

OCTOBER 2, 1985

OLYMPIA, WASHINGTON

ISSUE 85-19



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## IN THIS ISSUE

Accountancy, Board of  
Agriculture, Department of  
Attorney General, Office of the  
Bellevue Community College  
(District 8)  
Blind, Department of Services for the  
Cemetery Board  
Community College Education, Board for  
Community Development, Department of  
Ecology, Department of  
Employment Security Department  
Fisheries, Department of  
Forest Practices Board  
Gambling Commission  
Game, Department of  
General Administration, Department of  
Governor, Office of the  
Health, Board of  
Hearing Aids, Council on  
Hospital Commission

Licensing, Department of  
Liquor Control Board  
Lottery Commission  
Natural Resources, Department of  
Personnel, Department of  
Productivity Board  
Public Employment Relations Commission  
Revenue, Department of  
Social and Health Services, Department of  
Spokane Community Colleges  
(District 17)  
Superintendent of Public Instruction  
Supreme Court  
Vocational Education, Council on  
Volunteer Firemen, Board for  
Washington State University  
Western Washington University  
Whatcom Community College  
(District 21)

(Subject/Agency index at back of issue)  
This issue contains documents officially  
filed not later than September 18, 1985

## CITATION

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

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## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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# WASHINGTON STATE REGISTER

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## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

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

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

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

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

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

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

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

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

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

### 5. EFFECTIVE DATE OF RULES

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

### 6. EDITORIAL CORRECTIONS

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

### 7. INDEX AND TABLES

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

# 1985

## DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates <sup>1</sup>			Distribution Date	First Agency Action Date <sup>3</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS		
For Inclusion 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

<sup>1</sup>All 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.

<sup>2</sup>A 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.

<sup>3</sup>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 85-19-001**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**  
 [Order 85-02—Filed September 5, 1985]

I, Richard A. Virant, director of the Department of General Administration, do promulgate and adopt at the Office of the Director, Department of General Administration, the annexed rules relating to:

- Amd WAC 236-12-200 Authorization for issuance of permits.
- Amd WAC 236-12-290 Parking fees.
- New WAC 236-12-295 Free parking permits for carpools/vanpools.

This action is taken pursuant to Notice No. WSR 85-15-019 filed with the code reviser on July 9, 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 46.08.150 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED August 27, 1985.

By Richard A. Virant  
 Director

AMENDATORY SECTION (Amending Order 12, filed 12/19/73)

WAC 236-12-200 AUTHORIZATION FOR ISSUANCE OF PERMITS. The director may issue parking permits in the parking areas of the capitol grounds designated by him to state officials, state employees, state agencies for official cars and to such other individuals as he may determine require parking facilities to aid in carrying out state business. The purpose for which parking permits are issued is to facilitate the conduct of government by providing state employees and visitors convenient parking while on the capitol campus for official purposes. Parking spaces may not be used for other purposes such as the conduct of private business or the storage of personal property. Repeated use of assigned parking spaces for such purposes may result in the cancellation of parking privilege.

AMENDATORY SECTION (Amending Order 78-3, filed 4/7/78)

WAC 236-12-290 PARKING FEES. The fees for rental parking shall be as follows:

PARKING FEES	AUTOMOBILE	MOTOR- CYCLE/ MOTOR- DRIVEN CYCLE
(a) Covered space (garage)	\$ 10.00/month	\$5.00/month
(b) Open space (lots/streets)	\$ 5.00/month	\$3.00/month
(c) Parking-by-the-day	\$1.00 per day maximum	
(d) No charge for visitors or tourists except where mechanical devices or meters are installed for general or specific area use.		
(e) <u>No charge for carpools/vanpools to which permits have been issued in accordance with WAC 236-12-295.</u>		

NEW SECTION

WAC 236-12-295 FREE PARKING PERMITS FOR CARPOOLS/VANPOOLS. Parking permits shall be issued to carpools and vanpools without charge subject to the terms and conditions set forth herein. To be eligible for such permits, the carpool/vanpool must consist of at least three persons per vehicle. The application must be submitted by a state employee, and shall include the names of all other persons who are members of the carpool or vanpool. Members of carpools/vanpools to which permits are issued under this section shall not be eligible for issuance of any other parking permits.

Permits issued under this section shall expire at the end of three months from the date of issuance. Application for renewal must be presented in person to the parking office at least two weeks prior to the expiration date.

It shall be the responsibility of all members of a carpool/vanpool to which a parking permit is issued hereunder to notify the parking office of any changes in the ridesharing arrangements which affect the eligibility of the carpool/vanpool for the permit.

**WSR 85-19-002**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed September 5, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Agriculture intends to adopt, amend, or repeal rules concerning onion white rot quarantine, chapter 16-470 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 25, 1985.

The authority under which these rules are proposed is chapter 17.24 RCW.

This notice is connected to and continues the matter in Notice No. WSR 85-15-054 filed with the code reviser's office on July 17, 1985.

Dated: September 4, 1985  
 By: Art Losey  
 Assistant Director

**WSR 85-19-003**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed September 5, 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 Chore services—Limitations on program, amending WAC 388-15-215.

It is the intention of the secretary to adopt these rules on an emergency basis on October 1, 1985;

that the agency will at 10:00 a.m., Tuesday, October 22, 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 October 29, 1985.

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

The specific statute these rules are intended to implement is section 207(3)(g), chapter 6, Laws of 1985 1st ex. sess.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before October 22, 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 October 8, 1985. The meeting site is in a location which is barrier free.

Dated: September 4, 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 WAC 388-15-215.

Amendment is made to authorize chore services only within allocated amounts to regions and division of developmental disabilities in accordance with RCW 74.08.541.

Reason Amendment is Necessary: To keep chore services expenditures within the chore services budget.

Statutory Authority: RCW 74.08.090.

Summary of Amendments: WAC 388-15-215(7), change wording to ". . . up to seven days during the service month . . ."; WAC 388-15-215(8), delete ". . . by the department after a period of up to one year," and replace with "periodically"; and WAC 388-15-215(11), reword to read: "Chore services may only be authorized up to the amount allocated to the regions and division of developmental disabilities in accordance with RCW 74.08.541. Eligible clients or applicants can receive service if authorization is within the amount available. Clients or applicants are provided service based on their assessed need and level of income within the chore services expenditure lid."

Person Responsible for the Drafting, Implementation and Enforcement of the Rule: Samuel H. Koshi, Program Manager, Bureau of Aging and Adult Services, OB-43G, (206) 753-1241 or 3-1241.

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

#### AMENDATORY SECTION (Amending Order 2165, filed 10/31/84)

WAC 388-15-215 LIMITATIONS ON PROGRAM. (1) The chore services program is not a teaching or companionship program and cannot be used for the purpose of delivering skilled nursing care or developing social, behavioral, recreational, communication or other type skill. Companionship means being with a person in his or her home for the purpose of preventing loneliness or to accompany him or her outside the home, except on basic errands or medical appointments or activities of daily living for attendant care clients.

(2) Chore services cannot be provided in a group home, licensed boarding home, congregate care facility, intermediate care facility, skilled nursing facility, hospital, or other institution, adult family home or child foster home. Shared living arrangements are not considered group homes.

(3) Chore services are provided for the person needing and authorized to receive the service, not for other household members unless the services are part of the total chore services plan which includes the household members as eligible service clients.

(4) Chore services are not provided when community resources or family, neighbors, friends, or volunteers are available and willing to enable the service without charge.

(5) Chore services may not be authorized an applicant/recipient who is eligible to receive community options program entry system funding or other duplicative services payment, provided the person's benefit would not be less under this stipulation.

(6) Department paid chore services are not provided hourly care clients when they are not in the home, for example, because of hospitalization. In an emergency, however, limited services may be provided to enable the client to return home.

(7) Department paid chore services are not provided attendant care clients when they are not in the home, for example, because of hospitalization. If necessary, however, up to seven days ~~((of))~~ during the service ((a)) month may be provided to enable the client to return home.

(8) All approvals for additional hours and higher payment rates are reevaluated ~~((by the department after a period of up to one year))~~ periodically, as determined by the department. These reevaluations are continued, denied, or altered to correspond with the client's present chore services need. The client shall receive notice of his or her right to contest reevaluations which are denied or approved at a lower rate of payment or fewer service hours than initially approved.

(9) Chore services cannot be used for child care for working parent(s).

(10) In family care, the chore services provider may not act as a parent substitute or make major decisions affecting the children.

(11) ~~((A maximum of one hundred eighty-eight thousand eight hundred fourteen hours per month can be authorized in the hourly chore services program. Each community services office is allocated by the regional office a monthly lid of chore services hours for the hourly chore services program))~~ Chore services may only be authorized up to the amount allocated to the regions and division of developmental disabilities in accordance with RCW 74.08.541. Eligible clients or applicants can receive service if ((hours are)) authorization is within the amount available ((at the community services office)). Clients or applicants ((in the community services office)) are provided service based on their assessed need and level of income within the chore services expenditure lid.

WSR 85-19-004

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 85-122—Filed September 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.

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 salmon are available.

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

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

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

APPROVED AND ADOPTED September 5, 1985.

By Gene DiDonato  
for William R. Wilkerson  
Director

#### NEW SECTION

*WAC 220-57-16000V COLUMBIA RIVER. Notwithstanding the provisions of WAC 220-57-160, effective 12:01 a.m., September 6, 1985 until further notice:*

*(1) In those waters downstream from Wells Dam to the Highway 12 Bridge at Pasco - Bag limit C.*

*(2) In those waters downstream from the Highway 12 Bridge at Pasco to the Megler-Astoria Bridge - Bag limit A.*

*(3) In those waters downstream from the Megler-Astoria Bridge to a line running true north-south through Buoy 10 - Bag limit F. Barbless hooks are required downstream from the Megler-Astoria Bridge to Buoy 10.*

#### REPEALER

*The following section of the Washington Administrative Code is repealed effective 12:01 a.m. September 6, 1985:*

*WAC 220-57-16000U COLUMBIA RIVER. (85-121)*

#### **WSR 85-19-005**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF FISHERIES**

[Order 85-123—Filed September 5, 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 net restrictions in Areas 4B, 5, 6, 6A, 6C, 7 and 7A provide protection for Canadian and Puget Sound chinook during sockeye/pink fisheries under the direction of IPSFC. Area 8 opening extension provides opportunity to harvest non-Indian allocation and attempts to prevent wastage of Skagit origin pink salmon. Opening in 12B provides opportunity to harvest non-Indian allocation of Hood Canal chinook. Opening in Area 12C provides opportunity to harvest non-Indian Hood Canal chinook and coho allocations. All other marine and freshwater areas are closed to prevent overharvest.

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 September 5, 1985.

By Russell W. Cahill  
for William R. Wilkerson  
Director

#### NEW SECTION

*WAC 220-47-608 PUGET SOUND ALL-CITIZEN COMMERCIAL SALMON FISHERY. Notwithstanding the provisions of Chapter 220-47 WAC, effective immediately until further notice, it is unlawful 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 4B, 5 and 6C - Under control of International Pacific Salmon Fisheries Commission. Drift gill net gear restricted to 5-7/8-inch maximum mesh when open.*

*Areas 6, 6A, 7, 7A - Under control of International Pacific Salmon Fisheries Commission. Gill net gear restricted to 5-7/8-inch maximum mesh when open.*

*\*Area 8 - Closed except gill nets using 5-inch minimum to 6-inch maximum mesh may fish from 6:00 PM to 9:00 AM nightly until further notice and purse seines using the 5-inch strip may fish from 5:00 AM to 4:00 PM, September 6. Fishery exclusion zones applicable to Area 8 commercial fisheries are described in WAC 220-47-307.*

*Area 12B - Closed except gill nets using 7-inch minimum mesh may fish from 6:00 PM to 9:00 AM nightly, the nights of September 4 through the morning of September 6. Fishery exclusion zones applicable to Area 12B commercial fisheries are described in WAC 220-47-307.*

Area 12C - Closed except gill nets using 5-inch minimum mesh may fish from 6:00 PM to 9:00 AM nightly, the nights of September 4 through the morning of September 6, and purse seines using the 5-inch strip may fish from 5:00 AM to 9:00 PM daily, through September 5 and from 5:00 AM to 4:00 PM September 6. That portion south of a line projected from Lake Cushman powerhouse to the public boat ramp at Union is closed to all commercial fishing. Additional fishery exclusion zones applicable to Area 12C commercial fisheries are described in WAC 220-47-307.

\*Areas 6B, 6D, 7B, 7C, 7D, 7E, 8A, 8D, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12, 12A, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K and all freshwater areas - Closed.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective immediately.

WAC 220-47-607 PUGET SOUND COMMERCIAL FISHERY RESTRICTIONS (85-119).

**WSR 85-19-006**

**ADOPTED RULES**

**SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Order 85-8—Filed September 6, 1985]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Finance—Group total salary and insurance benefits compliance, chapter 392-127 WAC.

This action is taken pursuant to Notice No. WSR 85-15-092 filed with the code reviser on July 24, 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.58-.095 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 September 5, 1985.

By Frank B. Brouillet  
Superintendent of Public Instruction

**AMENDATORY SECTION** (Amending Order 84-31, filed 8/13/84)

WAC 392-127-010 PURPOSE. The purpose of this chapter is to set forth policies and procedures to ensure that no school district board of directors shall provide group total salary and insurance benefit increases that violate the provisions of RCW 28A.58.095(1) which implement the requirements of the state Operating Appropriations Act.

**AMENDATORY SECTION** (Amending Order 84-31, filed 8/13/84)

WAC 392-127-260 DEFINITION—CERTIFICATED GROUP II. As used in this chapter, "certificated Group II" means the group composed of:

- (1) All certificated nonsupervisory employees; and
- (2) Those certificated supervisory employees who are represented by a collective bargaining agent or agents who also represent certificated nonsupervisory employees.

**AMENDATORY SECTION** (Amending Order 84-31, filed 8/13/84)

WAC 392-127-295 DEFINITION—PRIOR SCHOOL YEAR CERTIFICATED AVERAGE ANNUAL INSURANCE BENEFITS—FOR CERTIFICATED GROUP I. As used in this chapter, "prior school year certificated average annual insurance benefits" means the greater of:

(1) The insurance benefit amount authorized in the state Operating Appropriations Act for compensation purposes multiplied by twelve months per full-time equivalent staff unit; or

(2) The insurance benefits calculated in the following manner:

((+)) (a) Determine the annual insurance benefits for each individual certificated employee assigned to certificated Group I in the same position(s) held by the employee in the current school year;

((+)) (b) Determine the total of the annual insurance benefits obtained in ((subsection-+)) (a) of this ((section)) subsection;

((+)) (c) Divide the result obtained in ((subsection-+)) (b) of this ((section)) subsection by the district's number of full-time equivalent certificated employees assigned to certificated Group I((and

(4) The result obtained in subsection (3) of this section is the prior school year certificated average annual insurance benefits for certificated Group I)).

**AMENDATORY SECTION** (Amending Order 84-31, filed 8/13/84)

WAC 392-127-360 DEFINITION—CLASSIFIED GROUP II. As used in this chapter, "classified Group II" means the group composed of:

- (1) All classified nonsupervisory employees; and
- (2) Those classified supervisory employees who are represented by a collective bargaining agent or agents who also represent classified nonsupervisory employees.



AMENDATORY SECTION (Amending Order 84-31, filed 8/13/84)

WAC 392-127-395 DEFINITION—PRIOR SCHOOL YEAR CLASSIFIED AVERAGE ANNUAL INSURANCE BENEFITS—FOR CLASSIFIED GROUP I. As used in this chapter, "prior school year classified average annual insurance benefits" means the greater of:

(1) The insurance benefit amount authorized in the state Operating Appropriations Act for compensation purposes multiplied by twelve months per full-time equivalent staff unit; or

(2) The insurance benefits calculated in the following manner:

~~((1))~~ (a) Determine the annual insurance benefits for each individual classified employee assigned to classified Group I in the various district-assigned job classifications occupied by the employee in the current school year;

~~((2))~~ (b) Determine the total of the annual insurance benefits obtained in ~~((subsection (1)))~~ (a) of this ~~((section))~~ subsection;

~~((3))~~ (c) Divide the result obtained in ~~((subsection (2)))~~ (b) of this ~~((section))~~ subsection by the district's number of full-time equivalent classified employees assigned to classified Group I ~~((and~~

~~(4) The result obtained in subsection (3) of this section is the prior school year classified average annual insurance benefits for classified Group I)).~~

AMENDATORY SECTION (Amending Order 84-31, filed 8/13/84)

WAC 392-127-550 CERTIFICATED GROUP COMPLIANCE PROCESS—COMPLIANCE OF INSURANCE BENEFITS—DIRECT COMPARISON. Compliance for insurance benefits shall be calculated by comparing the current school year certificated average annual insurance benefits for the certificated Group I employees to the insurance benefits authorized in the Operating Appropriations Act for compensation purposes multiplied by twelve. The district shall be in compliance with the certificated insurance benefits provided if the current school year certificated average annual insurance benefits for certificated Group I employees is equal to or less than the insurance benefits authorized in the Operating Appropriations Act for compensation purposes multiplied by twelve.

In the event the school district's current school year certificated average annual insurance benefits exceed the insurance benefits authorized in the Operating Appropriations Act for compensation purposes multiplied by twelve, ~~((compliance with insurance benefits shall be calculated by comparing the current school year certificated average annual insurance benefits for certificated Group I employees to the prior school year certificated average annual insurance benefits provided by the school district for certificated Group I employees. The district shall be in compliance with the certificated insurance benefits if the current school year certificated average~~

~~annual insurance benefits for certificated Group I employees is equal to or less than the prior school year certificated average annual insurance benefits provided by the school district for certificated Group I employees))~~ the district shall be in compliance with this section if:

(1) For those certificated Group I employees whose prior school year insurance benefits exceeds the insurance benefits authorized in the Operating Appropriations Act for compensation purposes multiplied by twelve, the average of those employees' current school year insurance benefits does not exceed the average of these employees' prior school year insurance benefits; and

(2) For those certificated Group I employees whose prior school year insurance benefits were equal to or less than the insurance benefits authorized in the Operating Appropriations Act for compensation purposes multiplied by twelve, the average of these employees' current school year insurance benefits does not exceed the insurance benefits authorized in the Operating Appropriations Act for compensation purposes multiplied by twelve.

AMENDATORY SECTION (Amending Order 84-31, filed 8/13/84)

WAC 392-127-565 CERTIFICATED GROUP COMPLIANCE PROCESS—CALCULATION OF PENALTY FOR NONCOMPLIANCE ON SALARIES. If the superintendent of public instruction has determined that a school district has violated the group total salary and insurance benefits compliance relative to certificated salaries, the superintendent of public instruction shall direct the assistant superintendent for financial services to withhold for the current school year the amount calculated by multiplying the result obtained in WAC 392-127-545 by the current school year certificated average annualized salary for certificated Group II. The result obtained is then multiplied by the district's number of full-time equivalent staff calculated for certificated Group I. The result is further multiplied by the number of months the salary increase is provided in the Operating Appropriations Act currently in effect divided by twelve. The result obtained shall be the amount to be withheld. The amount to be withheld shall be entered as a negative adjustment to the next monthly apportionment payment after the district receives written notification that the funds are to be withheld.

AMENDATORY SECTION (Amending Order 84-31, filed 8/13/84)

WAC 392-127-650 CLASSIFIED GROUP COMPLIANCE PROCESS—COMPLIANCE OF INSURANCE BENEFITS—DIRECT COMPARISON. Compliance for insurance benefits shall be calculated by comparing the current school year classified average annual insurance benefits for the classified Group I employees to the insurance benefits authorized in the Operating Appropriations Act for compensation purposes multiplied by twelve. The district shall be in compliance with the classified insurance benefits provided if the average current school year classified annual insurance benefits for classified Group I employees is equal to or

less than the insurance benefits authorized in the Operating Appropriations Act for compensation purposes multiplied by twelve.

In the event the school district's current school year classified insurance benefits exceed the insurance benefits authorized in the Operating Appropriations Act for compensation purposes multiplied by twelve, ((compliance for insurance benefits shall be calculated by comparing the current school year classified average annual insurance benefits for classified Group I employees to the prior school year classified average annual insurance benefits provided by the school district for classified Group I employees. The district shall be in compliance with the classified insurance benefits if the current school year classified average annual insurance benefits for classified Group I employees is equal to or less than the prior school year classified average annual insurance benefits provided by the school district for classified Group I employees)) the district shall be in compliance with this section if:

(1) For those classified Group I employees whose prior school year insurance benefits exceeds the insurance benefits authorized in the Operating Appropriations Act for compensation purposes multiplied by twelve, the average of those employees' current school year insurance benefits does not exceed the average of these employees' prior school year insurance benefits; and

(2) For those classified Group I employees whose prior school year insurance benefits were equal to or less than the insurance benefits authorized in the Operating Appropriations Act for compensation purposes multiplied by twelve, the average of these employees' current school year insurance benefits does not exceed the insurance benefits authorized in the Operating Appropriations Act for compensation purposes multiplied by twelve.

AMENDATORY SECTION (Amending Order 84-31, filed 8/13/84)

WAC 392-127-665 CLASSIFIED GROUP COMPLIANCE PROCESS—CALCULATION OF PENALTY FOR NONCOMPLIANCE ON SALARIES. If the superintendent of public instruction has determined that a school district has violated the group total salary and insurance benefits compliance relative to classified salaries, the superintendent of public instruction shall direct the assistant superintendent for financial services to withhold for the current school year the amount calculated by multiplying the result obtained in WAC 392-127-645 by the current school year classified average annualized salary for classified Group II. The result obtained is then multiplied by the district's number of full-time equivalent staff calculated for classified Group I. The result is further multiplied by the number of months the salary increase is provided in the Operating Appropriations Act currently in effect divided by twelve. The result obtained shall be the amount to be withheld. The amount to be withheld shall be entered as a negative adjustment to the next monthly apportionment payment after the district receives written notification that the funds are to be withheld.

WSR 85-19-007

ADOPTED RULES

## SUPERINTENDENT OF PUBLIC INSTRUCTION

[Order 85-9—Filed September 6, 1985]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to SPI—Access to public records, chapter 392-105 WAC.

This action is taken pursuant to Notice No. WSR 85-15-091 filed with the code reviser on July 24, 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 42.17.250, 42.17.260 and 42.17.320 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 September 5, 1985.

By Frank B. Brouillet  
Superintendent of Public Instruction

AMENDATORY SECTION (Amending Order 82-12, filed 9/14/82)

WAC 392-105-003 DESCRIPTION OF ORGANIZATION. (1) The superintendent of public instruction is a constitutional officer of the state charged with supervision over all matters pertaining to public schools. The superintendent of public instruction is also the statutory chief executive officer of the state board of education. Administrative offices of the superintendent of public instruction and the state board of education are located in Olympia, Washington.

(2) Organization of the superintendent of public instruction's office is divided into four operating divisions, the office of the deputy superintendent of public instruction, and the office of the secretary (executive director) to the state board of education.

(a) The office of the secretary (executive director) to the state board of education keeps the records for all board proceedings. The secretary to the state board of education is appointed by the state board of education.

(b) The office of the deputy superintendent of public instruction directs and coordinates the activities of the four operating divisions of the agency, the offices of professional education and certification, and several agency-wide support services sections. The deputy superintendent of public instruction is appointed by and reports directly to the superintendent of public instruction.

(c) The division of financial services is managed by an assistant superintendent. This person is appointed by the superintendent of public instruction and reports to the deputy superintendent. The division administers state apportionment and school building assistance to the school districts, maintains agency accounts, jointly with the state auditor develops accounting manuals for school

districts and educational service districts, budget forms for school districts and educational services districts (ESDs) and administers the school systems statewide financial reporting and accounting systems, provides technical assistance to school districts for accounting and budgetary systems, and administers the school lunch, pupil transportation, and federal accounts programs.

(d) The instructional programs and services division is managed by an assistant superintendent. This person is appointed by the superintendent of public instruction and reports to the deputy superintendent. The division provides a wide range of technical assistance services to school districts in the development of basic education programs, learning resources and multicultural/equity. In addition, the division has responsibility for supervising and managing supplementary federal education programs, including Chapter 1—Migrant and Chapter 2 and for administering the state's traffic safety program.

(e) The special services (~~and professional programs~~) division is managed by an assistant superintendent. This person is appointed by the superintendent of public instruction and reports to the deputy superintendent. The division assists school districts in the development of gifted programs and health services programs and pupil personnel services, supervises the federal and state special education programs in the schools and state institutions, maintains liaison with private schools regarding all agency programs, manages the institutional education programs, and remediation programs, including the ~~((Title 1/))~~ Chapter 1—Regular programs ~~((and supervises professional education and certification))~~.

(f) The vocational-technical and adult education services division is managed by an assistant superintendent. This person is appointed by the superintendent of public instruction and reports to the deputy superintendent. The division administers the approval process for vocational-technical programs and procedures for distribution of federal and state funds. It also provides technical services for adult basic, industrial arts, career education, educational clinics, and community schools programs.

### WSR 85-19-008

#### PROPOSED RULES

#### DEPARTMENT OF NATURAL RESOURCES

[Filed September 6, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Natural Resources intends to adopt, amend, or repeal rules concerning aquatic land management, chapter 332-30 WAC. Five sections are revised, eight new sections are added, and six sections are repealed. Subjects covered are aquatic land management philosophy, applicability (especially to port districts), definition of state-wide value, aquatic land planning and project mitigation, non-water-dependent and interim uses, management of waterways, establishment of fees for sand and gravel extraction, procedure for appeal of rents, policy on public

use and access and environmental protection, recreational docks, aquaculture, establishment of new areas for navigation and commerce outside harbor areas, houseboats, aquatic land use classes and renewable resources.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on October 1, 1985.

The authority under which these rules are proposed is RCW 43.30.150.

The specific statute these rules are intended to implement is RCW 79.90.105, 79.90.300, 79.90.455, 79.90.460, 79.90.470, 79.90.475, 79.90.520, 79.68.010, 79.68.68 [79.68.080] and chapter 79.93 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:

Steve Tilley  
Marine Resource Planner  
DNR M/S QW-21  
Olympia, WA 98504

This notice is connected to and continues the matter in Notice No. WSR 85-14-049 filed with the code reviser's office on June 28, 1985.

Dated: September 4, 1985

By: James A. Stearns  
Supervisor

### WSR 85-19-009

#### EMERGENCY RULES

#### DEPARTMENT OF NATURAL RESOURCES

[Order 470—Filed September 6, 1985]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the repeal of an emergency rule regulating logging, land clearing, and other industrial operations which may cause a fire to start on lands protected by the Department of Natural Resources in Eastern Washington.

I, Brian J. Boyle, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is due to adequate amounts of rainfall, current and forecasted weather conditions in Eastern Washington, logging, land clearing and other industrial operation restrictions are being lifted.

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

This rule is promulgated pursuant to RCW 76.04.190 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 September 6, 1985.  
By Brian J. Boyle  
Commissioner of Public Lands

IN WITNESS WHERE-  
OF, I have hereunto set my  
hand and caused the seal of  
the state of Washington to  
be affixed at Olympia this  
31st day of August, Nine-  
teen Hundred and Eighty-  
Five.

Booth Gardner

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

**REPEALER**

*The following section of the Washington Administra-  
tive Code is repealed:*

1) WAC 332-26-091c **HOOT OWL LOGGING  
RESTRICTIONS ON LANDS PROTECTED BY  
THE DEPARTMENT OF NATURAL RESOURCES  
IN EASTERN WASHINGTON.**

BY THE GOVERNOR:

Ralph Munro

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

**WSR 85-19-010  
PROCLAMATION  
OFFICE OF THE GOVERNOR**

Beginning on August 28, 1985, uncontrolled forest fires in North Central Washington have caused an imminent threat to life and property and damage to the state's natural resources.

The severity of the destruction and damage and the prevention of future damage are now beyond the capabilities of local governments and the state Department of Natural Resources, and subsequently, I find that an emergency affecting life, health and property exists within the state of Washington.

NOW, THEREFORE, I, BOOTH GARDNER, Governor of the state of Washington, as a result of the aforementioned forest fire and under provisions of chapters RCW 43.06, RCW 76.04, and RCW 38.52.050, do hereby proclaim that a State of Emergency exists in North Central Washington State and that the Washington State Comprehensive Emergency Management be executed. The Department of Emergency Management is instructed to coordinate all state assistance including that of the Military Department under the provisions of RCW 38.08.040 in support of affected local governments and the state Department of Natural Resources.

**WSR 85-19-011  
EMERGENCY RULES  
DEPARTMENT OF  
GENERAL ADMINISTRATION  
(Division of Savings and Loan Associations)  
[Order 85-5—Filed September 6, 1985]**

I, R. H. "Bob" Lewis, state supervisor of the Division of Savings and Loan Associations, do promulgate and adopt at Olympia, Washington, the annexed rules relating to credit unions, adding new section WAC 419-36-090, relating to limitations on investments in common trust funds.

I, R. H. "Bob" Lewis, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is RCW 31.12.425 (1)(f) permits credit unions to invest in certain common trust funds. The supervisor has determined that there is a need to establish investment guidelines for these funds to insure the safety and soundness of credit unions investing in these funds. This regulation establishes these investment guidelines.

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 supervisor of the Division of Savings and Loan Associations, Department of General Administration, as authorized in RCW 31.12.360.

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 September 6, 1985.  
By R. H. "Bob" Lewis  
Supervisor

NEW SECTION

**WAC 419-36-090 INVESTMENT LIMITATIONS—OTHER REQUIREMENTS.** *This section provides guidelines for safe and sound investment by credit unions investing in common trust funds pursuant to RCW 31.12.425 (1)(f). A credit union investing in such common trust funds is subject to the following limitations:*

(1) *A credit union shall not invest an amount greater than two and one-half percent of its total assets in any one common trust fund.*

(2) *A credit union shall not invest an aggregate amount of greater than ten percent of its total assets in all such common trust funds.*

(3) *Prior to making any investment in a common trust fund, a credit union shall obtain a prospectus for such fund and determine that all investments, investment activities and deposits of such common trust fund would be legal investments if held by the credit union.*

(4) *Prior to making any investment in a common trust fund, a credit union must secure from the investment company marketing the fund a written statement, in addition to any prospectus, specifying that the fund is not engaged in and will not engage in any speculative marketing activity including but not limited to adjusted trading, futures contracts, short sales, and standby commitments, defined as follows:*

(a) *Adjusted trading means any method or transaction used to defer a loss by selling a security at a price above its current market price and simultaneously purchasing or committing to purchase from that same party another security at a price above its current market price, including interest rate swaps.*

(b) *Futures contract means a contract for the future delivery of commodities, including certain government securities, sold on commodities exchanges.*

(c) *Short sale means the sale of a security not owned by the seller.*

(d) *Standby commitment means a commitment to either buy or sell a security, on or before a future date, at a predetermined price. The seller of the commitment is the party receiving payment for assuming the risk associated with committing either to purchase a security in the future at a predetermined price, or to sell a security in the future at a predetermined price. The seller of the commitment is required to either accept delivery of a security (in the case of a commitment to buy) or make delivery of a security (in the case of a commitment to sell), in either case at the option of the buyer of the commitment.*

(5) *A credit union's directors, officials, committee members, and employees, and immediate family members of such persons, may not receive consideration in any form in connection with the making of an investment or deposit in a common trust fund by the credit union.*

**WSR 85-19-012****ADOPTED RULES  
CEMETERY BOARD**

[Order 108—Filed September 6, 1985]

Be it resolved by the Washington State Cemetery Board, acting at Seattle, Washington, that it does adopt the annexed rules relating to procedures for handling dead human bodies by authorized crematory authorities, adding new sections WAC 98-40-010, 98-40-020, 98-40-030, 98-40-040, 98-40-050, 98-40-060, 98-40-070 and 98-40-080 and amending WAC 98-70-010, fees.

This action is taken pursuant to Notice No. WSR 85-14-108 filed with the code reviser on July 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 68.05.100, as amended by section 8, chapter 402, Laws of 1985, 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 August 9, 1985.

By B. David Daly  
Chairman

NEW SECTION

**WAC 98-40-010 PURPOSE FOR PROCEDURES.** There are many considerations that must be taken into account when a Crematory is entrusted with the disposition of Human Remains. Identification of the deceased, holding the remains for Cremation, the Cremation Process and procedures, processing and disposition of the Cremated Remains are items of concern not only to the Crematory, but also to the consuming public. High standards must be employed during all phases of the Cremation Process.

Therefore, uniform procedures have been developed in order to maintain the professionalism and public trust expected of those involved in this vital service. It is the objective of the following procedures to ensure that all procedures reflect those high standards and serve as standards for those professionals charged with the sacred trust of the disposition of the human dead by cremation, within the realm of law and dignity.

NEW SECTION

**WAC 98-40-020 TERMINOLOGY.** The following definitions shall apply in this chapter:

(1) **AUTHORIZING AGENT(S):**

The person(s) legally entitled to order the cremation of the human remains. (See RCW 68.08.160)

(2) **CREMATED REMAINS:**

The remaining bone fragments after cremation in a crematory. (See RCW 68.04.030)

(3) **CREMATION:**

"Cremation" means the reduction of the body of a deceased person to cremated remains in a crematory in such a manner that the largest dimension of any remaining particle does not exceed five millimeters; provided, that if a person entitled to possession of such remains under the provisions of RCW 68.08.245 is going to place the cremated remains in a cemetery, mausoleum, columbarium or building devoted exclusively to religious purposes, the five millimeter dimension requirement shall not apply. (See RCW 68.04.110)

(4) CREMATION CHAMBER:

The enclosed space within which the Cremation Process takes place.

(5) CREMATION CONTAINER:

The case in which the Human Remains should be delivered to the Crematory to be placed in the Cremation Chamber for Cremation. The Cremation container shall meet the following standards:

(a) It shall be composed of a suitable combustible material. If the remains are delivered to the Crematory in a noncombustible container, the authorizing agent shall be, or have been, informed of the disposition of the container if it is not actually used in the cremation process. Any transfer of Human Remains to combustible containers at the Crematory shall be in accordance with the provisions of RCW 18.39, applicable health laws and regulations adopted hereunder.

(b) It shall be rigid enough for handling with ease.

(c) It shall assure protection to the health and safety of the crematory operators and others.

(d) It shall provide proper covering for the Human Remains.

(e) It shall meet moral codes for respect and dignity.

(6) CREMATORY AUTHORITY:

The legal entity or the authorized representative of the legal entity, who conducts the cremation and who is properly licensed by the State of Washington to do so.

(7) CREMATORY OR CREMATORIUM:

The building or room(s) that house the Cremation Chamber. (See RCW 68.04.070, .080, and .090 and RCW 68.28 and RCW 68.48.050).

(8) HOLDING FACILITY:

An area designated for the retention of Human Remains prior to Cremation within the crematory facilities. The area shall:

(a) Comply with any applicable public health laws.

(b) Preserve the dignity of the Human Remains; and

(c) Recognize the personal integrity and health of the Crematory Authority personnel operating the Crematory.

(9) HUMAN REMAINS:

The body of a deceased person. (See RCW 68.04.020)

(10) PROCESSED REMAINS:

The end result of pulverization, where the residue from the Cremation Process is cleaned leaving only bone fragments reduced to five millimeters or less. (See RCW 68.04.030)

(11) SEALABLE CONTAINER:

Any container in which Processed Remains can be placed and sealed so as to prevent leakage of Processed Remains or the entrance of foreign materials.

(12) RULES AND REGULATIONS:

The crematory authority may make, adopt, amend, add to, revise or modify, and enforce rules and regulations as necessary for proper operation of the crematory and to implement the provisions of the RCW and WAC Chapter 98-40 in regard to cremations and the handling and custody of human remains. (See RCW 68.20.060)

NEW SECTION

WAC 98-40-030 REMOVAL AND IDENTIFICATION OF HUMAN REMAINS (1) Immediately upon taking custody of Human Remains, a Crematory Authority shall verify that the Human Remains bear a means of identification attached to the cremation container or to the remains. A Crematory Authority shall not accept unidentified Human Remains. (See RCW 68.08.170 and .180) Upon accepting Human Remains for cremation, the crematory shall make a permanent signed record of the color, shape and outside covering of any casket consumed with such Human Remains. (See RCW 68.20.100)

(2) Materials identifying the Human Remains placed in the custody of a Crematory Authority should contain the following information: (See RCW 68.08.240)

(a) Name of deceased;

(b) Date of death;

(c) Place of death;

(d) Name and relationship of Authorizing Agent;

(e) Name of firm engaging Crematory services.

(3) If the Crematory Authority takes custody subsequent to the Human Remains being placed within a Cremation Container, the Crematory Authority shall satisfy itself that identification has been made as described in WAC 98-40-030(2) and thereafter shall place or ensure that appropriate identification has been placed upon the exterior of the Cremation Container.

NEW SECTION

WAC 98-40-040 HOLDING HUMAN REMAINS FOR CREMATION (1) When the Crematory Authority is unable to cremate the Human Remains immediately upon taking custody thereof, the Crematory Authority shall provide a holding facility as defined in WAC 98-40-020(8) and chapter 68 RCW and chapter 18.39 RCW.

(2) Human Remains designated for cremation will be cremated within a reasonable time after death. (See RCW 68.08.110)

(3) A Crematory Authority shall not hold the Human Remains for Cremation unless it is contained within an individual, rigid and closed Cremation Container as defined in WAC 98-40-020(5).

(4) A Crematory Authority shall not accept for holding a Cremation Container from which there is any evidence of leakage of the body fluids from the Human Remains therein.

(5) Human Remains that are not embalmed shall be held only within a refrigerated facility or in compliance with applicable public health regulations.

(6) Holding facilities shall be secure from access by unauthorized persons.

NEW SECTION

**WAC 98-40-050 CREMATION OF HUMAN REMAINS** (1) Cremation will not take place until the necessary permits and consents are issued by the Health Department and/or Coroner or Prosecuting Attorney. (See RCW 68.08.108 and RCW 70.58.230)

(2) Immediately prior to being placed within the Cremation Chamber, the identification of the Human Remains shall be verified by the Crematory Authority and identification of the Human Remains being cremated shall be placed near the cremation Chamber control panel where it shall remain in place until the Cremation Process is complete.

(3) The unauthorized simultaneous Cremation of more than one Human Remains within the same Cremation Chamber is specifically forbidden. It may be done only when authorized as provided in WAC 98-40-050(4).

(4) A Crematory Authority may simultaneously cremate more than one Human Remains within the same Cremation Chamber only upon having received written authorization to do so from the Authorizing Agent of each Human Remains to be cremated. A written authorization shall exempt the Crematory Authority from all liability for co-mingling of the products of the Cremation Process.

NEW SECTION

**WAC 98-40-060 PROCESSING OF CREMATED REMAINS** (1) Upon completion of the Cremation, insofar as is possible, all residual of the Cremation Process shall be removed from the Cremation Chamber and the chamber swept clean. The residual shall be placed within a container or tray in such a way that will ensure against co-mingling with other Cremated Remains. The identification shall be removed from the control panel area and attached to the container or tray to await final processing.

(2) All residual of the Cremation Process shall undergo final processing to comply with applicable legal requirements. It is recommended that the residual be manually cleaned of anything other than body residue and the fragments reduced to Processed Remains.

(3) All body prostheses, bridgework or similar items removed from the cremated remains, shall be disposed of by the Crematory Authority as directed by the Authorizing Agent. No other materials shall be removed from the Cremated Remains.

NEW SECTION

**WAC 98-40-070 PACKAGING AND STORAGE OF CREMATED REMAINS** (1) The entire Cremated Remains or Processed Remains shall be placed in a sealable container as defined in WAC 98-40-020(11) or in such container as may have been ordered by the authorizing agent, together with the identification of the cremated remains.

(2) Should the Cremated Remains or Processed Remains not adequately fill the container's interior dimensions, the extra space may be filled with packing

material that will not become intermingled with the Cremated Remains or Processed Remains and then securely closed.

(3) If the entire Cremated Remains or Processed Remains will not fit within the dimensions of the designated receptacle, the remainder shall be returned either in a separate container, or upon written permission of the Authorizing Agent, be disposed of according to the established procedures of the Crematory Authority.

(4) When a temporary container is used to return the Cremated Remains or Processed Remains, it is recommended that the container be placed within a sturdy box and all box seams taped closed to increase the security and integrity of that container. The outside of the container shall be clearly identified with the name of the deceased person whose Cremated Remains or Processed Remains are contained therein.

(5) Cremated Remains or Processed Remains held by a Crematory Authority or cemetery pending final disposition shall be handled in accordance with RCW 68.48.050.

NEW SECTION

**WAC 98-40-080 DISPOSITION OF CREMATED REMAINS** (1) A Crematory Authority shall keep an accurate record of all cremations performed, including disposition of the remains, as required by law. (See RCW 68.08.240)

(2) Forms granting Authority to Cremate may contain notification of the disposition procedure in WAC 98-40-080(3).

(3) When Cremated Remains or Processed Remains of any dead human body have been in the possession of a Crematory Authority, funeral director or cemetery as originally authorized by the Authorizing Agent(s) without instructions or payment for final disposition for a period of two years or more (See RCW 68.08.230) the Crematory Authority, funeral director, cemetery authority or other entity holding Cremated Remains or Processed Remains of persons other than their relatives may:

(a) Endeavor to contact the authorizing agent(s) by registered mail requesting disposition instructions and informing the authorizing agent(s) of the procedures that may be followed if disposition instructions are not received.

(b) If contact cannot be made or disposition instructions are not made within 60 days of the initiation of the contact process, the Crematory Authority, funeral director or cemetery authority, or other entity holding Cremated Remains or Processed Remains of persons other than their relatives, may arrange for permanent disposition of the Cremated Remains or Processed Remains in a cemetery established in accordance with RCW 68. Such disposition may be in an individual, common, or community grave, crypt or niche from which individual recovery of the Cremated Remains or Processed Remains may or may not be possible. No entity making disposition of remains under this procedure shall be liable for the non-recoverability of any Cremated Remains or Processed Remains.

(c) A record of the name, place of death, crematory authority and location of the disposition shall be maintained as permanent records by both the cemetery and crematory authority, funeral director or other entity holding Cremated Remains or Processed Remains of persons other than their relatives.

(4) With written permission from the Authorizing Agent, a Crematory may dispose of Cremated Remains or Processed Remains in any legal manner. (See RCW 68.08.130 and .245)

**AMENDATORY SECTION** (Amending Order 107, filed 11/29/83)

WAC 98-70-010 FEES. The following fees shall be charged by the Washington state cemetery board:

Title of Fee	Fee
Regulatory charges	
Charge per each preceding [calendar] year interments, entombments and inurnments	\$ 2.40
Prearrangement sales license	
Application	100.00
Renewal	50.00

Crematory license/endorsement fifty dollars/year plus fifty cents per cremation performed during applicable year.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

**WSR 85-19-013**  
**ADOPTED RULES**  
**DEPARTMENT OF LICENSING**  
**(Board of Funeral Directors and Embalmers)**  
 [Order PL 550—Filed September 6, 1985]

Be it resolved by the Washington State Board of Funeral Directors and Embalmers, acting at Olympia, Washington, that it does adopt the annexed rules relating to:

- Amd WAC 308-48-590 Qualification for board approval of continuing education activities.
- Rep WAC 308-48-320 Uniform Disciplinary Act.

This action is taken pursuant to Notice No. WSR 85-15-101 filed with the code reviser on July 24, 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 18.39.175 (4) and (6) and 18.39.176 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 August 27, 1985.

By Ian D. Morrison  
 Chairman

**AMENDATORY SECTION** (Amending Order PL 504, filed 12/19/84)

WAC 308-48-590 QUALIFICATION FOR BOARD APPROVAL OF CONTINUING EDUCATION ACTIVITIES. (1) In order for a continuing education activity to qualify for board approval, the following qualifications must be met:

(a) The activity must contribute directly to the professional competency of the licensee or registrant;

(b) The activity must relate to the practice of mortuary science or, for a registrant, be a course required for initial licensure;

(c) The activity must be conducted by individuals who are considered by the board to be knowledgeable in the subject matter of the program by virtue of education, training, or experience. ((, and

~~(d) Any program offered within the state must be open to all licensees and registrants in the state, except that the board may waive this requirement for courses sponsored by national organizations and held in conjunction with their out-of-state meetings, provided all other requirements are met))~~

(2) The board may approve as continuing education activities courses, lectures, seminars, correspondence or homestudy programs, or other instructional programs which meet the above qualifications and which the board determined would be beneficial in improving the knowledge or service capability of licensees and registered apprentices.

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

**REPEALER**

The following section of the Washington administrative code is hereby repealed:

WAC 308-48-320 UNIFORM DISCIPLINARY ACT.

**WSR 85-19-014**  
**ADOPTED RULES**  
**DEPARTMENT OF LICENSING**  
**(Board of Funeral Directors and Embalmers)**  
 [Order PL 551—Filed September 6, 1985]

Be it resolved by the Washington State Board of Funeral Directors and Embalmers, acting at Olympia, Washington, that it does adopt the annexed rules relating to improper methods for seeking business, amending WAC 308-48-100.

This action is taken pursuant to Notice No. WSR 85-14-025 filed with the code reviser on June 26, 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 18.39.175 (4) and (5) 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 August 27, 1985.

By Ian D. Morrison  
Chairman

AMENDATORY SECTION (Amending Rule 10, filed 9/17/64)

WAC 308-48-100 IMPROPER METHODS FOR SEEKING BUSINESS. No licensee, ((or)) apprentice nor other person associated with a funeral establishment shall solicit business or shall offer any inducement, pecuniary or otherwise, for employing solicitors, agents, canvassers or others for the purpose of securing or attempting to secure business regarding deceased persons or persons whose death is imminent. Licensees shall not use donations, gifts, bonuses or acts of service designed to place the recipient in a position of obligation or indebtedness; and such persons shall ((not)) neither transfer nor offer to transfer any property or service as payment of or in token for business secured, influenced or otherwise provided or in promise thereof. This regulation is intended to prohibit solicitation regarding deceased persons or persons whose death is imminent or who, because of their particular circumstances, are vulnerable to undue influence. This regulation does not prohibit the general advertising, solicitation, or sales of pre-arrangement funeral service contracts.

#### WSR 85-19-015

#### EMERGENCY RULES

#### DEPARTMENT OF FISHERIES

[Order 85-124—Filed September 6, 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 the opening in Area 8 provides opportunity to harvest the non-Indian share of pinks. The opening in Areas 12 and 12A provides opportunity to harvest non-Indian share of coho. The opening in Area 7B provides opportunity to harvest non-Indian share of coho, but was reduced from the permanent opening due to chinook harvest concerns. The cancellation of the Area 8A fishing is due to pink harvest concerns and lack of agreed coho management proposals.

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 September 6, 1985.

By Gene DiDonato  
for William R. Wilkerson  
Director

#### NEW SECTION

WAC 220-47-609 PUGET SOUND ALL-CITIZEN COMMERCIAL SALMON FISHERY. *Notwithstanding the provisions of Chapter 220-47 WAC, effective September 8, 1985, until further notice, it is unlawful 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 4B, 5 and 6C – Under control of International Pacific Salmon Fisheries Commission. Drift gill net gear restricted to 5-7/8-inch maximum mesh when open.*

*Areas 6, 6A, 7, 7A – Under control of International Pacific Salmon Fisheries Commission. Gill net gear restricted to 5-7/8-inch maximum mesh when open.*

*\*Area 7B – Closed except gill nets using 5-inch minimum mesh may fish from 6:00 PM to 9:00 AM the night of September 9 through the morning of September 10, and purse seines may fish from 5:00 AM to 9:00 PM, September 10. Fishery exclusion zones applicable to Area 7B commercial fisheries are described in WAC 220-47-307.*

*\*Area 8 – Closed except gill nets using 5-inch minimum to 6-inch maximum mesh may fish from 6:00 PM to 9:00 AM nightly until further notice. Fishery exclusion zones applicable to Area 8 commercial fisheries are described in WAC 220-47-307.*

*\*Area 12, 12A – Closed except gill nets using 5-inch minimum may fish from 6:00 PM to 9:00 AM the night of September 9 through the morning of September 10, and purse seines using the 5-inch strip may fish from 5:00 AM to 9:00 PM, September 10. Fishery exclusion zones applicable to Area 12A commercial fisheries are described in WAC 220-47-307.*

*\*Areas 6B, 6D, 7C, 7D, 7E, 8A, 8D, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12B, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K and all freshwater areas – Closed.*

REPEALER

The following section of the Washington Administrative Code is repealed effective September 8, 1985.

WAC 220-47-608 PUGET SOUND COMMERCIAL FISHERY RESTRICTIONS (85-123).

**WSR 85-19-016**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 85-125—Filed September 6, 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 Area 4B, 5, 6C provide protection for Puget Sound and Canadian chinook stocks while allowing a limited impact immobile set net fishery. Restrictions in 6, 6A, 7 and 7A provide protection for Puget Sound and Canadian chinook stocks. Restrictions in 10D, 10G provide protection for Lake Washington sockeye while allowing harvest of chinook. Restrictions in Area 10 provide protection for summer/fall chinook and coho returning to Suquamish Hatchery and Nisqually pink salmon. Restrictions in Areas 11 and 13 provide protection for Nisqually and Puyallup pink salmon. Restrictions in Areas 13A, Minter Creek and the White and Nooksack rivers provide protection for Puget Sound spring chinook stocks. Restrictions in the Skagit River provide protection for spawning salmon stocks. Restrictions in Area 7C and the Samish River provide protection for chinook returning to the Samish Hatchery. Restrictions in Area 6D and the Elwha and Dungeness rivers provide protection for local summer/fall chinook and pink stocks. Restrictions in the Hoko, Lyre, Pysht and Sekiu rivers provide protection for local summer/fall chinook stocks. Restrictions in the Stillaguamish River provide protection for local summer/fall chinook stocks, while allowing harvest of pinks. Restrictions in Area 8A provide protection for Stillaguamish coho and chinook. Restrictions in Area 12C provide protection for milling chinook stocks destined for Hoodspout and Enetai hatcheries. Restrictions in Area 10C and the Cedar River protect Lake Washington origin sockeye and chinook. Restrictions in Areas 6B and 9 protect south sound and natural Hood Canal pink salmon. Restrictions in the Nisqually River provide protection to local pink salmon stocks. Restrictions in the Dosewallips, Duckabush and the Hamma Hamma rivers provide protection to local pink salmon stocks, while providing harvest opportunity with selective gear.

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 September 6, 1985.

By Gene DiDonato  
for William R. Wilkerson  
Director

NEW SECTION

WAC 220-28-514 PUGET SOUND COMMERCIAL SALMON FISHERY RESTRICTIONS. Effective September 8, 1985, 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 4B, 5, 6C – Effective through September 21, drift gill net gear restricted to 5-7/8-inch maximum mesh when open.

Areas 6B, 9 – Effective through September 14, gill net gear restricted to 7-inch minimum mesh, and other gear must release pink salmon when open.

Area 6D, Dungeness and Elwha Rivers – Closed to all commercial fishing through September 21.

\*Areas 6, 6A, 7, 7A – Effective through September 21, gill net gear restricted to 5-7/8-inch maximum mesh when open.

Area 7C and Samish River – Closed to all commercial fishing.

Area 8A – Closed to all commercial fishing in that portion north of a line from Camano Head to the northern boundary of Area 8D.

\*Area 10 – (1) Effective through October 15, closed to all commercial fishing in that portion northwest of a line from the flashing buoy at the entrance to Agate Passage to the flashing light at the end of the Indianola dock. (2) Effective through September 14, gill net gear restricted to 7-inch minimum mesh and all other gear must release pinks when open.

Area 10C and Cedar River – Closed to all commercial fishing until further notice.

Area 10D – (1) Effective through October 5, gill net gear restricted to 6-1/2-inch minimum mesh and all other gear must release sockeye. (2) Effective until further notice, closed to all commercial fishing in that portion within 250 yards of the eastern and northern shoreline of Lake Sammamish between the Sammamish River and Issaquah Creek.

Area 10G – Effective through September 28, gill net gear restricted to 6-1/2-inch minimum mesh and all other gear must release sockeye when open.

Area 11 – Effective through September 14, gill net gear restricted to 7-inch minimum mesh and all other gear must release pinks when open.

Area 12C – Effective through September 28, closed to all commercial fishing in that portion within 1,000 feet of the western shoreline between Glen Ayr Trailer Park and Hoodspout Marina dock and in that portion within 1,000 feet of the western shoreline between Potlatch State Park and the mouth of Nalley's Slough.

Area 13 excluding those waters of Hale Passage southerly of the Fox Island Bridge and northerly of the southernmost cable crossing – Effective through September 21, gill net gear restricted to 7-inch minimum mesh and all other gear must release pinks when open.

Area 13A – Effective through September 14, closed to all commercial fishing in that portion within a 1000-foot radius from the outer oyster stakes off Minter Creek including Minter Bay.

Nooksack River (upstream of the confluence of the forks) – Effective through September 28, closed to all commercial fishing.

Skagit River upstream of Baker River – Effective until further notice, closed to all commercial fishing.

Stillaguamish River – Effective through September 21, gill net gear restricted to 6-inch maximum mesh when open.

Nisqually River – Effective through September 28, gill net gear restricted to 7-1/2-inch minimum mesh when open.

Minter Creek and White, Lyre, Pysht, Hoko, and Sekiu rivers – Effective through September 28, closed to all commercial fishing.

Dosewallips, Duckabush and Hamma Hamma rivers – Effective through October 19, closed to all commercial gill net gear and all other gear must release pinks when open.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective September 8, 1985.

WAC 220-28-513 PUGET SOUND COMMERCIAL SALMON FISHERY RESTRICTIONS (85-120)

#### WSR 85-19-017

#### EMERGENCY RULES

#### DEPARTMENT OF FISHERIES

[Order 85-126—Filed September 6, 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 salmon are available.

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

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

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

APPROVED AND ADOPTED September 6, 1985.

By Gene DiDonato  
for William R. Wilkerson  
Director

#### NEW SECTION

WAC 220-57-16000W COLUMBIA RIVER. Notwithstanding the provisions of WAC 220-57-160, effective immediately until further notice:

(1) In those waters downstream from Chief Joseph Dam to the Priest Rapids Dam – Bag Limit C.

(2) In those waters downstream from Priest Rapids Dam to the Vernita Bridge – Bag Limit A until 11:59 p.m. October 31, 1985. Effective 12:01 November 1, 1985 – Bag Limit C.

(3) In those waters downstream from Vernita Bridge to the old Hanford Townsite wooden powerline towers – Bag Limit A until 11:59 p.m. October 15, 1985. Effective 12:01 a.m. October 16, 1985 closed until further notice.

(4) In those waters downstream from the old Hanford townsite wooden powerline towers to the Megler-Astoria Bridge – Bag Limit A.

(5) In those waters downstream from the Megler-Astoria Bridge to a line running true north-south through Buoy 10 – Bag Limit F until 11:59 p.m. September 30, 1985. Effective 12:01 a.m. October 1, 1985 – Bag Limit A. Barbless hooks are required downstream from the Megler-Astoria Bridge to Buoy 10 through September 30, 1985.

#### REPEALER

The following section of the Washington Administrative Code is repealed.

WAC 220-57-16000V COLUMBIA RIVER. (85-122)

**WSR 85-19-018**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 85-127—Filed September 6, 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 salmon are available, and these rules are adopted at the recommendation of the Columbia River Compact Commission and the Columbia River Inter-Tribal Fish Commission.

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 September 6, 1985.

By Gene DiDonato  
 for William R. Wilkerson  
 Director

NEW SECTION

WAC 220-22-01000A COLUMBIA RIVER SALMON MANAGEMENT AND CATCH REPORTING AREAS. Notwithstanding the provisions of WAC 220-22-010, effective immediately until further notice:

(1) Area 1F (Bonneville Pool) shall include those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 mile rapids.

(2) Area 1G shall include those waters of the Columbia River upstream from a line drawn between a point one mile above the fishway exit on the Washington shore and a point one mile above the fishway exit on the Oregon shore, and downstream from Preacher's Eddy light below John Day Dam.

(3) Area 1H shall include those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John Day River, Oregon, to a fishing boundary marker on the Washington shore and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

NEW SECTION

WAC 220-32-05100R SEASONS—SALMON. Notwithstanding the provisions of WAC 220-32-051 and 220-32-052, it is unlawful for any person to take or possess salmon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1F, 1G or 1H except that those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla and Nez Perce treaties may fish from:

Noon September 6 to Noon September 11, 1985. The 300 foot net length restriction does not apply to this fishery.

NEW SECTION

WAC 220-32-05800A CLOSED AREA—RIVER MOUTHS. Notwithstanding the provisions of WAC 220-32-058, effective immediately until further notice the closed area (1) At the mouth of the Hood River is defined as an area one-half mile upstream from the mouth of Hood River to the end of the breakwall at the west end of the Port of Hood River.

(2) At the mouth of Herman Creek is repealed.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05100Q SEASONS—SALMON. (85-115)

**WSR 85-19-019**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 85-128—Filed September 6, 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 harvestable numbers of salmon are available.

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

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

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

APPROVED AND ADOPTED September 6, 1985.

By Gene DiDonato  
for William R. Wilkerson  
Director

### NEW SECTION

**WAC 220-56-19000X SALTWATER SEASONS AND BAG LIMITS—SALMON.** *Notwithstanding the provisions of WAC 220-56-190, effective immediately until further notice it is unlawful to fish for or possess salmon taken for personal use from waters west of the Bonilla-Tatoosh Line, Pacific Ocean waters, Washington waters at the mouth of the Columbia River west of a line drawn true north-south through Buoy 10, or Strait of Juan de Fuca waters westerly of a line projected true north from the mouth of the Sekiu River except those waters southerly of a line projected true west from the mouth of the Queets River and northerly of a line projected true west from Leadbetter Point are open to salmon angling from 12:01 a.m. September 7 to 11:59 p.m. September 8, 1985. Bag Limit F.*

### REPEALER

The following section of the Washington Administrative Code is repealed:

**WAC 220-56-19000W SALTWATER SEASONS AND BAG LIMITS—SALMON (85-117)**

### **WSR 85-19-020**

#### **NOTICE OF PUBLIC MEETINGS WASHINGTON STATE UNIVERSITY**

[Memorandum—September 5, 1985]

The board of regents of Washington State University has decided to set the schedule of its meetings for the academic year, July 1-June 30, rather than the calendar year. The regents have adopted the following meetings for the January-June 1986 period:

January 23-24, 1986	Wilson Compton Union Building Pullman, 8:00 a.m.
March 20-21, 1986	Wilson Compton Union Building Pullman, 8:00 a.m.
May 8, 9, and 10, 1986	Wilson Compton Union Building Pullman, 8:00 a.m.
June 26 and 27, 1986	Wilson Compton Union Building Pullman, 8:00 a.m.

### **WSR 85-19-021**

#### **EMERGENCY RULES DEPARTMENT OF GAME (Game Commission)**

[Order 268—Filed September 9, 1985]

Be it resolved by the State Game Commission, acting at Spokane, Washington, that it does adopt the annexed

rules relating to requirements of license dealers, WAC 232-12-241.

We, the State Game Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this action is required under Substitute Senate Bill 4231.

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

This rule is promulgated pursuant to RCW 77.04.020, 77.32.256 and 77.32.050 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED May 20, 1985.

By Jack S. Wayland  
for Archie U. Mills  
Chairman, Game Commission

### AMENDATORY SECTION (Amending Order 174, filed 10/22/81)

**WAC 232-12-241 REQUIREMENTS OF LICENSE DEALERS.** (1) *The director may deputize persons, firms or corporations as license dealers in such numbers as deemed necessary, for the purpose of issuing licenses, permits, tags, stamps, and punchcards.*

(2) *All persons, firms or corporations so deputized shall provide the director with a good and sufficient bond in such amount as the director shall determine, such bond to guarantee full and complete payment for all licenses, permits, tags, stamps, and punchcards sold or not remitted by the dealer.*

(3) *License dealers shall remit all moneys collected from the sale of licenses, permits, tags, stamps, and punchcards by the 10th day of the following month in which the licenses are sold.*

(4) *License dealers must issue licenses, permits, tags, stamps, and punchcards in accordance with instructions provided by the department in the license dealer's manual.*

(5) *All records held pursuant to the statutes and regulations dealing with license dealers must be open to inspection by a wildlife agent or department designee at reasonable times.*

(6) *License dealers may charge an agent fee of \$1.00 for the issuance of each license document and 50¢ for the issuance of each tag, permit, special hunting permit application, and the state migratory waterfowl stamp.*

**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 85-19-022**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 85-129—Filed September 9, 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 net restrictions in Areas 4B, 5, 6, 6A, 6C, 7 and 7A provide protection for Canadian and Puget Sound chinook during sockeye/pink fisheries under the direction of IPSFC. Opening in Area 7B provides opportunity to harvest non-Indian share of Nooksack/Samish coho. Area 8 opening extension provides opportunity to harvest non-Indian allocation and attempts to prevent wastage of Skagit origin pink salmon. Openings in 12 and 12A provide opportunity to harvest non-Indian allocation of Hood Canal coho. The cancellation of the Area 8A fishery is due to pink harvest concerns and lack of agreed coho management proposals. All other marine and freshwater areas are closed to prevent overharvest.

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 September 9, 1985.

By Russell W. Cahill  
 for William R. Wilkerson  
 Director

NEW SECTION

*WAC 220-47-610 PUGET SOUND ALL-CITIZEN COMMERCIAL SALMON FISHERY. Notwithstanding the provisions of Chapter 220-47 WAC, effective September 10, 1985, until further notice, it is unlawful 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 4B, 5 and 6C – Under control of International Pacific Salmon Fisheries Commission. Drift gill net gear restricted to 5-7/8-inch maximum mesh when open.*

*Areas 6, 6A, 7, 7A – Under control of International Pacific Salmon Fisheries Commission. Gill net gear restricted to 5-7/8-inch maximum mesh when open.*

*Area 7B – Closed except gill nets using 5-inch minimum mesh may fish from 6:00 PM to 9:00 AM the night of September 9 through the morning of September 10, and purse seines may fish from 5:00 AM to 9:00 PM, September 10. Fishery exclusion zones applicable to Area 7B commercial fisheries are described in WAC 220-47-307.*

*\*Area 8 – Closed except gill nets using 5-inch minimum to 6-inch maximum mesh may fish from 6:00 PM to 9:00 AM nightly until further notice, and purse seines using the 5-inch strip may fish from 5:00 AM to 9:00 PM daily, September 10 and 11. Fishery exclusion zones applicable to Area 8 commercial fisheries are described in WAC 220-47-307.*

*Areas 12, 12A – Closed except gill nets using 5-inch minimum may fish from 6:00 PM to 9:00 AM the night of September 9 through the morning of September 10, and purse seines using the 5-inch strip may fish from 5:00 AM to 9:00 PM, September 10. Fishery exclusion zones applicable to Area 12A commercial fisheries are described in WAC 220-47-307.*

*Areas 6B, 6D, 7C, 7D, 7E, 8A, 8D, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12B, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K and all freshwater areas – Closed.*

REPEALER

*The following section of the Washington Administrative Code is repealed effective September 10, 1985.*

*WAC 220-47-609 PUGET SOUND COMMERCIAL FISHERY RESTRICTIONS (85-124).*

**WSR 85-19-023**  
**EMERGENCY RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Order 85-22—Filed September 10, 1985]

I, Glen H. Fiedler, deputy director of the Department of Ecology, do promulgate and adopt at the Washington Department of Ecology, Lacey, Washington, the annexed rules relating to the amending of WAC 508-60-040, administration of flood control zones, regarding waiver of the prohibition of buildings for human habilitation in the floodway. WDOE may only apply this waiver to communities which are complying with the National Flood Insurance Program requirements.

I, Glen H. Fiedler, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this amendment is needed to accommodate a limited number of undeveloped residential

parcels which are located in the floodways. These parcels are subject to local regulation permit programs which require flood proofing, elevation above 100 year flood levels and no encroachment on floodway conveyance.

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

This rule is promulgated pursuant to chapter 43.21A RCW which directs that the Department of Ecology has authority to implement the provisions of chapter 86.16 RCW.

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

APPROVED AND ADOPTED September 9, 1985.

By Glen H. Fiedler

Deputy Director

**AMENDATORY SECTION** (Amending Order DE 79-25, filed 11/26/79)

**WAC 508-60-040 FLOOD CHANNEL AND FLOODWAY USAGE.** All complete applications for flood control zone permits that request authorization for the construction, reconstruction, or modification of any works or structures upon the floodway or over or in the channel of any body of water or drainway will be examined by the department to insure compliance with all of the following requirements:

(1) The structures or works are designed so as not to be appreciably damaged by flood waters.

(2) The structures or works shall be firmly anchored or affixed to the realty in order to prevent dislocation by flood water and damage to life, health, and property.

(3) The structures or works will not adversely influence the regimen of any body of water by restricting, altering, hindering, or increasing flow of the flood waters in the floodway or flood channel expected during a flood up to a magnitude of a one hundred year frequency. (In consideration of this provision the department shall determine whether the structures or works either alone, or in combination with existing or future similar works could adversely influence the efficiency or the capacity of the floodway or adversely affect existing drainage courses or facilities. The determination of these effects shall be based on the assumption that the floodway encroachment resulting from any proposed structures or works will extend for a significant reach of the stream together with an encroachment equal in degree on the opposite side of the stream.)

(4) The structures or works are not designed for, or will not be used for either (a) uses associated with high flood damage potential or (b) dwellings for human habitation of a permanent nature; provided that a new single family farmhouse or substantial improvements to an existing single family farmhouse may be permitted under the following conditions:

(i) A new single family farmhouse must be built as the replacement of an existing single family farmhouse on the same farmsite. The house being replaced shall be removed from the floodway in its entirety, including the

foundation. The permit shall specify a date for completion of the above work.

(ii) The elevation of the lowest habitable floor of the residence, including basement, shall be one foot higher than the one hundred year flood elevation.

(iii) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(iv) New and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.

(v) All other utilities and connections to public utilities shall be designed, constructed, and located to minimize or eliminate flood damage.

(vi) There must be no potential site for the farmhouse on the farmsite outside the floodway.

WAC 508-60-040 (4)(b) may be waived by the department for properties located within those counties and incorporated cities that are enrolled in the regular phase of the National Flood Insurance Program (NFIP) and are administering their floodplain management regulation permit program in compliance with the NFIP requirements pursuant to 44 CFR, Title 44, Chapter 1, Part 60 - Criteria for Land Management and Use. The city or county must not be under NFIP probation or suspension.

Any application for a permit which complies with all requirements of this section and the provisions of WAC 508-60-060 and 508-60-070 will be granted.

**WSR 85-19-024**

**EMERGENCY RULES**

**LOTTERY COMMISSION**

[Order 79—Filed September 10, 1985]

Be it resolved by the Washington State Lottery Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to:

New	WAC 315-11-180	Definitions for Instant Game Number 18 ("Washington Winners").
New	WAC 315-11-181	Criteria for Instant Game Number 18.
New	WAC 315-11-182	Ticket validation requirements for Instant Game Number 18.
Amd	WAC 315-10-030	Instant games criteria.
Amd	WAC 315-30-080	On-line agent selection criteria.

We, the Washington State Lottery Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these rules are required before permanent rules could be adopted. Delay in implementation would be contrary to public interest.

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

This rule is promulgated pursuant to RCW 67.70.040 and 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 September 6, 1985.  
By Duane Kovacevich  
Deputy Director

NEW SECTION

WAC 315-11-180 DEFINITIONS FOR INSTANT GAME NUMBER 18 ("WASHINGTON WINNERS"). (1) Play symbols: The following are the "play symbols":











One of these symbols appears under each of the six rub-off spots on the front of the ticket.

(2) Validation number: The unique nine-digit number on the lower right portion of the front of the ticket. The number is covered by latex which is overprinted "DO NOT REMOVE."

(3) Pack-ticket number: The ten-digit number of the form 8000001-000 printed on the front of the ticket. The first seven digits of the pack-ticket number for Instant Game Number 18 constitute the "pack number" which starts at 8000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Captions: The small printed characters appearing below each play symbol which verifies and corresponds with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 18, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
	SAIL
	FISH
	APPL
	SKI
	TREE
	WHT
	MTN
	ENT

(5) Agent verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the licensed agent uses to verify instant winners below \$25. For Instant Game Number 18, the agent verification code is a three-letter code, with each letter appearing in a varying three of five locations beneath the removable covering and among the play symbols on the front of the ticket. The agent verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
TWO	\$2.00
FIV	\$5.00
TEN	\$10.00
TTY	\$20.00


(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in a plastic bag or plastic shrinkwrapping.

NEW SECTION

WAC 315-11-181 CRITERIA FOR INSTANT GAME NUMBER 18. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) The bearer of a ticket having the following play symbols in any three of the six spots beneath the removable covering on the front of the ticket shall win the following prize:

- Three  play symbols - Win \$2.00
- Three  play symbols - Win \$5.00
- Three  play symbols - Win \$10.00
- Three  play symbols - Win \$20.00
- Three  play symbols - Win \$50.00
- Three  play symbols - Win \$100.00
- Three  play symbols - Win \$5,000
- Three  play symbols - Win Entry into Grand Prize Drawing

(b) In any event, only the highest instant prize amount meeting the standards of (a) of this subsection will be paid on a given ticket.

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 18 set forth in WAC 315-11-182, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) There will be one grand prize drawing for Instant Game Number 18. It will be conducted at a time and place and pursuant to procedures to be established and announced by the director. The prizes awarded at the grand prize drawing will be: First prize, \$250,000; second prize, \$25,000; third, fourth, and fifth prizes, \$10,000 each; sixth, seventh, eighth, ninth, and tenth prizes, \$5,000 each. In the event that an entry is not included in the grand prize drawing process and the director determines that the entry was entitled to participation in the process, the director reserves the right to place that entry into a subsequent grand prize drawing process.

