Reduction in the work year; and/or
- (4) Reduction in the number of work hours.

"LAYOFF SENIORITY" – The total amount of service an employee earns as a result of unbroken classified employment and statutory allowance.

"LAYOFF UNIT" – A clearly identified structure within an institution, which is approved by the director, and within which employment/layoff options are determined in accordance with the reduction in force procedure.

"LEAD" – An employee who performs the same duties as other employees in his/her work group and in addition regularly assigns, instructs and checks the work of the employees.

"MANAGEMENT EMPLOYEE" – An employee whose position: (1) Is at system-wide salary range 49 or above, and (2) includes supervision of subordinates, and (3) includes responsibilities normally associated with management such as planning, organizing, directing, and controlling a program or function.

"NONMANAGEMENT EMPLOYEES" – All classified employees except those defined as "management employees."

"NONCOMPETITIVE SERVICE" – All positions in the classified service for which a competitive examination is not required.

"ORGANIZATIONAL UNIT" – A clearly identified structure, or sub-structure of persons employed to achieve a common goal or function under the direction of a single official. An organizational unit may consist of either an administrative entity or a geographically separated activity.

"PART-TIME EMPLOYMENT" – Work of twenty or more hours per week but less than full time employment with an understanding of continuing employment for six months or more.

"PERIODIC INCREMENT DATE" – ("P.I.D.") – The date upon which an employee is scheduled to move to a higher salary step within the range for his/her current class.

"PERMANENT EMPLOYEE" – An employee who has successfully completed a probationary period at the institution within the current period of employment or trial service period resulting from promotion, transfer, lateral movement, or voluntary demotion from another institution, related board or state agency.

"PERSONNEL OFFICER" – The principal employee in each institution/related board responsible for administrative and technical personnel activities of the classified service.

"P.I.D." – Commonly used abbreviation for periodic increment date.

"POSITION" – A set of duties and responsibilities normally utilizing the full or part time employment of one employee.

"PRINCIPAL ASSISTANT EXEMPTION" – Individuals qualifying for exemption under this category function as second-in-command in important levels. The individual may perform many of the functions of his/her superior in the superior's absence, or alternatively may have major administrative or program responsibilities. Reporting relationships will not be below that of the executive head. In some institutions an executive head may have more than one principal assistant as determined by the higher education personnel board.

"PROBATIONARY PERIOD" – The initial six-month period of employment in a class following appointment from an eligible list of a non-permanent employee. However, upon prior approval by the board, the probationary period for selected classes may be established for a period in excess of six months but not to exceed twelve months.

"PROBATIONARY REAPPOINTMENT" – Appointment of a probationary employee from an eligible list to a position in a different class.

"PROFESSIONAL EMPLOYEES" – Personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

(1) Primary duty must involve work that requires knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction and study or work that is original and creative in character in a recognized field of artistic endeavor and the result of which depends primarily on invention, imagination, or talent; and

(2) Must consistently exercise discretion and judgment; and

(3) Must do work that is predominantly intellectual and varied, as distinguished from routine or mechanical duties; and

(4) Must be paid at a rate of at least \$737 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if the primary duty consists of work requiring knowledge of an advanced type in a field of science or learning which requires consistent exercise of discretion and judgment.

"PROMOTION" – The appointment as a result of recruitment, examination and certification, of a permanent employee to a position in another class having a higher salary range maximum.

"PROVISIONAL APPOINTMENT" – Appointment made prior to establishment of an eligible list, per the provisions of WAC 251-18-300. A person so appointed is required to apply through the competitive process to be considered for the position on a permanent basis.

"PUBLIC RECORDS" – Any writing containing information relating to conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

"RATING FACTOR" – An element, duty, responsibility, skill, ability, or other specific aspect of performance which is rated as part of the annual performance evaluation.

"RATING GUIDE" – A written document which outlines the way in which ratings are assigned to applicants' experience, training, or other qualifications on each job element in an examination. It specifies the range of ratings to be given for each job element and gives examples of

the experience, training, or other qualifications that will be used to assign ratings.

"REALLOCATION" – The assignment of a position by the personnel officer to a different class.

"REASSIGNMENT" – A management initiated movement of a classified employee from one position to another in the same class.

"RELATED BOARDS" – The state board for community college education, the council for postsecondary education, the higher education personnel board, and such other boards, councils and commissions related to higher education as may be established. For purposes of application of these rules, the term "institution" shall be considered to include these related boards, unless specifically indicated to the contrary.

"RESEARCH EXEMPTION" – Individuals in research-exempt positions spend the majority of their time in one or more of the following activities: Identification and definition of research problems, design of approaches or hypotheses and methodology to be used, design of specific phases of research projects, analysis of results, development of conclusion and hypothesis, presentation of research results in publishable form.

"RESIGNATION" – A voluntary termination of employment.

"REVERSION" – The return of a permanent employee from trial service to the most recent class in which permanent status was achieved at the institution.

"SPECIFIC POSITION ELEMENTS" – Knowledges, skills, and abilities which a job analysis indicates to be significant for performing the duties of a specific position in a class but which are not significant for the class in general.

"SPECIFIC POSITION REQUIREMENTS" – Specific position elements which are essential job elements.

"SUPERVISOR" – Any individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them or adjust their grievances, or effectively to recommend such action if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

"SUSPENSION" – An enforced absence without pay for disciplinary purposes.

"SYSTEM EXAMINATION" – An examination developed to meet the requirements of all institutions in the HEPB system and approved by the director for use by all such institutions.

"TEMPORARY APPOINTMENT" –

(1) Work performed in the absence of an employee on leave for:

(a) Less than ninety consecutive calendar days (WAC 251-18-350(4));

(b) Ninety or more consecutive calendar days (WAC 251-18-350(2)); or

(2) Formal assignment of the duties and responsibilities of a higher level class for a period of less than ninety consecutive calendar days; or

(3) Performance of extra work required at a work load peak, a special project, or a cyclic work load which does not exceed one hundred seventy-nine consecutive calendar days.

"TRAINING" – Formal and systematic learning activities intended to provide employees with the knowledge and skills necessary to become proficient or qualified in a particular field.

"TRANSFER" – An employee initiated change from one classified position to another in the same class without a break in service.

"TRIAL SERVICE" – The initial period of employment following promotion, transfer, demotion, or lateral movement into a class in which the employee has not held permanent status at the institution or related board, beginning with the effective date of the change and continuing for six months, unless interrupted as provided in these rules or extended as provided in WAC 251-18-330(6).

"UNDERUTILIZATION" – Having fewer minorities, women, or handicapped persons in a particular job group than would reasonably be expected by their availability.

"UNION SHOP" – A union membership provision which, as a condition of employment, requires all employees within a bargaining unit to become members of an employee organization.

"UNION SHOP REPRESENTATIVE" – An employee organization which is the exclusive representative of a bargaining unit that has been certified by the director as the union shop representative following an election wherein a majority of employees in the bargaining unit voted in favor of requiring membership in the employee organization as a condition of employment.

"UNION SHOP REPRESENTATION FEE" – Employees who are granted a nonassociation right based on religious tenets or teachings of a church or religious body of which they are members, must pay a representation fee to the union shop representative. Such fee is equivalent to the regular dues of the employee organization minus any monthly premiums for union sponsored insurance programs.

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

AMENDATORY SECTION (Amending Order 105, filed 4/29/83, effective 6/1/83)

WAC 251-08-100 PERIODIC INCREMENT DATE. (1) For purposes of payment of periodic increment increases, the effective date shall be determined as follows:

(a) The first of the current month for actions occurring between the first and the fifteenth of the month; or

(b) The first of the following month for actions occurring between the sixteenth and the end of the month.

(2) The periodic increment date of new employees or probationary employees who are reappointed to a new class during the probationary period shall be established:

(a) Upon completion of the probationary period for those appointed at the first step in the salary range; or

(b) Upon completion of twelve months' service in the class for those appointed at a salary step above the first step in the salary range.

(3) The periodic increment date of all employees shall be changed as follows:

(a) Upon promotion, the existing periodic increment date will be eliminated and a new date established to be effective upon completion of the trial service period;

(b) Upon reappointment of a probationary employee during the probationary period, the former periodic increment date will be eliminated and a new date established as provided in WAC 251-08-100(2);

(c) Upon reallocation under WAC 251-06-080 (1)(a) of an employee who is at the top step of the current salary range, the employee will be given a new periodic increment date which will be six months following the reallocation action;

(d) When a leave of absence without pay exceeds ten working days in any calendar month, or exceeds ten consecutive working days, the date will be extended by one month, except as provided by WAC 251-22-180 and ~~((251-18-380))~~ 251-18-381;

(e) When employees return from layoff status, the date will be reestablished and extended by an amount of time equal to the period of layoff in order to give credit for time served in a salary step prior to layoff;

(f) When a cyclic year position leave of absence without pay exceeds ninety calendar days, the periodic increment date shall be extended on a month-for-month basis. Provisions of WAC 251-08-100 (3)(d) shall apply to that period exceeding the ninety calendar days. Cyclic year position employees serving a probationary or trial service period will have their periodic increment dates extended by an amount of time equal to the period in which the employee is on leave of absence without pay;

(g) When employees are reverted from trial service following promotion (or return from alternate appointment), the periodic increment date held prior to promotion or layoff will be reestablished;

(h) When the board or the director order remedial action per WAC 251-12-600, the periodic increment date may be modified as part of the order.

(4) The periodic increment date of all employees shall remain unchanged for all other actions including, but not limited to, transfer within class, appointment to another class with the same or lower salary range maximum, and reallocations except as provided in WAC 251-08-100 (3)(c).

(5) The periodic increment date for incumbents of exempt positions which are converted to classified status shall be established as provided in WAC 251-18-420.

AMENDATORY SECTION (Amending Order 94, filed 3/23/82)

WAC 251-10-030 LAYOFF. (1) An appointing authority may separate or reduce the number of working hours or the work year of an employee without prejudice because of lack of funds or lack of work.

(2) Each institution shall develop for approval by the director a layoff procedure based upon layoff seniority as defined in WAC 251-04-020, to include as a minimum:

(a) Clearly defined layoff unit(s), in order to minimize the disruption of an institution's total operation, and

(b) Provision for veterans preference for eligible veterans and their unmarried widows/widowers as defined in WAC 251-10-045.

(3) A permanent status employee scheduled for layoff shall receive written notice of any available options in lieu of layoff as provided in WAC 251-10-030 (5) and (6). The employee shall be given no less than three working days to select an option, if available, or to elect to be laid off and/or be placed on the appropriate institution-wide layoff list(s).

(4) Written notice of at least fifteen calendar days must be given to the employee after he/she has selected one of the options or upon completion of the option period.

(5) Within the layoff unit, a permanent status employee scheduled for layoff shall be offered employment options to comparable position(s), as determined by the personnel officer, in:

(a) Class(es) in which the employee has held permanent status which have the same or lower salary range maximum as the current class;

(b) Lower class(es) in those same class series for which the employee is qualified.

The employee may exercise either option WAC 251-10-030 (5)(a) or (5)(b) provided that the employee being replaced is the least senior in a comparable position in the class and has less layoff seniority than the employee replacing him/her. A vacant position, if available, should be considered to be the position in the class held by the least senior person. The employee may elect to have access to less-than-comparable positions by so notifying the personnel officer in writing.

(6) Except as provided in WAC 251-10-035, a permanent employee scheduled for layoff who has no options available under subsection (5) above shall be offered position(s) as follows:

(a) The personnel officer will offer in writing not less than three positions from among the highest available classes (unless the total available is less than three); provided that any position(s) offered must be:

(i) At the same level or lower than the class from which the employee is being laid off; and

(ii) Vacant or held by a provisional, temporary, or probationary employee; and

(iii) In a class for which the employee being laid off meets the minimum qualifications and can pass the appropriate qualifying examination.

(b) The employee will be required to indicate within three working days his/her interest in a specific class(es) so that the personnel officer may schedule the appropriate examination(s).

(c) Upon satisfactory completion of the examination(s) the employee will be offered option(s) to specific position(s), including salary information.

(d) Employees appointed to positions through provisions of this subsection (6) will be required to serve a trial service period.

(7) In order to be offered a layoff option or return from layoff to a position for which ~~((selective certification as identified in WAC 251-18-250 (1)(a) has been authorized by the personnel officer))~~ specific position requirements have been documented in accordance with WAC 251-18-255(1), the employee must ((possess the required prerequisite skill(s) called for in the selective certification)) demonstrate a satisfactory level of knowledge, skill, or ability on the specific position requirements.

(8) In a layoff action involving a position for which a particular sex is a ~~((bonafide))~~ bona fide occupational requirement, as approved by the Washington state human rights commission, the most senior employee meeting the occupational requirements may be retained in the position over more senior employees in such class who do not meet the occupational requirement.