(a) To be eligible for entry into a preliminary drawing, an entrant must:



(i) Be eligible to win a prize pursuant to chapter 67-.70 RCW and Title 315 WAC.

(ii) Have a valid winning "Washington Winners" Entry ticket.

(iii) Write or print legibly, the entrant's name and address on the back of the ticket or on a separate sheet of paper. An entry containing more than one name and/or address shall be disqualified.

(iv) Place the ticket in an envelope. An envelope which contains extraneous material or which has had the exterior altered for the apparent sole purpose of making the envelope more prominent shall be disqualified.

(v) Mail the envelope with proper postage and a legible return address of the entrant to the address specified on the back of the ticket and in the player's brochure ("WASHINGTON WINNERS" Grand Prize Drawing, Tacoma, WA 98450), or deliver it in person during normal business hours to:

Office of the Director  
 Washington State Lottery  
 600 Park Village Plaza  
 1200 Cooper Point Road SW  
 Olympia, WA 98502

(b) There is no limit to the number of entries a person may submit, but each entry must be submitted in a separate envelope and both the entry and the entrant of each must meet the qualifications set forth above.

(c) Entries must be received by the lottery no later than fourteen days after the announced end of game.

(d) An entry which contains one or more stolen tickets may be disqualified by the director.

(e) A nonconforming entry, at the sole discretion of the director, may be disqualified.

(f) The lottery shall not be responsible for any other material, including winning tickets, mailed or delivered to the "WASHINGTON WINNERS" Grand Prize Drawing. All mail not drawn will be incinerated unopened.

(6) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 18; and/or

(b) Vary the number of tickets sold in Instant Game Number 18 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**NEW SECTION**

WAC 315-11-182 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 18. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 18 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the six rub-off spots on the front of the ticket.

(b) Each of the six play symbols must have a caption below and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbol  
 Captions  
 Pack-Ticket Number  
 Validation Number  
 Agent Verification Code

Mead 20 Point font  
 Mead 5 x 11 Matrix font  
 OCR-A Size 1 Condensed font  
 OCR-A Size 1 Condensed font  
 Mead 7 x 12 Matrix font

(d) Each of the play symbols and their captions, the validation number, pack-ticket number and the agent verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-180(1) and each of the captions must be exactly one of those described in WAC 315-11-180(4).

(2) Removal of part or all of the latex overprinted "DO NOT REMOVE" covering of the validation number will not invalidate an otherwise valid ticket.

(3) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

**AMENDATORY SECTION** (Amending Order 77, filed 7/30/85)

WAC 315-10-030 INSTANT GAMES CRITERIA. (1) The price of an instant game ticket shall not be less than \$1.00 and not more than \$5.00.

(2) Winners of an instant game are determined by the matching or specified alignment of the play numbers on the tickets. The ticket bearer must notify the lottery of the win and submit the winning ticket to the lottery as specified by the director. The winning ticket must be validated by the lottery through use of the validation number and/or any other means as specified by the director.

(3) The total of all prizes available to be won in an instant game shall not be less than forty-five percent of the instant game's projected revenue.

(4) The instant game shall pay out both lower tier prizes and higher tier prizes. Lower tier prizes are of less than \$25.00. Higher tier prizes are of \$25.00 or more. The director shall determine the number of lower and higher tier prizes.

(5) ~~((The length of operation of an instant game shall not exceed fifteen weeks.))~~ The start date and closing date of the instant game shall be publicly announced. Licensed agents shall not sell any tickets prior to the start date of a game unless expressly authorized by the director. Licensed agents may continue to sell tickets for each instant game for up to fourteen days after the official end of game as authorized by WAC 315-10-060.

(6) There is no required frequency of drawing or method of selection of a winner in an instant game.

(7) At the director's discretion, an instant game may include a grand prize drawing(s). The criteria for the grand prize drawing shall be as follows:

(a) Finalists for a grand prize drawing shall be selected in an elimination drawing(s) from redeemed tickets meeting the criteria stated in specific game rules as determined by the director. Participation in the elimination drawing(s) shall be limited to such tickets which are actually received and validated by the director on or before a date to be announced by the director. The director may reserve the right to place any semi-finalist whose entry was not entered in the elimination drawing(s) and

who is subsequently determined to have been entitled to such entry into an elimination drawing of a subsequent instant game, and the determination of the director shall be final.

(b) The number of prizes and the amount of each prize in the grand prize drawing(s) shall be determined by the director to correspond with the size and length of the instant game and to comply with subsection (3) of this section.

(c) The dates and times as well as the procedures for conducting the elimination drawing and grand prize drawing shall be determined by the director.

(8) Procedures for claiming instant game prizes are as follows:

(a) To claim an instant game prize of less than \$25.00, the claimant shall present the apparent winning ticket to the licensed agent from whom the ticket was purchased. The licensed agent shall verify the claim and, if acceptable, make payment of the amount due the claimant. In the event the licensed agent cannot verify the claim, the claimant shall fill out a claim form, as provided in WAC 315-06-120, which shall be obtained from the licensed agent and present the completed form, together with the disputed ticket to the director. If the claim is validated by the director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(b) To claim an instant prize of \$25.00 or more, the claimant shall complete a claim form, as provided in WAC 315-06-120, which is obtained from the licensed agent or the director and mail the completed form together with the winning ticket to the director. Upon validation by the director, a check shall be forwarded to the claimant in payment of the amount due, less any applicable federal income tax withholding. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(c) To claim an instant prize pursuant to WAC 315-10-070(2), the claimant shall notify the lottery of the claim and request reconstruction of the ticket not later than one hundred eighty days after the official end of that instant game. If the director authorizes reconstruction, the ticket shall not be validated nor the prize paid prior to the one hundred eighty-first day following the official end of that instant game. A ticket(s) validated pursuant to WAC 315-10-070(2) shall not entitle the claimant entry into the grand prize drawing, if any, for that or any subsequent instant game.

(d) Any ticket not passing all the validation checks specified by the director is invalid and ineligible for any prize and shall not be paid. However, the director may, solely at his or her option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price from any other current game). In the event a defective ticket is purchased, the only responsibility or liability of the director shall be the replacement of the defective ticket with another unplayed ticket (or tickets of equivalent sale price from any other current game).

AMENDATORY SECTION (Amending Order 72, filed 4/5/85)

WAC 315-30-080 ON-LINE AGENT SELECTION CRITERIA. (1) The selection and distribution of on-line agents throughout the state will be based on:

(a) The number of licensed agents in each of the regions identified in WAC 315-12-030, and then;

(b) The potential for revenue generation, demographics, and public accessibility within that region.

(2) An on-line license endorsement shall be issued only to a person who possesses a valid general license, provided, the director may issue an on-line endorsement to an agent who possesses a valid provisional license if that agent is a new owner of a previously established on-line location.

(3) In addition, the director shall consider the following factors in the selection of on-line agents.

(a) Business and security considerations which include but are not limited to: (i) Instant game accounts receivable record, (ii) criminal history of owners and officers, (iii) history of criminal activity at the business establishment, (iv) past security problems, (v) credit rating as defined in WAC 315-30-090, (vi) licensing requirements, and (vii) history of administrative or regulatory actions.

(b) Marketing considerations which include but are not limited to: (i) ~~((Customer traffic and sales volume))~~ Instant ticket sales history, (ii) ~~((lottery-oriented consumers))~~ outside vehicle traffic, (iii) ~~((market potential; and))~~ retail customer count, (iv) access to location, and (v) management ((commitment to)) attitude and willingness to promote lottery products.

(4) ~~((The lottery will install approximately five hundred TDMs initially with approximately fifty TDMs added each month for the first twelve months and approximately twenty-five TDMs per month thereafter.))~~ The director shall determine the total number of TDM's to be installed throughout the state and shall establish procedures for on-line site selection. In determining the order in which TDMs will be installed within a given geographic area an on-line site selection survey will be completed in which, the ((following)) factors ((will be)) considered will include but not be limited to:

(a) ~~((Demonstrated high-volume instant ticket sales))~~ General information;

(b) ~~((High customer traffic))~~ Description of proposed site;

(c) ~~((Easy in and out access))~~ Proposed TDM location;

(d) ~~((Management commitment to lottery products; and))~~ Products sold;

(e) ~~((Store traffic patterns relative to TDM placement))~~ Services available;

(f) Store's hours;

(g) Estimated on-line sales;

(h) Instant sales per week;

(i) Nearest four on-line agents' sales per week;

(j) District sales representative's assessment; and

(k) Regional sales manager's assessment.

(5) ~~The director may, after a TDM has been in operation for six months, order the removal of a TDM from ((an)) a low producing on-line agent location after considering marketing factors which include but are not limited to:~~

~~(a) ((Accessibility of the on-line agent's place of business to the public)) Sales volume not increasing at state-wide average;~~

~~(b) ((Sufficiency of TDMs in the geographic area to provide public accessibility, and)) Weekly sales volume below that of similar businesses with similar market potential;~~

~~(c) ((A nonmetropolitan area on-line agent's average on-line sales volume over four consecutive weeks, or)) Sales volume below \$5,000 per week in metropolitan areas;~~

~~(d) ((A metropolitan area on-line agent's failure to meet the average on-line minimum sales volume requirement of two thousand five hundred dollars per week over four consecutive weeks.)) Public is adequately served by other on-line agent locations, and~~

~~(e) Failure to generate sufficient sales volume to cover the lottery's administrative costs.~~

(6) The director may immediately discontinue a TDM's operation, order removal of a TDM from an on-line agent location, or take any other action authorized under WAC 315-04-200 in the event that the on-line agent:

(a) Fails to comply with any rule established by the commission, any instruction issued by the director;

(b) Tampers with or attempts to tamper with the TDM or on-line system;

(c) Fails to make payment of a prize; or

(d) Makes payment with a business check and the check is dishonored for any reason.

#### WSR 85-19-025

##### EMERGENCY RULES

##### DEPARTMENT OF GAME

##### (Game Commission)

[Order 277—Filed September 11, 1985]

Be it resolved by the State Game Commission, acting at Tacoma, Washington, that it does adopt the annexed rules relating to amendment to the 1985 Washington game fish seasons and catch limits—Starvation Lake (Stevens County), WAC 232-28-61421.

We, the State Game Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is Starvation Lake in Stevens County is scheduled for rehabilitation. In order to optimize the catch of remaining trout, the season should be opened 90 days beginning at 12:01 a.m. on August 20, 1985.

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

This rule is promulgated pursuant to RCW 77.12.040 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED August 18, 1985.

By Jack S. Wayland  
for Archie U. Mills  
Chairman, Game Commission

#### NEW SECTION

WAC 232-28-61421 AMENDMENT TO THE 1985 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS—STARVATION LAKE (IN STEVENS COUNTY). Notwithstanding the provisions of WAC 232-28-614, Starvation Lake (in Stevens County) will have a 90-day emergency game fishing season beginning at 12:01 a.m. on August 20, 1985.

#### WSR 85-19-026

##### NOTICE OF PUBLIC MEETINGS

##### COUNCIL ON

##### VOCATIONAL EDUCATION

[Memorandum—September 10, 1985]

The next regular meeting of the Washington State Council on Vocational Education will be held on Friday, September 27, 1985, in the Board Room of the Everett Chamber of Commerce which is located at 1710 West Marina View Drive, Everett. The meeting is scheduled to begin at 9:00 a.m.

This meeting site is barrier free. Interpreters for people with hearing impairments and taped information for people with visual impairments can be provided upon request, if the state council is notified by September 20, 1985.

For further information, please contact Dennis D. Coplen, Sr., Executive Director, Washington State Council on Vocational Education, 120 East Union, Room 207, Mailstop EK-21, Olympia, WA 98504, phone (206) 753-3715.

#### WSR 85-19-027

##### PROPOSED RULES

##### BOARD OF HEALTH

[Filed September 11, 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 revision of school and day care immunization requirements, amending WAC 248-100-163 and 248-100-164;

that the agency will at 9:30 a.m., Wednesday, September 18, 1985, in the state of Washington General Administration Building, 11th and Columbia, 1st Floor Conference Room, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is chapter 28A.31 RCW.

The specific statute these rules are intended to implement is RCW 43.20.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 18, 1985, mailstop ET-23.

This notice is connected to and continues the matter in Notice No. WSR 85-16-115 filed with the code reviser's office on August 7, 1985.

Dated: September 11, 1985  
By: Robert Todd Gay  
Assistant Attorney General

**WSR 85-19-028**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**  
**(Division of Savings and Loan Associations)**  
[Filed September 11, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Division of Savings and Loan Associations intends to adopt, amend, or repeal rules concerning credit unions, adding new section WAC 419-36-090, relating to limitations on investments in common trust funds;

that the agency will at 10:00 a.m., Monday, October 28, 1985, in the Office of the Supervisor of Savings and Loan Associations, Room 217-C General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 31.12.360.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before October 28, 1985.

Dated: September 11, 1985  
By: R. H. "Bob" Lewis  
Supervisor

**STATEMENT OF PURPOSE**

Title: WAC 419-36-090 Investment limitations—Other requirements.

This statement is filed pursuant to RCW 34.04.045.

RCW 31.12.425 (1)(f) permits credit unions to invest capital or surplus funds in a common trust fund whose investment portfolio consists of securities issued or guaranteed by the federal government.

The supervisor has determined that there is a need to establish specific investment guidelines to ensure the

safety and soundness of credit unions investing in common trust funds. This regulation establishes those investment guidelines.

These regulations are drafted and proposed by R. H. "Bob" Lewis, Supervisor, Division of Savings and Loan Associations, 217-C General Administration Building, Olympia, Washington 98504, phone (206) 753-5597.

The supervisor will be responsible for enforcement of this regulation.

Small Business Economic Impact Statement: This rule will not have an adverse economic impact on more than twenty percent of all financial institutions or more than ten percent of state-chartered credit unions. Accordingly, an economic impact statement is not required under RCW 19.85.030.

NEW SECTION

WAC 419-36-090 INVESTMENT LIMITATIONS—OTHER REQUIREMENTS. This section provides guidelines for safe and sound investment by credit unions investing in common trust funds pursuant to RCW 31.12.425 (1)(f). A credit union investing in such common trust funds is subject to the following limitations:

(1) A credit union shall not invest an amount greater than two and one-half percent of its total assets in any one common trust fund.

(2) A credit union shall not invest an aggregate amount of greater than ten percent of its total assets in all such common trust funds.

(3) Prior to making any investment in a common trust fund, a credit union shall obtain a prospectus for such fund and determine that all investments, investment activities and deposits of such common trust fund would be legal investments if held by the credit union.

(4) Prior to making any investment in a common trust fund, a credit union must secure from the investment company marketing the fund a written statement, in addition to any prospectus, specifying that the fund is not engaged in and will not engage in any speculative marketing activity including but not limited to adjusted trading, futures contracts, short sales, and standby commitments, defined as follows:

(a) Adjusted trading means any method or transaction used to defer a loss by selling a security at a price above its current market price and simultaneously purchasing or committing to purchase from that same party another security at a price above its current market price, including interest rate swaps.

(b) Futures contract means a contract for the future delivery of commodities, including certain government securities, sold on commodities exchanges.

(c) Short sale means the sale of a security not owned by the seller.

(d) Standby commitment means a commitment to either buy or sell a security, on or before a future date, at a predetermined price. The seller of the commitment is the party receiving payment for assuming the risk associated with committing either to purchase a security in the future at a predetermined price, or to sell a security in the future at a predetermined price. The seller of the commitment is required to either accept delivery of a security (in the case of a commitment to buy) or make delivery of a security (in the case of a commitment to sell), in either case at the option of the buyer of the commitment.

(5) A credit union's directors, officials, committee members, and employees, and immediate family members of such persons, may not receive consideration in any form in connection with the making of an investment or deposit in a common trust fund by the credit union.

**WSR 85-19-029**  
**RULES OF COURT**  
**STATE SUPREME COURT**  
[September 5, 1985]

IN THE MATTER OF THE ADOPTION NO. 25700-A-370  
OF THE AMENDMENT TO APR 12(d) ORDER

An amendment to APR 12(d) having been proposed and the Court having determined that the proposed

amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as attached hereto is adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendment is to be published expeditiously in the Washington Reports and will become effective September 13, 1985.

DATED at Olympia, Washington this 5th day of September, 1985.

	James M. Dolliver
Robert F. Utter	Andersen, J.
Dore, J.	Callow, J.
Robert F. Brachtenbach	Goodloe, J.
Pearson, J.	Durham, J.

APR 12

LIMITED PRACTICE RULE FOR CLOSING OFFICERS

(d) Scope of Practice Authorized by Limited Practice Rule. Notwithstanding any provision of any other rule to the contrary, a person certified as a closing officer under this rule may select, prepare and complete documents in a form previously approved by the Board for use in closing a loan, extension of credit, sale or other transfer of real or personal property. Such documents shall be limited to deeds, promissory notes, guaranties, deeds of trust, reconveyances, mortgages, satisfactions, security agreements, releases, Uniform Commercial Code documents, assignments, contracts, real estate excise tax affidavits, and bills of sale. Other documents may be from time to time approved by the Board ~~with the concurrence of the Supreme Court.~~

WSR 85-19-030

ADOPTED RULES

LIQUOR CONTROL BOARD

[Order 164, Resolution No. 173—Filed September 12, 1985]

Be it resolved by the Washington State Liquor Control Board, acting at the Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, that it does adopt the annexed rules relating to standards of identity for wine, WAC 314-24-003.

This action is taken pursuant to Notice No. WSR 85-16-039 filed with the code reviser on July 31, 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 State Liquor Control Board as authorized in RCW 66.08.030.

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 September 11, 1985.

By L. H. Pedersen  
Chairman

AMENDATORY SECTION (Amending Order 85, Resolution No. 94, filed 10/28/81)

WAC 314-24-003 STANDARDS OF IDENTITY FOR WINE. (1) Application of standards. The standards of identity for the several classes and types of wine set forth herein shall be applicable to all wines produced, imported, bottled, offered for sale, or sold within this state for beverage use or any other purpose, except as hereinafter prescribed. The standards herein established are minimum standards for wines of the several classes and types defined.

(2) Standards of identity. The several classes and types of wine set forth herein shall be as follows:

(a) Wine (or grape wine). "Wine" is the product of the normal alcoholic fermentation of the juice of sound, ripe grapes (including pure condensed must), with or without added grape brandy or other spirits derived from grapes or grape products, and containing not to exceed 24 percent alcohol by volume, but without any other addition or abstraction whatsoever except such as may occur in normal cellar treatment: PROVIDED, That the product may be ameliorated before, during or after fermentation by the use of pure dry sugar, a combination of water and pure dry sugar, liquid sugar, invert sugar syrup, grape juice or concentrated must, but only in accordance with federal regulations 27 CFR part 240, and the total solids of the wine shall in no case exceed 21 percent by weight. The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for red table wine, more than 0.14 gram, and for all other wine, more than 0.12 gram in both cases per 100 cubic centimeters (20 degrees C.). The maximum sulphur dioxide content of any wine shall not be greater than 350 parts per million of total sulphur dioxide or sulphites expressed as sulphur dioxide.

Pure condensed must. "Pure condensed must" means the dehydrated juice or must of sound, ripe grapes, or other fruit or agricultural products, concentrated to not more than 80° Brix, the composition thereof remaining unaltered except for removal of water; the term "restored pure condensed must" means pure condensed must to which has been added an amount of water not exceeding the amount removed in the dehydration process; and the term "sugar" means pure cane, beet, or dextrose sugar in dry form containing, respectively, not less than 95 percent of actual sugar calculated on a dry basis.

(b) Natural wine is the product of the juice of sound, ripe grapes, or the product of the juice of sound ripe fruit or berries other than grapes, produced in accordance with section 5381, I.R.C., and federal regulations 27 CFR part 240, as applicable.

(c) Red and white wine. Red wine is wine which contains the red coloring matter of the skins, juice, or pulp of grapes; pink, amber or rose wine is wine which contains partial red coloring of the skins, juice, or pulp of grapes; and white wine is wine which does not contain the red coloring matter of the skins, juice, or pulp of grapes.

(d) Table wine (including light wine, light grape wine, light red wine, light white wine, and natural wine) is wine containing not to exceed 14 percent alcohol by volume. The maximum Balling or Brix saccharometer test for any table wine shall not be more than 14 percent (at 20 degrees C. using a saccharometer calibrated at this temperature) when the test is made in the presence of the alcoholic content provided herein.

(e) Dessert wine (including appetizer wine) is wine containing more than 14 percent alcohol by volume, and not to exceed 24 percent alcohol by volume. Angelica, madeira, malaga, marsala, muscatel, port, white port, sherry, and tokay are types of dessert wine containing added grape brandy or other spirits derived from grapes or grape products, possessing the taste, aroma and other characteristics generally attributed to these products, and having an alcoholic content of not less than 17 percent by volume in the case of sherry, and not less than 18 percent in the case of all other types named in this paragraph.

(f) Aperitif wine is grape wine, containing added grape brandy or other spirits derived from grapes or grape products and having an alcoholic content of not less than 15 percent by volume flavored with herbs and other natural aromatic flavoring materials and possessing the taste, aroma and other characteristics generally attributed to wine of this class.

(g) Vermouth is a type of aperitif wine made from grape wine and possessing the taste, aroma and other characteristics generally attributed to vermouth.

(h) The term vintage wine means a wine produced wholly from (i) grapes gathered and (ii) the juice therefrom fermented, in the same calendar year and in the same viticultural area (e.g., county, state, department, province, or equivalent geographic area, or subdivision thereof), as identified on the label of such wine.

(i) Sacramental wine. Wine used solely for sacramental purposes may possess such alcoholic content not exceeding 24 percent by volume as required by ecclesiastical codes.

(j) Sparkling grape wine (including sparkling wine, sparkling red wine, and sparkling white wine) is grape wine made effervescent with carbon dioxide resulting solely from the fermentation of the wine within a closed container, tank or bottle.

(k) Champagne is a type of sparkling light white wine which derives its effervescence solely from the secondary fermentation of the wine within glass containers of not greater than one gallon capacity, and which possesses the taste, aroma, and other characteristics attributed to champagne as made in the Champagne District of France.

(l) A sparkling light wine having the taste, aroma, and characteristics generally attributed to champagne

but not otherwise conforming to the standard for champagne may, in addition to but not in lieu of the class designation sparkling wine, be further designated as champagne style, or champagne type or American (or New York state, California, etc.) champagne — bulk process; all the words in such further designation shall appear in lettering of substantially the same size and such lettering shall not be substantially larger than the words "sparkling wine."

(m) Pink (or rose) champagne is a type of sparkling pink wine otherwise conforming to the definition of champagne, and shall be labeled in the same manner as champagne except that the designation pink (or rose) champagne shall be used in lieu of the designation champagne.

(n) Sparkling burgundy and sparkling moselle are types of sparkling wine possessing the taste, aroma and characteristics attributed to these products.

(o) Carbonated wine (including carbonated grape wine, carbonated red wine, carbonated pink (or rose) wine and carbonated white wine) is wine made effervescent with carbon dioxide other than that resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle.

(p) Fruit wine is wine produced by the normal alcoholic fermentation of the juice of sound, ripe fruit (other than grape), including pure condensed fruit must, with or without added fruit brandy or fruit spirits distilled from the same type of fruit or fruit products as the wine to which such fruit brandy or fruit spirits is added, and containing not to exceed 24 percent of alcohol by volume but without any other addition or abstraction whatsoever except such as may occur in normal cellar treatment: PROVIDED, That the product may be ameliorated before, during, or after fermentation by the addition of water, pure dry sugar, a combination of water and pure dry sugar, liquid sugar, invert sugar syrup and concentrated and unconcentrated juice of the same fruit, but, only in accordance with federal regulations and the total solids of the wine shall in no case exceed 21 percent by weight.

The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be for natural fruit wine, more than 0.14 gram, and for other fruit wine, more than 0.12 gram, per 100 cubic centimeters (20 degrees C.).

(q) Light fruit wine (including natural fruit wine) is fruit wine containing not to exceed 14 percent alcohol by volume.

(r) Fruit wine derived wholly (except for sugar, water, or added fruit brandy or fruit spirits) from one kind of fruit shall be designated by the word wine, qualified by the name of such fruit; e.g., peach wine, orange wine, blackberry wine, etc. Fruit wine not derived wholly from one kind of fruit shall be designated as fruit wine or berry wine, as the case may be, qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Fruit wines derived wholly (except for sugar, water, or added fruit brandy or fruit spirits) from apples or pears may if desired be designated cider, and perry, respectively, and shall be so designated if lacking in vinous taste, aroma, and other

characteristics. Fruit wine rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle shall be further designated as sparkling, and fruit wine rendered effervescent by carbon dioxide otherwise derived shall be further designated as carbonated.

(s) Berry wine is fruit wine produced from berries.

(t) Citrus wine or citrus fruit wine is fruit wine produced from citrus.

(u) Wine from other agricultural products. Sake is wine produced from rice in accordance with the commonly accepted method of producing such product.

(v) Other agricultural wines (such as honey wine), the production or sale of which is not prohibited by these regulations, shall be made in accordance with the commonly accepted standards of such product.

(w) Specialty wine is wine not otherwise herein defined, produced in accordance with commercial standards for such wines. Such wines may bear a fanciful proprietary designation and shall be labeled with a truthful and adequate statement of composition or with any commonly accepted trade designation indicative of such composition.

(x) Specially sweetened natural wine (a wine such as Kosher wine) is wine produced in accordance with federal regulation 27 CFR part 240.

(y) High fermentation wine is a grape or fruit wine made within the limitations of regulation (57)(2)(a) for grape wine, and regulation (57)(2)(p) for fruit wine, except that the alcohol content after complete fermentation or complete fermentation and sweetening is more than 14 percent and that wine spirits may not be added, produced in accordance with federal regulation 27 CFR part 240.

(z) Special natural wine is a flavored wine made on bonded wine cellar premises from a base of natural wine, in conformity with federal regulation 27 CFR part 240.

(3) Grape-type designations. A name indicative of variety of grape may be employed as the type designation of a wine if the wine derives its predominate taste, aroma, and other characteristics, and at least 51 percent of its volume, from that variety of grape.

(4) Appellations of origin. A wine shall be entitled to an appellation of origin if:

(a) At least 75 percent of its volume is derived from both fruit or other agricultural products (~~both~~) grown (~~and fermented~~) in the place or region indicated by such appellation; and

(b) ~~((It has been fully produced and finished within such place or region; and~~

~~(c))~~ It conforms to the requirements of the laws and regulations of such place or region governing the composition, method of production and designation of wines for consumption within such place or region of origin.

(5) Conformance to state standards required. Wines of any defined class or type labeled or advertised under appellation of origin such as Spanish, New York, Ohio, Finger Lakes, California, etc., shall meet the requirements of standards herein prescribed applicable to such

wines and shall, in addition, contain the minimum percentage of alcohol and conform as to composition in all other respects with all standards of identity, quality and purity applicable to wines of such classes or types marketed for consumption in the place or region of origin.

For example, all grape wines bearing labels showing California as the origin of such wine, shall be derived one hundred percent from grapes grown and wine from such grapes fermented within the state of California, shall contain no sugar or material containing sugar, other than pure condensed grape must; and any type of grape dessert wine (except sherry) shall contain not less than 18 percent of alcohol by volume; any type of sherry shall contain not less than 17 percent alcohol by volume; except as hereinbefore provided. Wines subjected to cellar treatment outside the place or region of origin, and blends of wine of the same origin, blended together outside the place or region of origin (if all the wines, in the blend have a common class, type, or other designation which is employed as the designation of the blend), shall be entitled to the same appellation of origin to which they would be entitled if such cellar treatment of blending took place within the place or region of origin.

(6) Grape-type designations, generic, semi-generic and nongeneric designations of geographic significance, are subject to the same requirements as set forth under Title 27, Code of Federal regulations, Part 4.

#### WSR 85-19-031

#### ADOPTED RULES

#### LIQUOR CONTROL BOARD

[Order 165, Resolution No. 174—Filed September 12, 1985]

Be it resolved by the Washington State Liquor Control Board, acting at the 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA, that it does adopt the annexed rules relating to Convention defined—Hospitality rooms, display booths, receptions and similar activities—Permits required—Fees—Procedures, WAC 314-45-010.

This action is taken pursuant to Notice No. WSR 85-16-119 filed with the code reviser on August 7, 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 State Liquor Control Board as authorized in RCW 66.08.030 and 66.98.070.

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

APPROVED AND ADOPTED September 11, 1985.

By L. H. Pedersen  
Chairman

AMENDATORY SECTION (Amending Order 46, filed 6/9/76)

WAC 314-45-010 CONVENTION DEFINED—HOSPITALITY ROOMS, DISPLAY BOOTHS, RECEPTIONS AND SIMILAR ACTIVITIES—PERMITS REQUIRED—FEES—PROCEDURES. Activities pursuant to RCW 66.20.010 (~~((7))~~) (8), (9), a manufacturer, importer, wholesaler, or agent thereof, may serve or donate liquor without charge to delegates and guests at a bona fide convention of a trade association composed of licensees of the board, subject to conditions set forth in this regulation.

(1) For the purposes of this section a "convention" is defined as a bona fide session or assembly of the general membership of a trade association composed of licensees of the board.

(2) Such manufacturer, importer, wholesaler, or agent thereof, must hold a special permit issued by the board to engage in such an activity at such convention. The fee for each such special permit shall be (~~(\$15.00)~~) \$25.00. Application for such permit shall be submitted on a form prescribed by the board. The statutory permits applicable to such activities are:

(a) A special permit provided for in RCW 66.20.010 (~~((7))~~) (8) which authorizes the holder thereof to serve liquor without charge to delegates and guests in a hospitality room or from a booth in a board-approved suppliers' display room at such convention.

(b) A special permit provided for in RCW 66.20.010 (~~((8))~~) (9) which authorizes the holder thereof to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at such convention.

(3) Any liquor served or donated as provided herein is authorized only for consumption within a specific area designated on an application for permit and approved by the board.

(4) A special permit holder who serves or donates any beer or wine on which state taxes have not been paid, must file a report of the quantity so served or donated and remit the amount of the taxes to the board, in conformity with RCW 66.20.010 (~~((7))~~) (8), (9).

(5) Any spirituous liquor served or donated shall be purchased from the board or a Class H licensee.

**WSR 85-19-032**

**ADOPTED RULES**

**SPOKANE COMMUNITY COLLEGES**

[Resolution No. 24—Filed September 12, 1985]

Be it resolved by the board of trustees of Washington Community College District 17, acting at Spokane, Washington, that it does adopt the annexed rules concerning the student conduct code relating to computer trespass.

This action is taken pursuant to Notice No. WSR 85-16-070 filed with the code reviser on August 2, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 28B.19.050(2).

This rule is promulgated pursuant to RCW 28B.50-.140 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED September 10, 1985.

By D. L. Olson

Chairperson, Board of Trustees

Chapter 132Q-04

**STUDENT CONDUCT CODE**

WAC

132Q-04-095 Computer Trespass.

NEW SECTION

WAC 132Q-04-095 COMPUTER TRESPASS. Any student who, without authorization, intentionally gains access to a computer system or electronic data owned or used by The Community Colleges of Spokane (Washington Community College District 17) shall be subject both to disciplinary action pursuant to Chapter 132Q-04 WAC and to criminal prosecution pursuant to Chapter 273, Washington Laws of 1984 and any or all other statutory law or regulations pertaining thereto.

**WSR 85-19-033**

**PROPOSED RULES**

**DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed September 12, 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:

- Amd WAC 388-37-032 Continuing general assistance—Determination of incapacity.
- Amd WAC 388-37-037 Continuing general assistance—Refusal to accept available and required medical treatment;

that the agency will at 10:00 a.m., Tuesday, October 22, 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 October 29, 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 October 22, 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 October 8, 1985. The meeting site is in a location which is barrier free.

Dated: September 10, 1985

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

### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045, regarding amendments to the general assistance (GAU) program in WAC 388-37-032 and 388-37-037.

Purpose of this Rule Change: To delineate the requirements for adequate written notification to recipients whenever medical treatment is made a condition of eligibility for GAU. Also included in this change are two additional reasons of good cause for failure to comply with required treatment.

Rule Change is Necessary: To ensure that GAU recipients are provided with written notice of the nature of their medical treatment requirements, the consequences for failure to comply, and the opportunity to dispute these requirements through the fair hearing process.

Statutory Authority: RCW 74.08.090.

Summary of These Changes: WAC 388-37-032 adds a requirement to provide written notification at the time of initial approval and at the time of each redetermination; and 388-37-037 adds two more conditions to the existing list of criteria for good cause to refuse required medical treatment: Improper notification and inappropriate treatment.

Person Responsible for the Drafting, Implementation and Enforcement of this Rule: Cecile Anderson, Community Services Program Manager, Division of Income Assistance, mailstop OB-31J, phone (off scan) 753-0478.

The proposed 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 388-37-032 CONTINUING GENERAL ASSISTANCE—DETERMINATION OF INCAPACITY. (1) Eligibility due to incapacity shall be determined by the department in accordance with the criteria set forth in this chapter.

(2) The department shall:

(a) Consider medical and other related evidence of the incapacitating condition and make a decision confirming or denying the existence of eligibility due to incapacity within forty-five days of the date of application, except in circumstances beyond the control of the agency such as failure or delay in securing necessary information or documentation on the part of the applicant, the examining physician or other source of documentation.

(b) Request additional information when necessary.

(c) Determine probable duration of incapacity. The probable duration shall be related to the prognosis for the condition as predicted by the medical evidence but shall not exceed twelve months without a redetermination of incapacity.

(d) Require available medical treatment which can reasonably be expected to render the client able to work. The department shall provide written notification of these treatment requirements at the time of initial approval and at each redetermination.

(e) Recommend available medical services, provided under the state-financed medical care services program as defined in WAC 388-86-120.

(3) Eligibility cannot be established if an applicant fails to cooperate in obtaining information documenting incapacity. Continued failure to so cooperate during the ten-day period following the mailing of a letter to the applicant's last known address specifically citing the required cooperation shall be grounds for denial of the application for assistance (see WAC 388-38-265).

(4) Redetermination of eligibility for general assistance due to incapacity is based on current medical evidence and other available relevant medical information. If incapacity is not substantiated, then continued eligibility is denied.

(5) Cost of necessary medical reports to determine incapacity shall be paid by the department. Payment for such reports shall not be made to DSHS agencies.

### AMENDATORY SECTION (Amending Order 2152, filed 9/17/84)

WAC 388-37-037 CONTINUING GENERAL ASSISTANCE—REFUSAL TO ACCEPT AVAILABLE AND REQUIRED MEDICAL TREATMENT. (1) A continuing general assistance applicant or recipient who refuses without good cause to accept available required medical treatment, which can reasonably be expected to render him or her able to work shall be ineligible. The decision that the client has refused such treatment without good cause is based on the best objective judgment of the department.

(2) "Available medical treatment" shall mean and include medical, surgical, alcoholism, drug or mental health services, or any combination thereof.

(3) "Reasonably be expected to render him or her able to work" shall mean that in the opinion of the department, the required treatment will restore or substantially improve the individual's ability to work for pay in a regular and predictable manner.

(4) Any recipient who disagrees with these treatment requirements may request a fair hearing. Once a request is initiated, the department shall take no adverse action as a result of failure to comply with the treatment at issue pending a decision.

(5) For the purposes of this section, an applicant or recipient has good cause to refuse required medical treatment when such refusal is based upon one or more of the following conditions:

(a) The individual is genuinely fearful of undergoing required treatment. Such fear may appear to be unrealistic or irrational; however, fear exists in such a degree that treatment would be adversely affected;

(b) The individual could lose a faculty, or the remaining use of faculty he or she now has, and refuses to accept the risk;

(c) Because of his or her definitely stated religious scruples, the individual will not accept required medical treatment.

(d) The individual is temporarily unable to participate in required medical treatment, due to an intervening incapacity. The temporary inability to participate must be documented by medical evidence. The requirement to participate is again imposed as soon as the person is able to participate.

(e) The individual was not properly notified of the treatment required and/or the consequences for failure to comply with these requirements.

(f) The treatment required by previous written notification is subsequently determined to have been inappropriate or unavailable.

~~((5))~~ (6) Refusal to follow through with available required medical treatment without good cause shall result in termination until the person agrees to cooperate in accepting such treatment and subject to the following maximum periods of ineligibility after reapplication:

(a) First refusal - one week;

(b) Second refusal within six months - one month;

(c) Third and subsequent refusals within one year - two months.

**WSR 85-19-034**  
**PROPOSED RULES**  
**COUNCIL ON HEARING AIDS**  
 [Filed September 12, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Council on Hearing Aids intends to adopt, amend, or repeal rules concerning the fitting and dispensing of hearing aids;

that the agency will at 9:30 a.m., Monday, October 28, 1985, in the Travelodge at Sea-Tac, Room A and B, 2824 South 188th Street, Seattle, WA 98188, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.35.161.

The specific statute these rules are intended to implement is RCW 18.35.161.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before October 21, 1985.

Send written testimony to:

Barbara Johnson, Executive Secretary  
 Division of Professional Licensing  
 Council on Hearing Aids  
 P.O. Box 9649  
 Olympia, WA 98504

Dated: September 6, 1985

By: Barbara Johnson  
 Executive Secretary

### STATEMENT OF PURPOSE

Title and Number of Rule Sections or Chapters: WAC 308-50-310 Personal disclosure; 308-50-330 Purchaser rescision rights; and 308-50-420 Reasonable cause for rescision.

Statutory Authority: RCW 18.35.161.

Specific Statute that Rule is Intended to Implement: RCW 18.35.161.

Summary of the Rules: WAC 308-50-310 describes the information that a hearing aid fitter/dispenser must provide to a prospective purchaser when contact is made away from the licensee's place of business; 308-50-330 describes how a purchaser of a hearing aid can cancel the sales transaction and the steps he/she must follow to do so. It also describes the conduct that must be followed by the licensee in the event of cancellation; and 308-50-420 describes the conditions and/or acceptable reasons a purchaser may rescind a transaction and recover monies of the purchase.

Reasons Supporting the Proposed Actions: WAC 308-50-310 is to protect the prospective purchaser of a hearing aid when contact is made away from the licensee's place of business. The rule requires the licensee to furnish pertinent information regarding the actual place of business and the licensee; 308-50-330 is to bring it into conformity with chapter 18.35 RCW and to offer the purchaser of a hearing aid the right to rescind the sales transaction if the product is unacceptable in some way; and 308-50-420 is to set forth the reasons for

which a purchaser of a hearing aid may rescind the sales transaction.

Responsible Personnel: In addition to members of the Council on Hearing Aids, and the director of the Department of Licensing, the following individual has knowledge of and responsibility for drafting, implementing and enforcing these rules: Barbara Johnson, Executive Secretary, Division of Professional Licensing, P.O. Box 9649, Olympia, WA 98504, 753-1153, 234-1153 scan.

Name of the Person or Organization that is Proposing the Rules: Washington State Council on Hearing Aids.

Agency Comments or Recommendations: Rule-making and disciplinary authorities under chapter 18.35 RCW were previously delegated to the director of the Department of Licensing. The authorities were newly delegated to the Council on Hearing Aids with the enactment of RCW 18.35.161. The council has undertaken to review existing rules and to propose amendments necessary to fulfill the obligations imposed upon the council by RCW 18.35.161.

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.

Small Business Economic Impact Statement: Not required and has not been filed since these rules do not impact more than twenty percent of all industries, or more than ten percent of any one industry as that term is defined by RCW 19.85.020(3).

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

WAC 308-50-310 PERSONAL DISCLOSURE. A licensee who contacts a prospective purchaser away from the licensee's place of business must:

(1) When the contact is in person, present the prospective purchaser with written notice of:

(a) His or her name, the name of his or her business firm, his or her address and telephone number;

(b) The number of his or her license.

(2) Telephone contact with prospective purchasers must disclose the name of the licensee, name of his or her business firm and purpose of call.

#### AMENDATORY SECTION (Amending Order PL 159 [190], filed 2/8/74 [5/23/75])

WAC 308-50-330 PURCHASER RESCISION RIGHTS. In addition to the receipt and disclosure information required by RCW 18.35.030, 63.14.040 and 63.14.120, every retail agreement for the sale of a hearing aid shall contain or have attached the following notices in ten point boldface type or larger.

#### (( ))NOTICE TO BUYER(( ))

(( ))(1) Do not sign this agreement before you read it or if any spaces intended for the agreed terms, except as to unavailable information, are blank.

(( ))(2) You are entitled to a copy of this agreement at the time you sign it.

(( ))(3) You may cancel this agreement if it was solicited in person, and you sign it, at a place other than the seller's business address shown on the agreement, by sending notice of such (( ))cancellation by certified mail, return receipt requested, to the seller at his address shown on the agreement, which notice shall be posted not later than midnight of the third day (excluding Sundays and holidays) following your signing this agreement; you must return or make available to the seller at the place of delivery any merchandise, in its original condition, received by you under this agreement.

~~((^))~~ ADDITIONAL RIGHTS

~~((^))~~ In addition to the rights and remedies provided for under the above circumstances, you, the purchaser, have the right to rescind the transaction for other than the seller's breach if ~~((^))~~, for reasonable cause, ~~((2))~~ ~~((Y))~~ you return the hearing aid or hold it at the seller's disposal and the hearing aid is in its original condition less normal wear and tear, and you send a notice to the licensee's ~~((at his))~~ regular place of business by certified mail, return receipt requested. The notice should state that the transaction is cancelled pursuant to RCW 18.35.190(3) and must be mailed not later than thirty days following the date of ~~((purchase))~~ delivery. ~~((Such notice shall include a copy of the physician's signed statement.))~~ Reasonable cause does not include a mere change of mind or cosmetic concerns.

~~((^))~~ In the event of cancellation under RCW 18.35.190(3), or as otherwise provided by law, the licensee must, without further request, refund to you within ten days after such cancellation, all deposits, including down payment, less ~~((ten))~~ fifteen percent of the total purchase price ~~((and less the reasonable price of earmolds, if any.))~~ or one hundred dollars per hearing aid, whichever is less. He must also return all goods traded in, ~~((by you on account or in contemplation of the sale less any reasonable costs actually incurred in making all such goods so traded in ready for resale.))~~

~~((^))~~ You, the buyer, shall incur no additional liability for such cancellation. ~~((^))~~ If you have taken the steps described above to cancel the purchase and subsequently agree with the seller to extend the trial or rescision period, you remain entitled to receive the refund upon demand made within sixty days of the original date of delivery or such other time as agreed to in writing by both parties. Written notice of the last date for demanding a refund is to be provided to you at the time the trial or rescision period is extended.

I acknowledge that I have read and understand the above rescision rights.

Purchaser's Signature	Date

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

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

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

**NEW SECTION**

WAC 308-50-420 REASONABLE CAUSE FOR RESCISION. The purchaser of a hearing aid and/or fitting and dispensing services may rescind the transaction and recover purchase monies for reasonable cause. Reasonable cause shall exist in the following situations:

(1) The hearing aid and/or fitting and dispensing services fail to conform to any affirmation of fact or promise made by the licensee which relates to the hearing aid and/or fitting and dispensing services and which becomes a part of the transaction. An affirmation of fact or promise becomes part of the basis of the transaction when the purchaser relies on it or is, in part, induced into making the purchase by it.

(2) The licensee fails to advise the purchaser that a description of the hearing aid and/or fitting and dispensing services fails to conform to the actual object or service and the licensee knows or should have known that the purchaser would use the description as part of the basis of the transaction.

(3) The hearing aid and/or fitting and dispensing services would fail to pass without objection in the industry under the contract description.

(4) The hearing aid and/or fitting and dispensing services fail to accomplish the ordinary purposes for which they are purchased.

(5) The hearing aid and/or fitting and dispensing services fail to satisfy an extraordinary expectation of the purchaser and, at the time the licensee performed on the contract, he knew or should have known of the extraordinary expectation which the purchaser had and that the purchaser was relying on the licensee's skill and judgement to satisfy this expectation.

(6) The licensee fails to meet any standard of conduct prescribed in the laws regulating the fitting and dispensing of hearing aids and this failure affects in any way the transaction which the purchaser seeks to rescind.

**WSR 85-19-035  
PROPOSED RULES  
DEPARTMENT OF LICENSING**  
[Filed September 12, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Licensing intends to adopt, amend, or repeal rules concerning Appointment of director—Agency documents, amending WAC 308-04-001;

that the agency will at 10:30 a.m., Wednesday, October 23, 1985, in the Office of Deputy Director Jack Nelson, 4th Floor, Highways-Licenses Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 46.01.110 and 43.17.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before October 23, 1985.

Dated: September 10, 1985  
By: Theresa Anna Aragon  
Director

**STATEMENT OF PURPOSE**

Title: Appointment of director—Agency documents.

Summary of Rule: Provides that documents issued in the ordinary course of business in the name of the director of the Department of Licensing after the date of the appointment of a new director shall be valid even though they may bear the preprinted name of the former director. The amendment simply inserts the new director's name and makes other ministerial changes.

Purpose of Rule Amendment: To eliminate any question of the validity of the thousands of preprinted forms used by the Department of Licensing which are in inventory at the time of the appointment of the new director.

Statutory Authority: RCW 46.01.110 and 43.17.060. See also RCW 46.01.160 and 43.24.040.

Responsible Agency Personnel: Theresa Anna Aragon, Director, Department of Licensing, Fourth Floor, Highways-Licenses Building, Olympia, WA 98504, phone (206) 753-5029; Jack Nelson, Deputy Director, Department of Licensing, Fourth Floor, Highways-Licenses Building, Olympia, WA 98504, phone (206) 753-6975; and Chris Spaulding, Management Analysis, Department of Licensing, Fifth Floor, Highways-Licenses Building, Olympia, WA 98504, phone (206) 754-1332.

Persons Proposing Rule Amendment: Department of Licensing.

Federal Law or Court Action: This amendment was not made necessary by federal law or state or federal court action.

Small Business Economic Impact: No small business economic impact statement is required because there will be no economic impact upon any industry caused by the rule amendment.

AMENDATORY SECTION (Amending Order DOL 622, filed 3/16/81)

WAC 308-04-001 APPOINTMENT OF DIRECTOR—AGENCY DOCUMENTS. (~~John Gonzalez~~) Theresa Anna Aragon was appointed director of the department of licensing on January (~~(+4, +98+)~~) 16, 1984. All documents issued after that date in the name of the director in the disposition and performance of the official business of the department of licensing shall be considered to have been issued by (~~(him)~~) her or at (~~(his)~~) her direction whether (~~(his)~~) her name, or the name of the former director, appears on the document.

This rule is adopted to ratify the use of thousands of forms now in the department's inventory which have been preprinted with the (~~(name of the)~~) former director's name, the replacement of which would result in the unnecessary expenditure of state funds.

### WSR 85-19-036

#### ADOPTED RULES

#### DEPARTMENT OF LICENSING

[Order PL 553—Filed September 12, 1985]

I, Jack G. Nelson, deputy director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to drugless healing and the repeal of WAC 308-34-100, Uniform Disciplinary Act.

This action is taken pursuant to Notice No. WSR 85-16-092 filed with the code reviser on August 6, 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 18.36.135 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 September 11, 1985.

By Jack G. Nelson  
Deputy Director

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-34-100 UNIFORM DISCIPLINARY ACT.

### WSR 85-19-037

#### ADOPTED RULES

#### DEPARTMENT OF LICENSING

[Order PL 554—Filed September 12, 1985]

I, Jack G. Nelson, deputy director of the Department of Licensing, do promulgate and adopt at Olympia,

Washington, the annexed rules relating to massage operators and business and the repeal of WAC 308-51-190, Uniform Disciplinary Act.

This action is taken pursuant to Notice No. WSR 85-16-093 filed with the code reviser on August 6, 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 18.108-.075 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 September 11, 1985.

By Jack G. Nelson  
Deputy Director

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-51-190 UNIFORM DISCIPLINARY ACT.

### WSR 85-19-038

#### ADOPTED RULES

#### DEPARTMENT OF LICENSING

[Order PL 557—Filed September 12, 1985]

I, Jack G. Nelson, deputy director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to midwifery and the repeal of WAC 308-115-300, Uniform Disciplinary Act.

This action is taken pursuant to Notice No. WSR 85-16-096 filed with the code reviser on August 6, 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 18.50.125 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED September 11, 1985.

By Jack G. Nelson  
Deputy Director

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-115-300 UNIFORM DISCIPLINARY ACT.

**WSR 85-19-039****ADOPTED RULES****DEPARTMENT OF LICENSING**

[Order PL 552—Filed September 12, 1985]

I, Jack G. Nelson, deputy director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to dental hygiene and the repeal of WAC 308-25-200, Uniform Disciplinary Act.

This action is taken pursuant to Notice No. WSR 85-16-090 filed with the code reviser on August 6, 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 18.29.075 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 September 11, 1985.

By Jack G. Nelson  
Deputy Director

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 308-25-200 UNIFORM DISCIPLINARY ACT.

**WSR 85-19-040****ADOPTED RULES****DEPARTMENT OF LICENSING**

[Order PL 555—Filed September 12, 1985]

I, Jack G. Nelson, deputy director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to dispensing opticians and the repeal of WAC 308-26-030, Uniform Disciplinary Act.

This action is taken pursuant to Notice No. WSR 85-16-091 filed with the code reviser on August 6, 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 18.34.135 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 September 11, 1985.

By Jack G. Nelson  
Deputy Director

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 308-26-030 UNIFORM DISCIPLINARY ACT.

**WSR 85-19-041****ADOPTED RULES****DEPARTMENT OF LICENSING**

[Order PL 556—Filed September 12, 1985]

I, Jack G. Nelson, deputy director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to ophthalmologists and the repeal of WAC 308-55-005, Uniform Disciplinary Act.

This action is taken pursuant to Notice No. WSR 85-16-094 filed with the code reviser on August 6, 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 18.55.065 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 September 11, 1985.

By Jack G. Nelson  
Deputy Director

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 308-55-005 UNIFORM DISCIPLINARY ACT.

**WSR 85-19-042****ADOPTED RULES****DEPARTMENT OF****COMMUNITY DEVELOPMENT**

[Order 85-10—Filed September 13, 1985]

I, Chuck Clarke, deputy director of the Department of Community Development, do promulgate and adopt at the Ninth and Columbia Building, Olympia, Washington, the annexed rules relating to the collection of state building code surcharges and fees by cities and counties.

This action is taken pursuant to Notice No. WSR 85-16-108 filed with the code reviser on August 7, 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 144 and 360, Laws of 1985, and chapter 6, Laws of 1985 1st ex. sess. and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Department of Community Development as authorized in RCW 43.63A.060 and 43.63A.065.

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 September 11, 1985.

By Chuck Clarke  
Deputy Director

Chapter 365 - 110 WAC  
State Building Code  
Building Permit Surcharges and Fees

NEW SECTION

WAC 365-110-010 AUTHORITY. These rules are adopted under the authority of RCW 43.63A.060 which provides that the Director shall make such rules and regulations and do all other things necessary and proper to carry out the purposes of Chapter 43.63A RCW. RCW 43.63A.065(2) provides that among its functions and responsibilities the department shall administer state and federal grants and programs which are assigned to the department by the Governor or the Legislature.

NEW SECTION

WAC 365-110-020 PURPOSE. The purpose of these rules is to implement Chapter 19.27 RCW as amended by Chapter 144, Laws of 1985, and Chapter 360, Laws of 1985, and Chapter 19.27A RCW, created by Chapter 360, Laws of 1985.

Chapter 144, Laws of 1985, provides for the amendment of the State Energy Code by the State Building Code Council and for certain energy studies to be conducted by the University of Washington College of Architecture and Department of Mechanical Engineering. The code amendment and energy studies are to be funded by a surcharge on building permit fees issued by local governments for new building construction.

Chapter 360, Section 4, Laws of 1985 provides that the activities of the State Building Code Council necessary to implement the purposes of the chapter shall be funded by a fee of \$1.50 to be imposed on each building permit issued by a city or county. The moneys collected under this fee will be deposited in the Building Code Council Account in the state treasury and must be used by the Building Code Council, after appropriation, to perform the purposes of the Council. Every four years the state treasurer must report to the Legislature on the balances in the account so that the Legislature may adjust the charges imposed.

NEW SECTION

WAC 365-110-030 SUFFICIENT FEDERAL FUNDS NOT AVAILABLE. As required by Chapter 144, Laws of 1985, the Department of Community Development has consulted with the Washington State Energy Office and has requested that the Washington State Energy Office determine if federal funds are available to implement the purposes of the chapter. The Bonneville Power Administration, the appropriate federal funding agency, has denied the state's request for funding for the energy conservation testing studies by the University of Washington provided for in Section 4 of Chapter 144, Laws of 1985. The appropriations provided in Chapter 6, First Special Session, Section 301(2), Laws of 1985, shall therefore be funded from the surcharge provided in Chapter 144, Laws of 1985.

The Bonneville Power Administration has approved partial funding in the amount of \$15,000 for activities of the State Building Code Council to implement the amendment of the State Energy Code. Pursuant to the provisions of Section 217(6), Chapter 6, First Special Session, Laws of 1985, funding for this appropriation from the surcharge shall be reduced in the amount of \$15,000.

The Department of Community Development finds that federal funds are not available in sufficient amounts to implement the provisions of Chapter 144, Laws of 1985. Therefore the department is, through Chapter 365-110 WAC, implementing the surcharge as required by Chapter 144, Section 4. (5), Laws of 1985.

**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 365-110-035 DEFINITIONS. 1. DEPARTMENT shall mean the Department of Community Development.

2. ENERGY CODE STUDIES SURCHARGE shall mean a surcharge which is required to be collected by cities and counties pursuant to Chapter 144, Laws of 1985, and subject to appropriations as provided in Chapter 6, First Special Session, Laws of 1985. Funds collected shall be used exclusively to implement the provisions of Chapter 144, Laws of 1985.

3. STATE BUILDING CODE FEE shall mean a fee which is required to be collected by cities and counties pursuant to Chapter 360, Laws of 1985. Funds collected shall be used exclusively to implement the provisions of Chapter 360, Laws of 1985.

4. BUILDING PERMIT shall mean a permit issued by a city or a county to construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure regulated by the Uniform Building Code as set forth in the Uniform Building Code, Section 301. This definition shall be subject to the exemptions contained in Section 301 of the Uniform Building Code. Building permit shall include an installation permit or other permit issued by a city or county for a mobile/manufactured home, commercial coach, or factory built structure as defined and regulated by Chapter 296-150A

WAC and Chapter 296-150B WAC. Building permits shall not include plumbing, electrical, mechanical permits, or permits issued pursuant to the Uniform Fire Code.

5. NEW BUILDING CONSTRUCTION PERMIT shall mean a permit which is issued by a city or a county for the construction of a new building and shall not include remodeling, renovation, demolition, or addition to an existing building. A new building construction permit shall include a permit to relocate an existing building but shall not include a permit for a mobile/manufactured home, commercial coach, or factory built structure as defined and regulated by Chapter 296-150A WAC and Chapter 296-150B WAC.

#### NEW SECTION

WAC 365-110-040 COLLECTION OF ENERGY STUDIES SURCHARGE. Every city or county shall collect an Energy Code Studies Surcharge on all building permits issued for new construction within its jurisdiction. The Energy Code Studies Surcharge shall be collected by the appropriate city or county official at the time the building permit is issued. Separate records shall be kept by cities and counties of funds collected under the Energy Code Studies Surcharge from those funds collected under the State Building Code Fee provided for in WAC 365-110-050.

The surcharge on new building construction permits shall be in the following amounts:

New construction multiple-family residential building permits: (Group R Division 1 permits as defined by Chapter 12 of the Uniform Building Code.)	\$10.00 for each building permit
New construction single-family and duplex residential building permits: (Group R Division 3 permits as defined by Chapter 12 of the Uniform Building Code.)	\$15.00 for each building permit
New construction building permits for other new buildings: (All occupancies except Group R and Group M occupancies as defined by the Uniform Building Code.)	\$15.00 for each building permit

The other new buildings classification shall include commercial or industrial buildings which are designed to be heated and occupied by humans. Agricultural buildings, industrial storage, or other structures designed to be unheated or not occupied by humans shall be exempt from the Energy Studies Surcharge.

#### NEW SECTION

WAC 365-110-050 COLLECTION OF STATE BUILDING CODE FEE. Every city or county shall collect a State Building Code Fee of one dollar and fifty cents on each building permit issued within its jurisdiction. The fee shall be collected by appropriate city or county officials at the time the building permit is issued. Separate records shall be kept of funds collected under the State Building Code Fee.

#### NEW SECTION

WAC 365-110-060 TRANSMITTAL OF FUNDS. On or before the 20th working day after the end of each quarter, each county or city shall remit all funds collected pursuant to WAC 365-110-040 and WAC 365-110-050 to the state treasurer. At their option, cities and counties may remit funds monthly. The funds shall be identified as funds for the State Building Code Council Account. The funds shall be further identified as those funds remitted pursuant to WAC 365-110-040 (State Energy Code Studies Surcharge) and those remitted pursuant to WAC 365-110-050 (State Building Code Fee).

No remittance of funds collected pursuant to WAC 365-110-050 shall be required to be made until the total of the accumulated funds collected reaches a minimum of fifty dollars.

#### NEW SECTION

WAC 365-110-080 TERMINATION. The surcharges established under WAC 365-110-040 (State Energy Code Studies Surcharge) shall terminate on June 30, 1989, unless terminated earlier upon a finding that the general fund has been reimbursed for the cost of the studies pursuant to Chapter 144, Laws of 1985.

The fees established under WAC-365-110-050 (State Building Code Fee) shall continue in effect until repealed or modified by legislative action.

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

**WSR 85-19-043**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**  
**(Division of Banking)**  
 [Filed September 13, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Division of Banking, Department of General Administration, intends to adopt, amend, or repeal rules concerning consumer finance companies, amending WAC 50-16-030 concerning maintenance of certain books and records using electronic display equipment;

that the agency will at 10:00 a.m., Friday, September 13, 1985, in the Office of the Supervisor of Banking, Room 219, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 31.08.230, rules and regulations.

The specific statute these rules are intended to implement is RCW 31.08.140 Records—Annual report.

This notice is connected to and continues the matter in Notice No. WSR 85-16-055 filed with the code reviser's office on July 31, 1985.

Dated: September 13, 1985  
By: L. O. Malmberg  
Acting Supervisor

**WSR 85-19-044**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**  
**(Division of Banking)**  
[Filed September 13, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Division of Banking, Department of General Administration, intends to adopt, amend, or repeal rules concerning industrial loan companies, amending WAC 50-20-010 concerning maintenance of certain books and records using electronic display equipment, WAC 50-20-050 concerning restrictions on charges for open-end loans and appraisals, WAC 50-20-055 concerning computation of simple interest; and creating new section WAC 50-20-090 concerning notice requirements for increases in interest rates on open-end loans;

that the agency will at 10:00 a.m., Friday, September 13, 1985, in the Office of the Supervisor of Banking, Room 219, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 31.04.150(2), Examination by supervisor—Rules.

This notice is connected to and continues the matter in Notice No. WSR 85-16-056 filed with the code reviser's office on July 7, 1985.

Dated: September 13, 1985  
By: L. O. Malmberg  
Acting Supervisor

**WSR 85-19-045**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**  
**(Division of Banking)**  
[Filed September 13, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Division of Banking, Department of General Administration, intends to adopt, amend, or repeal rules concerning banks and trust companies, amending WAC 50-12-050 concerning loans made to officers, amending WAC 50-12-040, 50-48-020 and 50-44-030 concerning fees charged by the supervisor, amending WAC 50-24-100 concerning public records; creating two new sections, WAC 50-12-100

concerning leases of bank premises and WAC 50-12-110 concerning limits on investment securities; and repealing WAC 50-12-010 concerning minimum reserve requirements;

that the agency will at 10:00 a.m., Friday, September 13, 1985, in the Office of the Supervisor of Banking, Room 219, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 30.12.060, 30.08.095, 30.04.070 and 30.04.030, respectively.

The specific statute these rules are intended to implement is RCW 30.04.210 for WAC 50-12-100.

This notice is connected to and continues the matter in Notice No. WSR 85-16-116 filed with the code reviser's office on August 7, 1985.

Dated: September 13, 1985  
By: L. O. Malmberg  
Acting Supervisor

**WSR 85-19-046**  
**NOTICE OF PUBLIC MEETINGS**  
**BOARD FOR**  
**VOLUNTEER FIREMEN**  
[Memorandum—September 12, 1985]

The Board for Volunteer Firemen will next meet on October 5, 1985, at 9:00 a.m. in the Temple of Justice, Olympia, Washington.

**WSR 85-19-047**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
[Filed September 13, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Gambling Commission intends to adopt, amend, or repeal rules concerning amendatory section WAC 230-30-075;

that the agency will at 10:00 a.m., Thursday, October 10, 1985, in the Town Plaza Motor Inn, Yakima, Washington, conduct a public hearing on the proposed rules.

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

This notice is connected to and continues the matter in Notice No. WSR 85-13-038 filed with the code reviser's office on June 14, 1985.

Dated: September 13, 1985  
By: Ronald O. Bailey  
Deputy Director



**WSR 85-19-048****ADOPTED RULES****DEPARTMENT OF  
SERVICES FOR THE BLIND**

[Order 85-13—Filed September 13, 1985]

I, Paul Dzedzic, director of the Department of Services for the Blind, do promulgate and adopt at 921 Lakeridge Drive, Room 202, Olympia, WA 98504, the annexed rules relating to business enterprise revolving fund, WAC 67-35-160.

This action is taken pursuant to Notice No. WSR 85-18-030 filed with the code reviser on August 28, 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 Department of Services for the Blind as authorized in chapter 74.18 RCW.

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

APPROVED AND ADOPTED September 13, 1985.

By Paul Dzedzic  
Director

**AMENDATORY SECTION** (Amending Order 83-09, filed 12/15/83)

WAC 67-35-160 BUSINESS ENTERPRISES REVOLVING FUND. (1) There is established in the general fund of the state of Washington an account known as the business enterprises revolving fund (BERF).

(2) The net proceeds from any vending facility or any vending machines in ((a)) public buildings dedicated to administrative functions, other than such an operation managed by or assigned to a vendor, shall be made payable to the business enterprises revolving fund.

(3) "Administrative functions" for purposes of this section shall mean the administrative offices of all state and local entities but does not mean any separately identified service operations performed by the public entity. For example:

(a) Net proceeds from machines located in administrative offices of the state, county and local governments are to be paid; but such income from machines located in places attended by the public for recreational purposes maintained by a municipality or governmental agency, a domed stadium, within jails, etc., is exempt.

(b) Net proceeds from machines located in administrative buildings located in colleges and universities are to be paid; but such income from machines located in dormitories, student activity centers, places where sporting events occur, etc., is exempt.

(c) Net proceeds from machines located in administrative offices of public utilities and port districts are to be paid; but such income from machines located in areas of airports, hospitals, etc., which the public regularly attends, is exempt.

(4) Net proceeds from machines located in state and federal safety roadside rest areas are to be paid.

(5) Net proceeds for purposes of this section shall mean the gross amount received less the cost of the operation including a fair minimum return to the vending machine company. As a minimum, the net proceeds received by the department shall not be less than ten percent of the gross sales of the vending machine.

**WSR 85-19-049****EMERGENCY RULES****DEPARTMENT OF FISHERIES**

[Order 85-130—Filed September 13, 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 escapement levels of chinook salmon have been met and harvestable numbers of salmon are available.

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

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

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

APPROVED AND ADOPTED September 13, 1985.

By Gene DiDonato  
for William R. Wilkerson  
Director

**NEW SECTION**

WAC 220-40-02100Z WILLAPA HARBOR GILL NET SEASON. Notwithstanding the provisions of WAC 220-40-021, effective 6:00 p.m. September 13 to 6:00 p.m. September 28, 1985, Willapa Harbor Salmon Management and Catch Reporting Area 2G is open to salmon fishing north of a line drawn true east-west through Nahcotta Channel Light Number 10.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 220-36-02100T GRAYS HARBOR GILL NET SEASON (85-75)

WAC 220-40-02100Y WILLAPA HARBOR GILL NET SEASON (85-75)

**WSR 85-19-050**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 85-131—Filed September 13, 1985]

APPROVED AND ADOPTED September 13, 1985.  
 By Gene DiDonato  
 for William R. Wilkerson  
 Director

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 Area 4B, 5, 6C provide protection for Puget Sound and Canadian chinook stocks while allowing a limited impact immobile set net fishery. Restrictions in 6, 6A, 7 and 7A provide protection for Puget Sound and Canadian chinook stocks. Restrictions in 10D, 10G provide protection for Lake Washington sockeye while allowing harvest of chinook. Restrictions in Area 10 provide protection for summer/fall chinook and coho returning to Suquamish Hatchery. Restriction in Area 13 provides protection for Nisqually pink salmon. Restrictions in Minter Creek and the White and Nooksack rivers provide protection for Puget Sound spring chinook stocks. Restrictions in the Skagit River provide protection for spawning salmon stocks. Restrictions in Area 7C and the Samish River provide protection for chinook returning to the Samish Hatchery. Restrictions in Area 6D and the Elwha and Dungeness rivers provide protection for local summer/fall chinook and pink stocks. Restrictions in the Hoko, Lyre, Pysht and Sekiu rivers provide protection for local summer/fall chinook stocks, while allowing harvest of pinks. Restrictions in Area 8A provide protection for Stillaguamish River origin salmon. Restrictions in Area 12C provide protection for milling chinook stocks destined for Hoodport and Enetai hatcheries. Restrictions in Area 10C and the Cedar River protect Lake Washington origin sockeye and chinook. Restrictions in the Nisqually River provide protection to local pink salmon stocks. Restrictions in the Dosewallips, Duckabush and the Hamma Hamma rivers provide protection to local pink salmon stocks, while providing harvest opportunity with selective gear. Pink protection measures in Areas 6B, 9, 10, and 11 are no longer required. Spring chinook protection measures in Area 13A are no longer required.

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.

NEW SECTION

*WAC 220-28-515 PUGET SOUND COMMERCIAL SALMON FISHERY RESTRICTIONS. Effective September 15, 1985, 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 4B, 5, 6C – Effective through September 28, drift gill net gear restricted to 6-1/2-inch maximum mesh when open.*

*\*Areas 6 and 6A – Effective through September 28, gill net gear restricted to 6-1/2-inch maximum mesh when open.*

*Area 6D, Dungeness and Elwha Rivers – Closed to all commercial fishing through September 21.*

*Areas 7 and 7A – Effective through September 21, gill net gear restricted to 5-7/8-inch maximum mesh when open.*

*Area 7C and Samish River – Closed to all commercial fishing.*

*Area 8A – Closed to all commercial fishing in that portion north of a line from Camano Head to the northern boundary of Area 8D.*

*Area 10 – Effective through October 15, closed to all commercial fishing in that portion northwest of a line from the flashing buoy at the entrance to Agate Passage to the flashing light at the end of the Indianola dock.*

*Area 10C and Cedar River – Closed to all commercial fishing until further notice.*

*Area 10D – (1) Effective through October 5, gill net gear restricted to 6-1/2-inch minimum mesh and all other gear must release sockeye. (2) Effective until further notice, closed to all commercial fishing in that portion within 250 yards of the eastern and northern shoreline of Lake Sammamish between the Sammamish River and Issaquah Creek.*

*Area 10G – Effective through September 28, gill net gear restricted to 6-1/2-inch minimum mesh and all other gear must release sockeye when open.*

*Area 12C – Effective through September 28, closed to all commercial fishing in that portion within 1,000 feet of the western shoreline between Glen Ayr Trailer Park and Hoodport Marina dock and in that portion within 1,000 feet of the western shoreline between Potlatch State Park and the mouth of Nalley's Slough.*

*Area 13 excluding those waters of Hale Passage southerly of the Fox Island Bridge and northerly of the southernmost cable*

*crossing – Effective through September 21, gill net gear restricted to 7-inch minimum mesh and all other gear must release pinks when open.*

*Nooksack River (upstream of the confluence of the forks) – Effective through September 28, closed to all commercial fishing.*

*Skagit River upstream of Baker River – Effective until further notice, closed to all commercial fishing.*

*Stillaguamish River – Effective through September 21, gill net gear restricted to 6-inch maximum mesh when open.*

*Nisqually River – Effective through September 28, gill net gear restricted to 7-1/2-inch minimum mesh when open.*

*Minter Creek and White, Lyre, Pysht, Hoko, and Sekiu rivers – Effective through September 28, closed to all commercial fishing.*

*Dosewallips, Duckabush and Hamma Hamma rivers – Effective through October 19, closed to all commercial gill net gear and all other gear must release pinks when open.*

#### REPEALER

The following section of the Washington Administrative Code is repealed effective September 15, 1985.

WAC 220-28-514 PUGET SOUND COMMERCIAL SALMON FISHERY RESTRICTIONS (85-125)

#### **WSR 85-19-051**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF FISHERIES**

[Order 85-132—Filed September 13, 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 net restrictions in Areas 4B, 5, 6, 6A, 6C, 7 and 7A provide protection for Canadian and Puget Sound chinook during sockeye/pink fisheries under the direction of IPSFC. Area 8 opening extension provides opportunity to harvest non-Indian allocation and attempts to prevent wastage of Skagit origin pink salmon. Openings in Areas 7B, 8A, 10, 11, 12 and 12A provide opportunity to harvest non-Indian allocation of coho. All other marine and freshwater areas are closed to prevent overharvest.

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 September 13, 1985.

By Gene DiDonato  
for William R. Wilkerson  
Director

#### NEW SECTION

WAC 220-47-611 PUGET SOUND ALL-CITIZEN COMMERCIAL SALMON FISHERY. Notwithstanding the provisions of Chapter 220-47 WAC, effective September 14, 1985, until further notice, it is unlawful 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 4B, 5, and 6C – Under control of International Pacific Salmon Fisheries Commission, drift gill net gear restricted to 5-7/8-inch maximum mesh when open through September 14. Effective September 15, closed.

\*Areas 6 and 6A – Under control of International Pacific Salmon Fisheries Commission, gill net gear restricted to 5-7/8-inch maximum mesh when open through September 14. Effective September 15, closed.

Areas 7 and 7A – Under control of International Pacific Salmon Fisheries Commission. Gill net gear restricted to 5-7/8-inch maximum mesh when open.

\*Area 7B – Closed except gill nets using 5-inch minimum to 6-inch maximum mesh and purse seines may fish from 5:00 AM September 16 until further notice. Fishery exclusion zones applicable to Area 7B commercial fisheries are described in WAC 220-47-307.

\*Area 8 – Closed except gill nets using 5-inch minimum to 6-inch maximum mesh may fish from 6:00 PM to 9:00 AM nightly through the morning of September 14. Fishery exclusion zones applicable to Area 8 commercial fisheries are described in WAC 220-47-307.

\*Area 8A – Closed except gill nets using 5-inch minimum mesh may fish from 5:00 PM September 16 to 9:00 AM September 17, and purse seines using the 5-inch strip may fish from 5:00 AM to 9:00 PM, September 16. Fishery exclusion zones applicable to Area 8A commercial fisheries are described in WAC 220-47-307.

\*Areas 10 and 11 – Closed except gill nets using 5-inch minimum mesh may fish from 5:00 PM to 9:00 AM nightly, the night of

September 16 through the morning of September 18 and purse seines using the 5-inch strip may fish from 5:00 AM to 9:00 PM daily, September 16 and 17. Fishery exclusion zones applicable to Area 10 and 11 commercial fisheries are described in WAC 220-47-307.

\*Areas 12 and 12A - Closed except gill nets using 5-inch minimum mesh may fish from 5:00 PM to 9:00 AM nightly, the night of September 16 through the morning of September 18 and purse seines using the 5-inch strip may fish from 5:00 AM to 9:00 PM daily, September 16 and 17. Fishery exclusion zones applicable to Area 12A commercial fisheries are described in WAC 220-47-307.

\*Areas 6B, 6D, 7C, 7D, 7E, 8D, 9, 9A, 10A, 10C, 10D, 10E, 10F, 10G, 11A, 12B, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K and all freshwater areas - Closed.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective September 14, 1985.

WAC 220-47-610 PUGET SOUND COMMERCIAL FISHERY RESTRICTIONS (85-129).

**WSR 85-19-052**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**  
**(Division of Banking)**

[Order 62—Filed September 13, 1985]

I, L. O. Malmberg, acting supervisor of the Division of Banking, do promulgate and adopt at Olympia, Washington, the annexed rules relating to banks and trust companies, amending WAC 50-12-050 concerning loans made to officers, amending WAC 50-12-040, 50-48-020 and 50-44-030 concerning fees charged by the supervisor, amending WAC 50-24-100 concerning public records; creating two new sections, WAC 50-12-100 concerning leases of bank premises and WAC 50-12-110 concerning limits on investment securities; and repealing WAC 50-12-010 concerning minimum reserve requirements.

This action is taken pursuant to Notice Nos. WSR 85-16-116 and 85-19-045 filed with the code reviser on August 7, 1985, and September 13, 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 30.12.060 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED September 13, 1985.

By L. O. Malmberg  
Acting Supervisor

#### AMENDATORY SECTION (Amending Order 58, filed 1/13/84)

WAC 50-12-050 LIMITING LOANS TO OFFICERS. ((With the specific prior approval by resolution of its board of directors as required by law, a bank may make the following loans to any of its officers:

(1) A loan, to any of its officers if, at the time the loan is made:

(a) It is secured by a first lien on a dwelling which is expected, after the making of the loan, to be owned by the officer and used by him as his residence; and

(b) No other loan made by the bank to the officer under authority of this subparagraph is outstanding;

(2) In addition to (1) above, a bank may make extensions of credit to any officer of a bank to finance the education of the children of the officer; and

(3) A bank, in addition to loans made pursuant to subparagraphs (1) and (2) above, may make extensions of credit to its officers not exceeding the greater of \$25,000.00 or three percent of the bank's capital, surplus, and undivided profits. In no case shall the extension of credit to an officer under this paragraph exceed the aggregate amount of \$100,000.00, or the total liability to the bank by the officer exceed the limit prescribed by RCW 30.04.110, whichever is less.)) (1) A bank or trust company may make the following loans to any of its officers:

(a) A loan secured by a first lien on a dwelling if at the time the loan is made:

(i) The dwelling secured is expected to be both owned by the officer and used by him as his residence after the loan is made; and

(ii) No other such loan made by the bank or trust company to the officer under the authority of (a) of this subsection is outstanding;

(b) A loan to finance the education of an officers' children; and

(c) Any other secured or unsecured loan including a line of credit which, at the time the loan is made, is not in excess of the greater of \$25,000 or 2.5% of capital and unimpaired surplus as defined in RCW 30.12.060(2), but in no event for an amount greater than \$100,000.

(2) A bank or trust company shall not make a loan under subsection (1) of this section to an officer which, at the time the loan is made, exceeds the greater of \$25,000 or 5% of capital and unimpaired surplus as defined in RCW 30.12.060(2) unless a resolution authorizing a loan for a greater amount is adopted by a vote of a majority of the board of directors of the bank or trust company prior to the making of such loan, and the vote and resolution is entered in the corporate minutes.

(3) In no case shall the total liability of an officer to a bank or trust company under subsection (1) of this section exceed either \$500,000, unless approved in advance for a greater amount by a majority of the board of directors prior to the making of any loan in excess of this amount, or the limit prescribed by RCW 30.04.110, whichever is less. When computing the total outstanding liability of an officer of a bank or trust company belonging to an affiliated group of two or more corporations, all loans to the officer from the affiliated corporations shall be aggregated, including but not limited to loans from:

(a) The bank or trust company's parent bank holding company; or

(b) Any other corporation held by the bank or trust company's parent bank holding company; or

(c) A subsidiary of the bank or trust company; or

(d) A subsidiary of any other corporation if such corporation is held by the bank or trust company's parent bank holding company.

(4) Any loan to an officer of a bank that does not require specific prior approval by a majority of the board of directors by resolution or otherwise pursuant to subsections (2) and (3) of this section shall be promptly reported to the board of directors and duly reflected in the minutes of the next regular board meeting.

(5) For purposes of this section, the words "loan" and "loans" shall mean all extensions of credit by the bank or trust company including but not limited to the purchase, discount, or acquisition, as security or otherwise, of any debt or obligation of any officer owed to any other person.

#### AMENDATORY SECTION (Amending Order 48, filed 12/1/82)

WAC 50-12-040 SCHEDULE OF FEES FOR BANKS, TRUST COMPANIES, STOCK SAVINGS BANKS, MUTUAL SAVINGS BANKS, AND ALIEN BANKS. (1) Except as provided by subsection (2) of this section, the supervisor shall collect in advance the following fees:

~~((+))~~ (a) \$2,000.00 for ~~((fitng))~~ each application for a certificate of authority and attendant investigation for a new bank or trust company or for conversion to a state-chartered institution. ~~((If the cost therefor (computed on the basis of \$30.00 per employee hour devoted by the division of banking to processing and investigating the application) exceeds \$2,000.00, the applicant shall pay such excess when ascertained by the supervisor.~~

~~(2))~~ (b) \$1,500.00 for filing an application for certificate authorizing an alien bank to establish and operate an office in the state of Washington and attendant investigation. ~~((If the cost therefor (computed on the basis of \$30.00 per employee hour devoted by the division of banking to processing and investigating the application) exceeds \$1,500.00, the applicant shall pay such excess when ascertained by the supervisor.~~

~~(3))~~ (c) \$500.00 for filing an application for certificate authorizing an alien bank to establish and operate a bureau in the state of Washington. ~~((If the cost therefor (computed on the basis indicated in (1) and (2) above) exceeds \$500.00, the applicant shall pay such excess when ascertained by the supervisor.~~

~~(4))~~ (d) \$500.00 for filing an application for a certificate of authority for a branch and attendant investigation. ~~((If the cost therefor (computed on the basis of \$30.00 per employee hour devoted by the division of banking to processing and investigating the application) exceeds \$500.00, the applicant shall pay such excess when ascertained by the supervisor.~~

~~(5))~~ (e) \$500.00 for filing an application for a certificate conferring trust powers and attendant investigation. ~~((If the cost therefor (computed on the basis of \$30.00 per employee hour devoted by the division of banking to processing and investigating the application) exceeds \$500.00, the applicant shall pay such excess when ascertained by the supervisor.~~

~~(6))~~ (f) \$2,000.00 for filing merger, consolidation or reorganizational agreement and attendant investigation. If three or more banks are involved, then the fee for each is \$1,000.00. ~~((If the cost therefor (computed on the basis of \$30.00 per employee hour devoted by the division of banking to processing and investigating the application) exceeds the specified fee, the applicant surviving bank shall pay such excess when ascertained by the supervisor.~~

~~(7))~~ (g) \$300.00 for filing an application for a certificate of appropriate adjunct and attendant investigation. ~~((If the cost therefor (computed on the basis of \$30.00 per employee hour devoted by the division of banking to processing and investigating the application) exceeds \$300.00, the applicant shall pay such excess when ascertained by the supervisor.~~

~~(8))~~ (h) \$300.00 for filing application to relocate main office or branch and attendant investigation. ~~((If the cost therefor (computed on the basis of \$30.00 per employee hour devoted by the division of banking to processing and investigating the application) exceeds \$300.00, the applicant shall pay such excess when determined by the supervisor.~~

~~(9))~~ (i) \$100.00 for issuing each branch certificate for branch resulting from merger.

~~((+))~~ (j) \$100.00 for filing articles of incorporation, or amendments thereof, or other certificates required to be filed with the supervisor.

~~((+))~~ (k) \$100.00 for issuing a certificate of increase or decrease of capital stock or issuing a certificate of authority.

~~((+2))~~ (l) \$100.00 for issuing any other certificate.

(m) Fifty cents per page for furnishing copies of papers filed with the supervisor.

~~((+3))~~ (n) \$300.00 for filing an application for approval of the supervisor for a bank, trust company, mutual savings bank, or stock savings bank to provide a satellite facility or facilities which are to be used ~~((exclusively))~~ by its own customers or customers of another bank. In the event the application is for approval of the supervisor to provide more than one such satellite facility, the filing fee on such a multiple application is \$300.00 for the first such satellite facility and \$100.00 for each additional satellite facility. ~~((This fee shall be deemed to include the cost of processing the application and the cost of an attendant investigation, but if the cost therefor (computed at \$30.00 per employee hour plus~~

actual expenses) exceeds the filing fee, the applicant shall pay such excess when ascertained by the supervisor.

~~((14))~~ (o) \$100.00 for the issuance of a certificate of approval to provide a satellite facility.

~~((15))~~ (p) \$1,000.00 for filing an application for approval of a network system of satellite facilities as defined in WAC 50-40-010(4). ~~((This fee shall be deemed to include the cost of processing the application and the cost of an attendant investigation, but if the actual cost of such processing and investigation (computed at \$30.00 per employee hour plus actual expenses) exceeds the filing fee, the applicant shall pay such excess when ascertained by the supervisor.~~

~~((16))~~ (q) \$100.00 for each application to modify a previously approved network system made in accordance with WAC 50-40-060(1) or (2). ~~((The fee for application to modify a previously modified supervisor at \$30.00 per employee hour plus actual expenses, with a minimum fee of \$100.00 per application.~~

~~((17) \$200.00)~~ (r) \$300.00 for issuing certificate of approval for capital notes.

(s) \$5,000.00 for each application by an out-of-state bank holding company for acquisition and control of more than five percent of the shares of voting stock or substantially all of the assets of a bank, trust company, national banking association, or bank holding company, the principal operations of which are conducted within this state.

(t) \$500.00 for each application for a certificate of authority and attendant investigation of a phantom or interim bank created to acquire all of the capital stock of a bank or trust company.

(u) \$500.00 for each application to purchase or sell a branch. In the event such application provides for the sale or purchase of more than one branch, the fee shall be \$500.00 per branch.

(v) Hourly charges for services plus actual expenses for voluntary or involuntary liquidation of a bank or trust company pursuant to chapter 30.44 RCW or for acting as conservator of a bank or trust company pursuant to chapter 30.46 RCW.

(w) \$2,000.00 for each application for conversion from a mutual savings bank to a stock savings bank.

(2) If the cost of any of the services rendered under subsection (1) of this section is determined by the supervisor to differ significantly from the fees prescribed for those services in that section, the bank, trust company, or applicant shall pay such cost computed at \$40.00 per employee hour expended plus actual expenses incurred.

AMENDATORY SECTION (Amending Order 56, filed 10/3/83)

WAC 50-48-020 JOINT APPLICATION. An application for approval of such acquisition shall be submitted jointly by the acquiring bank holding company and the domestic institution or bank holding company to be acquired. The application need not be in any particular format, but must set forth all the information required under these regulations ~~((and must be accompanied by an application fee in the amount of five thousand dollars))~~. The application shall include a copy

of the agreement setting forth the plan of merger or acquisition, including certified copies of the resolutions of the respective boards of directors of parties to the agreement approving same. The application shall also include a statement authorizing any federal or state regulatory agency to make available to the supervisor any and all information which such agency may have relating to the applicants or any of their subsidiaries.

AMENDATORY SECTION (Amending Order 45, filed 12/31/81)

WAC 50-44-030 ADDITIONAL FEES AND CHARGES—SPECIAL EXAMINATIONS—BRANCH OFFICES. Each bank, mutual savings bank, trust company, or industrial loan company shall pay to the supervisor the following fees:

(1) For special examinations and reviews as determined by the supervisor, ~~((thirty))~~ forty dollars per hour; (Special examinations are for the express purpose of examining unusual conditions or circumstances, including extensions of regular examinations wherein conditions may warrant extension of time required in the examination beyond normal allotted time);

(2) For electronic data processing examination, trust examination, or other examination requiring specialized expertise, ~~((thirty))~~ forty dollars per hour;

(3) For each bank branch in operation at the time of any periodic examination, seventy-five dollars;

(4) For each industrial loan company branch in operation at the time of any periodic examination, one hundred fifty dollars.

The supervisor shall submit a statement for the foregoing charges following the completion of any applicable examination, and the charges shall be paid not later than thirty days after submission of such statement.

AMENDATORY SECTION (Amending Order 14, filed 5/1/73)

WAC 50-24-100 EXEMPTIONS. (1) The division of banking reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 50-24-080 is exempt under the provisions of section 31, chapter 1, Laws of 1973.

(2) RCW ~~((43.19.060 and 43.19.070))~~ 30.04.075 provides as the general rule that all information received by the supervisor and his office from any bank or trust company or mutual savings bank is confidential and may not be disclosed to any person other than certain other government officials, on penalty of forfeiture of office and punishment as a gross misdemeanor.

(3) In addition, pursuant to ~~((section 26, chapter 1, Laws of 1973))~~ RCW 42.17.260, the division of banking reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.

(4) All denials of requests for public records will be accompanied by a written statement specifying the reason for the denial, including a statement of the specific

exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

#### NEW SECTION

**WAC 50-12-100 LEASING BANK PREMISES—LIMITATIONS.** A bank or trust company may lease part of the premises in which it conducts its day-to-day business pursuant to RCW 30.04.210 to persons engaged in nonbanking or nontrust business activities subject to the following limitations:

(1) No director, officer, or employee of such bank or trust company may have any direct or indirect financial interest in the lessee's business activities conducted on the premises leased;

(2) No bank or trust company may receive commissions or other revenues from the lessee other than periodic rental payments received under terms that are usual and customary in leasing space used for similar commercial purposes as determined by the supervisor;

(3) No lessee may have access to security areas of the bank or trust company's premises, nor may a lessee conduct business activities on a bank or trust company's premises other than during regular banking hours;

(4) No director, officer, or employee of a bank or trust company may be employed by, or serve in any fiduciary capacity for a corporation or other person leasing the premises of such bank or trust company for such business activities;

(5) No bank or trust company may exercise managerial control over the lessee's business activities or assume, guarantee, or otherwise become obligated for the lessee's debts or legal obligations;

(6) No bank or trust company may advertise a lessee's business activities conducted on such bank or trust company's premises as a service provided by the bank or trust company, or otherwise represent that the lessee's business activities are not independently owned and operated;

(7) No bank or trust company may use tying arrangements involving the sale of a lessee's goods or services offered on such bank or trust company's premises or in any other way require purchase of a lessee's goods or services as a condition for granting credit or performing services.

(8) For purposes of this section, the term "bank or trust company" means any person or corporation operating under the provisions of Title 30 RCW directly or indirectly affiliated with the lessor.

#### NEW SECTION

**WAC 50-12-110 INVESTMENT SECURITIES—LIMIT ON HOLDINGS.** No bank or trust company may purchase or hold obligations of a single obligor in excess of the limits prescribed by RCW 30.04.110, nor purchase or hold any obligation not authorized by Title 30 RCW, except for the following:

(1) Obligations of the United States;

(2) Obligations issued, insured, or guaranteed by a department or agency of the United States, including obligations of such departments or agencies representing an interest in a loan or pool of loans, if such obligation commits the full faith and credit of the United States to its repayment;

(3) General obligations of a state or political subdivision of a state including but not limited to obligations of a county, city, town, municipal corporation, or any publicly-owned entity that is an instrumentality of a state or municipal corporation;

(4) Obligations of any state or political subdivision of a state if a state or political subdivision of a state having general powers of taxation has unconditionally promised to make sufficient funds available for full repayment of the obligation.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

**WAC 50-12-010 MINIMUM RESERVE REQUIREMENTS FOR STATE BANKS AND TRUST COMPANIES—COMPUTATIONS.**

#### **WSR 85-19-053**

#### **ADOPTED RULES**

#### **DEPARTMENT OF**

#### **GENERAL ADMINISTRATION**

#### **(Division of Banking)**

[Order 63—Filed September 13, 1985]

I, L. O. Malmberg, acting supervisor of the Division of Banking, do promulgate and adopt at Olympia, Washington, the annexed rules relating to industrial loan companies, amending WAC 50-20-010 concerning maintenance of certain books and records using electronic display equipment, WAC 50-20-050 concerning restrictions on charges for open-end loans and appraisals and creating new section WAC 50-20-090 concerning notice requirements for increases in interest rates on open-end loans.

This action is taken pursuant to Notice Nos. WSR 85-16-056 and 85-19-044 filed with the code reviser on July 31, 1985, and September 13, 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 Division of Banking as authorized in RCW 31.04.150.

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 September 13, 1985.

By L. O. Malmberg  
Acting Supervisor

AMENDATORY SECTION (Amending Order 40, filed 3/23/79)

WAC 50-20-010 BOOKS AND RECORDS. (1) The company shall maintain a borrower's individual account card file, income and expense accounts, and have a general ledger readily available, and such other books and records including a monthly trial balance as will enable the supervisor to determine whether such company is complying with the provisions of this act and with the rules and regulations of the supervisor with the result that these books and accounts will fairly reflect the condition of the company independent of other business conducted in the office.

Such books, accounts, and records may be maintained in each industrial loan company office by means of electronic display equipment if such equipment is made available to the supervisor of banking or his representatives for purposes of examination in the industrial loan company office. Such books, accounts, and records shall be made available to the supervisor of banking or his representatives in printed form within ten days after a request for such records.

(2) For a period of not less than two years after the making of the final entry upon its books with respect to any such transaction the company shall preserve the records of original and final entry upon all loans made and upon all transactions pertinent to the sale and issuance of investment certificates.

(3) If the company operates branches, there shall be kept in each branch office such books, accounts and records as will enable the supervisor to determine whether such company is complying with the provisions of this act and with the rules and regulations of the supervisor.

(4) The original application for a loan and all original papers relating thereto, including the note, any instrument held as collateral security, security agreement, salary assignment, etc., shall be available for inspection by the supervisor, or any duly authorized representative. All real estate mortgage loans shall be supported by an appraisal from a qualified appraiser, disclosing all pertinent information, including a detailed schedule of all prior liens.

(5) No ((licensee)) corporation shall take any instruments in which blanks are not filled in completely before the proceeds of the loan are delivered.

(6) Fees collected in advance to be subsequently disbursed by the company for recording and releasing collateral instruments or for other similar purposes shall be credited to a suspense account supported by a detailed record of the borrower's name and the respective amount of such fees.

AMENDATORY SECTION (Amending Order 59, filed 2/23/84)

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

(2) No industrial loan company shall require the purchasing of property insurance from the company or any employee, affiliate or associate of the company or from any agent, broker, or insurance company designated by

the company as a condition precedent to the making of a loan nor shall any company decline existing insurance which meets or exceeds the standards set forth in this section.

A company may provide insurance on the life and disability of one borrower and on the life of the spouse of the borrower if both are obligors, provided that such insurance coverage shall not exceed the approximate unpaid balance of the total amount repayable under contract of indebtedness scheduled to be outstanding. The premium or cost for all such insurance when written pursuant to the Washington insurance code and regulations issued thereunder, shall not be deemed interest, charges or consideration in connection with the loan transaction and any gain or advantage to the lender arising out of the premium or cost of the insurance or from its sale shall not be a violation of any provision of chapter 31.04 RCW. The amount of the premium or cost of such insurance may be included in the original loan amount and may be paid from the proceeds of the loan.

If the loan contract is prepaid in full by cash, a new loan, renewal, refinancing, or otherwise, the credit life and/or accident and health insurance coverage shall be cancelled and a portion of the charge made for such insurance shall be rebated as provided by the Washington insurance code and regulations issued thereunder.

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

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

(5) No industrial loan company may charge and collect an annual fee in excess of eighteen dollars payable each year in advance for the privilege of opening and maintaining an open-end loan account.

(6) No industrial loan company may charge and collect an appraisal fee incurred in appraising security offered by the borrower in excess of the actual costs paid to an independent third party professional appraiser. No charge may be made or collected for costs of an appraisal if the loan application is rejected by the company, or if the appraisal is inadequate to meet reasonable appraisal requirements for comparable loans from other lending institutions.

(7) Any note which is prepaid in full by cash, a new loan, refinancing, or otherwise before the final due date, the unearned portion of the interest shall be refunded using the sum of the digits method commonly known as the "Rule of 78's."

PROVIDED, HOWEVER, That in the case of any loan originally scheduled to be repaid in sixty-one months or more which is secured by an investment certificate, the refund of the unearned portion of the interest shall be computed as follows: Interest shall be



considered earned at the single nominal annual percentage rate which if applied to the unpaid amounts of principal outstanding from time to time would produce the same total of interest paid at maturity as originally contracted for, based upon the assumption that all payments were made on the loan according to the schedule of payments due on the certificate and calculations were made according to the actuarial method. Interest earned so calculated up to the scheduled due date nearest the date of prepayment shall be subtracted from the original amount of interest included in the note and the balance of such interest shall be refunded.

For purposes of this calculation only, the original principal amount of the loan shall be deemed to be the amount of the total note less the interest deducted in advance. Actuarial method means the method of allocating payments made between principal and interest whereby a payment is applied first to the interest accumulated to date and the remainder then applied to the unpaid principal amount. In computing an actuarial refund, the lender may round the single annual percentage rate used to the nearest quarter of one percent.

In computing any required refund, any prepayment made on or before the fifteenth day following the scheduled payment date on the investment certificate shall be deemed to have been made on the payment date preceding such prepayment. In the case of prepayment prior to the first installment date, the company may retain an amount not to exceed 1/30 of the first month's interest charge for each date between the origination date of the loan and the actual date of prepayment.

#### NEW SECTION

**WAC 50-20-090 OPEN-END LOANS—INCREASE IN INTEREST—NOTICE TO BORROWER.** An industrial loan company is not required to give thirty days written notice of an increase in the interest rate charged on an open-end loan pursuant to RCW 31.04.—(5) (section 3(5), chapter 74, Laws of 1985), if the following conditions are met:

- (1) The interest rate charged on the open-end loan is based upon an index approved by the supervisor; and
- (2) The borrower has agreed in writing prior to the increase to base the interest rate on the index.

#### **WSR 85-19-054**

##### **ADOPTED RULES**

#### **DEPARTMENT OF GENERAL ADMINISTRATION (Division of Banking)**

[Order 64—Filed September 13, 1985]

I, L. O. Malmberg, acting supervisor of the Division of Banking, do promulgate and adopt at Olympia, Washington, the annexed rules relating to consumer finance companies, amending WAC 50-16-030 concerning maintenance of certain books and records using electronic display equipment.

This action is taken pursuant to Notice Nos. WSR 85-16-055 and 85-19-043 filed with the code reviser on

July 31, 1985, and September 13, 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 Division of Banking as authorized in RCW 31.04.150.

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 September 13, 1985.

By L. O. Malmberg  
Acting Supervisor

#### AMENDATORY SECTION (Amending Order 48, filed 12/1/82)

**WAC 50-16-030 BOOKS, FILES AND ACCOUNTING RECORDS REQUIRED.** At least the following books, files and accounting records shall be maintained:

(1) Loan register.

(a) Every loan shall be recorded in the loan register, which shall be kept currently in the order made showing the following information:

- (i) Number of loan
- (ii) Date of loan
- (iii) Name of borrower
- (iv) Amount of loan

(b) As an alternative method for maintaining records, the licensee may maintain a copy of the disclosure statement in a separate binder, and in chronological order.

(2) Borrowers' individual account cards or looseleaf ledgers. A separate account record shall be maintained for each loan made to any one borrower. Each such account record shall provide space for the proper recording of the following information:

- (a) Loan register number of loan
- (b) Date of loan
- (c) Name and address of borrower

(d) Rate at which charges are to be computed or the annual percentage rate (APR), if less than the maximum

- (e) Terms of repayment
- (f) Face amount of note
- (g) If charges are precomputed:
- (i) Principal amount of loan
- (ii) Total amount of charges
- (iii) Amount which may be collected as a default charge

(h) Payments received showing:

(i) Date of payment

(ii) Amount paid on principal or amount paid on note when charges have been precomputed

(iii) Remaining principal balance or remaining face amount of note when charges have been precomputed

(iv) Amount paid on charges, except when charges are precomputed

(v) Date to which charges are paid, except when charges are precomputed

(vi) The amount of default and/or deferment charges collected

- (i) Name and address of co-maker or endorser, if any
- (j) Date of maturity of loan
- (k) Amount of charge for life insurance
- (l) When a note has been reduced to judgment, the face of the account record must show the following:

- (i) Date of judgment
- (ii) Amount of judgment
- (iii) Court costs

Thereafter, all payments received must be applied on the judgment and properly identified.

(3) Cash book. Acceptable records showing all cash receipts and disbursements.

(4) Alphabetical record of makers, endorsers, co-makers, sureties. Cards or other records of makers, endorsers, co-makers or sureties, showing liability thereof on all loans.

(5) General ledger. The general ledger, which shall be posted at least once as of the close of business on a fixed date (preferably the last business day) of each month, and a trial balance taken therefrom. When the general ledger for the office is maintained elsewhere, a copy of the monthly trial balance shall be forwarded to the consumer finance office, showing the following information as of the end of each month:

- (a) Total number and amount of precomputed loans
- (b) Reserve for unearned precomputed charges
- (c) Total number and amount of nonprecomputed loans

(d) Total number and amount of contracts outstanding

(e) Total number and amount of all other loans, being loans not made under the Consumer Finance Act.

(6) Such books, accounts, and records may be maintained in each licensed office by means of electronic display equipment if such equipment is made available to the supervisor of banking or his representatives for purposes of examination in the licensed office. Such books, accounts, and records shall be made available to the supervisor of banking or his representatives in printed form within ten days after a request for such records.

**WSR 85-19-055**  
**WITHDRAWAL OF PROPOSED RULES**  
**BOARD FOR**  
**COMMUNITY COLLEGE EDUCATION**  
 [Filed September 16, 1985]

The proposed amendment to WAC 131-16-011 noted in WSR 85-16-103, filed August 6, 1985, was withdrawn from consideration by the State Board for Community College Education. Also please note that the amendment to WAC 131-16-005 covered by the above notice has been adopted and accordingly transmitted for codification.

Gilbert J. Carbone  
 Assistant Director

**WSR 85-19-056**  
**ADOPTED RULES**  
**BOARD FOR**  
**COMMUNITY COLLEGE EDUCATION**

[Order 103, Resolution No. 85-25—Filed September 16, 1985]

Be it resolved by the State Board for Community College Education, acting at Port Angeles, Washington, that it does adopt the annexed rules relating to annuity retirement plan mandatory retirement age.

This action is taken pursuant to Notice No. WSR 85-16-103 filed with the code reviser on August 6, 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 28B.10.400 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED September 12, 1985.  
 By Gilbert J. Carbone  
 Assistant Director

AMENDATORY SECTION (Amending Order 77, Resolution No. 79-30, filed 9/10/79)

WAC 131-16-005 MANDATORY RETIREMENT AGE DEFINED. The mandatory retirement age for employees of community college districts or the state board for community college education shall be defined as the end of the academic year in which an employee attains age seventy; however, when officially approved by the district board of trustees, or by the state board in the case of its employees, extension of service beyond the mandatory retirement age may be made (~~for definite periods of time not to exceed one year each~~) pursuant to the provisions of RCW 28B.10.420.

**WSR 85-19-057**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 85-133—Filed September 13, 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 harvestable numbers of salmon are available.

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

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

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

APPROVED AND ADOPTED September 13, 1985.

By Gene DiDonato  
for William R. Wilkerson  
Director

#### NEW SECTION

WAC 220-57-42500G SKAGIT RIVER. Notwithstanding the provisions of WAC 220-57-425:

(1) Effective immediately until 11:59 p.m. September 30, 1985:

(a) Bag limit C in those waters downstream from the mouth of the Cascade River to the mouth of the Sauk River.

(b) Bag limit C in those waters downstream from the mouth of the Sauk River to the mouth of Gilligan Creek, except that the daily bag limit may contain up to six pink salmon.

(c) Bag limit A in those waters downstream from the mouth of Gilligan Creek, except that the daily bag limit may contain up to six pink salmon, and it is unlawful to retain coho salmon greater than 20 inches in length.

(2) Effective 12:01 a.m. October 1, 1985 until further notice:

(a) Bag limit C in those waters downstream from the mouth of the Cascade River to the mouth of Gilligan Creek.

(b) Bag limit A downstream from the mouth of Gilligan Creek, except that it is unlawful to retain more than one chinook salmon greater than 24 inches in length in the daily bag limit, and all pink salmon and all coho salmon greater than 20 inches in length must be released immediately.

#### NEW SECTION

WAC 220-57-43500A SKYKOMISH RIVER. Notwithstanding the provisions of WAC 220-57-435, effective immediately until further notice the six salmon daily bag limit may contain up to six coho salmon.

#### NEW SECTION

WAC 220-57-45000C SNOHOMISH RIVER. Notwithstanding the provisions of WAC 220-57-450, effective immediately until further notice the six fish daily bag limit may contain up to six coho salmon, and the six fish daily bag limit may contain up to six pink salmon taken downstream from Crabb Bar. Upstream from Crabb Bar pink salmon must be released.

#### NEW SECTION

WAC 220-57-45500A SNOQUALMIE RIVER. Notwithstanding the provisions of WAC 220-57-455, effective immediately until further notice the six fish daily bag limit may contain up to six coho salmon.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-57-42500F SKAGIT RIVER. (85-90)  
WAC 220-57-45000B SNOHOMISH RIVER. (85-86)

#### WSR 85-19-058

#### EMERGENCY RULES

#### DEPARTMENT OF FISHERIES

[Order 85-135—Filed September 13, 1985]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt 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 salmon are available, and these rules are adopted at the recommendation of the Columbia River Compact Commission and the Columbia River Inter-Tribal Fish Commission.

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 September 13, 1985.

By Gene DiDonato  
for William R. Wilkerson  
Director

#### NEW SECTION

WAC 220-32-03000T GILL NET SEASON. Notwithstanding the provisions of WAC 220-32-031, WAC 220-32-032, and WAC 220-32-033, it is unlawful to take fish for or possess salmon sturgeon, and shad for commercial purposes with gill net gear in Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D and 1E except in those areas, at those times and with the gear designated below:

Areas 1A, 1B, 1C and 1D: 12:01 a.m. September 16 to 6:00 p.m. September 20, 1985.

NEW SECTION

WAC 220-32-05100S SEASONS—SALMON. Notwithstanding the provisions of WAC 220-32-051 and 220-32-052, it is unlawful for any person to take or possess salmon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1F, 1G or 1H except that those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla and Nez Perce treaties may fish from:

(1) 12:00 noon September 14 until 12:00 noon September 15, 1985 in Areas 1F, 1G and 1H.

(2) 12:00 noon September 15 until 12:00 noon September 20, 1985 in Areas 1G, 1H and that portion of Area 1F upstream from the Hood River Bridge.

(3) The minimum mesh size for the fisheries provided for in this section is 8 inch.

(4) The 300 foot net restriction does not apply.

(5) The Spring Creek sanctuary as provided for in WAC 220-32-058(5) is closed to commercial salmon fishing.

REPEALER

The following sections of the Washington Administrative Code is repealed:

WAC 220-32-03000S GILL NET SEASON (85-67)

WAC 220-32-05100R SEASONS—SALMON (85-127)

**WSR 85-19-059****ADOPTED RULES****PUBLIC EMPLOYMENT  
RELATIONS COMMISSION**

[Resolution No. 85-01—Filed September 16, 1985]

Be it resolved by the Public Employment Relations Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to WAC 391-08-630, 391-25-390, 391-25-650, 391-35-190, 391-35-210, 391-45-350, 391-95-150, 391-95-170, 391-95-190, 391-95-250, 391-95-260 and 391-95-270.

This action is taken pursuant to Notice No. WSR 85-14-076 filed with the code reviser on July 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 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080 which directs that the Public Employment Relations Commission has authority to implement the provisions of RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

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

APPROVED AND ADOPTED August 23, 1985.

By Marvin L. Schurke  
Executive Director

NEW SECTION

WAC 391-08-630 AGENCY DECISIONS—SUBSTITUTION FOR EXECUTIVE DIRECTOR. In the event the executive director disqualifies himself or herself from participation in a decision or preliminary ruling as may be required under WAC 391-25-390, 391-35-190, or 391-45-110, the most senior (in terms of length of service with this agency) member of the agency's mediation staff, who has not been directly involved in the particular circumstances shall make decisions and rulings otherwise required of the executive director.

AMENDATORY SECTION (Amending Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-390 PROCEEDINGS BEFORE THE EXECUTIVE DIRECTOR. The executive director may proceed forthwith upon the record, after submission of briefs or after hearing, as may be appropriate. The executive director shall determine whether a question concerning representation exists, and shall issue a direction of election, dismiss the petition or make other disposition of the matter. Where the executive director determines that employee eligibility issues exist, the executive director may delegate authority to the hearing officer to decide those issues. Such actions shall be subject to review by the commission only as follows:

(1) Except for rulings as to whether the employee is subject to the jurisdiction of the commission, a direction of election and any accompanying rulings shall not be subject to review by the commission except upon objections timely filed under WAC 391-25-590.

(2) An order of dismissal shall be subject to review by the commission on its own motion or at the request of any party made within twenty days following the date of the order. Briefs or written arguments shall be submitted as provided in WAC 391-25-650. Unless the matter is transferred to the commission for review, an order of dismissal issued by the executive director shall have the same force and effect as if issued by the commission.

AMENDATORY SECTION (Amending Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-650 BRIEFS AND WRITTEN ARGUMENTS ON OBJECTIONS. All parties shall be entitled to submit briefs or written arguments for consideration by the commission. The briefs or written arguments of all parties shall be due simultaneously, as follows:

(1) The deadline for the filing of briefs or written arguments shall be fourteen days following the later of:

(a) The close of an investigation under WAC 391-25-630(1);

(b) The issuance of a transcript of a hearing held under WAC 391-25-630(1); or

(c) The filing of objections under WAC 391-25-590(2).

(2) The commission, the executive director or the designee of the executive director may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established.

The original and three copies of any brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served on each of the other parties. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief.

AMENDATORY SECTION (Amending Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-190 PROCEEDINGS BEFORE THE EXECUTIVE DIRECTOR. The executive director may proceed forthwith upon the record, after submission of briefs or after hearing, as may be appropriate. The executive director shall determine the status of each position, classification or group of employees over which there is a disagreement and issue an order clarifying bargaining unit, dismiss the petition or make other disposition of the matter. Where the executive director determines that employee eligibility issues exist, the executive director may delegate authority to the hearing officer to decide those issues.

AMENDATORY SECTION (Amending Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-210 PROCEEDINGS BEFORE THE COMMISSION—PETITION FOR REVIEW. The final order of the executive director shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days after the date of the order. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on any other parties. The petition for review shall identify the actions or rulings claimed to be in error. Any party to the proceeding may, within fourteen days after the filing of the petition for review, file briefs or written arguments for consideration by the commission. The original and three copies of any brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served on the other party. The commission, the executive director or the designee of the executive director may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief.

AMENDATORY SECTION (Amending Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-350 PETITION FOR REVIEW OF EXAMINER DECISION. The examiner's findings of fact, conclusions of law and order shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days following the date of the order issued by the examiner. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on each of the other parties to the proceeding. Such petition for review shall contain, in separate numbered paragraphs, statements of the specific findings, conclusions, orders or rulings on which the party filing the petition seeks review by the commission. A petition for review shall have attached to it any appeal brief or written argument which the party filing the petition desires to have considered by the commission. Other parties to the proceeding shall have fourteen days following the date on which they are served with a copy of such petition for review and accompanying brief or written argument to file a responsive brief or written argument. The commission, the executive director or his designee may, for good cause, grant any party an extension of the time for filing of its brief or written argument. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief. In the event no timely petition for review is filed, and no action is taken by the commission on its own motion within thirty days following the examiner's final order, the findings of fact, conclusions of law and order of the examiner shall automatically become the findings of fact, conclusions of law and order of the commission and shall have the same force and effect as if issued by the commission.

AMENDATORY SECTION (Amending Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-150 UNION SECURITY—~~((INVESTIGATION))~~ INITIAL PROCESSING BY EXECUTIVE DIRECTOR. The matter shall be referred to ~~((a member of the agency staff, who shall conduct an investigation and such conferences as may be necessary to determine the relative positions of the parties and the facts and authorities relied upon by them, and shall issue a report in conformance with WAC 391-08-220))~~ the executive director who shall determine whether the facts as alleged may constitute a basis for assertion of a right of nonassociation within the meaning of the applicable statute. If it is determined that the claim does not, as a matter of law, constitute a basis for assertion of a right of nonassociation, the executive director shall issue and cause to be served on all parties an order of dismissal containing the reasons therefor; otherwise, the executive director shall assign the matter to an examiner and shall notify the parties of such assignment. An order of dismissal issued pursuant to this section

shall be subject to a petition for review as provided in WAC 391-95-270.

AMENDATORY SECTION (Amending Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-170 UNION SECURITY—NOTICE OF HEARING. (~~If the petition raises material questions of fact which cannot be resolved without a hearing and summary disposition under WAC 391-08-230 is not appropriate;~~) There shall be issued and served on each of the parties to the dispute and on the employer a notice of hearing before ((a hearing officer)) an examiner at a time and place fixed therein. Any such notice may be amended or withdrawn prior to the close of the hearing.

AMENDATORY SECTION (Amending Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-190 UNION SECURITY—HEARINGS—WHO SHALL CONDUCT. Hearings may be conducted by the commission, by the executive director, by a member of the agency staff or by any other individual designated by the commission or executive director as ~~((a hearing officer))~~ an examiner. At any time, ~~((a hearing officer))~~ an examiner may be substituted for the ~~((hearing officer))~~ examiner previously presiding.

AMENDATORY SECTION (Amending Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-250 ~~((PROCEEDINGS BEFORE THE EXECUTIVE DIRECTOR))~~ EXAMINER DECISION. After the close of the hearing ~~((, the executive director may proceed forthwith upon the record, after submission of briefs or after further hearing, as may be appropriate, to determine the matter))~~ and the filing of all briefs, the examiner shall make a decision containing findings of fact, conclusions of law, and order. The examiner shall file the original decision with the commission and shall cause a copy thereof to be served on each of the parties.

#### NEW SECTION

WAC 391-95-260 WITHDRAWAL OR MODIFICATION OF EXAMINER DECISION. On the examiner's own motion or on the motion of any party, the examiner may set aside, modify, change, or reverse any findings of fact, conclusions of law or order at any time within twenty days following the issuance thereof, if any mistake is discovered therein or upon grounds of newly discovered evidence which could not with reasonable diligence have been discovered and produced at the hearing: **PROVIDED, HOWEVER,** That this section shall be inoperative after the filing of a petition for review with the commission.

AMENDATORY SECTION (Amending Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-270 PROCEEDINGS BEFORE THE COMMISSION—PETITION FOR REVIEW.

The final order of the ~~((executive director))~~ examiner shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days following the date of the order issued by the ~~((executive director))~~ examiner. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on the other party to the proceeding and on the employer. The petition for review shall identify the actions or rulings claimed to be in error. Any party to the proceeding may, within fourteen days after the initiation of review, file briefs or written arguments for consideration by the commission. The original and three copies of any brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served upon the other party. The commission, the executive director or the designee of the executive director may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues in the matter. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief.

#### WSR 85-19-060 PROPOSED RULES PRODUCTIVITY BOARD

[Filed September 16, 1985]

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

Amd	WAC 383-06-010	Purpose.
Amd	WAC 383-06-020	Definitions.
Amd	WAC 383-06-030	Functions of the board.
Amd	WAC 383-06-040	Duties of the program administrator.
Amd	WAC 383-06-050	Role of agency management.
Amd	WAC 383-06-060	Responsibilities of agency coordinators.
Amd	WAC 383-06-070	Procedures for processing multi-agency suggestions.
Amd	WAC 383-06-080	Eligibility for participation.
Amd	WAC 383-06-090	Suggestion format.
Amd	WAC 383-06-100	Suggestion acceptability.
Amd	WAC 383-06-110	Eligibility for cash awards.
Amd	WAC 383-06-120	Payment of cash awards.
Amd	WAC 383-06-130	Recognition of merit.
Amd	WAC 383-06-140	Appeal/perfection of right to appeal.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on November 7, 1985.

The authority under which these rules are proposed is chapter 41.60 RCW.

The specific statute these rules are intended to implement is chapter 41.60 RCW.

This notice is connected to and continues the matter in Notice No. WSR 85-15-096 filed with the code reviser's office on July 24, 1985.

Dated: September 16, 1985  
By: Carolyn W. Smith  
Administrator

Tuesday  
2:00 p.m.  
(2nd Tuesday)

**WSR 85-19-061**  
**ATTORNEY GENERAL OPINION**  
**Cite as: AGO 1985 No. 15**  
[September 13, 1985]

January 14  
February 11  
March 11  
April 8  
May 13  
June 10  
July 8  
August 12  
September 9  
October 14  
November 18  
December 9

**OFFICES AND OFFICERS—STATE—LEGISLATOR—APPOINTMENT OF FORMER COUNTY COMMISSIONER TO VACANCY IN MULTI-COUNTY LEGISLATIVE POSITION**

A former member of a board of county commissioners is eligible for appointment to a vacant Senate seat if the former commissioner has resigned prior to the appointment, the resignation is made without qualification and there is no pre-arranged agreement that the former member will be appointed.

Requested by:

Honorable C. Danny Clem  
Kitsap County Prosecuting Attorney  
Kitsap County Courthouse  
614 Division Street  
Port Orchard, Washington 98366

**WSR 85-19-062**  
**NOTICE OF PUBLIC MEETINGS**  
**WHATCOM COMMUNITY COLLEGE**  
[Memorandum—September 13, 1985]

The Whatcom Community College board of trustees will meet at the college's midtown location, 1407 Commercial, Bellingham, rather than at its northwest location as stated on the 1985 meeting schedule on December 10, 1985. The meeting time remains the same, 2:00 p.m.

**WSR 85-19-063**  
**NOTICE OF PUBLIC MEETINGS**  
**WHATCOM COMMUNITY COLLEGE**  
[Memorandum—September 10, 1985]

1986 Meeting Schedule  
Board of Trustees  
Whatcom Community College  
  
Board Room  
5217 Northwest Road  
Bellingham, WA 98226

**WSR 85-19-064**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
[Order 85-136—Filed September 16, 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 escapement levels of chinook salmon have been met and harvestable numbers of salmon are available.

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

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

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

APPROVED AND ADOPTED September 16, 1985.

By Russell W. Cahill  
for William R. Wilkerson  
Director

NEW SECTION

**WAC 220-40-02100A WILLAPA HARBOR GILL NET SEASON.** Notwithstanding the provisions of WAC 220-40-021, effective immediately until 6:00 p.m. October 14, 1985, Willapa Harbor Salmon Management and Catch Reporting Area 2G is open to salmon fishing.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

**WAC 220-40-02100Z WILLAPA HARBOR GILL NET SEASON. (85-130)**

**WSR 85-19-065  
EMERGENCY RULES  
EMPLOYMENT SECURITY DEPARTMENT  
[Order 4-85—Filed September 16, 1985]**

I, Ernest F. LaPalm, deputy commissioner of the Employment Security Department, do promulgate and adopt the annexed rules relating to:

- New WAC 192-30-010 Marginal labor force attachment definitions.
- New WAC 192-30-020 Responsibilities of the department in determining MLFA status.
- New WAC 192-30-030 Suspension of marginal labor force attachment requirements for claimants unemployed due to government action.
- New WAC 192-30-040 Suspension of marginal labor force attachment provisions for claimants who have good prospects of returning to work.
- New WAC 192-30-050 Suspension of marginal labor force attachment requirements for claimants unemployed due to economic distress.
- New WAC 192-30-060 Suspension of marginal labor force attachment provisions for special category claimants.
- New WAC 192-30-100 Modification of marginal labor force attachment work search requirements for economic distress.
- New WAC 192-30-200 Work search responsibilities for MLFA claimants.
- Rep WAC 192-26-010 Marginal labor force attachment definitions.
- Rep WAC 192-26-030 Suspension of marginal labor force attachment requirements for individuals unemployed due to government action.
- Rep WAC 192-26-040 Suspension of marginal labor force attachment provisions for persons who have good prospects of returning to work.
- Rep WAC 192-26-050 Suspension of marginal labor force attachment requirements for individuals unemployed due to economic distress.
- Rep WAC 192-26-100 Modification of marginal labor force attachment work search requirements for economic distress.

I, Ernest F. LaPalm, deputy commissioner, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this regulation is to interpret RCW 50.20.015 and chapter 285, Laws of 1985, which provide special eligibility requirements for individuals identified as having a marginal attachment to the labor force. Both statutes were effective July 1, 1985, and it is necessary that this regulation be enacted on an emergency basis to supplement those statutes.

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

This rule is promulgated pursuant to RCW 50.20.015 and chapter 285, Laws of 1985, and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Employment Security Department as authorized in RCW 50.12.010 and 50.12.040.

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 September 16, 1985.  
By Ernest F. LaPalm  
Deputy Commissioner

**CHAPTER 192-30  
MARGINAL LABOR FORCE ATTACHMENT**

- WAC 192-30-010 MARGINAL LABOR FORCE ATTACHMENT DEFINITIONS
- 192-30-020 RESPONSIBILITIES OF THE DEPARTMENT IN DETERMINING MLFA STATUS
- 192-30-030 SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT REQUIREMENTS FOR CLAIMANTS UNEMPLOYED DUE TO GOVERNMENT ACTION
- 192-30-040 SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT PROVISIONS FOR CLAIMANTS WHO HAVE GOOD PROSPECTS OF RETURNING TO WORK
- 192-30-050 SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT REQUIREMENTS FOR CLAIMANTS UNEMPLOYED DUE TO ECONOMIC DISTRESS
- 192-30-060 SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT PROVISIONS FOR SPECIAL CATEGORY CLAIMANTS
- 192-30-100 MODIFICATION OF MARGINAL LABOR FORCE ATTACHMENT WORK SEARCH REQUIREMENTS FOR ECONOMIC DISTRESS
- 192-30-200 WORK SEARCH RESPONSIBILITIES FOR MLFA CLAIMANTS

**NEW SECTION**

**WAC 192-30-010 MARGINAL LABOR FORCE ATTACHMENT DEFINITIONS.** For the purposes of this chapter and for the interpretation of RCW 50.20.015 and Laws of 1985, chapter 285, the following definitions apply:

(1) "MLFA" means marginal labor force attachment. The term is used to describe a pattern of employment and unemployment as defined in RCW 50.20.015(1) and is used to identify claimants who may be subject to special eligibility conditions as identified in RCW 50.20.015



and to provide benefit charging relief to employers as described in RCW 50.29.020. MLFA does not reflect on the quality of a claimant's work nor upon the claimant's long term or current attachment to the labor market but is simply the result of a mathematical calculation based on employment within a two year determination period.

(2) An "MLFA claimant" is a claimant who has filed an initial claim for unemployment insurance benefits and who has been determined to have a marginal attachment to the labor force pursuant to RCW 50.20.015(1).

(3) "MLFA requirements" are the special eligibility requirements of RCW 50.20.015(2), which include special work search requirements and a revised definition of suitable work for MLFA claimants.

(4) "Economically distressed county" is a county for which the average total unemployment rate for the three calendar years preceding the computation date is twenty percent or more higher than the statewide average for the same period. The commissioner shall publish a list of economically distressed counties.

(5) "Labor market area" means a geographical area in which there are jobs deemed to be suitable work for the claimant. It encompasses the geographic area in which workers with similar occupational skills normally travel to obtain or perform suitable work. For the purpose of suspension or modification of MLFA requirements, the labor market for employment that meets the suitable work definitions of RCW 50.20.100 shall be used.

(6) "Distressed industry" means, an industry within a labor market area which is experiencing employment sufficiently lower than historical levels to make application of the provisions of RCW 50.20.015(2) unreasonable.

(a) The commissioner will publish a list of industries which have been determined to be distressed industries and geographical area affected by each distressed industry.

(b) The commissioner will determine that an industry is distressed if:

(i) The average annual growth of employment of the industry in the labor market is less than one percent for the most recent three calendar years for which data is available, or,

(ii) The average annual employment of the industry in the labor market in the most recent calendar year for which data is available is twenty percent or more below the average annual employment of the industry in the labor market for the two highest years in the last five years for which data is available, or,

(iii) Other measures of employment or unemployment indicate that the industry is distressed.

(c) The commissioner shall determine the industry groups and labor market areas to be considered based on labor market information, employment patterns, and other available data.

(7) The commissioner may identify communities and labor markets which have suffered a sudden and severe loss of employment. Such determinations will be for the limited purpose of this chapter. A "sudden and severe loss of employment" is a decrease in a community's employed population which has a significant impact on the

communities economic stability. Causes of a sudden and severe loss of employment may include, but are not limited to plant closure, permanent layoffs, industrywide declines, or natural disasters.

(8) For the purpose of RCW 50.20.015(3) "wages for services not considered to be covered employment in Washington" means wages covered by other states or Federal unemployment programs.

#### NEW SECTION

WAC 192-30-020 RESPONSIBILITIES OF THE DEPARTMENT IN DETERMINING MLFA STATUS. (1) At the time of initial claim or prior to requiring the claimant to adhere to MLFA requirements, the department will explore the possible exceptions to MLFA, including the possibility of illness or disability during the determination period and the possibility of noncovered wages in the first half of the determination period.

(2) At the time of the initial application or before the claimant is required to adhere to MLFA requirements, the claimant will be asked whether government action has limited the claimants normal employment activity. If the claimant does not identify any government action which may have precluded normal employment activity, it is not necessary to further address the issue. If the claimant identifies areas of government action that may have precluded normal employment activity, the claimant will be advised of his or her rights to apply for suspension of MLFA requirements and the job service center will assist the claimant in applying for suspension or obtaining necessary documentation.

(3) At the time of initial claim or prior to requiring the claimant to adhere to MLFA requirements and no less often than once every eight weeks, the MLFA status of a claimant will be reviewed to determine whether suspension or modification of MLFA requirements is appropriate.

#### NEW SECTION

WAC 192-30-030 SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT REQUIREMENTS FOR CLAIMANTS UNEMPLOYED DUE TO GOVERNMENT ACTION. Laws of 1985, chapter 285, section 1, provides that the MLFA requirements may be suspended for an MLFA claimant if government action precludes normal activity in the claimant's occupation.

(1) The commissioner will publish a list of occupations in which government action has precluded normal activity.

(2) If a claimant believes that his or her occupation should properly be on the list published pursuant to subsection (1) above, he or she may request a formal determination of whether government action has precluded normal activity in the occupation. Such a request must be in writing and provide evidence of the effect of government action on the occupation.

(3) When determining the impact that government action has on the normal activity in an occupation, the commissioner shall consider:

(a) The nature of the government action,

- (b) Normal employment patterns in the occupation,
  - (c) Seasonal factors,
  - (d) The purpose of the government action or regulation, and,
  - (e) Other pertinent factors relating to the occupation and the government action.
- (4) No periodic review of suspension pursuant to WAC 192-30-030 will be required.

#### NEW SECTION

**WAC 192-30-040 SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT PROVISIONS FOR CLAIMANTS WHO HAVE GOOD PROSPECTS OF RETURNING TO WORK.** Laws of 1985, chapter 285, sections 1 and 2, provide that the MLFA requirements may be suspended for an MLFA claimant if the circumstances of the case are determined by the commissioner to be within the intent of the statute.

(1) The provisions of RCW 50.20.015(2) shall be suspended for an MLFA claimant if the commissioner determines that the claimant has good prospects of obtaining work within a reasonably short period of time.

(2) "Good prospects of obtaining work within a reasonably short period of time" is defined in WAC 192-16-040.

(3) In determining whether the claimant has good prospects of returning to work within a reasonably short period of time, the commissioner will consider:

(a) Tangible evidence in the form of a letter from an employer, union business agent, or other hiring authority,

(b) Labor market conditions; and,

(c) Historical factors.

(4) Any suspension of the provisions of RCW 50.20.015(2) based on this section shall be of a fixed duration not to exceed five weeks.

#### NEW SECTION

**WAC 192-30-050 SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT REQUIREMENTS FOR CLAIMANTS UNEMPLOYED DUE TO ECONOMIC DISTRESS.** Laws of 1985, chapter 285, section 1, provides that the MLFA requirements may be suspended for an MLFA claimant if the claimant is subject to a condition of economic distress. Laws of 1985, chapter 285, section 2, further defines conditions of economic distress.

(1) The MLFA requirements shall be suspended for an MLFA claimant if the claimant is subject to a condition of economic distress and the claimant's lack of employment or expected duration of unemployment is related to the condition of economic distress.

(2) A claimant is subject to a condition of economic distress if:

(a) He or she resides in or customarily works in an economically distressed county; or,

(b) The labor market area in which the claimant customarily works has experienced a sudden and severe loss of employment; or,

(c) The labor market in which the claimant works contains a distressed industry.

(3) Any suspension of RCW 50.20.015(2) authorized by this section will be reviewed no less often than once every eight weeks to consider the reasonableness of continuing to suspend or modify the MLFA requirements.

#### NEW SECTION

**WAC 192-30-060 SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT PROVISIONS FOR SPECIAL CATEGORY CLAIMANTS.** Laws of 1985, chapter 285, sections 1 and 2, provide that the MLFA requirements may be suspended for an MLFA claimant if the circumstances of the case are determined by the commissioner to be within the intent of the statute. The MLFA requirements are to be suspended for claimants in the following categories:

(1) The claimant has been determined to be unemployed as a result of competition from imports pursuant to the Trade Readjustment Act; or,

(2) The claimant is enrolled or awaiting enrollment in the dislocated worker program; or,

(3) The claimant is a participant in commissioner approved training as defined in RCW 50.20.043; or,

(4) The claimant is a participant in the shared work program pursuant to chapter 50.60 RCW; or,

(5) The claimant is unemployed due to a labor dispute and has not been permanently replaced.

(6) The claimant has earned wages from noncovered employment during the first half of the determination period.

#### NEW SECTION

**WAC 192-30-100 MODIFICATION OF MARGINAL LABOR FORCE ATTACHMENT WORK SEARCH REQUIREMENTS FOR ECONOMIC DISTRESS.** (1) The MLFA requirements may not be suspended for an MLFA claimant who is subject to a condition of economic distress but the claimant's lack of employment or expected duration of unemployment is unrelated to the economic distress.

(2) The number of work search contacts required by RCW 50.20.015(2) for a claimant described in subsection (1) above, may be modified to a number consistent with labor market conditions and chapter 192-30-200 WAC.

(3) In determining whether to modify and to what extent to modify the number of work search contacts required, the following factors should be considered:

(a) Size of the labor market;

(b) Impact of job search contacts on employer community;

(c) Employment patterns in the labor market;

(d) Whether work search contacts would be a futile act;

(e) Customary work search methods in the labor market;

(f) Seasonal factors; and,

(g) Other factors related to the economy, employment, and unemployment.

(4) Any determination to modify MLFA requirements based on this section shall be reviewed no less often than every eight weeks.

**NEW SECTION**

**WAC 192-30-200 WORK SEARCH RESPONSIBILITIES FOR MLFA CLAIMANTS.** Laws of 1985, chapter 285, section 1, mandates that work search rules be adopted for claimants with marginal labor force attachment.

(1) The commissioner will consider customary trade practices and other reasonable work search methods in order to assist MLFA claimants in finding employment. As the length of time unemployed increases, so will work search planning and work search activity. As requirements change, claimants must be advised in writing.

(2) Claimants will be exempt from MLFA eligibility requirements until they have received a monetary determination or redetermination which considers special program wages or hours i.e., state, federal, military and out-of-state wages for the period falling within the claimants determination period.

(3) Claimants will be exempt from MLFA eligibility requirements until they have been advised of the eligibility requirements.

(4) The MLFA special eligibility requirements will only apply to those claimants who are claiming regular benefits.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

**WAC 192-26-010 MARGINAL LABOR FORCE ATTACHMENT DEFINITIONS;**

**WAC 192-26-030 SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT REQUIREMENTS FOR INDIVIDUALS UNEMPLOYED DUE TO GOVERNMENT ACTION;**

**WAC 192-26-040 SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT PROVISIONS FOR PERSONS WHO HAVE GOOD PROSPECTS OF RETURNING TO WORK;**

**WAC 192-26-050 SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT REQUIREMENTS FOR INDIVIDUALS UNEMPLOYED DUE TO ECONOMIC DISTRESS;**

**WAC 192-26-100 MODIFICATION OF MARGINAL LABOR FORCE ATTACHMENT WORK SEARCH REQUIREMENTS FOR ECONOMIC DISTRESS.**

New	WAC 192-30-020	Responsibilities of the department in determining MLFA status.
New	WAC 192-30-030	Suspension of marginal labor force attachment requirements for claimants unemployed due to government action.
New	WAC 192-30-040	Suspension of marginal labor force attachment provisions for claimants who have good prospects of returning to work.
New	WAC 192-30-050	Suspension of marginal labor force attachment requirements for claimants unemployed due to economic distress.
New	WAC 192-30-060	Suspension of marginal labor force attachment provisions for special category claimants.
New	WAC 192-30-100	Modification of marginal labor force attachment work search requirements for economic distress.
New	WAC 192-30-200	Work search responsibilities for MLFA claimants.
New	WAC 192-30-210	Job service center work search activity plans for MLFA claimants.
New	WAC 192-30-220	Work search models—Purpose and description.
New	WAC 192-30-230	Work search model—Definition of terms;

that the agency will at 10:00 a.m., Tuesday, October 22, 1985, in the Commissioner's Conference Room, 212 Maple Park, 2nd Floor, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on October 22, 1985, at 2:00 p.m.

The authority under which these rules are proposed is RCW 50.12.010 and 50.12.040.

The specific statute these rules are intended to implement is RCW 50.20.015 and chapter 285, Laws of 1985.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before October 15, 1985.

Dated: September 16, 1985

By: Ernest F. LaPalm  
Deputy Commissioner

**STATEMENT OF PURPOSE**

The following statement has been prepared by the Employment Security Department for the purpose of legislative review of agency rules as provided by chapter 34.04 RCW.

Chapter 192-30 WAC, Marginal labor force attachment.

Purpose of Regulations: New chapter 192-30 WAC was written to interpret RCW 50.20.015 (section 9, chapter 205, Laws of 1984) and chapter 285, Laws of 1985, which provide special eligibility requirements for individuals identified as having a marginal attachment to the labor force.

Both statutes were effective July 1, 1985.

The rules in chapter 192-30 WAC are necessary to interpret the law consistently with legislative intent and to provide for clearer guidelines for agency staff who are required to make determinations of eligibility based on the laws. The rules are intended to provide a public statement of departmental policy related to individuals identified as marginally attached to the labor market.

**WSR 85-19-066**

**PROPOSED RULES**

**EMPLOYMENT SECURITY DEPARTMENT**

[Filed September 16, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Employment Security Department intends to adopt, amend, or repeal rules concerning:

New WAC 192-30-010 Marginal labor force attachment definitions.

The rules identify the claimants impacted, set forth criteria regarding suspension and modification of the requirements and outline the work search requirements required in the law.

Justification for Emergency Regulation: The statutes which are interpreted by these rules have an effective date of July 1, 1985. The rules are necessary to ensure consistent application of policy and legislative intent.

These rules were written at the direction of Mark Mochel, Chief, Benefit Procedures and Operations, Employment Security Department, 212 Maple Park, M/S KG-11, Olympia, Washington 98504. Mr. Mochel's telephone number is (206) 753-5170. These rules will be administered by Gary Christenson, Assistant Commissioner for Unemployment Insurance, Employment Security Department, 212 Maple Park, M/S KG-11, Olympia, Washington 98504. Mr. Christenson's telephone number is (206) 753-5120.

CHAPTER 192-30  
MARGINAL LABOR FORCE ATTACHMENT

WAC

192-30-010	MARGINAL LABOR FORCE ATTACHMENT DEFINITIONS
192-30-020	RESPONSIBILITIES OF THE DEPARTMENT IN DETERMINING MLFA STATUS
192-30-030	SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT REQUIREMENTS FOR CLAIMANTS UNEMPLOYED DUE TO GOVERNMENT ACTION
192-30-040	SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT PROVISIONS FOR CLAIMANTS WHO HAVE GOOD PROSPECTS OF RETURNING TO WORK
192-30-050	SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT REQUIREMENTS FOR CLAIMANTS UNEMPLOYED DUE TO ECONOMIC DISTRESS
192-30-060	SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT PROVISIONS FOR SPECIAL CATEGORY CLAIMANTS
192-30-100	MODIFICATION OF MARGINAL LABOR FORCE ATTACHMENT WORK SEARCH REQUIREMENTS FOR ECONOMIC DISTRESS
192-30-200	WORK SEARCH RESPONSIBILITIES FOR MLFA CLAIMANTS
192-30-210	JOB SERVICE CENTER WORK SEARCH ACTIVITY PLANS FOR MLFA CLAIMANTS
192-30-220	WORK SEARCH MODELS—PURPOSE AND DESCRIPTION
192-30-230	WORK SEARCH MODEL—DEFINITION OF TERMS

NEW SECTION

WAC 192-30-010 MARGINAL LABOR FORCE ATTACHMENT DEFINITIONS. For the purposes of this chapter and for the interpretation of RCW 50.20.015 and Laws of 1985, chapter 285, the following definitions apply:

(1) "MLFA" means marginal labor force attachment. The term is used to describe a pattern of employment and unemployment as defined in RCW 50.20.015(1) and is used to identify claimants who may be subject to special eligibility conditions as identified in RCW 50.20.015 and to provide benefit charging relief to employers as described in RCW 50.29.020. MLFA does not reflect on the quality of a claimant's work nor upon the claimant's long term or current attachment to the labor market but is simply the result of a mathematical calculation based on employment within a two year determination period.

(2) An "MLFA claimant" is a claimant who has filed an initial claim for unemployment insurance benefits and who has been determined to have a marginal attachment to the labor force pursuant to RCW 50.20.015(1).

(3) "MLFA requirements" are the special eligibility requirements of RCW 50.20.015(2), which include special work search requirements and a revised definition of suitable work for MLFA claimants.

(4) "Economically distressed county" is a county for which the average total unemployment rate for the three calendar years preceding the computation date is twenty percent or more higher than the statewide average for the same period. The commissioner shall publish a list of economically distressed counties.

(5) "Labor market area" means a geographical area in which there are jobs deemed to be suitable work for the claimant. It encompasses the geographic area in which workers with similar occupational skills normally travel to obtain or perform suitable work. For the purpose of suspension or modification of MLFA requirements, the labor market for employment that meets the suitable work definitions of RCW 50.20.100 shall be used.

(6) "Distressed industry" means, an industry within a labor market area which is experiencing employment sufficiently lower than historical levels to make application of the provisions of RCW 50.20.015(2) unreasonable.

(a) The commissioner will publish a list of industries which have been determined to be distressed industries and geographical area affected by each distressed industry.

(b) The commissioner will determine that an industry is distressed if:

(i) The average annual growth of employment of the industry in the labor market is less than one percent for the most recent three calendar years for which data is available; or,

(ii) The average annual employment of the industry in the labor market in the most recent calendar year for which data is available is twenty percent or more below the average annual employment of the industry in the labor market for the two highest years in the last five years for which data is available; or,

(iii) Other measures of employment or unemployment indicate that the industry is distressed.

(c) The commissioner shall determine the industry groups and labor market areas to be considered based on labor market information, employment patterns, and other available data.

(7) The commissioner may identify communities and labor markets which have suffered a sudden and severe loss of employment. Such determinations will be for the limited purpose of this chapter. A "sudden and severe loss of employment" is a decrease in a community's employed population which has a significant impact on the communities economic stability. Causes of a sudden and severe loss of employment may include, but are not limited to plant closure, permanent layoffs, industrywide declines, or natural disasters.

(8) For the purpose of RCW 50.20.015(3) "wages for services not considered to be covered employment in Washington" means wages covered by other states or Federal unemployment programs.

NEW SECTION

WAC 192-30-020 RESPONSIBILITIES OF THE DEPARTMENT IN DETERMINING MLFA STATUS. (1) At the time of initial claim or prior to requiring the claimant to adhere to MLFA requirements, the department will explore the possible exceptions to MLFA, including the possibility of illness or disability during the determination period and the possibility of noncovered wages in the first half of the determination period.

(2) At the time of the initial application or before the claimant is required to adhere to MLFA requirements, the claimant will be asked whether government action has limited the claimants normal employment activity. If the claimant does not identify any government action which may have precluded normal employment activity, it is not necessary to further address the issue. If the claimant identifies areas of government action that may have precluded normal employment activity, the claimant will be advised of his or her rights to apply for suspension of MLFA requirements and the job service center will assist the claimant in applying for suspension or obtaining necessary documentation.

(3) At the time of initial claim or prior to requiring the claimant to adhere to MLFA requirements and no less often than once every eight weeks, the MLFA status of a claimant will be reviewed to determine whether suspension or modification of MLFA requirements is appropriate.

NEW SECTION

WAC 192-30-030 SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT REQUIREMENTS FOR CLAIMANTS UNEMPLOYED DUE TO GOVERNMENT ACTION. Laws of 1985, chapter 285, section 1, provides that the MLFA requirements may be suspended for an MLFA claimant if government action precludes normal activity in the claimant's occupation.

(1) The commissioner will publish a list of occupations in which government action has precluded normal activity.

(2) If a claimant believes that his or her occupation should properly be on the list published pursuant to subsection (1) above, he or she may request a formal determination of whether government action has precluded normal activity in the occupation. Such a request must be in writing and provide evidence of the effect of government action on the occupation.

(3) When determining the impact that government action has on the normal activity in an occupation, the commissioner shall consider:

- (a) The nature of the government action,
- (b) Normal employment patterns in the occupation,
- (c) Seasonal factors,
- (d) The purpose of the government action or regulation, and,
- (e) Other pertinent factors relating to the occupation and the government action.

(4) No periodic review of suspension pursuant to WAC 192-30-030 will be required.

NEW SECTION

WAC 192-30-040 SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT PROVISIONS FOR CLAIMANTS WHO HAVE GOOD PROSPECTS OF RETURNING TO WORK. Laws of 1985, chapter 285, sections 1 and 2, provide that the MLFA requirements may be suspended for an MLFA claimant if the circumstances of the case are determined by the commissioner to be within the intent of the statute.

(1) The provisions of RCW 50.20.015(2) shall be suspended for an MLFA claimant if the commissioner determines that the claimant has good prospects of obtaining work within a reasonably short period of time.

(2) "Good prospects of obtaining work within a reasonably short period of time" is defined in WAC 192-16-040.

(3) In determining whether the claimant has good prospects of returning to work within a reasonably short period of time, the commissioner will consider:

- (a) Tangible evidence in the form of a letter from an employer, union business agent, or other hiring authority;
- (b) Labor market conditions; and,
- (c) Historical factors.

(4) Any suspension of the provisions of RCW 50.20.015(2) based on this section shall be of a fixed duration not to exceed five weeks.