(9) When it is determined that layoffs will occur within a unit, the personnel officer will:

(a) Provide a copy of the institution's reduction in force procedure to all employees subject to layoff;

(b) Advise each employee in writing of available options in lieu of layoff;

(c) Advise each employee in writing of the specific layoff list(s) upon which he/she may be placed as required per WAC 251-10-055 and 251-10-035;

(d) Provide information about the process by which the employee may make application for state-wide layoff lists, as required per WAC 251-10-060(7);

(e) Advise each employee in writing of the right to appeal his/her layoff to the board per WAC 251-12-080.

(10) Layoff actions for employees of special employment programs as identified in WAC 251-18-410 shall be administered as provided in WAC 251-10-035.

AMENDATORY SECTION (Amending Order 102, filed 9/20/82, effective 10/25/82)

WAC 251-10-035 LAYOFF—SPECIAL EMPLOYMENT PROGRAMS. (1) Institutions participating in special employment programs qualifying under the conditions identified in WAC 251-18-410 shall establish a special employment program layoff unit.

(2) An appointing authority may separate or reduce the number of working hours or the work year of a special employment program employee without prejudice because of lack of funds or lack of work, or when an incumbent must be separated due to the salary or longevity requirements of Public Law 95-524.

(3) A permanent status special employment program employee scheduled for layoff shall receive written notice of any available options in lieu of layoff as provided in subsection (5) of this section. Employment options are limited to positions within the special employment program layoff unit and/or program for which the employee qualifies. The employee shall be given no less than three working days to select an option, if available, or to elect to be laid off and/or be placed on the appropriate special employment program layoff list(s).

(4) The appointing authority must provide the employee at least fifteen calendar days written notice beyond the date of selection of an option or the completion of the option period, whichever is sooner. The notice shall inform the employee of his/her right to appeal the layoff action to the board per WAC 251-12-080.

(5) Within the special employment program layoff unit, a permanent status employee scheduled for layoff shall be offered the following:

(a) Except as provided in subsection (5)(b) of this section, employees who are being laid off shall be offered options within the layoff unit and placement on special employment program layoff lists in class(es) with the same or lower salary range maximum that are:

(i) Class(es) in which the employee has held permanent status;

(ii) Lower class(es) in the same class series for which the employee is qualified.

The employee may exercise either option provided that the employee being replaced is the least senior in the class and has less layoff seniority than the employee replacing him/her.

(b) Employees who are being laid off due to the expiration of the maximum allowable period of subsidized employment as provided in Public Law 95-524 shall not be afforded layoff options but shall be placed on the special employment program layoff list(s) for which they are eligible.

(6) The provisions of WAC 251-10-030 (7) and (8) relative to ~~((selective certification))~~ specific position and ~~((bonafide))~~ bona fide occupational requirements shall apply to special employment program layoff actions.

(7) The names of employees scheduled for layoff or actually laid off from service within a class shall be placed on the special employment program layoff list as provided in WAC 251-18-180.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-12-073 APPEALS FROM EXEMPT STATUS. As indicated in WAC 251-04-040~~((66))~~(11), any employee who feels that any classification should or should not be exempt, or any employee in a nonexempt classification who feels that he/she should be exempt because of academic qualifications which would enable such employee to teach and thus be exempt, may appeal to the board in the same manner as provided in WAC 251-12-080.

AMENDATORY SECTION (Amending Order 115, filed 5/2/84)

WAC 251-18-010 EXAMINATION—REQUIREMENT—RESPONSIBILITIES. (1) Appointment to positions in the classified service shall be made according to merit and suitability ascertained for

each class by an appropriate examination. (~~Examinations shall be developed utilizing the class specifications and a detailed job analysis, to the degree possible, in a manner which will test fairly the capacity and fitness of the candidates.~~)

~~(2)(a) The director shall establish procedures approved by the board for the development, modification, approval, administration, evaluation and use of examinations.~~

~~(b) Personnel officers may establish procedures to meet specific institutional requirements, provided such procedures are approved by the director before they are used.~~

~~(3) Personnel officers shall be responsible for following the procedures established in subsection (2)(a) and (b) of this section for all appointments to positions in the classified service in their institutions.)~~

~~(2) All job elements included in examinations developed or modified subsequent to September 1, 1985, shall be justified by documented job analysis.~~

~~(3) Personnel officers shall assist in conducting and/or conduct job analyses at their institutions.~~

~~(4) Job analysis methods shall meet professional standards and be approved by the director before they are used to develop examinations.~~

~~(5) System examinations shall be developed by the director with the assistance of the personnel officers and made available for the use of all institutions. The director shall periodically distribute an approved system job element examination list showing all current system examinations.~~

~~(6) Personnel officers shall use only the current versions of the examinations shown on the approved system job element examination list unless approval has been given by the director for examination modifications or the use of institutional examinations.~~

~~(7) Personnel officers may develop modifications to system examinations and/or institutional examinations to meet requirements which are unique to their institutions.~~

~~(8) Institutional examinations and modifications to system examinations shall be:~~

~~(a) Approved by the director before they are used;~~

~~(b) Used by institutions other than the developing institution only with the approval of the director.~~

~~((4)) (9) The personnel officer is responsible for determining when to open eligible lists and conduct examinations.~~

NEW SECTION

WAC 251-18-035 RECRUITMENT NOTICES—REQUIRED CONTENT. Recruitment notices shall contain the following information:

(1) For promotional examinations, a statement that the examination is open only to unit organization and/or institution-wide promotional applicants.

(2) The title of the HEPB classification for which the list is open.

(3) The salary range for the class.

(4) Any conditions of employment for the class or position(s).

(5) The closing date of the recruitment notice, i.e., the specific date and time by which applications must be received by the personnel officer.

(6) When the recruitment notice is to be widely distributed, a statement of the specific locations at which corrected or extended recruitment notices will be displayed.

(7) A brief description of the duties of the class and, if applicable, the duties of the specific position(s).

(8) The minimum qualifications of the classification, if any.

(9) When applicable, a statement regarding the use of a combined list per WAC 251-18-180(10).

(10) When applicable, a statement that certification for corrective employment per WAC 251-18-250 may be utilized.

(11) When applicable, a statement that certification for specific position requirements per WAC 251-18-255 may be utilized.

(12) When applicable per WAC 251-18-060(3), the minimum number of most highly qualified applicants who will be admitted to each phase of the examination other than the screening or other initial phase, provided that at least this number of applicants pass the initial phase(s) of the examination.

(13) For classes in the approved noncompetitive service of the institution:

(a) That applicants will be placed on the list(s) in the order in which they complete making proper application for the class.

(b) The number of applicants who will be placed on the eligible list(s).

NEW SECTION

WAC 251-18-041 APPLICATION MATERIALS—DISTRIBUTION TO APPLICANTS. The following materials shall be provided to job applicants when they apply for a specific recruitment:

(1) The institution's application form as prescribed in WAC 251-18-070(1).

(2) The institution's examination information for job applicants document which explains the HEPB job element examination system and the examination process at that institution.

(3) Either the supplemental application or a brief description of the examination elements for the class.

NEW SECTION

WAC 251-18-075 EXAMINATION ADMINISTRATION. (1) Personnel officers shall administer examinations in accordance with the administration instructions developed for each system or institutional examination.

(2) The personnel officer is responsible for maintaining the security of all confidential examination materials, including test booklets, answer sheets, scoring keys, and rating guides. The personnel officer shall notify the director immediately if there is a suspected breach of examination security.

(3) Personnel officers shall develop institutional procedures for the reexamination of applicants at their institutions. Such procedures shall be approved by the director before they are used.

NEW SECTION

WAC 251-18-095 EXAMINATIONS—EVALUATION OF.

(1) The director shall specify the rating and/or scoring systems to be used to evaluate examinations, including the ratings, scores and/or percentiles required to pass an examination.

(2) Personnel officers shall evaluate examinations in accordance with the rating guides and rating/scoring instructions developed for each system and institutional examination.

(3) Rating guides shall be used to evaluate all job elements included in system and institutional examinations.

(4) Personnel officers shall develop rating guides for all examinations for which system rating guides are not available.

(5) Personnel officers shall assure that raters of examinations, including supplemental applications, performance tests and oral boards, shall have an adequate knowledge of the work required by the specific class or position.

(6) The personnel officer is responsible for the accuracy of the total examination ratings given by the raters of examinations and may disqualify a rater for good and sufficient reason(s). The personnel officer shall disqualify any rater who was biased, did not follow either the content or the intent of the rating guide, or did not possess the required technical knowledge to evaluate the examination.

(7) Total examination ratings shall be computed only for applicants who receive ratings of "satisfactory ability" or higher on all of the essential job elements in the examination.

(8) Applicants must obtain ratings of "satisfactory ability" or higher on all of the essential job elements in an examination in order to pass that examination.

(9) Applicants must pass the final phase of an examination in order to be placed on an eligible list.

AMENDATORY SECTION (Amending Order 115, filed 5/2/84)

WAC 251-18-140 EXAMINATION RESULTS—NOTIFICATION—INSTITUTIONAL REVIEW. (1) The personnel officer shall:

(a) Provide each applicant with written notice of his/her final status in the examination process, normally within fifteen calendar days after the eligible list is established; and

(b) Inform each applicant that within fifteen calendar days of service of his/her notice, he/she may request a review of the action by the personnel officer; and

(c) Inform each applicant of his/her appeal rights per WAC 251-18-145 (1)(c).

(2) Applicants' final status in the examination process shall consist of one of the following:

(a) Application was rejected for good and sufficient reason in accordance with WAC 251-18-110.

(b) Applicant failed the screening or intermediate phase(s) of the examination.

(c) Applicant was not among the most highly qualified applicants to be admitted to subsequent phase(s) of the examination.

(d) Applicant failed the final phase of the examination.

(e) Applicant was placed on the appropriate eligible list in accordance with WAC 251-18-180.

(3) Within thirty calendar days after receiving a request for review as provided in subsection (1)(b) of this section, the personnel officer will provide the applicant with written notice of the results of the review and of appeal rights as provided in WAC 251-18-145 (1)(b).

NEW SECTION

WAC 251-18-165 EXAMINATIONS—RECORDS REQUIREMENTS. (1) The personnel officer shall maintain selection records as required by applicable federal, state, and local laws and institutional policies.

(2) The director shall maintain records of all current approvals given with regard to the selection process at each institution.

(3) Personnel officers shall maintain written records of all current approvals given with regard to the selection process at their institutions.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-18-185 ELIGIBLE LISTS—TIED SCORES—CERTIFICATION. ~~((When two or more candidates on the same eligible list have the same rating, their position on the list, for recordkeeping purposes, will be determined by lot.))~~ When ~~((in the process of))~~ certification ~~((a tie score group is reached which, if))~~ of all eligibles with the same final examination score ~~((were certified))~~ would result in a certification of more than the number of eligibles ~~((permitted by these rules, the official responsible for certification may exercise either of the following options))~~ specified in WAC 251-18-240(1), the personnel officer will certify the required number of eligibles from the tied score group using ranks determined by:

(1) ~~((Complete the certification by certifying the necessary number of eligibles according to their position on the list as drawn by lot for recordkeeping purposes))~~ Random assignment; or

(2) ~~((Complete the certification by determining, on the basis of the description of))~~ The documented qualifications of the eligibles for the particular ~~((vacancy))~~ position for which certification is being made ~~((; which eligible(s) from the tie score group will be referred. Such decision shall be based on the appropriateness of the eligible's experience and training to the particular job vacancy));~~ or

(3) A combination of subsections (1) and (2) of this section.

AMENDATORY SECTION (Amending Order 119, filed 7/31/84)

WAC 251-18-240 CERTIFICATION—METHOD. (1) Upon receipt of a personnel request, the personnel officer shall provide the following number of names to the employing official in writing:

(a) From the institution-wide layoff list, a single name for each vacancy to be filled by the certification.

(b) From all other eligible lists, four more names than there are vacancies to be filled by the certification.

(2) Names shall be certified in strict order of standing on the eligible list(s).

(3) When it is necessary to use more than one eligible list to complete a certification, each eligible list must be exhausted before progressing to the next eligible list. Eligible lists shall be used for filling classified vacancies in the strict order of priority listed below:

(a) Unless the personnel officer has established a combined eligible list in accordance with WAC 251-18-180~~((8))~~(10):

- (i) Institution-wide layoff list;
- (ii) Organizational unit promotional list;
- (iii) Institution-wide promotional list;
- (iv) Special employment program layoff list;
- (v) State-wide layoff list;
- (vi) Interinstitutional employee list;
- (vii) Intersystem employee list;
- (viii) Open competitive or noncompetitive list.

(b) When the personnel officer has established a combined eligible list:

- (i) Institution-wide layoff list;
- (ii) Combined eligible list.

AMENDATORY SECTION (Amending Order 98, filed 7/22/82, effective 9/1/82)

WAC 251-18-250 CERTIFICATION—~~((SELECTIVE))~~CORRECTIVE EMPLOYMENT. (1) ~~((The personnel officer may declare a selective certification of eligibles to fill a vacancy under the following conditions:~~

~~((a) When there is a requirement for specialized and/or distinctive technical or professional qualifications essential to fill the work requirements of a particular position;~~

~~((b))~~ When the institution/related board is utilizing a corrective employment program to increase the representation of employees by race, sex or handicap per provisions of WAC 251-18-390, ~~((Corrective employment programs))~~ the personnel officer may certify only those eligibles who meet the appropriate corrective employment criteria.

(2) ~~((Recruiting bulletins issued to establish lists of eligibles from which selective certification may be made must include the special qualifications and/or indicate that selective certification in accordance with corrective employment program regulations may be utilized:~~

~~((3) The))~~ Corrective employment eligibles ~~((selectively))~~ shall be certified ~~((shall be))~~ in strict order of their standing on the appropriate list(s) ~~((from among those meeting the approved selective criteria)).~~

(3) When ~~((selective))~~ certification ~~((for corrective employment purposes as provided in))~~ according to subsection(s) (1)~~((b))~~ and (2) of this section does not result in a complete certification ~~((of four more names than there are vacancies to be filled)),~~ the personnel officer may complete the certification by adding the ~~((necessary))~~ appropriate number of names from ~~((the top of))~~ the appropriate eligible list(s) ~~((as provided))~~ in accordance with WAC 251-18-240~~((3))~~.

~~((4) The appointment of employees hired or promoted through selective certification will be reported monthly to the director.))~~

NEW SECTION

WAC 251-18-255 CERTIFICATION—SPECIFIC POSITION REQUIREMENTS. (1) All specific position requirements shall be justified by a job analysis in accordance with WAC 251-18-010(2).

(2) When specific position requirements have been documented for a position, only the names of eligibles who have demonstrated a satisfactory level of knowledge, skill or ability on such specific position requirements shall be certified for that position.

AMENDATORY SECTION (Amending Order 108, filed 9/23/83, effective 10/24/83)

WAC 251-18-420 APPOINTMENT—CONVERSION OF EXEMPT POSITION. (1) Incumbents of positions which are converted from exempt to classified service for the following reasons may be placed within the classified service as provided in subsections (2) through (9) of this section:

(a) When it has been determined that the exempt position does not meet the criteria for exemption per WAC 251-04-040 (1), ~~((3))~~ (8), ~~((4))~~ (9), or ~~((5))~~ (10) and thus is inappropriately exempt;

(b) When an organizational realignment has caused the exempt position to become inappropriately exempt by no longer meeting the criteria for exemption per WAC 251-04-040 (1), ~~((3))~~ (8), ~~((4))~~ (9), or ~~((5))~~ (10); or

(c) When an institution elects to convert a position which has been exempt per the provisions of WAC 251-04-040~~((5))~~(10).

(2) An incumbent whose position is converted as indicated in subsection (1)(c) of this section must have served a minimum of one year in the position being converted in order to be subject to the provisions of this section.

(3) The incumbent shall not be required to pass a qualifying examination or meet the minimum qualifications for entry into the class.

(4) The incumbent shall enter the classified position with permanent status unless he/she has been employed less than six months in the exempt position being converted, in which case he/she shall hold probational status until a total of six months has been served.

(5) The incumbent shall be placed at the first step within the salary range or range extension which is not less than the current exempt salary.

(6) The periodic increment date shall be established based on the date of conversion to the classified service or the date of last salary increase, whichever is sooner. Those employees at or above the top step of the new range shall not be assigned a P.I.D.

(7) The incumbent shall be credited with unused accrued sick leave on the books at the time of conversion and shall continue to accrue at the rate of one day per month as provided in WAC 251-22-100.

(8) The incumbent shall be credited with unused accrued vacation leave on the books at the time of conversion and shall accrue at the same rate as for classified employees as provided in WAC 251-22-060.

(9) Layoff seniority for the incumbent shall be established based upon unbroken service at the institution.

AMENDATORY SECTION (Amending Order 108, filed 9/23/83, effective 10/24/83)

WAC 251-22-040 HOLIDAYS. (1) Legal holidays are designated by statute. The following holidays are identified per RCW 1.16.050:

(a) The first day of January (New Year's Day);

(b) ~~((The twelfth day of February (Abraham Lincoln's birthday)))~~

The third Monday of January (Martin Luther King's birthday);

(c) ~~The third Monday of February (((George Washington's birthday)))~~ President's Day;

(d) The last Monday of May (Memorial Day);

(e) The fourth day of July (Independence Day);

(f) The first Monday in September (Labor Day);

(g) The eleventh day of November, (Veteran's Day);

(h) The fourth Thursday of November (Thanksgiving Day);

(i) The day immediately following Thanksgiving Day; and

(j) The twenty-fifth day of December (Christmas Day).

Each higher education institution will provide qualifying employees in pay status with a paid holiday on the above days. However, the governing board of each institution, and in the case of the community college system through the state board for community college education, may designate other days to be observed in lieu of the above holidays. Holiday schedules must be filed annually with the director for approval prior to implementation and may not be modified without prior approval by the director. Schedules may be submitted on a calendar or fiscal year basis. When an institution establishes an in lieu of schedule, paid holidays shall be granted based on the approved in lieu of schedule.

(2) Classified employees working twelve-month schedules or cyclic year position employees who work full monthly schedules throughout their work year shall receive the number of holidays for which they qualify during their scheduled work year as set forth in this section. Qualification is determined by being in pay status on the work day preceding the holiday(s).

(3) Cyclic year position employees scheduled to work less than full monthly schedules throughout their work year qualify for holiday compensation if they work or are in pay status on their last regularly scheduled working day preceding the holiday(s) in that month.

(4) Part time classified employees shall be entitled to the number of paid hours on a holiday that their monthly schedule bears to a full time schedule.

(5) Full time alternate work schedule employees shall receive eight hours of regular holiday pay per holiday. Any differences between the scheduled shift for the day and eight hours may be adjusted by use of vacation leave, use or accumulation of compensatory time as appropriate, or leave without pay.

(6) When a holiday falls on an employee's regularly scheduled day off, he/she shall receive a day of compensatory time off.

(7) Holiday time worked shall be compensated as provided in WAC 251-09-035.

(8) Whenever a holiday falls on Sunday, the following Monday shall be considered a nonworking or legal holiday. When a holiday falls on Saturday, the preceding Friday shall be considered a nonworking or legal holiday.

(9) Employees terminating immediately prior to a holiday do not qualify for holidays occurring after termination.

(10) Employees shall be entitled to one paid personal holiday per calendar year in addition to those specified in this section as provided in WAC 251-22-045.

AMENDATORY SECTION (Amending Order 108, filed 9/23/83, effective 10/24/83)

WAC 251-22-060 VACATION LEAVE—ACCRUAL. (1) Full-time employees eligible for vacation leave shall accrue vacation leave, to be credited monthly, at the following rates:

(a) During the first year of continuous state employment - 12 days (8.0 hours per month);

(b) During the 2nd year of continuous state employment - 13 days (8 hours, 40 minutes per month);

(c) During the 3rd and 4th years of continuous state employment - 14 days (9 hours, 20 minutes per month);

(d) During the 5th through the 9th years of total state employment - 15 days (10 hours per month);

(e) During the 10th year of total state employment - 16 days (10 hours, 40 minutes per month);

(f) During the 11th year of total state employment - 17 days (11 hours, 20 minutes per month);

(g) During the 12th year of total state employment - 18 days (12 hours per month);

(h) During the 13th year of total state employment - 19 days (12 hours, 40 minutes per month);

(i) During the 14th year of total state employment - 20 days (13 hours, 20 minutes per month);

(j) During the 15th year of total state employment - 21 days (14 hours per month);

(k) During the 16th and succeeding years of total state employment - 22 days (14 hours, 40 minutes per month).

(2) Employees working less than full time schedules shall accrue vacation leave credit on the same prorata basis that their appointment bears to a full time appointment.

(3) Per the provisions of WAC 251-18-381(2), the scheduled period of cyclic year position leave of absence without pay shall not be deducted for purposes of computing the rate of vacation leave accrual for cyclic year position employees.

(4) The following shall apply for purposes of computing years of qualifying state employment:

(a) Employment in the legislative and/or the judicial branch shall not be credited;

(b) Employment exempt by the provisions of WAC 251-04-040~~((2))~~ (4) or employment under the state personnel board jurisdiction which is analogous to the conditions specified in WAC 251-04-040~~((2))~~(4) shall not be credited;

(c) Each contract year of full time faculty and/or administrative exempt employment within the higher education institutions shall be credited as a year of qualifying service;

(d) Employment in part time classified positions shall be credited as full time service.

(5) Vacation leave credits shall not accrue during a leave of absence without pay which exceeds ten working days in any calendar month, nor shall credit be given toward the rate of vacation leave accrual.

AMENDATORY SECTION (Amending Order 117, filed 6/1/84)

WAC 251-22-090 VACATION LEAVE—CASH PAYMENT. Classified employees who have completed six continuous months of employment and who separate from service by resignation, layoff, dismissal, retirement or death are entitled to a lump sum cash payment for all unused vacation leave ~~((except that accrued under WAC 251-22-080(2))).~~ In the case of voluntary resignation, an employee may be required to provide fourteen calendar days' notice to qualify for such lump sum cash payment. ~~((Excess vacation leave accumulated as prescribed in WAC 251-22-080(2) must be taken as vacation leave or be lost as provided in WAC 251-22-080(2).))~~ Vacation leave payable under WAC 251-22-080 and this section shall be computed and paid as prescribed by the office of financial management.

AMENDATORY SECTION (Amending Order 117, filed 6/1/84)

WAC 251-22-200 LEAVE OF ABSENCE WITHOUT PAY.

(1) Leave of absence without pay may be allowed for any of the following reasons:

(a) Conditions applicable for leave with pay;

(b) Maternity leave;

(c) Educational leave;

(d) Leave for government service in the public interest;

(e) To accommodate annual work schedules of employees occupying cyclic year positions as specified in WAC ~~((251-22-381))~~ 251-18-381.

(2) Requests for leave of absence without pay must be submitted in writing to the employing official or designee and must receive the approval of both the employing official and the personnel officer.

(3) Leave of absence without pay extends from the time an employee's leave commences until he/she is scheduled to return to continuous service, unless at the employee's request the employing official and the personnel officer agree to an earlier date.

(4) Vacation leave and sick leave credits will not accrue during a leave of absence without pay which exceeds ten working days in any calendar month.

(5) A classified employee taking an appointment to an exempt position shall be granted a leave of absence without pay, with the right to return to his/her regular position, or to a like position at the conclusion of the exempt appointment; provided application for return to classified status must be made not more than thirty calendar days following the conclusion of the exempt appointment.

WSR 85-12-048
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed June 5, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning conduct on licensed premises, WAC 314-16-120;

that the agency will at 9:30 a.m., Tuesday, July 9, 1985, in the Thurston County Courthouse, 2000 Lake-ridge Drive S.W., Building #1, Room 152, Olympia, WA, conduct a public hearing on the proposed rules.

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

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

The specific statute these rules are intended to implement is RCW 66.08.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 9, 1985.

Dated: June 5, 1985

By: L. H. Pedersen
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-16-120 Conduct on licensed premises.

Description of Purpose: Would create an exception to the prohibition on licensees using or allowing the use of profane or vulgar language on licensed premises so as to permit profane or vulgar language in remarks made in the course of comedy performances by professional entertainers. This proposed amendment was drafted as a result of a petition filed with the board by Charles E. Hayes, licensee at the Village Inn, a Class H licensed restaurant. Mr. Hayes' petition is attached hereto as Exhibit 1. Mr. Hayes' petition was filed as a result of a written warning notice for allowing the use of vulgar and profane language on the premises of the Village Inn. Copies of the officer's report concerning this warning notice, and containing examples of the comedian's remarks which led to it is attached hereto as Exhibit 2. [Exhibits 1 and 2 are on file at the Code Reviser's Office.] The prohibition on vulgar and profane language has been a part of the board's rules and regulations since 1935.

Statutory Authority: RCW 66.08.030 and 66.98.070.

Statutes Implemented by the Rule: RCW 66.08.010.