NEW SECTION

WAC 192-30-050 SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT REQUIREMENTS FOR CLAIMANTS UNEMPLOYED DUE TO ECONOMIC DISTRESS. Laws of 1985, chapter 285, section 1, provides that the MLFA requirements may be suspended for an MLFA claimant if the claimant is subject to a condition of economic distress. Laws of 1985, chapter 285, section 2, further defines conditions of economic distress.

(1) The MLFA requirements shall be suspended for an MLFA claimant if the claimant is subject to a condition of economic distress and the claimant's lack of employment or expected duration of unemployment is related to the condition of economic distress.

(2) A claimant is subject to a condition of economic distress if:

- (a) He or she resides in or customarily works in an economically distressed county; or,
- (b) The labor market area in which the claimant customarily works has experienced a sudden and severe loss of employment; or,
- (c) The labor market in which the claimant works contains a distressed industry.

(3) Any suspension of RCW 50.20.015(2) authorized by this section will be reviewed no less often than once every eight weeks to consider the reasonableness of continuing to suspend or modify the MLFA requirements.

NEW SECTION

WAC 192-30-060 SUSPENSION OF MARGINAL LABOR FORCE ATTACHMENT PROVISIONS FOR SPECIAL CATEGORY CLAIMANTS. Laws of 1985, chapter 285, sections 1 and 2, provide that the MLFA requirements may be suspended for an MLFA claimant if the circumstances of the case are determined by the commissioner to be within the intent of the statute. The MLFA requirements are to be suspended for claimants in the following categories:

(1) The claimant has been determined to be unemployed as a result of competition from imports pursuant to the Trade Readjustment Act; or,

(2) The claimant is enrolled or awaiting enrollment in the dislocated worker program; or,

(3) The claimant is a participant in commissioner approved training as defined in RCW 50.20.043; or,

(4) The claimant is a participant in the shared work program pursuant to chapter 50.60 RCW; or,

(5) The claimant is unemployed due to a labor dispute and has not been permanently replaced.

(6) The claimant has earned wages from noncovered employment during the first half of the determination period.

NEW SECTION

WAC 192-30-100 MODIFICATION OF MARGINAL LABOR FORCE ATTACHMENT WORK SEARCH REQUIREMENTS FOR ECONOMIC DISTRESS. (1) The MLFA requirements may not be suspended for an MLFA claimant who is subject to a condition of economic distress but the claimant's lack of employment or expected duration of unemployment is unrelated to the economic distress.

(2) The number of work search contacts required by RCW 50.20.015(2) for a claimant described in subsection (1) above, may be modified to a number consistent with labor market conditions and chapter 192-30-200 WAC.

(3) In determining whether to modify and to what extent to modify the number of work search contacts required, the following factors should be considered:

- (a) Size of the labor market;
- (b) Impact of job search contacts on employer community;
- (c) Employment patterns in the labor market;
- (d) Whether work search contacts would be a futile act;
- (e) Customary work search methods in the labor market;
- (f) Seasonal factors; and,
- (g) Other factors related to the economy, employment, and unemployment.

(4) Any determination to modify MLFA requirements based on this section shall be reviewed no less often than every eight weeks.

NEW SECTION

WAC 192-30-200 WORK SEARCH RESPONSIBILITIES FOR MLFA CLAIMANTS. Laws of 1985, chapter 285, section 1, mandates that work search rules be adopted for claimants with marginal labor force attachment.

(1) The commissioner will consider customary trade practices and other reasonable work search methods in order to assist MLFA claimants in finding employment. As the length of time unemployed increases, so will work search planning and work search activity. As requirements change, claimants must be advised in writing.

(2) Claimants will be exempt from MLFA eligibility requirements until they have received a monetary determination or redetermination which considers special program wages or hours i.e., state, federal, military and out-of-state wages for the period falling within the claimants determination period.

(3) Claimants will be exempt from MLFA eligibility requirements until they have been advised of the eligibility requirements.

(4) The MLFA special eligibility requirements will only apply to those claimants who are claiming regular benefits.

NEW SECTION

WAC 192-30-210 JOB SERVICE CENTER WORK SEARCH ACTIVITY PLANS FOR MLFA CLAIMANTS. To provide consistent application of law and regulation, accurate information to claimants and the general public each job service center (JSC) will be responsible for developing its own written work search activity plan for claimants with marginal labor force attachment. Job service centers will be responsible for completing this plan within 30 days of the

adoption of this rule. Due to fluctuating labor market conditions, MLFA JSC work search activity plans will be reviewed at least yearly (or more often as necessary) to assure that they reflect seasonal and economic conditions. Copies of the MLFA JSC work search activity plan will be available for public examination in the job service center and a copy must be forwarded to the employment security public records officer. Each MLFA JSC work search activity plan will include the following:

- (1) Area labor market(s) information;
- (2) Minimum work search requirements for each MLFA claimant group, and JSC rationale for such requirements;
- (3) Eligibility review interview (ERI) selection criteria;
- (4) Job service center work registration policy;
- (5) Job service center list of industries and occupations in demand and decline in the area labor market(s);
- (6) Identification of MLFA claimants with training needs and procedures for informing MLFA claimants about job training opportunities;
- (7) Job service center coordination of unemployment insurance, employment service, training program service, and other functions.

#### NEW SECTION

WAC 192-30-220 WORK SEARCH MODELS—PURPOSE AND DESCRIPTION. Work search models are plans of service designed to provide the public with an outline of requirements and services provided by the employment security department to claimants filing claims for unemployment insurance benefits. The models identify services that job service centers will offer or provide, advise claimants what will be expected of them in the way of work search, and outline a progression of services, reviews, and requirements that will affect a claimants eligibility for unemployment benefits.

- (1) One of the primary purposes of a work search model is to ensure consistency throughout the state in administration of work search requirements.
- (2) The commissioner will publish MLFA work search models which may be incorporated by reference into the MLFA JSC work search activity plans.
- (3) All job service centers are required to use the models described unless another model is approved for use by the commissioner.

#### NEW SECTION

WAC 192-30-230 WORK SEARCH MODEL—DEFINITION OF TERMS. For the purposes of work search models, the following definitions apply:

- (1) "Length of unemployment" means the number of weeks that a claimant has claimed benefits since his or her last separation from employment, or since reopening a claim for benefits after a break in claim series exceeding two weeks without intervening employment.
- (2) A "presentation of benefit rights" or "PBR" is a presentation to a claimant or a group of claimants outlining benefit rights, responsibilities, and procedures. A PBR is intended to provide a claimant with all the information necessary for claiming benefits and to know where to ask for more information if needed.
- (3) A "presentation of benefit rights for claimants with a marginal labor force attachment" or "MLFA PBR" is a presentation to a claimant or a group of claimants outlining benefit rights, responsibilities, and procedures. An MLFA PBR is intended to provide a claimant with all the information necessary for claiming benefits and to know where to ask for more information if needed. In addition, an MLFA PBR will include information on how MLFA status is calculated, information on exceptions to MLFA status, information on MLFA work search, tangible evidence and suitable work requirements, and information on modification and suspension of the MLFA special eligibility requirements.
- (4) An "X MLFA PBR" is the same as a "PBR" and is given to claimants who were MLFA claimants but are no longer in MLFA status. Former MLFA claimants are advised that they are no longer bound by the MLFA special eligibility requirements.
- (5) A "PBR-2" is a special PBR given to claimants who are about to enter extended or sharable benefits. The PBR-2 is designed to provide claimants with information on the special eligibility requirements that must be met to continue eligibility.

(6) "Eligibility review interview" or "ERI" means an interview or workshop which results in the development of a claimant work search plan. A copy of the plan will be given to the claimant and a copy will be retained by the job service center. Included in the plan will be:

- (a) Claimant's name, Social security number, signature, JSC, date, and interviewer's signature;
- (b) A list of occupations in which the claimant will seek work and the wage demand for each occupation;
- (c) A definitive statement of what the claimant will do to improve or increase his or her reemployment effort;
- (d) A statement describing how the claimant will record and report work search contacts;
- (e) A review and reconsideration of possible suspension or modification of MLFA requirements; and
- (f) Follow-up, by the JSC, to agreements made at the ERI.

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

#### **WSR 85-19-067**

#### **ADOPTED RULES**

#### **DEPARTMENT OF FISHERIES**

[Order 85-134—Filed September 17, 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 85-15-099 filed with the code reviser on July 24, 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 September 4, 1985.

By Gene DiDonato  
for William R. Wilkerson  
Director

AMENDATORY SECTION (Amending Order 85-51, filed 5/23/85)

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 as provided for in this section:

(1) Razor clam digging is allowed from 12:01 a.m. October 15 to 11:59 p.m. December 15, 1985.

(2) Razor clam digging is allowed on odd-numbered days only.

(3) It is unlawful to dig for razor clams at any time in the Long Beach or Twin Harbor Razor Clam ((Sanctuary)) Sanctuaries as defined in WAC 220-56-372.

**WSR 85-19-068**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 85-137—Filed September 17, 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 escapement levels of chinook salmon have been met and harvestable numbers of salmon are available.

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

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

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

APPROVED AND ADOPTED September 17, 1985.

By Russell W. Cahill  
 for William R. Wilkerson  
 Director

NEW SECTION

**WAC 220-40-02100B WILLAPA HARBOR GILL NET SEASON.** *Notwithstanding the provisions of WAC 220-40-021, effective immediately until 6:00 p.m. October 14, 1985, Willapa Harbor Salmon Management and Catch Reporting Areas 2G and 2H are open to salmon fishing.*

REPEALER

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

**WAC 220-40-02100A WILLAPA HARBOR GILL NET SEASON.** (85-136)

**WSR 85-19-069**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed September 17, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Revenue intends to adopt, amend, or repeal rules concerning uniform procedural rules for the conduct of contested cases before the Department of Revenue, new sections WAC 458-08-010 through 458-08-250 inclusive.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on October 25, 1985.

The authority under which these rules are proposed is RCW 82.01.060(2).

The specific statute these rules are intended to implement is chapter 34.12 RCW.

This notice is connected to and continues the matter in Notice No. WSR 85-16-100 filed with the code reviser's office on August 6, 1985.

Dated: September 17, 1985  
 By: Matthew J. Coyle  
 Acting Director

**WSR 85-19-070**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
**(Securities Division)**  
 [Filed September 17, 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 registration of securities broker-dealers, salespersons, investment advisers and investment adviser salespersons:

- |     |                 |   |
|-----|-----------------|---|
| Amd | WAC 460-20A-210 | Notice of changes by broker-dealers.  |
| Amd | WAC 460-20A-220 | Salesperson registration and examination.   |
| Amd | WAC 460-20A-230 | Broker-dealer registration and examination.   |
| Amd | WAC 460-20A-400 | Dual representation and affiliation.  |
| Amd | WAC 460-24A-050 | Investment adviser and investment adviser salesperson (representative) registration and examinations. |
| Amd | WAC 460-24A-205 | Notice of changes by investment adviser.  |
| New | WAC 460-24A-220 | Dishonest or unethical business practices—Investment adviser and investment adviser salesperson;      |

that the agency will at 10:00 a.m., Tuesday, November 5, 1985, in the 1st Floor, Department of Licensing, 1300 Quince Street S.E., Olympia, WA 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on November 5, 1985.

The authority under which these rules are proposed is RCW 21.20.450.

The specific statute these rules are intended to implement is chapter 21.20 RCW.

These rules are promulgated pursuant to RCW 21.20.450 which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 21.20 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before November 5, 1985.

Dated: September 16, 1985  
 By: Theresa A. Aragon  
 Director

## STATEMENT OF PURPOSE

Title and Number of Rule Sections: Chapter 460-20A WAC, Broker-dealers and salesmen; includes WAC 460-20A-210 Notice of changes by broker-dealers; 460-20A-220 Salespersons registration and examination; 460-20A-230 Broker-dealer registration and examination; 460-20A-400 Dual representation and affiliation; and chapter 460-24A WAC, Investment advisers; includes WAC 460-24A-050 Investment advisers and investment adviser salesperson (representative) registration and examination; 460-24A-205 Notice of change by investment adviser; and 460-24A-220 Dishonest or unethical business practices—Investment advisers and investment adviser salespersons.

Statutory Authority: RCW 21.20.450.

Specific Statute that Rules are Intended to Implement: Chapter 21.20 RCW.

Summary of the Rules: WAC 460-20A-210 is being amended to conform to the requirements of the central registration depository which requires Form U-4 21 days after employment and Form U-5 30 days after termination; 460-20A-220 is being amended to add the NASD Series 64 as an examination to qualify an individual for a limited license to sell real estate securities; 460-20A-230 is being amended to correct the type of form required for registration application, to conform the language to that of federal registration for describing those individuals who do not need to take the financial and operations examination to become a broker-dealer and to require notification to the Securities Division of a change in qualifying officer of a broker-dealer; 460-20A-400 is being amended to make it clear that dual licensing, whether it be dual licensing as a securities salesperson, investment adviser or a combination thereof, requires an undertaking of joint and several liability; 460-24A-050 is being amended to require notification to the Securities Division of a change in qualifying officer of an investment adviser; 460-24A-205 is being amended to require notification to the Securities Division of termination of any investment adviser salesperson by use of the NASD Form U-5 within 10 days and notification of employment of any new investment adviser salesperson by use of the NASD Form U-4 within 30 days after hiring occurs; and 460-24A-220 is being added to clarify and define the meaning of "dishonest or unethical" practices in RCW 21.20.110(7) as it applied to investment advisers and investment adviser salespersons.

Reasons Supporting the Proposed Rules: The rules are being amended in the broker-dealer and salesperson area to conform to time periods required by the central registration depository, to add an alternative test to qualify for a securities salesperson's license, to clarify when the financial and operations examination will be required and to clarify when joint and several liability undertakings will be required. The rules are being amended in the investment adviser and investment adviser salesperson area because there have been continuing questions about when joint and several liability undertakings will be required. The requirement of notification upon change of the qualifying officer will allow the Securities Division to stay up to date in regard to its

testing requirements. The amendments on notification by use of U-4 and U-5 will keep the Securities Division current on who is registered with whom. The rule defining "dishonest or unethical" behavior will clarify the division's enforcement policy.

Agency Personnel Responsible for the Drafting, Implementation and Enforcement of the Rule: Deborah Bortner, Assistant Securities Administrator, Securities Division, 1300 Quince Street S.E., Olympia, Washington 98504, (206) 753-6928; Joan Baird, Assistant Director, Business and Professions Administration, 1300 Quince Street S.E., Olympia, Washington 98504, (206) 753-6928; and John Maxwell, Chief of Enforcement, Securities Division, 1300 Quince Street S.E., Olympia, Washington 98504, (206) 753-6928.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Licensing, Securities Division.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: These changes will clarify division positions and decrease necessity of multiple contacts with licensees thereby decreasing costs. The clarifications to conform with the central registration depository will make less work for applicants and licensees.

The rule is not necessary to comply with a federal law or a federal or state court action.

Small Business Economic Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Order SDO-128-85, filed 8/1/85)

WAC 460-24A-050 INVESTMENT ADVISER AND INVESTMENT ADVISER SALESPERSON (REPRESENTATIVE) REGISTRATION AND EXAMINATIONS. (1) In order to be licensed in this state as an investment adviser the individual applicant, the officer if the applicant is a corporation or a general partner if the applicant is a partnership shall complete the uniform securities agent state law examination with a score of seventy percent or better and complete one of the following with a score of seventy percent or better:

- (a) NASD general securities principal examination (Series 24) or
- (b) NASD investment company products/variable contracts principal examination (Series 26).

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

(2) An individual applicant, an officer if the applicant is a corporation or a general partner if the applicant is a partnership any one of which has completed the uniform securities agent state law examination with a score of seventy percent or better and which holds one of the following designations, shall not be required to complete the exams designated in subsection (1)(a) and (b) of this section in order to apply for an investment advisers license:

- (a) Chartered investment counselor, or
- (b) Chartered financial analyst, or
- (c) Certified financial planner which designation is completed on or after the effective date of these rules.

~~((The applicant must also complete a Form ADV for the state of Washington.))~~ The applicant must also complete a Form ADV for the state of Washington.

(3) If the individual officer who takes the examination on behalf of a corporate applicant or the individual general partner who takes the examination on behalf of a partnership ceases to be an officer or general partner, then the investment adviser must notify the securities division of a substitute officer or general partner who has passed the examinations required in subsection (1) (~~above~~) of this section within two months in order to maintain the investment adviser license.

(4) In order to be licensed in this state as an investment adviser salesperson (representative) the individual applicant shall complete the



uniform securities agent state law examination with a score of seventy percent or better and complete one of the following with a score of seventy percent or better unless ((section)) subsection (6) of this section applies:

(a) NASD general securities representative examination (Series 7), or

(b) NASD investment company products/variable contracts limited representative qualifications examination (Series 6).

The applicant must also complete the Form U-4 for the state of Washington.

(5) An individual who has completed the uniform securities agent state law examination with a score of seventy percent or better and who holds one of the following designations shall not be required to complete the exams designated in subsection (4) of this section in order to apply for an investment adviser salesperson (representative) license.

(a) Chartered investment counselor

(b) Chartered financial analyst

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

The applicant must also complete the Form U-4 for the state of Washington.

(6) The administrator may waive the testing requirements in ((section)) subsection (5) of this section for an investment adviser representative whose activities will be limited to supervising the firm's investment advisory activities in Washington, provided that the applicant has been employed for five years preceding the filing of the application in a supervisory capacity, or as a portfolio manager, by an investment adviser registered under the Investment Advisers Act of 1940 for at least five years and the investment adviser has been engaged in rendering "investment supervisory services" as defined in section 202(a)(13) of the Investment Advisers Act of 1940.

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

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

#### AMENDATORY SECTION (Amending Order SDO-128-85, filed 8/1/85)

WAC 460-24A-205 NOTICE OF CHANGES BY INVESTMENT ADVISER. (1) Each licensed investment adviser shall, upon any change in the information contained in its application for a certificate (other than financial information contained therein) promptly file an amendment to such application setting forth the changed information (and in any event within 30 days after the change occurs).

(2) With respect to any investment adviser registered under the Investment Advisers Act of 1940, it shall be a sufficient compliance with subsection (1) of this section if a copy of an amendment to Form ADV, of the Securities and Exchange Commission containing the required information, or transmitted for filing to, the administrator not later than the date on which such amendment is required to be filed with the Securities and Exchange Commission.

(3) Each licensed investment adviser shall notify the administrator of the employment of any new representative in Washington by submitting a completed NASD Form U-4 with a photograph to the administrator or the administrator's designee, within 10 days after the event occurs.

(4) Each licensed investment adviser shall notify the administrator of the termination of employment of any representative in Washington, by submitting a complete NASD Form U-5 to the administrator or the administrator's designee, within 30 days after the event occurs.

#### NEW SECTION

WAC 460-24A-220 DISHONEST OR UNETHICAL BUSINESS PRACTICES—INVESTMENT ADVISERS AND INVESTMENT ADVISER SALESPERSONS. The phrase "dishonest or

unethical practices" as used in RCW 21.20.110(7) as applied to investment advisers and investment adviser salespersons is hereby defined to include any of the following:

(1) Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser.

(2) Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within ten business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.

(3) Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account.

(4) Placing an order to purchase or sell a security for the account of a client without authority to do so.

(5) Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party trading authorization from the client.

(6) Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment adviser, or a financial institution engaged in the business of loaning funds.

(7) Loaning money to a client unless the investment adviser is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment adviser.

(8) To misrepresent to any advisory client, or prospective advisory client, the qualifications of the investment adviser or any employee of the investment adviser, or to misrepresent the nature of the advisory services being offered or fees to be charged for such service, or to omit to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading.

(9) Providing a report or recommendation to any advisory client prepared by someone other than the adviser without disclosing that fact. (This prohibition does not apply to a situation where the adviser uses published research reports or statistical analyses to render advice or where an adviser orders such a report in the normal course of providing service.)

(10) Charging a client an unreasonable advisory fee in relation to fees charged by other investment advisers or investment adviser salespersons for similar services.

(11) Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the adviser or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including but not limited to:

(a) Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services;

(b) Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the adviser or its employees; and

(c) An ownership or interest in any entity in which the investment adviser or investment adviser salesperson is recommending that the client purchase (excluding mutual funds).

(12) Guaranteeing a client that a specific result will be achieved (gain or no loss) with advice which will be rendered.

(13) Publishing, circulating or distributing any advertisement which does not comply with Rule 206(4)-1 under the Investment Advisers Act of 1940.

(14) Disclosing the identity, affairs, or investments of any client unless required by law to do so, or unless consented to by the client.

(15) Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment adviser has custody or possession of such securities or funds when the adviser's action is subject to and does not comply with the requirements of Reg. 206(4)-2 under the Investment Advisers Act of 1940.

(16) Entering into, extending or renewing any investment advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee,

the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the adviser and that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract.

The conduct set forth above is not inclusive engaging in other conduct such as forgery, embezzlement, nondisclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices shall also be grounds for denial, suspension or revocation of registration.

**AMENDATORY SECTION** (Amending Order SDO-128-85, filed 8/1/85)

WAC 460-20A-210 NOTICE OF CHANGES BY BROKER-DEALERS. (1) Each licensed broker-dealer shall, upon any change in the information contained in its application for a certificate (other than financial information contained therein) promptly file an amendment to such application setting forth the changed information (and in any event within 30 days after the change occurs).

(2) Each licensed broker-dealer shall notify the administrator of the employment of any new agent in Washington (~~and of the termination of employment of any agent in Washington, giving the full name and Social Security number of the individual involved, the date of employment or termination, and the location of the office in which he was or will be employed~~) [by submitting a completed NASD Form U-4 to the administrator or the administrator's designee] and of the termination of employment of any agent in Washington, giving the full name and Social Security number of the individual involved, the date of employment or termination, and the location of the office in which he was or will be employed by submitting a completed NASD Form U-4 to the administrator or the administrator's designee within (21) days after the event occurs.

(3) Each licensed broker-dealer shall notify the administrator of the termination of employment of any agent in Washington by submitting a completed NASD Form U-5 to the administrator or the administrator's designee, within 30 days after the event occurs.

(4) With respect to any broker-dealer registered under the Securities Exchange Act of 1934, it shall be ~~(({a}))~~ sufficient compliance with subsection (1) of this section if a copy of an amendment to Form BD of the Securities and Exchange Commission containing the required information, or transmitted for filing to, the administrator not later than the date on which such amendment is required to be filed with the Securities and Exchange Commission.

**AMENDATORY SECTION** (Amending Order SDO-128-85, filed 8/1/85)

WAC 460-20A-220 SALESPERSON REGISTRATION AND EXAMINATION. (1) Every applicant for registration as a securities salesperson, unless exempt as provided herein, shall pass the following examinations with a score of 70% or better and complete the NASD Form U-4.

(a) For a salesperson's license to effect or attempt to effect sales of general securities, the individual shall pass the NASD uniform securities agent state law examination and ~~((either the SECO/NASD nonmember general securities representative examination or))~~ the NASD general securities representative examination ~~(, provided that any applicant taking the SECO/NASD nonmember general securities representative examination or the NASD general securities representative examination after August 19, 1981 but prior to February 19, 1982 shall not be required to complete the NASD uniform securities agent state law exam)).~~

(b) For a limited salesperson's license to effect or to attempt to effect sales of investment company securities, variable contracts or mutual funds, the individual shall pass the NASD investment company products/variable contracts representative examination and the uniform securities agent state law examination.

(c) For a limited salesperson's license to effect or to attempt to effect sales of limited partnership interests and interests in tax shelters, the individual shall pass the NASD direct participation program representative examination and the uniform securities agent state law examination.

(d) For a limited salesperson's license to effect or to attempt to effect sales of municipal bonds, the individual shall pass the NASD municipal securities representative examination and the uniform securities agent state law examination.

(e) For a limited salesperson's license to effect or to attempt to effect sales of real estate program offerings, the individual shall pass the uniform real estate securities examination and the uniform securities agent state law exam.

(2) Any individual out of the business of effecting transactions in securities for less than two years and who has previously passed the required examinations in (a), (b), (c), (d) or (e) above or the Washington state securities examination shall not be required to retake the examination(s) to be eligible to be relicensed upon application.

(3) Upon written application and approval, the director may exempt the following persons from the testing requirements in subsection (1) above:

(a) For a particular original offering of an issuer's securities, not more than two officers of an issuer or corporate general partner or two individual general partners. No such person may again register within five years as a salesperson without passing the written examinations.

(b) A salesperson engaged exclusively in the sale of condominium securities provided that written notice is given to the director five days prior to the exercise of the exemption and that such salesperson submit a copy of his/her current Washington real estate license to the director. If that license is cancelled, suspended or revoked, the exemption will not apply to any further transaction.

(4) The licenses in section (1) shall be effective until December 31 of the year of passage at which time it shall be renewed or delinquent. ~~((The renewal fee for 1981 shall be \$12.50. For all years thereafter.))~~ The renewal fee shall be \$15.00. For any renewal application post-marked after ~~((December 31))~~ the expiration date but ~~((before March 1))~~ within ninety days thereafter, the fee shall be \$25.00. No renewal applications will be accepted after ~~((March 1))~~ that time. Such licensees must submit a new application and filing fee of \$35.00. The fee for transfers shall be \$25.00. ~~((For reinstatements prior to December 1, the fee shall be \$50.00) [35.00] and shall be valid until December 31 of the year of reinstatement. Thereafter effectiveness shall run through the next renewal period.))~~

(5) Any applicant not completing the salesperson application in full shall be issued a deficiency letter. The deficiency must be corrected within the subsequent six-month period. If not so completed, one-half the filing fee shall be returned to the applicant. A new application and filing fee must then be filed in order to initiate application.

(6) Any salesperson registered prior to August 15, 1981, and who was registered with the Washington state securities division as of the date of the adoption of these regulations and registered continuously thereafter, shall be subject to the regulation in effect at the time of the original application.

**AMENDATORY SECTION** (Amending Order SDO-128-85, filed 8/1/85)

WAC 460-20A-230 BROKER-DEALER REGISTRATION AND EXAMINATION. (1) In order to be licensed in this state as a broker-dealer the individual applicant, an officer if the applicant is a corporation, or a general partner if the applicant is a partnership shall pass the following examination with a score of 70% or better and complete the SEC Form B/D and complete the state of Washington registration check sheet.

(a) For a broker-dealers license to effect transactions in general securities one individual, officer or general partner shall pass the NASD general securities principal examination, the uniform securities agent state law examination, and the financial and operations principal examination.

(b) For a limited broker-dealer license to effect transactions in investment company securities, variable contracts or mutual funds one individual, officer ~~((of))~~ or general partner shall pass the NASD investment company products/variable contracts principal examination and the uniform securities agent state law examination.

(c) For a limited broker-dealers license to effect transactions in limited partnership interests and interests in tax shelters one individual, officer or general partner shall pass the NASD direct participation programs principal examination and the uniform securities agent state law examination.

(d) For a limited broker-dealer's license to effect transactions in municipal bonds, one individual, officer or general partner shall pass the NASD municipal securities principal examination and the uniform securities agent state law examination.

(2) The director may upon application waive the financial and operations examination required in (a) above for brokerage firms which do not hold funds or securities for, or owe money or securities to customers and do not carry accounts of or for customers.

(3) If the individual officer who takes the examination on behalf of a corporate applicant or the individual general partner who takes the examination on behalf of a partnership ceases to be an officer or general partner, then the broker-dealer must notify the securities division of a substitute officer or general partner who has passed the same category of examination specified in (a), (b), (c) or (d) above within two months in order to maintain the broker-dealers license.

~~((4) The licenses in (a), (b) or (c) shall be effective until December 31 of the year of passage at which time it shall be renewed or be delinquent. The renewal fee for 1981 shall be \$62.50. For all years thereafter, the renewal fee shall be \$75.00. For any renewal application postmarked after December 31 but before March 1, the fee shall be \$100.00. No renewal applications will be accepted after March 1. Such licensee must submit a new application and filing fee.~~

~~(5) Any applicant not completing the broker-dealer application in full shall be issued a deficiency letter. The deficiency must be corrected within the subsequent six-month period. If not so completed, one-half the filing fee shall be returned to the applicant. A new application and filing fee must then be filed in order to initiate application.~~

~~(6) Any broker-dealer registered prior to August 15, 1981, and who was registered with the Washington state securities division as of the date of the adoption of these regulations and remained registered thereafter shall be subject to regulations in effect at the time of the original application.}}~~

(4) The licenses in subsection (1) (a), (b), (c) or (d) of this section shall be effective until December 31 of the year of passage at which time it shall be renewed or be delinquent. The renewal fee shall be \$75.00. For any renewal application postmarked after the expiration date but within ninety days thereafter, the fee shall be \$100.00. No renewal applications will be accepted thereafter. Such licensee must submit a new application and filing fee of \$150.00.

(5) Any applicant not completing the broker-dealer application in full shall be issued a deficiency letter. The deficiency must be corrected within the subsequent six-month period. If not so completed, one-half the filing fee shall be returned to the applicant. A new application and filing fee must then be filed in order to initiate application.

(6) Any broker-dealer registered prior to August 15, 1981, and who was registered with the Washington state securities division as of the date of the adoption of these regulations and remained registered continuously thereafter shall be subject to regulations in effect at the time of the original application.

AMENDATORY SECTION (Amending Order SDO-128-85, filed 8/1/85)

WAC 460-20A-400 DUAL REPRESENTATION AND AFFILIATION. (1) A person may be registered simultaneously in Washington as a security ~~((salesperson))~~ salesperson with more than one broker-dealer, issuer, or owner of securities~~((s))~~, may be registered simultaneously in Washington as an investment adviser ~~((salesperson))~~ salesperson with more than one investment adviser or may be registered simultaneously in Washington as a securities salesperson and an investment adviser salesperson if an undertaking in a form acceptable to the administrator is entered into in writing between all employers.

(2) The undertaking for subsection (1) of this section shall contain the following provisions:

(a) The effective date of the dual employment with the respective employers~~((s))~~;

(b) Consent by each employer to the employment of the ~~((salesperson))~~ salesperson by all other employers~~((s))~~; and

(c) An agreement by each employer to assume joint and several liability with all other employers for any act or omission of the ~~((salesperson))~~ salesperson in violation of the Washington securities law during his period of employment and continuing until written notice is given to the administrator of the termination of the employment relationship.

(d) An agreement that each employer will register the ~~((salesperson))~~ salesperson with the securities division and pay the applicable registration fee.

(3) A separate application for registration or renewal shall be made by each employer desiring to employ the ~~((salesperson))~~ salesperson. An executed copy of the undertaking required by subsection (1) of this section shall accompany the application. The application shall be filed with the administrator and shall contain such exhibits and information as may be required by the administrator, together with the fees required by RCW 21.20.340.

### WSR 85-19-071

#### NOTICE OF PUBLIC MEETINGS FOREST PRACTICES BOARD

[Memorandum—September 16, 1985]

The Washington Forest Practices Board will meet at 1:00 p.m. to 10:00 p.m., October 23, 1985, and October 24, 1985, 8:00 a.m. to 12:00 noon in Hearing Room A, House Office Building, Olympia, Washington.

The business to be transacted at the meeting will include discussions on forest practices rule and program changes within riparian areas and other subjects according to the agenda.

Additional information may be obtained from the Division of Private Forestry and Recreation, 120 East Union Avenue, Room 109, Mailstop EK-12, Olympia, Washington 98504, (206) 753-5315.

### WSR 85-19-072

#### PROPOSED RULES

#### WESTERN WASHINGTON UNIVERSITY

[Filed September 18, 1985]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Western Washington University intends to adopt, amend, or repeal rules concerning health and safety, chapter 516-52 WAC;

that the institution will at 10 o'clock a.m., Monday, December 2, 1985, in the Conference Room, Old Main 300, WWU, 516 High Street, Bellingham, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on December 5, 1985.

The authority under which these rules are proposed is RCW 28B.35.110(11).

The specific statute these rules are intended to implement is chapter 236, Laws of 1985, adding a new chapter to Title 70 RCW, the Washington Clean Indoor Air Act.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before December 2, 1985.

Dated: September 16, 1985

By: Wendy K. Bohlke

Assistant Attorney General

#### STATEMENT OF PURPOSE

Title and Number of Rule: Chapter 516-52 WAC, Western Washington University health and safety.

Statutory Authority: RCW 28B.35.110(11).

Specific Statute that Rule is Intended to Implement: Chapter 236, Laws of 1985.

Summary of the Rules: Chapter 516-52 WAC amends the rules on smoking on campus and clarifies and updates the regulations on control of dogs on campus.

Reasons Supporting the Proposed Rules: Amend the rules for smoking on campus to comply with recent legislation and to clarify and update the regulations for control of dogs on campus.

Agency Personnel Responsible for Drafting: Wendy Bohlke, Attorney General's Office, Old Main 410, WWU, Bellingham, WA 98225, (206) 676-3117; Implementation: Don Cole, Vice President for Business and Financial Affairs, Old Main 300, WWU, Bellingham, WA 98225, (206) 676-3180; and Enforcement: City of Bellingham Fire Department and President of Western Washington University or his designee.

Name of Person or Organization that is Proposing the Rule: Western Washington University.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: These modifications will bring the smoking policy on campus in line with legislation passed during the 1985 legislative session and will allow seeing-eye dogs in accordance with affirmative action mandates.

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.

AMENDATORY SECTION (Amending Order 72-19 [72-10], filed 11/17/72)

WAC 516-52-001 SMOKING ON CAMPUS. Smoking shall not be permitted in any building on campus except in (1) clearly posted areas designated by the president or his designee(;;); and (2) private enclosed inner faculty and administrative offices at the discretion of the individual in charge of each office (~~and (3) seminar classes on condition a faculty member is present and adequate ashtrays are available~~).

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 28B.19.077 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 72-10, filed 11/17/72)

WAC 516-52-010 CONTROL OF DOGS. (1) Dogs are not permitted in ~~((college))~~ university buildings(;;) except for seeing-eye dogs under immediate control of their owners.

(2) Dogs are not permitted on ~~((college))~~ university property unless under immediate control of their owner.

**WSR 85-19-073**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed September 18, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Agriculture intends to adopt, amend, or repeal rules concerning standards for certification of caneberry plants, chapters 16-426, 16-333 and 16-332A WAC;

that the agency will at 1:15 p.m., Tuesday, October 22, 1985, in the Commodity Inspection Conference

Room, Department of Agriculture, 2728-B Westmoor Court S.W., Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on November 4, 1985.

The authority under which these rules are proposed is chapter 15.14 RCW.

Dated: September 18, 1985  
 By: Art G. Losey  
 Assistant Director

**STATEMENT OF PURPOSE**

Title: Chapters 16-426, 16-332A and 16-333 WAC.

Description of Purpose: The proposed changes are to cover increased administrative and inspection costs, and to meet changing industry requirements in the production of foundation, registered and certified caneberry planting stock. These rule changes are the first proposed rule changes since 1975.

Statutory Authority: Chapter 15.14 RCW.

Summary of Rules: To set standards and grades for the certification of caneberry rootstock.

Reasons for Supporting Proposed Action: To cover increased costs to the department and at the same time make housekeeping changes.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Max G. Long, Seed Branch Supervisor, Chemical and Plant Division, 2015 South 1st Street, Yakima, WA 98903, phone (509) 575-2750.

Persons Proposing Rules: Washington State Department of Agriculture.

Agency Comments: None.

Rules Necessary to Comply with Federal Law: No.

Small Business Economic Impact Statement: None.

Chapter 16-333 WAC  
**RULES AND STANDARDS FOR CERTIFICATION OF PLANTS**

- |            |   |
|------------|---|
| WAC        |   |
| 16-333-010 | Definitions.  |
| 16-333-020 | Certifying agency issuance of certificate.                                |
| 16-333-030 | Caneberry certification standards.  |
| 16-333-040 | Caneberry certification fees.   |
| 16-333-050 | Requirements for production of caneberry foundation and registered stock. |
| 16-333-060 | Requirements for production of caneberry certified planting stock.        |
| 16-333-070 | Caneberry field inspection.   |
| 16-333-080 | Caneberry field standards.  |
| 16-333-090 | Caneberry tagging or stamping and plant inspection.                       |

NEW SECTION

WAC 16-333-010 DEFINITIONS. (1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department of agriculture or his duly appointed representative.

(3) "Virus infected (affected)" means presence of a virus(es) or yellow disease agent in a plant or plant part. The word "virus" shall be used hereafter to include yellows disease in this chapter.

(4) "Virus-like" means a disorder of genetic or nontransmissible origin.

(5) "Off-type" means not true-to-name.

(6) "Indicator plant" means any herbaceous or woody plant used to index or determine virus infection.

(7) "Index or indexing" means to determine virus infection by means of inoculation from the plant to be tested to an indicator plant; or by any other method.

(8) "Root cuttings" means sections of roots which have one or more bud.

(9) "Succulent plants" means small, actively growing plants that are developing from root buds, not having passed through a dormant period.

(10) "One-year old plants" means well rooted plants that have developed during one growing season.

(11) "Caneberry" means any cultivated *Rubus* species.

#### NEW SECTION

WAC 16-333-020 CERTIFYING AGENCY ISSUANCE OF CERTIFICATE. (1) The issuance of a certified state of Washington plant tag or stamp under this chapter affirms solely that the tagged or stamped caneberry stock has been subjected to certification standards and procedures by the department. The department disclaims all express or implied warranties, including without limitation, implied warranties of merchantability and fitness for particular purpose, regarding all plants, plant parts, and plant materials under this chapter.

(2) The department is not responsible for disease, genetic disorder, off-type, failure of performance, mislabeling, or otherwise, in connection with this chapter. No grower, nursery dealer, government official, or other person is authorized to give any expressed or implied warranty, or to accept financial responsibility on behalf of the department regarding this chapter.

#### NEW SECTION

WAC 16-333-030 CANEBERRY CERTIFICATION STANDARDS. The following specific rules constitute the requirements and standards for caneberry certification.

#### NEW SECTION

WAC 16-333-040 CANEBERRY CERTIFICATION FEES. (1) Certification application fee. The certification application fee shall be one hundred dollars for one acre or less; ten dollars for each additional acre or fraction thereof.

(2) Final certification fee. The final certification fee shall be an additional ten dollars for each acre or fraction thereof, due and payable when accepted by the department at the time of completion of last field inspection. Fees shall not be refunded unless notice of withdrawal is received in writing before the first inspection is made. Each separate screenhouse or greenhouse lot and each field plot of one acre or less shall be considered one acre. A separate application shall be made for each cultivar and/or unit entered for certification. Each lot of each cultivar shall be listed separately on the application. Lots under observation by the department shall pay the usual certification fees.

(3) Applications for certification shall reach the department's seed branch, 2015 South First Street, Yakima, WA 98903, by May 15 each year.

(4) A grower desiring to produce certified caneberry plants as herein provided shall establish with the department facts evidencing sufficient experience to produce healthy, high quality stock.

(5) Failure to pay fees when due shall result in removing the applicant from the certification program.

(6) No application from any grower owing the department for previous fees shall be considered.

#### NEW SECTION

WAC 16-333-050 REQUIREMENTS FOR PRODUCTION OF CANEBERRY FOUNDATION AND REGISTERED STOCK.

(1) Land requirements:

(a) A field to be eligible for the production of foundation or registered planting stock shall not have grown or have been planted to caneberry plants or solanaceous crops during the previous five years, unless planted with plants of same cultivar and classification:

(b) Acceptable records shall be presented to the department of nematode sampling of the land in question which show that plant parasitic nematodes are not present in harmful quantities; and

(c) Fumigate the land in accordance with approved commercial practices compatible with current recommendations of the Washington State University extension service; and

(d) An insect-proof screenhouse or greenhouse may be used for production of foundation or registered planting stock: PROVIDED, That all other land requirements are met.

(2) Isolation requirements:

(a) Plantings entered for certification shall be grown in areas sufficiently isolated from sources of caneberry viruses by distance or natural barriers to minimize current infection.

(b) Cultivars within the plantings entered for certification shall be separated by not less than fourteen feet. The space between cultivars shall be kept deeply cultivated to prevent intermingling roots.

(3) Plant requirements:

(a) Only nuclear planting stock which has been indexed and regularly reindexed for virus diseases by qualified Washington State University or United States Department of Agriculture personnel or personnel acceptable to the director may be entered for the production of foundation stock.

(b) Only foundation or nuclear planting stock may be entered for the production of registered stock.

(i) One percent, not to exceed twelve plants, of each foundation lot shall be maintained by the grower to allow some fruiting in order to permit evaluation for trueness to name and fruit character; or

(ii) Ten percent, not to exceed three plants, of each nuclear lot shall be maintained by Washington State University, or the United States Department of Agriculture, or department personnel to allow some fruiting to permit evaluation for trueness to name and fruit character; and

(iii) Plant harvest from a foundation or registered lot shall be limited to two growing seasons.

(c) Foundation stock shall not be maintained longer than three years.

(4) Miscellaneous requirements:

(a) At the time of the first field inspection, department inspectors shall clearly mark all plants that are off-type, crown and cane-gall infected, virus-infected or exhibiting virus-like symptoms.

(b) Growers shall dig or otherwise destroy all plants and their roots which are marked by a department inspector within one week from the date of the first field inspection.

(c) At the time of the second field inspection, department inspectors shall clearly mark all plants that are off-type, crown and cane-gall infected, virus-infected or exhibiting virus-like symptoms.

(d) Growers shall dig or otherwise destroy all off-type plants and their roots which are marked by a department inspector, as well as all plants and their roots in a rectangular area that is not less than ten feet in each direction in the row from the off-type plant and not less than forty inches in each direction across the row from the off-type plant within two weeks from the date of the second field inspection.

(e) Growers shall dig or otherwise destroy all plants and their roots which are marked by a department inspector as being crown and cane-gall infected, virus-infected or showing virus-like symptoms.

(f) Insect pests, diseases and vectors of diseases shall be effectively controlled by dusting, spraying, or any other approved method.

(g) All plant beds shall be relatively free from weeds.

#### NEW SECTION

WAC 16-333-060 REQUIREMENTS FOR PRODUCTION OF CANEBERRY CERTIFIED PLANTING STOCK. (1) Land requirements:

(a) A field to be eligible for the production of foundation or registered planting stock shall not have grown or shall not have been planted to caneberry plants or solanaceous crops during the previous five years, unless planted with plants of the same cultivar and classification; and

(b) Acceptable records shall be presented to the department of nematode sampling of the land in question which show that plant parasitic nematodes are not present in harmful quantities; and

(c) Fumigate the land in accordance with approved commercial practices compatible with current recommendations of the Washington State University extension service.

(2) Isolation requirements:

(a) Plantings entered for certification shall be grown in areas sufficiently isolated from sources of caneberry viruses by distance or natural barriers to minimize current infection.

(b) Cultivars within the plantings entered for certification shall be separated by not less than fourteen feet. The space between cultivars shall be kept deeply cultivated to prevent intermingling roots.

(3) Plant requirements:

(a) Fields shall be planted with nuclear planting stock, foundation planting stock, or registered planting stock.

(b) Root cuttings and/or soft succulent plants from like plants may be accepted.

(c) Root or shoot cuttings may be used for sale to plant propagating beds.

(d) Plant harvest from a certified field shall be limited to two growing seasons.

(4) Miscellaneous requirements:

(a) At the time of the first field inspection, department inspectors shall clearly mark all plants that are off-type, crown and cane-gall infected, virus-infected or exhibiting virus-like symptoms.

(b) Growers shall dig or otherwise destroy all plants and their roots which are marked by a department inspector within one week from the date of the first field inspection.

(c) At the time of the second field inspection, department inspectors shall clearly mark all plants that are off-type, crown and cane-gall infected, virus-infected or exhibiting virus-like symptoms.

(d) Growers shall dig or otherwise destroy all off-type plants and their roots which are marked by a department inspector, as well as all plants and their roots in a rectangular area that is not less than ten feet in each direction in the row from the off-type plant and not less than forty inches in each direction across the row from the off-type plant within two weeks from the date of the second field inspection.

(e) Growers shall dig or otherwise destroy all plants and their roots which are marked by a department inspector as being crown and cane-gall infected, virus-infected or showing virus-like symptoms.

(f) Insect pests, diseases and vectors of diseases are to be effectively controlled by dusting, spraying or any other approved method.

(g) All plant beds shall be relatively free from weeds.

**NEW SECTION**

WAC 16-333-070 CANE BERRY FIELD INSPECTION. Field inspections shall be made during the growing season and as many times as deemed necessary by the department:

(1) First inspection . . . . . when plants are nine to fifteen inches high.

(2) Second inspection . . . . . one month after first inspection.

(3) Third inspection . . . . . digging time.

**NEW SECTION**

WAC 16-333-080 CANE BERRY FIELD STANDARDS. (1) The unit of certification shall be the entire unit entered for certification.

(2) Specific requirements:

TOLERANCE

Factors	FOUN-	(FIELD)	(DIG-	Plants
	DATION		GING	
	REGIS-	1st &	TIME)	cent
	TERED	2nd	3rd	cent
	ALL	Per-	Per-	
	INSP.	cent	cent	
Varietal Mixture	0	0	0	0.5%
Virus Diseases*	0	0.5%	0.5%	0.5%
Crown & Cane Gall	0	0	0.1%	0.1%
Nematode	0.1%	0.1%	0.1%	0.1%
Anthraco nose	1.0%	5.0%	5.0%	5.0%
Other Diseases	0.5%	0.2%	0.2%	0.1%
Root, crown or cane Inhabiting Insects	0	0.1%	0.1%	0.1%

\*Visible

(3) Any portion of a certified field, not meeting the above field standards, may be delimited if, in the judgment of the department, it will not jeopardize the remainder.

(a) Nuclear planting stock shall be designated by a certification from the department.

(b) Foundation planting stock shall be designated by the official certified tag or stamp and also stamped "foundation planting stock."

(c) Registered planting stock shall be designated by the official certified tag or stamp and also stamped "registered planting stock."

(d) Certified planting stock shall be tagged with the official tag or stamp of the state of Washington for certified plants.

**NEW SECTION**

WAC 16-333-090 CANE BERRY TAGGING OR STAMPING AND PLANT INSPECTION. (1) "Certified" stock shall be identified with the state of Washington official certified cane berry plant tag or stamp under the supervision of the department after plants have passed inspection.

(2) Only plants meeting Washington standards for cane berry plants shall be tagged or stamped, except those marked foundation or registered.

(3) All containers shall be marked with the name and address of the grower, grade or class of stock, and variety.

(4) The grower is referred to chapter 15.14 RCW, planting stock, for additional information.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

- WAC 16-332A-001 PROMULGATION.
- WAC 16-332A-010 FEES.
- WAC 16-332A-020 DEFINITIONS.
- WAC 16-332A-030 REQUIREMENTS FOR PRODUCTION OF FOUNDATION AND REGISTERED STOCK.
- WAC 16-332A-040 REQUIREMENTS FOR PRODUCTION OF CERTIFIED PLANTING STOCK.
- WAC 16-332A-050 FIELD INSPECTION.
- WAC 16-332A-060 FIELD STANDARDS.
- WAC 16-332A-070 TAGGING OR STAMPING AND PLANT INSPECTION.
- WAC 16-332A-080 EFFECTIVE DATE.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

- WAC 16-426-025 EFFECTIVE DATE.

**WSR 85-19-074**

**EMERGENCY RULES**

**BELLEVUE COMMUNITY COLLEGE**

[Order 90, Resolution No. 168—Filed September 18, 1985]

Be it resolved by the board of trustees of Bellevue Community College, Community College District VIII, acting at 3000 Landerholm Circle S.E., Bellevue, WA 98007, that it does adopt the annexed rules relating to adoption of emergency rules, the student code, chapter 132H-120 WAC. WAC 132H-120-200, 132H-120-220, 132H-120-230, 132H-120-330, 132H-120-340 and 132H-120-360 which address student discipline and appeal procedures are hereby amended. WAC 132H-120-490, procedural guidelines for liquor implementation is hereby added.

We, the board of trustees of Bellevue Community College, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is in order for this new rule to be in effect fall quarter, it is necessary to pass this as an emergency rule at this time.

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 [Bellevue Community College] as authorized in RCW 28B.50.140.

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

APPROVED AND ADOPTED September 10, 1985.

By Paul N. Thompson  
Secretary, Board of Trustees

**AMENDATORY SECTION** (Amending Order 84, Resolution No. 155, filed 4/13/81 [5/23/83])

**WAC 132H-120-200 STUDENT RESPONSIBILITIES.** Any student shall be subject to disciplinary action who either as a principal actor or aide or abettor:

(1) Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college:

(2) Violates any provisions of this chapter, or

(3) Commits any of the following acts which are hereby prohibited:

(a) Possessing or consuming any form of liquor or alcoholic beverage except as a participant of legal age in a student program, banquet or educational program which has the special written authorization of the college president or his designee. (See WAC 132H-200-490)

((b)) Procedural guidelines for liquor policy implementation are as follows:

((i)) When approved by the president or his designee, alcoholic beverages may be served by a recognized student organization, college administrative unit or a community organization. Such groups must adhere to the stipulation of building use policies (chapter 132H-140 WAC) and fully meet all laws, rules and regulations as set forth in the Washington state liquor control board regulations, RCW 66.20.010, which permits consumption of spirits.

((ii)) Approval for the serving of alcoholic beverages must be requested at least seven calendar days prior to the date of use. A student organization request (Form BCC 010-116 6-78) must be filed with the office of the dean of student programs and personnel services. If, in the judgment of the dean of student programs and personnel services, the request is congruent with the best interests of the student group and the college, the dean will forward the request to the president for final approval. All other requests (Form 010-116 (6-78)) shall be filed with the office of the president. The request shall be approved or denied at least three calendar days prior to the proposed event. The application for utilization of alcoholic beverages must be completed by an authorized representative who accepts responsibility for compliance with the college and other governmental rules and regulations, where applicable, and agrees to be present at the function. The associate dean of student programs and activities or designee shall be available at all student functions involving alcoholic beverages and is empowered to make decisions that might arise covering college policies or procedures.

((iii)) Upon approval for the use of alcoholic beverages at Bellevue Community College, it shall be the responsibility of the sponsor to obtain all necessary licenses from

~~the Washington state liquor control board and to display such licenses at the time of the event.~~

~~((iv)) Banquet events (sit-down dinners) are recognized as different in nature from student program events. At student program events, permission to serve alcoholic beverages shall be restricted to beer and light wine and food appropriate for the event must be available. Banquet events shall be approved in accordance with Washington state liquor control board regulations, RCW 66.20.010, which permits the consumption of spirits.~~

~~((v)) The matrix shall be set aside as the only location for the sale and/or consumption of beer and wine at student program-sponsored events. There shall be no out-of-room consumption of any alcoholic beverage at such program sponsored events.~~

~~((vi)) A driver's license with picture or a Washington state liquor control board identification card are the only acceptable identification sources in determining legal age.~~

~~((vii)) The policing of identification cards shall be the responsibility of campus security if the function is a student program sponsored event.~~

~~((viii)) No person who is under the influence of alcohol or dangerous substances or who is disorderly in conduct shall be allowed to serve, consume or dispense alcoholic beverages.~~

~~((ix)) All sales and use of alcoholic beverages shall be governed by the Washington state law as interpreted by the Washington state liquor control board. The regulation shall be posted outside of the room where alcoholic beverages are consumed.~~

~~((x)) No alcoholic beverages may be consumed outside the approved area for the event (building, room etc.).~~

~~((xi)) Nonalcoholic beverages shall be available to persons under the legal age at all events where alcoholic beverages are permitted.~~

~~((xii)) No state monies shall be used to purchase any alcoholic beverages or to pay any license fees or related expense. All revenues generated by the sale of alcoholic beverages shall be processed in accordance with normal College policy and procedures.~~

~~((xiii)) To insure variety in programming, the use of alcoholic beverages shall be approved for only a limited number of major collegewide activities.))~~

~~((c)) (b) Using, possessing, selling or being under the influence of any narcotic drug or controlled substance as defined in RCW 69.50.101 now law or hereafter amended, or any dangerous drug as defined in RCW 69.50.308 as now law or hereafter amended, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist. For the purpose of this regulation, "sale" shall include the statutory meaning defined in RCW 69.04.005 as now law or hereafter amended.~~

~~((d)) (c) Entering any locked or otherwise closed college facility in any manner, at any time, without permission of the college employee or agent in charge thereof.~~

~~((e)) (d) Forgery, as defined in RCW 9.44.010 of any district record of instrument or tendering any forged record of instrument to any employee or agent of the district acting in his official capacity as such.~~

((~~f~~)) (c) Participation in an assembly which materially and substantially interferes with vehicular or pedestrian traffic, classes, hearings, meetings, the education and administrative functions of the college, or the private rights and privileges of others.

((~~g~~)) (f) Intentionally destroying or damaging any college facility or other public or private real or personal property.

((~~h~~)) (g) Failure to comply with directions of properly identified college officials acting in performance of their duties.

((~~i~~)) (h) Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the health or safety of any person on college-owned or controlled property or at college-sponsored or supervised functions.

((~~j~~)) (i) Malicious damage to or malicious misuse of college property, or the property of any person where such property is located on the college campus.

((~~k~~)) (j) Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities of the college campus, except for authorized college purposes or for law enforcement officers, unless written approval has been obtained from the dean of student programs and personnel services, or any other person designated by the president.

((~~l~~)) (k) Engaging in lewd, indecent or obscene behavior on college-owned or controlled property or at college-sponsored or supervised functions.

((~~m~~)) (l) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm or other device established for the safety of individuals and/or college facilities.

((~~n~~)) (m) Being under the influence of liquor or alcoholic beverages or narcotic drugs while on college property or while participating in any college program, class or event or while in attendance in any class or college-sponsored or supervised activity.

((~~o~~)) (n) ((Engages)) Engaging in cheating, stealing, plagiarizing, or knowingly furnishing false information to the college.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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.

Reviser's note: RCW 28B.19.077 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.

WAC 132H-120-205 APPLICATION FOR UTILIZATION OF ALCOHOLIC BEVERAGES.

COMMUNITY COLLEGE DISTRICT VIII
((Bellevue Community College))
BELLEVUE COMMUNITY COLLEGE
((3000 Landerholm Circle S.E.))
3000 LANDERHOLM CIRCLE, S.E.
P.O. BOX 92700
((Bellevue, Washington 98007))
BELLEVUE, WASHINGTON 98009-2037

((APPLICATION FOR UTILIZATION OF ALCOHOLIC BEVERAGES))

APPLICATION FOR UTILIZATION OF ALCOHOLIC BEVERAGES

Authorized representative please complete the information requested and file with: ((1. Student Organization - Dean for Student Services and Development, 2. College Administrative Unit - President's Office, 3. Community Organization - President's Office.)) 1. Student Organization: Dean of Student Programs & Personnel Services, 2. College Administrative Unit: President's Office, 3. Community Organization: President's Office.

DATE OF EVENT ..... DATE OF REQUEST .....

((NAME OF SPONSORING GROUP .....

SPONSORING GROUP ( ) Community Organization
( ) College Personnel
( ) Student Organization
(check security requirements)

((AUTHORIZED BCC REPRESENTATIVE .....

ADDRESS ..... PHONE NO. ....

TYPE OF EVENT (Circle appropriate group: Student Organization, College ((Admin.)) Administrative Group, Community Organization. Describe function and the appropriate serving of food.)

FACILITY REQUESTED .....

((I have read "Procedural Guidelines for Liquor Policy Implementation" which are excerpted from WAC 132H-120-200 Student responsibilities and agree to abide by these regulations. I further agree to hold Bellevue Community College, Community College District VIII harmless from any claim, course of action, costs, liability or losses which may arise out of the provision of alcoholic beverages at this event and I agree to and assume total and complete responsibility for the total and complete adherence to all the rules and regulations that apply to the provision of alcoholic beverages at this event and to the forfeiture of the deposit paid if any such action is brought against Bellevue Community College, Community College District VIII or violation of rules occurs.))

I have read the WAC 132H-120-490 "Procedural Guidelines for Liquor Policy Implementation" on the reverse side of this form and agree to abide by these regulations. I further agree to indemnify and hold harmless Bellevue Community College, Community College District VIII, its officers, employees and agents (the "indemnitees") against and from any and all Liability, Loss or Damage the indemnitees may suffer as a result of claims, demands, costs, or judgments, including reasonable attorneys' fees against the indemnitees arising from the event described above in general, and in particular arising out of the use of alcoholic beverages at this event. I further agree to assume total and complete responsibility for the total and complete adherence to all the rules and regulations that apply to the provision of alcoholic beverages at this event and to the forfeiture of the deposit paid if any such action is brought against the above-named indemnitees or if violation of rules occur.

Name of Person Representing Sponsoring Group and Responsible for Purchasing Banquet License and Liquor.

Address

Phone No. Driver's License No.

Signature of BCC Authorized Representative



Granted ..... Denied ..... Granted ..... Denied .....  
 Date ..... Date .....

.....  
 ((~~Dean for Student Services~~ ..... President or Designee  
 & ~~Development~~))

Dean of Student Programs & Personnel Services

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

**Reviser's note:** RCW 28B.19.077 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 16, Resolution No. 173, filed 4/13/81 [3/15/73])

WAC 132H-120-220 ((~~COLLEGE DISCIPLINE COMMITTEE~~)) RESPONSIBILITY/COLLEGE DISCIPLINE COMMITTEE. The Dean of Student Programs and Personnel Services is the college administrator responsible for student discipline. All discipline procedures will be initiated by the dean and he/she is responsible for assembling all facts on cases referred to his/her office, making provisions for suitable hearings, convening the College Discipline Committee, notifying students and others concerned, keeping confidential files and reports on cases, following up each discipline case until it is closed, and destroying out-of-date files on discipline cases.

The composition of the College Discipline Committee shall be as follows: The committee shall be established each fall. It will be composed of the following persons: (1) A faculty member appointed by the president of the college.

(2) A member of the faculty, appointed by the president of the Bellevue Community College professional association.

(3) Two representatives ((~~electd~~)) selected by the ((~~student personnel council members~~)) Student Services Council.

(4) Three (3) students. The three students will be appointed by the president of the student body association.

None of the above-named persons shall sit in any case in which he/she has a conflict of interest, is a complainant or witness, has a direct or personal interest, or has acted previously in an advisory capacity. Decisions in this regard, including the selection of alternates, shall be made by the College Discipline Committee as a whole.

The College Discipline Committee chairman will be elected by the members of the College Discipline Committee.

There shall be a list of alternates provided in the same manner and number in which membership was obtained.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**Reviser's note:** RCW 28B.19.077 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.

WAC 132H-120-230 INITIAL PROCEEDINGS. While the primary purpose of college disciplinary actions, other than those requiring expulsion, are intended to be developmental rather than punitive, formal procedures must be specified to insure that students receive due process of law. (1) INITIATION OF PROSECUTION. Students, faculty members, administrators and other employees of the district shall have concurrent authority to report violations which will be acted upon by the ((~~dean for student services and development~~)) Dean of Student Programs and Personnel Services or his/her designated representative. ((All disciplinary proceedings will be initiated by the dean for student services and development or his designated representative.))

(2) REQUIREMENTS OF NOTICE. Any student charged in a report filed pursuant to WAC 132H-120-200 with a violation of the code of student rights and responsibilities shall be notified by the ((~~dean for student services and development~~)) Dean of Student Programs and Personnel Services or ((his)) his/her designated representative within three (3) academic calendar days after the filing of such a report, if possible. The notice shall not be ineffective if presented later due to the student's absence. Such notice shall:

(a) Inform the student that a report has been filed alleging that the student violated specific provisions of the code and the date of the violation;

(b) Set forth those provisions allegedly violated and inform the student as to what appears to be maximum penalties which might result from consideration of same;

(c) Specify the exact time and date the student is required to meet with the ((~~dean for student services and development~~)) Dean of Student Programs and Personnel Services;

(d) After considering the evidence in the case and interviewing the student accused of violating specific provisions of the code, the ((~~dean for student services and development~~)) Dean of Student Programs and Personnel Services or ((his)) his/her designee may take any of the following actions:

((~~(+)~~)) (i) Terminate the proceedings, exonerating the student.

((~~(2)~~)) (ii) Dismiss the case after whatever counseling and advice may be appropriate.

((~~(3)~~)) (iii) Impose the minor sanction directly (disciplinary warning) subject to the student's right of appeal described below. The student shall be notified of the action taken; this notification must be in writing. ((~~In the case of an unmarried student under 18 years of age being suspended or expelled, written notice shall also be sent to the parents or guardian of the student.~~))

((~~(4)~~)) (iv) Refer the matter to the College Discipline Committee. The student shall be notified in writing that the matter has been referred to the committee. In all cases, the student shall be advised of his rights by reference to the appropriate section of this document.

(e) If, after the preliminary conference with the student, the recommendation of the Dean of Student Programs and Personnel Services is for disciplinary action, the student shall receive the following in writing:

(i) Notification of the findings of the investigation and conclusion of the Dean of Student Programs and Personnel Services.

(ii) Notification of the disciplinary action which is to be recommended.

(iii) Notification that the student may either accept the disciplinary action, or, within seven (7) calendar days following receipt of the notification, file a written request for a hearing by the College Discipline Committee. If the request is not filed within the prescribed time, the right to do so is waived.

(iv) If the student does not request a hearing, the president or designee shall review the recommendation of the Dean of Student Programs and Personnel Services and within seven (7) calendar days announce a decision with regard to the disciplinary action to be taken.

Reviser's note: RCW 28B.19.077 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.

WAC 132H-120-330 APPEALS. An appeal by a student shall be made in writing and addressed to the chairman of the College Discipline Committee within ~~((+5))~~ 7 days after the student has been notified of the action taken. In all proceedings where the student is not exonerated, there shall be one automatic review by a reviewing authority. (1) Disciplinary action by the ~~((dean for student services and development))~~ Dean of Student Programs and Personnel Services may be appealed to, and shall be reviewed by, the College Discipline Committee.

(2) Disciplinary action by the College Discipline Committee may be appealed to, and shall be reviewed by, the college President.

(3) Final authority in all disciplinary action shall rest with the Board of Trustees of the college.

WAC 132H-120-340 DISCIPLINARY TERMS. The following definitions of disciplinary terms have been established to provide consistency in the application of penalties: (1) DISCIPLINARY WARNING: Formal action censoring a student for violation of college rules or regulations or for failure to satisfy the college's expectations regarding conduct. Disciplinary warnings are always made in writing to the student by the ~~((dean for student services and development))~~ Dean of Student Programs and Personnel Services. A disciplinary warning indicates to the student that continuation of the specific conduct involved or other misconduct will result in one of the more serious disciplinary actions described below.

(2) DISCIPLINARY PROBATION: Formal action placing conditions upon the student's continued attendance for violation of college rules or regulations or failure to satisfy the college's expectations regarding conduct. ~~((The college discipline committee will specify, in writing, the period of probation and the conditions.))~~ Disciplinary probation warns the student that any further misconduct will make him liable to suspension or expulsion from the college. Disciplinary probation may be for a specific term or for an indefinite period ~~((which~~

~~may extend to graduation or other termination of the student's enrollment in the college)).~~

(3) SUSPENSION: Formal action ~~((by an authorized disciplinary agency))~~ dismissing a student temporarily from the college for unacceptable conduct or violation of college rules or regulations. Suspension may be for an indefinite period, but the implication of the action is that the student may eventually return if evidence or other assurance is presented that the unacceptable conduct will not be repeated.

(4) EXPULSION: Students may be expelled only on the approval of the president of the college and on the recommendation of the ~~((dean for student services and development))~~ Dean of Student Programs and Personnel Services or the College Discipline Committee. The notification expelling a student will indicate, in writing, the term of the expulsion and any conditions which must be met before readmission. There is no refund of fees for the quarter in which the action is taken, but fees paid in advance for a subsequent quarter are to be refunded.

(5) REGISTRATION DENIED: Formal action refusing to allow a student to register for subsequent quarters, for violation of college rules or regulations, or failure to satisfy the college's expectations regarding conduct, or failure to fulfill obligations to the college. Students may be denied registration only on the approval of the President and on the recommendation of the Dean of Student Programs and Personnel Services or the College Discipline Committee. The initiating authority, in his written notification to the student, will detail the reasons for the denial of registration and the conditions to be met before registration will be allowed. Registration may be denied for a fixed or indefinite period. Future registration will not be allowed until the initiating authority is satisfied that the conditions have been met.

Reviser's note: RCW 28B.19.077 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.

WAC 132H-120-360 REPORTING, RECORDING AND MAINTENANCE OF RECORDS. Records of all disciplinary cases shall be kept ~~((by the office taking or initiating the action))~~ in the Office of the Dean of Student Programs and Personnel Services. Except in proceedings wherein the student is exonerated, all documentary or other physical evidence produced or considered in disciplinary proceedings and all recorded testimony shall be preserved for not more than 5 years. No record of proceedings wherein the student is exonerated, other than the fact of exoneration, shall be maintained in the student's file or other college repository after the date of the student's graduation.

Reviser's note: RCW 28B.19.077 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 132H-120-490 PROCEDURAL GUIDELINES FOR LIQUOR POLICY IMPLEMENTATION. (1) When approved by the president or his

designee, alcoholic beverages may be served by a recognized Student Organization, College Administrative Unit or a Community Organization. Such groups must adhere to the stipulation of building use policies (Chapter 132H-140 WAC) and fully meet all laws, rules and regulations as set forth in the Washington State Liquor Control Board regulations, RCW 66.20.010, which permits consumption of spirits.

(2) Approval for the serving of alcoholic beverages must be requested at least seven calendar days prior to the date of use. A Student Organization request (Form BCC 010-116 (9-85) must be filed with the office of the Dean of Student Programs and Personnel Services. If, in the judgment of the Dean, the request is congruent with the best interests of the student group and the College, the Dean will forward the request to the president for final approval. All other requests (Form BCC 010-116(9-85) shall be filed with the Office of the President. The request shall be approved or denied at least three calendar days prior to the proposed event. The application for utilization of alcoholic beverages must be completed by an authorized representative who accepts responsibility for compliance with the College and other governmental rules and regulations, where applicable, and agrees to be present at the function. The Dean of Student Programs and Personnel Services shall designate an appropriate person to be available at all student functions involving alcoholic beverages and empower that person to make decisions that might arise covering College policies or procedures.

(3) Upon approval for the use of alcoholic beverages at Bellevue Community College, it shall be the responsibility of the sponsor to obtain all necessary licenses from the Washington State Liquor Control Board and to display such licenses at the time of the event.

(4) Banquet events (sit-down dinners) are recognized as different in nature from student program events. At student program events, permission to serve alcoholic beverages shall be restricted to beer and wine and food appropriate for the event must be available. Banquet events shall be approved in accordance with Washington State Liquor Control Board regulations, RCW 66.20.010, which permits the consumption of spirits.

(5) The Student Union Complex shall be set aside as the only location for the sale and/or consumption of beer and wine at student program-sponsored events. There shall be no consumption of any alcoholic beverage at such program sponsored events outside this complex.

(6) A driver's license with picture or a Washington State Liquor Control Board identification card are the only acceptable identification sources in determining legal age.

(7) The policing of identification cards shall be the responsibility of campus security if the function is a student program sponsored event.

(8) No person who is under the influence of alcohol or dangerous substances or who is disorderly in conduct shall be allowed to serve, consume or dispense alcoholic beverages.

(9) All sales and use of alcoholic beverages shall be governed by the Washington State law as interpreted by the Washington State Liquor Control Board. The regulation shall be posted outside of the room where alcoholic beverages are consumed.

(10) No alcoholic beverages may be consumed outside the approved area for the event (building, room etc.).

(11) Non alcoholic beverages shall be available to persons under the legal age at all events where alcoholic beverages are permitted.

(12) No state monies shall be used to purchase any alcoholic beverages or to pay any license fees or related expense. All revenues generated by the sale of alcoholic beverages shall be processed in accordance with normal College policy and procedures.

(13) To insure variety in programming, the use of alcoholic beverages shall be approved for only a limited number of major collegwide activities.

**Reviser's note:** The unnecessary underscoring in the above section occurred in the copy filed by the institution and appears herein pursuant to the requirements of RCW 34.08.040.

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

**WSR 85-19-075**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**  
 [Filed September 18, 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 Reduction-in-force—Reasons, regulations—Procedure, amending WAC 356-30-330;

that the agency will at 10:00 a.m., Thursday, September 12, 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.

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

This notice is connected to and continues the matter in Notice No. WSR 85-12-043 filed with the code reviser's office on June 5, 1985.

Dated: September 18, 1985  
 By: Leonard Nord  
 Secretary

**WSR 85-19-076**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**  
[Filed September 18, 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 356-26-040 Registers—Name removal for cause—Grounds enumerated—Requirements.
- New WAC 356-42-048 Petitions for certification/decertification—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, October 20, 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 EHB 116.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before October 8, 1985.

This notice is connected to and continues the matter in Notice Nos. WSR 85-15-042 and 85-17-029 filed with the code reviser's office on July 15, 1985, and August 14, 1985.

Dated: September 18, 1985  
By: Leonard Nord  
Secretary

**WSR 85-19-077**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**  
[Filed September 18, 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 356-15-020 Work period designations.
- Amd WAC 356-15-030 Overtime provisions and compensation.
- New WAC 356-34-035 Predissmissal process. (This section has had a change in the title since notice in WSR 85-16-109; formerly titled "Dis-missal—Determination process");

that the agency will at 10:00 a.m., Thursday, October 10, 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 the Fair Labor Standards Act, section 7(k).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before October 8, 1985.

This notice is connected to and continues the matter in Notice No. WSR 85-16-109 filed with the code reviser's office on August 7, 1985.

Dated: September 18, 1985  
By: Leonard Nord  
Secretary

**WSR 85-19-078**  
**ADOPTED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**  
[Order 230—Filed September 18, 1985]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 600 South Franklin, Olympia, WA 98504, that it does adopt the annexed rules relating to civil service law mandated by EHB 116.

This action is taken pursuant to Notice No. WSR 85-17-029 filed with the code reviser on August 14, 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 41.06.150 which directs that the State Personnel Board has authority to implement the provisions of EHB 116.

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

APPROVED AND ADOPTED September 12, 1985.  
By Leonard Nord  
Secretary

AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-05-240 PERIODIC INCREMENT DATE. The date established in accordance with the merit system rule on which (~~a nonmanagement~~) an employee is entitled to a salary increase within a salary range as prescribed in the merit system rules.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 356-05-213 MANAGEMENT EMPLOYEE.

WAC 356-05-222 NONMANAGEMENT EMPLOYEE.

**AMENDATORY SECTION** (Amending Order 209, filed 8/10/84)

**WAC 356-06-020 EXEMPTIONS—EXCEPTIONS.** With the exceptions noted in subsection (20) of this section the provisions of these rules do not apply to:

(1) Members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers and employees of the legislative council, legislative budget committee, statute law committee, and any interim committee of the legislature.

(2) Judges of the supreme court, of the superior courts or of the inferior courts or to any employee of, or position in the judicial branch of, state government.

(3) Officers, academic personnel and employees of state institutions of higher education, the state board for community college education, and the higher education personnel board.

(4) Employees of the state printing office.

(5) The officers of the Washington state patrol.

(6) Elective officers of the state.

(7) The chief executive officer of each agency.

(8) In the departments of employment security and fisheries, the director and the director's confidential secretary.

(9) In the department of social and health services, the secretary, the secretary's executive assistant, if any; not to exceed six assistant secretaries, thirteen division directors, six regional directors and one confidential secretary for each of the above named officers; not to exceed six bureau directors and all superintendents of institutions of which the average daily population equals or exceeds one hundred residents: **PROVIDED**, That each such confidential secretary must meet the minimum qualifications for the class of secretary 2 as determined by the state personnel board.

(10) In all departments except those mentioned in subsection (8) above, the executive head of which is appointed by the governor, the director, the director's confidential secretary, and the statutory assistant directors.

(11) In the case of a multimember board, commission or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or otherwise chosen.

(a) All members of such boards, commissions or committees.

(b) If the members of the board, commission or committee serve on a part-time basis and there is a statutory executive officer:

(i) The secretary of the board, commission or committee.

(ii) The chief executive officer of the board, commission or committee.

(iii) The confidential secretary of the chief executive officer of the board, commission or committee.

(c) If the members of the board, commission or committee serve on a full-time basis:

(i) The chief executive officer or administrative officer as designated by the board, commission or committee.

(ii) The confidential secretary to the chairman of the board, commission or committee.

(d) If all members of the board, commission or committee serve ex officio:

(i) The chief executive officer.

(ii) The confidential secretary of such chief executive officer.

(12) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state.

(13) Assistant attorneys general.

(14) Commissioned and enlisted personnel in the military service of the state.

(15) Resident, student, part-time or temporary employees, and part-time professional consultants as defined by the state personnel board to include:

(a) State and local officials serving ex officio and performing incidental administrative duties in the programs of the agency.

(b) Part-time local health officers.

(c) Persons employed on a part-time, or temporary basis for medical, nursing or other professional service and who are not engaged in the performance of administrative duties.

(d) Part-time or temporary employees who are enrolled as full-time students in recognized educational institutions and whose employment is largely to provide training opportunity, and all temporary employees not in federal grant-in-aid programs.

(e) Patient and resident help in the covered institutions.

(f) Skilled and unskilled labor employed temporarily on force account; construction and maintenance projects; or employed on temporary seasonal single phases of agricultural production or harvesting; or as determined by the director of personnel to be equivalent.

(g) Washington state patrol trooper cadets in training for commissioning as troopers in the Washington state patrol.

(16) All officers and employees in those commissions made exempt by legislative action, namely:

(a) Washington state fruit commission.

(b) Washington state apple commission.

(c) Washington state dairy products commission.

(d) Washington state wheat commission.

(e) Officers and employees of any commission formed under the provisions of chapter 15.66 RCW.

(f) Agricultural commissions formed under the provisions of chapter 15.65 RCW.

(17) Liquor vendors appointed by the Washington state liquor control board pursuant to RCW 66.08.050: **PROVIDED, HOWEVER**, That rules and regulations adopted by the state personnel board pursuant to RCW 41.06.150 regarding the basis for, and procedures to be followed for, the dismissal, suspension or demotion of an employee, and appeals therefrom shall be fully applicable to liquor vendors except those part-time agency vendors employed by the liquor control board, when, in addition to the sale of liquor for the state, they sell goods, wares, merchandise or services as a self-sustaining private retail business.

(18) Executive assistants, for personnel administration and labor relations in all state agencies employing such

executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law.

(19) In addition to the exemptions specifically provided by this chapter, the state personnel board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the personnel board stating the reasons for requesting such exemptions. The personnel board shall hold a public hearing after proper notice, on requests submitted pursuant to this subsection. If the personnel board determines that the position for which exempting is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the personnel board shall grant the request and such determination shall be final. The total number of additional exemptions permitted under this subsection shall not exceed one hundred seventy-five for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The state personnel board shall report to each regular session of the legislature all exemptions granted pursuant to the provisions of this subsection, together with the reasons for such exemptions.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights:

If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

(20) While other provisions of these rules do not apply, the personnel board shall determine salaries and fringe benefits of incumbents in all exempt positions in agencies with positions under the jurisdiction of the personnel board, other than positions listed under subsections (5) through (8), (11)(a) and (b), and (12) through (17) of this section. ~~((In addition, the provisions of WAC 356-14-125 and 356-30-302 shall apply to exempt management employees whose salaries and fringe benefits are determined by the personnel board.))~~

#### AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-14-110 SALARY(~~(=NONMANAGEMENT EMPLOYEES)~~)—PERIODIC INCREMENT DATES—ORIGINAL—SUBSEQUENT. (1) The periodic increment date (PID) is the date on which (~~(a nonmanagement)~~) an employee automatically advances to a higher dollar amount in the range to which (~~(such)~~) the employee's position is classified; provided

(a) The employee's basic salary is not already at or above the maximum step of the assigned range, or

(b) The employee's standards of performance are such as to permit (~~(his/her)~~) retention in a job status.

(2) The dollar amount of the (~~(nonmanagement employee's)~~) increase will be two salary schedule increments; except

(a) The amount shall be one salary schedule increment if a two-increment increase would place the employee's basic salary above the maximum of the range of the employee's classification, or

(b) A fractional part of an increment amount shall be regarded as a full increment advance, if the employee's basic salary was between salary schedule steps immediately prior to the increase, or

(c) The dollar amount increase is stated otherwise in the compensation plan appendix or chapter 15.

(3) The original periodic increment date for (~~(a nonmanagement)~~) an employee is:

(a) Six continuous months from the date (~~(such)~~) the employee began work at the first step of a salary range, or

(b) One calendar year from the date on which (~~(such)~~) the employee began work at an intervening salary step; provided that in either (a) or (b):

(i) Any work period starting before the 16th of the month will count as a full month.

(ii) Any work period starting after the 15th of the month will not be counted.

(iii) An employee at or above the maximum step of a salary range does not have a periodic increment date.

(4) (~~(A nonmanagement employee's)~~) The periodic increment date shall be recomputed following leaves of absence without pay, in accordance with WAC 356-18-220, breaks in serve due to reduction in force or reversion action. In such adjustments, calendar months of pay status already spent at a step will be credited toward the time required to advance to the next available increase in that range.

(5) (~~(A nonmanagement)~~) An employee's periodic increment date shall be set and remain the same unless subsequently changed in accordance with the provisions of the merit system rules.

#### AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-14-120 SALARY(~~(=NONMANAGEMENT EMPLOYEE)~~)—PERIODIC INCREMENT DATE—PROMOTION. (~~(A nonmanagement employee)~~) Employees who receive(~~(s)~~) a salary increase through promotion shall retain (~~(his/her)~~) their present periodic increment date except:

(1) When (~~(such)~~) the employee is placed at the first step, the employee either retains (~~(his/her present)~~) the same periodic increment date or assumes a new one six calendar months from the promotion, whichever date occurs first.

(2) (~~(A nonmanagement)~~) An employee with no periodic increment date(~~(:)~~) because (~~(he/she is)~~) of being promoted from a maximum step or a Y rated amount above the maximum step of a range, will assume a new periodic increment date if (~~(such)~~) the employee is moving to a minimum or intervening salary step as provided in WAC 356-14-110.

AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-14-130 SALARY—CONCURRENCE OF PROBATION, TRIAL SERVICE, AND PERIODIC INCREMENT DATE (~~OR SALARY REVIEW DATE~~). When the date of promotion and ~~((either))~~ the periodic increment date ~~((of a nonmanagement employee or the salary review date of a management employee))~~ coincide, the periodic increment ~~((or the salary review increases))~~ shall be paid prior to the promotional increase. Periodic increment ~~((dates; salary review))~~ dates and completion dates for probationary and trial service periods shall be computed separately.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 356-14-125 SALARY REVIEWS—MANAGEMENT EMPLOYEES.

AMENDATORY SECTION (AMENDING ORDER 209, FILED 8/10/84)

WAC 356-30-300 PERFORMANCE EVALUATION (~~NONMANAGEMENT EMPLOYEES~~)—REQUIREMENTS—MONITORING. (1) Agencies shall evaluate the performance of their ~~((nonmanagement))~~ employees during their probationary or trial service periods and at least once a year thereafter.

(2) The annual evaluation will be conducted during the ~~((month preceding))~~ sixty-day period following the ((nonmanagement)) employee's anniversary date, except an agency can establish, on a consistent basis, a due date which better accommodates ((a specific work cycle)) the agency's particular needs. The evaluation will cover the period ending with the established due date.

(3) Agencies will utilize the ~~((procedures and))~~ standardized employee performance evaluation procedures and forms prescribed by the director of personnel, supplement shall include provisions whereby individual agencies may, with the approval of the director of personnel, supplement the process with special performance factors peculiar to the specific organizational needs.

(4) The procedures and forms shall:

(a) Be designed to aid in communications between supervisors and subordinates and clarify duties and expectations.

(b) Be designed to inform employees of their performance strengths and weaknesses.

(c) Be based on performance toward the goals and objectives of the agency and its subunits.

(d) Include provisions for the counseling and the development of employees.

(5) ~~((The department of personnel shall monitor the evaluation of nonmanagement employees for timeliness, effectiveness and standardization:))~~ Each employee whose work is judged unsatisfactory shall be notified in writing of the areas in which the work is considered deficient. Unless the deficiency is extreme, the employee

shall be given an opportunity to demonstrate improvement.

(6) Allowing ~~((a))~~ probationary ~~((nonmanagement))~~ employees to gain permanent status or ~~((a))~~ trial service ~~((nonmanagement))~~ employees to gain permanent status in the class to which ~~((he/she has))~~ they have been promoted without completion of an evaluation may be regarded as neglect of duty, incompetence or insubordination on the part of the supervisor and may be cause for disciplinary action.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 356-30-302 PERFORMANCE EVALUATION—MANAGEMENT EMPLOYEES—REQUIREMENTS—MONITORING.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71, effective 8/1/71)

WAC 356-34-010 DISCIPLINARY ACTIONS—CAUSES FOR DEMOTION—SUSPENSION—REDUCTION IN SALARY—DISMISSAL. (1) Appointing authorities may demote, suspend, reduce in salary, or dismiss a permanent employee under their jurisdiction for any of the following causes:

~~((1))~~ (a) Neglect of duty.

~~((2))~~ (b) Inefficiency.

~~((3))~~ (c) Incompetence.

~~((4))~~ (d) Insubordination.

~~((5))~~ (e) Indolence.

~~((6))~~ (f) Conviction of a crime involving moral turpitude.

~~((7))~~ (g) Malfeasance.

~~((8))~~ (h) Gross misconduct.

~~((9))~~ (i) Willful violation of the published employing agency or department of personnel rules or regulations.

(2) Appointing authorities shall dismiss any employee under their jurisdiction whose performance is so inadequate as to warrant dismissal.

(3) Appointing authorities shall remove from supervisory positions those supervisors who, in violation of subsection (2) of this section, have tolerated the continued employment of employees under their supervision whose performance has warranted termination from state employment.

**WSR 85-19-079**

**ADOPTED RULES**

**DEPARTMENT OF PERSONNEL**

**(Personnel Board)**

[Order 231—Filed September 18, 1985]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 600 South Franklin, Olympia, WA 98504, that it does adopt the annexed rules relating to Accrued vacation leave disposition—

Computation—How made, amending WAC 356-18-100.

This action is taken pursuant to Notice No. WSR 85-17-029 filed with the code reviser on August 14, 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 41.06.150 which directs that the State Personnel Board has authority to implement the provisions of RCW 43.01.041.

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 September 12, 1985.

By Leonard Nord  
Secretary

AMENDATORY SECTION (Amending Order 207, filed 6/22/84)

WAC 356-18-100 ACCRUED VACATION LEAVE DISPOSITION—COMPUTATION—HOW MADE. (1) When an employee (~~who is a member of the public employees retirement system Plan 1~~) separates from service by reason of resignation with adequate notice, layoff, dismissal, retirement or death, he or she is entitled to a lump sum payment of unused vacation leave (~~except vacation leave accumulated in excess of 240 hours as provided in WAC 356-18-095(2)~~). The compensation shall be computed by using the formula published by the office of financial management. (~~Excess vacation leave accumulated as provided in WAC 356-18-095(2) must be taken as vacation leave or lost.~~) No contributions are to be made to the department of retirement systems (DRS) for lump sum payment of excess vacation leave accumulated under the provisions of WAC 356-18-095(2), nor shall such payment be reported to the DRS as compensation.

(2) (~~When an employee who is not a member of the public employees retirement system Plan 1 separates from service by reason of resignation with adequate notice, layoff, dismissal, retirement, or death he or she shall be paid a lump sum payment for accumulated vacation leave, except for vacation leave accumulated in excess of 240 hours as provided in WAC 356-18-095(2). The compensation shall be computed by using the formula published by the office of financial management. Excess vacation leave accumulated as provided in WAC 356-18-095(2) must be taken as vacation leave or lost.~~

~~(3))~~ Employees may defer the payment of their accumulated vacation leave for which otherwise entitled for a period of 30 working days if the separation resulted from a reduction in force and there is a reasonable probability of reemployment, or if the separation resulted from employees returning to classified positions from exempt positions under the provision of RCW 41.06.070(22), 41.06.100, or WAC 356-06-055.

~~((4))~~ (3) If employees are paid for the accumulated vacation leave and are reemployed within the period of

time represented by the number of days for which vacation pay was received, employees must return the payment for the remaining vacation days. Employees will be credited with the number of vacation days represented by the returned payments at the rate of their last salary.

~~((5))~~ (4) The separation cited in subsection ~~((3))~~ (2) of this section will not be regarded as a break in service for purposes of computing the rates of crediting vacation leave prescribed in WAC 356-18-090, provided the employees return to employment other than by certification from the open competitive register.

**WSR 85-19-080**  
**ADOPTED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**

[Order 232—Filed September 18, 1985]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 600 South Franklin, Olympia, WA 98504, that it does adopt the annexed rules relating to Reduction-in-force—Reasons, regulations—Procedure, amending WAC 356-30-330.

This action is taken pursuant to Notice No. WSR 85-19-075 filed with the code reviser on September 18, 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 41.06.150 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED September 12, 1985.

By Leonard Nord  
Secretary

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)).~~ Ties in seniority will be broken by first measuring the employees' last continuous time within their current classification; if the tie still exists, by measuring the employees' last continuous time in their current agency; and if the tie still exists, by lot.

(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. Seasonal career layoff units, established under the provisions of WAC 356-30-130, Seasonal career employment, are distinct layoff units, separate and exclusive of any other defined layoff unit.

(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))~~ subsection 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~~) of this subsection, 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.

**WSR 85-19-081**  
**ADOPTED RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**

[Order 263—Filed September 18, 1985]

Be it resolved by the State Game Commission, acting at the Holiday Inn, 714 Lakeway Drive, Bellingham, WA 98226, that it does adopt the annexed rules relating to:

New WAC 232-28-508 1985-86 Trapping seasons and rules.  
 Rep WAC 232-28-507 1984-85 Trapping seasons and rules.

This action is taken pursuant to Notice No. WSR 85-12-033 filed with the code reviser on June 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 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 July 10, 1985.

By Archie U. Mills  
 Chairman, Game Commission

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 adopted by the Department of Game have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Game, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

REPEALER

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

**WAC 232-28-507 1984-85 Trapping Seasons and Rules**

**WSR 85-19-082**  
**EMERGENCY RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**  
 [Order 275—Filed September 18, 1985]

Be it resolved by the State Game Commission, acting at Olympia, conference call, that it does adopt the annexed rules relating to Duplicate licenses, tags, etc.—Rules for issuance, WAC 232-12-189.

We, the State Game Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is WAC 232-12-189 had previously been adopted by the Game Commission October 1, 1984, pursuant to Notice No. WSR 84-17-090, filed August 17, 1984. Because proper filing requirements were not met within the filing period allowed, WAC 232-12-189 is being filed on an emergency basis pending further Game Commission action.

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

This rule is promulgated pursuant to RCW 77.32.256 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 September 16, 1985.

By Archie U. Mills  
Chairman, Game Commission

AMENDATORY SECTION (Amending Order 174, filed 10/22/81)

WAC 232-12-189 DUPLICATE LICENSES, TAGS, ETC.—RULES FOR ISSUANCE. ((Application)) Request for replacement of licenses, permits, tags, stamps or punchcards required by chapter 77.32 RCW, which have been lost, mutilated, or stolen, must be made ((on a form supplied by the department)) by the licensee.

~~((All applicable information indicated on the form must be provided and the form must be notarized:))~~

Duplicate licenses, permits, tags, stamps and punchcards may be issued ((only)) at department offices or by ((department employees authorized by the director)) game license dealers.

**WSR 85-19-083**  
**EMERGENCY RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**

[Order 276—Filed September 18, 1985]

Be it resolved by the Washington State Game Commission, acting at Olympia, conference call, that it does adopt the annexed rules relating to amendment to 1985 Washington game fish seasons and catch limits—Snake River, WAC 232-28-61420.

We, the Washington State Game Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is a substantial number of hatchery-origin fish with adipose fins removed will be returning to the Snake River this year. Currently, under provisions of WAC 232-28-614, only steelhead with dorsal fins measuring 2" or less in height may be reduced to possession. A significant percentage of marked hatchery-origin steelhead, up to 40%, may have fins over 2" in height. WAC 232-28-61420 will provide anglers the opportunity to fish for and possess hatchery-origin fish with missing adipose or ventral fins.

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

This rule is promulgated pursuant to RCW 77.12.040 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED September 16, 1985.

By Archie U. Mills  
Chairman, Game Commission

NEW SECTION

WAC 232-28-61420 AMENDMENT TO 1985 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS—SNAKE RIVER. Notwithstanding the provisions of WAC 232-28-614, effective for 90 days beginning September 16, 1985, the following provisions will apply to the Snake River:

SNAKE RIVER, 164, 165, 166, 167, 168

From mouth to the mouth  
of Redbird Creek.

Year around

TROUT; min. lgth.—10".  
Catch limit—6, no more than 2 over 20". CLOSED to the taking of trout (including steelhead over 20" in lgth.)  
Apr. 1–May 31. Closed to the taking of steelhead over 20" June 1–August 31. From Sep. 1–Nov. 14, only steelhead with dorsal fins measuring less than 2 inches in height when fully extended or with missing adipose or ventral fins may be reduced to possession. Barbless hooks required. It is unlawful to possess a steelhead with a freshly cut or mutilated dorsal, ventral or adipose fin. CLOSED WATERS: within 400' of the base of any dam and within a 400' radius around the fish ladder entrance at Lyons Ferry hatchery.

From the mouth of Redbird  
Creek upstream.

Year around

TROUT; min. lgth.—10".  
Catch limit—6, no more than 2 over 20". Closed to the taking of trout (including steelhead over 20" in lgth.)  
Apr. 1–May 31. From Sep. 1–Dec. 31 and Jan. 1–Mar. 31 only steelhead with dorsal fins measuring less than 2 inches in height when fully extended or with missing adipose or ventral fins may be reduced to possession. Barbless hooks required. It is unlawful to possess a steelhead with a freshly cut or mutilated dorsal, ventral or adipose fin.

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

**WSR 85-19-084**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 85-138—Filed September 18, 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 escapement levels of chinook salmon have been met and harvestable numbers of salmon are available.

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

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

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

APPROVED AND ADOPTED September 18, 1985.  
 By Russell W. Cahill  
 for William R. Wilkerson  
 Director

NEW SECTION

**WAC 220-40-02100C WILLAPA HARBOR GILL NET SEASON.** *Notwithstanding the provisions of WAC 220-40-021, (1) Effective immediately until 6:00 p.m. October 14, 1985, Willapa Harbor Salmon Management and Catch Reporting Areas 2G and 2H are open to salmon fishing. (2) Effective 6:00 p.m. September 18, 1985 until 6:00 p.m. October 14, 1985, Willapa Harbor Salmon Management and Catch Reporting Area 2M is open to salmon fishing.*

REPEALER

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

**WAC 220-40-02100B WILLAPA HARBOR GILL NET SEASON.** (85-137)

**WSR 85-19-085**  
**PROPOSED RULES**  
**LOTTERY COMMISSION**  
 [Filed September 18, 1985]

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

- Amd WAC 315-10-030 Instant games criteria.
- Amd WAC 315-30-050 Validation requirements.
- Amd WAC 315-30-080 On-line agent selection criteria.
- Amd WAC 315-32-010 Definitions for Lotto.
- Amd WAC 315-32-020 Price of Lotto ticket.
- Amd WAC 315-32-030 Play for Lotto.
- Amd WAC 315-32-040 Prizes for Lotto.
- Amd WAC 315-32-050 Ticket purchases.
- Amd WAC 315-32-060 Drawings.
- New WAC 315-11-180 Definitions for Instant Game Number 18 ("Washington Winners").
- New WAC 315-11-181 Criteria for Instant Game Number 18.
- New WAC 315-11-182 Ticket validation requirements for Instant Game Number 18;

that the agency will at 1:00 p.m., Friday, November 1, 1985, in the Commission Room, Olympia Regional Office, 1200 Cooper Point Road, 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 67.70.040.

The specific statute these rules are intended to implement is RCW 67.70.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before November 1, 1985.

Dated: September 18, 1985  
 By: Duane Kovacevich  
 Deputy Director

**STATEMENT OF PURPOSE**

Title and Number of Rule Section(s) or Chapter(s): WAC 315-10-030 Instant games criteria; 315-11-180 Definitions for Instant Game Number 18 ("Washington Winners"); 315-11-181 Criteria for Instant Game Number 18; 315-11-182 Ticket validation requirements for Instant Game Number 18; 315-30-050 Validation requirements; 315-30-080 On-line agent selection criteria; 315-32-010 Definitions for Lotto; 315-32-020 Price of Lotto ticket; 315-32-030 Play for Lotto; 315-32-040 Prizes for Lotto; 315-32-050 Ticket purchases; and 315-32-060 Drawings.

Statutory Authority: RCW 67.70.040.

Specific Statute that Rules are Intended to Implement: RCW 67.70.040.

Summary of the Rule(s): WAC 315-10-030 deletes the restriction that the length of an instant game not exceed fifteen weeks; 315-11-180 provides definitions of the terms used in Instant Game Number 18 rules; 315-11-181 sets forth criteria for Instant Game Number 18; 315-11-182 states the ticket validation requirements for Instant Game Number 18; 315-30-050 provides that certain claims determined by a court to be valid will be paid as prizes and establishes liability for payment; 315-30-080 establishes specific, objective criteria for on-line agent selection and ticket distribution machine removal; and 315-32-010, 315-32-020, 315-32-030, 315-32-040, 315-32-050 and 315-32-060 contain the new format for Lotto. They change the matrix from 6 of 40 to 6 of 44, add a fourth prize category, change the revenue allocation for the prize categories and authorizes alternative funding of installment prizes.

Reasons Supporting the Proposed Rule(s): WAC 315-10-030, necessary to provide flexibility in scheduling of instant games; 315-11-180, certain terms need to be defined in order to provide consistency in understanding and interpreting the rules and regulations under WAC 315-11-181 and 315-11-182; 315-11-181, licensed agents and players of Instant Game Number 18 need to know how the game will function. Specifying the criteria which apply to Instant Game 18 will provide this information; 315-11-182, tickets for Instant Game Number 18 which are found to be counterfeit or tampered with will be declared void by the lottery and no prize(s) will be paid. Rigid validation requirements are set forth to discourage persons from tampering with tickets and to prevent the lottery from paying out prize money on invalid tickets; 315-30-050, required to establish liability and method of payment for judicially validated claims; 315-30-080, necessary to provide adequate notice to prospective and existing on-line agents of the criteria which the lottery will use to select on-line agents and for removal of ticket distribution machines; and 315-32-010, 315-32-020, 315-32-030, 315-32-040, 315-32-050 and 315-32-060, the Lotto format requires changing to increase player participation and to generate additional revenue for the state. These amendments effect the required changes.

Agency Personnel Responsible for Drafting: Frank Edmondson, Contracts Specialist 3, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 754-1088; Implementation and Enforcement: Washington State Lottery Commission, P.O. Box 9770, Olympia, WA 98504, (206) 753-1412, Mary G. Faulk, Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3330, Duane Kovacevich, Deputy Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3334, Jerald F. Long, Assistant Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 754-1065, and Earl D. Sedlik, Assistant Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3384.

Name of Person or Organization, Whether Private, Public, or Governmental, that is Proposing this Rule: Washington State Lottery Commission.

Agency Comments or Recommendations, if any, Regarding the Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: None.

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

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: The Office of the Director, Washington State Lottery, has reviewed the requirements to file a small business economic impact statement and has determined that such a statement is not required for the rules proposed by the Washington State Lottery Commission for the following reason: These rules will only affect those businesses, large and small, which voluntarily apply to be licensed agents for the sale of lottery tickets or contractors who provide other services to the Office of the Director,

Washington State Lottery or who voluntarily interact with the Office of the Director, Washington State Lottery. No business or industry will be required to comply with these rules unless they wish to provide services to or interact with the Office of the Director, Washington State Lottery.

#### AMENDATORY SECTION (Amending Order 77, filed 7/30/85)

WAC 315-10-030 INSTANT GAMES CRITERIA. (1) The price of an instant game ticket shall not be less than \$1.00 and not more than \$5.00.

(2) Winners of an instant game are determined by the matching or specified alignment of the play numbers on the tickets. The ticket bearer must notify the lottery of the win and submit the winning ticket to the lottery as specified by the director. The winning ticket must be validated by the lottery through use of the validation number and/or any other means as specified by the director.

(3) The total of all prizes available to be won in an instant game shall not be less than forty-five percent of the instant game's projected revenue.

(4) The instant game shall pay out both lower tier prizes and higher tier prizes. Lower tier prizes are of less than \$25.00. Higher tier prizes are of \$25.00 or more. The director shall determine the number of lower and higher tier prizes.

(5) (~~The length of operation of an instant game shall not exceed fifteen weeks.~~) The start date and closing date of the instant game shall be publicly announced. Licensed agents shall not sell any tickets prior to the start date of a game unless expressly authorized by the director. Licensed agents may continue to sell tickets for each instant game for up to fourteen days after the official end of game as authorized by WAC 315-10-060.

(6) There is no required frequency of drawing or method of selection of a winner in an instant game.

(7) At the director's discretion, an instant game may include a grand prize drawing(s). The criteria for the grand prize drawing shall be as follows:

(a) Finalists for a grand prize drawing shall be selected in an elimination drawing(s) from redeemed tickets meeting the criteria stated in specific game rules as determined by the director. Participation in the elimination drawing(s) shall be limited to such tickets which are actually received and validated by the director on or before a date to be announced by the director. The director may reserve the right to place any semi-finalist whose entry was not entered in the elimination drawing(s) and who is subsequently determined to have been entitled to such entry into an elimination drawing of a subsequent instant game, and the determination of the director shall be final.

(b) The number of prizes and the amount of each prize in the grand prize drawing(s) shall be determined by the director to correspond with the size and length of the instant game and to comply with subsection (3) of this section.

(c) The dates and times as well as the procedures for conducting the elimination drawing and grand prize drawing shall be determined by the director.

(8) Procedures for claiming instant game prizes are as follows:

(a) To claim an instant game prize of less than \$25.00, the claimant shall present the apparent winning ticket to the licensed agent from whom the ticket was purchased. The licensed agent shall verify the claim and, if acceptable, make payment of the amount due the claimant. In the event the licensed agent cannot verify the claim, the claimant shall fill out a claim form, as provided in WAC 315-06-120, which shall be obtained from the licensed agent and present the completed form, together with the disputed ticket to the director. If the claim is validated by the director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(b) To claim an instant prize of \$25.00 or more, the claimant shall complete a claim form, as provided in WAC 315-06-120, which is obtained from the licensed agent or the director and mail the completed form together with the winning ticket to the director. Upon validation by the director, a check shall be forwarded to the claimant in payment of the amount due, less any applicable federal income tax withholding. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(c) To claim an instant prize pursuant to WAC 315-10-070(2), the claimant shall notify the lottery of the claim and request reconstruction of the ticket not later than one hundred eighty days after the official end of that instant game. If the director authorizes reconstruction, the ticket shall not be validated nor the prize paid prior to the one hundred eighty-first day following the official end of that instant game. A ticket(s) validated pursuant to WAC 315-10-070(2) shall not entitle the claimant entry into the grand prize drawing, if any, for that or any subsequent instant game.

(d) Any ticket not passing all the validation checks specified by the director is invalid and ineligible for any prize and shall not be paid. However, the director may, solely at his or her option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price from any other current game). In the event a defective ticket is purchased, the only responsibility or liability of the director shall be the replacement of the defective ticket with another unplayed ticket (or tickets of equivalent sale price from any other current game).

#### AMENDATORY SECTION (Amending Order 44, filed 12/8/83)

WAC 315-30-050 VALIDATION REQUIREMENTS. (1) To be a valid winning on-line ticket, all of the following conditions must be met:

(a) All printing on the ticket shall be present in its entirety, be legible, and correspond, using the computer validation file, to the combination and date printed on the ticket.

(b) The ticket shall be intact.

(c) The ticket shall not be mutilated, altered, or tampered with in any manner.

(d) The ticket shall not be counterfeit or an exact duplicate of another winning ticket.

(e) The ticket must have been issued by an authorized licensed agent in an authorized manner.

(f) The ticket must not have been stolen ~~((or cancelled))~~.

(g) The ticket must not have been cancelled or previously paid.

(h) The ticket shall pass all other confidential security checks of the lottery.

(2) Any ticket failing any validation requirement listed in WAC 315-30-050(1) is invalid and ineligible for a prize. Provided, if a court of competent jurisdiction determines that a claim based on a ticket which has failed to validate solely because of subsection (1)(g) of this section is valid, the claim shall be paid as a prize pursuant to WAC 315-06-120, 315-30-030, and the rules for that specific type of game. The agent that cancelled or paid such ticket shall indemnify the lottery for payment of the prize and from any other claim, suit, or action based on that ticket.

(3) The director may replace an invalid on-line ticket with an on-line ticket for a future drawing of the same game. The director may pay the prize for a ticket that is partially mutilated or is not intact if the on-line ticket can still be validated by the other validation requirements.

(4) In the event a defective on-line ticket is purchased, the only responsibility or liability of the lottery or the on-line agent shall be the replacement of the defective on-line ticket with another on-line ticket for a future drawing of the same game.

#### AMENDATORY SECTION (Amending Order 72, filed 4/5/85)

WAC 315-30-080 ON-LINE AGENT SELECTION CRITERIA. (1) The selection and distribution of on-line agents throughout the state will be based on:

(a) The number of licensed agents in each of the regions identified in WAC 315-12-030, and then;

(b) The potential for revenue generation, demographics, and public accessibility within that region.

(2) An on-line license endorsement shall be issued only to a person who possesses a valid general license, provided, the director may issue an on-line endorsement to an agent who possesses a valid provisional license if that agent is a new owner of a previously established on-line location.

(3) In addition, the director shall consider the following factors in the selection of on-line agents.

(a) Business and security considerations which include but are not limited to: (i) Instant game accounts receivable record, (ii) criminal history of owners and officers, (iii) history of criminal activity at the business establishment, (iv) past security problems, (v) credit rating as defined in WAC 315-30-090, (vi) licensing requirements, and (vii) history of administrative or regulatory actions.

(b) Marketing considerations which include but are not limited to: (i) ~~((Customer traffic and sales volume))~~ Instant ticket sales history, (ii) ~~((lottery-oriented consumers))~~ outside vehicle traffic, (iii) ~~((market potential, and))~~ retail customer count, (iv) access to location, and (v) management ~~((commitment to))~~ attitude and willingness to promote lottery products.

(4) ~~((The lottery will install approximately five hundred TDMs initially with approximately fifty TDMs added each month for the first twelve months and approximately twenty-five TDMs per month thereafter.))~~ The director shall determine the total number of TDM's to be installed throughout the state and shall establish procedures for on-line site selection. In determining the order in which TDMs will be installed within a given geographic area an on-line site selection survey will be completed in which, the ~~((following))~~ factors ~~((will be))~~ considered will include but not be limited to:

(a) ~~((Demonstrated high-volume instant ticket sales))~~ General information;

(b) ~~((High customer traffic))~~ Description of proposed site;

(c) ~~((Easy in and out access))~~ Proposed TDM location;

(d) ~~((Management commitment to lottery products, and))~~ Products sold;

(e) ~~((Store traffic patterns relative to TDM placement))~~ Services available;

(f) Store's hours;

(g) Estimated on-line sales;

(h) Instant sales per week;

(i) Nearest four on-line agents' sales per week;

(j) District sales representative's assessment; and

(k) Regional sales manager's assessment.

(5) The director may, after a TDM has been in operation for six months, order the removal of a TDM from ~~((an))~~ a low producing on-line agent location after considering marketing factors which include but are not limited to:

(a) ~~((Accessibility of the on-line agent's place of business to the public))~~ Sales volume not increasing at state-wide average;

(b) ~~((Sufficiency of TDMs in the geographic area to provide public accessibility, and))~~ Weekly sales volume below that of similar businesses with similar market potential;

(c) ~~((A nonmetropolitan area on-line agent's average on-line sales volume over four consecutive weeks, or))~~ Sales volume below \$5,000 per week in metropolitan areas;

(d) ~~((A metropolitan area on-line agent's failure to meet the average on-line minimum sales volume requirement of two thousand five hundred dollars per week over four consecutive weeks.))~~ Public is adequately served by other on-line agent locations; and

(e) Failure to generate sufficient sales volume to cover the lottery's administrative costs.

(6) The director may immediately discontinue a TDM's operation, order removal of a TDM from an on-line agent location, or take any other action authorized under WAC 315-04-200 in the event that the on-line agent:

(a) Fails to comply with any rule established by the commission, any instruction issued by the director;

(b) Tamper with or attempts to tamper with the TDM or on-line system;

(c) Fails to make payment of a prize; or

(d) Makes payment with a business check and the check is dishonored for any reason.

#### Chapter 315-32 WAC ~~((EVERGREEN))~~ LOTTO

#### WAC

315-32-010	Definitions for <del>((Evergreen))</del> Lotto.
315-32-020	Price of <del>((Evergreen))</del> Lotto ticket.
315-32-030	Play for <del>((Evergreen))</del> Lotto.
315-32-040	Prizes for <del>((Evergreen))</del> Lotto.
315-32-050	Ticket purchases.
315-32-060	Drawings.

#### AMENDATORY SECTION (Amending Order 61, filed 8/3/84)

WAC 315-32-010 DEFINITIONS FOR ~~((EVERGREEN))~~ LOTTO. (1) Number: Any play integer from 1 through ~~((40))~~ 44 inclusive.

(2) Game grids: A field of the ~~((40))~~ 44 numbers found on the play slip.

(3) Play slip: A mark-sense game card used by players of ~~((Evergreen))~~ Lotto to select plays. There shall be ten game grids on each play slip identified as A, B, C, D, E, F, G, H, I and J.

AMENDATORY SECTION (Amending Order 61, filed 8/3/84)

WAC 315-32-020 PRICE OF ~~((EVERGREEN))~~ LOTTO TICKET. The price of each ~~((Evergreen))~~ Lotto ticket shall be \$1.00 and shall contain two plays. A player may use a play slip to purchase up to 5 tickets as follows:

- 1 ticket: \$1 - game grids A and B.
- 2 tickets: \$2 - game grids A, B, C and D.
- 3 tickets: \$3 - game grids A, B, C, D, E and F.
- 4 tickets: \$4 - game grids A, B, C, D, E, F, G and H.
- 5 tickets: \$5 - game grids A, B, C, D, E, F, G, H, I and J.

AMENDATORY SECTION (Amending Order 61, filed 8/3/84)

WAC 315-32-030 PLAY FOR ~~((EVERGREEN))~~ LOTTO. (1) Type of play: ~~((An Evergreen))~~ A Lotto player must select six numbers in each play. A winning play is achieved only when 3, 4, 5, or 6 of the numbers selected by the player match, in any order, the six winning numbers drawn by the lottery.

(2) Method of play: The player will use play slips to make number selections. The TDM will read the play slip and issue ticket(s) with corresponding plays. If a play slip is not available, the agent may enter the selected numbers via the keyboard. A player may leave all play selections to a random number generator operated by the computer, commonly referred to as "quick play."

AMENDATORY SECTION (Amending Order 75, filed 6/10/85)

WAC 315-32-040 PRIZES FOR ~~((EVERGREEN))~~ LOTTO. (1) The prize amounts to be paid to each ~~((Evergreen))~~ Lotto player who selects a winning combination of numbers in the first, second, and third prize categories vary due to the parimutuel calculation of prizes. The prize amounts are based on the total amount in the prize pool for that ~~((Evergreen))~~ Lotto drawing distributed over the number of winning tickets in each ~~((of the following categories))~~ category. The prize amount to be paid in the fourth prize category is a fixed value and shall be the same regardless of the number of fourth prize winners.

<u>WINNING COMBINATIONS</u>	<u>PRIZE CATEGORIES</u>	<u>ODDS OF WINNING (ONE PLAY)</u>
All six winning numbers in one play	First Prize (Jackpot)	1:7,059,052
Any five but not six winning numbers in one play	Second Prize	1:30,960
Any four but not five or six winning numbers in one play	Third Prize	1:670
Any three but not four, five, or six winning numbers in one play	Fourth Prize	1:42

(2) Prize ~~((pool))~~ allocation. The prize ~~((pool))~~ allocation consists of forty-five percent of ~~((Evergreen))~~ Lotto revenue. The prize allocation will be divided between the prize pool and the prize reserve as follows: Prize pool—forty-three percent of Lotto revenue and prize reserve—two percent of Lotto revenue.

(3) Prize amounts.  
 (a) First prize (jackpot). Fifty-eight percent of the prize pool is to be divided equally among all players who selected all six winning numbers in one play (in any sequence) ~~((, provided, that the jackpot shall have a minimum cash value of \$500,000))~~. The director may increase the ~~((minimum))~~ cash value of the jackpot by an amount not to exceed the amount added to the jackpot from the prior week's sales.

(b) Second prize. ~~((Twenty))~~ Ten percent of the prize pool is to be divided equally among all players who selected five of the six winning numbers in one play (in any sequence).

(c) Third prize. ~~((Twenty))~~ Nineteen percent of the prize pool is to be divided equally among all players who selected four of the six winning numbers in one play (in any sequence).

(d) Fourth prize. All players who selected three of the six winning numbers in one play (in any sequence) will receive a free ticket of \$1.00 value for a future purchase of Lotto or Daily Number Game tickets.

~~((c))~~ Prize reserve. ~~((Two percent of))~~ The prize ~~((pool is to))~~ reserve will be held for payment of ~~((jackpot))~~ prizes at the discretion of the director.

~~((f))~~ ~~((f))~~ All prize allocations will be rounded down to nearest dollar, and the remainder, if any, from the rounding process shall be placed in the prize reserve.

~~((f))~~ ~~((g))~~ The holder of a winning ticket may win only one prize per play in connection with the winning number drawn but shall be entitled only to the highest prize category won by those numbers.

~~((g))~~ ~~((h))~~ The holder of two or more jackpot winning tickets with a cumulative total cash value of \$250,000 or more may elect to receive a single prize based on the total cash value with prize payments in accordance with subsection (5)(a) or (b) or this section.

~~((h))~~ ~~((i))~~ In the event any player who has selected three, four, five, or six of the six winning numbers does not claim the prize won within one hundred eighty days after the drawing in which the prize was won, that player's prize shall be retained in the state lottery ~~((fund))~~ account for further use as prizes, pursuant to RCW 67.70.190.

(4) Roll-over feature.  
 (a) If no player selects all six winning numbers for any given drawing, the jackpot accumulated for that drawing will be added to the jackpot accumulation for the next drawing. This process is repeated until the jackpot is won.

(b) If no player selects five of the six winning numbers for any given drawing, the second prize allocation will be added to the jackpot accumulation for the next drawing or placed in the prize reserve for future consideration at the discretion of the director.

(c) If no player selects four of the six winning numbers for any given drawing, the third prize allocation will be added to the jackpot accumulation for the next drawing or placed in the prize reserve for future consideration at the discretion of the director.

(d) If no player selects three of the six winning numbers for any given drawing, the fourth prize allocation will be added to the jackpot accumulation for the next drawing or placed in the prize reserve for future consideration at the discretion of the director.

(5) Prize payments will be made in accordance with WAC 315-30-030(6), provided, fourth prize winning tickets submitted to the lottery for payment will receive \$1.00 in lieu of a free ticket.

(a) Each prize that has a cash value of \$500,000 or more shall be paid in twenty equal annual payments.

(b) Each prize that has a cash value from \$250,000 up to but not including \$500,000 shall be paid in ten equal annual payments.

(c) Each prize that has a cash value of less than \$250,000 shall be paid in a single ~~((lump sum))~~ payment.

(d) For prizes paid over a period of years, the lottery will make the first annual payment. The remaining payments will be paid in the form ~~((of fixed term annuity))~~ designated by the director.

AMENDATORY SECTION (Amending Order 61, filed 8/3/84)

WAC 315-32-050 TICKET PURCHASES. (1) ~~((Evergreen))~~ Lotto tickets may be purchased between 6:00 a.m. and 11:00 p.m., Sunday through Friday and from 6:00 a.m. to the time established under WAC 315-30-040(2) on Saturdays, provided that on-line agents shall sell tickets only during their normal business hours.

(2) ~~((Evergreen))~~ Lotto tickets may be purchased only from a licensed agent authorized by the director to sell on-line tickets.

(3) ~~((Evergreen))~~ Lotto tickets shall on the front of the ticket contain the player's selection of numbers, amount, game grids played, ~~((and))~~ drawing date, and validation and reference numbers. The back of the ticket shall contain overall odds of winning, player instructions, player information and signature area, and the ticket serial number.

(4) ~~((Evergreen))~~ Lotto tickets may be purchased for the next drawing only.

AMENDATORY SECTION (Amending Order 61, filed 8/3/84)

WAC 315-32-060 DRAWINGS. (1) ~~((An Evergreen))~~ A Lotto drawing shall be held each week on Saturday evening, except that the director may change the drawing schedule if Saturday is a holiday.

(2) The drawing will be conducted by lottery officials.

(3) Each drawing shall determine, at random, six winning numbers with the aid of mechanical drawing equipment which shall be tested before and after that drawing. Any drawn numbers shall not be declared winning numbers until the drawing is certified by the lottery. The winning numbers shall be used in determining all Lotto winners for that drawing. If a drawing is not certified, another drawing will be conducted to determine actual winners.

(4) The drawing shall not be invalidated based on the liability of the lottery.

**NEW SECTION**

WAC 315-11-180 DEFINITIONS FOR INSTANT GAME NUMBER 18 ("WASHINGTON WINNERS"). (1) Play symbols: The following are the "play symbols":



One of these symbols appears under each of the six rub-off spots on the front of the ticket.

(2) Validation number: The unique nine-digit number on the lower right portion of the front of the ticket. The number is covered by latex which is overprinted "DO NOT REMOVE."

(3) Pack-ticket number: The ten-digit number of the form 8000001-000 printed on the front of the ticket. The first seven digits of the pack-ticket number for Instant Game Number 18 constitute the "pack number" which starts at 8000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Captions: The small printed characters appearing below each play symbol which verifies and corresponds with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 18, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
	SAIL
	FISH
	APPL
	SKI
	TREE
	WHT
	MTN
	ENT

(5) Agent verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the licensed agent uses to verify instant winners below \$25. For Instant Game Number 18, the agent verification code is a three-letter code, with each letter appearing in a varying three of five locations beneath the removable covering and among the play symbols on the front of the ticket. The agent verification codes are:

VERIFICATION CODE	PRIZE
TWO	\$2.00
FIV	\$5.00
TEN	\$10.00
TTY	\$20.00

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in a plastic bag or plastic shrinkwrapping.

**NEW SECTION**

WAC 315-11-181 CRITERIA FOR INSTANT GAME NUMBER 18. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) The bearer of a ticket having the following play symbols in any three of the six spots beneath the removable covering on the front of the ticket shall win the following prize:

- Three play symbols – Win \$2.00
- Three play symbols – Win \$5.00
- Three play symbols – Win \$10.00
- Three play symbols – Win \$20.00
- Three play symbols – Win \$50.00
- Three play symbols – Win \$100.00
- Three play symbols – Win \$5,000
- Three play symbols – Win Entry into Grand Prize Drawing

(b) In any event, only the highest instant prize amount meeting the standards of (a) of this subsection will be paid on a given ticket.

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 18 set forth in WAC 315-11-182, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) There will be one grand prize drawing for Instant Game Number 18. It will be conducted at a time and place and pursuant to procedures to be established and announced by the director. The prizes awarded at the grand prize drawing will be: First prize, \$250,000; second prize, \$25,000; third, fourth, and fifth prizes, \$10,000 each; sixth, seventh, eighth, ninth, and tenth prizes, \$5,000 each. In the event that an entry is not included in the grand prize drawing process and the director determines that the entry was entitled to participation in the process, the director reserves the right to place that entry into a subsequent grand prize drawing process.

(a) To be eligible for entry into a preliminary drawing, an entrant must:

(i) Be eligible to win a prize pursuant to chapter 67.70 RCW and Title 315 WAC.

(ii) Have a valid winning "Washington Winners" "Entry" ticket.

(iii) Write or print legibly, the entrant's name and address on the back of the ticket or on a separate sheet of paper. An entry containing more than one name and/or address shall be disqualified.

(iv) Place the ticket in an envelope. An envelope which contains extraneous material or which has had the exterior altered for the apparent sole purpose of making the envelope more prominent shall be disqualified.

(v) Mail the envelope with proper postage and a legible return address of the entrant to the address specified on the back of the ticket and in the player's brochure ("WASHINGTON WINNERS" Grand Prize Drawing, Tacoma, WA 98450), or deliver it in person during normal business hours to:

Office of the Director  
 Washington State Lottery  
 600 Park Village Plaza  
 1200 Cooper Point Road SW  
 Olympia, WA 98502

(b) There is no limit to the number of entries a person may submit, but each entry must be submitted in a separate envelope and both the



entry and the entrant of each must meet the qualifications set forth above.

(c) Entries must be received by the lottery no later than fourteen days after the announced end of game.

(d) An entry which contains one or more stolen tickets may be disqualified by the director.

(e) A nonconforming entry, at the sole discretion of the director, may be disqualified.

(f) The lottery shall not be responsible for any other material, including winning tickets, mailed or delivered to the "WASHINGTON WINNERS" Grand Prize Drawing. All mail not drawn will be incinerated unopened.

(6) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 18; and/or

(b) Vary the number of tickets sold in Instant Game Number 18 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

#### NEW SECTION

WAC 315-11-182 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 18. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 18 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the six rub-off spots on the front of the ticket.

(b) Each of the six play symbols must have a caption below and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbol	Mead 20 Point font
Captions	Mead 5 x 11 Matrix font
Pack-Ticket Number	OCR-A Size 1 Condensed font
Validation Number	OCR-A Size 1 Condensed font
Agent Verification Code	Mead 7 x 12 Matrix font

(d) Each of the play symbols and their captions, the validation number, pack-ticket number and the agent verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-180(1) and each of the captions must be exactly one of those described in WAC 315-11-180(4).

(2) Removal of part or all of the latex overprinted "DO NOT REMOVE" covering of the validation number will not invalidate an otherwise valid ticket.

(3) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

#### AMENDATORY SECTION (Amending Order 77, filed 7/30/85)

WAC 315-10-030 INSTANT GAMES CRITERIA. (1) The price of an instant game ticket shall not be less than \$1.00 and not more than \$5.00.

(2) Winners of an instant game are determined by the matching or specified alignment of the play numbers on the tickets. The ticket bearer must notify the lottery of the win and submit the winning ticket to the lottery as specified by the director. The winning ticket must be validated by the lottery through use of the validation number and/or any other means as specified by the director.

(3) The total of all prizes available to be won in an instant game shall not be less than forty-five percent of the instant game's projected revenue.

(4) The instant game shall pay out both lower tier prizes and higher tier prizes. Lower tier prizes are of less than \$25.00. Higher tier prizes are of \$25.00 or more. The director shall determine the number of lower and higher tier prizes.

(5) ~~((The length of operation of an instant game shall not exceed fifteen weeks.))~~ The start date and closing date of the instant game shall be publicly announced. Licensed agents shall not sell any tickets prior to the start date of a game unless expressly authorized by the director. Licensed agents may continue to sell tickets for each instant game for up to fourteen days after the official end of game as authorized by WAC 315-10-060.

(6) There is no required frequency of drawing or method of selection of a winner in an instant game.

(7) At the director's discretion, an instant game may include a grand prize drawing(s). The criteria for the grand prize drawing shall be as follows:

(a) Finalists for a grand prize drawing shall be selected in an elimination drawing(s) from redeemed tickets meeting the criteria stated in specific game rules as determined by the director. Participation in the elimination drawing(s) shall be limited to such tickets which are actually received and validated by the director on or before a date to be announced by the director. The director may reserve the right to place any semi-finalist whose entry was not entered in the elimination drawing(s) and who is subsequently determined to have been entitled to such entry into an elimination drawing of a subsequent instant game, and the determination of the director shall be final.

(b) The number of prizes and the amount of each prize in the grand prize drawing(s) shall be determined by the director to correspond with the size and length of the instant game and to comply with subsection (3) of this section.

(c) The dates and times as well as the procedures for conducting the elimination drawing and grand prize drawing shall be determined by the director.

(8) Procedures for claiming instant game prizes are as follows:

(a) To claim an instant game prize of less than \$25.00, the claimant shall present the apparent winning ticket to the licensed agent from whom the ticket was purchased. The licensed agent shall verify the claim and, if acceptable, make payment of the amount due the claimant. In the event the licensed agent cannot verify the claim, the claimant shall fill out a claim form, as provided in WAC 315-06-120, which shall be obtained from the licensed agent and present the completed form, together with the disputed ticket to the director. If the claim is validated by the director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(b) To claim an instant prize of \$25.00 or more, the claimant shall complete a claim form, as provided in WAC 315-06-120, which is obtained from the licensed agent or the director and mail the completed form together with the winning ticket to the director. Upon validation by the director, a check shall be forwarded to the claimant in payment of the amount due, less any applicable federal income tax withholding. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(c) To claim an instant prize pursuant to WAC 315-10-070(2), the claimant shall notify the lottery of the claim and request reconstruction of the ticket not later than one hundred eighty days after the official end of that instant game. If the director authorizes reconstruction, the ticket shall not be validated nor the prize paid prior to the one hundred eighty-first day following the official end of that instant game. A ticket(s) validated pursuant to WAC 315-10-070(2) shall not entitle the claimant entry into the grand prize drawing, if any, for that or any subsequent instant game.

(d) Any ticket not passing all the validation checks specified by the director is invalid and ineligible for any prize and shall not be paid. However, the director may, solely at his or her option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price from any other current game). In the event a defective ticket is purchased, the only responsibility or liability of the director shall be the replacement of the defective ticket with another unplayed ticket (or tickets of equivalent sale price from any other current game).

#### AMENDATORY SECTION (Amending Order 72, filed 4/5/85)

WAC 315-30-080 ON-LINE AGENT SELECTION CRITERIA. (1) The selection and distribution of on-line agents throughout the state will be based on:

(a) The number of licensed agents in each of the regions identified in WAC 315-12-030, and then;

(b) The potential for revenue generation, demographics, and public accessibility within that region.

(2) An on-line license endorsement shall be issued only to a person who possesses a valid general license, provided, the director may issue an on-line endorsement to an agent who possesses a valid provisional license if that agent is a new owner of a previously established on-line location.

(3) In addition, the director shall consider the following factors in the selection of on-line agents.

(a) Business and security considerations which include but are not limited to: (i) Instant game accounts receivable record, (ii) criminal history of owners and officers, (iii) history of criminal activity at the business establishment, (iv) past security problems, (v) credit rating as defined in WAC 315-30-090, (vi) licensing requirements, and (vii) history of administrative or regulatory actions.

(b) Marketing considerations which include but are not limited to: (i) ~~((Customer traffic and sales volume))~~ Instant ticket sales history, (ii) ~~((lottery-oriented consumers))~~ outside vehicle traffic, (iii) ~~((market potential, and))~~ retail customer count, (iv) access to location, and (v) management ~~((commitment to))~~ attitude and willingness to promote lottery products.

(4) ~~((The lottery will install approximately five hundred TDMs initially with approximately fifty TDMs added each month for the first twelve months and approximately twenty-five TDMs per month thereafter.))~~ The director shall determine the total number of TDM's to be installed throughout the state and shall establish procedures for on-line site selection. In determining the order in which TDMs will be installed within a given geographic area an on-line site selection survey will be completed in which, the ~~((following))~~ factors ~~((will be))~~ considered will include but not be limited to:

(a) ~~((Demonstrated high-volume instant ticket sales))~~ General information;

(b) ~~((High customer traffic))~~ Description of proposed site;

(c) ~~((Easy in and out access))~~ Proposed TDM location;

(d) ~~((Management commitment to lottery products; and))~~ Products sold;

(e) ~~((Store traffic patterns relative to TDM placement))~~ Services available;

(f) Store's hours;

(g) Estimated on-line sales;

(h) Instant sales per week;

(i) Nearest four on-line agents' sales per week;

(j) District sales representative's assessment; and

(k) Regional sales manager's assessment.

(5) The director may, after a TDM has been in operation for six months, order the removal of a TDM from ~~((an))~~ a low producing on-line agent location after considering marketing factors which include but are not limited to:

(a) ~~((Accessibility of the on-line agent's place of business to the public))~~ Sales volume not increasing at state-wide average;

(b) ~~((Sufficiency of TDMs in the geographic area to provide public accessibility, and))~~ Weekly sales volume below that of similar businesses with similar market potential;

(c) ~~((A nonmetropolitan area on-line agent's average on-line sales volume over four consecutive weeks; or))~~ Sales volume below \$5,000 per week in metropolitan areas;

(d) ~~((A metropolitan area on-line agent's failure to meet the average on-line minimum sales volume requirement of two thousand five hundred dollars per week over four consecutive weeks.))~~ Public is adequately served by other on-line agent locations; and

(e) Failure to generate sufficient sales volume to cover the lottery's administrative costs.

(6) The director may immediately discontinue a TDM's operation, order removal of a TDM from an on-line agent location, or take any other action authorized under WAC 315-04-200 in the event that the on-line agent:

(a) Fails to comply with any rule established by the commission, any instruction issued by the director;

(b) Tamper with or attempts to tamper with the TDM or on-line system;

(c) Fails to make payment of a prize; or

(d) Makes payment with a business check and the check is dishonored for any reason.

rules concerning revisions to WAC 261-40-135 and 261-40-150 establishing the methodology and criteria for approval, modification, or disapproval of annual budget submittals and rates, rate schedules and other charges and changes therein;

that the agency will at 10:00 a.m., Thursday, October 24, 1985, in the Vance Airport Inn, Seattle, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 70.39.180 and 34.04.020.

The specific statute these rules are intended to implement is chapter 70.39 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before October 14, 1985.

Dated: September 18, 1985

By: Maurice A. Click  
Executive Director

#### STATEMENT OF PURPOSE

Title and Number of Rule: Chapter 261-40 WAC, Review and approval of annual budget submittals, rates, rate schedules, other charges and changes.

Statutory Authority: RCW 70.39.180(1) and 34.04.020.

Specific Statute that Rule is Intended to Implement: Chapter 70.39 RCW.

Reasons Supporting the Proposed Rules: To establish the methodology and criteria for approval, modification, or disapproval of annual budget submittals and rates, rate schedules, other charges and changes therein.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of These Rules: Mr. Maurice A. Click, Executive Director, and Ms. Mary K. Bensen, Deputy Director, Washington State Hospital Commission, 206 Evergreen Plaza Building, 711 South Capital Way, Mailstop FJ-21, Olympia, Washington 98504, (206) 753-1990.

Name of the Person or Organization Whether Private, Public, or Governmental that is Proposing the Rule: Washington State Hospital Commission.

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

Pursuant to RCW 19.85.040, the Hospital Commission submits the following small business economic impact statement. The proposed amendments retain provisions for alternative systems of financial reporting and modifications of the uniform reporting system which provides specialized and reduced reporting requirements for smaller hospitals: WAC 261-20-060 and 261-20-074. The Hospital Commission believes that these provisions enable smaller hospitals to report the information required by the statute in the least onerous fashion.

AMENDATORY SECTION (Amending Order 83-02, Resolution No. 83-02, filed 2/28/83)

WAC 261-40-135 STAFF FINDINGS AND RECOMMENDATIONS REGARDING ANNUAL BUDGET SUBMITTAL. (1) Hospital commission staff shall review each hospital's annual budget

#### WSR 85-19-086 PROPOSED RULES HOSPITAL COMMISSION

[Filed September 18, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Hospital Commission intends to adopt, amend, or repeal

submittal. The staff shall utilize the methodology and address the criteria as set out in WAC 261-40-150. Requests involving variance from any criteria set out therein shall be specifically addressed by staff, who shall also make recommendations upon such requests and specify the basis for such recommendations.

~~((+))~~ (2) Contents: Upon completion of the staff review of a hospital's annual budget submittal, the staff shall prepare a written statement of its findings and recommendations to the commission. Such statement shall include:

(a) An analysis of the annual budget submittal in such form as the commission shall direct, as corrected or modified by the hospital in response to WAC 261-40-110(1) notice;

(b) A description of the exceptions noted in the primary, secondary, or detailed expense screening process used by the staff together with any explanation or justification provided by the hospital or determined by the staff for such exception;

(c) Recommendations of the staff regarding the rates, rate schedules, other charges, or changes therein proposed in the annual budget submittal; and

(d) Such other matters as the staff deems appropriate.

~~((2))~~ (3) Date of providing of statement: A copy of the staff's statement shall be provided to the hospital not less than fifteen days prior to the date last set for commission consideration of the hospital's annual budget submittal. Copies of the statement also shall be provided to commission members by that same date.

AMENDATORY SECTION (Amending Order 84-05, Resolution No. 84-05, filed 10/1/84)

WAC 261-40-150 METHODOLOGY AND CRITERIA FOR APPROVAL, MODIFICATION, OR DISAPPROVAL OF ANNUAL BUDGET SUBMITTAL AND RATES, RATE SCHEDULES, OTHER CHARGES, AND CHANGES THEREIN. The following methodology and criteria shall be utilized by the commission in reviewing and acting on annual budget submittals(~~(-however, t)~~). The relative importance of each criterion (~~(listed below)~~), and the extent to which justification for variance from the methodology and criteria is accepted, is a matter of commission discretion:

(1) Whether the hospital's annual budget submittal and the rates, rate schedules, other charges, and changes therein:

(a) Are such that the commission can assure all purchasers of that hospital's health care services that the total costs of the hospital are reasonably related to the total services offered by that hospital;

(b) Are such that the hospital's costs do not exceed those that are necessary for a prudently and reasonably managed hospital;

(c) Are such that the hospital's aggregate revenues as expressed by rates are reasonably related to the hospital's aggregate costs;

(d) Are such that rates are set equitably among all purchasers or classes of purchasers of services without undue discrimination or preference.

(2) Whether the commission action will permit any hospital to render necessary, effective and efficient service in the public interest.

(3) Whether the commission action will assure access to necessary, effective, economically viable and efficient hospital health care capability throughout the state, rather than the solvency or profitability of any individual hospital except where the insolvency of a hospital would seriously threaten the access of the rural public to basic health care services.

(4) Whether the appropriate area-wide and state comprehensive health planning agencies have recommended approval, modification, or disapproval of the annual budget submittal, or the rates, rate schedules, other charges, or changes therein.

(5) Whether the proposed budget and the projected revenues and expenses would result in the rate structure most reasonable under the circumstances. The following shall be considered by the commission in making that determination:

(a) The commission shall determine whether the hospital's requested utilization statistics are reasonably attainable, based upon:

(i) Historical admission trends, including a revised current year estimate derived from seasonally-adjusted quarterly report information;

(ii) Historical trends of outpatient volumes as measured by inflation-adjusted outpatient revenue and outpatient equivalents of admissions;

(iii) Historical trends of the average length of stay; and

(iv) Such other information as the commission may determine is appropriate as a basis for deviating from measures based upon historical trends including, but not limited to:

(A) Revisions necessary to maintain compliance with the commission's Accounting and Reporting Manual for Hospitals pursuant to WAC 261-20-030;

(B) Negotiated rate agreements that guarantee additional volumes related to a purchaser of hospital health care services;

(C) The implementation or deletion of services or programs for which certificate of need approval has been obtained, if required;

(D) The opening of new health care service-related capacity for which certificate of need approval has been obtained, if required; and

(E) Other considerations presented by the hospital and determined to be appropriate by the commission.

(b) The commission shall consider how the hospital's requested net patient services revenue (total rate setting revenue less deductions from revenue) per adjusted admission compares to the hospital's revised target net patient services revenue per adjusted admission.

(i) A principal screen shall be the basis for adjusting each hospital's target net patient services revenue per adjusted admission as follows:

(A) For each hospital whose percentage increase in target net patient services revenue per adjusted admission over the current year approved level exceeds the peer group median of the target, the hospital's target shall be reduced to reflect the peer group median target rate of increase.

(B) For each hospital whose target net patient services revenue per adjusted admission exceeds the peer group median of the target, the hospital's target shall be reduced by one-half of one percent for each one percent variance above the peer group median of the target.

(ii) If, after volume adjusting the revised target and the budget request to reasonably attainable levels of adjusted admissions, the requested net patient services revenue per adjusted admission does not exceed the revised target, the operating expense and capital allowance sections of the hospital's annual budget submittal will not be subject to further review provided that the resulting rates meet the criteria of WAC 261-40-150(6).

(iii) If, after volume adjusting the revised target and the budget request to reasonably attainable levels of adjusted admissions, the requested net patient services revenue per adjusted admission exceeds the revised target, further review of the components of operating expense and capital allowance will be conducted.

(c) The commission shall determine whether the hospital's requested operating expenses are such that the commission can assure all purchasers of that hospital's health care services that the total costs of the services are reasonably related to the total services offered by that hospital and are such that the hospital's costs do not exceed those that are necessary for a reasonably and prudently managed hospital, based upon:

(i) Adjusting the requested level of operating expenses to reflect the adjusted admissions as determined according to WAC 261-40-150(5)(a), utilizing the variable cost factors described in WAC 261-40-150(7);

(ii) Applying national hospital market basket inflation forecasts to operating expenses by natural classification as the inflation forecasts may be modified to reflect regional or state-wide economic conditions;

(iii) Such other information as the commission may determine is appropriate as a basis for deviating from the standard variable cost ratios or inflation forecasts. This information shall include but not be limited to:

(A) Revisions necessary to comply with the commission's Accounting and Reporting Manual for Hospitals pursuant to WAC 261-20-030;

(B) Reasonable operating expenses related to implementation or deletion of services or programs for which certificate of need approval has been obtained, if required;

(C) Reasonable operating expenses related to expansion or contraction of hospital capacity for which certificate of need approval has been obtained, if required;

(D) Volume adjustments of a magnitude which render the standard variable cost factors described in WAC 261-40-150(7) inappropriate; and

(E) Other consideration presented by the hospital and determined to be appropriate by the commission.

(d) The commission shall determine whether the hospital's requested capital allowance is appropriate based upon the following:

(i) Capital allowance shall be computed as a return on net property, plant and equipment (property, plant and equipment less accumulated depreciation) used in hospital operations. Interest expense on long-term debt shall be deducted from the return on net property, plant and equipment.

(A) The value for net property, plant and equipment shall be derived from the balances at the end of the hospital's current year, as approved by the commission, and the projected balances at the end of the budget year. An average shall be calculated. The average of the net property, plant and equipment shall be the base upon which the return shall be calculated.

(1) Any capital expenditures contained in the projected balances at the end of the budget year which are subject to certificate of need approval will be excluded from the base until such time as the certificate of need has been issued by the department of social and health services;

(2) Any assets contained in net property, plant and equipment that do not relate to hospital operations, as defined in the commission's Accounting and Reporting Manual for Hospitals, pursuant to WAC 261-20-030, will be excluded from the base.

(B) A return on net property, plant and equipment for proprietary hospitals at the interest rate of "A" Rated Taxable Bond-25 Years as of October 1, 1985, and for the not-for-profit hospitals at the interest rate of "A" Rated Tax-Exempt Bond-25 Years as of October 1, 1985 shall be presumed appropriate; however, the commission may vary from that rate, higher or lower, where appropriate. After computation of the return, allowable interest expense on long-term debt shall be deducted from the computed return.

(C) Working capital increases, if requested, shall be added to the return on net property, plant and equipment for determination of the total capital allowance. Working capital increases up to twelve and one-half percent of the increase in net patient services revenue from the approved budget in the current year to the approved budget as determined by the commission in the requested year shall be presumed appropriate; however, the commission may vary from that allowance, higher or lower, where appropriate.

(1) The commission may determine that a hospital in peer groups 1 or 2 is experiencing financial distress and may determine to vary from the allowance for working capital.

(2) The commission may determine to allow additional working capital where the hospital can demonstrate to the commission's satisfaction that its payer mix would require additional funding of accounts receivable.

(D) The commission may consider other elements in the determination of appropriate capital allowance for inclusion in total rate setting revenue. These considerations include, but are not limited to, the following elements:

(1) Hospitals that have been undercapitalized as determined by the average age of plant to the state-wide average; the total turnover rate of assets, which include total operating revenue divided by total assets; and the fixed asset turnover rate, which includes total operating revenue divided by net fixed assets;

(2) Whether that portion of debt principal payments which exceeds the total depreciation expense in the budget year should be allowed;

(3) If the hospital has been approved for equity funding or accumulation of funds for a project in the future and its rates are at or below the median of its peer group and the equity funding is consistent with the hospital's long-range plan and financing plan which have been approved by the hospital's governing body; and

(4) If the hospital has an approved certificate of need and related financing consistent with the approved certificate of need and the impact on rates of the additional funding is determined not to be excessive by the commission.

(e) Whether the budgeted deductions from revenue are appropriate:

(i) Contractual adjustments related to governmental programs, such as titles V, XVIII, XIX of the social security act, department of labor and industries, veteran's administration and indian health service, are allowable.

(ii) Contractual adjustments related to health care service contractors, bank card discounts, negotiated rates and all other nongovernmental-sponsored patients are not allowable as deductions from revenue for rate setting purposes;

(iii) Bad debts and charity will be trended as a percentage of total rate setting revenue over time and any significant changes will require justification;

(iv) Administrative adjustments exceeding one-tenth of one percent of total rate setting revenue will require justification;

(v) Deductions from revenue may be recomputed based on determinations in all other areas of the budget.

((5)) (6) Whether the rates, rate schedules, other charges, and changes therein contained in the hospital's annual budget submittal are reasonable and necessary.

(a) Proposed rates shall be reviewed against the following criteria:

(i) Rate setting revenue per adjusted admission should not exceed the 70th percentile of the peer group revenue screens unless the hospital's intensity exceeds the 70th percentile as measured by:

(A) Ratio of intensive care days to total days; and

(B) Radiology relative value units per adjusted admission; and

(C) Laboratory billable workload units per adjusted admission; and

(D) Surgery minutes per adjusted admission; or

(E) The hospital's adjusted case mix index derived from the commission hospital abstract reporting system;

(ii) The increase in the rate per adjusted admission should not exceed four and four-tenths percent, the rate of growth forecast in the Washington state per capita income for 1986, unless:

(A) New assets are placed in service;

(B) There is an increase in the hospital's total case mix; or

(C) A significant new program or service has been implemented.

(iii) The commission may consider any other information it determines is appropriate as the basis for deviating from these criteria.

(b) If the rates are not approved as requested, the hospital must submit revised rates to the commission within twenty days of the date of service of the decision and order.

((6)) (7) Whether the rates implemented and revenues collected by the hospital in previous budget years conformed to the applicable commission determinations for such years. Conformance will be determined by comparing, at the end of the budget year, actual revenues for the budget year to commission-approved revenues, on the basis of either the aggregate rate per adjusted patient day, or the revenues for individual revenue centers, as either may be modified, where appropriate, for volume variance between budgeted and actual levels; such comparison shall be made using actual, rather than budgeted, deductions from revenue.