Summary of Rule: Prohibits certain specified types of conduct on licensed premises including, inter alia, licensees or employees using or allowing the use of vulgar or profane language. The proposed amendment would allow the use of vulgar or profane language by professional entertainers in the course of comedy performances as long as the comedy performance takes place in a portion of the licensed premises where patrons have been forewarned of the nature of the performance and that certain words or phrases used may be considered offensive or insulting. Also, such language used by professional entertainers may not be so amplified as to be clearly and distinctly audible by patrons in other portions of the premises than those to which the warning signs apply.

Reason Supporting Proposed Action: Presently prohibits licensees from using or allowing the use of profane or vulgar language on licensed premises. Based on the incident occurring at the Lacey Village Inn (see Exhibit 2) the issue has been raised as to whether or not certain comedy performances can take place on licensed premises. The petition received from Mr. Hayes indicates that there would be relatively or comparatively little harm in allowing an exemption to the vulgar or profane language prohibition in the context of comedy performers. It is alleged that the affect of WAC 314-16-120 is to create an economic hardship on comedy performers and some licensees without a corresponding benefit to the general public. Passage of the proposed amendment would eliminate this alleged harm.

Agency Personnel Involved: In addition to the board, the following personnel have responsibility for drafting, implementing and enforcing this rule: Robert D. Obenland, Chief, Enforcement Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6270; and Ray Hensel, Supervisor, License Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6259.

Person or Organization Proposing Rule: A petition was received from Charles E. Hayes, licensee at the Village Inn Restaurant in Lacey, Washington, suggesting that an exemption to WAC 314-16-120 be created for professional entertainers doing comedy routines. The language in the proposed amendment was drafted by board staff to accomplish Mr. Hayes' stated objective while minimizing impact on the "nonconsenting" public.

Agency Comments: The prohibition on profane or vulgar language on licensed premises has been a part of the board's rules and regulations since 1935. Based on the petition received from Mr. Hayes (see Exhibit 1) the board is seeking public input concerning whether this prohibition should be retained or modified in the case of professional entertainers giving comedy performances. There has been much media interest in this issue since the written warning was given to the Village Inn (see Exhibit 2) and it has appeared to the board that both the media and the public have not been fully aware of the issues involved in this matter. Consequently, the public hearing will explore the reasons for prohibition on vulgar and profane language and will seek public input concerning the proposed exception to that prohibition. As is the case with all rulemaking, the board may choose to review the affects of any amendment to WAC 314-

16-120 for the existence of any harm to the public welfare, health, peace, morals and safety (see RCW 66.08-.010) at any time in the future. The board intends to do so six months from the effective date of any rule amendment which may result from the public hearing in this matter. If demonstrable problems have resulted, the board may reconsider the advisability of the continued existence of any comedy performance exception.

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

Small Business Economic Impact Statement: Cost impact for both small and large businesses would be minimal to zero. No additional paperwork or reporting requirements are established by this rule amendment.

AMENDATORY SECTION (Amending Order 120, Resolution No. 129, filed 2/23/83)

WAC 314-16-120 CONDUCT ON LICENSED PREMISES.
(1) No licensee, or employee thereof, shall be disorderly, boisterous or intoxicated on the licensed premises, or on any public premises adjacent thereto which are under the licensee's control, nor shall any licensee, or employee thereof, permit any disorderly or boisterous person to be thereon; nor shall any licensee, or employee thereof, use or allow the use of profane or vulgar language thereon. Provided: That this rule shall not apply to remarks made in the course of comedy performances by professional entertainers, as long as (1) the comedy performance takes place in a portion of the licensed premises which has a sign conspicuously posted at each entrance, advising the public choosing to enter that portion of the premises of the nature of the performance and that certain words or phrases used may be considered offensive or insulting by some persons and (2) that the comedy performance is not so amplified as to be clearly and distinctly audible in other areas of the licensed premises.

(2) No licensee, or employee thereof, shall consume liquor of any kind while working on the licensed premises.

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 85-12-049
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Filed June 5, 1985]

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 Clallam County, WAC 173-19-130;

that the agency will at 1:30 p.m., Wednesday, July 17, 1985, in the Commissioners Meeting Room, Clallam County Courthouse, 223 East 4th, Port Angeles, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 6, 1985.

The authority under which these rules are proposed is chapters 43.21A and 34.04 RCW.

The specific statute these rules are intended to implement 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 July 24, 1985.

Dated: June 5, 1985

By: Glen H. Fiedler

Deputy Director

STATEMENT OF PURPOSE

Title: Amending WAC 173-19-130 Clallam County.

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 Clallam County.

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: On file at the Department of Ecology.

AMENDATORY SECTION (Amending Order DE 83-41, filed 3/29/84)

WAC 173-19-130 CLALLAM COUNTY master program approved August 5, 1976. Revision approved November 16, 1976. Revision approved August 10, 1979. Revision approved January 4, 1983. Revision approved March 27, 1984. Revision approved August 6, 1985.

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 85-12-050
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Filed June 5, 1985]

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 Skokomish-Dosewallips instream resource protection program, chapter 173-516 WAC. The department proposes to adopt as a new chapter and set minimum instream flows for all streams; set surface water source limitations (part or all year closures) on 31 streams; establish 11 control points on 11 streams or rivers; and establish development policy for three major rivers;

that the agency will at 2:00 p.m., Thursday, July 11, 1985, in the Brinnon School, Brinnon, and at 7:00 p.m., Thursday, July 11, 1985, in the Hoodspott Fire Hall,

Hoodsport, conduct public hearings on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 27, 1985.

The authority under which these rules are proposed is chapter 43.21A RCW, Department of Ecology.

The specific statute these rules are intended to implement is chapter 90.54 RCW, Water Resources Act of 1971 and chapter 90.22 RCW, minimum water flows and levels.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 2, 1985.

Dated: June 5, 1985
 By: Glen H. Fiedler
 Acting Deputy Director

STATEMENT OF PURPOSE

Title: Skokomish-Dosewallips instream resource protection program: Water resource inventory area (WRIA) 16.

Description of Purpose: Protection of instream flows to protect and preserve instream values within rivers and streams of the Skokomish-Dosewallips WRIA.

Statutory Authority: Chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (minimum water flows and levels), and RCW 75.20.050 (state fisheries code).

Summary of Rule: Establishment of 11 control points and minimum instream flows on 11 streams or rivers. Surface water source limitations (partial year or all year closures) on 31 streams. Development limitations policies on three major rivers.

Reasons Supporting Proposed Action: Retaining instream flows at levels proposed in the regulation will protect valuable instream resources (fish, wildlife, scenic, aesthetic and environmental values, recreation, navigation, and water quality).

Agency Personnel Responsible for Drafting: C. D. Rushton, WDOE, MS PV-11, Olympia, WA 98504, (206) 459-6113; Implementation: E. F. Wallace, WDOE, MS PV-11, Olympia, WA 98504, (206) 459-6055; and Enforcement: C. Haberman, WDOE, MS LU-11, Olympia, WA 98504, (206) 753-2353.

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: [No information supplied by agency.]

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: [No information supplied by agency.]

APPENDIX A
 Chapter 173-516 WAC

**INSTREAM RESOURCES PROTECTION PROGRAM—
 SKOKOMISH-DOSEWALLIPS WATER RESOURCE
 INVENTORY AREA (WRIA 16)**

NEW SECTION

WAC 173-516-010 GENERAL PROVISION. These rules apply to waters within the Skokomish-Dosewallips Water Resource Inventory Area (WRIA 16), as defined in WAC 173-500-040. This chapter is promulgated pursuant to Chapter 90.54 RCW (Water Resources Act of 1971), Chapter 90.22 RCW (Minimum Water Flows and Levels), Section 75.20.050 RCW (State Fisheries Code) and in accordance with Chapter 173-500 WAC (Water Resources Management Program).

NEW SECTION

WAC 173-516-020 PURPOSE. The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Skokomish-Dosewallips Water Resource Inventory Area with instream flows necessary to provide protection for wildlife, fish, scenic, aesthetic and environmental values, recreation, navigation, and water quality. It is recognized that this inventory area possesses unique and pristine natural, scenic, recreational, and aesthetic values of statewide, regional, and national significance. Therefore, it is the further purpose of this chapter to establish policies and procedures to preserve and protect these values to the fullest extent allowed under the authorities cited in WAC 173-516-010 above.

NEW SECTION

WAC 173-516-030 ESTABLISHMENT OF INSTREAM FLOWS. (1) Stream management units and associated control stations are established as follows:

Stream Management Unit Information

| Control Station No. Stream Management Unit Name | Control Station by River Mile and Section, Township, and Range | Affected Stream Reach(es) including Tributaries |
|-------------------------------------------------------|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| 12-0535-00 Dosewallips River | 0.4 Sec. 2, T. 25 N., R. 2 WWM | From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries. |
| 12-0540-00 Duckabush River | 4.5 Sec. 1, T. 25 N., R. 3 WWM | From influence of mean annual high tide at low instream flow levels to headwaters including all tributaries. |
| WDOE 0555-00 Eagle Creek | 0.01 Sec. 16, T. 23 N., R. 3 WWM | From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries. |
| WDOE 0560-00 Finch Creek | 0.2 Sec. 11, T. 22 N., R. 4 WWM | From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries. |
| WDOE 0541-50 Fulton Creek | 0.1 Sec. 31, T. 25 N., R. 2 WWM | From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries. |
| 12-0550-00 Hamma Hamma River | 0.5 Sec. 27, T. 24 N., R. 3 WWM | From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries. |
| WDOE 0549-50 John Creek | 0.03 Sec. 27, T. 24 N., R. 3 WWM | From mouth to headwaters, including all tributaries. |
| WDOE 0552-00 Jorsted Creek | 0.1 Sec. 34, T. 24 N., R. 3 WWM | From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries. |
| WDOE 0586-00 North Fork Skokomish River | 17.2 (from Hood Canal) Sec. 16, T. 22 N., R. 4 WWM | From confluence with South Fork Skokomish to headwaters, including all tributaries. |

| Control Station No. Stream Management Unit Name | Control Station by River Mile and Section, Township, and Range | Affected Stream Reach(es) including Tributaries | Month | Day | WDOE-0560-00 Finch Creek | WDOE-0541-50 Fulton Creek | 12-0550-00 Hamma Hamma River |
|-------------------------------------------------------|-------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|-------|-----|-----------------------------|------------------------------|------------------------------------|
| 12-0615-00 Skokomish River | 5.9 Sec. 15, T. 21 N., R. 4 WWM | From influence of mean annual high tide at low instream flow levels to the confluence of the North and South Forks, including all tributaries. | July | 1 | 25* | 10* | 400 |
| | | | | 15 | 18* | 7* | 260 |
| | | | Aug | 1 | 13* | 4* | 180 |
| | | | | 15 | 13* | 3* | 130 |
| | | | Sept | 1 | 13* | 2* | 90 |
| | | | | 15 | 13* | 2* | 90 |
| Oct | 1 | 13* | 2* | 90 | | | |
| | 15 | 13* | 2* | 160 | | | |
| 12-0605-00 South Fork Skokomish River | 3.2 Sec. 2, T. 21 N., R. 5 WWM | From confluence with North Fork Skokomish to headwaters, including all tributaries. | Nov | 1 | 18* | 18* | 250 |
| | | | | 15 | 25* | 50* | 250 |
| | | | Dec | 1 | 25* | 50* | 250 |
| | | | | 15 | 25* | 50* | 250 |

(2) Instream flows are established for the stream management units in WAC 173-516-030(1) as follows:

Instream Flows in the Skokomish-Dosewallips WRIA
(Instantaneous cubic feet per second)

| | | 12-0535-00 Dosewallips River | 12-0540-00 Duckabush River | WDOE 0555-00 Eagle Creek |
|-------|----|------------------------------------|----------------------------------|-----------------------------|
| Jan | 1 | 250 | 250 | 35 |
| | 15 | 250 | 250 | 35 |
| Feb | 1 | 400 | 300 | 35 |
| | 15 | 400 | 300 | 35 |
| March | 1 | 400 | 300 | 32 |
| | 15 | 400 | 300 | 30 |
| April | 1 | 400 | 300 | 27 |
| | 15 | 400 | 325 | 25 |
| May | 1 | 450 | 350 | 23 |
| | 15 | 450 | 350 | 22 |
| June | 1 | 450 | 350 | 20* |
| | 15 | 450 | 350 | 20* |
| July | 1 | 450 | 350 | 12* |
| | 15 | 360 | 270 | 10* |
| Aug | 1 | 300 | 200 | 8* |
| | 15 | 240 | 150 | 6* |
| Sept | 1 | 200 | 110 | 5* |
| | 15 | 160 | 110 | 5* |
| Oct | 1 | 160 | 110 | 5* |
| | 15 | 160 | 110 | 5* |
| Nov | 1 | 250 | 250 | 18* |
| | 15 | 250 | 250 | 35* |
| Dec | 1 | 250 | 250 | 35* |
| | 15 | 250 | 250 | 35* |

*Denotes closure period to all consumptive uses.

Instream Flows in the Skokomish-Dosewallips WRIA
(Instantaneous cubic feet per second) (cont'd)

| Month | Day | WDOE-0560-00 Finch Creek | WDOE-0541-50 Fulton Creek | 12-0550-00 Hamma Hamma River |
|-------|-----|-----------------------------|------------------------------|------------------------------------|
| Jan | 1 | 25* | 50 | 250 |
| | 15 | 25* | 50 | 250 |
| Feb | 1 | 25* | 50 | 350 |
| | 15 | 25* | 50 | 350 |
| March | 1 | 25* | 44 | 350 |
| | 15 | 25* | 38 | 350 |
| April | 1 | 25* | 33 | 350 |
| | 15 | 25* | 30 | 375 |
| May | 1 | 25* | 26 | 400 |
| | 15 | 25* | 23 | 400 |
| June | 1 | 25* | 20* | 400 |
| | 15 | 25* | 14* | 400 |

*Denotes closure period to all consumptive uses.

Instream Flows in the Skokomish-Dosewallips WRIA
(Instantaneous cubic feet per second) (cont'd)

| Month | Day | WDOE-0549-50 John Creek | WDOE-0552-00 Jorsted Creek | WDOE 0586-00 N.F. Skokomish River |
|-------|-----|----------------------------|-------------------------------|-----------------------------------------|
| Jan | 1 | 20 | 20 | 33* |
| | 15 | 20 | 25 | 33* |
| Feb | 1 | 20 | 25 | 50* |
| | 15 | 17 | 25 | 50* |
| March | 1 | 15 | 22 | 70* |
| | 15 | 13 | 20 | 70* |
| April | 1 | 12* | 18 | 70* |
| | 15 | 10* | 17 | 70* |
| May | 1 | 9* | 15 | 70* |
| | 15 | 8* | 14 | 70* |
| June | 1 | 7* | 13* | 50* |
| | 15 | 6* | 12* | 50* |
| July | 1 | 4* | 8* | 50* |
| | 15 | 2.5* | 6* | 50* |
| Aug | 1 | 1.5* | 5* | 30* |
| | 15 | 1* | 3.5* | 30* |
| Sept | 1 | 1* | 2.5* | 65* |
| | 15 | 1* | 2.5* | 65* |
| Oct | 1 | 1* | 2.5* | 39* |
| | 15 | 3* | 5* | 39* |
| Nov | 1 | 7* | 10* | 33* |
| | 15 | 20* | 20* | 33* |
| Dec | 1 | 20* | 20* | 33* |
| | 15 | 20* | 20* | 33* |

*Denotes closure period to all consumptive uses.

Instream Flows in the Skokomish-Dosewallips WRIA
(Instantaneous cubic feet per second) (cont'd)

| Month | Day | 12-0615-00 Skokomish River | 12-0605-00 S.F. Skokomish River |
|-------|-----|----------------------------------|---------------------------------------|
| Jan | 1 | 320 | 250 |
| | 15 | 320 | 300 |
| Feb | 1 | 320 | 300 |
| | 15 | 320 | 300 |
| March | 1 | 320 | 300 |
| | 15 | 320 | 300 |
| April | 1 | 320 | 300 |
| | 15 | 320 | 300 |
| May | 1 | 320 | 300 |
| | 15 | 320 | 300 |
| June | 1 | 320 | 300 |
| | 15 | 320 | 300 |

| Month | Day | 12-0615-00 Skokomish River | 12-0605-00 S.F. Skokomish River |
|-------|-----|----------------------------------|---------------------------------------|
| July | 1 | 320 | 230 |
| | 15 | 200 | 175 |
| Aug | 1 | 200 | 140 |
| | 15 | 200 | 110 |
| Sept | 1 | 200 | 110 |
| | 15 | 250 | 110 |
| Oct | 1 | 250 | 110 |
| | 15 | 250 | 250 |
| Nov | 1 | 250 | 250 |
| | 15 | 250 | 250 |
| Dec | 1 | 250 | 250 |
| | 15 | 320 | 250 |

*Denotes closure period to all consumptive uses.

(3) Instream flow hydrographs, as represented in the document entitled "Skokomish-Dosewallips Instream Resources Protection Program, figs. 7-17, pgs. 42-47," shall be used for identification of instream flows on those days not specifically identified in WAC 173-516-030(2).

(4) Future consumptive water right permits issued hereafter for diversion of surface water from the stream management units listed above, shall be expressly conditioned with instream flows established in WAC 173-516-030(1) through (3) as measured at the appropriate control point(s) except for those exempted uses described in WAC 173-516-070(1) through (3).

(5) Projects that would reduce the flow in a portion of a stream's length (e.g. hydroelectric projects that bypass a portion of a stream) will be subject to instream flows as specified by the department. These flows may be those established in WAC 173-516-030 or, when appropriate, may be flows specifically tailored to that particular project and stream reach. When studies are required to determine such reach and project specific flow requirements, the department will require the proponent to conduct such studies.

(6) If department investigations determine that withdrawal of ground water from the source aquifers would not interfere significantly with stream flow during the period of stream closure or with maintenance of instream flows, then applications to appropriate public ground waters may be approved and permits or certificates issued without regard to the provisions of this chapter.

NEW SECTION

WAC 173-516-040 SURFACE WATER SOURCE LIMITATIONS TO FURTHER CONSUMPTIVE APPROPRIATION. (1) The department, having determined that additional consumptive use would harmfully impact instream values, closes the following streams including tributaries to further consumptive appropriation for the period indicated.

| (a) Stream Name | Tributary to | Closure Period |
|-------------------------------|----------------------------|----------------------|
| Clark Creek | Hood Canal | June 1 - December 31 |
| Hill Creek | Hood Canal | June 1 - December 31 |
| Hunter Creek | Skokomish River | June 1 - December 31 |
| Lilliwaup Creek | Hood Canal | June 1 - December 31 |
| Little Lilliwaup Creek | Hood Canal | June 1 - December 31 |
| McDonald Creek | Hood Canal | June 1 - December 31 |
| Miller Creek | Hood Canal | June 1 - December 31 |
| Pierce Creek | Hood Canal | June 1 - December 31 |
| Purdy Creek | Skokomish River | All year |
| (Above George Adams Hatchery) | | |
| Schaerer Creek | Hood Canal | June 1 - December 31 |
| Sund Creek | Hood Canal | June 1 - December 31 |
| Vance Creek | South Fork Skokomish River | June 1 - December 31 |
| Waketick Creek | Hood Canal | June 1 - December 31 |
| Walcott Slough | Hood Canal | June 1 - December 31 |
| Walker Creek | Hood Canal | June 1 - December 31 |
| Weaver Creek | Skokomish River | June 1 - December 31 |

| (a) Stream Name | Tributary to | Closure Period |
|---------------------|-----------------|----------------------|
| Unnamed Creek #0010 | Skokomish River | June 1 - December 31 |
| Unnamed Creek #0215 | Hood Canal | June 1 - December 31 |
| Unnamed Creek #0216 | Hood Canal | June 1 - December 31 |
| Unnamed Creek #0217 | Hood Canal | June 1 - December 31 |
| Unnamed Creek #0218 | Hood Canal | June 1 - December 31 |
| Unnamed Creek #0439 | Hood Canal | June 1 - December 31 |

The minimum flow during the closure period for the streams listed above is the natural flow. Because insufficient data are available to develop instream flows outside the closure period, minimum flows for any water right application for consumptive use will be considered on a case-by-case basis in consultation with the departments of Fisheries and Game (RCW 75.20.050).

| (b) Stream Name | Closure Period |
|----------------------------|-----------------------------|
| Eagle Creek | June 1 through December 31 |
| Finch Creek | All year |
| Fulton Creek | June 1 through December 31 |
| John Creek | April 1 through December 31 |
| Jorsted Creek | June 1 through December 31 |
| North Fork Skokomish River | All year |

Because sufficient hydrologic data are available for the above streams, a minimum flow is established during the closed and nonclosed period in WAC 173-516-030(2).

(2) Except as noted in the footnotes, the following existing surface water source limitations, previously established administratively under the authority of Chapter 90.03 RCW and RCW 75.20.050 are hereby confirmed and adopted for the period indicated:

| Stream*/Tributary To | Action | Period |
|---------------------------------------------|-----------------------|----------|
| Waketick Creek*/Hood Canal | Low flow @ (0.60 cfs) | All year |
| McTaggart Creek*/North Fork Skokomish River | Low flow (2.0 cfs) | All year |

* Closures and low flow limitations also apply to tributaries of these streams.

@ Superseded by a new action in this section.

(3) When a project (as described in WAC 173-516-030(5)) is proposed on a stream that is closed to further consumptive appropriation, the department shall not issue a permit valid for the closure period unless the project proponent can adequately demonstrate that the project will not conflict with the intent of the closure.

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

NEW SECTION

WAC 173-516-050 DOSEWALLIPS, DUCKABUSH, AND HAMMA HAMMA RIVERS. (1) The highest and best uses of the waters in excess of the minimum instream flow of the Dosewallips, Duckabush, and Hamma Hamma Rivers and their tributaries; in order to achieve maximum net benefits to the citizens of the state; are fisheries, wildlife, public recreation, water quality maintenance, and aesthetic enjoyment.

(2) Therefore, in the administration of future water rights on the Dosewallips, Duckabush, and Hamma Hamma Rivers, including their tributaries, it is the policy of the department to retain these rivers and streams substantially in their natural condition. This provision is necessary to protect and preserve the instream values and public benefits provided by these waters in their natural state.

(3) Applicants for future water rights from these rivers shall provide information clearly demonstrating that:

- (a) the proposed water resources development is consistent with this policy,
- (b) the need for the water exists,
- (c) no reasonable and feasible alternative source of supply is available, and
- (d) maximum net benefits to the citizens of the state would be achieved.

NEW SECTION

WAC 173-516-060 LAKES. In future permitting actions relating to withdrawal of lake waters, natural lakes and ponds shall be retained substantially in their natural condition. Natural lake levels and the contribution of lake outflows to maintenance of downstream instream flows shall be preserved. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

NEW SECTION

WAC 173-516-070 EXEMPTIONS. (1) Nothing in this chapter shall affect existing water rights, riparian, appropriative, or otherwise existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir or related facilities.

(2) Single domestic and stockwatering use, except that related to feedlots, shall be exempt from the provisions established in this chapter. If the cumulative impacts of numerous single domestic diversions would significantly affect the quantity of water available for instream uses, then only single domestic in-house use shall be exempt, if no alternative source is available.

(3) Nonconsumptive uses which are compatible with the intent of the chapter may be approved.

NEW SECTION

WAC 173-516-080 FUTURE RIGHTS. No rights to divert or store public surface waters of the Skokomish-Dosewallips WRIA 16 shall hereafter be granted which shall conflict with the purpose of this chapter.

NEW SECTION

WAC 173-516-090 ENFORCEMENT. In enforcement of this chapter, the Department of Ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 43.83B.335.

NEW SECTION

WAC 173-516-100 REGULATION REVIEW. Review of the rules in this chapter shall be initiated by the Department of Ecology within five years of the date of adoption.

WSR 85-12-051
ADOPTED RULES
DEPARTMENT OF ECOLOGY
 [Order 85-12—Filed June 5, 1985]

I, Andrea Beatty Riniker, director of the Department of Ecology, do promulgate and adopt at the Department of Ecology, Lacey, Washington, Headquarters Office, St. Martin's College, the annexed rules relating to Island County, WAC 173-19-230.

This action is taken pursuant to Notice No. WSR 85-10-072 filed with the code reviser on May 1, 1985. 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 90.58.120 and 90.58.200 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 June 4, 1985.

By Glen H. Fiedler
 for Andrea Beatty Riniker
 Director

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-230 ISLAND COUNTY. Island County master program approved June 25, 1976. Revision approved June 4, 1985.

WSR 85-12-052
NOTICE OF PUBLIC MEETINGS
PENINSULA COLLEGE
 [Memorandum—June 3, 1985]

The board of trustees of Community College District No. 1, Peninsula College, meeting in regular session on May 15, 1985, voted to suspend the board meeting scheduled for August 15, 1985.

WSR 85-12-053
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF AGRICULTURE
 [Filed June 5, 1985]

The Department of Agriculture hereby gives notice of the withdrawal of the proposed rule, WAC 16-666-140, published in WSR 85-10-051 filed April 30, 1985.

New information and data from the industry requesting the promulgation make withdrawal necessary.