The approved (~~planned capital and service component and return on investment~~) capital allowance shall be considered a fixed cost when considering year-end conformance. Only that portion of total costs per patient day designated as variable according to the following schedule will be adjusted for volume variance:

Peer groups 1 and 2 and specialty hospitals having fewer than fifty beds; fixed costs - eighty percent, variable costs - twenty percent

Peer groups 3 and 4 and specialty hospitals having fifty or more beds; fixed costs - seventy percent, variable costs - thirty percent

Peer groups 5 and 6 hospitals; fixed costs - sixty percent, variable costs - forty percent

Alternatively, the hospital may submit suggested ratios of fixed costs to variable costs, either in the aggregate or by revenue center. Upon approval by the commission, such approved ratios will be used only prospectively to determine allowable revenue variance due to volume changes.

The hospital may submit any justifying information to explain deviations/variances from approved revenues.

((7)) (8) Whether the hospital or its medical staff either adopts or maintains admission practices or policies which result in:

(a) A significant reduction in the proportion of patients who have no third-party coverage or who are unable to pay for hospital services;

(b) A significant reduction in the proportion of individuals admitted for inpatient hospital services for which payment is or is likely to be less than the anticipated charges for or costs of such services;

(c) The refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital.

## WSR 85-19-087

### EMERGENCY RULES

### DEPARTMENT OF NATURAL RESOURCES

[Order 471—Filed September 18, 1985]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the repeal of an emergency rule describing restrictions on outdoor rule burning in parts

of Eastern Washington under the protection of the Department of Natural Resources in the northeast area.

I, Brian J. Boyle, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is due to adequate amounts of rainfall, current and forecasted weather conditions in Eastern Washington, outdoor rule burning restrictions are being lifted.

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

This rule is promulgated pursuant to RCW 76.04.150 and 76.04.200 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 September 18, 1985.

By Brian J. Boyle  
Commissioner of Public Lands

### REPEALER

The following section of the Washington Administrative Code is repealed:

1) WAC 332-26-081 *OUTDOOR BURNING SUSPENSION IN PARTS OF EASTERN WASHINGTON UNDER THE PROTECTION OF THE DEPARTMENT OF NATURAL RESOURCES.*

WSR 85-19-088  
PROPOSED RULES  
DEPARTMENT OF  
GENERAL ADMINISTRATION  
(Division of Banking)  
[Filed September 18, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Division of Banking, Department of General Administration, intends to adopt, amend, or repeal rules concerning industrial loan companies, amending WAC 50-20-055 concerning computation of simple interest;

that the agency will at 10:00 a.m., Tuesday, October 22, 1985, in the Office of the Supervisor of Banking, Room 219, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 31.04.150(2), Examination by supervisor—Rules.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before October 22, 1985.

Dated: September 18, 1985

By: L. O. Malmberg  
Acting Supervisor

### STATEMENT OF PURPOSE

Title: WAC 50-20-055 Simple interest defined.

Description and Purpose: Defines simple interest as charged by industrial loan companies.

Statutory Authority: RCW 31.04.150, which empowers the supervisor of banking to make such general rules and regulations as may be necessary for the proper conduct of industrial loan companies.

Specific Statute Rule is Intended to Implement: RCW 31.04.090, as amended by section 1, chapter 74, Laws of 1985.

Summary of Rule: As amended, the rule defines the simple interest method that may be used by industrial loan companies.

Reasons Supporting Proposed Action: To provide a clear definition of the simple interest method of computing interest as interpreted by the supervisor.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: The supervisor and his staff.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Liaison Committee, a private organization of industry members.

Small Business Economic Impact Statement: This rule will not have an economic impact on more than twenty percent of all financial institutions or more than ten percent of industrial loan companies.

### AMENDATORY SECTION (Amending Order 48, filed 12/1/82)

WAC 50-20-055 (~~(ALTERNATE)~~) SIMPLE INTEREST (~~(CHARGES)~~) DEFINED. (1) (~~(An industrial loan company may contract for and receive charges on a loan of money at an annual percentage rate not in excess of the rate which would produce at the scheduled maturity date of the loan the same total of charges including interest, the two percent initial charge deducted in advance and monthly service charge, as would be received on a loan with an equal net cash advance secured by an installment investment certificate made pursuant to RCW 31.04.090 at the maximum rates permitted, all calculations being based upon the assumption that the loan and purchase of the investment certificate are paid in accordance with their terms.~~

~~In such case, charges))~~ For purposes of RCW 31.04.090, simple interest shall be computed by applying the annual ~~((percentage))~~ simple interest rate to the unpaid balances of the ~~((cash advance))~~ principal of the loan outstanding for the time outstanding. Each payment shall be applied first to accumulated ~~((charges))~~ interest and the remainder of the payment shall be applied to the unpaid balance of the ~~((cash advance))~~ principal until paid in full.

~~((Charges shall))~~ Interest may not be payable in advance nor compounded; however, if part or all of the consideration for a new loan contract is the unpaid balance of a prior loan, then the original ~~((cash advance))~~ principal payable under such new loan contract may include, on a simple interest loan or if a discounted loan is involved, shall be the balance due after giving effect to any unpaid interest charges which have accrued (the unpaid balance of ~~((the cash advance of))~~ a discounted loan shall be the balance due after giving effect to any required refund or credit of interest charged). For the purpose of computing ~~((charges on this alternative basis, the charges for each elapsed))~~ interest, a day shall be 1/365th of ~~((the annual rate))~~ a year. The term ~~((net cash advance))~~ "principal" as used herein means the sum of the "amount financed" and any "prepaid finance charge" disclosed to the borrower pursuant to the federal Truth-in-Lending Act.

(2) The provisions of RCW 31.04.090 as they relate to investment certificates are not applicable to loans upon which interest is computed and charged on this basis.

**WSR 85-19-089**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
**(Board of Medical Examiners)**  
 [Filed September 18, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Medical Examiners intends to adopt, amend, or repeal rules concerning continuing medical education, acupuncture assistant education and the acupuncture equivalency examination, WAC 308-52-405, 308-52-406, 308-52-415, 308-52-500 and 308-52-510;

that the agency will at 9:30 a.m., Friday, November 1, 1985, in the Seattle Marriott, 3201 South 176th Street, Seattle, WA 98188, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.71.080 and 18.71A.020.

The specific statute these rules are intended to implement is RCW 18.71.080 for WAC 308-52-405, 308-52-406, 308-52-410 and 308-52-415; RCW 18.71A.020 for WAC 308-52-500 and 308-52-510.

Dated: September 18, 1985

By: Arlene Robertson  
 Assistant Executive Secretary

**STATEMENT OF PURPOSE**

Name of Agency: Washington State Board of Medical Examiners.

Statutory Authority: RCW 18.71.080 and 18.71A.020.

Summary of the Rules: WAC 308-52-405 General requirements; 308-52-406 CME requirements during cycle revision; 308-52-410 Categories of creditable continuing medical education activities; 308-52-415 Continuing medical education requirement; 308-52-500 Acupuncture assistant education; and 308-52-510 Acupuncture equivalency examination.

Purpose and Reason Proposed: The amendments to the continuing education rules will eliminate obsolete provisions and will permit physicians to obtain all continuing medical education in category I activities. The amendments to the acupuncture rules will eliminate obsolete provisions regarding foreign acupuncture licensure and will establish an examination requirement for all applicants.

Responsible Departmental Personnel: In addition to the members of the board, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Arlene Robertson, Assistant Executive Secretary, 1300 South Quince Street, Olympia, Washington 98504, phone (206) 753-2205 comm, 234-2205 scan.

Proponents: Washington State Board of Medical Examiners.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as that term is defined by RCW 43.31.920.

AMENDATORY SECTION (Amending Order PL 304, filed 5/23/79)

WAC 308-52-405 GENERAL REQUIREMENTS. (1) The Washington state board of medical examiners requires one hundred fifty credit hours of continuing education every three years. (~~At medical doctors currently licensed will be required to show evidence of one hundred fifty credit hours of continuing medical education by their license renewal date in 1979.~~)

(2) In lieu of the one hundred fifty hours of continuing medical education the board will accept a current physician's recognition award of the American Medical Association, or a current certificate of continuing education from either the American Academy of Family Physicians or the American College of Obstetricians and Gynecologists and will consider approval of other programs as they are developed. The board will also accept certification or recertification by a specialty board as the equivalent of one hundred fifty hours of continuing medical education. The certification or recertification must be obtained in the three years preceding application for renewal.

(3) In case licensees fail to meet the requirements because of illness or other extenuating circumstances, each case will be considered by the board on an individual basis; and when circumstances justify it, the board may grant an extension of time.

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

AMENDATORY SECTION (Amending Order PL 386, filed 11/18/81)

WAC 308-52-406 CME REQUIREMENTS DURING CYCLE REVISION. (1) The current three year CME cycle will be revised so that approximately one-third of the licensed physicians will report their CME in each calendar year.

(2) During the implementation of the revised CME cycle, physicians must show evidence of continuing medical education as follows:

- (a) Current licensees as of January 1, 1982.
- (i) Physicians whose last name initial is A through G must have obtained at least fifty hours of CME by their renewal date in 1983.
- (ii) Physicians whose last name initial is H through O must have obtained at least one hundred hours of CME by their renewal date in 1984.

(iii) Physicians whose last name initial is P through Z must have obtained one hundred and fifty hours by their renewal date in 1985.

(b) New licensees. Applicants who qualify for licensure after January 1, 1982 will comply with the CME requirements then in effect.

~~((3)) CME category maximum. Physicians who report fifty or one hundred hours of CME shall reduce the CME category maximum in WAC 308-52-415 on a prorata basis as follows:~~

~~(a) For fifty hours requirement a maximum of thirty category I hours and a maximum of twenty credit hours in each of the other categories will be accepted.~~

~~(b) For one hundred hours requirement a maximum of sixty category I hours and forty credit hours in each of the other categories will be accepted.)~~

~~((4))~~ (3) After the revision is complete in 1985 all physicians will report one hundred and fifty hours every three years as required by WAC 308-52-405.

AMENDATORY SECTION (Amending Order PL 247, filed 5/17/76)

WAC 308-52-410 CATEGORIES OF CREDITABLE CONTINUING MEDICAL EDUCATION ACTIVITIES. The following are categories of creditable continuing medical education activities approved by the board. A maximum of sixty credit hours may be earned in each category, except category I in which ~~((ninety))~~ one hundred fifty hours may be obtained.

- |              |   |
|--------------|---|
| Category I   | Continuing medical education activities with accredited sponsorship     |
| Category II  | Continuing medical education activities with non-accredited sponsorship |
| Category III | Teaching medical physicians or the allied health services               |
| Category IV  | Books, papers, publications, exhibits                                   |

Category V Nonsupervised: Self-assessment, self-instruction, specialty board examination preparation, quality of care and/or utilization review.

**AMENDATORY SECTION** (Amending Order PL 247, filed 5/17/76)

WAC 308-52-415 CONTINUING MEDICAL EDUCATION REQUIREMENT. (1) It is mandatory that credit hours be earned in at least three categories. The credits must be earned in the thirty-six month period preceding application for renewal of licensure.

(2) One clock hour shall equal one credit hour for the purpose of satisfying the one hundred fifty hour continuing medical education requirement.

(3) (a) Category I: Continuing medical education activities with accredited sponsorship. A maximum of ~~((ninety))~~ one hundred fifty credit hours may be earned in category I. The board has approved the standard adopted by the ~~((house of delegates of the american medical association))~~ accreditation council for continuing medical education or its designated intra-state accrediting agency, the Washington State Medical Association, in accrediting organizations and institutions offering continuing medical education programs, and will accept attendance at such programs offered by organizations and institutions so ((accredited)) recognized as credit towards the licensee's continuing medical education requirement for annual renewal of licensure.

(b) Category II: Continuing medical education activities with non-accredited sponsorship. A maximum of sixty credit hours may be earned by attendance at continuing medical education programs ~~((offered by organizations or institutions))~~ that are not approved in accordance with the provisions of category I.

(c) Category III: Teaching medical physicians or the allied health services. A maximum of sixty credit hours may be earned for serving as an instructor of medical students, house staff, other physicians or allied health professionals from a hospital or institution with a formal training program if the hospital or institution has approved the instruction.

(d) Category IV: Books, papers, publications, exhibits.

(i) A maximum of sixty credit hours may be earned under category IV, with specific subcategories listed below. Credit may be earned only during the thirty-six month period following presentation or publication.

(ii) Ten credit hours may be claimed for a paper, exhibit, publication, or for each chapter of a book that is authored and published. A paper must be published in a recognized medical journal. A paper that is presented at a meeting or an exhibit that is shown must be to physicians or allied health professionals. Credit may be claimed only once for the scientific materials presented. Credit should be claimed as of the date materials were presented or published.

Medical editing cannot be accepted in this or any other category for credit.

(e) Category V: Nonsupervised.

(i) A maximum of sixty credit hours may be earned under category V. Credit may be earned only for the thirty-six month period following the year in which the study, preparation, care and/or review occurred.

(ii) Self-assessment: Credit hours may be earned for completion of a multimedia medical education program.

(iii) Self-instruction: Credit hours may be earned for the independent reading of scientific journals and books.

(iv) Specialty board examination preparation: Credit hours may be earned for preparation for specialty board certification or recertification examinations.

(v) Quality care and/or utilization review: Credit hours may be earned for participation on a staff committee for quality of care and/or utilization review in a hospital or institution or government agency.

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

**AMENDATORY SECTION** (Amending Order PL 428, filed 3/10/83)

WAC 308-52-500 ACUPUNCTURE ASSISTANT EDUCATION. Each applicant for an authorization to perform acupuncture must present evidence satisfactory to the board which discloses in detail the formal schooling or other type of training the applicant has previously undertaken which qualifies him or her as a practitioner of

acupuncture. ~~((Satisfactory evidence of formal schooling or other training may include, but is not limited to, certified copies of certificates or licenses which acknowledge that the person has the qualifications to practice acupuncture, issued to an applicant by the government of the People's Republic of China, Korea, Japan or Taiwan.))~~ When ever possible, all copies of official diplomas, transcripts and licenses or certificates should be forwarded directly to the board from the (issuing) (licensing) agency rather than from the applicant. Individuals ~~((not licensed by the listed countries))~~ must document their education by means of transcripts, diplomas, patient logs verified by the preceptor, or by other means requested by the board. Applicants for registration must have successfully completed the following training:

(1) The applicant must have completed a minimum of two academic years or 72 quarter credits of undergraduate college education in the general sciences and humanities prior to entering an acupuncture training program. The obtaining of a degree is not required for the educational credits to qualify. Credits granted by the college towards prior life experience will not be accepted under this requirement.

(2) The applicant must have successfully completed a course of didactic training in basic sciences and acupuncture over a period of two academic years. The basic science training must include a minimum of 250 hours or 21 quarter credits and include such subjects as anatomy, physiology, bacteriology, biochemistry, pathology, hygiene and a survey in Western clinical sciences. The basic science classes must be equivalent to courses given in accredited bachelor of science programs. The acupuncture training must include a minimum of 700 hours or 58 quarter credits in acupuncture theory, and acupuncture diagnosis and treatment techniques. The board will not accept credits obtained on the basis of challenging an exam. Transfer credits from accredited colleges or board approved acupuncture programs will be accepted.

(3) The applicant must have successfully completed a course of clinical training in acupuncture over a period of one academic year. The training must include a minimum of 100 hours or 9 quarter credits of observation, which shall include case presentation and discussion. The observation portion of the clinical training may be conducted during the didactic training but will be considered part of the clinical training for calculation of hours or credits. There must also be a minimum of 350 hours or 29 quarter credits of supervised practice, consisting of 400 separate patient treatments. A minimum of 120 different patients must have been treated.

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

**AMENDATORY SECTION** (Amending Order PL 301, filed 5/22/79)

WAC 308-52-510 ACUPUNCTURE EQUIVALENCY EXAMINATION. (a) Applicants for registration ~~((who have not been issued a license for certificate to practice acupuncture from the governments listed in RCW 18.71A.080, or from a country or state with equivalent standards.))~~ must pass an ~~((equivalency))~~ examination prescribed by the board.

(b) The examination shall be written and practical and shall examine the applicant's knowledge of anatomy, physiology, bacteriology, biochemistry, pathology, hygiene and acupuncture.

(c) Each applicant shall provide his or her own needles and other equipment necessary for demonstrating the applicant's skill and proficiency in acupuncture.

**WSR 85-19-090**

**PROPOSED RULES**

**DEPARTMENT OF LICENSING**

**(Board of Osteopathic Medicine and Surgery)**

[Filed September 18, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Osteopathic Medicine and Surgery intends to adopt, amend, or repeal rules concerning prohibited publicity and advertising, WAC 308-138-300;

that the agency will at 10:00 a.m., Friday, October 25, 1985, in the Shorewood Osteopathic Hospital, Lower Level Conference Room, 12845 Ambaum Boulevard S.W., 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 18.57.005.

The specific statute these rules are intended to implement is chapter 18.57 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before October 21, 1985.

Dated: September 18, 1985

By: Judy Mayo  
Executive Secretary

**STATEMENT OF PURPOSE**

Name of Agency: State of Washington Board of Osteopathic Medicine and Surgery.

Purpose: To clarify the rule regarding use of the designated D.O. in connection with an osteopathic physician's name.

Summary: WAC 308-138-300 describes prohibited publicity and advertising.

Statutory Authority: RCW 18.57.005(3).

Reason Proposed: Will clarify the intent of the rule, that being that the prohibition only relates to professional communications and not personal ones.

Responsible Departmental Personnel: In addition to members of the Board of Osteopathic Medicine and Surgery, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Judy Mayo, Executive Secretary, 1300 Quince Street S.E., Olympia, Washington 98504, phone (206) 753-3129 comm, 234-3129 scan.

Proponents: The subject matter of this rule hearing has been proposed by the Washington State Board of Osteopathic Medicine and Surgery at the request of the director of the Department of Licensing.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as that term is defined by RCW 43.31.020.

AMENDATORY SECTION (Amending Order PL 322, filed 11/29/79)

WAC 308-138-300 PROHIBITED PUBLICITY AND ADVERTISING. An osteopathic physician shall not use or allow to be used any form of public communications or advertising connected with his or her profession or in his or her professional capacity as an osteopathic physician which:

- (1) Is false, fraudulent, deceptive or misleading;
- (2) Uses testimonials;
- (3) Guarantees any treatment or result;
- (4) Makes claims of professional superiority;
- (5) States or includes prices for professional services except as provided for in WAC 308-138-310;
- (6) Fails to identify the physician as an osteopathic physician as described in RCW 18.57.140;
- (7) Otherwise exceeds the limits of WAC 308-138-310.

**WSR 85-19-091**  
**PROPOSED RULES**  
**BOARD OF ACCOUNTANCY**  
[Filed September 18, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Accountancy intends to adopt, amend, or repeal rules concerning the state Board of Accountancy, amending WAC 4-25-040;

that the agency will at 10:00 a.m., Friday, November 1, 1985, in the 30th Floor, 1111 Third Avenue Building, 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 18.04.055.

Dated: September 16, 1985

By: James R. Silva  
Assistant Attorney General  
Attorney for the Board

**STATEMENT OF PURPOSE**

Name of Agency: Washington State Board of Accountancy.

Purpose: To change the fee schedule for the CPA examination to cover the increase in costs with which the board has been faced in administering the examination.

Statutory Authority: RCW 18.04.055.

Summary of the Rules: To increase the fee for the CPA examination, and to increase the fee for duplicate CPA certificates.

Reason Proposed: To cover the increased cost to the Board of Accountancy in administering the CPA examination, as well as the increased expenses in preparing duplicate CPA certificates.

Responsible Personnel: In addition to the members of the board, the following Board of Accountancy personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: William A. Travis, Chief Executive Officer, 210 East Union, Suite H, Olympia, Washington 98504, (206) 753-2585 comm, (206) 234-2585 scan.

Proponents: Washington State Board of Accountancy.

Agency Comments: These rules are promulgated pursuant to authority granted to the board in RCW 18.04.055.

Small Business Economic Impact Statement: Not required and has not been filed since these rules do not impact small business as that term is defined by RCW 43.31.920.

AMENDATORY SECTION (Amending Order ACB 104, filed 10/10/83)

WAC 4-25-040 STATE BOARD OF ACCOUNTANCY. An annual meeting of the board shall be held each year, on a date following the annual meeting of the National Association of State Boards of Accountancy, and at least six other meetings shall be held each year, in the months of February, April, June, August, October, and December. Such regular board meetings will normally be on the last Friday of the month, with the exceptions of November and December meetings which shall normally be on the third Friday of the month. The chairman or a quorum of the board shall have the authority to call



meetings of the board. The board shall follow and apply the rules of procedure, chapter 34.04 RCW, as regards to notice and conduct of meetings.

At the annual meeting the board shall elect from among its members the chairman, vice chairman, and secretary. The officers shall assume the duties of their respective offices at the conclusion of the annual meeting at which they were elected. They shall serve a term of one year, but shall be eligible for reelection for an additional term.

The chairman or, in the event of his absence or inability to act, the vice chairman shall preside at all meetings of the board. Other duties of the officers shall be such as the board may from time to time determine.

(1) Fees charged by the board shall be as follows:

(a) CPA examination applications:

(i) One or two parts .....	\$ ((50))
	75
(ii) Three parts .....	\$ ((60))
	100
(iii) Five parts .....	\$ ((75))
	125

(b) Transfer of grade credits from other jurisdictions, pursuant to section 7(5), chapter 234, Laws of 1983 .....

(c) Administration of examination for out-of-state applicants, per part .....

(d) Application for certificate by reciprocity from other jurisdictions .....

(e) Biennial permit to practice public accounting .....

(f) Biennial permit restricted to nonpublic accounting (title-only use) .....

(g) Biennial firm registration:

(i) Sole proprietorships .....

(ii) Partnerships .....

(iii) P.S. Corporations .....

(h) Amendments to firm registration, each filing .....

(i) Delinquency fee for permit renewal applications sixty days overdue .....

(j) Delinquency fee for firm renewal applications sixty days overdue .....

(k) Temporary practice permits, per individual who is to practice within this state .....

(l) Copies of records, per page .....

(m) Applications for reinstatement .....

(n) Duplicate CPA certificates .....

(2) Any applicant for a certificate or permit who is aggrieved by an action taken by the board with respect to his application may request the board to reconsider such action. Any such request shall be filed within sixty days of the mailing of the board's letter, advising the following information:

- (a) The name and address of the applicant;
- (b) The date of the board's letter advising the applicant of the action of the board complained of; and
- (c) A statement of any facts or consideration to which the applicant believes the board failed to give due weight.

Each licensee shall notify the board in writing within thirty days of any change of address or, in the case of individual licensees, change of employment.

A licensee shall respond in writing to any communication from the board requesting a response, within twenty days of the mailing of such communications by registered or certified mail, to the last address furnished to the board by the licensee.

**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 85-19-092**  
**EMERGENCY RULES**  
**DEPARTMENT OF LICENSING**  
 [Order TL-RG-16—Filed September 18, 1985]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt at Olympia,

Washington, the annexed rules relating to vessel titling, registration and excise tax, amending WAC 308-93-010, 308-93-050, 308-93-060, 308-93-070, 308-93-075, 308-93-135, 308-93-190, 308-93-210, 308-93-360, 308-93-450, 308-93-620, 308-93-650; repealing WAC 308-93-260; and new sections WAC 308-93-071, 308-93-072, 308-93-073, 308-93-074, 308-93-076 and 308-93-077.

I, Theresa Anna Aragon, 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 chapter 258, Laws of 1985, becomes effective June 30, 1985. This act relates to the issuance of title certificates of ownership and the perfection of security interests in vessels and watercraft; amending RCW 62A.9-302 and 88.02.070; adding new sections to chapter 88.02 RCW; providing an effective date; and declaring an emergency. The Department of Licensing must immediately implement rules to carry out the requirements of chapter 258, Laws of 1985.

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

This rule is promulgated pursuant to chapter 258, Laws of 1985, which directs that the Department of Licensing has authority to implement the provisions of chapter 258, Laws of 1985.

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 September 17, 1985.

By Theresa Anna Aragon  
 Director

NEW SECTION

**WAC 308-93-071 CLASS "A" AND CLASS "B" TITLES.** From June 30, 1985 until June 30, 1990 there will be two classes of vessel titles: class "A" and class "B".

(1) All vessel titles issued prior to June 30, 1985 are class "B" title certificates. Class B certificates show ownership of a vessel, but the vessel may be subject to a security interest not reflected on the title.

(2) Class A title certificates will be issued to purchasers of new vessels with appropriate documentation, or to owners of used vessels who have undergone a UCC search and obtained appropriate releases to ensure that there are no existing liens or claims against the vessel.

NEW SECTION

**WAC 308-93-072 UCC SEARCH REQUIREMENTS.** After June 30, 1985 a class "A" title certificate may be issued when an owner presents evidence of ownership of the vessel in the registered owner's name, and evidence of the absence of security interests or claims, except those to be shown on the new title certificate. The absence of outstanding security interests may

be evidenced by a completed UCC search with appropriate releases from all named secured parties on forms provided by the department.

The name(s) on the UCC search must be in exact agreement with the name(s) of the vessel owner(s) as shown on the title application, bill of sale, Washington class "B" title, Washington Coast Guard Registration, or other document approved by the department, subject to the following conditions:

(1) If the applicant for certificate of title obtained ownership of the vessel between July 1, 1982 and July 1, 1985, a UCC search must be completed for the registered owner on the current application and for the immediate previous owner(s).

(2) If the applicant for certificate of title owned the vessel from July 1, 1982 to July 1, 1985 inclusive, the UCC search must be done in the name of the registered owner on the application.

(3) If the applicant for certificate of title obtained ownership of the vessel on or after July 1, 1985, the UCC search must be made in the name of the previous owner.

#### NEW SECTION

**WAC 308-93-073 NEW VESSELS.** Application for certificate of title to a new vessel never before licensed or titled or sold by an in-state or out-of-state dealer or manufacturer must be accompanied by a manufacturer's statement of origin, carpenters certificate, or a copy of the factory invoice.

If the date of sale shown on the manufacturer's statement of origin, carpenters certificate, or factory invoice was prior to July 1, 1985, a UCC search with appropriate releases must also accompany the application.

The manufacturer's statement of origin, carpenters certificate, or factory invoice must reflect the model year, make and hull identification number of the vessel.

(1) No manufacturer's statement of origin or other similar document can be accepted for the issuance of a title unless all persons named, including dealers, on the manufacturer's statement of origin have released or assigned their interest thereon, or on a department release of interest form.

(2) Dealer to dealer transfers may be accomplished either by appropriate endorsement of the manufacturer's statement of origin or other similar document, or by a department release of interest form. A complete chain of ownership must be reflected from the original dealer named on the manufacturer's statement of origin to the retail selling dealer making the application.

#### NEW SECTION

**WAC 308-93-074 CIRCUMSTANCES FOR ISSUANCE OF CLASS "A" TITLES.** The department may issue a class "A" certificate of title to a vessel upon presentation of one or more of the following:

(1) A manufacturer's statement of origin, carpenter certificate, or factory invoice, provided that the date of sale is on or after July 1, 1985. If the date of sale is prior to July 1, 1985, a UCC search with proper releases will also be required.

(2) A previously issued and properly released Washington class "A" title for the vessel.

(3) A class "B" title accompanied by UCC search and proper releases.

#### NEW SECTION

**WAC 308-93-076 VESSELS FROM OUT OF STATE.** Vessels with a title or registration issued by a foreign state or jurisdiction will be issued a class "B" title only. Out of state filing searches similar to UCC in Washington will not be accepted as proof of clear ownership for class "A" title.

#### NEW SECTION

**WAC 308-93-077 UCC SEARCH—MULTIPLE LEGAL OWNERS.** When an application for title is presented with the UCC filing search indicating one or two secured parties that have an interest in the vessel, the earliest filing date and time would be listed as the primary legal owner with the other listed as second legal owner. This application will be issued a class "A" title.

#### AMENDATORY SECTION (Amending Order TL-RG 8, filed 9/13/84)

**WAC 308-93-010 DEFINITIONS.** Unless the context clearly provides otherwise, the following definitions apply to the rules in this chapter:

(1) "Alien vessel" means a vessel owned by a resident of a country other than the United States.

(2) "Carpenter certificate" means a certificate issued by a manufacturer describing the vessel for which such certificate is issued and certifying the first conveyance of said vessel after its manufacture.

(3) "Commercial fishing" means operating under a currently valid commercial or charter fishing license issued by the department of fisheries.

(4) "Declaration of value form" means the department of revenue form used when a vessel is acquired by lease or gift, homemade or the most recent purchase price is not known to declare the value for purposes of assessing excise tax.

(5) "Director" means the director of the department of licensing.

(6) "Documented vessel" means a vessel that is documented by the United States Coast Guard and is issued a valid marine certificate.

(7) "Exclusively" means solely and without exception.

(8) "Foreign vessel" means a vessel owned by a resident of another state registered in accordance with the laws of the state in which the owner resides.

(9) "Legal owner" means a person, business, or institution having a security interest in a vessel perfected in accordance with RCW 46.12.095 or the registered owner of a vessel unencumbered by a security interest or the lessor of a vessel unencumbered by a security interest.

(10) "Lifeboat" means craft used exclusively for life-saving purposes.

(11) "Manufacturer's ((certificate)) statement of origin" (MSO) means a certificate issued by a manufacturer describing the vessel for which such certificate is

issued and certifying the first conveyance of said vessel after its manufacture.

(12) "Overall length" means a straight line measurement of the overall distance from the foremost point of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins or boomkins, rudders, outboard motor brackets, outdrive units, propellers, and similar fittings or attachments are not included in the measurement.

(13) "Prebill" means the notice to renew a vessel registration that is mailed by the department to the registered owner.

(14) "Previous ownership document" means the last issued certificate of title and/or registration.

(15) "Primarily" means the principal purpose for which a vessel is used when considered in conjunction with all of its uses.

(16) "Propulsion machinery" means any device providing motion to a vessel through such means as combustion, steam, or electric machinery.

(17) "Registered owner, owner," synonymous terms used interchangeably, mean a person who has a lawful right to possession of a vessel, whether or not the vessel is subject to a security interest.

~~(18) ("Secured party" means a lender, seller, or other person in whose favor there is a security interest, including a person to whom accounts, contacts rights, or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party.~~

~~(+9))~~ "Tender" means a craft used exclusively to furnish transportation from a larger vessel to shore and return.

~~((20))~~ (19) "Use of waters" means to navigate, operate, employ, or moor any vessel upon the waters.

~~((21))~~ (20) "Valid marine document" means a document issued by the United States federal government which declares a vessel to be a documented vessel of the United States.

~~((22))~~ (21) "Vessel data form" means the information application completed by the applicant showing all required description data for the vessel registration and title.

~~((23))~~ (22) "Waters of this state" means any waters within the territorial limits of this state.

~~((24))~~ (23) "Time share" charters means leased vessels where none of the parties leasing the vessel under a "time share" option agreement are acquiring an equity in the vessel and there is no option to buy.

~~((25))~~ (24) "Houseboat" means any vessel as defined in RCW 88.02.010(1) and does not mean any building on a float used in whole or in part for human habitation as a single-family dwelling which is not designed for self propulsion by mechanical means, or for propulsion by means of wind, nor propelled by mechanical means or wind.

(25) "UCC" means Uniform Commercial Code.

(26) "UCC search" means a Uniform Commercial Code financing statement search pursuant to RCW 62A.9-407(2).

AMENDATORY SECTION (Amending Order TL-RG 8, filed 9/13/84)

WAC 308-93-050 VESSELS EXEMPTED FROM REGISTRATION, EXCISE TAX AND TITLING. The following vessels are exempt from registration, titling, and the assessment of excise tax:

(1) Military or public vessels of the United States, except recreational-type public vessels;

(2) Vessels owned by a state or subdivision thereof, used principally for governmental purposes and clearly identifiable as such;

(3) Vessels owned by a resident of a country other than the United States if the vessel is not physically located upon the waters of this state for a period of more than sixty days;

(4) Vessels owned by a resident of another state if the vessel is registered in accordance with the laws of the state in which the owner resides, but only to the extent that a similar exemption or privilege is granted under the laws of that state for vessels registered in this state: PROVIDED, That any vessel which is validly registered in another state and which is physically located in this state for a period of more than sixty days is subject to registration under this chapter;

(5) A ship's lifeboat used solely for lifesaving purposes;

(6) All vessels under sixteen feet in overall length which have no propulsion machinery of any type or which are not used on waters subject to the jurisdiction of the United States or on the high seas beyond the territorial seas for vessels owned in the United States and are powered by propulsion machinery of ten or less horsepower;

(7) Vessels equipped with propulsion machinery of less than ten horsepower that:

(a) Are owned by the owner of a vessel for which a valid vessel number has been issued;

(b) Display the number of that numbered vessel followed by the suffix "1" in the manner prescribed by the department; and

(c) Are used as a tender for direct transportation between that vessel and the shore and for no other purpose;

(8) Vessels with no propulsion machinery of any type for which the primary mode of propulsion is human power;

(9) Vessels which are temporarily in this state undergoing repair or alteration;

(10) Vessels primarily engaged in commerce which have or are required to have a valid marine document as a vessel of the United States, including but not limited to:

(a) Commercial fishing vessels;

(b) Barges;

(c) Charter vessels, including, bare boat and time share charters.

(11) Vessels primarily engaged in commerce which are owned by a resident of a country other than the United States;

(12) A vessel not using the waters of this state;

(13) Any vessel validly registered in any state and displaying the number issued by that state when the

vessel is physically located in this state for a period of less than sixty days.

**AMENDATORY SECTION** (Amending Order TL-RG 8, filed 9/13/84)

WAC 308-93-060 **REGISTRATION PERIOD.** The registration period for the state will be July 1 of the current year through June 30 of the following year for purposes of implementing chapter 88.02 RCW ((and chapter 250, Laws of 1984)). A vessel numbered in this state under the Federal Boat Safety Act need not register under chapter 88.02 RCW until ((the earlier of one year from the date this state's vessel numbering system is approved under the Federal Boat Safety Act, or the expiration date of the certificate of number issued for the vessel under the Federal Boat Safety Act)) July 1, 1985.

Any vessels registered for the first time in Washington will be assessed the registration fee for the registration period in which the vessel is registered. In addition, excise tax in the amount prescribed by statute will be assessed for the period beginning July 1, 1983 through the current registration period in which the vessel is registered: **PROVIDED**, That if the owner can verify that the vessel was acquired or brought into Washington after July 31, 1983, the excise tax will be assessed from the date of acquisition or entry into the state: **PROVIDED FURTHER**, That if the owner certifies that the vessel was not on the waters of this state at any time during any prior registration year, excise tax will not be assessed for that registration year.

Vessels being registered in Washington for the first time and assigned a registration period of eleven months or less shall have the annual excise tax reduced by one-twelfth for each full month of the registration period which has passed by the date when the vessel is registered in Washington. The registration fee will not be abated for the registration period in which the vessel is registered.

When a transfer of ownership occurs on a vessel previously registered in this state and whose registration has expired, there will be assessed a registration fee of six dollars for the current registration period and excise tax due from the expiration date of the previous registration: **PROVIDED**, That if the person seeking registration can verify that the vessel was acquired subsequent to expiration of the previous registration, excise tax will be assessed from the date of acquisition through the current registration period in which the vessel is being registered: **PROVIDED FURTHER**, That if the owner certifies that the vessel was not on the waters of this state at any time during any prior registration year, excise tax will not be assessed for that registration year.

**AMENDATORY SECTION** (Amending Order TL-RG-2, filed 6/21/84)

WAC 308-93-070 **APPLICATION FOR TITLE/REGISTRATION.** (1) An application for certificate of title or registration of a vessel shall be completed and shall include:

(a) The names, addresses and ZIP codes of all owners of the vessel being registered including a lessor if applicable.

(b) Make, model year and length of vessel.

(c) Type of power (gasoline, diesel, propane, etc.).

(d) Primary use.

(e) Primary method of propulsion (inboard, outboard, inboard/outboard, jet, sail, etc.).

(f) Type of vessel (open, cabin, house, or other).

(g) Primary vessel construction (fiberglass, wood, aluminum, etc.).

(h) County of moorage.

(i) Coast guard number, if any.

(j) Purchase cost and purchase year of vessel or declared value and year of declaration.

(k) Hull identification number.

(l) The number previously issued by an issuing authority for the vessel, if any.

(m) That the application is for a new number, renewal or transfer of ownership.

(n) State in which vessel is or will be principally used.

(o) Federal document number, if applicable.

(2) Name and address of the legal owner or a statement of fact by the registered owner that the vessel is free of all liens other than those shown on the application.

(3) In the event a vessel is homemade, the owner must complete and sign a declaration of value form. The signature of the registered owner of a homemade vessel must be notarized by a notary public.

(4) The names of all owners will appear on the application for registration and title. The application must be signed by all owners. This signature must be notarized or certified by an authorized registration agent.

(5) The application for certificate of title or registration shall be accompanied by the following where applicable:

(a) A copy of the bill of sale or sales agreement.

(b) Vessel data form.

(c) Declaration of value form.

(d) All proper fees and excise tax.

(e) Previous ownership document properly released.

(f) Excise exemption affidavit.

(g) Proof of sales tax paid.

(h) Proof of personal property tax paid.

(i) Manufacturer's ((certificate)) statement of origin or original factory invoice.

(j) Copy of carpenter certificate.

(k) Copy of any filing pursuant to Article 62A.9 RCW, Uniform commercial code-secured transactions.

(l) Release of interest form.

(m) Verification of ownership.

(n) Copy of certificate of ownership of vessel issued by United States Coast Guard.

(o) Additional documentation for issuance of class "A" title as described in WAC 308-93-074.

(6) An application made by a manufacturer or dealer for a number that is to be temporarily affixed to a vessel for demonstration or test purposes may omit subsection (1)(b), (c), (e), (f), (g), and (k) of this section.

(7) An application made by a person who intends to lease or rent the vessel without propulsion machinery may omit subsection (1)(c) and (e) of this section.

**AMENDATORY SECTION** (Amending Order TL-RG-2, filed 6/21/84)

WAC 308-93-075 INSPECTION OF CERTIFICATE. Each person using a vessel required to be registered under chapter 88.02 RCW (~~and chapter 250, Laws of 1984,~~) shall present the certificate or lease or rental agreement required by WAC 308-93-080 and 308-93-100 to any federal, state, or local law enforcement officer for inspection at his request.

**AMENDATORY SECTION** (Amending Order TL-RG-2, filed 6/21/84)

WAC 308-93-135 VESSEL NUMBER REQUIRED. Except as provided in chapter 88.02 RCW (~~and chapter 250, Laws of 1984,~~) no person may use a vessel on the waters of this state unless:

(1) It has a number issued on a certificate of registration by the issuing authority in the state in which the vessel is principally used; and

(2) The number is displayed as described in WAC 308-93-145.

**AMENDATORY SECTION** (Amending Order 736-DOL, filed 11/18/83)

WAC 308-93-190 PREREQUISITE TO ISSUANCE OF VESSEL REGISTRATION AND DECALS. No decals or vessel registration, whether original issues or duplicates, shall be issued or furnished by the department unless the applicant therefor shall at the same time make satisfactory application for a certificate of title or shall present satisfactory evidence that such a certificate of title or valid marine document covering such vessel has been previously issued.

**AMENDATORY SECTION** (Amending Order 736-DOL, filed 11/18/83)

WAC 308-93-210 PROCEDURE WHEN DEPARTMENT UNSATISFIED AS TO OWNERSHIP (~~AND SECURITY INTERESTS~~). If the department is not satisfied as to the ownership of the vessel (~~or that there are no undisclosed security interests in it~~), the department may register the vessel but shall either:

(1) Withhold issuance of a certificate of title until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant's ownership of the vessel (~~and that there are no undisclosed security interests in it~~); or

(2) As a condition of issuing a certificate of title, require the applicant to file with the department a bond in the form prescribed by the department and executed by the applicant, or in lieu thereof a deposit of cash in like amount. The bond shall be in an amount equal to one and one-half times the value of the vessel as determined by the department and conditioned to indemnify any

prior owner and secured party and any subsequent purchaser of the vessel or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of title of the vessel or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vessel. Any such person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, or any cash deposit shall be returned at the end of three years or prior thereto if the vessel is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

**AMENDATORY SECTION** (Amending Order TL-RG-2, filed 6/21/84)

WAC 308-93-360 APPLICATION FOR TITLE REQUIRED. An application for certificate of title is required:

(1) Whenever the ownership of a vessel changes;

(2) When there is a legal change of name of the registered or legal owner of a vessel;

(3) When there is a change of name of a business entity owning a vessel;

(4) When a proprietorship or partnership forms a corporation whether or not a business name is changed;

(5) When a proprietorship or partnership purchases a corporation which will no longer be operated as a corporation whether or not the business name is changed;

(6) Whenever there is no outstanding secured obligation and no commitment to make advances and incur obligations or otherwise give value in the case of reissue applications;

(7) Whenever the hull identification number is changed;

(8) Whenever a second legal owner is to be added to the certificate of title. The application shall show the address of only the first named legal owner;

(9) Whenever a vessel is to be registered for the first time as required by chapter 88.02 RCW, except for a vessel having a valid marine document as a vessel of the United States.

**AMENDATORY SECTION** (Amending Order 736-DOL, filed 11/18/83)

WAC 308-93-450 SIGNATURE OF REGISTERED OWNER ON APPLICATION—EXCEPTIONS. On an application for an original, reissue, or transfer of certificate of title, the signature of each and every name registered owner is required except:

(1) When the application is for the sole purpose of removing a legal owner of record from the certificate of title when that legal owner's security interest has been satisfied in the vessel;

(2) When authorized supportive documentation is used in lieu of the signature or signatures;

(3) When the legal owner applies for a duplicate title;

- (4) When there is a change in the secured party;
- (5) When ~~((the legal))~~ ownership is transferred with an affidavit of repossession.

AMENDATORY SECTION (Amending Order 736-DOL, filed 11/18/83)

WAC 308-93-620 HULL IDENTIFICATION NUMBER REQUIRED. No person shall operate a boat on the waters of this state for which registration and titling is required unless such boat has a hull identification number or application for such number has been made. Hull identification numbers must be ~~((carved, burned, stamped, embossed,))~~ clearly imprinted, or otherwise permanently affixed to the outboard side of the transom, or if there is no transom, to the outermost starboard side at the end of the hull that bears the rudder or other steering mechanism above the waterline of the boat in such a way that alteration, removal or replacement would be obvious or evident. No person, firm, association or corporation shall destroy, remove, alter, cover, or deface the hull identification number.

AMENDATORY SECTION (Amending Order TL/RG-1, filed 5/18/84)

WAC 308-93-650 TITLE PURPOSE ONLY. Nothing in ~~((Title 82))~~ chapter 88.02 RCW or chapter 308-93 WAC shall be construed to prevent any person entitled thereto from securing a certificate of title upon a vessel without securing a certificate of registration and vessel decal when, in the judgment of the director of licensing, it is proper to do so.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-93-260 STATE OR DIRECTOR NOT LIABLE FOR ACTS IN ADMINISTERING CHAPTER.

**WSR 85-19-093**  
**ADOPTED RULES**  
**DEPARTMENT OF LICENSING**  
**(Securities Division)**  
 [Order 133 R—Filed September 18, 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:

- Amd WAC 460-90A-015 Definitions.
- New WAC 460-90A-017 Reporting events that 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.

This action is taken pursuant to Notice No. WSR 85-12-022 filed with the code reviser on May 29, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

Pursuant to RCW 34.04.026: 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.

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 September 12, 1985.

By T. A. Aragon  
Director

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, 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. ~~((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.

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

(f) ~~((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.

(g) ~~((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.

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

(i) ~~((h))~~ 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) ~~((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.

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 [RE 131], filed 3/2/83 [5/29/85])

WAC 460-90A-030 SIGNING OF APPLICATION AND THE PERMIT. Both the ~~((An))~~ application for registration of camp resort contracts and the agency permit shall be signed by the camp resort operator or the appropriate ~~((an))~~ 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.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

#### 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 with ~~((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 day 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 it 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, OR ANY OTHER DOCUMENT FILED UNDER THE CAMPING CLUB ACT Chapter 19.105 RCW 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 (~~sale~~) 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.

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% 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 of 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.

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

**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

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.

**Suffixes:**

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- W = Withdrawal of proposed action
- No suffix means permanent action

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
4-25-040	AMD-P	85-02-066	16-42-03001	REP-W	85-10-020	16-231-613	NEW-P	85-03-101
4-25-040	AMD-C	85-06-008	16-42-03001	REP	85-15-024	16-231-613	NEW	85-07-029
4-25-040	AMD-C	85-06-054	16-42-035	AMD-P	85-09-061	16-231-615	AMD-P	85-03-101
4-25-040	AMD-E	85-17-032	16-42-035	AMD-W	85-10-020	16-231-615	AMD	85-07-029
4-25-040	AMD-E	85-17-074	16-42-035	AMD	85-15-024	16-304-040	AMD-P	85-06-051
4-25-040	AMD-P	85-19-091	16-42-04001	REP-P	85-09-061	16-304-040	AMD	85-11-003
4-25-140	AMD-P	85-02-066	16-42-04001	REP-W	85-10-020	16-316-0601	AMD-P	85-06-052
4-25-140	AMD-C	85-06-008	16-42-04001	REP	85-15-024	16-316-0601	AMD	85-11-004
4-25-140	AMD-C	85-06-054	16-42-045	REP-P	85-09-061	16-316-215	AMD-P	85-06-052
4-25-140	AMD	85-11-013	16-42-045	REP-W	85-10-020	16-316-215	AMD	85-11-004
4-25-260	REP-P	85-02-066	16-42-045	REP	85-15-024	16-316-230	AMD-P	85-06-052
4-25-260	REP-C	85-06-008	16-42-05001	REP-P	85-09-061	16-316-230	AMD	85-11-004
4-25-260	REP-C	85-06-054	16-42-05001	REP-W	85-10-020	16-316-270	AMD-P	85-06-052
10-04-020	AMD-P	85-13-003	16-42-05001	REP	85-15-024	16-316-270	AMD	85-11-004
10-04-020	AMD-C	85-14-013	16-42-060	NEW-P	85-09-061	16-316-315	AMD-E	85-13-035
10-04-020	AMD-C	85-17-011	16-42-060	NEW-W	85-10-020	16-316-327	AMD-P	85-06-052
10-08-040	AMD-P	85-13-003	16-42-060	NEW	85-15-024	16-316-327	AMD	85-11-004
10-08-040	AMD-C	85-14-013	16-228	AMD-C	85-16-075	16-316-350	AMD-P	85-06-052
10-08-040	AMD-C	85-17-011	16-228-010	AMD-P	85-13-052	16-316-350	AMD	85-11-004
10-08-150	NEW-P	85-13-003	16-228-010	AMD	85-17-044	16-316-440	AMD-P	85-06-052
10-08-150	NEW-C	85-14-013	16-228-235	AMD-P	85-13-052	16-316-440	AMD	85-11-004
10-08-150	NEW-C	85-17-011	16-228-235	AMD	85-17-044	16-316-474	AMD-P	85-06-052
10-08-160	AMD-P	85-13-003	16-228-240	REP-P	85-13-052	16-316-474	AMD	85-11-004
10-08-160	AMD-C	85-14-013	16-228-240	REP	85-17-044	16-316-635	AMD-P	85-11-004
10-08-160	AMD-C	85-17-011	16-228-245	AMD-P	85-13-052	16-316-635	AMD	85-14-093
16-42	AMD-C	85-03-061	16-228-245	AMD	85-17-044	16-316-660	AMD-P	85-06-052
16-42	AMD-C	85-12-025	16-228-250	AMD-P	85-13-052	16-316-660	AMD	85-11-004
16-42	AMD-C	85-13-047	16-228-250	AMD	85-17-044	16-316-724	AMD-P	85-06-052
16-42-00101	REP-P	85-09-061	16-228-255	AMD-P	85-13-052	16-316-724	AMD	85-11-004
16-42-00101	REP-W	85-10-020	16-228-255	AMD	85-17-044	16-316-800	AMD-P	85-06-052
16-42-00101	REP	85-15-024	16-228-260	AMD-P	85-13-052	16-316-800	AMD	85-11-004
16-42-005	NEW-P	85-09-061	16-228-260	AMD	85-17-044	16-316-820	AMD-P	85-06-052
16-42-005	NEW-W	85-10-020	16-228-265	AMD-P	85-13-052	16-316-820	AMD	85-11-004
16-42-005	NEW	85-15-024	16-228-265	AMD	85-17-044	16-316-830	AMD-P	85-06-052
16-42-01001	REP-P	85-09-061	16-228-270	REP-P	85-13-052	16-316-830	AMD	85-11-004
16-42-01001	REP-W	85-10-020	16-228-270	REP	85-17-044	16-316-906	AMD-P	85-07-058
16-42-01001	REP	85-15-024	16-228-275	AMD-P	85-13-052	16-316-906	AMD	85-11-002
16-42-015	AMD-P	85-09-061	16-228-275	AMD	85-17-044	16-316-911	AMD-P	85-07-058
16-42-015	AMD-W	85-10-020	16-228-280	REP-P	85-13-052	16-316-911	AMD	85-11-002
16-42-015	AMD	85-15-024	16-228-280	REP	85-17-044	16-316-921	AMD-P	85-07-058
16-42-017	NEW-P	85-09-061	16-228-285	REP-P	85-13-052	16-316-921	AMD	85-11-002
16-42-017	NEW-W	85-10-020	16-228-285	REP	85-17-044	16-316-945	NEW-P	85-07-058
16-42-017	NEW	85-15-024	16-230	AMD-C	85-17-043	16-316-945	NEW	85-11-002
16-42-02001	REP-P	85-09-061	16-230-190	AMD-P	85-07-062	16-316-950	NEW-P	85-07-058
16-42-02001	REP-W	85-10-020	16-230-190	AMD-C	85-10-057	16-316-950	NEW	85-11-002
16-42-02001	REP	85-15-024	16-230-190	AMD-C	85-11-052	16-316-955	NEW-P	85-07-058
16-42-022	NEW-P	85-09-061	16-230-190	AMD	85-12-012	16-316-955	NEW	85-11-002
16-42-022	NEW-W	85-10-020	16-230-190	AMD-P	85-14-092	16-316-960	NEW-P	85-07-058
16-42-022	NEW	85-15-024	16-230-190	AMD-E	85-17-065	16-316-960	NEW	85-11-002
16-42-025	AMD-P	85-09-061	16-230-190	AMD	85-17-066	16-322-010	AMD-P	85-11-082
16-42-025	AMD-W	85-10-020	16-231	AMD-C	85-06-042	16-322-010	AMD	85-15-017
16-42-025	AMD	85-15-024	16-231-413	NEW-P	85-03-101	16-322-012	AMD-P	85-11-082
16-42-03001	REP-P	85-09-061	16-231-413	NEW	85-07-029	16-322-012	AMD	85-15-017



Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
51-12-108	NEW-P 85-18-068	51-12-608	NEW-P 85-18-068	67-45-060	REP-E 85-09-039
51-12-109	NEW-P 85-18-068	51-16-010	NEW-P 85-18-058	67-45-060	REP-E 85-15-044
51-12-110	NEW-P 85-18-068	51-16-020	NEW-P 85-18-058	67-45-060	REP-P 85-15-076
51-12-200	NEW-P 85-18-068	51-16-030	NEW-P 85-18-058	67-45-060	REP 85-18-047
51-12-201	NEW-P 85-18-068	51-16-040	NEW-P 85-18-058	67-45-070	REP-E 85-09-039
51-12-202	NEW-P 85-18-068	51-16-050	NEW-P 85-18-058	67-45-070	REP-E 85-15-044
51-12-203	NEW-P 85-18-068	51-16-060	NEW-P 85-18-058	67-45-070	REP-P 85-15-076
51-12-204	NEW-P 85-18-068	51-16-070	NEW-P 85-18-058	67-45-070	REP 85-18-047
51-12-205	NEW-P 85-18-068	67-25-005	AMD-P 85-03-081	67-45-075	REP-E 85-09-039
51-12-206	NEW-P 85-18-068	67-25-005	AMD 85-06-030	67-45-075	REP-E 85-15-044
51-12-207	NEW-P 85-18-068	67-25-180	REP-E 85-13-023	67-45-075	REP-P 85-15-076
51-12-208	NEW-P 85-18-068	67-25-180	REP-P 85-15-077	67-45-075	REP 85-18-047
51-12-209	NEW-P 85-18-068	67-25-180	REP 85-18-046	82-50-021	AMD-P 85-13-068
51-12-210	NEW-P 85-18-068	67-25-185	REP-E 85-13-023	82-50-021	AMD 85-16-014
51-12-211	NEW-P 85-18-068	67-25-185	REP-P 85-15-077	98-40-010	NEW-P 85-14-108
51-12-212	NEW-P 85-18-068	67-25-185	REP 85-18-046	98-40-010	NEW 85-19-012
51-12-213	NEW-P 85-18-068	67-25-190	REP-E 85-13-023	98-40-020	NEW-P 85-14-108
51-12-214	NEW-P 85-18-068	67-25-190	REP-P 85-15-077	98-40-020	NEW 85-19-012
51-12-215	NEW-P 85-18-068	67-25-190	REP 85-18-046	98-40-030	NEW-P 85-14-108
51-12-216	NEW-P 85-18-068	67-25-200	REP-E 85-13-023	98-40-030	NEW 85-19-012
51-12-217	NEW-P 85-18-068	67-25-200	REP-P 85-15-077	98-40-040	NEW-P 85-14-108
51-12-218	NEW-P 85-18-068	67-25-200	REP 85-18-046	98-40-040	NEW 85-19-012
51-12-219	NEW-P 85-18-068	67-25-257	NEW-P 85-03-081	98-40-050	NEW-P 85-14-108
51-12-220	NEW-P 85-18-068	67-25-257	NEW 85-06-030	98-40-050	NEW 85-19-012
51-12-221	NEW-P 85-18-068	67-25-360	AMD-P 85-15-077	98-40-060	NEW-P 85-14-108
51-12-222	NEW-P 85-18-068	67-25-360	AMD 85-18-046	98-40-060	NEW 85-19-012
51-12-223	NEW-P 85-18-068	67-25-420	AMD-P 85-03-081	98-40-070	NEW-P 85-14-108
51-12-300	NEW-P 85-18-068	67-25-420	AMD 85-06-030	98-40-070	NEW 85-19-012
51-12-301	NEW-P 85-18-068	67-35-070	AMD-P 85-15-075	98-40-080	NEW-P 85-14-108
51-12-302	NEW-P 85-18-068	67-35-070	AMD 85-18-048	98-40-080	NEW 85-19-012
51-12-303	NEW-P 85-18-068	67-35-100	AMD-P 85-15-075	98-70-010	AMD-P 85-14-108
51-12-304	NEW-P 85-18-068	67-35-100	AMD 85-18-048	98-70-010	AMD 85-19-012
51-12-305	NEW-P 85-18-068	67-35-130	AMD-P 85-15-075	100-100-010	NEW 85-03-011
51-12-306	NEW-P 85-18-068	67-35-130	AMD 85-18-048	100-100-020	NEW 85-03-011
51-12-400	NEW-P 85-18-068	67-35-140	AMD-P 85-15-075	100-100-030	NEW 85-03-011
51-12-401	NEW-P 85-18-068	67-35-140	AMD 85-18-048	100-100-040	NEW 85-03-011
51-12-402	NEW-P 85-18-068	67-35-160	AMD-P 85-15-075	100-100-050	NEW 85-03-011
51-12-403	NEW-P 85-18-068	67-35-160	AMD-C 85-18-030	100-100-060	NEW 85-03-011
51-12-404	NEW-P 85-18-068	67-35-160	AMD 85-19-048	100-100-070	NEW 85-03-011
51-12-405	NEW-P 85-18-068	67-35-180	AMD-P 85-15-075	100-100-070	AMD-P 85-04-063
51-12-406	NEW-P 85-18-068	67-35-180	AMD 85-18-048	100-100-070	AMD 85-09-027
51-12-407	NEW-P 85-18-068	67-35-190	AMD-P 85-15-075	100-100-075	NEW 85-09-027
51-12-408	NEW-P 85-18-068	67-35-190	AMD 85-18-048	100-100-080	NEW 85-03-011
51-12-409	NEW-P 85-18-068	67-35-280	AMD-P 85-15-075	100-100-090	NEW 85-03-011
51-12-410	NEW-P 85-18-068	67-35-280	AMD 85-18-048	100-100-100	NEW 85-03-011
51-12-411	NEW-P 85-18-068	67-35-310	AMD-P 85-15-075	100-100-100	AMD-P 85-04-063
51-12-412	NEW-P 85-18-068	67-35-310	AMD 85-18-048	106-120	AMD-P 85-03-086
51-12-413	NEW-P 85-18-068	67-35-350	AMD-P 85-15-075	106-120	AMD 85-07-032
51-12-414	NEW-P 85-18-068	67-35-350	AMD 85-18-048	106-120-001	REP-P 85-03-086
51-12-415	NEW-P 85-18-068	67-35-460	AMD-P 85-15-075	106-120-001	REP 85-07-032
51-12-416	NEW-P 85-18-068	67-35-460	AMD 85-18-048	106-120-003	NEW-P 85-03-086
51-12-417	NEW-P 85-18-068	67-35-520	AMD-P 85-15-075	106-120-003	NEW 85-07-032
51-12-418	NEW-P 85-18-068	67-35-520	AMD 85-18-048	106-120-004	NEW-P 85-03-086
51-12-419	NEW-P 85-18-068	67-45-010	REP-E 85-09-039	106-120-004	NEW 85-07-032
51-12-420	NEW-P 85-18-068	67-45-010	REP-E 85-15-044	106-120-005	NEW-P 85-03-086
51-12-421	NEW-P 85-18-068	67-45-010	REP-P 85-15-076	106-120-005	NEW 85-07-032
51-12-422	NEW-P 85-18-068	67-45-010	REP 85-18-047	106-120-006	NEW-P 85-03-086
51-12-423	NEW-P 85-18-068	67-45-020	REP-E 85-09-039	106-120-006	NEW 85-07-032
51-12-424	NEW-P 85-18-068	67-45-020	REP-E 85-15-044	106-120-007	NEW-P 85-03-086
51-12-425	NEW-P 85-18-068	67-45-020	REP-P 85-15-076	106-120-007	NEW 85-07-032
51-12-426	NEW-P 85-18-068	67-45-020	REP 85-18-047	106-120-010	REP-P 85-03-086
51-12-500	NEW-P 85-18-068	67-45-030	REP-E 85-09-039	106-120-010	REP 85-07-032
51-12-501	NEW-P 85-18-068	67-45-030	REP-E 85-15-044	106-120-011	REP-P 85-03-086
51-12-502	NEW-P 85-18-068	67-45-030	REP-P 85-15-076	106-120-011	REP 85-07-032
51-12-503	NEW-P 85-18-068	67-45-030	REP 85-18-047	106-120-013	REP-P 85-03-086
51-12-504	NEW-P 85-18-068	67-45-040	REP-E 85-09-039	106-120-013	REP 85-07-032
51-12-505	NEW-P 85-18-068	67-45-040	REP-E 85-15-044	106-120-020	REP-P 85-03-086
51-12-506	NEW-P 85-18-068	67-45-040	REP-P 85-15-076	106-120-020	REP 85-07-032
51-12-507	NEW-P 85-18-068	67-45-040	REP 85-18-047	106-120-021	NEW-P 85-03-086
51-12-600	NEW-P 85-18-068	67-45-045	REP-E 85-09-039	106-120-021	NEW 85-07-032
51-12-601	NEW-P 85-18-068	67-45-045	REP-E 85-15-044	106-120-022	NEW-P 85-03-086
51-12-602	NEW-P 85-18-068	67-45-045	REP-P 85-15-076	106-120-022	NEW 85-07-032
51-12-603	NEW-P 85-18-068	67-45-045	REP 85-18-047	106-120-023	NEW-P 85-03-086
51-12-604	NEW-P 85-18-068	67-45-050	REP-E 85-09-039	106-120-023	NEW 85-07-032
51-12-605	NEW-P 85-18-068	67-45-050	REP-E 85-15-044	106-120-024	NEW-P 85-03-086
51-12-606	NEW-P 85-18-068	67-45-050	REP-P 85-15-076	106-120-024	NEW 85-07-032
51-12-607	NEW-P 85-18-068	67-45-050	REP 85-18-047	106-120-025	NEW-P 85-03-086







**Table of WAC Sections Affected**

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
136-190-030	NEW-P 85-07-054	139-08-030	REP-P 85-03-077	140-09-050	NEW 85-03-004
136-190-030	NEW 85-11-055	139-08-030	REP 85-08-011	140-09-058	NEW 85-03-004
136-190-040	NEW-P 85-07-054	139-08-040	AMD-P 85-03-077	140-09-065	NEW 85-03-004
136-190-040	NEW 85-11-055	139-08-040	AMD 85-08-011	140-09-080	NEW 85-03-004
136-190-050	NEW-P 85-07-054	139-08-060	REP-P 85-03-077	140-09-090	NEW 85-03-004
136-190-050	NEW 85-11-055	139-08-060	REP 85-08-011	140-09-100	NEW 85-03-004
137-08-060	AMD-P 85-10-066	139-08-090	AMD-P 85-03-077	140-09-110	NEW 85-03-004
137-08-060	AMD 85-13-020	139-08-090	AMD 85-08-011	140-09-120	NEW 85-03-004
137-08-105	NEW-P 85-10-066	139-08-130	AMD-P 85-03-077	140-09-128	NEW 85-03-004
137-08-105	NEW 85-13-020	139-08-130	AMD 85-08-011	140-09-130	NEW 85-03-004
137-08-110	AMD-P 85-10-066	139-08-150	AMD-P 85-03-077	140-09-140	NEW 85-03-004
137-08-110	AMD 85-13-020	139-08-150	AMD 85-08-011	140-09-150	NEW 85-03-004
137-08-150	AMD-P 85-10-066	139-08-240	AMD-P 85-03-077	140-09-155	NEW 85-03-004
137-08-150	AMD 85-13-020	139-08-240	AMD 85-08-011	140-09-160	NEW 85-03-004
137-28-030	AMD-P 85-05-048	139-08-270	AMD-P 85-03-077	140-09-173	NEW 85-03-004
137-28-030	AMD 85-08-026	139-08-270	AMD 85-08-011	140-09-175	NEW 85-03-004
137-52-005	NEW-P 85-03-104	139-08-280	AMD-P 85-03-077	140-09-180	NEW 85-03-004
137-52-005	NEW 85-07-042	139-08-280	AMD 85-08-011	140-09-185	NEW 85-03-004
137-52-010	NEW-P 85-03-104	139-08-290	AMD-P 85-03-077	140-09-200	NEW 85-03-004
137-52-010	NEW 85-07-042	139-08-290	AMD 85-08-011	140-09-220	NEW 85-03-004
137-52-015	NEW-P 85-03-104	139-08-320	AMD-P 85-03-077	140-09-230	NEW 85-03-004
137-52-015	NEW 85-07-042	139-08-320	AMD 85-08-011	142-30-010	AMD-E 85-08-014
137-52-020	NEW-P 85-03-104	139-08-330	AMD-P 85-03-077	142-30-010	AMD-P 85-11-071
137-52-020	NEW 85-07-042	139-08-330	AMD 85-08-011	142-30-010	AMD-E 85-14-020
137-52-025	NEW-P 85-03-104	139-08-350	AMD-P 85-03-077	142-30-010	AMD-C 85-14-040
137-52-025	NEW 85-07-042	139-08-350	AMD 85-08-011	142-30-010	AMD-E 85-14-088
137-52-030	NEW-P 85-03-104	139-08-360	AMD-P 85-03-077	142-30-010	AMD 85-15-003
137-52-030	NEW 85-07-042	139-08-360	AMD 85-08-011	173-14-040	AMD-P 85-06-065
137-52-030	AMD-P 85-17-056	139-08-370	AMD-P 85-03-077	173-14-040	AMD 85-09-043
137-52-035	NEW-P 85-03-104	139-08-370	AMD 85-08-011	173-14-064	AMD-P 85-06-065
137-52-035	NEW 85-07-042	139-08-390	REP-P 85-03-077	173-14-064	AMD 85-09-043
137-52-040	NEW-P 85-03-104	139-08-390	REP 85-08-011	173-14-090	AMD-P 85-06-065
137-52-040	NEW 85-07-042	139-08-400	REP-P 85-03-077	173-14-090	AMD 85-09-043
137-52-045	NEW-P 85-03-104	139-08-400	REP 85-08-011	173-14-110	AMD-P 85-06-065
137-52-045	NEW 85-07-042	139-08-410	REP-P 85-03-077	173-14-115	AMD-P 85-06-065
137-52-050	NEW-P 85-03-104	139-08-410	REP 85-08-011	173-14-115	AMD 85-09-043
137-52-050	NEW 85-07-042	139-08-420	REP-P 85-03-077	173-14-130	AMD-P 85-06-065
137-54-010	NEW-P 85-02-067	139-08-420	REP 85-08-011	173-14-130	AMD 85-09-043
137-54-010	NEW 85-05-019	139-08-430	REP-P 85-03-077	173-16-030	AMD-P 85-06-065
137-54-020	NEW-P 85-02-067	139-08-430	REP 85-08-011	173-16-030	AMD 85-09-043
137-54-020	NEW 85-05-019	139-08-440	REP-P 85-03-077	173-16-070	AMD-P 85-06-065
137-54-030	NEW-P 85-02-067	139-08-440	REP 85-08-011	173-16-070	AMD 85-09-043
137-54-030	NEW 85-05-019	139-08-450	REP-P 85-03-077	173-16-380	AMD-P 85-06-065
137-54-040	NEW-P 85-02-067	139-08-450	REP 85-08-011	173-18-380	AMD 85-09-043
137-54-040	NEW 85-05-019	139-08-460	REP-P 85-03-077	173-19-130	AMD-P 85-12-049
137-60-020	AMD 85-04-015	139-08-460	REP 85-08-011	173-19-130	AMD-C 85-16-104
137-67-010	NEW-P 85-15-093	139-08-470	REP-P 85-03-077	173-19-130	AMD-C 85-17-063
137-67-010	NEW 85-18-061	139-08-470	REP 85-08-011	173-19-2204	AMD-P 85-07-061
137-67-015	NEW-P 85-15-093	139-08-480	REP-P 85-03-077	173-19-2204	AMD 85-10-030
137-67-015	NEW 85-18-061	139-08-480	REP 85-08-011	173-19-230	AMD-P 85-10-072
137-67-020	NEW-P 85-15-093	139-08-490	REP-P 85-03-077	173-19-230	AMD 85-12-051
137-67-020	NEW 85-18-061	139-08-490	REP 85-08-011	173-19-240	AMD-P 85-06-065
137-67-025	NEW-P 85-15-093	139-08-510	REP-P 85-03-077	173-19-240	AMD 85-09-043
137-67-025	NEW 85-18-061	139-08-510	REP 85-08-011	173-19-250	AMD-P 85-10-073
137-67-030	NEW-P 85-15-093	139-08-570	AMD-P 85-03-077	173-19-250	AMD 85-13-054
137-67-030	NEW 85-18-061	139-08-570	AMD 85-08-011	173-19-2501	AMD-P 85-10-073
137-67-035	NEW-P 85-15-093	139-08-600	NEW-P 85-03-077	173-19-2501	AMD 85-13-054
137-67-035	NEW 85-18-061	139-08-600	NEW 85-08-011	173-19-2511	AMD-P 85-06-065
137-67-040	NEW-P 85-15-093	139-22-020	NEW-P 85-07-040	173-19-2511	AMD 85-09-043
137-67-040	NEW 85-18-061	139-22-020	NEW-P 85-14-094	173-19-2515	AMD-P 85-10-073
137-67-045	NEW-P 85-15-093	139-36-031	AMD-E 85-14-006	173-19-2515	AMD 85-13-054
137-67-045	NEW 85-18-061	139-36-031	AMD-P 85-14-095	173-19-2521	AMD-P 85-16-072
137-70-040	AMD-P 85-09-056	140-08-010	REP 85-03-004	173-19-260	AMD-P 85-05-044
137-70-040	AMD 85-12-020	140-08-020	REP 85-03-004	173-19-260	AMD 85-10-014
137-70-060	AMD-P 85-03-103	140-08-030	REP 85-03-004	173-19-2901	AMD-P 85-06-065
137-70-060	AMD 85-07-017	140-08-040	REP 85-03-004	173-19-2901	AMD 85-09-043
137-70-070	AMD-P 85-03-103	140-08-050	REP 85-03-004	173-19-3210	AMD 85-04-039
137-70-070	AMD 85-07-017	140-08-060	REP 85-03-004	173-19-3210	AMD-P 85-05-045
139-04-010	AMD-P 85-03-076	140-08-070	REP 85-03-004	173-19-3210	AMD 85-08-016
139-04-010	AMD 85-08-010	140-08-080	REP 85-03-004	173-19-3514	AMD-P 85-05-046
139-08-005	AMD-P 85-03-077	140-08-090	REP 85-03-004	173-19-3514	AMD 85-10-013
139-08-005	AMD 85-08-011	140-08-100	REP 85-03-004	173-19-3701	AMD-P 85-06-065
139-08-010	REP-P 85-03-077	140-08-110	REP 85-03-004	173-19-3701	AMD 85-09-043
139-08-010	REP 85-08-011	140-09-010	NEW 85-03-004	173-19-3903	AMD-P 85-06-065
139-08-014	NEW-W 85-07-039	140-09-020	NEW 85-03-004	173-19-3903	AMD 85-09-043
139-08-020	REP-P 85-03-077	140-09-030	NEW 85-03-004	173-19-4402	AMD-P 85-13-053
139-08-020	REP 85-08-011	140-09-040	NEW 85-03-004	173-19-4402	AMD 85-16-105

















### Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
284-84-060	NEW-P 85-18-020	296-17-440	AMD-P 85-02-052	296-17-568	AMD 85-06-026
284-84-070	NEW-P 85-18-020	296-17-440	AMD 85-06-026	296-17-569	AMD-P 85-02-052
284-84-080	NEW-P 85-18-020	296-17-44001	NEW-P 85-02-052	296-17-569	AMD 85-06-026
284-84-090	NEW-P 85-18-020	296-17-44001	NEW 85-06-026	296-17-571	AMD-P 85-02-052
284-84-100	NEW-P 85-18-020	296-17-450	AMD-P 85-02-052	296-17-571	AMD 85-06-026
284-84-110	NEW-P 85-18-020	296-17-450	AMD 85-06-026	296-17-576	AMD-P 85-02-052
289-12-030	AMD 85-05-002	296-17-455	NEW-P 85-02-052	296-17-576	AMD 85-06-026
289-12-030	AMD-P 85-10-035	296-17-455	NEW 85-06-026	296-17-57601	AMD-P 85-02-052
289-12-030	AMD 85-14-120	296-17-501	AMD-P 85-02-052	296-17-57601	AMD 85-06-026
289-15-225	AMD 85-05-001	296-17-501	AMD 85-06-026	296-17-57602	AMD-P 85-02-052
289-15-225	AMD-P 85-06-001	296-17-502	AMD-P 85-02-052	296-17-57602	AMD 85-06-026
289-15-225	AMD-P 85-10-050	296-17-502	AMD 85-06-026	296-17-578	AMD-P 85-02-052
289-15-225	AMD 85-14-086	296-17-503	AMD-P 85-02-052	296-17-578	AMD 85-06-026
289-16-130	AMD-P 85-14-085	296-17-503	AMD 85-06-026	296-17-579	AMD-P 85-02-052
289-16-130	AMD 85-18-025	296-17-509	AMD-P 85-02-052	296-17-579	AMD 85-06-026
289-16-230	AMD-P 85-14-085	296-17-509	AMD 85-06-026	296-17-580	AMD-P 85-02-052
289-16-230	AMD 85-18-025	296-17-50904	AMD-P 85-02-052	296-17-580	AMD 85-06-026
289-26-300	AMD-P 85-14-083	296-17-50904	AMD 85-06-026	296-17-581	AMD-P 85-02-052
289-26-300	AMD 85-18-024	296-17-510	AMD-P 85-02-052	296-17-581	AMD 85-06-026
289-26-310	AMD-P 85-14-083	296-17-510	AMD 85-06-026	296-17-582	AMD-P 85-02-052
289-26-310	AMD 85-18-024	296-17-511	AMD-P 85-02-052	296-17-582	AMD 85-06-026
289-26-430	AMD-P 85-14-085	296-17-511	AMD 85-06-026	296-17-58201	AMD-P 85-02-052
289-26-430	AMD 85-18-025	296-17-512	AMD-P 85-02-052	296-17-58201	AMD 85-06-026
289-28-300	AMD-P 85-14-084	296-17-512	AMD 85-06-026	296-17-583	AMD-P 85-02-052
289-28-300	AMD 85-18-023	296-17-514	AMD-P 85-02-052	296-17-583	AMD 85-06-026
289-28-400	AMD-P 85-14-084	296-17-514	AMD 85-06-026	296-17-585	AMD-P 85-02-052
289-28-400	AMD 85-18-023	296-17-515	AMD-P 85-02-052	296-17-585	AMD 85-06-026
296-04-005	AMD-P 85-18-038	296-17-515	AMD 85-06-026	296-17-594	AMD-P 85-02-052
296-04-040	AMD-P 85-18-038	296-17-516	AMD-P 85-02-052	296-17-594	AMD 85-06-026
296-04-060	AMD-P 85-18-038	296-17-516	AMD 85-06-026	296-17-598	AMD-P 85-02-052
296-15-030	AMD-C 85-04-059	296-17-520	AMD-P 85-09-046	296-17-598	AMD 85-06-026
296-15-030	AMD 85-06-031	296-17-520	AMD 85-12-024	296-17-601	REP-P 85-02-052
296-15-050	AMD-C 85-04-059	296-17-521	AMD-P 85-02-052	296-17-601	REP 85-06-026
296-15-050	AMD 85-06-031	296-17-521	AMD 85-06-026	296-17-614	AMD-P 85-02-052
296-15-215	AMD-C 85-04-059	296-17-522	AMD-P 85-02-052	296-17-614	AMD 85-06-026
296-15-215	AMD 85-06-031	296-17-522	AMD 85-06-026	296-17-618	AMD-P 85-02-052
296-15-230	AMD-C 85-04-059	296-17-524	AMD-P 85-02-052	296-17-618	AMD 85-06-026
296-15-230	AMD 85-06-031	296-17-524	AMD 85-06-026	296-17-61801	AMD-P 85-02-052
296-15A-010	NEW-E 85-16-024	296-17-525	AMD-P 85-02-052	296-17-61801	AMD 85-06-026
296-15A-020	NEW-E 85-16-024	296-17-525	AMD 85-06-026	296-17-619	AMD-P 85-02-052
296-15A-030	NEW-E 85-16-024	296-17-526	AMD-P 85-02-052	296-17-619	AMD 85-06-026
296-15A-040	NEW-E 85-16-024	296-17-526	AMD 85-06-026	296-17-622	AMD-P 85-02-052
296-15A-050	NEW-E 85-16-024	296-17-527	AMD-P 85-02-052	296-17-622	AMD 85-06-026
296-15A-060	NEW-E 85-16-024	296-17-527	AMD 85-06-026	296-17-626	AMD-P 85-02-052
296-15A-070	NEW-E 85-16-024	296-17-52701	NEW-P 85-02-052	296-17-626	AMD 85-06-026
296-15A-080	NEW-E 85-16-024	296-17-52701	NEW 85-06-026	296-17-627	AMD-P 85-02-052
296-15A-090	NEW-E 85-16-024	296-17-529	AMD-P 85-02-052	296-17-627	AMD 85-06-026
296-15A-100	NEW-E 85-16-024	296-17-529	AMD 85-06-026	296-17-628	AMD-P 85-02-052
296-16-010	AMD-P 85-06-038	296-17-530	AMD-P 85-02-052	296-17-628	AMD 85-06-026
296-16-010	AMD-C 85-13-026	296-17-530	AMD 85-06-026	296-17-629	AMD-P 85-02-052
296-16-010	AMD 85-13-027	296-17-532	AMD-P 85-02-052	296-17-629	AMD 85-06-026
296-17-310	AMD-P 85-02-052	296-17-532	AMD 85-06-026	296-17-630	AMD-P 85-02-052
296-17-310	AMD 85-06-026	296-17-536	AMD-P 85-02-052	296-17-630	AMD 85-06-026
296-17-320	AMD-P 85-02-052	296-17-536	AMD 85-06-026	296-17-631	AMD-P 85-02-052
296-17-320	AMD 85-06-026	296-17-53801	AMD-P 85-02-052	296-17-631	AMD 85-06-026
296-17-350	AMD-P 85-02-052	296-17-53801	AMD 85-06-026	296-17-634	AMD-P 85-02-052
296-17-350	AMD 85-06-026	296-17-53803	AMD-P 85-02-052	296-17-634	AMD 85-06-026
296-17-352	AMD-P 85-02-052	296-17-53803	AMD 85-06-026	296-17-638	AMD-P 85-02-052
296-17-352	AMD 85-06-026	296-17-53805	AMD-P 85-02-052	296-17-638	AMD 85-06-026
296-17-360	AMD-P 85-02-052	296-17-53805	AMD 85-06-026	296-17-640	AMD-P 85-02-052
296-17-360	AMD 85-06-026	296-17-539	AMD-P 85-02-052	296-17-640	AMD 85-06-026
296-17-370	AMD-P 85-02-052	296-17-539	AMD 85-06-026	296-17-643	AMD-P 85-02-052
296-17-370	AMD 85-06-026	296-17-540	AMD-P 85-02-052	296-17-643	AMD 85-06-026
296-17-375	REP-P 85-09-046	296-17-540	AMD 85-06-026	296-17-643	AMD-E 85-09-045
296-17-375	REP 85-12-024	296-17-54101	AMD-P 85-02-052	296-17-643	AMD-P 85-09-046
296-17-380	AMD-P 85-02-052	296-17-54101	AMD 85-06-026	296-17-643	AMD 85-12-024
296-17-380	AMD 85-06-026	296-17-546	AMD-P 85-02-052	296-17-644	AMD-P 85-02-052
296-17-390	AMD-P 85-02-052	296-17-546	AMD 85-06-026	296-17-644	AMD 85-06-026
296-17-390	AMD 85-06-026	296-17-549	AMD-P 85-02-052	296-17-646	AMD-P 85-02-052
296-17-410	AMD-P 85-02-052	296-17-549	AMD 85-06-026	296-17-646	AMD 85-06-026
296-17-410	AMD 85-06-026	296-17-563	AMD-P 85-02-052	296-17-647	AMD-P 85-02-052
296-17-411	AMD-P 85-02-052	296-17-563	AMD 85-06-026	296-17-647	AMD 85-06-026
296-17-411	AMD 85-06-026	296-17-564	AMD-P 85-02-052	296-17-648	REP-P 85-02-052
296-17-420	AMD-P 85-02-052	296-17-564	AMD 85-06-026	296-17-648	REP 85-06-026
296-17-420	AMD 85-06-026	296-17-56401	AMD-P 85-02-052	296-17-649	AMD-P 85-02-052
296-17-430	AMD-P 85-02-052	296-17-56401	AMD 85-06-026	296-17-649	AMD 85-06-026
296-17-430	AMD 85-06-026	296-17-568	AMD-P 85-02-052	296-17-649	AMD-E 85-09-045

### Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
296-17-649	AMD-P 85-09-046	296-17-701	AMD 85-06-026	296-17-850	AMD-E 85-14-064
296-17-649	AMD 85-12-024	296-17-703	AMD-P 85-02-052	296-17-885	AMD-P 85-02-052
296-17-64901	AMD-P 85-02-052	296-17-703	AMD 85-06-026	296-17-885	AMD 85-06-026
296-17-64901	AMD 85-06-026	296-17-704	AMD-P 85-02-052	296-17-895	AMD-P 85-02-052
296-17-650	AMD-P 85-02-052	296-17-704	AMD 85-06-026	296-17-895	AMD 85-06-026
296-17-650	AMD 85-06-026	296-17-706	AMD-P 85-02-052	296-17-895	AMD-P 85-10-067
296-17-651	AMD-P 85-02-052	296-17-706	AMD 85-06-026	296-17-895	AMD 85-13-046
296-17-651	AMD 85-06-026	296-17-707	AMD-P 85-02-052	296-17-895	AMD-E 85-14-064
296-17-653	AMD-P 85-02-052	296-17-707	AMD 85-06-026	296-17-904	AMD 85-06-025
296-17-653	AMD 85-06-026	296-17-708	AMD-P 85-02-052	296-17-910	AMD 85-06-025
296-17-654	AMD-P 85-02-052	296-17-708	AMD 85-06-026	296-17-911	AMD 85-06-025
296-17-654	AMD 85-06-026	296-17-709	AMD-P 85-02-052	296-17-913	AMD 85-06-025
296-17-655	AMD-P 85-02-052	296-17-709	AMD 85-06-026	296-17-914	AMD 85-06-025
296-17-655	AMD 85-06-026	296-17-710	AMD-P 85-02-052	296-17-915	AMD 85-06-025
296-17-659	AMD-P 85-02-052	296-17-710	AMD 85-06-026	296-17-916	AMD 85-06-025
296-17-659	AMD 85-06-026	296-17-711	AMD-P 85-02-052	296-17-917	AMD 85-06-025
296-17-66002	AMD-P 85-02-052	296-17-711	AMD 85-06-026	296-17-919	AMD 85-06-025
296-17-66002	AMD 85-06-026	296-17-714	AMD-P 85-02-052	296-17-91901	AMD 85-06-025
296-17-669	AMD-P 85-02-052	296-17-714	AMD 85-06-026	296-17-91902	AMD 85-06-025
296-17-669	AMD 85-06-026	296-17-715	AMD-P 85-02-052	296-18	AMD-C 85-17-021
296-17-670	AMD-P 85-02-052	296-17-715	AMD 85-06-026	296-18-010	REP-E 85-11-050
296-17-670	AMD 85-06-026	296-17-716	AMD-P 85-09-046	296-18-010	REP-P 85-13-082
296-17-676	AMD-P 85-02-052	296-17-716	AMD 85-12-024	296-18-010	REP-C 85-16-074
296-17-676	AMD 85-06-026	296-17-717	AMD-P 85-02-052	296-18-010	REP 85-17-022
296-17-67601	AMD-P 85-02-052	296-17-717	AMD 85-06-026	296-18-010	REP-E 85-18-007
296-17-67601	AMD 85-06-026	296-17-718	AMD-P 85-02-052	296-18-020	REP-E 85-11-050
296-17-67602	AMD-P 85-02-052	296-17-718	AMD 85-06-026	296-18-020	REP-P 85-13-082
296-17-67602	AMD 85-06-026	296-17-719	AMD-P 85-02-052	296-18-020	REP-C 85-16-074
296-17-677	AMD-P 85-02-052	296-17-719	AMD 85-06-026	296-18-020	REP 85-17-022
296-17-677	AMD 85-06-026	296-17-721	AMD-P 85-02-052	296-18-020	REP-E 85-18-007
296-17-678	AMD-P 85-02-052	296-17-721	AMD 85-06-026	296-18-040	AMD-P 85-03-019
296-17-678	AMD 85-06-026	296-17-722	AMD-P 85-02-052	296-18-040	AMD-E 85-04-038
296-17-679	AMD-P 85-02-052	296-17-722	AMD 85-06-026	296-18-040	REP-E 85-11-050
296-17-679	AMD 85-06-026	296-17-723	AMD-P 85-02-052	296-18-040	REP-P 85-13-082
296-17-67901	AMD-P 85-02-052	296-17-723	AMD 85-06-026	296-18-040	REP-C 85-16-074
296-17-67901	AMD 85-06-026	296-17-724	AMD-P 85-02-052	296-18-040	REP 85-17-022
296-17-680	AMD-P 85-02-052	296-17-724	AMD 85-06-026	296-18-040	REP-E 85-18-007
296-17-680	AMD 85-06-026	296-17-725	AMD-P 85-02-052	296-18-070	REP-E 85-11-050
296-17-681	AMD-P 85-02-052	296-17-725	AMD 85-06-026	296-18-070	REP-P 85-13-082
296-17-681	AMD 85-06-026	296-17-726	AMD-P 85-02-052	296-18-070	REP-C 85-16-074
296-17-682	AMD-P 85-02-052	296-17-726	AMD 85-06-026	296-18-070	REP 85-17-022
296-17-682	AMD 85-06-026	296-17-727	AMD-P 85-02-052	296-18-070	REP-E 85-18-007
296-17-684	AMD-P 85-02-052	296-17-727	AMD 85-06-026	296-18-080	REP-E 85-11-050
296-17-684	AMD 85-06-026	296-17-729	AMD-P 85-02-052	296-18-080	REP-P 85-13-082
296-17-685	AMD-P 85-02-052	296-17-729	AMD 85-06-026	296-18-080	REP-C 85-16-074
296-17-685	AMD 85-06-026	296-17-730	AMD-P 85-02-052	296-18-080	REP 85-17-022
296-17-686	AMD-P 85-02-052	296-17-730	AMD 85-06-026	296-18-080	REP-E 85-18-007
296-17-686	AMD 85-06-026	296-17-735	AMD-P 85-02-052	296-18-090	REP-E 85-11-050
296-17-687	AMD-P 85-02-052	296-17-735	AMD 85-06-026	296-18-090	REP-P 85-13-082
296-17-687	AMD 85-06-026	296-17-736	AMD-P 85-02-052	296-18-090	REP-C 85-16-074
296-17-688	AMD-P 85-02-052	296-17-736	AMD 85-06-026	296-18-090	REP 85-17-022
296-17-688	AMD 85-06-026	296-17-740	AMD-P 85-02-052	296-18-090	REP-E 85-18-007
296-17-689	AMD-P 85-02-052	296-17-740	AMD 85-06-026	296-18-100	REP-E 85-11-050
296-17-689	AMD 85-06-026	296-17-742	AMD-P 85-02-052	296-18-100	REP-P 85-13-082
296-17-690	AMD-P 85-02-052	296-17-742	AMD 85-06-026	296-18-100	REP-C 85-16-074
296-17-690	AMD 85-06-026	296-17-744	AMD-P 85-02-052	296-18-100	REP 85-17-022
296-17-691	AMD-P 85-02-052	296-17-744	AMD 85-06-026	296-18-100	REP-E 85-18-007
296-17-691	AMD 85-06-026	296-17-747	AMD-P 85-02-052	296-18-110	REP-E 85-11-050
296-17-692	AMD-P 85-02-052	296-17-747	AMD 85-06-026	296-18-110	REP-P 85-13-082
296-17-692	AMD 85-06-026	296-17-753	AMD-P 85-02-052	296-18-110	REP-C 85-16-074
296-17-693	AMD-P 85-02-052	296-17-753	AMD 85-06-026	296-18-110	REP 85-17-022
296-17-693	AMD 85-06-026	296-17-755	AMD-P 85-02-052	296-18-110	REP-E 85-18-007
296-17-694	AMD-P 85-02-052	296-17-755	AMD 85-06-026	296-18-120	REP-E 85-11-050
296-17-694	AMD 85-06-026	296-17-756	AMD-P 85-02-052	296-18-120	REP-P 85-13-082
296-17-695	AMD-P 85-02-052	296-17-756	AMD 85-06-026	296-18-120	REP-C 85-16-074
296-17-695	AMD 85-06-026	296-17-758	AMD-P 85-02-052	296-18-120	REP 85-17-022
296-17-696	AMD-P 85-02-052	296-17-758	AMD 85-06-026	296-18-120	REP-E 85-18-007
296-17-696	AMD 85-06-026	296-17-760	AMD-P 85-02-052	296-18-130	REP-E 85-11-050
296-17-697	AMD-P 85-02-052	296-17-760	AMD 85-06-026	296-18-130	REP-P 85-13-082
296-17-697	AMD 85-06-026	296-17-763	AMD-P 85-02-052	296-18-130	REP-C 85-16-074
296-17-698	AMD-P 85-02-052	296-17-763	AMD 85-06-026	296-18-130	REP 85-17-022
296-17-698	AMD 85-06-026	296-17-764	AMD-P 85-02-052	296-18-130	REP-E 85-18-007
296-17-699	AMD-P 85-02-052	296-17-764	AMD 85-06-026	296-18-140	REP-E 85-11-050
296-17-699	AMD 85-06-026	296-17-778	AMD-P 85-02-052	296-18-140	REP-P 85-13-082
296-17-700	AMD-P 85-02-052	296-17-778	AMD 85-06-026	296-18-140	REP-C 85-16-074
296-17-700	AMD 85-06-026	296-17-850	AMD-P 85-10-067	296-18-140	REP 85-17-022
296-17-701	AMD-P 85-02-052	296-17-850	AMD 85-13-046	296-18-140	REP-E 85-18-007























Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
392-196-055	NEW-E 85-17-024	440-44-040	AMD 85-12-029	458-08-080	NEW-E 85-16-101
392-196-060	NEW-P 85-17-023	440-44-050	AMD-P 85-09-054	458-08-080	NEW-C 85-19-069
392-196-060	NEW-E 85-17-024	440-44-050	AMD 85-13-007	458-08-090	NEW-P 85-16-100
392-196-065	NEW-P 85-17-023	440-44-050	AMD-P 85-15-022	458-08-090	NEW-E 85-16-101
392-196-065	NEW-E 85-17-024	440-44-050	AMD-E 85-16-064	458-08-090	NEW-C 85-19-069
392-196-070	NEW-P 85-17-023	440-44-057	AMD-P 85-02-058	458-08-100	NEW-P 85-16-100
392-196-070	NEW-E 85-17-024	440-44-057	AMD-E 85-02-059	458-08-100	NEW-E 85-16-101
392-196-075	NEW-P 85-17-023	440-44-057	AMD 85-06-024	458-08-100	NEW-C 85-19-069
392-196-075	NEW-E 85-17-024	440-44-057	AMD-P 85-09-054	458-08-110	NEW-P 85-16-100
392-196-080	NEW-P 85-17-023	440-44-057	AMD 85-13-007	458-08-110	NEW-E 85-16-101
392-196-080	NEW-E 85-17-024	440-44-058	NEW-P 85-09-054	458-08-110	NEW-C 85-19-069
392-196-085	NEW-P 85-17-023	440-44-058	NEW 85-13-007	458-08-120	NEW-P 85-16-100
392-196-085	NEW-E 85-17-024	440-44-060	AMD-P 85-15-022	458-08-120	NEW-E 85-16-101
392-196-090	NEW-P 85-17-023	440-44-060	AMD-E 85-16-064	458-08-120	NEW-C 85-19-069
392-196-090	NEW-E 85-17-024	440-44-061	NEW-P 85-15-022	458-08-130	NEW-P 85-16-100
419-14-030	AMD-P 85-03-050	440-44-061	NEW-E 85-16-064	458-08-130	NEW-E 85-16-101
419-14-030	AMD 85-07-009	440-44-065	AMD-P 85-09-054	458-08-130	NEW-C 85-19-069
419-14-040	AMD-P 85-03-050	440-44-065	AMD 85-12-029	458-08-140	NEW-P 85-16-100
419-14-040	AMD 85-07-009	440-44-075	AMD-P 85-09-054	458-08-140	NEW-E 85-16-101
419-14-075	AMD-E 85-03-023	440-44-075	AMD 85-12-029	458-08-140	NEW-C 85-19-069
419-14-075	AMD-P 85-03-049	440-44-076	NEW-P 85-09-054	458-08-150	NEW-P 85-16-100
419-14-075	AMD 85-07-010	440-44-076	NEW 85-13-007	458-08-150	NEW-E 85-16-101
419-14-100	AMD-P 85-03-050	440-44-090	NEW-P 85-15-023	458-08-150	NEW-C 85-19-069
419-14-100	AMD 85-07-009	440-44-095	NEW 85-04-023	458-08-160	NEW-P 85-16-100
419-14-110	AMD-P 85-03-050	440-44-100	NEW-P 85-15-089	458-08-160	NEW-E 85-16-101
419-14-110	AMD 85-07-009	446-50-080	AMD-E 85-15-048	458-08-160	NEW-C 85-19-069
419-18-030	AMD-P 85-03-051	446-50-080	AMD-P 85-16-003	458-08-170	NEW-P 85-16-100
419-18-030	AMD 85-07-008	448-12-210	NEW-P 85-05-041	458-08-170	NEW-E 85-16-101
419-18-040	AMD-P 85-03-051	448-12-210	NEW 85-08-012	458-08-170	NEW-C 85-19-069
419-18-040	AMD 85-07-008	448-12-220	NEW-P 85-05-041	458-08-180	NEW-P 85-16-100
419-18-060	AMD-P 85-03-051	448-12-220	NEW 85-08-012	458-08-180	NEW-E 85-16-101
419-18-060	AMD 85-07-008	448-12-230	NEW-P 85-05-041	458-08-180	NEW-C 85-19-069
419-18-070	AMD-P 85-03-051	448-12-230	NEW 85-08-012	458-08-190	NEW-P 85-16-100
419-18-070	AMD 85-07-008	448-12-240	NEW-P 85-05-041	458-08-190	NEW-E 85-16-101
419-36-090	NEW-E 85-19-011	448-12-240	NEW 85-08-012	458-08-190	NEW-C 85-19-069
419-36-090	NEW-P 85-19-028	448-12-250	NEW-P 85-05-041	458-08-200	NEW-P 85-16-100
434-15-010	NEW-P 85-10-063	448-12-250	NEW 85-08-012	458-08-200	NEW-E 85-16-101
434-15-010	NEW 85-13-017	448-12-260	NEW-P 85-05-041	458-08-200	NEW-C 85-19-069
434-15-020	NEW-P 85-10-063	448-12-260	NEW 85-08-012	458-08-210	NEW-P 85-16-100
434-15-020	NEW 85-13-017	448-12-270	NEW-P 85-05-041	458-08-210	NEW-E 85-16-101
434-15-030	NEW-P 85-10-063	448-12-270	NEW 85-08-012	458-08-210	NEW-C 85-19-069
434-15-030	NEW 85-13-017	448-12-280	NEW-P 85-05-041	458-08-220	NEW-P 85-16-100
434-15-040	NEW-P 85-10-063	448-12-280	NEW 85-08-012	458-08-220	NEW-E 85-16-101
434-15-040	NEW 85-13-017	448-12-290	NEW-P 85-05-041	458-08-220	NEW-C 85-19-069
434-15-050	NEW-P 85-10-063	448-12-290	NEW 85-08-012	458-08-230	NEW-P 85-16-100
434-15-050	NEW 85-13-017	448-12-300	NEW-P 85-05-041	458-08-230	NEW-E 85-16-101
434-15-060	NEW-P 85-10-063	448-12-300	NEW 85-08-012	458-08-230	NEW-C 85-19-069
434-15-060	NEW 85-13-017	448-12-310	NEW-P 85-05-041	458-08-240	NEW-P 85-16-100
434-15-070	NEW-P 85-10-063	448-12-310	NEW 85-08-012	458-08-240	NEW-E 85-16-101
434-15-070	NEW 85-13-017	448-12-320	NEW-P 85-05-041	458-08-240	NEW-C 85-19-069
434-15-080	NEW-P 85-10-063	448-12-320	NEW 85-08-012	458-08-250	NEW-P 85-16-100
434-15-080	NEW 85-13-017	448-12-330	NEW-P 85-05-041	458-08-250	NEW-E 85-16-101
434-15-090	NEW-P 85-10-063	448-12-330	NEW 85-08-012	458-08-250	NEW-C 85-19-069
434-15-090	NEW 85-13-017	448-12-340	NEW-P 85-05-041	458-12-250	REP-P 85-18-022
434-15-100	NEW-P 85-10-063	448-12-340	NEW 85-08-012	458-12-255	REP-P 85-18-022
434-15-100	NEW 85-13-017	458-08-010	NEW-P 85-16-100	458-12-260	REP-P 85-18-022
434-15-110	NEW-P 85-10-063	458-08-010	NEW-E 85-16-101	458-12-265	REP-P 85-18-022
434-15-110	NEW 85-13-017	458-08-010	NEW-C 85-19-069	458-14-040	AMD-P 85-14-003
434-15-120	NEW-P 85-10-063	458-08-020	NEW-P 85-16-100	458-14-040	AMD 85-17-016
434-15-120	NEW 85-13-017	458-08-020	NEW-E 85-16-101	458-14-045	AMD-P 85-14-003
434-15-130	NEW-P 85-10-063	458-08-020	NEW-C 85-19-069	458-14-045	AMD-E 85-14-004
434-15-130	NEW 85-13-017	458-08-030	NEW-P 85-16-100	458-14-045	AMD 85-17-016
434-15-140	NEW-P 85-10-063	458-08-030	NEW-E 85-16-101	458-14-092	AMD-P 85-14-003
434-15-140	NEW 85-13-017	458-08-030	NEW-C 85-19-069	458-14-092	AMD 85-17-016
434-15-150	NEW-P 85-10-063	458-08-040	NEW-P 85-16-100	458-14-152	AMD-P 85-14-003
434-15-150	NEW 85-13-017	458-08-040	NEW-E 85-16-101	458-14-152	AMD-E 85-14-004
434-15-990	NEW-P 85-10-063	458-08-040	NEW-C 85-19-069	458-14-152	AMD 85-17-016
434-15-990	NEW 85-13-017	458-08-050	NEW-P 85-16-100	458-16-110	AMD-C 85-02-060
434-15-99001	NEW-P 85-10-063	458-08-050	NEW-E 85-16-101	458-16-110	AMD 85-05-025
434-15-99001	NEW 85-13-017	458-08-050	NEW-C 85-19-069	458-16-111	AMD-C 85-02-060
434-57-030	NEW-E 85-14-059	458-08-060	NEW-P 85-16-100	458-16-111	AMD 85-05-025
434-57-030	NEW-P 85-14-115	458-08-060	NEW-E 85-16-101	458-16-130	AMD-C 85-02-060
434-57-030	NEW 85-18-003	458-08-060	NEW-C 85-19-069	458-16-130	AMD 85-05-025
440-44	AMD-C 85-13-002	458-08-070	NEW-P 85-16-100	458-16-150	AMD-C 85-02-060
440-44-035	AMD-P 85-09-054	458-08-070	NEW-E 85-16-101	458-16-150	AMD 85-05-025
440-44-035	AMD 85-12-029	458-08-070	NEW-C 85-19-069	458-16-210	AMD-C 85-02-060
440-44-040	AMD-P 85-09-054	458-08-080	NEW-P 85-16-100	458-16-210	AMD 85-05-025

### Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
458-16-220	AMD-C 85-02-060	460-90A-025	NEW-P 85-04-056	468-58	REVIEW 85-16-084
458-16-220	AMD 85-05-025	460-90A-025	NEW 85-12-021	468-66-010	AMD 85-03-031
458-16-230	AMD-C 85-02-060	460-90A-027	NEW-P 85-04-056	468-66-010	AMD-P 85-14-099
458-16-230	AMD 85-05-025	460-90A-027	NEW 85-12-021	468-66-010	AMD-E 85-14-100
458-16-240	AMD-C 85-02-060	460-90A-030	AMD-P 85-04-056	468-66-010	AMD 85-17-012
458-16-240	AMD 85-05-025	460-90A-030	AMD 85-12-021	468-66-030	AMD 85-03-031
458-16-260	AMD-C 85-02-060	460-90A-030	AMD-P 85-12-022	468-66-030	AMD-P 85-14-099
458-16-260	AMD 85-05-025	460-90A-030	AMD 85-19-093	468-66-030	AMD-E 85-14-100
458-16-270	AMD-C 85-02-060	460-90A-032	NEW-P 85-04-056	468-66-030	AMD 85-17-012
458-16-270	AMD 85-05-025	460-90A-032	NEW 85-12-021	468-66-050	AMD-P 85-14-099
458-16-280	AMD-C 85-02-060	460-90A-032	AMD-P 85-12-022	468-66-050	AMD-E 85-14-100
458-16-280	AMD 85-05-025	460-90A-032	AMD 85-19-093	468-66-050	AMD 85-17-012
458-16-282	AMD-C 85-02-060	460-90A-035	NEW-P 85-04-056	468-66-060	AMD-P 85-14-099
458-16-282	AMD 85-05-025	460-90A-035	NEW-P 85-12-022	468-66-060	AMD-E 85-14-100
458-17-100	NEW-P 85-18-022	460-90A-035	NEW 85-19-093	468-66-060	AMD 85-17-012
458-20-155	AMD-P 85-16-106	460-90A-040	REP-P 85-04-056	468-66-090	AMD-P 85-14-099
458-20-155	AMD-E 85-16-107	460-90A-040	REP 85-12-021	468-66-090	AMD-E 85-14-100
458-20-179	AMD-P 85-18-069	460-90A-045	NEW-P 85-04-056	468-66-090	AMD 85-17-012
458-20-179	AMD-E 85-18-070	460-90A-045	NEW-P 85-12-022	468-66-100	AMD-P 85-14-099
458-20-17901	NEW-P 85-16-106	460-90A-045	NEW-E 85-15-057	468-66-100	AMD-E 85-14-100
458-20-189	AMD 85-04-016	460-90A-045	NEW 85-19-093	468-66-100	AMD 85-17-012
458-20-189	AMD-P 85-18-069	460-90A-050	REP-P 85-12-022	468-66-110	AMD-P 85-14-099
458-20-189	AMD-E 85-18-070	460-90A-050	REP 85-19-093	468-66-110	AMD-E 85-14-100
458-20-207	AMD-P 85-16-106	460-90A-055	NEW-P 85-12-022	468-66-110	AMD 85-17-012
458-20-207	AMD-E 85-16-107	460-90A-055	NEW 85-19-093	468-66-140	AMD-P 85-14-099
458-20-228	AMD 85-04-016	460-90A-070	AMD-P 85-04-056	468-66-140	AMD-E 85-14-100
458-20-24001	NEW-P 85-16-106	460-90A-070	AMD-P 85-12-022	468-66-140	AMD 85-17-012
458-20-24001	NEW-E 85-16-107	460-90A-070	AMD 85-19-093	468-70-020	AMD-P 85-14-099
458-20-24002	NEW-P 85-16-106	460-90A-090	AMD-P 85-12-022	468-70-020	AMD-E 85-14-100
458-20-24002	NEW-E 85-16-107	460-90A-090	AMD 85-19-093	468-70-020	AMD 85-17-012
458-40-18717	NEW-P 85-10-058	460-90A-100	AMD-P 85-12-022	468-70-030	AMD-P 85-14-099
458-40-18717	NEW-E 85-14-047	460-90A-100	AMD 85-19-093	468-70-030	AMD-E 85-14-100
458-40-18717	NEW 85-14-048	460-90A-110	REP-P 85-04-056	468-70-030	AMD 85-17-012
458-40-18718	NEW-P 85-10-058	460-90A-110	REP 85-12-021	468-70-040	AMD-P 85-14-099
458-40-18718	NEW-E 85-14-047	460-90A-115	NEW-P 85-04-056	468-70-040	AMD-E 85-14-100
458-40-18718	NEW 85-14-048	460-90A-115	NEW 85-12-021	468-70-040	AMD 85-17-012
460-20A-210	AMD-P 85-13-022	460-90A-115	AMD-P 85-12-022	468-70-050	AMD 85-03-031
460-20A-210	AMD 85-16-068	460-90A-115	AMD-E 85-15-057	468-70-050	AMD-P 85-14-099
460-20A-210	AMD-P 85-19-070	460-90A-115	AMD 85-19-093	468-70-050	AMD-E 85-14-100
460-20A-220	AMD-P 85-13-022	460-90A-120	REP-P 85-04-056	468-70-050	AMD 85-17-012
460-20A-220	AMD 85-16-068	460-90A-120	REP 85-12-021	468-70-060	AMD 85-03-031
460-20A-220	AMD-P 85-19-070	460-90A-122	NEW-P 85-04-056	468-70-060	AMD-P 85-14-099
460-20A-230	AMD-P 85-13-022	460-90A-122	NEW 85-12-021	468-70-060	AMD-E 85-14-100
460-20A-230	AMD 85-16-068	460-90A-125	NEW-P 85-04-056	468-70-060	AMD 85-17-012
460-20A-230	AMD-P 85-19-070	460-90A-125	NEW 85-12-021	468-70-070	AMD-P 85-14-099
460-20A-400	AMD-P 85-13-022	460-90A-140	AMD-P 85-04-056	468-70-070	AMD-E 85-14-100
460-20A-400	AMD 85-16-068	460-90A-140	AMD 85-12-021	468-70-070	AMD 85-17-012
460-20A-400	AMD-P 85-19-070	460-90A-150	REP-P 85-04-056	468-70-080	AMD 85-03-031
460-20A-405	NEW 85-03-042	460-90A-150	REP 85-12-021	468-70-080	AMD-P 85-14-099
460-24A-050	AMD-P 85-13-022	468-06	REVIEW 85-13-005	468-70-080	AMD-E 85-14-100
460-24A-050	AMD 85-16-068	468-06-030	AMD-P 85-18-001	468-70-080	AMD 85-17-012
460-24A-050	AMD-P 85-19-070	468-06-040	AMD-P 85-18-001	468-70-990	REP-P 85-14-099
460-24A-060	AMD-P 85-13-022	468-06-070	AMD-P 85-18-001	468-70-990	REP-E 85-14-100
460-24A-060	AMD 85-16-068	468-06-110	AMD-P 85-18-001	468-70-990	REP 85-17-012
460-24A-205	AMD-P 85-13-022	468-10	REVIEW 85-13-005	468-70-99001	REP-P 85-14-099
460-24A-205	AMD 85-16-068	468-12	REVIEW 85-13-005	468-70-99001	REP-E 85-14-100
460-24A-205	AMD-P 85-19-070	468-14	REVIEW 85-16-084	468-70-99001	REP 85-17-012
460-24A-220	NEW-P 85-19-070	468-18	REVIEW 85-13-005	468-70-99002	REP-P 85-14-099
460-90A-005	NEW-P 85-04-056	468-18-090	AMD-P 85-11-060	468-70-99002	REP-E 85-14-100
460-90A-005	NEW 85-12-021	468-18-090	AMD-E 85-11-063	468-70-99002	REP 85-17-012
460-90A-010	REP-P 85-04-056	468-18-090	AMD 85-15-080	468-70-99003	REP-P 85-14-099
460-90A-010	REP 85-12-021	468-30	REVIEW 85-16-084	468-70-99003	REP-E 85-14-100
460-90A-015	NEW-P 85-04-056	468-34	REVIEW 85-16-084	468-70-99003	REP 85-17-012
460-90A-015	NEW 85-12-021	468-38	AMD-C 85-17-064	468-70-99004	REP-P 85-14-099
460-90A-015	AMD-P 85-12-022	468-38	REVIEW 85-18-002	468-70-99004	REP-E 85-14-100
460-90A-015	AMD 85-19-093	468-38-020	AMD-P 85-14-010	468-70-99004	REP 85-17-012
460-90A-017	NEW-P 85-04-056	468-38-120	AMD-P 85-15-078	468-78	REVIEW 85-18-002
460-90A-017	NEW-P 85-12-022	468-38-120	AMD-E 85-15-079	468-95-010	AMD-P 85-18-062
460-90A-017	NEW 85-19-093	468-38-280	AMD-P 85-14-010	468-300	REVIEW 85-13-005
460-90A-018	NEW-P 85-04-056	468-38-290	AMD-P 85-06-004	468-300-005	REP-P 85-06-015
460-90A-018	NEW 85-12-021	468-38-290	AMD-E 85-06-005	468-300-005	REP 85-11-007
460-90A-018	AMD-P 85-12-022	468-38-290	AMD-C 85-10-009	468-300-010	AMD-P 85-06-015
460-90A-018	AMD 85-19-093	468-38-290	AMD-E 85-11-061	468-300-010	AMD 85-11-007
460-90A-020	REP-P 85-04-056	468-38-290	AMD 85-11-062	468-300-020	AMD-P 85-06-015
460-90A-020	REP 85-12-021	468-38-370	AMD-P 85-14-010	468-300-020	AMD 85-11-007
460-90A-022	NEW-P 85-04-056	468-46	REVIEW 85-18-002	468-300-030	AMD-P 85-06-015
460-90A-022	NEW 85-12-021	468-54	REVIEW 85-16-084	468-300-030	AMD 85-11-007

**Table of WAC Sections Affected**

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
468-300-040	AMD-P 85-06-015	480-80-045	NEW-E 85-16-010	484-20-070	AMD-P 85-15-088
468-300-040	AMD 85-11-007	480-80-120	AMD-P 85-16-008	484-20-070	AMD-C 85-18-036
468-300-070	AMD-P 85-06-015	480-80-120	AMD-E 85-16-010	484-20-075	AMD-P 85-15-088
468-300-070	AMD 85-11-007	480-80-125	AMD-P 85-16-008	484-20-075	AMD-C 85-18-036
468-300-100	RE-AD-P 85-06-015	480-80-125	AMD-E 85-16-010	484-20-085	AMD-E 85-08-002
468-300-100	READOPT 85-11-007	480-80-210	AMD-P 85-06-045	484-20-085	AMD-E 85-12-003
468-300-410	AMD-P 85-06-015	480-80-220	AMD-P 85-16-008	484-20-085	AMD-E 85-15-081
468-300-410	AMD 85-11-007	480-80-220	AMD-E 85-16-010	484-20-085	AMD-P 85-15-088
468-300-510	RE-AD-P 85-06-015	480-80-240	AMD-P 85-16-008	484-20-085	AMD-C 85-18-036
468-300-510	READOPT 85-11-007	480-80-240	AMD-E 85-16-010	484-20-090	AMD-E 85-04-004
478-08-001	REP-P 85-15-066	480-80-340	AMD-P 85-06-045	484-20-090	AMD-E 85-08-002
478-08-010	REP-P 85-15-066	480-80-380	AMD-P 85-06-045	484-20-090	AMD-E 85-12-003
478-08-080	REP-P 85-15-066	480-110-041	AMD-P 85-08-015	484-20-090	AMD-E 85-15-081
478-08-090	REP-P 85-15-066	480-110-041	AMD 85-11-019	484-20-090	AMD-P 85-15-088
478-08-100	REP-P 85-15-066	480-120-011	AMD-P 85-18-081	484-20-090	AMD-C 85-18-036
478-08-110	REP-P 85-15-066	480-120-021	AMD-P 85-06-045	484-20-100	AMD-E 85-04-004
478-08-120	REP-P 85-15-066	480-120-021	AMD-P 85-18-081	484-20-100	AMD-E 85-08-002
478-08-130	REP-P 85-15-066	480-120-022	NEW-P 85-18-081	484-20-100	AMD-E 85-12-003
478-08-140	REP-P 85-15-066	480-120-023	NEW-P 85-18-081	484-20-100	AMD-E 85-15-081
478-08-230	REP-P 85-15-066	480-120-024	NEW-P 85-18-081	484-20-100	AMD-P 85-15-088
478-08-240	REP-P 85-15-066	480-120-025	NEW-P 85-18-081	484-20-100	AMD-C 85-18-036
478-08-250	REP-P 85-15-066	480-120-031	AMD-P 85-06-045	484-20-105	AMD-E 85-04-004
478-08-260	REP-P 85-15-066	480-120-031	AMD-P 85-18-081	484-20-105	AMD-E 85-08-002
478-08-270	REP-P 85-15-066	480-120-041	AMD-P 85-18-081	484-20-105	AMD-E 85-12-003
478-08-280	REP-P 85-15-066	480-120-042	AMD-P 85-18-081	484-20-105	AMD-E 85-15-081
478-08-290	REP-P 85-15-066	480-120-056	AMD 85-04-036	484-20-105	AMD-P 85-15-088
478-08-300	REP-P 85-15-066	480-120-056	AMD-P 85-18-081	484-20-105	AMD-C 85-18-036
478-08-310	REP-P 85-15-066	480-120-061	AMD-P 85-14-055	484-20-110	AMD-E 85-04-004
478-08-320	REP-P 85-15-066	480-120-061	AMD-C 85-16-117	484-20-110	AMD-E 85-08-002
478-08-330	REP-P 85-15-066	480-120-061	AMD 85-18-011	484-20-110	AMD-E 85-12-003
478-08-340	REP-P 85-15-066	480-120-066	AMD-P 85-14-055	484-20-110	AMD-E 85-15-081
478-08-350	REP-P 85-15-066	480-120-066	AMD-C 85-16-117	484-20-110	AMD-P 85-15-088
478-08-360	REP-P 85-15-066	480-120-066	AMD-P 85-18-012	484-20-110	AMD-C 85-18-036
478-08-400	REP-P 85-15-066	480-120-066	AMD-E 85-18-013	484-20-110	AMD-E 85-04-004
478-08-410	REP-P 85-15-066	480-120-081	AMD-P 85-14-055	484-20-120	AMD-E 85-08-002
478-08-420	REP-P 85-15-066	480-120-081	AMD-C 85-16-117	484-20-120	AMD-E 85-12-003
478-08-510	REP-P 85-15-066	480-120-081	AMD 85-18-011	484-20-120	AMD-E 85-15-081
478-08-520	REP-P 85-15-066	480-120-088	AMD-P 85-18-081	484-20-120	AMD-P 85-15-088
478-08-530	REP-P 85-15-066	480-120-106	AMD-P 85-11-075	484-20-120	AMD-C 85-18-036
478-08-540	REP-P 85-15-066	480-120-106	AMD-E 85-11-076	484-20-125	REP-E 85-04-004
478-08-550	REP-P 85-15-066	480-120-106	AMD-C 85-14-054	484-20-125	REP-E 85-08-002
478-08-560	REP-P 85-15-066	480-120-106	AMD-P 85-14-055	484-20-125	REP-E 85-12-003
478-08-570	REP-P 85-15-066	480-120-106	AMD-C 85-16-117	484-20-125	REP-E 85-15-081
478-168-060	AMD-P 85-10-033	480-120-106	AMD 85-16-118	484-20-125	REP-P 85-15-088
478-168-060	AMD 85-14-035	480-120-106	AMD 85-18-011	484-20-125	REP-C 85-18-036
478-168-070	AMD-P 85-10-033	480-120-137	NEW-P 85-11-077	484-20-130	REP-E 85-04-004
478-168-070	AMD 85-14-035	480-120-137	NEW-C 85-14-053	484-20-130	REP-E 85-08-002
478-168-080	AMD-P 85-10-033	480-120-137	NEW-P 85-15-094	484-20-130	REP-E 85-12-003
478-168-080	AMD 85-14-035	480-120-137	NEW-C 85-18-043	484-20-130	REP-E 85-15-081
478-168-090	AMD-P 85-10-033	480-120-138	NEW-P 85-15-094	484-20-130	REP-P 85-15-088
478-168-090	AMD 85-14-035	480-121-010	NEW-P 85-16-009	484-20-130	REP-C 85-18-036
478-168-092	NEW-P 85-10-033	480-121-010	NEW-E 85-16-011	484-20-155	REP-E 85-04-004
478-168-092	NEW 85-14-035	480-121-020	NEW-P 85-16-009	484-20-155	REP-E 85-08-002
478-168-094	NEW-P 85-10-033	480-121-020	NEW-E 85-16-011	484-20-155	REP-E 85-12-003
478-168-094	NEW 85-14-035	480-121-030	NEW-P 85-16-009	484-20-155	REP-E 85-15-081
478-168-096	NEW-P 85-10-033	480-121-030	NEW-E 85-16-011	484-20-155	REP-P 85-15-088
478-168-096	NEW 85-14-035	480-121-040	NEW-P 85-16-009	484-20-155	REP-C 85-18-036
479-16-080	AMD-P 85-11-046	480-121-040	NEW-E 85-16-011	490-500-385	AMD 85-03-071
479-16-080	AMD-E 85-11-047	480-121-050	NEW-P 85-16-009	504-17-185	NEW-P 85-07-012
479-16-080	AMD 85-15-073	480-121-050	NEW-E 85-16-011	504-17-185	NEW 85-14-051
480-08-050	AMD-E 85-06-072	480-140-040	AMD-P 85-06-045	504-17-190	REP-P 85-07-012
480-08-050	AMD-P 85-06-073	484-20-010	AMD-E 85-04-004	504-17-190	REP 85-14-051
480-08-050	AMD 85-09-025	484-20-010	AMD-E 85-08-002	508-60-040	AMD-E 85-13-028
480-12-033	AMD-E 85-15-001	484-20-010	AMD-E 85-12-003	508-60-040	AMD-E 85-19-023
480-12-033	AMD-P 85-15-002	484-20-010	AMD-E 85-15-081	516-12	AMD-C 85-14-097
480-12-033	AMD 85-18-044	484-20-010	AMD-P 85-15-088	516-12-400	AMD-P 85-09-050
480-12-350	AMD-P 85-07-018	484-20-010	AMD-C 85-18-036	516-12-400	AMD 85-14-098
480-12-350	AMD-E 85-07-019	484-20-015	AMD-P 85-15-088	516-12-410	AMD-P 85-09-050
480-12-350	AMD 85-10-032	484-20-015	AMD-C 85-18-036	516-12-410	AMD 85-14-098
480-30-100	AMD-P 85-17-076	484-20-030	AMD-P 85-15-088	516-12-420	AMD-P 85-09-050
480-70-120	AMD-P 85-17-075	484-20-030	AMD-C 85-18-036	516-12-420	AMD 85-14-098
480-70-150	AMD-P 85-17-075	484-20-040	AMD-P 85-15-088	516-12-430	AMD-P 85-09-050
480-80-010	AMD-P 85-16-008	484-20-040	AMD-C 85-18-036	516-12-430	AMD 85-14-098
480-80-010	AMD-E 85-16-010	484-20-065	AMD-P 85-15-088	516-12-440	AMD-P 85-09-050
480-80-030	AMD-P 85-16-008	484-20-065	AMD-C 85-18-036	516-12-440	AMD 85-14-098
480-80-030	AMD-E 85-16-010	484-20-068	AMD-P 85-15-088	516-12-450	AMD-P 85-09-050
480-80-045	NEW-P 85-16-008	484-20-068	AMD-C 85-18-036	516-12-450	AMD 85-14-098

## Table of WAC Sections Affected

WAC #		WSR #
516-12-460	AMD-P	85-09-050
516-12-460	AMD	85-14-098
516-12-470	AMD-P	85-09-050
516-12-470	AMD	85-14-098
516-52-001	AMD-P	85-19-072
516-52-010	AMD-P	85-19-072



**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>ACCOUNTANCY, BOARD OF</b>		<b>AGRICULTURE, DEPARTMENT OF—cont.</b>	
Budget requirements	85-17-074	Onion white rot	85-11-085
Certified public accountants	85-06-008		85-11-086
	85-06-054		85-14-072
	85-11-013		85-15-006
Educational requirements pre-1992	85-17-032		85-15-054
Fees	85-02-066		<b>85-19-002</b>
	85-17-074	Pears, loose	85-03-089
	<b>85-19-091</b>	Plum curculio	85-11-084
Temporary permits	85-06-008		85-11-086
	85-06-054		85-11-087
			85-15-006
<b>ADMINISTRATIVE HEARINGS, OFFICE OF</b>			85-15-007
Agency organization	85-13-003	Seed testing fee, certification, etc.	85-06-051
	85-14-013		85-06-052
	85-17-011		85-11-003
Interpreters	85-13-003		85-11-004
	85-14-013	Sod seed certification service fee	85-11-081
	85-17-011		85-14-093
			85-05-038
<b>AGRICULTURE, DEPARTMENT OF</b>		Strawberry commission	85-11-030
Alfalfa seed commission membership	85-02-003		
	85-10-015	Tree fruit research commission assessment rates	85-02-054
			85-10-005
Animal health care biological products	85-03-061	meeting	85-01-057
	85-09-061	Walla Walla County restricted use desiccants and defoliants	85-07-062
	85-10-020		85-10-057
	85-12-025		85-11-052
	85-13-047		85-12-012
	85-15-024		85-14-092
Apple maggot quarantine	85-11-084		85-17-043
	85-11-086		85-17-065
	85-11-087		85-17-066
	85-15-006		85-17-066
	85-15-007		85-13-035
Apples, loose	85-03-089	Wheat, phytosanitary certificate	
Asparagus	85-03-090		
	85-07-028	<b>AIRPLANES</b>	
	85-11-089	Aircraft fuel tax	85-04-027
Barley commission	85-02-050		
Bean quarantine	85-10-051	<b>AIR POLLUTION</b>	
Bulk food sale weights	85-12-053	(See <b>ECOLOGY, DEPARTMENT OF</b> )	
	<b>85-19-073</b>		
Caneberry plants, certification	85-17-019	<b>ALFALFA</b>	
Chestnut quarantine	85-07-058	(See <b>AGRICULTURE, DEPARTMENT OF</b> )	
Corn seed certification	85-11-002	<b>APPRENTICESHIPS</b> (See <b>LABOR AND INDUSTRIES, DEPARTMENT OF</b> )	
	85-11-078		
Cranberry commodity board	85-15-018	<b>AQUATIC LANDS</b>	
	85-17-043	(See <b>NATURAL RESOURCES, DEPARTMENT OF</b> )	
Desiccants and defoliants	85-17-065		
	85-17-066	<b>ARCHAEOLOGY AND HISTORIC PRESERVATION</b>	
Endrin	85-13-052	Advisory council meetings	85-02-017
	85-16-075	Heritage council meetings	85-03-057
	85-17-044		
Fruit commission meeting	85-01-006	<b>ARCHITECTS, BOARD OF REGISTRATION</b>	
Herbicides	85-03-101	Applications	85-17-077
	85-06-042	Approved schools	85-17-077
	85-07-062	Architect listings	85-17-077
	85-10-057	Competence	85-17-077
	85-11-052	Conflict of interest	85-17-077
	85-12-012	Definitions	85-17-077
Honey bee tracheal	85-11-083	Disclosure	85-17-077
	85-11-086	Examinations	85-05-010
	85-11-088	Professional conduct	85-17-077
	85-15-006	Reciprocity	85-17-077
	85-15-008	Seal	85-17-077
Hop rootstock certification	85-11-079		
	85-11-080	<b>ARCHIVES</b>	
	85-15-046	(See <b>SECRETARY OF STATE</b> )	
	85-15-047	<b>ASBESTOS</b>	
Horticulture inspection fees	85-02-032	(See <b>LABOR AND INDUSTRIES, DEPARTMENT OF</b> )	
	85-02-033		
	85-06-029	<b>ASIAN AMERICAN AFFAIRS, COMMISSION ON</b>	
Mint rootstock certification	85-11-082	Meetings	85-01-037
	85-15-017		

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>ASIAN AMERICAN AFFAIRS, COMMISSION ON—cont.</b>		<b>BOATS</b>	
correction to schedule	85-03-012	(See <b>LICENSING, DEPARTMENT OF</b> )	
<b>ATTORNEY DISCIPLINARY RULES</b>		<b>BODY CAVITY SEARCHES</b>	
(See <b>SUPREME COURT</b> )		Regulations	85-01-032 85-01-033
<b>ATTORNEY GENERAL OPINIONS</b>		<b>BREATHALYZER EVIDENCE RULES</b>	
Apprenticeship wages, state versus federal programs	85-05-036	JCRR 4.09	85-13-001
Building codes, amendments	85-16-029	<b>BUILDING CODE COUNCIL</b>	
Children on motorcycles without restraints, illegal	85-01-002	Adoption of uniform codes	85-18-058 85-02-055 85-03-095 85-07-036
Dental work, LEOFF coverage	85-07-008	Barrier-free facilities	85-18-068 85-02-056
Emergency services, telephone system, tax authority	85-18-004	Energy code	
House of representatives, vacancy, multicounty district	85-03-022	Meetings	
Human rights commission chairman	85-06-041	<b>CEMETERY BOARD</b>	
Industrial insurance,		Human remains, handling procedures	85-14-108 <b>85-19-012</b>
vocational rehabilitation, wages	85-03-053	<b>CENTENNIAL COMMISSION</b>	
Kindergarten preassessment, no fee	85-17-028	Administration procedures	85-03-011
Landlord and tenant	85-01-051	Meetings	85-10-059
Legislator vacancies	<b>85-19-061</b>	Procurement of services and selection of projects	85-04-063 85-09-027
Mental health treatment, insurance coverage	85-11-022	<b>CENTRALIA COLLEGE/SPSCC</b>	
Mobile home landlord and tenant	85-01-051	(District 12)	
Motorcycles		Environmental protection	85-14-119 85-18-056 85-08-018 85-13-074 85-18-055 85-16-087
child passengers need restraints	85-01-002	Meeting schedule	
Name change following divorce	85-14-050		
Radioactive emissions, monitor air pollution only	85-04-013	Parking and traffic, SPSCC	
Salary setting in executive session	85-04-025	<b>CENTRAL WASHINGTON UNIVERSITY</b>	
School districts, transfer of federal funds	85-16-063	Meetings	85-05-006 85-15-055 85-03-086 85-07-032
<b>AUBURN, CITY OF</b>		Student rights and responsibilities	
Shoreline management master program	85-10-073 85-13-054	<b>CERTIFICATE OF NEED</b>	
<b>BARBERING (See LICENSING, DEPARTMENT OF)</b>		(See <b>HOSPITALS</b> )	
<b>BELLEVUE COMMUNITY COLLEGE</b>		<b>CHIROPRACTIC EXAMINING BOARD</b>	
(District 8)		Examinations, national board	85-10-068 85-13-081 85-01-076 85-13-081 85-16-067 85-16-089
Liquor implementation	<b>85-19-074</b>	Uniform Disciplinary Act	
Meetings	85-02-012	<b>CLALLAM COUNTY</b>	
Student code	<b>85-19-074</b>	Shoreline management master program	85-12-049 85-16-104 85-17-063
Student discipline	<b>85-19-074</b>	<b>CLARK COLLEGE</b>	
<b>BIG BEND COMMUNITY COLLEGE</b>		(District 14)	
(District 18)		Meetings	85-02-028
Reduction-in-force	85-05-007 85-14-078	<b>COMMUNITY COLLEGE DISTRICT 1</b>	
Tenure, contracts, probation, dismissal	85-05-007 85-14-078	(See <b>PENINSULA COLLEGE</b> )	
<b>BLIND</b>		<b>COMMUNITY COLLEGE DISTRICT 2</b>	
Business enterprises revolving fund	85-18-030 <b>85-19-048</b>	(See <b>GRAYS HARBOR COLLEGE</b> )	
Definitions	85-03-081 85-06-030	<b>COMMUNITY COLLEGE DISTRICT 3</b>	
Economic need	85-13-023 85-18-046	(See <b>OLYMPIC COLLEGE</b> )	
Labor and industries department revisions	85-03-066	<b>COMMUNITY COLLEGE DISTRICT 4</b>	
Prevention of blindness program repealed	85-09-039 85-15-044 85-15-076 85-18-047	(See <b>SKAGIT VALLEY COLLEGE</b> )	
Prevocational skills assessment	85-03-081 85-06-030	<b>COMMUNITY COLLEGE DISTRICT 5</b>	
Vending facility program	85-15-075 85-18-048	(See <b>EVERETT COMMUNITY COLLEGE</b> )	
Vocational rehabilitation services	85-03-081 85-06-030 85-15-077 85-18-046	<b>COMMUNITY COMMUNITY COLLEGE DISTRICT 6</b>	
<b>BOATING SAFETY</b>		(See <b>SEATTLE COMMUNITY COLLEGE</b> )	
(See <b>PARKS AND RECREATION COMMISSION</b> )		<b>COMMUNITY COLLEGE DISTRICT 7</b>	
		(See <b>SHORELINE COMMUNITY COLLEGE</b> )	
		<b>COMMUNITY COLLEGE DISTRICT 9</b>	
		(See <b>HIGHLINE COMMUNITY COLLEGE</b> )	

## Subject/Agency Index

(Citations in **bold type** refer to material in this issue)

<b>COMMUNITY COLLEGE DISTRICT 10</b> (See <b>GREEN RIVER COMMUNITY COLLEGE</b> )		<b>CORRECTIONS, DEPARTMENT OF—cont.</b>	
<b>COMMUNITY COLLEGE DISTRICT 11</b> (See <b>FORT STEILACOOM COMMUNITY COLLEGE</b> )		Billing procedure	85-03-103 85-07-017
<b>COMMUNITY COLLEGE DISTRICT 12</b> (See <b>CENTRALIA COLLEGE/SPSCC</b> )		Correction of erroneous information	85-10-066 85-13-020
<b>COMMUNITY COLLEGE DISTRICT 14</b> (See <b>CLARK COLLEGE</b> )		Department review committee	85-03-103 85-07-017
<b>COMMUNITY COLLEGE DISTRICT 15</b> (See <b>WENATCHEE VALLEY COLLEGE</b> )		Fees, inspection and copying	85-10-066 85-13-020
<b>COMMUNITY COLLEGE DISTRICT 17</b> (See <b>SPOKANE COMMUNITY COLLEGES</b> )		Furlough	85-01-058 85-04-015
<b>COMMUNITY COLLEGE DISTRICT 18</b> (See <b>BIG BEND COMMUNITY COLLEGE</b> )		Hearing appeal	85-01-060 85-02-067
<b>COMMUNITY COLLEGE DISTRICT 20</b> (See <b>WALLA WALLA COMMUNITY COLLEGE</b> )		Inmate marriages	85-05-018 85-03-104
<b>COMMUNITY COLLEGE DISTRICT 21</b> (See <b>WHATCOM COMMUNITY COLLEGE</b> )		Leaves of absence, escorted	85-07-042 85-01-059
<b>COMMUNITY COLLEGE DISTRICT 22</b> (See <b>TACOMA COMMUNITY COLLEGE</b> )		Out-of-state transfer of inmates	85-10-066 85-13-020
<b>COMMUNITY COLLEGE DISTRICT 23</b> (See <b>EDMONDS COMMUNITY COLLEGE</b> )		Public records	85-09-056 85-12-020
<b>COMMUNITY COLLEGE EDUCATION, BOARD FOR</b>		Reimbursable impact rates	85-01-060 85-05-048 85-08-026
Annuity retirement plan	85-16-103 <b>85-19-055</b> <b>85-19-056</b>	Sanctions	
Meetings	85-12-030	Serious infractions	
Tuition and fee waivers for full-time employees	85-01-040	Supervision, individual work release placement	85-05-018 85-08-022
Voluntary student fees	85-16-102	Transfer of foreign citizens	85-15-093 85-18-061
<b>COMMUNITY DEVELOPMENT, DEPARTMENT OF</b>		Twin Rivers, capacity, governor proclamation	85-06-019
Building code surcharges	85-15-051 85-16-108 <b>85-19-042</b>	<b>CORRECTIONS STANDARDS BOARD</b>	
Community development, office, repeal	85-15-013	Accountability for prisoners	85-18-023
Community services block grant program hearing	85-03-002 85-15-041	Capacities	85-14-083 85-18-024 85-14-085
Economic opportunity, repeal	85-15-012	Classification/segregation	85-18-025 85-14-083
Energy department state plan	85-01-041	Crowding	85-18-024 85-14-085
Head start programs, local	85-04-057 85-13-006	Holding facilities	85-18-025 85-10-035
Law and justice planning office, repeal	85-11-045 85-15-009	Jail dormitory space requirements	85-17-056 85-01-034
Low-income home energy assistance program state plan	85-13-018	Leaves of absence, escorted	85-01-035 85-05-001
Low-income weatherization, Skagit County	85-05-021	Maximum capacities	85-06-001 85-10-050 85-14-086
Office of community development, repeal	85-11-041	Physical plant standards	
Office of economic opportunity, repeal	85-11-042	dormitories	85-14-120
Planning advances program, repeal	85-11-044 85-15-010	new facilities	85-05-002
Regional planning agencies, repeal	85-11-043 85-15-011	work release	85-14-084 85-18-023
Utility shutoff moratorium program	85-01-068 85-01-069 85-05-017	Prisoner money accounts	85-14-083 85-18-024
<b>CONSERVATION COMMISSION</b>		Special detention facilities	85-01-032 85-01-033
Meetings	85-16-071	Strip search, body cavity search	85-01-033 85-14-084
<b>CONVENTION AND TRADE CENTER</b>		Work release, prisoner accountability	
Meetings	85-03-003 85-09-009 85-09-021 85-11-073 85-03-004	<b>COSMETOLOGISTS (See LICENSING, DEPARTMENT OF, subtopic Barbering)</b>	
SEPA		<b>COUNTY ROAD ADMINISTRATION BOARD</b>	
<b>CORRECTIONS, DEPARTMENT OF</b>		County construction projects, administration	85-11-054
Administrative segregation and intensive management	85-01-059	Execution procedures for CRAB/county contract	85-14-052
		Publication requirements	85-07-055
		RAP project audits	85-11-055 85-07-053
		RATA fund allocation	85-11-053 85-11-018
		RATA funds eligibility	85-14-052

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>CRIMINAL JUSTICE TRAINING COMMISSION</b>		<b>ECOLOGY, DEPARTMENT OF—cont.</b>	
Appeals	85-03-077 85-08-011	general regulations for sources	85-01-084 85-06-046
Basic correction officers academy curriculum	85-14-006 85-14-095	kraft pulping mills	85-01-088 85-06-048
Basic law enforcement academy attendee requirements	85-07-040 85-14-094	primary aluminum plants PUREX plant, AGO	85-01-088 85-04-013
Cancellation of notice of intent to adopt	85-07-039	sulfite pulping mills	85-01-088
Description of central and field organization	85-03-076 85-08-010	EPA agreement, public hearing	85-08-031 85-09-068
<b>DAIRY PRODUCTS COMMISSION</b>		Flood control assistance account program	85-03-075 85-09-067
Milk assessment decrease	85-11-071 85-14-040 85-15-003	Flood control zones, waivers	85-10-071 85-14-002 85-13-028 <b>85-19-023</b>
temporary reduction	85-02-024 85-08-014 85-14-020 85-14-088	Groundwater	
<b>DAY CARE</b>		protection of withdrawal facilities	85-08-032 85-11-026 85-12-017
Immunization	85-15-064	upper aquifer zones	85-08-032 85-11-026 85-12-018
Insurance	85-13-056 85-14-087 85-17-018	Hazardous waste disposal, public hearing procedures	85-11-090
<b>DENTAL DISCIPLINARY BOARD</b>		Instream resource protection programs	
Disclosure of membership affiliation	85-02-062 85-05-040	Nooksack	85-16-112
Disclosure of provider services	85-02-062 85-05-040	Skokomish-Dosewallips	85-12-050
Representation of care, fees, and records	85-02-062 85-05-040	Municipal wastewater treatment construction grants	85-10-074
Speciality representation	85-02-062 85-05-040	PCBs, transformers and capacitors	85-05-047 85-09-042
<b>DENTAL EXAMINERS, BOARD OF</b>		Shoreline Management Act guidelines	85-06-065 85-09-043 85-06-065 85-09-043 85-06-065 85-09-043 85-06-065 85-09-043 85-06-065 85-09-043 85-06-065 85-09-043
Examination results	85-11-065 85-16-113	lakes	
Preclinical exam waiver	85-01-074 85-06-007 85-07-046	permits	
<b>DENTAL HYGIENE EXAMINING COMMITTEE</b>		state master program	
Examination	85-06-053 85-10-026	streams and rivers	
Uniform Disciplinary Act	85-15-103 85-16-090 <b>85-19-039</b>	wetlands	
<b>DEVELOPMENTALLY DISABLED</b>		Shoreline management master program	
Elections, polling place accessibility	85-14-059 85-14-115	Auburn	85-10-073 85-13-054 85-12-049 85-16-104 85-17-063 85-07-061 85-10-030 85-10-072 85-12-051 85-10-073 85-13-054 85-05-044 85-10-014 85-10-073 85-13-054 85-16-073
IMR program and reimbursement system	85-03-006 85-03-007 85-06-063	Clallam County	
Transportation, financial support	85-01-054	Hoquiam	
<b>DISCIPLINARY RULES, LAWYERS</b> (See SUPREME COURT)		Island County	
<b>DISPLACED HOMEMAKERS</b> (See POSTSECONDARY EDUCATION, COUNCIL FOR)		King County	
<b>DRUGLESS THERAPEUTICS</b> (See LICENSING, DEPARTMENT OF)		Kitsap County	
<b>EASTERN WASHINGTON UNIVERSITY</b>		Mercer Island	
Meetings	85-03-014	Nooksack	
<b>ECOLOGY, DEPARTMENT OF</b>		San Juan County designation maps	85-09-066 85-13-029 85-14-001 85-16-072 85-05-046 85-10-013 85-13-053 85-16-105 85-03-046 85-04-040 85-01-021 85-04-039 85-05-045 85-08-016
Air pollution		Seattle	
air contaminant sources	85-01-087 85-06-047 85-07-011	Tacoma	
		Walla Walla	
		Whatcom County	
		Winthrop	

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>ECOLOGY, DEPARTMENT OF—cont.</b>		<b>EMPLOYMENT SECURITY DEPARTMENT—cont.</b>	
Solid waste		Employer contributions	85-08-030
minimum functional standards	85-14-027		85-11-038
Waste discharge		Marginal labor force attachment	85-14-056
discharges not subject to permits	85-01-086		<b>85-19-065</b>
	85-04-006		<b>85-19-066</b>
<b>EDMONDS COMMUNITY COLLEGE</b>		Musicians/entertainers	85-18-076
(District 23)			85-18-077
Dismissal of tenured and probationary		Predecessor—successor	85-08-030
faculty members	85-16-001		85-11-038
Traffic rules	85-14-111	Remunerations	
	85-18-010	cash value	85-08-030
			85-11-038
<b>EDUCATION, STATE BOARD OF</b>		<b>ENERGY ASSISTANCE</b>	
Building projects, priority system	85-12-040	Low-income home energy	
Certification fee	85-12-036	assistance allowance	85-01-029
	85-12-044		85-04-020
	85-16-020	Low-income home energy assistance	
Courses of study and equivalencies	85-09-052	program state plan	85-13-018
	85-12-037	Utility shutoff moratorium program	85-01-068
General certification provisions	85-01-015		85-01-069
Grade school history and government		<b>EQUIPMENT, COMMISSION ON</b>	
requirement	85-04-007	Assistance vans on freeways	85-17-060
High school graduation requirements	85-09-053	Reflectorized warning devices	85-17-061
	85-12-041	Sunscreens on vehicles	85-17-059
High school history and government		Towing businesses	85-17-058
requirement	85-04-007		
Immunization	85-16-021	<b>EVERETT COMMUNITY COLLEGE</b>	
	85-16-035	(District 5)	
Meetings	85-02-009	Meetings	85-02-001
	85-06-068		85-03-100
	85-12-045	Traffic regulations	85-04-003
Physical education requirements	85-16-036		
Professional preparation certification		<b>EXECUTIVE ORDERS</b>	
requirements	85-01-016	(See GOVERNOR)	
Professional preparation program		<b>FERRY SYSTEM</b>	
development and approval	85-04-010	(See TRANSPORTATION, DEPARTMENT OF)	
Pupil personnel services	85-16-037		
Pupils	85-04-009	<b>FINANCIAL MANAGEMENT, OFFICE OF</b>	
	85-09-058	Paydates	85-13-068
	85-12-042		85-16-014
Religious rights	85-06-035	<b>FISHERIES, DEPARTMENT OF</b>	
	85-06-071	<u>Agency procedures</u>	
	85-09-049	aquaculture registration	85-16-013
School construction projects		commercial purchasers	
interim application of priority system	85-09-062	and receivers, duties	85-11-020
	85-09-065	fish receiving ticket accountability	85-11-020
Secondary education		gear reduction program	85-04-043
standardized high school transcript	85-01-017		85-07-059
State assistance			85-08-030
school plant facilities	85-04-008		85-11-011
	85-06-069	general provisions	85-08-023
	85-06-070		85-09-011
	85-09-059	nontreaty fish receiving tickets	85-11-020
	85-09-060	off-reservation treaty Indian	
	85-09-063	ceremonial fishing	85-13-032
	85-09-064	reporting rules	85-07-065
Study and survey actions			85-09-033
temporary moratorium	85-16-022		85-09-034
<b>EGG COMMISSION</b>		stream obstruction hearings	85-01-020
Formation	85-14-103	subsistence fishing	85-15-053
<b>ELECTIONS</b>			85-18-027
(See SECRETARY OF STATE)		transportation ticket	85-07-064
<b>EMERGENCY MANAGEMENT, DEPARTMENT OF</b>			85-11-020
Mt. St. Helens	85-17-003		85-11-021
	85-17-004	treaty Indian fish receiving tickets	85-11-020
		treaty Indian identification cards	85-11-020
<b>EMPLOYMENT SECURITY DEPARTMENT</b>		vessel and license buy-back	85-01-012
Appeals	85-08-030		85-01-013
	85-11-038		85-03-053
	85-18-076		85-08-039
	85-18-077		85-11-011
Benefit change relief, employer request	85-18-076	volunteer cooperative fisheries	
Benefit overpayment, recovery	85-18-078	enhancement program	85-01-089
Claims			85-04-045
interested parties defined	85-08-030	<u>Commercial</u>	
	85-11-038	bottomfish	