By James E. Wommack
 Assistant Director, Supervisor
 Dairy and Food Division

WSR 85-12-054
REVIEW OF RULES
LIQUOR CONTROL BOARD
 [Filed June 5, 1985]

Pursuant to RCW 19.85.050(3), the Liquor Control Board is submitting the following list of rules which are scheduled for review in the next twelve months. This review will be held on September 16, 1985, beginning at 9:30 a.m. in the board's offices on the Fifth Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, Washington 98504. Public comment on any of these rules is invited in writing to be received prior to September 16, 1985. Any member of the public wishing to present oral arguments on any of these rules may do so on September 16 at the above time and place.

This agency does administer rules which have an economic impact on more than 20 percent of all industries or on 10 percent of the businesses in any one industry.

| WAC/CHAPTER | TITLE/SUBJECT | LEGAL BASIS FOR RULE | WAC/CHAPTER | TITLE/SUBJECT | LEGAL BASIS FOR RULE |
|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------|------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| ch. 314-12 WAC | GENERAL—APPLICABLE TO ALL LICENSEES | | WAC 314-16-155 | Licensee's certification card—Evidence of age. | RCW 66.20.190 |
| WAC 314-12-010 | License does not grant vested right. | RCW 66.08.030 and 66.98.070 | WAC 314-16-160 | Records—Purchases—Reports. | RCW 66.08.030 and 66.98.070 |
| WAC 314-12-020 | Applicants—Qualifications—Fingerprinting—Criminal history record information checks—Continuing conditions—Agreements—Reconsideration of denied applications. | RCW 66.08.030 and 66.08.050(2) | WAC 314-16-170 | Suspension notices, posting of—Other closing notices prohibited. | RCW 66.08.030 and 66.98.070 |
| WAC 314-12-030 | License to reflect true party in interest—Display of licenses. | RCW 66.08.030 and 66.98.070 | WAC 314-16-180 | Alterations and changes of premises and activities—Outside storage. | RCW 66.08.030 and 66.98.070 |
| WAC 314-12-033 | Limited partnerships. | RCW 66.08.030 and 66.98.070 | WAC 314-16-190 | Class H restaurant—Qualifications. | RCW 66.08.030 and 66.98.070 |
| WAC 314-12-035 | Furnishing of information and/or documentation to the board—Oath required—Form of affidavit. | RCW 66.08.030 and 66.98.070 | WAC 314-16-195 | Class H restricted—Qualifications. | RCW 66.08.030 and 66.98.070 |
| WAC 314-12-040 | Prorating and refunding of fees—Discontinuance of business. | RCW 66.08.030 and 66.98.070 | WAC 314-16-196 | Class H license issued to premises without a cocktail lounge. | RCW 66.08.030 and 66.98.070 |
| WAC 314-12-050 | Loss or destruction of licenses, permits, etc.—Fees. | RCW 66.08.030 and 66.98.070 | WAC 314-16-200 | Minimum qualifications for issuance of Class E, F, and Classes EF licenses. | RCW 66.08.030 and 66.98.070 |
| WAC 314-12-060 | Death or incapacity of licensee. | RCW 66.08.030 and 66.98.070 | WAC 314-16-205 | Minimum qualifications for issuance for a Class P license. | RCW 66.08.030 and 66.98.070 |
| WAC 314-12-070 | Transfer of licenses. | RCW 66.08.030 and 66.98.070 | WAC 314-16-210 | Class H license fees in unincorporated areas—Seasonal operations—Prorating fees. | RCW 66.08.030 and 66.98.070 |
| WAC 314-12-080 | Limitation on transfers and reapplications. | RCW 66.08.030 and 66.98.070 | WAC 314-16-220 | Class F licensees—Principal business sale of wine for off-premises consumption—Authorization for selling or serving samples. | RCW 66.08.030 and 66.98.070 |
| WAC 314-12-090 | Change of management. | RCW 66.08.030 and 66.98.070 | WAC 314-16-230 | Authorization for sale of wine in unopened bottles for off-premises consumption under Class J license. | RCW 66.08.030 and 66.98.070 |
| WAC 314-12-100 | Change of name. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-12-120 | Licensed premises open for inspection—sampling of liquor. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-12-125 | Maintaining operation of licensed premises in accordance with law and rules of the board is responsibility of licensee—Failure to do so is cause for revocation of license. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-12-130 | No liquor deliveries on Sunday. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-12-140 | Prohibited practices—Contracts—Gifts—Rebates, etc. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-12-150 | Definitions—"Pasteurized beer" "gallon." | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-12-170 | Minimum monetary penalty. | RCW 66.08.030 and 66.98.070 | | | |
| ch. 314-16 WAC | RETAIL LICENSEES | | | | |
| WAC 314-16-010 | Booths. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-16-020 | Dispensing apparatus and containers—Furnishing of certain devices. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-16-030 | Sanitation, equipment and lighting. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-16-040 | Service limited to license and order—Removal of liquor in open containers—Room service—Price list. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-16-050 | Closing hours—Sunday closing. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-16-060 | Curb service prohibited. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-16-070 | Minors—Employment. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-16-075 | Professional minor musicians—Employment. | RCW 66.44.315 | | | |
| WAC 314-16-080 | Food and beverage service workers—Permit. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-16-090 | Bottles—Reuse. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-16-100 | Treating. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-16-110 | Liquor purchases by Class H licensees. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-16-120 | Conduct on licensed premises. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-16-122 | Licensee—employees—Prohibited conduct with patrons. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-16-125 | Suggestive, lewd and/or obscene conduct on licensed premises. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-16-130 | In transit stamps. | RCW 66.08.030 | | | |
| WAC 314-16-140 | Entertainment license displayed. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-16-145 | Presentation of card of identification Penalty for refusal—Detention for reasonable period to determine age—Person who cannot establish age may be removed from licensed premises. | RCW 66.08.030 and 66.98.070 | | | |
| WAC 314-16-150 | No sale of liquor to minors, intoxicated persons, interdicted persons, etc. | RCW 66.08.030 and 66.98.070 | | | |

WSR 85-12-055
PROPOSED RULES
BOARD OF HEALTH
[Filed June 5, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Health intends to adopt, amend, or repeal rules concerning variances, waivers and exemptions, amending WAC 248-08-596;

that the agency will at 9:30 a.m., Wednesday, July 10, 1985, in the McClelland Arts Center, 951 Delaware, Longview, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 34.04.020.

The specific statute these rules are intended to implement is RCW 34.04.020.

Dated: June 5, 1985
By: John A. Beare, MD
Director

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.
Re: Amending WAC 248-08-596 Exemptions, waivers, and variances.

Purpose of the Rule or Rule Change: To amend WAC 248-08-596 (2) and (3) according to the board's deliberations.

Reasons These are Necessary: In WAC 248-08-596(2) "shall include" is changed to "may include" for the purpose of giving the director discretion to handle any exemption matter on the regular agenda or by mail. WAC 248-08-596(3) is changed according to the board's deliberations to allow passage upon receipt of written approval by eight members.

Summary of the Rule or Rule Change: The new language defines the procedure for the State Board of Health to consider and grant requests for exemptions, waivers or variances.

Person or Persons Responsible for the Drafting, Implementation and Enforcement of the Rule: Robert Todd Gay, Assistant Attorney General, Office of the Attorney General, mailstop PY-13, phone 459-6558.

Rules are proposed by the Division of Health.

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

No economic impact statement is required under the Regulatory Fairness Act, Laws of 1982.

AMENDATORY SECTION (Amending Order 272, filed 7/25/84)

WAC 248-08-596 VARIANCES, WAIVERS, AND EXEMPTIONS. The following procedure for considering requests for exemptions, waivers, or variances applies to all those rules and regulations of the Washington state board of health wherein the board of health has reserved the power to grant exemptions, waivers, and variances:

(1) The director of the health services division of the department of social and health services shall recommend, pursuant to the standards contained in the regulation from which the exemption, waiver, or variance is requested, that the request be granted or denied.

(2) Written summaries of all exemptions, waivers, or variances proposed to be granted by the director shall be sent to all members of the board of health and ~~((shall))~~ may include written forms upon which the members may indicate approval or disapproval of the request.

(3) Upon receipt by the director of written approval by ~~((each and every))~~ eight members of the board of health, and provided no member disapproves, the approval shall take effect and the director shall notify the requesting party of the approval in writing.

(4) If any member of the board of health shall disapprove the request within thirty days of notification by the director, the request shall be discussed by the board at its next regular meeting.

(5) If a request is recommended for denial by the director, the request and recommendation shall be reviewed by the board at its next regular meeting.

Consideration by the board of requests for exemptions, waivers, and variances shall not be considered contested cases as that term is defined in chapter 34.04 RCW. Statements and written material regarding the request may be presented to the board at or before its meeting wherein the application will be considered. Allowing cross-examination of witnesses in such matters shall be within the discretion of the board.

WSR 85-12-056

PROPOSED RULES

HORSE RACING COMMISSION

[Filed June 5, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Horse Racing Commission intends to adopt, amend, or repeal rules relating to blood and urine tests, adopting WAC 260-32-165;

that the agency will at 1:00 p.m., Wednesday, July 17, 1985, in the Marriott Hotel, 3201 South 176th Street, Seattle, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 67.16.020 and 67.16.040.

The specific statute these rules are intended to implement is RCW 67.16.020.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 11, 1985.

Dated: June 4, 1985

By: Larry Watters

for Bill Aliment

Executive Secretary

STATEMENT OF PURPOSE

Adopting WAC 260-32-165 relating to the rules of horse racing.

WAC 260-32-165 is proposed for adoption as indicated in the notice of intention to adopt rules filed this date with the code reviser.

This new rule is proposed pursuant to RCW 67.16.020 and 67.16.040 under the general rule-making authority of the Washington Horse Racing Commission.

The new rule is for the following reasons: The adoption of WAC 260-32-165 is intended to define further and extend the application of an existing rule in regard to physical examination of jockeys. Under WAC 260-32-160, the stewards have the authority to require that any jockey be reexamined during the course of a race meeting and may refuse to allow the jockey to ride until he successfully passes such an examination. The purpose is to establish the physical condition of the person and their freedom from disabling defects or contagious disease. Under the proposed rule, the scope of the medical examination would be spelled out so that it would include the specific authority to take blood and urine tests and not only in regard to jockeys but with respect to grooms, trainers, or any other licensee as well as any commission employee or track employee. In addition, the rule extends the ability to regulate and control the use of illegal substances both in terms of drugs and alcohol. Although a licensee at the track should not be using any controlled substance or alcohol in the course of their duties, this rule specifies that prohibition and sets forth a detailed procedure for handling situations that may arise.

Billy Aliment, Executive Secretary, Suites B and C, 210 East Union Avenue, Olympia, Washington 98504, phone number 753-3741, and members of the commission staff, as well as the commissioners themselves, and their attorney, were responsible for the drafting of the proposed rule and are to be responsible for its implementation and enforcement.

The proponent of the rule is the Washington Horse Racing Commission, Warren Chinn, Chairman; Lyle Smith, Commissioner; and Barbara Black, Commissioner.

The Washington Horse Racing Commission recommends the adoption of the rule. It was drafted in consideration of comments brought to the attention of the commission at an earlier public meeting and it reflects consideration of other rules being implemented in different jurisdictions.

WAC 260-32-165 is not necessary as the result of any specific statute or court decision.

This certifies that copies of this statement are on file with the Racing Commission, are available for public inspection, and that three copies of this statement are

this date being forwarded to the Secretary of the Senate and to the Chief Clerk of the House of Representatives.

Small Business Economic Impact Statement: In the matter of adopting WAC 260-32-165 relating to the rules of horse racing.

The adoption of WAC 260-32-165 is not anticipated to affect more than 20 percent of all industries, nor more than 10 percent of any one industry as defined by section 2(3), chapter 6, Laws of 1982. Therefore, a small business economic impact statement has not been prepared.

NEW SECTION

WAC 260-32-165 BLOOD AND URINE TESTS. (1) No jockey, groom, trainer, or any other licensee shall have present within his/her system any controlled substance as listed in chapter 69.50 RCW, or any prescription legend drug unless such prescription legend drug was obtained directly or pursuant to a valid prescription from a duly licensed physician acting in the course of his or her professional practice, or when in the employment of or while on a licensed race track, use any alcohol in excess of the amount set forth below.

(2) The board of stewards may require that any jockey, groom, trainer, or any other licensee as well as any commission employee or track employee provide blood or urine samples upon request to a licensed physician for analysis by a laboratory. The physician must be designated by the board of stewards and approved by the commission.

(3) The board of stewards may require the blood or urine samples under the following circumstances: Where random testing is carried out in a manner prescribed by the commission; or, where reasonable grounds exist, from the standpoint of the presiding steward, to believe that the person tested is under the influence of either a controlled substance or alcohol. The results of laboratory analysis of any blood or urine samples can only be used for the purposes of regulating racing and administering penalties under the authority of the stewards or the commission.