**Subject/Agency Index**  
 (Citations in **bold type** refer to material in this issue)

<b>FISHERIES, DEPARTMENT OF—cont.</b>		<b>FISHERIES, DEPARTMENT OF—cont.</b>	
areas and catch limits		Hood River	<b>85-19-018</b>
Grays Harbor	85-02-031	Klickitat River	
	85-04-005	subsistence	85-10-034
	85-06-032	Pacific Ocean	85-17-067
	85-06-033	Puget Sound	85-01-005
idiot rockfish	85-15-045		85-01-009
Pacific Ocean perch	85-02-005		85-01-036
	85-04-035		85-01-049
	85-07-022		85-02-014
	85-09-035		85-03-036
	85-12-031		85-03-037
	85-15-045		85-08-038
Pacific whiting	85-04-044		85-10-011
	85-06-013		85-12-013
rockfish	85-02-005		85-13-014
	85-04-035		85-13-031
	85-07-022		85-14-023
	85-09-035		85-14-082
	85-12-031		85-15-035
	85-15-045		85-15-071
sablefish	85-02-005		85-16-012
	85-04-035		85-16-081
	85-07-022		85-16-082
	85-09-035		85-16-083
	85-12-031		85-17-009
	85-15-045		85-17-010
shortbelly rockfish	85-02-005		85-17-040
	85-04-035		85-17-049
	85-07-022		85-17-050
	85-09-035		85-18-005
	85-12-031		85-18-006
	85-15-045		85-18-014
surf perch	85-09-047		85-18-051
trawl closure	85-12-009		85-18-052
	85-13-034		<b>85-19-005</b>
widow rockfish	85-02-005		<b>85-19-015</b>
	85-04-035		<b>85-19-016</b>
	85-07-022		<b>85-19-022</b>
	85-09-035		<b>85-19-050</b>
	85-12-031		<b>85-19-051</b>
	85-15-045	gill net seasons, etc.	85-13-032
Willapa Harbor	85-02-031		85-13-073
	85-04-005	purse seine seasons, etc.	85-13-032
	85-06-032	Puget Sound management and	
	85-06-033	catch reporting areas	85-13-032
yellowtail rockfish	85-04-035	sale of commercial caught salmon	85-11-020
	85-09-035	troll fishery	85-10-010
	85-12-031		85-11-031
	85-15-045		85-11-057
general provisions	85-09-011		85-15-030
major procedures	85-04-065		85-15-065
	85-08-023		85-16-061
sale	85-09-011	Wanapum Indians	85-11-006
	85-09-036		85-14-061
herring	85-09-012	Willapa Harbor	85-13-073
salmon			85-14-081
Bellingham Bay	85-14-023		<b>85-19-049</b>
Chehalis River	85-17-054		<b>85-19-064</b>
coastal harbor salmon seasons	85-10-060		<b>85-19-068</b>
Columbia River	85-05-035		<b>85-19-084</b>
	85-07-002	Yakima River subsistence	85-13-013
	85-08-001		85-14-039
	85-14-005		85-12-028
	85-14-022	shad	
	85-14-038	shellfish	
	85-15-005	classifications	85-01-010
	85-17-025	crab	
	85-18-029	dungeness	85-01-010
	85-18-035	red rock	85-01-010
	<b>85-19-017</b>	seasons and areas	85-01-010
	<b>85-19-018</b>	hardshell clam import permit	85-11-039
	<b>85-19-058</b>		85-14-060
Grays Harbor	85-01-014	razor clams	85-09-032
	85-01-050	receiving tickets	85-01-010
	85-14-081	sea urchins	85-01-010
Herman Creek	<b>85-19-018</b>		85-18-050

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

**FISHERIES, DEPARTMENT OF—cont.**

**FISHERIES, DEPARTMENT OF—cont.**

smelt	85-03-044	Clear	85-08-005
	85-06-014		85-09-017
	85-06-034	Cushman	85-08-005
sturgeon			85-09-017
Columbia River	85-04-012	Goodwin	85-08-005
	85-04-049		85-09-017
	85-08-021	McMurray	85-08-005
general provisions	85-08-023		85-09-017
Grays Harbor	85-02-031	Shannon	85-08-005
	85-04-005		85-09-017
	85-06-032	Wenatchee	85-15-032
	85-06-033	Wilderness	85-08-005
sale	85-09-011		85-09-017
	85-09-036	Wynoochee	85-08-005
Willapa Harbor	85-02-031		85-09-017
	85-04-005	lawful gear	85-09-017
	85-06-032	Little White Salmon River	85-11-040
	85-06-033	marine area codes	85-08-005
squid	85-13-033		85-09-017
<u>Personal use</u>			85-15-097
agency procedures			85-18-026
general provisions	85-08-005	Naselle River	85-09-017
	85-09-017	Nooksack River	85-09-017
landing Canadian fish	85-08-005		85-15-100
	85-09-017	Pacific Ocean	85-14-024
possession rules	85-11-020		85-15-083
bottomfish			85-17-027
halibut	85-07-063		85-17-048
	85-10-062		85-18-008
perch, shiner	85-08-005		85-18-037
	85-09-017		85-18-049
possession limits	85-08-005		<b>85-19-019</b>
	85-09-017	Point Whitney to	
recreation rule update	85-03-110	Bolton Peninsula closed	85-08-005
	85-09-016	Puget Sound	85-14-021
salmon		punch card area 8, two lures	85-08-005
bag limits	85-09-017	punch card area 9	85-07-024
barbed hooks outlawed	85-08-005	punch card area 12, two lures	85-08-005
Bogachiel River	85-09-017	Quillcene Bay	85-09-017
	85-18-015	Quillayute River	85-06-066
Calawah River	85-06-066		85-09-048
	85-09-048		85-18-015
	85-18-015	Salmon River	85-09-017
Carr Inlet, Minter Creek area closed	85-08-005	Saltwater seasons and bag limits	85-09-017
	85-09-017		85-09-020
catch record cards	85-11-020	Skagit River	85-09-017
Clearwater River	85-13-051		85-11-009
	85-18-015		85-14-021
closed areas	85-09-017		85-15-100
Columbia River	85-09-017		85-16-080
	85-14-031		<b>85-19-057</b>
	85-15-032	Skykomish River	<b>85-19-057</b>
	85-17-026	Snohomish River	85-15-100
	85-18-009		<b>85-19-057</b>
	85-18-028	Snoqualmie River	<b>85-19-057</b>
	85-18-053	Soleduck River	85-06-066
	<b>85-19-004</b>		85-09-048
Cowlitz River	85-08-005		85-13-051
	85-09-017		85-18-015
Dickey River	85-18-015	Stillaguamish River	85-09-017
Dungeness River	85-09-017	Wanapum Indians subsistence	85-14-061
	85-10-012	Washougal River	85-09-017
Duwamish Waterway	85-09-017	Wenatchee River	85-15-032
Hoh River	85-18-015	Whatcom Creek	85-09-017
Hoquiam River	85-03-074	White Salmon River	85-08-005
Humptulips River	85-06-066		85-09-017
	85-09-048	Willapa River	85-09-017
Icicle River	85-11-051	Wishkaw River	85-03-074
Joe Creek	85-06-066	Wynoochee River	85-03-074
	85-09-048	Yakima River	
Kalama River	85-09-017	subsistence fishing	85-10-043
lakes		shellfish	
Armstrong	85-08-005	abalone	85-08-005
	85-09-017		85-09-017
Baker	85-08-005	clams	85-09-038
	85-09-017		85-12-046

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

**FISHERIES, DEPARTMENT OF—cont.**

crab 85-03-109  
85-07-023  
85-08-020  
85-09-017  
85-09-017  
85-10-061  
85-08-005

gear  
Grays Harbor, clam limit  
macoma clams  
oyster reserves,  
clam digging restrictions 85-10-061  
85-09-017  
85-12-046  
85-04-064  
85-12-007  
85-12-008  
85-15-099  
**85-19-067**  
85-11-058

razor clams

shrimp, Hood Canal  
sturgeon  
possession limits 85-08-005  
Snake River 85-11-010

**FLOOD CONTROL**  
(See **ECOLOGY, DEPARTMENT OF**)

**FOOD STAMPS**  
(See **SOCIAL AND HEALTH SERVICES, DEPARTMENT OF**)

**FORESTS AND FOREST PRODUCTS**  
(See also **NATURAL RESOURCES, DEPARTMENT OF**)

Stumpage values  
definitions 85-02-025  
85-02-026  
85-02-025  
85-02-026  
85-02-025  
85-02-026  
85-10-058  
85-14-047  
85-14-048

general

harvester adjustments

stumpage value areas and  
hauling distance zone - map 85-02-025  
85-02-026

stumpage value tables 85-02-025  
85-02-026  
85-10-058  
85-14-047  
85-14-008

timber quality code numbers  
tables 85-02-025  
85-02-026  
85-01-066

Timber sales, initial deposit

**FOREST PRACTICES BOARD**

Meetings 85-01-071  
85-07-037  
85-14-113  
85-17-045  
**85-19-071**

**FORT STEILACOOM COMMUNITY COLLEGE**  
(District 11)

Meetings 85-04-017

**FRUIT COMMISSION**

Meeting 85-01-006

**FUNERAL DIRECTORS AND EMBALMERS**

Continuing education 85-01-077  
85-15-101  
**85-19-013**  
85-18-085  
85-18-085  
85-14-025  
**85-19-013**  
85-15-101  
85-15-109  
**85-19-013**

Cremation  
Human remains  
Improper methods for seeking business

Uniform Disciplinary Act

**GAMBLING COMMISSION**

Administrative organization of commission 85-03-058  
85-07-031

Agricultural fairs, charitable,  
and nonprofit organizations  
annual activity report 85-01-064  
85-06-002

receipts deposit 85-03-026

Amusement games  
annual activity reports 85-01-064  
85-06-002

shopping centers 85-07-030  
85-11-023

types authorized 85-06-003  
85-09-040

Bingo  
accounting records 85-03-026  
annual activity reports 85-01-064  
85-06-002

expenses 85-09-041  
85-13-041

gross receipts limit 85-09-041  
85-13-041

prize payout limit 85-09-041  
85-13-041

quarterly activity reports 85-01-064  
85-03-026  
85-06-002

Bona fide charitable or  
nonprofit amusement games 85-06-002

Cards  
fees 85-03-026  
85-13-037  
85-17-015  
85-13-070  
85-17-015  
85-03-025  
85-03-029  
85-03-026  
85-13-037  
85-17-015  
85-17-014  
85-03-026

wager limits, blind, straddle

Commission meetings 85-03-026

Distributors  
accounting records 85-09-041  
punchboards and pull tabs 85-01-065  
quarterly activity reports 85-01-064  
85-06-002

representatives 85-01-065  
sales cutoff 85-09-041  
85-10-036  
85-09-041  
yearly physical inventory 85-10-036  
85-03-024  
85-03-028  
85-09-041  
85-15-038  
85-17-015

Fees

Fund raising events  
activity report 85-01-064  
85-03-025  
85-03-029  
85-06-002  
85-03-025  
85-03-029  
85-07-030  
85-11-023  
85-14-075  
85-17-015  
85-07-030  
85-11-023  
85-17-015

joint event

lotteries

raffles

rent, lease, etc.  
time change 85-03-059  
85-03-026

Licenses  
distributors' representatives 85-01-065



**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>GAMBLING COMMISSION—cont.</b>		<b>GAME, DEPARTMENT OF—cont.</b>	
intentionally understating anticipated revenue	85-03-026	elk area 61	85-14-037
manufacturers' representatives	85-01-065	game management unit 603	85-14-037
punchboard and pull tab distributors	85-01-065	hunter education	85-12-035
schedule change	85-01-065	migratory game bird seasons	85-12-034
<b>Manufacturers</b>		mountain goat, sheep, moose	85-16-026
accounting records	85-09-041		85-05-057
	85-10-036		85-12-006
quarterly activity reports	85-01-064	<b>Mt. Tebo</b>	85-14-037
	85-06-002	opening dates	85-05-056
			85-12-004
<b>Promotions</b>		<b>Pysht</b>	85-14-037
definitions	85-09-040	special season	85-08-034
duration	85-09-040	spring bear and turkey	85-05-051
fees	85-09-040	upland game bird and migratory waterfowl seasons	85-14-036
legality	85-09-040		85-18-032
uniformity and fairness	85-06-002		85-18-071
	85-09-040		85-08-036
valuable consideration	85-06-002	1985 management units and area descriptions	85-14-037
	85-09-040		85-08-036
<b>Punchboards and pull tabs</b>		1985 seasons and game bag limits	85-08-036
construction standards	85-17-014		85-14-037
control of prizes	85-03-024	<b>Sport fishing</b>	
	85-03-028	game fish	
	85-17-014	Deep Lake	85-03-041
display of collectable punchboards	85-17-014	Heart Lake	85-16-059
distributors	85-01-065	Lake Washington	85-03-041
licensing fee	85-13-070	Martha Lake	85-18-054
open-end pull tab system, test	85-03-024	Purdy Creek	85-17-041
	85-03-028	Spectacle Lake	85-16-060
prizes, minimum percentage	85-13-038	Wenatchee Lake	85-03-041
	85-17-055	1985 seasons and catch limits	85-14-096
	<b>85-19-047</b>	Columbia River	85-14-062
prizes, purchase of, invoice	85-11-023	Deep Lake	85-14-096
quarterly activity reports	85-01-064	Drano Lake	85-15-026
	85-06-002	Lake Washington	85-14-096
sales invoices	85-07-030	Lake Wenatchee	85-14-096
series assembly and packaging	85-03-024	Snake River	<b>85-19-083</b>
	85-03-028	1986 seasons and catch limits	85-14-096
user fee	85-09-041	steelhead	
<b>Raffles</b>		agency procedures	
conduct	85-06-003	punchcard	85-08-035
	85-09-040	Dewatto River	85-03-097
	85-13-037	Green River system	85-03-098
	85-17-015	Humptulips River	85-06-027
fund raising events	85-07-030	Nooksack River	85-06-028
	85-11-023	punchcard	85-12-005
prizes	85-06-003	Puyallup River	85-03-030
	85-09-040	Quinault River	85-02-051
quarterly activity reports	85-06-002	Samish River	85-03-017
<b>Social and public cardrooms</b>		Satus Creek	85-07-025
quarterly activity reports	85-01-064	Skagit River	85-05-050
	85-06-002	Skokomish River	85-03-097
		Snohomish River	85-06-028
<b>GAME, DEPARTMENT OF</b>		Snoqualmie River	85-02-007
<b>Agency procedures</b>		Starvation Lake	<b>85-19-025</b>
anadromous game fish	85-05-049	Tahuya River	85-03-097
	85-09-014	Tokul River	85-02-007
dogs, destroy	85-02-057	Toppenish Creek	85-07-025
	85-03-056	trapping	
duplicate licenses, tags, etc.	<b>85-19-082</b>	seasons	85-12-033
exotic wildlife, research on	85-05-049		<b>85-19-081</b>
	85-09-014	<b>GENERAL ADMINISTRATION</b>	
game farm licenses	85-17-057	<b>Banks and trust companies</b>	
license dealers	<b>85-19-021</b>	fees	85-16-116
meetings	85-02-015		<b>85-19-045</b>
raptors	85-05-054		<b>85-19-052</b>
	85-09-006	investment securities, limits	<b>85-19-045</b>
wildlife in captivity	85-05-052		<b>85-19-052</b>
	85-09-008	leases	85-16-116
<b>Game reserves</b>			<b>85-19-045</b>
Deer Park	85-05-055		<b>85-19-052</b>
	85-09-005	loans to officers	85-16-030
Lower Crab Creek	85-05-053		85-16-116
	85-09-007		<b>85-19-045</b>
<b>Hunting</b>			<b>85-19-052</b>
damage, deer and elk permits	85-04-042		

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>GENERAL ADMINISTRATION—cont.</b>		<b>HEALTH, BOARD OF</b>	
public records	85-16-116 <b>85-19-045</b> <b>85-19-052</b>	Central sterilizing and processing service facilities	85-02-069 85-05-034 85-05-004 85-02-068 85-05-033
reserves	85-16-116 <b>85-19-045</b> <b>85-19-052</b>	Design requirements	85-02-068
Capitol grounds		Documents adopted by reference	85-05-033
traffic and parking	85-15-019 <b>85-19-001</b>	Food service and sanitation	85-07-026 85-11-024
Consumer finance companies		Hospital design requirements	85-10-001
electronic display equipment	85-16-055 <b>85-19-043</b> <b>85-19-054</b>	Immunization, school requirements	85-03-055 85-03-062 85-07-027 85-15-062 85-15-064 85-16-021 85-16-035 85-16-115 85-18-063 <b>85-19-027</b>
Credit unions		Kidney centers	85-03-063
examination fees	85-02-029 85-02-030 85-03-051 85-07-008 <b>85-19-011</b> <b>85-19-028</b> 85-02-029 85-02-030 85-03-051 85-07-008 85-07-057 85-10-037	Labor camps	85-06-006
investments in common trust funds		Processing and sterilizing services	85-02-069 85-05-034 85-02-069 85-05-034
supervision fees		Receiving, storage and distribution	85-02-069 85-05-034
Flags		Reportable diseases	
Foreign associations		list of	85-01-080
branch application fees	85-03-023 85-03-049 85-07-010 85-15-074 85-16-056 <b>85-19-044</b> <b>85-19-053</b> <b>85-19-088</b> <b>85-19-053</b> 85-15-019 <b>85-19-001</b>	School and day care immunization	85-15-064 85-16-115 85-18-018 85-18-080 85-18-079 85-14-105 85-17-046 85-07-026 85-08-037 85-11-024 85-12-055 85-15-063
Industrial loan companies		Scoliosis screening	85-18-018
Open end loans		Sentinel birth defects	85-18-080
Parking permits	85-15-019 <b>85-19-001</b>	Shellfish	85-18-079
Savings and loan associations		Smoking	85-14-105 85-17-046 85-07-026 85-08-037 85-11-024 85-12-055 85-15-063
examination fees	85-03-050 85-07-009 85-03-050 85-07-009	Sulfiting agents	85-07-026 85-08-037 85-11-024 85-12-055 85-15-063
supervision fees		Variances, waivers, exemptions	85-12-055 85-15-063
<b>GOVERNOR</b>		<b>HEALTH CARE ASSISTANTS</b>	
Executive orders		(See LICENSING, DEPARTMENT OF)	
developmental disabilities		<b>HEARING AIDS</b>	
planning council	85-11-005	Fitting and dispensing	85-05-020 85-06-055 85-10-024 <b>85-19-034</b>
expenditure reductions	85-09-001	<b>HIGHER EDUCATION PERSONNEL BOARD</b>	
hiring freeze and spending curtailment	85-08-004 85-09-001	Application materials	85-12-047 85-16-038 85-16-038 85-14-046
industrial revenue bond ceiling		Appointment	85-16-038
control	85-02-002	Board	85-14-046
Mt. St. Helens, zones	85-16-076	Certification	
support enforcement task force	85-13-044	error, correction	85-10-056
Proclamations		method	85-15-082 85-16-038 85-16-038 85-06-067 85-15-060 85-15-061 85-15-067 85-15-069 85-15-070 85-04-019 85-12-047 85-14-046 85-15-082 85-16-038
forest fires in central Washington	<b>85-19-010</b>	specific position requirements	85-16-038
Twin Rivers capacity	85-06-019	Classification plan	85-06-067
State employee combined charitable contributions program	85-17-002	Composition, etc.	85-15-060 85-15-061 85-15-067 85-15-069 85-15-070 85-04-019 85-12-047 85-14-046 85-15-082 85-16-038
<b>GRAYS HARBOR COLLEGE</b>		Dismissal, etc.	85-03-008 85-06-017 85-17-073 85-04-019 85-12-047 85-16-038
(District 2)		grounds for, notice	
Debts, withholding services		Eligible lists	
for outstanding	85-04-051 85-08-025		
<b>GREEN RIVER COMMUNITY COLLEGE</b>			
(District 10)			
Meetings	85-03-092 85-10-021 85-12-002		
<b>HANDICAPPED</b>			
(See DEVELOPMENTALLY DISABLED)			

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

**HIGHER EDUCATION PERSONNEL BOARD—cont.**

Employee performance evaluation 85-14-046  
85-15-082  
Examination 85-04-018  
85-12-047  
85-14-046  
85-16-038  
85-18-075  
Exempt status, appeals 85-12-047  
85-16-038  
Holidays 85-15-082  
85-16-038  
Layoff 85-12-047  
85-16-038  
Layoff, equal layoff seniority 85-14-044  
85-14-046  
Layoff lists 85-14-046  
Layoff, performance and seniority,  
management employees 85-14-043  
Layoff seniority 85-04-019  
Layoff, special employment programs 85-16-038  
Leave of absence without pay 85-16-038  
Medical examination 85-04-019  
Overtime 85-14-046  
85-18-084  
Periodic increment date 85-12-047  
85-16-038  
Periodic increment withheld 85-14-043  
85-14-046  
85-15-082  
Predissmissal process 85-17-073  
Probation 85-06-067  
Recruitment notices 85-12-047  
85-16-038  
85-18-075  
Salary, periodic increment 85-14-043  
85-14-046  
85-15-082  
Separation  
grounds for, notice 85-06-017  
85-17-073  
Shift differential 85-03-008  
85-04-058  
85-14-044  
85-14-045  
Vacation leave, accrual 85-16-038  
Vacation leave, cash payment 85-15-082  
85-16-038  
85-17-047  
Unfair labor practices 85-18-072  
85-18-073  
85-18-074  
Work period designations 85-18-083

**HIGHLINE COMMUNITY COLLEGE  
(District 9)**

Meetings 85-16-028

**HOQUIAM**

Shoreline management master program 85-07-061  
85-10-030

**HORSE RACING COMMISSION**

Blood and urine tests 85-12-056  
Limited sweepstakes parimutuel wagering 85-10-044  
85-10-045  
85-14-104  
85-15-072  
Medication 85-09-051  
85-12-057

**HOSPICES**

Certification standards 85-01-028  
85-01-031  
85-04-054

**HOSPITAL COMMISSION**

Accounting and reporting manual 85-01-008  
85-01-052  
85-04-026  
85-13-045  
85-16-018  
Annual budget submittals and rates,  
methodology **85-19-086**  
Budget and rate request hearings 85-03-013  
85-04-014  
85-05-005  
85-06-016  
85-07-013  
85-08-007  
85-10-019  
85-10-038  
85-12-011  
85-12-014  
85-13-019  
Charity care and bad debts 85-01-007  
85-01-008  
Meeting 85-11-025  
Negotiated rates 85-13-021  
85-13-039  
85-13-040  
85-14-077  
85-16-017  
85-14-116  
85-17-020  
Patient discharge information

**HOSPITALS**

Certificate of need 85-01-048  
85-05-032  
85-07-044  
85-13-008  
Design requirements 85-10-001  
Health facility construction review fees 85-12-029  
Schedule of charges for state facilities 85-14-011  
85-14-067  
85-17-038

**HOUSING FINANCE COMMISSION**

Executive Conflict of Interest Act 85-13-069  
85-18-031

**HUMAN RIGHTS COMMISSION**

Chairman tenure, AGO 85-06-041  
Meetings 85-02-070  
85-03-009  
85-06-057  
85-08-027  
85-15-028  
85-15-029  
Special meeting  
advisory council 85-16-062  
case closures 85-16-062  
charter and bylaws 85-16-006  
compensation of public officials 85-03-009  
discrimination in the banking industry 85-11-017  
executive secretary interviews 85-13-050  
human rights agencies,  
association meeting 85-13-004  
85-16-062  
legislation 85-05-037  
85-06-056  
85-08-006  
85-16-062  
personnel matters 85-04-037  
85-06-056  
85-08-006  
85-10-003  
85-10-047  
85-12-023  
85-16-062  
reconsideration policy 85-16-062  
resignation 85-06-056  
Statewide networking group  
planning meeting 85-01-067  
85-03-064

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

**INDIANS**

Salmon  
Columbia River 85-08-001  
85-14-005  
85-14-022  
85-14-038  
85-15-005  
85-18-029  
85-18-035  
85-11-006

Wanapum Indians  
Klickitat River  
subsistence fishing 85-10-034  
Puget Sound 85-01-009  
85-01-036  
85-02-014  
85-10-011  
85-12-013  
85-13-014  
85-14-082  
85-15-035  
85-15-071  
85-16-081  
85-16-083  
85-17-010  
85-17-040  
85-17-050  
85-17-054  
85-18-006  
85-18-052  
**85-19-016**  
**85-19-050**  
Wanapum Indians subsistence fishing 85-14-061  
85-15-053  
85-18-027

Yakima River  
subsistence fishing 85-10-043  
85-13-013  
85-14-039  
85-15-053  
85-18-027

**INDUSTRIAL INSURANCE,  
BOARD OF APPEALS**

Practice and procedure 85-16-015

**INSURANCE COMMISSIONER**

Conversion plans 85-03-035  
Day care centers 85-13-056  
85-14-087  
85-17-018

Insurers, agents, solicitors  
trade practices 85-02-019

Life  
fixed premium universal life 85-18-020  
Mental health treatment, AGO 85-11-022

Unfair practices  
group disability 85-02-018  
group life 85-02-018

**INVESTMENT ADVISORS AND SALESPERSONS  
(See LICENSING, DEPARTMENT OF)**

**INVESTMENT BOARD**

Meetings 85-02-016  
85-10-031

**ISLAND COUNTY**

Shoreline management master program 85-10-072  
85-12-051

**JUDGES**

Pro tempore, transfer, CAR 21 85-13-001

**KING COUNTY**

Shoreline management master program 85-10-073  
85-13-054

**KITSAP COUNTY**

Shoreline management master program 85-05-044  
85-10-014

**LABOR AND INDUSTRIES, DEPARTMENT OF**

Accident fund base rates 85-14-064  
Apprenticeship and training agreements 85-18-038  
85-18-038  
council meetings 85-18-038  
officers, etc. 85-18-038

Apprenticeship wages, state versus  
federal program, AGO 85-05-036

Asbestos 85-16-019  
85-18-021  
85-18-045

Blind, proposed changes, meeting 85-03-066

Crime victims 85-03-060

Electrical contractors, etc, fees 85-14-090  
85-14-091

Electrical testing laboratory  
accreditation 85-14-033

Factory-built housing and  
commercial structures 85-05-026

General safety and health 85-05-043  
85-10-004

Hazard communication 85-05-043

Inspection fees 85-14-091

Marine terminal 85-05-043

Massage therapy 85-14-089

Medical aid base rates 85-14-064

Medical aid premiums 85-06-038  
85-13-027

Mobile homes  
construction requirements 85-05-028  
HUD-labeled, inspection fees 85-05-027

Preferred workers,  
procedures and benefits 85-13-026

Risk classification 85-02-052  
85-06-026  
85-09-045  
85-09-046  
85-12-024

Safe place standard 85-01-022

Safe wiring labels and fees 85-14-090  
85-14-091

Self-insured employers  
surety requirement 85-01-073  
85-04-059  
85-06-031

Theatrical Enterprises Act 85-03-065

Vocational rehabilitation  
administration 85-11-050  
85-11-064  
85-11-070  
85-13-082  
85-16-074  
85-17-021  
85-17-022  
85-18-007

counselors  
deregistration 85-03-019  
85-04-038

dispute resolution 85-06-039  
85-13-025

1985 legislative session revision  
plans 85-13-082  
85-06-039

qualified injured workers,  
reduction of benefits 85-06-040  
85-13-025

Workers' compensation  
accident fund base rates 85-10-067  
85-13-046

administrative actions following discharge or  
discipline of workers filing claim 85-16-024

contract work 85-12-024

medical aid fund base rates 85-10-067  
85-13-046

retrospective rating plans and  
group insurance plans 85-02-022  
85-06-025

**LANDSCAPE ARCHITECTS**

Board duties 85-04-029

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

**LANDSCAPE ARCHITECTS—cont.**

Definitions	85-04-029
Exams	85-04-029
Listings	85-04-029
Meetings	85-04-029
Proctoring	85-04-029
Reexams	85-04-029
Registration by reciprocity	85-04-029
Reinstatements	85-04-029

**LAWYER DISCIPLINARY RULES**  
(See SUPREME COURT)

**LIBRARY, STATE**

Meetings	85-03-027
	85-05-023
	85-16-025
	85-17-062
Practices and procedures	85-16-065

**LICENSING, DEPARTMENT OF**

Aircraft fuel tax	85-04-027
Auctioneers	85-03-045
Barbering, manicurists and cosmetologists	85-01-044
Boats	
excise tax	85-14-079
	85-16-095
	<b>85-19-092</b>
registration	85-14-079
	85-16-095
	<b>85-19-092</b>
titles	85-14-079
	85-16-095
	<b>85-19-092</b>
Broker-dealers and salespersons	85-13-022
	85-16-068
	<b>85-19-070</b>
Camping clubs	85-04-056
	85-12-021
	85-12-022
	85-15-057
	<b>85-19-093</b>
Confidential license plates	85-07-045
	85-11-014
Director appointment	85-03-082
	85-13-078
	<b>85-19-035</b>
Dispensing opticians	85-15-106
	85-16-091
	<b>85-19-040</b>
Drugless therapeutics	85-01-075
	85-15-104
	85-16-092
	<b>85-19-036</b>
For hire vehicles	85-17-071
Health care assistants	85-01-075
	85-06-018
Investment advisors and salespersons	85-03-042
	85-13-022
	<b>85-19-070</b>
Midwifery	85-15-108
	85-16-096
	<b>85-19-038</b>
Motorcycles	
child passengers need restraints	85-01-002
Motor vehicles	
certificates of inspection	85-02-064
	85-06-011
for hire vehicles	85-10-070
	85-16-088
nonresidents	85-13-080
	85-16-088
permits	85-16-088
veterans' free license plates	85-10-069
Ocularists	85-15-107
	85-16-094
	<b>85-19-041</b>
Real estate	85-16-051

**LICENSING, DEPARTMENT OF—cont.**

payment of earned commissions	85-17-072
Securities	
dishonest or unethical behavior	85-02-023
nonpublic offers and sales	85-01-062
Self-insured employers	
posting of security	85-04-059
Veterans' free license plates	85-10-069
	85-15-059

**LIQUOR CONTROL BOARD**

Agents	85-03-106
Banquet permits	85-03-093
	85-06-021
Beer suppliers price filings	85-18-092
Beer wholesalers price posting	85-18-092
Bonded wine warehouses	85-07-052
	85-10-029
Class A or D in lieu of B	85-05-042
	85-09-026
	85-11-036
	85-14-107
Class H, Class C	85-03-105
	85-06-023
Class H restaurant	85-05-042
	85-09-026
	85-11-036
	85-14-107
Class H without a cocktail lounge	85-04-061
	85-07-034
Conduct on licensed premises	85-12-048
	85-15-021
Conventions, etc.	85-16-119
	<b>85-19-031</b>
Guest and courtesy cards	85-03-094
	85-06-020
Meetings	85-03-096
Rules review plan	85-12-054
School advertising	85-03-106
Wine, standards of identity	85-16-039
	<b>85-19-030</b>

**LOTTERY**

Agents	85-05-058
	85-09-004
	<b>85-19-085</b>
Drawings	<b>85-19-085</b>
Fees	85-05-058
	85-09-004
Instant games criteria	85-05-058
	85-09-004
	85-13-016
	85-13-077
	85-16-031
	<b>85-19-024</b>
	<b>85-19-085</b>
Instant game ticket price	85-05-058
	85-09-004
<u>Instant game number 14 – Win for Life</u>	
criteria	85-02-020
	85-03-099
	85-07-004
	85-07-005
definitions	85-02-020
	85-03-099
	85-07-004
	85-07-005
ticket validation	85-02-020
	85-03-099
	85-07-004
	85-07-005
<u>Instant game number 15 – Jokers' Wild</u>	
criteria	85-05-058
	85-07-004
	85-09-004
definitions	85-05-058
	85-07-004
	85-09-004

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>LOTTERY—cont.</b>			
ticket validation	85-05-058		
	85-07-004		
	85-09-004		
<u>Instant game number 16 -- People's Choice</u>			
criteria	85-10-039		
	85-10-075		
	85-13-015		
definitions	85-10-039		
	85-10-075		
	85-13-015		
ticket validation	85-10-039		
	85-10-075		
	85-13-015		
<u>Instant game number 17 -- Doubling Dollars</u>			
criteria	85-10-075		
	85-11-028		
	85-13-015		
definitions	85-10-075		
	85-11-028		
	85-13-015		
ticket validation	85-10-075		
	85-11-028		
	85-13-015		
<u>Instant game number 18 -- Washington Winners</u>			
criteria	<b>85-19-024</b>		
	<b>85-19-085</b>		
definitions	<b>85-19-024</b>		
	<b>85-19-085</b>		
ticket validation	<b>85-19-024</b>		
	<b>85-19-085</b>		
Licenses	85-05-058		
	85-09-004		
	85-13-016		
	85-13-077		
	85-16-031		
Limited off premises sales permit	85-10-075		
	85-11-028		
	85-13-015		
Lotto			
definitions	<b>85-19-085</b>		
play	<b>85-19-085</b>		
price of ticket	<b>85-19-085</b>		
prizes	85-07-004		
	85-10-075		
	85-11-028		
	85-13-015		
	<b>85-19-085</b>		
Meetings	85-02-020		
	85-02-021		
Official end of game	85-05-058		
	85-09-004		
On-line games	85-05-058		
	85-09-004		
	85-13-077		
	85-16-031		
	<b>85-19-024</b>		
Prizes			
payment	85-13-016		
	85-13-077		
	85-16-031		
Ticket purchases	<b>85-19-085</b>		
Ticket validation	85-13-016		
	85-13-077		
	85-16-031		
	85-16-032		
	<b>85-19-085</b>		
<b>LOW-INCOME ENERGY ASSISTANCE</b>			
(See <b>ENERGY ASSISTANCE</b> )			
<b>MANICURISTS</b>			
(See <b>LICENSING, DEPARTMENT OF,</b>			
subtopic <b>Barbering</b> )			
<b>MARINE EMPLOYEES' COMMISSION</b>			
Service of process	85-02-008		
	85-09-015		
	85-16-110		
<b>MESSAGE EXAMINING BOARD</b>			
Applications		85-01-043	
Examination			
grading		85-01-043	
scope		85-01-043	
Licenses			
general provisions		85-01-043	
Uniform Disciplinary Act		85-15-105	
		85-16-093	
		<b>85-19-037</b>	
<b>MEDICAL ASSISTANCE</b>			
(See <b>SOCIAL AND HEALTH SERVICES,</b>			
<b>DEPARTMENT OF</b> )			
<b>MEDICAL DISCIPLINARY BOARD</b>			
Chelation therapy		85-18-088	
Liability carriers, settlement reports		85-18-088	
Physicians and surgeons impaired		85-18-088	
<b>MEDICAL EXAMINERS, BOARD OF</b>			
Acupuncture assistant education		<b>85-19-089</b>	
Acupuncture equivalency exam		<b>85-19-089</b>	
Continuing education		<b>85-19-089</b>	
Examination scores		85-03-084	
Physician assistants			
program reapproval		85-03-083	
Post graduate medical training defined		85-07-066	
		85-11-048	
<b>MENTAL RETARDATION</b>			
(See <b>DEVELOPMENTALLY DISABLED</b> )			
<b>MERCER ISLAND, CITY OF</b>			
Shoreline management master program		85-10-073	
		85-13-054	
<b>MEXICAN AMERICAN AFFAIRS,</b>			
<b>COMMISSION ON</b>			
Meetings		85-01-092	
<b>MINORITY AND WOMEN'S BUSINESS</b>			
<b>ENTERPRISES, OFFICE OF</b>			
Appeals		85-11-068	
		85-11-069	
		85-14-101	
Bid specifications criteria		85-03-032	
		85-03-043	
		85-07-006	
Certification			
renewal		85-03-032	
		85-03-043	
		85-07-006	
Decision		85-03-032	
		85-03-043	
		85-07-006	
		85-03-032	
		85-03-043	
		85-07-006	
Definitions		85-11-015	
		85-11-016	
		85-14-101	
Description of office organization		85-11-015	
		85-11-016	
		85-14-101	
Directory		85-03-032	
		85-07-006	
Goals for 1985-86		85-14-041	
		85-14-042	
Participation programs		85-14-117	
		85-14-118	
Signatures of applicant business owners		85-14-041	
		85-14-042	
Submittal of forms		85-11-015	
		85-11-016	
		85-14-101	
<b>MOTORCYCLES</b>			
(See <b>LICENSING, DEPARTMENT OF</b> )			
<b>MOTOR VEHICLES</b>			
(See <b>LICENSING, DEPARTMENT OF</b> )			

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

**NATURAL RESOURCES, DEPARTMENT OF**  
(See also **FORESTS AND FOREST PRODUCTS**)

Aquatic land management 85-11-037  
85-14-049  
**85-19-008**

Coal exploration 85-04-062  
85-08-017  
85-10-040

Dredge soil disposal 85-07-041  
85-08-040  
85-13-030  
85-13-042  
85-13-055  
85-15-050

Electronic sites/facilities 85-07-033  
85-11-012

Fire hazard,  
industrial operations curtailed 85-15-015  
85-15-025  
85-15-037  
85-15-049  
85-15-068  
85-16-006  
85-16-023  
85-16-027  
85-16-033  
85-16-058  
85-16-085  
85-16-111  
85-17-001  
85-17-068  
85-18-019

Fire restrictions 85-14-063  
85-15-014  
85-15-036  
85-17-017  
85-17-047  
85-17-068  
85-18-039  
**85-19-087**

Fire season, industrial fire  
tool requirements 85-09-010

Forest fire advisory board 85-01-081  
85-16-097

Hoot owl restrictions 85-16-005  
85-17-047  
85-17-068  
85-18-060  
85-18-082  
**85-19-009**  
85-16-005  
85-04-062  
85-08-017  
85-10-040

Logging restrictions, fire  
Mining 85-03-001  
85-11-056  
85-01-066

Natural resources board 85-03-001  
85-11-056  
85-01-066

Timber sales, initial deposits 85-01-066

**NOOKSACK**

Shoreline management master program 85-16-073

**NOXIOUS WEED CONTROL BOARD**

List 85-03-102  
85-07-003

**NUCLEAR WASTE BOARD**

Hanford disposal 85-04-041

**NURSING HOMES**

Accounting and reimbursement system 85-14-018  
85-14-019  
85-17-052  
85-14-071  
85-17-070

Adequate nursing home care 85-01-048  
85-10-017  
85-10-018  
85-13-060  
85-14-017  
85-03-069

Certificate of need  
Final settlement

Food service  
Long-term care ombudsman program

**NURSING HOMES—cont.**

Medical supplies reimbursement 85-13-010  
85-14-017

Nursing services 85-13-010  
85-14-071  
85-17-070

Pets 85-14-017  
85-17-039

Prospective cost-related reimbursement 85-10-016  
85-13-065

Prospective rate adjustment 85-10-016  
85-13-065

Rehabilitative services 85-14-017

Respite care 85-14-017

Terms 85-10-017  
85-10-018  
85-13-060  
85-14-017

Ventilation 85-14-017

**NURSING, BOARD OF**

Advanced practice 85-07-067  
85-16-050

Delegation 85-07-068

Nursing process 85-07-068

Scope of practice, advisory opinions 85-07-069  
85-17-031

**OCCUPATIONAL THERAPY**

Code of ethics 85-07-070  
85-12-010

Commonly accepted standards 85-02-053  
85-02-065  
85-05-008  
85-05-008

Definitions 85-07-070  
85-12-010

Educational programs 85-02-053  
85-02-065  
85-05-008

Examinations 85-02-053  
85-02-065  
85-05-008

Fees 85-02-063  
85-06-012

License renewal 85-02-063  
85-06-012

License exemption 85-07-070  
85-12-010

Occupational therapy assistants 85-05-008

Proof of actual practice 85-02-053  
85-02-065  
85-05-008

Supervised field work experience 85-02-053  
85-02-065  
85-05-008

Unprofessional conduct or gross  
incompetency 85-02-053  
85-02-065  
85-05-008

**OIL AND GAS CONSERVATION COMMITTEE**

Administration 85-03-018

Enforcement 85-03-018

Hearing  
Willexco Inc. 85-07-038

Implementation 85-03-018

SEPA 85-03-016

**OLYMPIC COLLEGE**

(District 3)

Meetings 85-07-050  
85-13-024

Student conduct code 85-07-051  
85-13-067

**OPTOMETRY BOARD**

Continuing education 85-13-079  
85-16-054

Franchises 85-13-079  
85-16-054

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>OPTOMETRY BOARD—cont.</b>		<b>PERSONNEL DEPARTMENT/BOARD—cont.</b>	
Minimum contact lens prescription	85-01-085	Housing committee	85-06-036
	85-04-055		85-09-028
Uniform Disciplinary Act	85-05-009	Inter-system movement, HEP/SPB	85-18-057
	85-13-079	Leadworker	85-10-052
	85-16-053		85-14-007
	85-16-054		85-15-043
		Leave without pay	85-08-013
<b>OSTEOPATHIC MEDICINE AND SURGERY</b>			85-11-074
Examination	85-06-009	Leave, worker's compensation, adjustment	85-09-031
	85-10-025		85-10-052
Publicity and advertising, prohibited	<b>85-19-090</b>		85-14-008
			85-14-009
<b>OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR</b>		Management employee	85-14-102
Meetings	85-05-011		85-16-016
	85-13-036		85-17-029
			<b>85-19-078</b>
<b>PARKS AND RECREATION COMMISSION</b>		Mid-step	85-14-074
Boating safety grant and contract program	85-02-011	Nonmanagement employee	85-16-016
	85-03-087		85-17-029
Boat moorage fees	85-04-060		<b>85-19-078</b>
	85-08-003	Overtime provisions	85-16-109
Campsite fees	85-04-060		<b>85-19-076</b>
Campsite reservations	85-04-060	Performance evaluation	85-14-074
	85-08-003		85-16-016
Definitions	85-16-002		85-17-029
Group rates	85-12-058		<b>85-19-078</b>
	85-16-002	Periodic increment date	85-14-074
Meetings	85-01-091		85-14-102
Senior citizen pass off-season	85-04-060		85-16-016
	85-08-003		85-17-029
Vehicle lighting and equipment standards	85-12-058		<b>85-19-078</b>
	85-16-002	Predissmissal process	<b>85-19-077</b>
		Reduction-in-force	85-06-036
			85-09-030
			85-12-043
			85-16-016
			<b>85-19-075</b>
			<b>85-19-080</b>
<b>PENINSULA COLLEGE (District 1)</b>		Registers	85-02-034
Meetings	85-12-052		85-05-030
			85-10-052
<b>PERSONNEL APPEALS BOARD</b>			85-14-008
Appeals	85-16-007		85-14-102
Hearings	85-16-007		85-16-016
Transcripts	85-16-098		85-17-029
			<b>85-19-076</b>
<b>PERSONNEL DEPARTMENT/BOARD</b>		Salary	
Bargaining unit determination of	85-01-082	concurrence of probation, trial service and periodic increment date	85-14-102
Basic salary range	85-02-034		85-17-029
	85-05-030	differential provisions and compensation	85-10-052
	85-17-029	duplicate payment	85-10-052
Certification			85-14-008
Certification/decertification of exclusive representative	85-12-043	nonmanagement employees	85-14-074
	85-15-042		85-14-102
	<b>85-19-076</b>	periodic increment dates	85-16-016
Classified service, movement between	85-18-057		85-17-029
Disability	85-10-052	reversion, computation	<b>85-19-078</b>
	85-14-008		85-12-043
Disciplinary actions	85-16-016	reviews	85-15-043
	85-17-029		85-14-102
	<b>85-19-078</b>	wage and hour records	85-16-016
Dismissal	85-16-109		85-17-029
Downward reallocation	85-06-036	Selective certification	85-08-013
	85-09-028		85-11-074
	85-11-074	Seniority	85-07-060
Examinations			85-14-074
records and retention	85-08-013	Service credit	85-18-057
	85-11-074		85-14-074
Exemptions, exceptions	85-14-102		
	85-16-016		
	85-17-029		
	85-18-057		
	<b>85-19-078</b>		
Flex-time	85-16-109		
Holidays	85-12-043		
	85-15-043		
	85-16-109		



**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

**PERSONNEL DEPARTMENT/BOARD—cont.**

Shift premium provisions and compensation	85-04-031 85-04-032 85-07-035 85-09-029 85-10-052 85-14-008 85-14-073
Shift premium schedule	85-14-008 85-14-073
Special pay ranges	85-05-029 85-06-036 85-09-030
Split shift provisions and compensation	85-02-034 85-03-047 85-05-030 85-10-052 85-14-008 85-14-073
Unfair labor practice charge filing	85-12-043 85-15-042
investigation and disposition	85-12-043 85-15-042 <b>85-19-076</b>
Vacation leave accrual	85-06-036 85-09-030 85-14-102 85-16-016 85-17-029 <b>85-19-079</b>
Veteran Work period designations	85-16-109 85-01-083 85-16-109 <b>85-19-076</b>
Y rate	85-04-033 85-06-036 85-06-037 85-09-030

**PHARMACY, BOARD OF**

Condoms	85-02-061 85-06-010
Definitions	85-02-061 85-06-010
Legend drugs	85-15-102
Licenses	
application	85-02-061 85-06-010
display	85-02-061 85-06-010
fees	85-01-042 85-02-061 85-06-010 85-15-102 85-18-089 85-18-090
identification	85-06-010
inactive	85-01-042 85-02-061 85-06-010
periods	85-01-042
reactivation	85-01-042 85-02-061
reinstatement	85-01-042 85-02-061 85-06-010 85-06-010
revocation	85-11-066
Physical requirements	
Physical standards	
adequate equipment	85-08-041 85-11-066
adequate stock	85-08-041 85-11-066

**PHARMACY, BOARD OF—cont.**

Prescription labeling	85-02-061 85-06-010
Prophylactic licenses	85-06-010
Registration	85-02-061 85-06-010
Uniform Controlled Substances Act	85-02-061 85-06-010 85-15-102 85-18-091
Vending machines	85-08-041 85-11-066

**PHYSICAL THERAPY BOARD**

Appliances or devices	85-18-086
Approved schools	85-03-107 85-10-002
Assistants supervision	85-03-107 85-08-042 85-11-049
Uniform Disciplinary Act	85-14-109 85-14-110 85-18-086

**PILOTAGE COMMISSIONERS**

Fees, collection	85-12-039 85-16-057
Physical exam, annual	85-12-038 85-15-033
Tariffs and pilotage rates	
Grays Harbor district	85-02-048 85-02-049
Puget Sound district	85-02-048 85-02-049

**PODIATRY BOARD**

Uniform Disciplinary Act	85-04-028 85-12-059 85-15-058 85-16-052
--------------------------	--

**POSTSECONDARY EDUCATION, COUNCIL FOR**

Displaced homemaker	85-06-058 85-10-022
Higher education residency status	85-14-016
Residency status	85-16-078
Work study program	85-14-057 85-14-058 85-16-077

**PRACTICAL NURSING, BOARD OF**

Discipline standards	85-18-033
----------------------	-----------

**PRISON TERMS AND PAROLES, BOARD OF**

Policies and procedures manual	85-03-079 85-04-001
--------------------------------	------------------------

**PRODUCTIVITY BOARD**

Employee suggestion program	85-15-096 85-15-097 <b>85-19-060</b>
-----------------------------	--

**PSYCHOLOGY EXAMINING BOARD**

Code of ethics	85-06-044 85-16-114
Licensure	
experience	85-06-043
Moral and legal standards	85-16-114
Professional relationships	85-16-114
Public statements	85-16-114

**PUBLIC ASSISTANCE**

(See **SOCIAL AND HEALTH SERVICES, DEPARTMENT OF**)

**PUBLIC DISCLOSURE COMMISSION**

Administrative procedures	85-11-067
Candidate/committee registration forms	85-01-072 85-11-067
Definitions	85-18-034 85-11-067
Election officer duties	85-11-067
Enforcement procedures	85-11-067

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>PUBLIC DISCLOSURE COMMISSION—cont.</b>		<b>REVENUE, DEPARTMENT OF—cont.</b>	
Fair campaign practices code	85-18-034	Trade-ins, selling price, sellers' tax measures	85-01-001 85-01-023 85-02-006
Hardship exemptions	85-18-034		
Meetings	85-01-024		
Mini campaign reporting	85-10-027		
	85-10-028	<b>RULES REVIEW</b>	
Political advertising	85-01-019	WSDOT	85-13-005
	85-06-049		
	85-06-050	<b>SALMON</b>	
	85-11-008	(See FISHERIES, DEPARTMENT OF)	
Public records	85-11-067	<b>SAN JUAN COUNTY</b>	
Reporting		Shoreline management designation maps	85-09-066 85-13-029
hearing to modify form	85-18-034		
<b>PUBLIC EMPLOYMENT RELATIONS COMMISSION</b>		<b>SCHOOLS</b>	
Examiner decision	<b>85-19-059</b>	Immunization	85-03-055 85-03-062 85-07-027 85-15-062 85-15-064 85-16-021 85-16-035 85-16-115 85-18-063 85-18-018
Representation case rules	85-14-076		
Rules of practice and procedure	85-14-076		
	<b>85-19-059</b>		
Unfair labor practice case rules	85-14-076	Scoliosis screening	
Union security case rules	85-14-076		
	<b>85-19-059</b>	<b>SEATTLE</b>	
Unit clarification case rules	85-14-076	Shoreline management master program	85-16-072
<b>PUGET SOUND WATER QUALITY AUTHORITY</b>		<b>SEATTLE COMMUNITY COLLEGE</b>	
Meetings	85-16-099	(District 6)	
<b>REAL ESTATE COMMISSION</b>		Affirmative action program	85-09-057 85-13-076 85-18-059 85-16-120 85-01-011 85-01-038 85-01-063 85-03-015 85-03-088 85-07-014 85-07-015 85-07-016 85-09-044 85-10-048 85-11-027 85-12-032 85-16-079 85-18-059 85-16-120 85-18-059 85-07-056 85-12-016 85-13-075 85-16-120 85-18-059
Meeting	85-17-030	Facility use	
<b>REVENUE, DEPARTMENT OF</b>		Handicapped parking	
Aircraft fuel tax	85-04-027	Meetings	
Attorneys	85-16-106 85-16-107		
		Public records access	
Boards of equalization		Rules and regulations	
change of assessment roles	85-14-003 85-17-016 85-14-003 85-14-004 85-17-016 85-14-003 85-14-004 85-17-016	SEPA	
manifest errors		Sexual harassment policy	
reconvening by department	85-14-003 85-14-004 85-17-016		
Boats		Tenure	
apportionment of value	85-18-022	Traffic rules	85-18-059
listing of property		<b>SECRETARY OF STATE</b>	
definition	85-18-022	Archives	
partial exemption	85-18-022	practice and procedure	85-10-063 85-13-017
taxable situs	85-18-022		
vessels under construction	85-18-022	Polling place accessibility for disabled and elderly	85-14-059 85-14-115 85-18-003
Cigarettes			
basic cost	85-01-061	<b>SECURITIES</b>	
Cigarette wholesalers and retailers		(See LICENSING, DEPARTMENT OF)	
cost determination	85-01-061	<b>SENIOR CITIZENS</b>	
Contested cases	85-16-100 85-16-101 <b>85-19-069</b>	Polling place accessibility	85-14-059 85-14-115 85-01-054
		Transportation, financial support	
Excise tax		<b>SENTENCING GUIDELINES COMMISSION</b>	
governmental entity exemption	85-01-070 85-04-016	Meetings	85-01-039
Forest products, see FORESTS AND FOREST PRODUCTS		<b>SHORELINE COMMUNITY COLLEGE</b>	
Information and computer services	85-16-106 85-16-107	(District 7)	
Initiative 464, trade-ins	85-01-001 85-01-023	Meetings	85-03-033
Property tax exemption	85-02-060 85-05-025 85-18-069		
Public utility tax			
Public utility tax, energy conservation and cogeneration	85-16-106 85-04-016		
Returns, remittances, etc.			
Sales and use tax deferral, manufacturing	85-16-106 85-16-107		

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

**SHORELINE MANAGEMENT MASTER PROGRAM**  
(See **ECOLOGY, DEPARTMENT OF**)

**SKAGIT VALLEY COLLEGE**  
(District 4)

Meetings 85-02-027

**SMOKING** (See **HEALTH, BOARD OF**)

**SOCIAL AND HEALTH SERVICES,  
DEPARTMENT OF**

Adult protective services 85-10-041  
85-13-059

AFDC and general assistance  
alcoholism treatment 85-15-090  
alien sponsorship 85-03-068  
assistance units 85-16-041  
85-18-041

drug addiction 85-15-090  
eligibility

cooperation, federal aid assistance 85-17-051  
85-17-053  
deprivation of parental support 85-01-025  
85-16-041  
85-18-041

general 85-13-049  
85-15-090

living in home of relative 85-16-041  
85-18-041

mental health residents,  
suspense status 85-13-009  
85-16-045

minor parents 85-16-041  
85-18-041

need 85-01-078  
85-04-024  
85-13-048  
85-16-040

progressive evaluation 85-15-090  
summary 85-16-041  
85-18-041

emergency situations 85-16-043  
85-16-044

excluded resources 85-05-014  
85-18-042

exclusions  
incapacitated 85-17-051  
85-17-053

pregnant 85-17-051  
85-17-053

financial need computation 85-16-040  
85-18-042

funeral expenses 85-09-055  
grant or vendor payment 85-12-019  
85-15-056

incapacity, determination of **85-19-033**  
mental health services 85-18-040

property rights 85-16-040  
85-18-042

prospective eligibility 85-03-067  
85-16-040  
85-18-042

retrospective budgeting 85-03-067  
85-16-040  
85-18-042

SSI, interim, reimbursement 85-17-051  
85-17-053

standards for assistance 85-03-054  
85-07-020  
85-13-083

85-14-066  
85-16-049

support enforcement recovery 85-17-069  
unemployable 85-12-026

Agency procedures

decision-rendering procedure 85-04-052  
85-07-048

**SOCIAL AND HEALTH SERVICES,  
DEPARTMENT OF—cont.**

CAP 85-10-064  
85-10-065

CEAP 85-13-063  
85-16-043  
85-16-044

Child care agencies 85-18-041  
reporting of circumstantial changes 85-10-053

85-10-055  
85-13-064

Chore services **85-19-003**  
COPEs 85-10-064

85-10-065  
85-13-063

85-15-084  
85-18-067

Developmentally disabled, see **DEVELOPMENTALLY  
DISABLED**

Disaster assistance program, grants 85-11-059  
85-14-106

Energy assistance, see **ENERGY ASSISTANCE**

Fees 85-09-054  
85-13-002  
85-13-007

Food stamps 85-02-039  
85-02-045  
85-03-005

administrative hearings 85-06-064  
85-03-020  
85-03-021

allotments 85-06-062  
85-05-013

general provisions 85-08-028  
85-11-033

income, definitions 85-07-043  
85-11-035

85-12-027  
income determination 85-05-013

income, eligibility 85-13-058  
85-14-065  
85-16-048

monthly reporting 85-16-042  
overpayments 85-04-053  
85-07-047

replacement allotments 85-03-040  
85-06-061

retrospective budgeting 85-16-042  
work registration, voluntary quit 85-05-059  
85-09-013

Foster care 85-10-046  
85-10-054  
85-13-062

Health facility construction review fees 85-12-029

Hospices, see **HOSPICES**

Hospitals, see **HOSPITALS**

IMR facilities, see **DEVELOPMENTALLY DISABLED**

Juveniles  
consolidated juvenile services programs 85-05-031  
85-09-003

county probation programs 85-05-031  
85-09-003

diversion 85-05-031  
85-09-003

division of juvenile rehabilitation 85-05-031  
85-09-003

institutions and eligible impacted  
political subdivisions 85-05-031  
85-09-003

juvenile disposition standards commission  
sentencing standards 85-12-001

Labor camp 85-15-089

Low-income energy assistance,  
see **ENERGY ASSISTANCE**

Medical assistance  
budgeting

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

**SOCIAL AND HEALTH SERVICES,**

**DEPARTMENT OF—cont.**

prospective 85-06-060  
retrospective 85-06-060  
cataracts, contacts 85-01-026  
drugs 85-08-008  
85-11-034

eligibility  
excluded resources 85-02-038  
85-02-044  
85-03-072  
limitation of resources 85-03-038  
ownership of home 85-03-039  
85-09-023  
85-09-024  
85-14-026  
85-06-060  
85-03-072  
85-02-043  
85-03-072  
85-08-024  
85-08-029  
85-11-032  
85-13-057  
85-13-066  
85-16-046  
85-15-086  
85-18-065  
85-15-087  
85-18-064

eyeglasses  
hearing aids  
in-patient hospital care,  
length of stay 85-10-042  
85-13-061

limited casualty program  
eligibility modified due to  
expenditure reduction 85-09-037  
medically indigent 85-14-028  
85-14-029  
85-14-069  
85-15-027  
85-17-034  
85-17-035  
85-02-036  
85-02-041  
85-03-070  
85-04-034  
85-04-048  
85-05-016  
85-07-049  
85-13-011  
85-13-012  
85-14-028  
85-14-068  
85-14-069  
85-16-047  
85-17-035  
85-17-036  
85-01-027  
85-04-022  
85-18-040  
85-03-080  
85-06-059  
85-09-002  
85-02-040  
85-02-047  
85-05-024

medically needy

medical provider agreement  
mental health services  
patient overutilization  
patient transportation  
payment  
consultant's and specialist's  
services and fees 85-10-042  
85-13-061  
eligible providers 85-01-027  
85-04-022  
85-03-073  
85-10-007  
85-10-008  
hospital care

**SOCIAL AND HEALTH SERVICES,**

**DEPARTMENT OF—cont.**

hospital services 85-14-030  
85-14-070  
85-17-033

physical medicine and rehabilitation  
evaluation and treatment 85-14-012  
85-17-037

physicians services  
cataracts, contacts 85-01-026  
85-04-021  
85-02-037  
85-02-042  
85-05-015

special categories

Mental health  
GAU eligibility 85-18-040  
service providers 85-15-023

Nursing homes, see NURSING HOMES  
Radiation machine facility  
registration fee 85-15-022  
85-16-064  
85-15-022  
85-16-064  
85-16-064  
85-15-022  
85-16-064  
85-02-058  
85-02-059  
85-06-024  
85-03-055  
85-03-062  
85-15-062  
85-15-064  
85-16-021  
85-16-035  
85-18-063  
**85-19-027**

Radiation, user permit system  
Radiation, waste site surveillance  
Radioactive materials  
School immunization

SEPA  
SSI assistance 85-01-003  
85-02-046  
85-03-054  
85-04-034  
85-04-048  
85-07-049  
85-17-051  
85-17-053  
85-01-004  
85-17-069  
85-15-085  
85-18-066  
85-01-030  
85-04-023

Support enforcement  
Time loss compensation, lien  
Vital records  
Vocational rehabilitation  
physical and mental restoration 85-03-071

**SOLID WASTE**  
(See ECOLOGY, DEPARTMENT OF)

**SOUTH PUGET SOUND COMMUNITY COLLEGE**  
(See CENTRALIA COLLEGE/SPSCC  
District 12)

**SPOKANE COMMUNITY COLLEGES**  
(District 17)  
Meetings 85-14-015  
Student conduct 85-16-070  
**85-19-032**

**STATE PATROL**  
Hazardous materials 85-15-048  
85-16-003  
85-15-048  
85-16-003  
85-15-048  
85-16-003  
Hazardous waste  
Radioactive waste

**STRAWBERRY COMMISSION**  
Created 85-05-038  
85-11-030

**STRIP SEARCHES**  
Regulations 85-01-032  
85-01-033

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>SULFATING AGENTS</b> (See <b>HEALTH, BOARD OF</b> )		<b>TRAFFIC SAFETY COMMISSION</b>	
<b>SUPERINTENDENT OF PUBLIC INSTRUCTION</b>		Meetings	85-15-052
Beginning teachers assistance program	85-17-023	<b>TRANSPORTATION, DEPARTMENT OF</b>	
	85-17-024	Advertising Control Act	85-01-053
Educational service district budgeting	85-13-071		85-03-031
	85-15-111	Art	85-18-002
Finance		Elderly and handicapped transportation assistance	85-01-054
emergency school closure	85-04-046	Farm vehicles	85-06-004
	85-04-047		85-06-005
	85-05-012		85-10-009
	85-09-019		85-11-061
group total salary and insurance benefits	85-15-092	Ferry system	85-11-062
	<b>85-19-006</b>	toll schedule	85-06-015
school district budgeting	85-13-072		85-11-007
	85-15-110	Highway property	85-16-084
Immunization	85-03-055	Hood Canal bridge	85-06-015
	85-03-062		85-11-007
	85-07-027	Limited access hearings	85-16-084
	85-15-062	Limited access highways	85-16-084
	85-15-064	Meetings	85-05-022
	85-16-021	Mobile homes	85-15-078
	85-16-035		85-15-079
	85-18-063	Motorist information signs	85-01-053
	<b>85-19-027</b>		85-03-031
Kindergarten, preassessment, no fee, AGO 85-13	85-17-028		85-14-099
Public records, access	85-15-091	Organization of department	85-14-100
	<b>85-19-007</b>	Outdoor advertising control	85-17-012
School personnel, permits for aliens	85-17-005		85-18-001
	85-17-007		85-14-099
Student health records	85-17-006		85-14-100
	85-17-008		85-17-012
		Records	85-18-001
<b>SUPPORT ENFORCEMENT</b> (See <b>SOCIAL AND HEALTH SERVICES, DEPARTMENT OF</b> )		Rules review	85-13-005
		SEPA	85-01-055
<b>SUPREME COURT</b>		Small business and minority contractors	85-16-084
APR 12(d)	<b>85-19-029</b>	Transit vehicle stop zones	85-18-002
CAR 21	85-13-001	UAT funds, local agency match change	85-11-060
CJC			85-11-063
5(c)(8)	85-15-040	Uniform traffic control devices	85-01-056
7(B)(2)	85-02-010		85-18-062
CPR rescission	85-15-039	Utility lines	85-16-084
JCrR 4.09	85-13-001	Vehicle size and weight	85-14-010
JTIR 6.2	85-13-001		85-17-064
Limited practice rule	<b>85-19-029</b>		85-18-002
RAP's	85-13-043	<b>TREE FRUIT RESEARCH COMMISSION</b>	
RCP adoption	85-15-039	Assessment rates	85-02-054
			85-10-005
<b>TACOMA</b>		Meeting	85-01-057
Shoreline management master program	85-05-046	<b>UNIVERSITY OF WASHINGTON</b>	
	85-10-013	Contested cases	85-15-066
<b>TACOMA COMMUNITY COLLEGE</b> (District 22)		Facility use	85-01-045
Meetings	85-01-047	Law library use	85-10-033
Student rights and responsibilities	85-02-004		85-14-035
<b>TAXES</b> (See <b>REVENUE, DEPARTMENT OF</b> )		Meetings	85-02-013
<b>THE EVERGREEN STATE COLLEGE</b>			85-03-091
Evergreen council, governance document, repeal	85-14-034		85-12-015
Parking policy	85-03-048	<b>URBAN ARTERIAL BOARD</b>	85-14-014
	85-14-112	Meetings	85-17-013
Regular meetings	85-06-074		
	85-10-049	Rates of development of functional classes	85-02-035
<b>TIMBER</b> (See <b>FORESTS AND FOREST PRODUCTS</b> )			85-08-019
<b>TOXICOLOGIST</b>		Trust funds, how obligated	85-10-023
Breath tests	85-05-041		85-11-001
	85-08-012	<b>UTILITIES</b>	85-16-069
<b>TRAFFIC INFRACTION PENALTY SCHEDULE</b>		Low-income energy assistance	85-11-046
JTIR	85-13-001	Low-income weatherization, Skagit County	85-15-073
			85-11-047
			85-01-029
			85-05-021

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>UTILITIES—cont.</b>		<b>VOCATIONAL EDUCATION, COUNCIL ON—cont.</b>	
Shut off moratorium program	85-01-068	Meetings	85-11-029
	85-01-069		<b>85-19-026</b>
	85-05-017	<b>VOCATIONAL EDUCATION, COMMISSION FOR</b>	
<b>UTILITIES AND TRANSPORTATION COMMISSION</b>		Meetings	85-03-078
Common carriers			85-09-022
temporary permits	85-15-001	<b>VOLUNTEER FIREMEN, BOARD FOR</b>	
	85-15-002	Meeting	85-04-002
	85-18-044		85-09-018
Garbage or refuse certificates	85-17-075		85-14-114
Motor carriers insurance	85-07-018		<b>85-19-046</b>
	85-07-019		
	85-10-032	<b>WALLA WALLA</b>	
Motor vehicle operation	85-17-076	Shoreline management master program	85-13-053
Residential utility service			85-16-105
deposits, interest on	85-01-090	<b>WALLA WALLA COMMUNITY COLLEGE</b>	
	85-04-036	(District 20)	
Telephone bills/fee charges		Meetings	85-04-050
to be distinguished	85-11-075		
	85-11-076	<b>WASHINGTON STATE UNIVERSITY</b>	
	85-14-054	ASWSU meetings	85-05-003
	85-16-118		85-15-004
Telephone information service providers	85-14-055	Parking permit fees	85-07-012
	85-16-117		85-14-051
	85-18-011	Regents meetings	<b>85-19-020</b>
	85-18-012	<b>WATER POLLUTION</b>	
	85-18-013	(See <b>ECOLOGY, DEPARTMENT OF,</b>	
Telephones, customer-owned		various topics)	
pay telephones	85-11-077	<b>WENATCHEE VALLEY COLLEGE</b>	
	85-14-053	(District 15)	
	85-15-094	Faculty	
	85-18-043	tenure	85-18-017
Telecommunications	85-06-045	<b>WESTERN LIBRARY NETWORK</b>	
	85-16-008	Computer service council	
	85-16-009	meetings	85-03-034
	85-16-010	Rules and regulations	85-16-066
	85-16-011		
	85-18-081	<b>WESTERN WASHINGTON UNIVERSITY</b>	
banded rates	85-16-008	Health and safety	<b>85-19-072</b>
	85-16-010	Meetings	85-01-046
Utility pole attachments	85-06-072		85-04-011
	85-06-073		85-05-039
	85-09-025		85-08-009
Water companies			85-10-006
business telephone number, etc.			85-11-072
to be available	85-08-015		85-18-016
	85-11-019	Parking permits	85-09-050
<b>VETERANS AFFAIRS</b>			85-14-097
Soldiers home and colony	85-04-004		85-14-098
	85-08-002	<b>WHATCOM COMMUNITY COLLEGE</b>	
	85-12-003	(District 21)	
	85-15-081	Meetings	85-15-034
	85-15-088		85-15-095
	85-18-036		85-16-034
Veterans home	85-04-004		<b>85-19-062</b>
	85-08-002		<b>85-19-063</b>
	85-15-081		
	85-15-088	<b>WHATCOM COUNTY</b>	
	85-18-036	Shoreline management master program	85-03-046
			85-04-040
<b>VETERINARY BOARD OF GOVERNORS</b>		<b>WINTHROP, TOWN OF</b>	
Definitions	85-14-080	Shoreline management master program	85-01-021
Exam			85-04-039
grading	85-03-085		85-05-045
procedures	85-03-085		85-08-016
results	85-03-108		
	85-07-021		
Medical facility requirements	85-14-080		
Practice management	85-14-080		
<b>VITAL RECORDS</b>			
(See <b>SOCIAL AND HEALTH SERVICES,</b>			
<b>DEPARTMENT OF</b> )			
<b>VOCATIONAL EDUCATION, COUNCIL ON</b>			
Advisory council meetings	85-07-001		