(4) Where laboratory analysis of the sample reveals the presence of any controlled substance as listed in chapter 69.50 RCW or, any prescription legend drug unless such prescription legend drug was obtained directly or pursuant to a valid prescription from a duly licensed physician acting in the course of his or her professional practice, or alcohol in excess of .05 percent, the person tested shall be suspended, pursuant to written notice by the board of stewards. Anyone who fails to comply with the testing process shall be suspended, pursuant to written notice by the board of stewards.

(5) A hearing to review the suspension shall be held within forty-eight hours of the issuance of the notice of suspension, by the board of stewards.

(6) Any blood or urine sample shall be placed in a container and sealed together with a double identification tag in the presence of the person tested. One portion of such tag bearing a printed identification number shall remain with the sealed container; the other portion of such tag bearing the same printed identification number shall be detached in the presence of the person tested and a member of the commission security staff. The evidence of the sealing of the sample shall be indicated by the signature on the tag of the person tested. The member of the commission security staff shall be present when the sample is taken, when it is sealed and when it is signed by the person tested. The sample shall remain in the custody and control of the member of the commission security staff who observed the testing process until it is either delivered to a secure storage facility pending analysis by the laboratory or directly to the laboratory itself.

(7) The part of the tag sealing the sample which is provided to the laboratory for analysis shall not identify the person tested by name. The member of the commission security staff who observed the testing process shall take every precaution to ensure that the laboratory and its staff shall not know the identity of the person from whom the sample has been taken prior to the completion of all testing thereon.

(8) It shall be the obligation of the person tested to cooperate fully with the testing process in obtaining a sample which may be required and to witness the sealing of such sample.

(9) The results of any blood or urine analysis shall be treated as confidential except for use with respect to any order issued pursuant to this rule or any administrative or judicial hearing with regard to such an order. Access to the reports of any test results shall be limited to the Washington racing commission, the executive secretary of the

commission and the person tested, except in the instance of a contested matter.

(10) For a violation of the rule in regard to a controlled substance, the board of stewards shall levy the following penalties:

(a) For a first offense within a calendar year, suspension from racing at the discretion of the stewards up to sixty days, mandatory evaluation by a certified drug treatment program approved by the executive secretary of the commission and if after such evaluation, the licensee's or employee's condition proves nonaddictive and not detrimental to the best interest of racing as determined by the commission, the licensee or employee shall be allowed to participate in racing provided he or she can produce a negative test result and agrees to further testing at the discretion of the stewards or designated commission representative to insure his or her unimpairment. If after such professional evaluation, the licensee's or employee's condition proves addictive or detrimental to the best interest of racing, the licensee or employee shall not be allowed to participate in racing until such time as he or she can produce a negative test result and show documented proof that he or she has successfully completed a certified drug rehabilitation program approved by the executive secretary. The licensee or employee must agree to further testing at the discretion of the stewards to insure his or her unimpairment.

(b) For a second offense, the licensee or employee shall be suspended for the balance of the calendar year or, one hundred twenty days, whichever is greater, and directed to enroll in and complete a certified drug rehabilitation program approved by the executive secretary, to apply for reinstatement only at the discretion of the racing commission. The licensee or employee shall not be allowed to participate in racing until such time as he or she can produce a negative test result and agrees to further testing at the discretion of the stewards to insure his or her unimpairment.

(11) For a violation of the rule in regard to alcohol, the board of stewards shall levy the following penalties:

(a) For a first offense within a calendar year, two days suspension.

(b) For a second offense, two days suspension and a mandatory evaluation by a certified alcohol treatment program approved by the executive secretary.

(c) For a third offense, fourteen days suspension and enrollment in and completion of a certified alcohol treatment program approved by the executive secretary.

(12) All blood and urine testing shall be at the expense of the racing commission. All drug and alcohol evaluations, treatment, reports and fees shall be at the expense of the licensee or employee.

WSR 85-12-057

ADOPTED RULES

HORSE RACING COMMISSION

[Order 85-02--Filed June 5, 1985]

Be it resolved by the Washington Horse Racing Commission, acting at the Washington Horse Breeders Association Sales Pavillion, S.E. Corner of Longacres Racetrack Grounds, that it does adopt the annexed rules relating to penalties for misuse of permitted medication, amending WAC 260-70-100.

This action is taken pursuant to Notice No. WSR 85-09-051 filed with the code reviser on April 17, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington Horse Racing Commission as authorized in RCW 67.16.020 and 67.16.040.

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 May 21, 1985.

By Warren Chinn
Chairman

AMENDATORY SECTION (Amending Order 84-01, filed 3/7/84)

WAC 260-70-100 PENALTIES RELATING TO ((MISUSE)) OVERAGE OF PERMITTED MEDICATION. Should the laboratory analysis of urine or blood taken from a horse, other than a two-year old, show the presence of more than one approved nonsteroidal anti-inflammatory drug (NSAID) in violation of WAC 260-70-021, or the presence of phenylbutazone in excess of the quantities authorized by WAC 260-70-090, or, the presence of furosemide without permission from the commission veterinarian, the stewards or commission shall levy the following penalties against each person found responsible:

(1) For a first offense within any calendar year, a fine of \$300;

(2) The second offense, within any calendar year, \$((+000))750;

(3) For a third offense, within any calendar year, ((~~fine suspension for one year~~)) a fine of \$750 with a sixty-day suspension.

If any NSAID or other permitted medication is found in the body of a horse which alone or in combination with a second medication is of such a quantity so as to interfere with the testing process the penalties for use of a prohibited drug or medication shall apply irrespective of the provisions of this rule. The finding of any diuretic, including Lasix (furosemide), in the body of a horse shall constitute the presence of an interfering substance and the penalties for use of a prohibited drug or medication shall apply, unless the horse is on the official commission bleeder list.

WSR 85-12-058
PROPOSED RULES
PARKS AND RECREATION
COMMISSION
[Filed June 5, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Parks and Recreation Commission intends to adopt, amend, or repeal rules concerning definitions, WAC 352-36-010; certain vehicle lighting and equipment standards, 352-36-110; special group recreation event permit, 352-36-130; and excluded/limited recreation activities, 352-36-140;

that the agency will at 9:00 a.m., Friday, July 19, 1985, in the Red Lion Bayshore Inn, 221 North Lincoln, Port Angeles, WA 98362, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 43.51.660, 43.51.665, 43.51.680, 43.51.040 and 43.51.060.

The specific statute these rules are intended to implement is RCW 43.51.660, 43.51.665, 43.51.680, 43.51.040 and 43.51.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 16, 1985.

Dated: June 5, 1985

By: Mike Reed
Executive Assistant

STATEMENT OF PURPOSE

Title: Definitions WAC 352-36-010; Certain vehicle lighting and equipment standards 352-36-110; special group recreation event permit 352-36-130; and excluded/limited recreation activities 352-36-140.

Description of Purpose: Clarify the definitions of ocean beaches and motor vehicles; incorporate all applicable vehicle lighting and equipment standards into ocean beaches vehicle use; provide for special group recreational activities which may conflict with other uses; and specify certain excluded recreational activities.

Statutory Authority: RCW 43.51.660, 43.51.665, 43.51.680, 43.51.040 and 43.51.060.

Summary of Rule: The rules specify the range and extent of the ocean beaches under the jurisdiction of the Parks Commission, and exclude Indian reservation; incorporate comprehensively the vehicle lighting and equipment standards required for use of vehicles on public highways; provide for parties sponsoring special recreation events on the ocean beaches, which may conflict with other recreation, by establishing a permit procedure and authorizing beach closure to conflicting activities; and prohibit the use of nonlicensed or certificated vehicles, wind-sand sailers, parasails and hovercraft on the beaches.

Reasons Supporting Proposed Action: Removal of ambiguity concerning definitions; assurance that appropriate vehicle equipment standards are observed on the beaches; allowance for occasional special recreational activities which may otherwise conflict with existing uses of the beaches; and exclusion of certain recreational devices which endanger the public or participants.

Agency Personnel Responsible for Drafting: Mike Reed, Executive Assistant, Washington State Parks and Recreation Commission, 7150 Cleanwater Lane, KY-11, Olympia, WA 98504; Drafting and Implementation: Lynn Genasci, Assistant Director, Operations, Washington State Parks and Recreation Commission, 7150 Cleanwater Lane, Olympia, WA 98504.

Proposing: Washington State Parks and Recreation Commission.

Agency Comments: [No information supplied by agency.]

Federal Law/Court Action: The rules referenced above are not necessary as a result of federal law or federal or state court action.

AMENDATORY SECTION (Amending Order 13, filed 4/19/72)

WAC 352-36-010 DEFINITIONS. Whenever used in this chapter the following terms shall have the meanings herein defined unless the context clearly indicates otherwise:

- (1) "Commission" shall mean the Washington state parks and recreation commission.
- (2) "Director" shall mean the director of the Washington state parks and recreation commission.
- (3) "Person" shall mean all natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves or by an agent, servant, or employee.
- (4) "Ocean beaches" shall mean all lands fronting on the Pacific Ocean between Cape Disappointment ~~((on the south and Cape Flattery on the north))~~ and Leadbetter Point; between Toke Point and the South jetty on Point Chehalis; and between Damon Point and the Makah Indian Reservation, and occupying the area between the line of ordinary high tide and the line of extreme low tide, as these lines now are or may hereafter be located, and, where applicable, between the Seashore Conservation Line, as established by survey of the Washington state parks and recreation commission and the line of extreme low tide, as these lines now are or may hereafter be located, or as defined in RCW 43.51.655, provided, that the ocean beaches shall not include any lands within the established boundaries of any Indian reservation.
- (5) "Long Beach" shall mean that area of the ocean beaches as defined in subparagraph (4) above lying between Cape Disappointment on the south and Leadbetter Point on the north.
- (6) "South Beach" shall mean that area of the ocean beaches as defined in subparagraph (4) above lying between Toke Point on the south and the south jetty on Point Chehalis on the north.
- (7) "North Beach" shall mean that area of the ocean beaches as defined in subparagraph (4) above lying between Damon Point on the south and Cape Flattery on the north.
- (8) "Hard sand area" shall mean that area over which the tide ebbs and flows on a daily basis; and which is sufficiently hard or firm to support the weight of, and to provide unhindered traction for, an ordinary passenger vehicle.
- (9) "Dry sand area" shall mean that area lying above and to the landward side of the hard sand area as defined in subparagraph (8) above.
- (10) "Driveable beach" shall mean that area of the ocean beaches lying between the upper or landward limit of the hard sand area and the clam beds.
- (11) "Motor vehicle" shall mean any self-propelled device capable of being moved upon a public highway, and in, upon, or by which any persons or property may be transported or drawn, and shall include, but not be limited to, automobiles, trucks, motorcycles, motor bikes, motor scooters, mopeds, jeeps, or similar type four-wheel drive vehicles, buses, ~~((campers))~~ camper trucks, motor homes, and other self-propelled recreational vehicles. A motor vehicle must have a means of propulsion associated or attached directly to the device, and not receive motive power from a source independent or outside of the device. A motor vehicle must be certificated and licensed according to the provisions of chapters 46.12 (certificates of ownership and registration) and 46.16 RCW (vehicle licenses).

AMENDATORY SECTION (Amending Order 28, filed 11/19/76)

WAC 352-36-110 CERTAIN VEHICLE LIGHTING AND EQUIPMENT STANDARDS INCORPORATED. ~~((The following sections of chapter 46.37 RCW, entitled Vehicle Lighting and Other Equipment, are herewith expressly incorporated herein, and the vehicle lighting and equipment required in those sections are hereby expressly required when operating any motor vehicle on and along the ocean beaches:~~

- ~~(1) RCW 46.37.020 WHEN LIGHTED LAMPS AND SIGNALLING DEVICES ARE REQUIRED.~~
- ~~(2) RCW 46.37.240 BRAKING EQUIPMENT REQUIRED.~~
- ~~(3) RCW 46.37.380 HORNS AND WARNING DEVICES.~~
- ~~(4) RCW 46.37.390 MUFFLERS, PREVENTION OF NOISE AND SMOKE.~~
- ~~(5) RCW 46.37.420 RESTRICTIONS AS TO TIRE EQUIPMENT.~~
- ~~(6) RCW 46.37.530(3) MOTORCYCLES - MIRRORS, GOGGLES, FACE SHIELDS, AND HELMETS - REGULATIONS AND SPECIFICATIONS BY COMMISSION ON EQUIPMENT.~~
- (7) All vehicles must have current valid motor vehicles license or ATV use permit.

~~Section 3 of chapter 77 of the Laws of 1971 is also herewith expressly incorporated herein, and the requirement of that section is hereby expressly required when operating any motor vehicle on and along the ocean beaches:~~

~~UNSAFE CONDITION OF TIRES:)) Except where otherwise obviously inapplicable to the use and operation of motor vehicles on the ocean beaches, chapter 46.37 RCW, constituting vehicle lighting and other equipment, is herewith expressly incorporated herein, and the requirements of that chapter are hereby expressly required when operating any motor vehicles on and along the ocean beaches.~~

NEW SECTION

WAC 352-36-130 SPECIAL GROUP RECREATION EVENT PERMIT. Any person or group desiring to make use of a portion of the ocean beaches for a group recreation event which will require the closure of the area to certain conflicting recreational uses, may apply to the director for a special group recreation event permit. The director, or his/her designee, may issue such a permit after consultation with the appropriate local government, if the event does not unduly interfere with normal public recreation. Such authorization shall include the closure of the specified area to recreational activities, including motor vehicle traffic, which are determined to have the potential to interfere with the event or which could risk the safety of the recreating public or the special event participants. However, no such authorization may result in the unreasonable exclusion of pedestrian recreationists from the specified portion of the ocean beach.

A special group recreation event permit shall be issued only for recreational events where there is a reasonable expectation that a minimum of twenty persons will participate. The event must be oriented towards a recreational pursuit. Not more than three permits will be issued to a given applicant for the same event during a one-year period. The group recreation activity must be consistent with the seashore conservation act (RCW 43.51.650 through 43.51.685), and may include an activity otherwise excluded under WAC 352-36-140. Special group recreation events shall not exceed three days or seventy-two hours.

Persons or organizations that desire to conduct a special group recreation event on the ocean beaches shall submit a permit application provided by the director to the:

Washington State Parks
and Recreation Commission
7150 Cleanwater Lane KY-11
Olympia, WA 98504

The director or his/her designee shall approve or disapprove a permit application and establish the conditions for an approved application. The director or the designee shall determine the need for any fees necessary to cover costs incurred by the agency, as well as the need for any bond, damage deposit, or liability insurance arising from any potential hazards associated with the character of the event. Any such fees, bond, damage deposit, or liability insurance shall be provided prior to the issuance of the permit.

If additional costs are incurred by the commission resulting from the event, the applicant shall reimburse the commission for such costs in a timely manner. If the additional costs are not paid, the director may recover such costs from the bond or damage deposits provided if previously required. Any funds remaining from the bond or damage deposit shall be returned to the applicant.

NEW SECTION

WAC 352-36-140 EXCLUDED/LIMITED RECREATION ACTIVITIES. The following forms of public outdoor recreation activities or devices are prohibited on the ocean beaches unless specifically authorized by the director as a special recreation event pursuant to WAC 352-36-130:

- (1) Vehicles not licensed and certificated pursuant to chapters 46.12 and 46.16 RCW.
- (2) Wind/sand sailers (wheeled, wind-driven recreational vehicles).
- (3) Parasails (parachute-type devices attached to a rope pulled by a motor vehicle, resulting in the participant being lifted from the ground by the wind).
- (4) Hovercraft (a powered vehicle supported by a cushion of air, capable of transporting persons).

WSR 85-12-059
PROPOSED RULES
DEPARTMENT OF LICENSING
(Podiatry Board)
 [Filed June 5, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Podiatry Board intends to adopt, amend, or repeal rules concerning the Uniform Disciplinary Act, repealing WAC 308-31-200;

that the agency will at 1:30 p.m., Friday, July 12, 1985, in Nendel's Rainier Room, 16838 Pacific Highway South, Seattle, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.22.015(8).

The specific statute these rules are intended to implement is RCW 18.22.015(8).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 12, 1985.

Written or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

Laura Heye, Executive Secretary
 Washington State Podiatry Board
 Department of Licensing
 1300 Quince Street S.E.
 Olympia, WA 98504

Dated: June 5, 1985
 By: Joyce R. Dolliver
 Assistant Attorney General
 Board Counsel

STATEMENT OF PURPOSE

Name of Agency: Washington State Podiatry Board.

Purpose: To repeal the adoption of the Uniform Disciplinary Act in lieu of the disciplinary provisions of chapter 18.22 RCW.

Summary: Repeal of WAC 308-31-200 Uniform Disciplinary Act.

Statutory Authority: RCW 18.22.015(8).

Reason Proposed: WAC 308-31-200 is repealed because remedial changes to the Uniform Disciplinary Act were not adopted at the 1985 legislative session.

Responsible Departmental Personnel: In addition to members of the Podiatry Board, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Laura Heye, Executive Secretary, Division of Professional Licensing, P.O. Box 9649, 1300 Quince Street S.E., Olympia, WA 98504, (206) 753-0774 comm, 234-0774 scan.

Proponents: The subject matter of this rules hearing has been proposed by the Washington State Podiatry Board.

Small Business Economic Impact Statement: Not required and has not been filed since these rules do not impact small businesses as that term is defined in RCW 43.31.920.

REPEALER

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

WAC 308-31-200 UNIFORM DISCIPLINARY ACT

Table of WAC Sections Affected

KEY TO TABLE

Symbols:

- AMD = Amendment of existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- RE-AD = Readoption of existing section
- REP = Repeal of existing section
- REAFF = Order assuming and reaffirming rules
- RESCIND = Rescind previous emergency rule
- 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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| 4-25-040 | AMD-C | 85-06-008 | 16-316-0601 | AMD | 85-11-004 | 16-354-050 | AMD-P | 85-11-079 |
| 4-25-040 | AMD-C | 85-06-054 | 16-316-215 | AMD-P | 85-06-052 | 16-354-070 | AMD-P | 85-11-079 |
| 4-25-140 | AMD-P | 85-02-066 | 16-316-215 | AMD | 85-11-004 | 16-354-080 | REP-P | 85-11-079 |
| 4-25-140 | AMD-C | 85-06-008 | 16-316-230 | AMD-P | 85-06-052 | 16-354-090 | NEW-P | 85-11-079 |
| 4-25-140 | AMD-C | 85-06-054 | 16-316-230 | AMD | 85-11-004 | 16-354-100 | NEW-P | 85-11-079 |
| 4-25-140 | AMD | 85-11-013 | 16-316-270 | AMD-P | 85-06-052 | 16-400-007 | NEW-P | 85-03-089 |
| 4-25-260 | REP-P | 85-02-066 | 16-316-270 | AMD | 85-11-004 | 16-400-007 | NEW | 85-06-029 |
| 4-25-260 | REP-C | 85-06-008 | 16-316-327 | AMD-P | 85-06-052 | 16-400-020 | REP-P | 85-03-089 |
| 4-25-260 | REP-C | 85-06-054 | 16-316-327 | AMD | 85-11-004 | 16-400-020 | REP | 85-06-029 |
| 16-42 | AMD-C | 85-03-061 | 16-316-350 | AMD-P | 85-06-052 | 16-409-015 | AMD-P | 85-03-090 |
| 16-42 | AMD-C | 85-12-025 | 16-316-350 | AMD | 85-11-004 | 16-409-015 | AMD | 85-07-028 |
| 16-42-00101 | REP-P | 85-09-061 | 16-316-440 | AMD-P | 85-06-052 | 16-409-020 | AMD-P | 85-03-090 |
| 16-42-005 | NEW-P | 85-09-061 | 16-316-440 | AMD | 85-11-004 | 16-409-020 | AMD | 85-07-028 |
| 16-42-01001 | REP-P | 85-09-061 | 16-316-474 | AMD-P | 85-06-052 | 16-409-030 | AMD-P | 85-03-090 |
| 16-42-015 | AMD-P | 85-09-061 | 16-316-474 | AMD | 85-11-004 | 16-409-030 | AMD | 85-07-028 |
| 16-42-017 | NEW-P | 85-09-061 | 16-316-635 | AMD-P | 85-11-081 | 16-409-035 | AMD-P | 85-03-090 |
| 16-42-02001 | REP-P | 85-09-061 | 16-316-660 | AMD-P | 85-06-052 | 16-409-035 | AMD | 85-07-028 |
| 16-42-022 | NEW-P | 85-09-061 | 16-316-660 | AMD | 85-11-004 | 16-409-060 | AMD-P | 85-03-090 |
| 16-42-025 | AMD-P | 85-09-061 | 16-316-724 | AMD-P | 85-06-052 | 16-409-060 | AMD | 85-07-028 |
| 16-42-03001 | REP-P | 85-09-061 | 16-316-724 | AMD | 85-11-004 | 16-409-065 | AMD-P | 85-03-090 |
| 16-42-035 | AMD-P | 85-09-061 | 16-316-800 | AMD-P | 85-06-052 | 16-409-065 | AMD | 85-07-028 |
| 16-42-04001 | REP-P | 85-09-061 | 16-316-800 | AMD | 85-11-004 | 16-409-070 | AMD-P | 85-03-090 |
| 16-42-045 | REP-P | 85-09-061 | 16-316-820 | AMD-P | 85-06-052 | 16-409-070 | AMD | 85-07-028 |
| 16-42-05001 | REP-P | 85-09-061 | 16-316-820 | AMD | 85-11-004 | 16-409-075 | AMD-P | 85-03-090 |
| 16-42-060 | NEW-P | 85-09-061 | 16-316-830 | AMD-P | 85-06-052 | 16-409-075 | AMD | 85-07-028 |
| 16-42-00101 | REP-W | 85-10-020 | 16-316-830 | AMD | 85-11-004 | 16-409-085 | AMD-P | 85-03-090 |
| 16-42-005 | NEW-W | 85-10-020 | 16-316-906 | AMD-P | 85-07-058 | 16-409-085 | AMD | 85-07-028 |
| 16-42-01001 | REP-W | 85-10-020 | 16-316-906 | AMD | 85-11-002 | 16-409-120 | REP-P | 85-03-090 |
| 16-42-015 | AMD-W | 85-10-020 | 16-316-911 | AMD-P | 85-07-058 | 16-409-120 | REP | 85-07-028 |
| 16-42-017 | NEW-W | 85-10-020 | 16-316-911 | AMD | 85-11-002 | 16-426-001 | REP-P | 85-11-080 |
| 16-42-02001 | REP-W | 85-10-020 | 16-316-921 | AMD-P | 85-07-058 | 16-426-005 | REP-P | 85-11-080 |
| 16-42-022 | NEW-W | 85-10-020 | 16-316-921 | AMD | 85-11-002 | 16-426-010 | REP-P | 85-11-080 |
| 16-42-025 | AMD-W | 85-10-020 | 16-316-945 | NEW-P | 85-07-058 | 16-426-015 | REP-P | 85-11-080 |
| 16-42-03001 | REP-W | 85-10-020 | 16-316-945 | NEW | 85-11-002 | 16-426-020 | REP-P | 85-11-080 |
| 16-42-035 | AMD-W | 85-10-020 | 16-316-950 | NEW-P | 85-07-058 | 16-470-010 | AMD-P | 85-11-086 |
| 16-42-04001 | REP-W | 85-10-020 | 16-316-950 | NEW | 85-11-002 | 16-470-010 | AMD-E | 85-11-087 |
| 16-42-045 | REP-W | 85-10-020 | 16-316-955 | NEW-P | 85-07-058 | 16-470-015 | AMD-P | 85-11-084 |
| 16-42-05001 | REP-W | 85-10-020 | 16-316-955 | NEW | 85-11-002 | 16-470-015 | AMD-E | 85-11-087 |
| 16-42-060 | NEW-W | 85-10-020 | 16-316-960 | NEW-P | 85-07-058 | 16-470-100 | AMD-P | 85-11-084 |
| 16-230-190 | AMD-P | 85-07-062 | 16-316-960 | NEW | 85-11-002 | 16-470-100 | AMD-E | 85-11-087 |
| 16-230-190 | AMD-C | 85-10-057 | 16-322-010 | AMD-P | 85-11-082 | 16-470-110 | AMD-P | 85-11-084 |
| 16-230-190 | AMD-C | 85-11-052 | 16-322-012 | AMD-P | 85-11-082 | 16-470-110 | AMD-E | 85-11-087 |
| 16-230-190 | AMD | 85-12-012 | 16-322-015 | AMD-P | 85-11-082 | 16-470-120 | AMD-P | 85-11-084 |
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| 16-231-413 | NEW | 85-07-029 | 16-322-035 | AMD-P | 85-11-082 | 16-470-200 | NEW-E | 85-11-088 |
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| 16-231-613 | NEW | 85-07-029 | 16-322-045 | AMD-P | 85-11-082 | 16-470-210 | NEW-E | 85-11-088 |
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| 16-231-615 | AMD | 85-07-029 | 16-354-010 | AMD-P | 85-11-079 | 16-470-220 | NEW-E | 85-11-088 |
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| 388-53-030 | AMD-P 85-11-059 | 388-91-016 | AMD 85-11-034 | 392-129-030 | NEW-P 85-04-047 |
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